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KANT'S THEORY OF DUTY AND CONFLICT OF RIGHTS

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# **ABSTRACT OF THE DISSERTATION**

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In this dissertation, first, I suggest that many debates among rights theorists, including Nozick, Thomson, Dworkin, Rawls, Nagel, and Susan Wolf on the topic of conflicts of rights and consequences and issues of social justice hinge on two important questions: How to define humans' true needs; How to find a proper balance between one's true needs and others'. Thus, the study on duties to oneself and duties to others in Kant's ethic theory of duty is much needed. I then analyze Kant's concepts of four categories of duties, compare them pairwise, and determine the indications from the comparisons. The imperfect duty to others commands that one shall try to treat others' ends as one's own, which seems demanding. But one also has the perfect duty to oneself to not be a mere means to others' ends. Therefore, we shall never give up our basic good living and our own life goals in order to help others. And when our time and resources are limited, we can choose freely which following imperfect duties to perform: whether to develop our physical and intellectual powers or to help others. Hence, I conclude that Kant prioritizes an individual's own true needs over one's duties to others, and his moral principles do not demand too much from individuals, unlike many ethic theorists claim. Based on this, his

theory can give us good persuasion power against overwhelming demands from the community, and against manipulative totalitarian leaders who urge their citizens to be moral saints and alienate their individual rights. His theory can also offer good guidance to democratic governments when they decide how to prioritize their budget spending. It indicates that basic education, basic housing, and basic health care should take priority over higher education and foreign aid.

# Acknowledgements

My interest in rights and duties started from auditing a summer class on literature and politics Professor Stephen Bronner offered around 2010. We studied totalitarianism, fascism, the Algerian rebellion against French colonists, and America's repression on communists under McCarthyism. This was the first time I heard the expression 'ends never justify means'. It resonated with me because of my past life experiences and knowledge of Communist China. The mass killings and the tens of millions of deaths from starvation under Mao's regime—in the name of communism, a better future, and the interest of the society—has long put mixed feelings of anger, sadness, and bewilderment in my heart.

I also remembered the time when my father, a communist for 30 years, asked my opinion on the Chinese government's decision to lay off millions of workers and managing staff from the state-owned industries around the end of 1990s. He was included in that decision and as others was left with little compensation or a pension. Those workers spent their whole lives working in those industries with little wages and heavy taxes imposed. Some workers of the factory where my father worked committed suicide after they lost their jobs. Since their skills were not needed in a society with a very small private sector, they could not find another job and could barely afford to live. My father, liking to read newspapers and books on communism, told me that he thought it was right for the government to do this since the interest of the society should take priority over the

interests of the individuals of that society. Especially as a communist, one should always be prepared to sacrifice for the country. But the fact that he was still asking my opinion meant that he had some trace of doubt about it. I didn't and couldn't give him an answer at that time.

When I finally found my place in a political science department, I started my long journey of searching for guidance on defining justifiable and right means to achieve whatever ends an individual or a state has in mind and the rightful relationship between individual and communal interests. More generally, what is the right thing to do? That is one of main questions that ethical theories deal with. Among them, I think Kant's moral theory provides us with one of the best defenses against the violation of individual rights and interests in the name of state interests.

I am thankful that professor Dennis Bathory introduced me to Socrates, Plato, and Aristotle, and Professor Stephen Bronner introduced Immanuel Kant to me as well. Those philosophers are the guiding lights not only to my research, but also to my life. I am also grateful to Professor Larry Temkin and Professor Holly Smith in Philosophy Department at Rutgers. They allowed me to audit their classes on ethics, where I explored the works of Thomas Nagel, Susan Wolf, Peter Singer, Derek Parfit, etc. Moreover, the courses I took at Princeton and Columbia University—on justice, freedom, and democracy taught by Phillip Pettit; the epistemological aspect of democracy by Melissa Lane; and republicanism by Nadia Urbinati—equipped me with the analytic skills to analyze those fundamental ideas. I would also like to thank Professor Kubik for his work on political

culture, especially in the area of democratic transition. It helped me to focus on the role ideas have in helping China democratize.

And many thanks to my advisor Stephen Bronner who gave me detailed comments on how to revise this dissertation. He recommended to me to discuss Marcuse's concept of false needs, Jean Jaures's social democratic version of socialism, Durkheim and Camus's idea on suicide, and to explain more on the relations between power and ideas. Also many thanks to my external reviewer Larry Temkin who in my oral dissertation defense provided many crucial criticism and insightful questions to my dissertation. Such as the idea of inalienable rights can solve the problem of rights being waivable; whether Kant's moral theory can fully support and explain his list of duties; and how the concept of supererogatory acts — acts performed beyond the duty — and the concept of the imperfect duty to be beneficent to others differ from each other in their moral constraining power over us. Since my defense was too close to the deadline of submitting this dissertation, I haven't had time to deal with the last two questions, which I may deal in the future.

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## Chapter I: Introduction

This dissertation introduces Kant's doctrine of virtue in order to shed light on the nature of conflicts between individual interests and communal interests. It can also contribute to the philosophical debate on the topic of social justice, since to deal with the issue of social justice is, in a fundamental sense, to deal with conflicts of rights and needs. Essentially, to study issues of social justice is to find a proper balance between one's duty to oneself and one's duty to help others. So Kant's analysis on the duty to oneself and the duty to others can be very helpful in issues of social justice.

Although Kant's theory is one about duties, it can resonate with rights theories. Overall, rights and duties are both moral constraints—they command us to behave in certain ways, to treat other people and ourselves in certain manners. Even Kant's terms are on duties, these duties actually present humans' true needs - their fundamental interests as human beings. So those true human needs should take priority over other needs. And Kant's idea of respecting the humanity in each of us has already served as the philosophical foundation for theories of human rights. Equivalent to that, Kant's theory of duty suggests that the idea of humanity should serve as the foundation to define our duties, both perfect and imperfect. His fundamental idea is that we should protect our humanity as our perfect duty, and promote our humanity as our imperfect duty.

But Kant's theory of duty needs detailed examination to find its deep indications. I examine those duties in his theory, analyze their indications, and compare them pairwise in order to see which duties should take priority. Eventually, I find out that since Kant

prioritizes the individual's own true needs over one's duties to others, Kant's moral principles do not demand too much from individuals, as many ethical theorists claim. His theory thus gives us good persuasion power against overwhelming demands from the community, and against manipulative totalitarian leaders who urge their citizens to be moral saints and alienate their individual rights. His theory also offers guidance to democratic governments when they decide how to prioritize their budget spending. Kant's theory indicates that basic education, basic housing, and basic health care should take priority over higher education and foreign aid.

In chapter one I discuss the background important philosophical and political debates in related various topics to show that Kant's ethic theory of duty is needed. In the first section of this chapter, I compare communitarians and liberals' view on whether individual goods totally overlap with communal goods, since without an answer to this question, there is no need to discuss the separation of duties to oneself and duties to others.

Communitarians such as Karl Marx, MacIntyre, and Charles Taylor claim that since no isolated individual can be self-sufficient out of society, and the identities of individuals are formed by society, thus individuals should identify their individual interests with the communal interests. Therefore, the foundation of liberalism—individualism is an illusion. I suggest that this kind of argument has a logic flaw. The question of how one's identity is formed is different from the question of whether one's interests are distinct from those of society. What an individual eats and reads cannot

claim the ownership of him. If we agreed that there should be no distinction between the individual's interests and the communal interests, or the interests of the rest of the community, we would then have to agree with the justifications of most of the terrors done by totalitarian states. Since, for them, a minority can be justifiably sacrificed for the sake of majority interests in the name of the communal good.

On the other hand, when Kant argues our duty to help others, he suggests that there is such a duty because of the requirement of a universal law: If I need others to help me when I am in need, so I need to help others when they are in need. Otherwise, there would be no one to help me if I didn't help others and others learned this behavior pattern from me. So for Kant, it is because we have needs of our own to fulfill that we need to help others to meet their needs. Individuals' needs are not only distinct with each other's; one's own needs serve the reason for one's duty to help others.

Therefore, the liberal thinkers, both theorists of duty and rights, insist that there is no such thing as the communal good; rather there are only individuals, one against another. We should only compare one individual by another, not one by many.

Many readers may say that theories of rights in the liberal tradition have already stood as a firm shield against the violation of individual rights in theory since the beginning. In section 2 of chapter II, I argue that they are not enough. Since although an individual has the right to their life, liberty, property, etc., rights can be waived by the right-owners themselves in answering for higher goods, meritorious purposes, or supererogatory calls.

However, rights theorists will argue that there is a branch of rights theory which advocates a concept of ‘inalienable rights’. Usually, those rights theorists are called natural rights theorists. John Locke asserts that our natural rights, granted by God, ‘to life, liberty and property’ should not be surrendered to the sovereign, even though we need to surrender other less important rights in order to form a government. Overall, some of those theories base the inalienability of the fundamental rights on the command of God, while others base it on certain features of human nature. Anyway, it seems that rights theories can deal with this alienability of rights within their system. It seems that we don’t need a duty theory.

Before we answer this question, we’d better understand the similarities and the differences between rights and duties. Rights and duties are both moral constraints—they command us to behave in certain ways, to treat other people and ourselves in certain manners. In essence, without resort to the existence of God, we need to base both of them on humanity formed by human reason. Hence they share a common philosophical foundation to have such a moral force on us.

However, in intuition, the concept of rights bears a sense of freedom to it, while the concept of duty bears a sense of restraint to it. When people think of the idea of rights, they usually have in mind something they can do; when people think of the idea of duty, they usually have in mind something they must do or cannot do. So it is counterintuitive to ask people to think they have some freedoms they cannot choose not to enjoy; and it is intuitive to ask people to follow some laws of duty to not do something. Especially, the idea of inalienable rights requires people not to waive their freedoms, which is

counterintuitive. And when rights are presented this way as freedom, naturally it has little force in commanding people to do something, especially to do something for themselves. But the idea of duty to oneself can have a strong moral force on demanding people to do something, especially for themselves, since the idea of duty bears a close relation to the rule of law.

In section 3 of chapter II, I discuss Kant's separation of doctrine of right and doctrine of virtue. This separation helps limit the demands of the community on us. Since only the doctrine of right governs the external relations of persons. And the doctrine of virtue governs our inner freedom, which is not in the domain of any external law giving. Hence any government should not be in the business of supererogatory calls. A government urging its citizens to perform certain supererogatory deeds, even just in the form of political discourse, should not be allowed.

In section 4 and 5 of chapter II, Kant's conception of freedom, right, and duty are examined, in comparison with the contemporary terms. Kant believes that those concepts are all connected and must share a fundamental common foundation among them: our human reason. Without reason giving us laws, there should be no freedom, no rights, and no duty. But what Kant means is not that those concepts are the same, but just they share the same philosophical foundation which give them the moral force of moral constraints.

In chapter III, I examine the thoughts of those important political and moral theorists including Nozick, Thomson, Dworkin, Rawls, Taurek, and Nagel, on how to solve the

conflict between the principle of liberty and the principle of equality, and conflicts between various rights. A government's redistributive taxation is a typical case of sacrificing someone's property rights to help those in need and to reduce inequality. I discussed Nozick, Thomson, Dworkin, and Rawls' effort to either criticize, justify, or modify this system of redistribution.

Thomson and Nozick's discussions make it clear that it is right to infringe the less important rights to property for the sake of the more important right to life. We can and should help those in dire need by redistribution. But many people who are helped by redistribution taxes are not in dire need. We need a clear understanding on what count as dire needs, or true human needs. We should help fulfill the true needs of others, but not their false needs or luxury wishes. Marcuse's concept of false needs is analyzed. His idea that false needs can actually harm people, limit their freedom, and delay their self-development is noted. But in the end this definition of true human needs needs Kant's theory on humanity to be clear. In general, only these needs that serve to protect and nourish our humanity can be regarded as true human needs.

Dworkin advocates that equality of resources, instead of equality of welfare, should be the right object of government redistributive policy, which solves many problems of interpersonal comparison of our arbitrary and constantly changing senses of happiness. And his separation of brute luck and option luck, or in other words, social and natural contingency versus individual free choice and responsibility, is a good way to balance liberty and equality. But there are some cases located in the gray area between the two

extremes. And there are still some individual needs that cannot be easily categorized that way.

So Rawls' theory of justice comes into picture. His idea of primary social goods may serve as the definition of true human needs, since these goods are regarded by all rational human beings as necessary means to achieve whatever ends they have. His list of primary social goods is wide and long, including liberties and rights, opportunities, income and wealth. So it is not very helpful in regarding to exact delineation and comparison of one's interest and that of others when they conflict. What is brilliant about Rawls is that his discussion point is not the person-to-person comparison regarding getting these primary social goods fairly. What he claims is that it is the job of a society's basic structure, its political and social institutions, to distribute these primary goods fairly at the beginning. His first principle of justice demands the equal basic liberties to all. And it takes the priority to the second principle, which concerns the social and economic equality. So the value of basic liberties overweighs the value of equality only in terms of distributing economic welfare. Therefore, although for Rawls, the value of equality takes as the default value to judge social and economic institutions, he actually does not claim that income and wealth, which are also listed as the primary goods, should be distributed equally to citizens.

But in a not-well-ordered society, or a society which basic structure is unjust, there are still a lot of circumstances in which private citizens find they need to help unfortunate others. And even individuals in a well-ordered society also need to consider whether and how much they should contribute to help those in foreign poor countries.



So we still need a moral and political theory to define the true needs of us, to determine to what degree and in what aspects shall we help others, while still not sacrificing our true needs.

In chapter IV, I examine the content of Kant's ethic theory of duty, or his doctrine of virtue. Kant brilliantly finds out that setting up the proper boundaries between one's interests and those of other is at the center of the problem of justice. In his theory of duty, he makes two fundamental kinds of duties: duties to oneself and duties to others. Within them, he again makes another distinction, perfect and imperfect duties. In combination there are four categories of duties, and six possible pair-wise comparisons between them. These perfect duties demand in a more stringent and exact manner than these imperfect duties. One has some leeway, or latitude, in deciding which imperfect duty, and to what degree, to fulfill.

The perfect duties to oneself include the following: First, respect your bodily integrity— do not commit suicide; do not mutilate your crucial organs and limbs; do not over eat and drink and engage in drugs and unnecessary sex; Second, provide yourself with necessary means for your true needs and a good living; Third, respect the humanity inside you: set up your own ends and try to realize them; Do not serve as a servant or feel inferior to other people; Know yourself, your deep motives and incentives, in other words, do moral self-reflection. Be your own inner judge, face your own conscience, and try to follow its command in all your actions. We may treat this list as every human's 'true needs'.

In the section on suicide in this chapter, I also discuss Camus's views on suicide and the meaning of life, and compare his to a Kantian philosopher Nozick's views on the same topic. And related to this, in the section on our duty to ourselves against servility and to respect our own humanity, I analyze Kant's concept of humanity and its importance in his moral theory. This concept of humanity is fundamental to his whole theory, since he bases the foundation of his concepts of moral constraints such as duties on this feature of human nature—the capacity of setting up ends and following moral principles. So do rights theories, since most of them are based on Kant's idea of humanity too.

But the usual objection to this way of laying foundation for moral constraints is that it makes the naturalistic fallacy, or in other words, it faces the is-ought problem. This problem shows that we cannot deduce what we ought to do from what it is. So the fact that there is something special about our human nature can not lead to the conclusion that we should grant humans a higher moral status and treat them with more respect. But a Kantian theorist, Nozick, suggests that we can. By letting human reason give us the overall life plan and the moral principles to follow, our human life comes to have meaning. And we need to treat a meaningful life in a different manner from those lives without a meaning. Nozick's idea actually comes from Kant's concept of humanity. So Kant's concept of humanity not only best represents the fundamental difference between humans and animals and artificial intelligence, it also helps solve the is-ought problem, and grants itself a solid foundation for its theory of duty.

In the next section, I examine the perfect duty to others. This is the duty of respect: Do not degrade any other man to a mere means to your ends. In other words, do not demand another human being to be a slave to you. And it works as a mirror duty to one of the duties to oneself: the duty to oneself against servility. Since both duties follow from the same universal law: do not degrade any person to a mere means to others' ends. This is the fundamental principle in Kant's moral theory.

The imperfect duties to oneself include the duties to increase one's natural and moral perfection: To develop one's capacity of theoretical reason, understanding, imagination and memory, and the ability to learn and correct ourselves; To build up our power of body by doing gymnastics; Always try to purify our motives to do duty from duty, and try to fulfill all our duties as far as we can. Of course, the duty to increase our moral perfection cannot be treated as a true need, and therefore not a candidate for being a basic human right. But how about the duty to develop our natural powers and the duty to increase our power of body? In other contemporary philosophical words, it is called the duty to our perfection. Kant suggests that while we have latitude in deciding how much we can achieve and which powers of the three we should give priority to; The command to develop them is a perfect duty, since we need to be 'a useful member of the world'. Here be reminded that I discussed before that the duty to respect our humanity — the rational will inside us — should be treated as a basic human right, since it does not belong to the perfection command.

The imperfect duty to others, for Kant, is to do good for others, and to treat others' ends as one's own.

In chapter V, I compare these four categories of duties pairwise, to determine the indications from those comparisons in our ethical and political life. When I compare these two perfect duties, I find that there is no conflict between them at all. Since the perfect duty to others is a negative duty, which does not demand a person to positively do something for other people, there is no need to demand the agent to sacrifice anything of his own.

The possible conflict between the perfect duties to oneself and imperfect duties to others is one of most controversial conflicts. It seems that Kant is in contradiction with himself. At one place, when he discusses the perfect duties to oneself, he says no one should treat oneself as a mere means to others' ends. But when he discusses the imperfect duties to others, he suggests that we should treat others' ends as our own. Let's consider a case. If Jack wants to be a violinist, I then devote myself totally to help him to realize it. So I totally accept Jack's ends as my own, and give up all of my own original ends. That seems noble. But that seems to count as my being a servant to Jack and it is a case of self-abnegation, which Kant opposes as a violation of duty to oneself. But how about a case in which a rich man decides to spend all his fortune to save those poor people's lives in Africa? It seems not only permissible, but also praiseworthy.

Kant suggests that we can be means to others, as soon as we are not mere means to others. While we help others, we should never sacrifice our own ends and true needs, which are our perfect duties. If by helping others, one falls into such a poor situation that one cannot even have a decent life oneself, we may say that this person goes too far to

help others. If one goes to that point, we may agree that it is not praiseworthy, or even not morally permissible for him to do so, according to Kant's doctrines of virtue, since then one treats oneself as a mere means for others. Therefore, Kant suggests that the perfect duties to ourselves should take priority over the imperfect duties to others.

The last pair-wise comparison that needs detailed analysis is imperfect duties to oneself versus imperfect duties to others. Shall our duties to ourselves to develop our natural and moral powers conflict with our duty to do good to others, to treat others' ends as our own? Of course they do. In other contemporary philosophers' words, it is our right to our own perfection that is in conflict with our duty to helping others. For example, I could spend the same amount of money for my own college education, or spend it on saving some poor people's lives in Africa. It is the lives of those poor people that are at stake against our natural power development. Of course, the right to life should have more weight than the right to education, to develop arts and sciences. So theories on the stringency of rights will give us the answer that I should spend all my money on Africa. But if it is morally required that we who live in a relatively developed country sacrifice our advanced needs, such as the need to perfection, only leaving our basic needs for a living intact, to save the lives of the poor in all foreign countries, most of the fruits of our civilization would be required to be sacrificed. To our moral intuition, it is unthinkable. So using theories on the stringency of rights won't give us a right answer to this question. Kant's approach is better. Since Kant treats the duty to self-perfection as an imperfect duty, and so does the duty of benevolence which demands that

we treat others' ends as our own, so it is totally in the individual's freedom to decide which duty should take a priority.

But although both duties are imperfect, they are still duties, so we still need to try to fulfill them as far as we can. So the previous hard case of deciding whether a relatively rich man should spend most of his wealth to help those dying people in Africa is solved, to a certain degree. Since Kant's theory indicates, it is alright for someone not be able to help those dying people due to his education needs; but it is not alright for another to spend the money on luxuries and not be able to help them, since there is no such duty to oneself to buy luxuries.

In the chapter of conclusion VI, first, I summarize very briefly what I did in this dissertation and present its conclusion. Then I mention some of the most important practical and political implications of Kant's ethic theory of duty to both totalitarian states and democratic governments.

Next I point out some unsolved issues in the main parts of my dissertation, and also some criticisms on Kant's theory of duty. I also try to answer them briefly.

First, there is the question whether Kant's moral theory can fully support and explain his list of duties, and whether these duties can be deduced from his moral principles. I discussed the question briefly in the chapter IV in their corresponding sections, but haven't done a systematic analysis on it.

Second, there is the question whether the concept of supererogatory acts—acts performed beyond the duty—and the concept of the imperfect duty to be beneficent to

others differ from each other in their moral constraining power over us, and if they do, in what ways.

Third, regarding to the definitiveness of the moral constraining power of imperfect duties, Kant's own thoughts on it are not very clear, and need more examination and analysis. So we are not sure how much we shall blame a person who fails his imperfect duties in a particular act, such as a person did not save a drowning kid even if he could, or a person who never spent time in developing his natural powers including both his power of mind and body.

Fourth, I discuss the related question whether Kant's theory of duty is more of a theory on judging a person's virtue or moral worth, and is not particularly useful in judging the moral worth of a particular action. I point out that Kant's theory works in a different way from a general virtue theory. It does give command on the domain of actions, but just in terms of maxims of actions. Kant states explicitly that the doctrine of virtue regulates maxims of actions, while the doctrine of right regulates particular actions. Although Kant's doctrine of virtue cannot provide us with precise guidance on whether we should perform a particular act, it can still provide us with good, sometimes sufficient, guidance on our decisions to do certain things, by following certain universal rules of action—maxims of actions. Such as the example I mentioned before, following Kant's doctrine of virtue, we can decide whether we should spend our money on our education, or give it to some poor people, or spend it on some luxury goods. And Kant's doctrine of virtue can offer clear guidance to government decision making to a certain degree.

And last, I discuss the question whether ideas don't matter in our political world, and whether only power matters. I claim that power and ideas are both necessary conditions to realize certain political goals and ideals. If certain political agents have no effective means—power—to actualize those ideas, these ideas will only remain as ideas and will not become a political reality. But without the right ideas, another necessary condition, and only having powerful political agents, there will be no agents with the right direction and justifiable means to pursue a better and just society at all. Ideas can be learned. Cultures and traditions can be changed. Hence, introducing new systems of ideas to China and other similar totalitarian and authoritarian countries is possible. It is the first and necessary step to move them toward a bright future with more justice and less suffering.

Contemporary China is not a totalitarian state anymore, as it was under Mao's rule, so the terror produced by the government is significantly less than before. But China nowadays is still an authoritarian country, with many totalitarian traces left intact in its government operations. The old system of ideas is still widespread in its political life. And the most crucial of those harmful ideas are the ideas that the ends can justify the means, and the state interests can at any time trump any individual rights and interests. I believe that unless the political leaders and citizens of China know better of the limitations on the means they use to achieve their ends, and the right relationship between the communal good and individual rights and interests, there will be continuing crimes, mistakes, and suffering produced by the Chinese government.



## **Chapter II: Background Study**

### **1. Do All Individual Goods Overlap With Communal Goods?**

In modern and contemporary political philosophy, the tension seen between the individual good and the common good incites the famous debates between liberalism, utilitarianism, and communitarianism. For utilitarians and communitarians, individuals are integral parts of society, and all goods of individuals belong to the goods of the community. There are no individual goods that are separate and distinct from the goods of the community. On the other hand, for liberal thinkers, there are always certain individual goods that do not overlap with communal goods. Liberals usually invoke the idea of individual rights to show their recognition of the importance of protecting those fundamental individual interests from over-demanding communal requests. From this fundamental difference regarding the nature and relations of the two kinds of goods, and subsequently the different priorities assigned to them, the three thought groups depart drastically for their designs of ideal political and social systems.

It may seem fit to put the above tension between the individual good and the communal good in another, simpler way: the conflict between egoism and altruism, the private interest of the individual against the common interest of all. That is where communitarians think that they have found the liberals' Achilles' heel: communitarians think that one fundamental idea behind all liberal claims is its individualism, or its egoism, the idea of an individual who always puts his self-interest before the common

interest. The most famous philosopher among the old generation of communitarians, Karl Marx, in his 'The Holy Family', says: 'The egotistic individual in civil society may in his imagination and lifeless abstraction inflate himself to the size of an atom, i.e. to an unrelated, self sufficient, wantless, absolutely full, blessed being.'<sup>1</sup> One of the new generation of communitarians thinkers, Charles Taylor, therefore coins the term 'atomism' from Marx's above idea, in his paper 'Atomism', to indicate this kind of individualism: a belief about the relation between individual and society, a belief of individual coming out of nowhere, being isolated and self-sufficient.<sup>2</sup> Another famous communitarian of this new generation, Alasdair MacIntyre, in his *After Virtue*, criticizes such liberal thinkers as Rawls and Nozick for their points that individuals are separate from society and individual interests as constructed 'prior to, and independent of, social bonds from which the individuals are formed. 'It is in any case clear that for both Nozick and Rawls a society is composed of individuals, each with his or her own interest... Individuals are thus in both accounts primary and society secondary...' But in MacIntyre's view, the case should be the reverse: 'individuals identify their primary interests with reference to those goods (the good of that community)' because their lives and value systems are formed by their community.<sup>3</sup>

Many liberal philosophers, such as Jeremy Waldron and Amy Gutmann, have refuted those critics of liberalism from this angle: for the communitarians misidentified this

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<sup>1</sup> Marx, Karl. 'The Holy Family.' (1845). *Karl Marx: Selected Writings*, Edited by McLellan, David. 2nd edition, Oxford University Press, 2000, p. 162-163.

<sup>2</sup> Taylor, Charles. 'Atomism.' *Powers, Possessions and Freedom: Essays in Honor of C. B. MacPherson*. Edited by Alkis Kontos. University of Toronto Press, 1979, p. 39-61.

<sup>3</sup> MacIntyre, Alasdair. *After Virtue: A Study in Moral Theory*. 3rd edition, the University of Notre Dame Press, 2007, p. 250.

Achilles' heel of Liberalism.<sup>4</sup> Their main argument is that liberalism is not based on this kind of egoism at all. I will skip their discussions since it is a different topic and knowing their main arguments is good enough here.

The above communitarians' philosophical assumptions on the relationship between individual goods and communal goods are shared by some of the totalitarian and authoritarian leaders in the 20th century, such as Hitler, Stalin and Mao. One of major claims that those totalitarian leaders usually made to justify their great atrocities against some parts of its citizenry is that the common interest comes first and the individual interests second, and that the individuals' interests should be sacrificed for the greater good whenever it is required.

To clarify myself: I am not saying that all the mistakes and crimes of totalitarian and authoritarian leaders are of these types which share those philosophical assumptions with communitarians or that those leaders get their basic value systems from communitarians. Many of those leaders' brutal and inhuman treatments of their 'enemies' in their own citizenry have little to do with any philosophical or political values, but were out of pure power-seeking motives, any self-serving motives, or simple human malice. There is no doubt that all liberal and communitarian thinkers with a moral conscience would condemn those malicious actions. Furthermore, although those communist totalitarianisms are in some sense influenced by the ideas of Karl Marx, the links between

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<sup>4</sup> Waldron, Jeremy. 'Nonsense upon Stilts? -a reply.' in *Nonsense upon Stilts: Bentham, Burke, and Marx on the Rights of Man*. Edited by Waldron, Jeremy. Methuen, 1987. Gutmann, Amy. 'Communitarian Critics of Liberalism.' *Philosophy & Public Affairs* Vol. 14, No. 3, Summer, 1985, p. 308-322.

them are way more complex than those appear to be. Scrutinizing this deeply entangled influence history of thought is beyond the scope of this dissertation.

In the following chapters, I will occasionally examine some of the public policies of Mao's regime in modern Chinese history, which vividly represent the misconceived relationship between individual and communal goods to show its practical implications in political reality. Since empirically surveying the history of totalitarian and authoritarian regimes and evaluating their value systems are an impossible task for a PhD thesis with a theoretical focus, I will only use a very limited number of typical cases to demonstrate that such similarities between the ideas of totalitarian leaders and those of communitarian types exist.

In this introduction I will briefly criticize this communitarian argument. I think it has a logical flaw. To simplify their argument: Individuals need society, or other individuals, to survive, to fulfill their needs and wants, to form their identity and consciousness, and to develop their capacities. This self-sufficient individual is an illusion. Therefore, individuals must identify their self-interests with the communal interests. But this kind of argument makes a logical jump. No one denies that the identities of individuals are formed by society, by social relations, and that an individual cannot even survive, not to mention thrive, if they are totally isolated from society, especially in a modern world. However, we cannot conclude from this that the individual has no distinct and separate interest from that of society. The question of how one's identity is formed is different from the question of whether one's interests are distinct from those of society. What an individual eats and reads cannot claim the ownership of him. And our moral intuitions

suggest that an individual's life is firstly his own, and his body is firstly his own. If he dies, the most loss is on him, not on society, or other people in this society.

If we agreed that there should be no distinction between the individual's interests and the communal interests, or the interests of the rest of the community, we would then have to agree with the justifications of most of the terrors done by totalitarian states. Since, for them, a minority can be justifiably sacrificed for the sake of majority interests in the name of the communal good.

Moreover, we can see this logical jump more clearly in their argument by using Kant's analysis on the duty to help others. Kant deduces from the premise 'I need others to help me when I am in need' the conclusion that 'I have to help others when they are in need'. Since, otherwise, there would be no one to help me if I didn't help others and others learned this behavior pattern from me. [6:451] <sup>5</sup> In other words, since egoistic individuals cannot survive and develop at all, any moral and political theory based on egoism makes a fundamental error and won't work. So far, so similar to the communitarian's assertion. But pay attention to Kant's premise: because we need others to help *me*, so we need to help others. He makes our own need to be helped a premise in his argument. Without one's need to fulfill one's own interests, there is no need to help others either. One's own needs are, if not prior to, at least as equally important as any claims of others to our help. Therefore, we cannot deduce from the communitarian's

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<sup>5</sup> Kant, Immanuel. *The Metaphysics of Morals*. (1797). Translated and edited by Gregor, Mary. Cambridge University Press, 1996, p. 200, [6:451], and other places.

Sometimes the translation from another older version of 1991 is used, which will be noted.

Here in consistency with all other works on Kant, the citation follows the tradition of using the volume and page number in the Prussian Academy of the Sciences edition of Kant's work. *The Metaphysics of Morals* is in volume 6 of this edition. This kind of citations are also marked on the margins of all Kant's books. In the following parts, I will only include the numbers like this [6:451] in the text for citations from this book, and will not list them in the footnotes.

premise that individuals cannot survive without society to the conclusion that individuals should identify all their interests with the communal interests. Even while Kant also denies that a society can be founded on egoism, he suggests that the duty to oneself and the duty to others are distinct duties, and individuals' needs are separate from the need of community and at least as equally important as the communal interests.

Therefore, the liberal thinkers, both theorists of duty and rights, insist that we should only talk in terms of the interests of oneself versus the interests of others, not individual interests versus the communal interests. There is no such thing as the communal good; rather there are only individuals, one against another. We should only compare one individual by another, not one by many. This individualism is the defining feature of rights theories. Although in some extreme cases where catastrophic consequences are involved, this feature can be challenged. It lies in the margin of the norm.

But it is too easy to discard all communitarians' ideas about this tension as dangerous to individual rights and interests. There are more subtle and complicated communitarian thoughts on this issue, and many of them were inspired by Kant so that they take seriously the individual rights and interests. For example, the founder of modern French social democratic theory and the leader of the French Socialist Party around the beginning of the 20th century, Jean Jaures, advocates that a just society should reconcile and harmonize individualism and community. For Jaures, this harmony can be represented in the ideal of socialism. Jaures rightly detects in Kant's moral and political theory that Kant puts an ultimate importance to individual liberty and autonomy. But Jaures also notices that Kant also argues that society is crucial to protect this individual

liberty and autonomy. Because Kant's idea of liberty is influenced by Rousseau, both of the two thinkers hold a civil conception of liberty, not a natural conception of liberty: only civil liberty can achieve real equal freedom for everyone under the protection of law. While natural liberty seems to give the individual the freedom to have anything they want in a state of nature, it actually depends on one's power to gain them. Thus, in a state of nature, no one's freedom is guaranteed, especially for the weak. Therefore, both of the two thinkers advocate that individual freedom and state authority can be reconciled. Through the social contract theory advocated by Kant, Rousseau, and others, it is the union of the free wills of the individuals forming a community that gives rise to a legitimate state authority; and the purpose of establishing a state power is to protect individual freedom.<sup>6</sup>

This important point is made salient in Jaures' writings and furthered to a new height: Jaures thinks that state power can not only protect individual freedom, but also promote it. He is influenced by Fichte at this point: Fichte 'amplified' Kant's above idea and argued for a 'full-blown collectivism'—the state should promote citizens' economic well-being. Jaures takes from him this idea and advocates that a democracy should promote 'substantial social equality'.<sup>7</sup> And socialism, as the representation of substantive justice, is a vehicle to achieve this. 'Individualism and socialism are not opposed to each other as if they were essentially contradictory.... They (can be) brought together and

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<sup>6</sup> The description of Kant and Rousseau are my words, see Rousseau, Jean-Jacques. *The Social Contract*. (1762). Penguin Classics, 1968. Book I, Chapter 8. The description of their influence on Jaures is cited from Kurtz, Geoffrey. *Jean Jaures: The Inner Life of Social Democracy*. The Pennsylvania State University Press, 2014, p.35-36.

<sup>7</sup> *ibid*, p36.

reconciled’.<sup>8</sup> For him, socialism does not only concern the labor movement, but is an ‘expression of the ethical principle of freedom reconciled with community—the principle Jaures has in mind when he uses the term “justice”.’<sup>9</sup>

With this subtle and more complicated version of the idea of socialism, there should be no conflict between individual freedom and state authority. Jaures, after reading Hegel’s *Philosophy of Right*, believes that dialectical thinking can bring harmony and reconciliation to two seeming conflicting items while keeping the two as distinct items.<sup>10</sup> Furthermore, socialism is a vehicle to promote substantial equality of freedom—both political and economic freedom.

While we notice that 20th century totalitarian regimes, including Stalin’s Soviet Union and Mao’s China, claimed they were pursuing socialism and communism, we also need to notice that modern French and German social democratic parties have to some extent successfully established socialist regimes that are relatively just. There have been little abuse of state power on the individual rights in these social democracies. And their idea of promoting social and economic equality and well-being have inspired many other democracies in the modern world. What we can learn from this comparison is that while the term socialism can be misused for advocating overarching state power, it can also be used for the promotion of individual freedom and social equality.

Then, the question becomes how to avoid these misuses of socialism. This is what this dissertation sets to solve. We need to scrutinize how to reconcile individual freedom

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<sup>8</sup> *ibid*, p36.

<sup>9</sup> *ibid*, p40.

<sup>10</sup> *ibid*, p38.



with state authority while keeping individual freedom protected and promoted. We need to analyze in detail to what extent, and in what aspect, the principle of equality can ask an individual to contribute to the welfare of others. We need to look into the foundation of our human rights, to see what makes these basic human rights inviolable even in the face of state authority, and, on the other hand, in what conditions some of these less important rights can be rightly infringed for the sake of more important rights and social justice. We need to examine carefully the boundaries between oneself and others.

These questions are huge, and have been the main focus of many contemporary moral and political philosophers for years. I cannot, in one dissertation, settle them once for all. What I can contribute to these questions is to revitalize Kant's theory of duty and link it to this debate on individual goods and communal goods.

## 2. Why Theories Of Rights Are Not Enough Against Certain Totalitarian Claims

It is well-known that Kant's concept of humanity has served as a foundation for human rights theories. Is there anything new in Kant's theory of duty that can provide insights into protecting individual interests against over-demanding communal calls?

Many readers may say that theories of rights in the liberal tradition have already said enough about this issue. They have stood as a firm shield against the violation of individual rights in theory since the beginning.

But in this dissertation I want to say they are not enough, even only in theory. Since although an individual has the right to their life, liberty, property, etc., rights can be waived by the right-owners themselves in answering for higher goods, meritorious purposes, or supererogative deeds. Compared with the higher valued communal good, the importance of the individual good is much smaller and thus can and should be sacrificed for the former. A state with an idealistic mask can therefore call for individuals to waive their rights to serve the common good and label those who are unwilling as ‘selfish’, ‘egoistic’, or ‘serving their class interests’.

However, a moral theory of duties can put this kind of justification to a halt by using the concept of self-duties. Since both kinds of interests are talked on a platform of non-waivable duties, not waivable rights, each citizen’s interests have equal moral weight with one another’s, and no one should feel ashamed to claim for their protection and promotion of their own interests and needs.

However, rights theorists will argue that there is a branch of rights theory which advocates a concept of ‘inalienable rights’. Usually, those rights theorists are called natural rights theorists, which include a variety of theorists. The exemplary thinker of this tradition is John Locke. He asserts that our natural rights, granted by God, ‘to life, liberty and property’ should not be surrendered to the sovereign, even though we need to surrender other less important rights in order to form a civil society and a government. The founders of the American republic, such as Thomas Jefferson, borrowed this idea from him and asserted that, in *the United States Declaration of Independence*, ‘We hold

these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty, and the Pursuit of Happiness.’

Hegel also suggests such an idea of inalienable rights. For him, the characteristics of personhood which separate us from things constitute the basis of these inalienable rights. Since if we were things, we would be able to be sold out as property. But we are not things.

The right to what is in essence inalienable is imprescriptible, since the act whereby I take possession of my personality, of my substantive essence, and make myself a responsible being, capable of possessing rights and with a moral and religious life, takes away from these characteristics of mine just that externality which alone made them capable of passing into the possession of someone else. When I have thus annulled their externality, I cannot lose them through lapse of time or from any other reason drawn from my prior consent or willingness to alienate them.<sup>11</sup>

There are many other theorists who share this idea of inalienable rights. Overall, some of those theories base the inalienability of the fundamental rights on the command of God, while others base it on certain features of human nature. They both face the criticism over whether the foundation of this inalienability is solid or not. If in a modern world where the existence of God is in question, then this inalienable rights theory, which is based on God, is invalid. For those basing it on human nature, they face the problem of the naturalistic fallacy, or the is-ought problem. This problem argues that we cannot deduce what we ought to do from what it is. So the fact that there is something special about our human nature can not lead to the conclusion that we need to grant to humans a higher moral status. But rights theorists, such as Nozick, suggest that we can. By letting

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<sup>11</sup> Hegel, Georg W. F.. *Hegel's Philosophy of Right*. (1821) Translated by Knox, T.M. New York: Oxford University Press, 1967, section 66.

human reason give us the overall life plan and the moral principles to follow, our human life comes to have a meaning. And we need to treat a meaningful life in a different manner from those lives without a meaning. (I will discuss Nozick's argument in detail in the sections on suicide and humanity.)

Anyway, it seems that rights theories can deal with this alienability of rights internally. It seems that we don't need to go to a duty theory.

Before we answer this question, we'd better understand the similarities and the differences between a right theory and a duty theory.

In an important sense, theories of duty and theories of rights are similar: they delineate the boundaries between the interests of one individual and those of others. They both are based on the fundamental idea that the individual interests are distinct and separate from the communal interests.

Moreover, in another fundamental sense, the idea of duty, or moral obligation, is similar to that of rights. Rights and duties are both moral constraints—they command us to behave in certain ways, to treat other people and ourselves in certain manners. They limit our behavior patterns. They limit our freedom to do things. In essence, without the help of God, we need to base both of them on humanity formed by reason. Hence they share certain a common philosophical foundation to have such a moral force on us.

However, Hobbes believes that rights and law—the idea of duty usually relates—are different things. For him, the concept of natural rights means that one can do whatever one wants as far as one's power allows so. And the concept of natural law means the general principles or rules which our reason realizes and commands us. They usually

require us not to do certain things which can harm us.<sup>12</sup> Therefore, law usually concerns duties and obligations, while rights means freedom from obligations.

As I will discuss in the sections on Kant's concepts of freedom, duty, and rights, Kant believes that the concepts are all connected and must share a fundamental same foundation among them: our human reason. Without reason giving us laws, there should be no freedom, no rights, and no duty. (I will discuss this idea of his in detail in the corresponding sections.) But what Kant means is not that those concepts are one and the same, but they share the same philosophical foundation in order for them to have the power of moral constraints.

In terms of the question whether the concept of inalienable rights can do away the problem of rights being waivable, and whether a theory of duty can give us more power to protect our individual interests, we may be better to invoke Hobbes' differentiation of natural rights and natural laws. In intuition, the concept of rights bears a sense of freedom to it, while the concept of duty bears a sense of limitation to it. When people think of the idea of rights, they usually have in mind something they can do; when people think of the idea of duty, they usually have in mind something they must do or cannot do. So it is counterintuitive to ask people to think they have some freedoms they cannot choose not to enjoy; and it is intuitive to ask people to follow some laws of duty to not do something. Especially, the idea of inalienable rights requires people not to waive their freedoms, which is counterintuitive. And when rights are presented this way as freedom, naturally it has little force in commanding people to do something, especially for themselves. But

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<sup>12</sup> Hobbes, Thomas. *Leviathan*. (1668). Edited by Curley, Edwin. Hackett Publishing Company, 1994, p. 79-89.

the idea of duty to oneself can have strong moral power on demanding people to do something, especially for themselves, since the idea of duty bears a close relation to the concept of law.

Besides the reason I just mentioned, another reason is that this kind of analysis does not offer detailed guidance on comparing one's interests and rights with those of others. Rights can conflict with each other. When they conflict, we need some clear guidance from a certain moral theory on what to do. There have been a lot of debates on conflict of rights. Rights theorists have invented the concepts of negative rights, positive rights, natural rights, acquired rights, basic liberties, etc. to analyze this entanglement. But if we disentangle this problem from the angle of comparing the duty to oneself with the duty to others, and look into what is really at stake when we compare them to look into what these duties are, we will have a better understanding on the problem of conflict of rights, and, ultimately, the conflict between individual goods and communal goods. And eventually, we can better protect our individual rights and interests while still fulfill our duty to help others.

Moreover, Kant's distinction between the concept of perfect duties and that of imperfect duties make it possible more nuanced comparisons between individual interests and the interests of others.

From evaluating the moral theory of duties of Kant, we will see if such a theory can really supplement theories of rights for liberalism and for the theory of government in general.

### 3. Kant's Separation Of The Doctrine Of Right And The Doctrine Of Virtue

Before we dive into Kant's moral theory of virtue, in this section I address Kant's separation of doctrine of right and doctrine of virtue. Since this is the fundamental divide that Kant puts in his moral theory, and one function of this division is to limit the demand of others' needs on us, and therefore to limit the demand of the community on individuals.

In his *The Metaphysics of Morals*, in the beginning of the introduction to the doctrine of right and that of virtue, Kant makes it clear that doctrine of right (*ius*) and doctrine of virtue (*Ethica*) concern different domains of human existence, which, in turn, makes them either fit or unfit for external law giving. The doctrine of right regulates the external relation of persons, with their choices manifested in the outer domain of action, not just mere wishes. Therefore, it has only to do with those deeds that can influence other people, either directly or indirectly. Moreover, it does not take into account the content, or the matter, of choice, 'the end each has in mind which with the object he wants', but only takes into account the formal condition of choice, such as whether the choice is free and whether 'the action of one can be united with the freedom of the other in accordance with a universal law'. [6:230] The distinguishing feature of doctrine of right of governing the outer domain of human conduct, without looking into human consciousness for their motives of conducts, makes the system of doctrine of right suitable to 'deal with duties that can be given by external laws'. [6:379]

On the other hand, the doctrine of virtue goes beyond external law giving on human's outer freedom and the formal condition of choice, and command that certain matter of choice, or certain ends of pure reason, be duties for humans to have. It concerns our inner freedom, 'the internal determination of his will (the incentive)', the ends we set up for our actions. This kind of duty is 'objectively necessary', Kant says, because in order to effectively check the influence of the ends set up by our inclinations, our reason needs to set up some moral ends of its own. [6:380-1] In other words, Kant believes that it is insufficient to govern our systems of ends in harmony with others' by only setting up and monitoring rules governing the conditions under which our ends are settled, such as they should be done out of free choice, and following the principle of universality and equality. If our power of reason needs to win the battle against our inclinations and desires, it needs to set up its own ends. It is like providing alternative destinations for us to achieve and asking us to avert our eyes from those objects set up by our desires to other objects set up by our reason.

Kant here redefines the concept of reason, which was defined by David Hume as instrumental reason, as only tools for our passions and desires. For Hume, reason never has its own ends, but only works as a means to achieve the ends set up by our passions and desires.<sup>13</sup> But for Kant, reason can, and should, provide ends for humans to achieve and does not just work as a 'servant' for our desires. In his doctrine of virtue, Kant makes this point explicitly that pure reason also sets up ends, or objects of choice, as duties for humans to comply with.

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<sup>13</sup> Hume, David. *A Treatise of Human Nature*. Edited by Norton, David Fate and Norton, Mary J.. Oxford University Press, 2007, vol 1.



However, we may wonder, as Hume reasonably doubted, whether the ends provided by reason can have enough power, or any power, to move us to act, to balance the power of attraction to the ends set up by our desires. But any Kantian theorist will ask, ‘why not’? People do sometimes pursue certain ideal objects and goals which are set up by their reason. Is communism, socialism, democracy, and justice not the goals pursued by people in history? Humean theorists may respond to this by saying that those goals are just a facade concealing the hidden desires or mere rationalization of those desires. Kantians will answer this by saying that those accusations are only speculations without any evidence. But what kind of evidence can be presented to support either side? Human psychology is not a hard science. Therefore, the jury is still out, and no convincing arguments exist to refute Kant’s claim that reason can set up ends with enough incentives for us to pursue. The nature and power of human reason is a huge topic. This topic resides more on the subject of philosophy of mind and moral psychology than moral and political philosophy. This dissertation can just assume that it is possible for reason to set up ends with enough power to motivate us to act and start discussion from here.

Going back to the doctrine of virtue: The most important feature of this doctrine, in comparison with the doctrine of right, is that the duties it prescribes only subject to internal law giving, not subject to external law giving. The obvious reason for this, Kant says, is that since ‘an end is an object of the choice’, others cannot force me to choose something as my end, my object of choice. Others may, of course, force me to do something for *their* ends. But never can they force me to have this thing that I am forced to do as *my* own end, an object of my free choice. ‘That ethics contains duties that one

cannot be constrained by others (through natural means) to fulfill follows merely from its being a doctrine of ends, since coercion to ends (to have them) is self-contradictory.’ [6:381] Here ethics is used to identify the branch of moral philosophy which are not subject to external laws, which contains the doctrine of virtue. [6:379]

Overall, this separation of right and virtue puts a fundamental limit on the possible demand of the community on individuals. Only one’s external relations with others are in the business of public interests thus can be under the authority of a government. Therefore, there should be freedom of thought and consciousness, at least.

More importantly, though, one has the duty to be a virtuous person; this is only his own business, not the business of government. A government cannot demand a person be a moral saint or to sacrifice what only the doctrine of virtue, which is only a internal law giving, can demand from a person.

#### 4. Kant’s Conception Of Freedom

The concept of free choice involved here should be explained in relation with Kant’s concept of freedom. Here I am not talking about Kant’s more general conception of freedom as free will shown in his bigger project in his *Critique of Pure Reason* and *Critique of Practical Reason*. Here the conception of freedom discussed is only the one that Kant uses in his *Metaphysics of Morals*, which is a political conception of freedom.

From Kant’s above discussion of free choice, we see that he may agree with Hobbes that negative freedom is a valid conception of freedom: being forced by other people to

do something which is not chosen by oneself is not free. External constraint on someone's behavior is not freedom. But if this conception of freedom were the only conception of freedom that Kant has in mind, then it would be self-contradictory that Kant insists that his notion of self-constraint as a duty is also in 'consistent with freedom' [6:381]. After all, self-constraint is also a kind of constraint, a limitation of freedom. In order to explain this seeming contradiction, we must accept that Kant also has a positive conception of freedom in mind: when humans' reason constrains and governs their emotions and desires, and their inner world is regulated by its moral principles, they achieve inner freedom. Here the terminology of negative and positive freedom are those of Isaiah Berlin. Kant never used those terminologies. In his system, he uses the terms 'external freedom' and 'inner freedom,' respectively. That Kant's conception of inner freedom is defined in terms of the governing role of practical reason is made clear by the following passages. When he compares human beings with holy beings who won't be attempted to violate any duties, he says that only for humans there exists a doctrine of virtue since it is 'autocracy of practical reason, that is, it involves consciousness of the capacity to master one's inclinations when they rebel against the law, a capacity which, though not directly perceived, is yet rightly inferred from the moral categorical imperative'. [6:383] Furthermore, Kant's combination of the conceptions of both negative and positive freedom in his theory can be explicitly shown in his following words: 'The less a man can be constrained by natural means and the more he can be constrained morally (through the mere representation of duty), so much the more free he is.' [6:381]

One thing that needs notice is that this conception of inner freedom, or positive freedom, plays a central role and much more important role than that of negative freedom in Kant's moral theory. It is the foundation of his moral theory, especially of his doctrine of virtue. Without a notion of self-constraint as both duty and freedom, Kant's attempt in his whole moral philosophy to unite duty with freedom, and to found his theory of morality on human autonomy—to be master of ourselves will be in vain. And without it, his doctrine of virtue, the kind of duty which can only be fulfilled by self-constraint, by internal law giving, will be impossible to conceive. Therefore, to set up an end as itself a duty, a person must only rely on his own faculty of internal law giving—he must set up this end as a constraint to his behavior by himself. No other person, not to mention the state, can force him to do this by giving him orders and laws.

## 5. Kant's Conception Of Duty And Right

But here again, we need to clarify the concept of duty in Kant's moral theory. For Kant, duty, or obligation, 'is the necessity of a free action under a categorical imperative of reason.' [6:222] His conception of duty means we freely choose to follow the moral law. In it, the concept of freedom and that of duty are in one. But still, it means more as a command that we shall follow the moral law, which in some sense constrain our behavior.

In our contemporary political philosophy, we usually associate the concept of duty with a corresponding concept of right: if I am under a special duty to perform a certain

act to you, it usually means that you have the corresponding right for my performing this act to you. It may further mean that you have the right to see to it that I perform this duty to you, which means if I fail in performing this duty, this right in you can grant you the permission to morally criticize me, or, in cases of my failing in performance of some legal duties, the corresponding right in you may have me legally punished for this failure. For example, if I promise to deliver certain goods to you after receiving the payment from you, I am under the duty to deliver the goods to you. You have the right to these goods. Furthermore, if I fail to do so, you have the right to seek either moral or legal means to see to it that I perform my duty, which means I will be punished and/or pay damages and compensations for your loss. Besides the special duties and rights which are usually invoked by special personal relationships, such as those of parents with their children or special actions, such as promises and contracts made by participating parties, there is also a category of general duties.<sup>14</sup> (But I will skip the detailed discussion of those contemporary conceptions of rights and duties.)

Here we need to better comprehend Kant's understanding of the concepts of duty and right in light of the contemporary conceptions of them. Kant explains his understanding of the relationship between duty and right as the following: 'To every duty there corresponds a right in the sense of an authorization to do something; but it is not the case that to every duty there correspond rights of another to coerce someone. Instead, such duties are called, specifically, duties of Right.' [6:383].

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<sup>14</sup> See Hart, H. L. A., 'Are there any natural rights?' *Philosophical Review*. 64, No 2, April, 1955, p175-199. Waldron, Jeremy ed., *Theories of Rights*. Oxford University Press, 1984. Thomson, Judith Jarvis, *The Realm of Rights*. Harvard University Press, 1992. and Wenar, Leif. 'Rights.' Edited by Edward N. Zalta. *The Stanford Encyclopedia of Philosophy*. Fall 2015 Edition, URL = <<https://plato.stanford.edu/archives/fall2015/entries/rights/>>.

It is clear that Kant has two conceptions of rights: one is a wide conception, which means that having a right to something means one has the authorization to do it, and another is narrow, meaning that having a right indicates that one can thereby coerce others to perform the corresponding duty—and this belongs only to the realm of duties of right, not duties of virtue. Obviously, Kant thinks it is important that we should differentiate those two conceptions of right. What does it really mean that one has authorization to do something, but may or may not have authority to coerce others to make this thing happen?

For example, there could be two basic kinds of rights to education. (Here I just demonstrate two different meanings of rights, not making an exhausting list of all kinds of legitimate categories of rights to education). One kind of right to education is that the individual should and can have the right to have whatever kind of education she sees fit and others should not have the authority to obstruct her to do that. The second kind of right to education is beyond the first kind: the society in which she lives should also have the corresponding duty to provide necessary means for her to have the education she wants. It is evident that the second kind of right demands more from other people. It invokes the fulfillment of the corresponding duty of others to help realize this right of the individual.

Why does Kant make this difference between these two kinds of rights? Why is the difference important? I think if we invoke the contemporary concepts of ‘privileges or liberties’ and ‘claim-rights’, suggested first by the American legal theorist Hohfeld in his

model of rights<sup>15</sup>, we would better appreciate this different definitions made by Kant. Most contemporary right theorists consensually employ this model to describe what it actually means to have a right and differentiate the different kinds of meanings mixed in our ordinary use of the concept. Hohfeld makes four categories of rights: privileges, claim-rights, power, and immunity. (Here I skip the full account of it and just focus on the two kinds which are related to our discussion of Kant's conception of rights.)

Hohfeld defines the notion of privilege as the following: "A has a privilege to  $\phi$  if and only if A has no duty not to  $\phi$ ". An obvious case for this is that one has a privilege to sit in an empty chair in a park and has no duty not to sit in this chair. One is not violating any duty not to sit in that chair, if he chooses not to do so. It seems that the kind of relationships that this notion of privilege invokes are not involving other people, but only the right-holders themselves. But this is not true. To make the right-holder actually enjoy his privileges, it implies that other people should not force him to exercise his privileges. Others cannot force him to sit on that empty chair in the park. In this sense sometimes the term of liberty is used instead of the term of privilege.

So Kant's wide conception that having a right to something means one has the authorization to do it seems similar to this concept of privilege or liberty right.

To put it in our example of the right to education, the privilege to education may mean one can choose to have a specific kind of education or have no education at all and violates no duty of educating herself whatsoever. But do we really have this privilege to not educate ourselves at all? If invoking Kant's idea of duty to oneself to develop one's

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<sup>15</sup> Hohfeld, Wesley, *Fundamental Legal Conceptions, As Applied in Judicial Reasoning and Other Legal Essays*, Edited by Cook, Walter. New Haven: Yale University Press, 1919. Cited from Wenar, Leif. 'Rights.'

natural and moral powers, to be a useful member of the world, obviously we do have this duty to educate ourselves. If there is no such idea of duty to oneself, it may prove difficult to show that we have no privilege to not educate ourselves.

Furthermore, do we really have the privilege to educate ourselves in a specific manner? Can parents homeschool their children and only feed them with religious teachings in a modern world? It is questionable. Using only contemporary rights theories, it would be difficult to answer this question too. But by using Kant's theory of duty, we will easily get the reasonable answer that there should be no such privilege. Every person has the duty to become a useful member of the world and develop their natural powers, including their reason, logic, understanding, memory, and imagination, which cannot be provided by those religious readings alone.

Hohfeld defines the notion of claim rights as the following: "A has a claim that B  $\phi$  if and only if B has a duty to A to  $\phi$ ".<sup>16</sup> It is only this claim-right that demand the related others performing corresponding duties to the right holder. One has a right not to be murdered or tortured, and others have the corresponding duty to not murder or torture him. Coercion can be used to make sure this won't happen to the right holder, and if someone's property rights are violated by another, the owner can demand punishment and/or compensation from the right violator. The act of punishing and forced compensation are also coercion.

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<sup>16</sup> *ibid.*



So Kant's narrow conception of right, that having a right indicates that one can thereby coerce others to perform the corresponding duty, seems similar to the conception of claim-rights.

But it is still not clear whether the claim-rights include both kinds of coercion, as I mentioned in the example of the right to education. A negative right to free education can also mean a claim-right, not just a privilege, since it can indicate that one can choose whatever kind and degree of education one wants and others are forbidden to interfere with his freedom. Here I just make an example to explain the concept of right and I have already discussed before that we may not have such a right to education at all. However, a positive right to education means society has the duty to help fulfill the individual's right to education. And philosophers are uncertain whether we have such a right to all kinds of education. The right to primary education is agreed upon. But the right to higher education is not. I will discuss this problem in the following sections.

## **Chapter III: The Discussion of Conflict of Rights**

Kant's ethical theory of duty can also shed important light on the problem of the stringency of rights, and also the issue of social justice. Since the stringency of rights is essential to many important political issues involving the possible conflict between individual rights and the communal good as well as the possible conflict among various rights themselves. Moreover, the topic of social justice is, in a fundamental sense, a question over the conflict of rights and needs, a balance between a duty to oneself and a duty to help others.

In this chapter I will examine Nozick, Thomson, Dworkin, Rawls, Nagel, Philippa Foot, and Taurek's discussions on the conflict of rights and consequences. Such as whether redistributive taxes are justified and do not violate the property rights of citizens, how to decide on distribution of public goods and social welfare, why the right to bodily integrity is fundamentally important, and how we meet the demands of the community and the requirements of our individual life when the two conflict.

Moreover, this problem goes beyond the complex situations of public affairs and can help solve some of the conflicting choices in individuals' private lives. For example, after setting aside contributions in the form of taxes by individuals to the state institutions, many times in their private lives, they still have to decide whether to help strangers, relatives, and friends, and how many resources and devotion should be spent on them.

## 1. Nozick's Theory Of Rights As Absolute And Thomson's Criticism

Here we can discuss just one example to show how the stringency of rights determines a good amount of these important political issues. Robert Nozick, in his book *Anarchy, State, and Utopia*, claims that redistributive taxes violate the property rights of citizens.<sup>17</sup> Of course, he does not object to such taxes if the citizens unanimously agree to contribute. What he objects is that such taxes are decided by majority rule, imposed by the majority on unwilling minorities.

Besides this point, unlike many claims based on incomplete readings on him, Nozick is not against imposing those redistributive taxes to correct injustices done during the creation of the first ownership and during unfair transactions. Rather, he thinks it is alright for the existing states in our world to collect redistributive taxes since he believes there is no such ideal and perfect situation where first ownerships can be established without injustice being done.<sup>18</sup>

But besides these two situations, and beyond the limits of correcting injustice, is the government also justified in collecting taxes for the sake of helping the people in need? Nozick says no. And for the further demands on citizens, are governments justified in collecting taxes to reduce inequality? Of course, he says no again.

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<sup>17</sup> Nozick, Robert. *Anarchy, State, and Utopia*. New York: Basic Books, 1974, p. 171-174.

<sup>18</sup> *ibid*, p.152-153.

Judith Jarvis Thomson responds to this in her ‘Some Rumminations on Rights.’<sup>19</sup> She thinks that underlying Nozick’s arguments—that a government violates its citizen’s rights when it imposes redistributive taxes on them—is a deeper philosophical claim that rights are absolute and thus it is wrong that we infringe or violate them. Nozick does famously claim that rights, as side constraints, are absolutely stringent: ‘The side-constraint view forbids you to violate these moral constraints in the pursuit of your goals’.<sup>20</sup>

But after further reading on him, Thomson acknowledges that Nozick actually holds the following as his general theory of rights: in the case of ‘avoiding catastrophic moral horror’<sup>21</sup>, we can violate people’s rights; and in the case of sacrificing a less important right to save many others from excruciating pain, we can also violate this less important right. Therefore, Thomson thinks, when Nozick talks about the stringency of rights in general, he does not suggest that all rights are absolute and we are wrong if we violate them. Nozick, though, hasn’t explicitly discussed how we should decide the degree of stringency of rights.

However, when Nozick discusses political issues regarding government decisions, he forgets all his uncertainties regarding the absoluteness of rights in a general theory, and asserts that governments are wrong and they infringe its citizens’s property rights when they impose redistributive taxes for the purpose of helping the needy and adjusting income inequalities.

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<sup>19</sup> Thomson, Judith Jarvis. ‘Some Rumminations on Rights.’ in Thomson, Judith Jarvis. *Rights, Restitution, and Risk, Essays in Moral Theory*. Harvard University Press, 1986, p.49-63.

<sup>20</sup> Nozick, p. 29.

<sup>21</sup> Thomson, *ibid*.

After pointing this out, it is natural for Thomson to suggest that if we apply the general theory of the relativeness of stringency of rights to practical issues of political decisions of government, we shall accept that less important property rights can be infringed for the purpose of helping people in dire need. If we can break someone's box and get the medicine from it to save a child's life without the owner's consent, we can also impose taxes on the citizens to save the poor from severe suffering. In the case of violating property rights to save someone's life, compared to that of the right to life, the stringency of property rights is obviously less in degree. We should surely infringe the less important rights of property for the sake of fulfilling a much more important right to life. But the difficult question is in the case of redistributive taxes—not all those collected taxes are for the sake of serving such dire needs as saving someone's life. In addition, we surely would agree that one in want of a fancy car or any luxuries in general, cannot just grab his rich neighbor's car or luxuries in the name of reducing inequality.

As both Nozick and Thomson notice, a human's dire needs should be granted with higher status than these consumer goods. The mistake of Nozick is that he treats all human needs as consumer goods, therefore without the higher stringency than that of property rights. Based on this logic, the justification of redistributive taxes is gone to the wind.<sup>22</sup> Thomson rightly points this out as Nozick's biggest mistake in his arguments.

But beyond the point of saving people's lives, Thomson doesn't discuss what kinds of human desires and wants should be counted as human needs, different from consumer goods, and should thus be regarded as legitimate purposes for taxation.

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<sup>22</sup> Nozick, p.160-164,168-172. Thomson points this out in her paper.

## 2. Differentiating Between Basic Needs And Consumer Goods

The differences between human's basic needs and consumer goods are widely discussed by economists and political philosophers interested in the topic of equality and justice. The two are also granted different names, such as needs versus wants or wishes, etc.<sup>23</sup> But to distinguish basic needs from consumer goods is a very difficult job, especially for borderline or hard cases. And without a systematic moral theory to guide us to make this distinction, the categorization would seem arbitrary because a lot of human activities are located in the middle of the spectrum between these two extremes.

For example, the wish to have a fancy car surely is a luxury wish, not a basic human need. But is a person's need to go to places in a remote rural area a basic human need or a wonton wish? In other words, should all citizens be granted access to certain transportations, such as if they cannot afford a private car, the government should give them the access to public transportation?

Furthermore, should education, especially higher education, be counted as a basic need or a consumer good? Should a government invest in education for all its citizens? Should a government make college education free for all its citizens by taxing all for this? Approximately half of those citizens won't have college education in their whole life, which means they need pay for others' higher education without any benefit returned to

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<sup>23</sup> for example, McGregor, J. Allister, and Camfield, Laura, and Woodcock, Alison, 'Needs, Wants and Goals: Wellbeing, Quality of Life and Public Policy.' *Applied Research Quality Life*, 2009, 4, p.135–154.

them. Moreover, some of the citizens go to private universities, which means they also need spend their own money on others' college education.

These are hard questions to answer. And these questions are not just practical and prudential questions answerable to economists. These questions are morally relevant questions and should also be answered by moral and political theorists.

And there is another important school of political theorists whose theories on human needs are worth consideration: critical theorists, namely, the Frankfurt School. One of its most prominent thinkers, Herbert Marcuse, coins a unique concept, 'false needs,' to indicate how in a commercial society human freedom is limited by our overwhelming false needs in his most celebrated work, *One-Dimensional Man*. For him, all those needs that are beyond our basic, vital needs are likely false needs, which can drive us to unnecessary work and thus to unnecessary toil and suffering. First, Marcuse defines 'false needs' as the following:

We may distinguish both true and false needs. "False" are those which are superimposed upon the individual by particular social interests in his repression: the needs which perpetuate toil, aggressiveness, misery, and injustice. Their satisfaction might be most gratifying to the individual, but this happiness is not a condition which has to be maintained and protected if it serves to arrest the development of the ability (his own and others) to recognize the disease of the whole and grasp the chances of curing the disease. The result then is euphoria in unhappiness. Most of the prevailing needs to relax, to have fun, to behave and consume in accordance with the advertisements, to love and hate what others love and hate, belong to this category of false needs. <sup>24</sup>

In contrast to this, our 'true needs' are:

The only needs that have an unqualified claim for satisfaction are the vital ones—nourishment, clothing, lodging at the attainable level of culture. The satisfaction of these needs is the prerequisite for the realization of all needs, of the unsublimated as well as the sublimated ones. <sup>25</sup>

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<sup>24</sup> Marcuse, Herbert. *One-Dimensional Man: Studies in the ideology of advanced industrial society*. 2nd edition, Routledge Classics, 2002, p.7.

<sup>25</sup> *ibid*, p.7-8.

In combination to this, we may infer that in Marcuse's mind false needs have three main features: first, they are not genuine individual's own needs or wants, but are imposed by some external social interests; second, they have negative impacts on individuals and society—the needs 'perpetuate toil, aggressiveness, misery, and injustice' and they have paralyzing and blinding influences on individuals by making them lose the ability to recognize their unfree situation and see the possibilities for change; third, they are unnecessary since they are not vital ones which are needed as 'the prerequisite for the realization of all needs.'<sup>26</sup>

But Marcuse does not make it clear whether all three features of false needs are needed to define the concept and how the three features are related to each other. Is each feature a necessary and sufficient condition to define a false need, which means, meeting the condition of either one of the three features satisfy the definition of a false need? Or, is each feature a necessary but insufficient condition to define a false need, which means, we can define a false need only when all three features are present?

When we look at these three features, it does not seem right for each one of them alone to define a false need. And treating each one of them independently as a sufficient condition to define a false need will generate many controversial indications.

Regarding a false need's first feature of being imposed by external social forces out of individuals's control, it is hard to decide which needs are individuals' genuine needs, and which are imposed by others. When individuals are persuaded by others, with good reason, and accept the objects which others suggest are good as their own needs, it is not

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<sup>26</sup> *ibid.*



right to say that their concepts of needs are ‘imposed’ or coerced by others. When those needs are claimed by individuals themselves to be genuinely their own after accepting others’ suggestions, we need additional evidence to support Marcuse’s claim that these needs are imposed by external social forces via manipulating the individuals’ tastes and desires. Only the existence of the powerful existence of external social forces and their possible motives is not enough to support the ‘manipulation’ claim. Some of Marcuse’s own examples of false needs in the light of the first feature of the definition of false needs include: the individual’s need to have fun, relax, and to want what others want and what advertisements advocate. Critical theorists usually consider leisure time as a worker’s basic need. So why does this become a false need in Marcuse’s theory? And the example of wanting what others want. Of course, we are influenced by others and advertisements that we want something which we do not need and should not want, such as buying a luxury car when we can do with a modest car. But sometimes we do find something suggested by others and advertisements useful and even identify those things with who we are and what we really want. Such as we may get the idea of listening to classic music and operas from the radio or the internet—the mass media; before such encounters, our limited and provincial environments didn’t generate these needs in us. But, then, the fact that these needs are foreign in origin should not imply that they are false. After all, to decide which needs are false should not depend on the origins of needs. Hence, getting the clues of what we want from others and advertisements itself should not be a defining feature of a false need. The discussion, here, seems to indicate the first feature alone is insufficient to define a false need.

Furthermore, the offerings of desirable objects suggested by the media only provide us with a range of possible choices from which we can choose. They do not coerce us to choose them. There are plenty of examples of people being rational in choosing what they really want in the age of information and in commercial society. Should offering too many choices be counted as a case of manipulation and limitations to liberty? Of course not. Marcuse also agrees that only offering limited choices, leaving true choices aside, counts as limitations to liberty.

The range of choice open to the individual is not the decisive factor in determining the degree of human freedom, but what can be chosen and what is chosen by the individual. ... Free election of masters does not abolish the masters or the slaves. Free choice among a wide variety of goods and services does not signify freedom if these goods and services sustain social controls over a life of toil and fear.<sup>27</sup>

But, here again, Marcuse mixes the discussion of the true range of choices with the effects and origins of those choices. What is also unclear in his discussion is whether the agent can decide not to choose anything from this ‘wide range of goods and services’, or if this ‘wide range of goods and services’ include all possible choices. If the agent can decide to choose nothing, and the range is complete, the situation should not be counted as manipulation and a limitation to liberty.

Even if we accept that offering too many choices counts as manipulation, there still remains a question of whether manipulation itself should be counted for a limitation on one’s free choice and a restraint on our freedom. One may say that it is our rationality that is on test before the overwhelming offerings of desirable objects, not our freedom of choice. However, some philosophers may say that it is actually our positive freedom at

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<sup>27</sup> *ibid*, p.9-10.

risk. But one may still respond by claiming that temptations are just temptations and they do not infringe our positive freedom but just test us. Having positive freedom, being our own master, depends on our rationality which is developed by our education. And the question of whether the education we receive in the age of information and in commercial society is either brainwashing or manipulation, or open and free education, is totally different from the question of whether consumers' choices are freely made or not.

A false need's second feature of having negative impact on individuals and society, defined by Marcuse, is even more controversial. To treat any needs that can cause 'toil, aggressiveness, misery, and injustice' as false needs is to judge the authenticity of a need based on the effects it may cause to the agent. But when an agent with reasonable life goals and ideals, such as to be a teacher or a singer, fails in her pursuit of her dreams, she may suffer from toil and frustration, and feels miserable. It is not right to say that her life goals and her self-development are false needs. On the other hand, eating candy can temporarily make the agent feel happy, which does not then indicate that eating candy is a true need. Therefore, it is not right to judge the authenticity of a need based on its effects on the agent, either the immediate effects or long-term effects. Of course, in our common experience, more is the case in which people work overtime to fulfill their many unnecessary needs. Hence, Marcuse's general idea of false needs causing individuals to toil and suffer does offer crucial warnings to us living in commercial society.

Furthermore, the claim that a false need can 'arrest the development of the ability (his own and others) to recognize the disease of the whole and grasp the chances of curing the disease', in other words, to lose our freedom, or, the capacity of reflection on our

situation and the chances of change, also has some truth in it. Therefore, the second feature of a false need needs retain, but needs to work in combination of other features, such as the idea of unnecessary needs or the idea of freedom and the ability of self-reflection. But then we will need a definition of unnecessary needs to define false needs, and we go nowhere. We still need a definition of necessary needs.

Thirdly, if humans' vital needs only include nourishment, clothing and decent housing, humans are then treated not much better than animals, with only physiological needs to be taken care of. Therefore human beings need much more than those vital needs as Marcuse claims, in order to be a fully functioning human being. What differentiate humans from animals and what counts as the essence of humanity, are the fundamental questions to ask before we can answer the question of what counts as true human needs. And exactly at this point Kant makes one of his most important contributions by his explicit analysis of the concept of humanity. I will analyze his idea of humanity as the capacity to set up and pursue ends in detail in chapter III.

But Marcuse makes an supplement to his concept of false needs later in his book. When he explicitly discusses what are the standards of true needs, he suggests the following:

The judgment of needs and their satisfaction, under the given conditions, involves standards of priority—standards which refer to the optimal development of the individual, of all individuals, under the optimal utilization of the material and intellectual resources available to man. The resources are calculable. "Truth" and "falsehood" of needs designate objective conditions to the extent to which the universal satisfaction of vital needs and, beyond it, the progressive alleviation of toil and poverty, are universally valid standards.<sup>28</sup>

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<sup>28</sup> *ibid*, p.8.

Here, in addition to his previous definition of the vital needs as merely nourishment, clothing, and decent housing, Marcuse suggests that ‘the development of the individual’ and ‘the progressive alleviation of toil and poverty’ are also standards for a true human need. Surely the development need of the individual is more suitable for human beings. And it may require more resources and expenses beyond the three vital needs as he previously claims. This idea of the development of the individual is close to Kant’s idea of developing the humanity inside us. Though Marcuse’s discussion is too sketchy, without Kant’s detailed analysis of categorized different capacities of the individual. And the reducing of toil and poverty is surely an important factor for human flourishing. Kant also explicitly advocates the similar thing in his theory of duty to self, asserting that staying away from poverty helps us protect our moral integrity. Alongside with the three previous features of Marcuse’s concept of false needs I discussed before, the two additions make the concept more robust.

But here is not the place to criticize Marcuse. What Marcuse contributes to the discussion of social justice and human needs is his notice of the existence of false needs, and the negative effects of them on human freedom and progress. Although his definition of a false need is not clear, and it is hard to pin down an accurate and working definition, I think the essence of Marcuse’s idea is false needs’ negative impact on the individual — the limitation on his freedom and self-development. Before I discussed that this negative impact cannot merely mean toil and misery, since failure from a noble and reasonable cause can also generate toil and misery. But if we combine this feature with the specifics on the limitation on our freedom and self-development, it works.

We then may learn from his discussion on false needs and the critique on commercial society to deepen our understanding on the differentiation between basic needs and consumer goods. To be reminded, the purpose of our doing this differentiation is to address the problem of social justice, since we may have the duty to help others fulfill their basic needs, but do not have the duty to help others have whatever consumer goods they want.

We may be tempted to say that consumer goods are all false needs. As discussed above, the useful concept of false needs is mainly two features combined: those are beyond vital needs and those make the holders lose their freedom and self-development. And consumer goods are the goods that do not belong to human's basic or true needs. So consumer goods may have these two features of false needs too. Furthermore, since we have neither the duty to help others' false needs, nor the duty to help others have consumer goods, so the two must be equivalent somehow. The two terms probably have a lot of overlapping, but may have some slight differences too. But in this section I haven't explicitly defined the concepts of basic needs and consumer goods, since the issue is too complicated and is entangled with the issue of social justice and the idea of humanity. I think it is better to analyze it after the discussion on the issue of social justice and Kant's idea of humanity. Only in terms of humanity can we fully understand the meaning of human's true needs. Anything we want that serves to protect and nourish our humanity is a true need. Anything we want that destroys our humanity or prevents it from developing is a false need. It does not matter whether we call these goods that are not humans' true

needs false needs or consumer goods. The definitions of needs are also related to the topic of social justice, since we may gain insights from these social justice theories for the definition of true needs and false needs. I said before that the definitions of needs guide us to solve social justice issues. Here what I try to say is it works in reverse too. From some social justice theories which analyze the issue of justice from other angles, such as the balance of the requirement of equality and the demands of freedom, can also sheds light on how to define humans' true needs and false needs.

I won't go back to this discussion of true needs and false needs after this section. Since the following discussions will answer the question of how to properly treat the tension between individual goods and communal goods directly.

Before we go to Kant, I will consider some other famous political thinkers's ways to deal with this issue.

### 3. Dworkin's Theory Of Equality

Ronald Dworkin, in *Sovereign Virtue*,<sup>29</sup> discusses what kinds of things should be regarded as the right objects of concern for equality promoted by the government.

Though this does not deal with redistributive taxation and the topic of needs and wants directly, this is just another way to deal with the same question, which is social justice that is in the business of government.

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<sup>29</sup> Dworkin, Ronald. *Sovereign Virtue: The Theory and Practice of Equality*. Harvard University Press, 2000. mainly the 1st and 2nd chapter, 'Equality of Welfare, 'Equality of Resources'. p.11-120 the two papers were published in journals 20 years before published again in this book.

Dworkin suggests that only equality of resources, not equality of welfare, should be promoted as a legitimate objective by a government. And here 'resources' are defined by him as 'resources are owned privately by individuals', which are material things. In general, what Dworkin means by equality of resources is that citizens should have equal material things at their hands, over their entire life span, as necessary means to lead their lives. Why Dworkin thinks that equality of welfare cannot be regarded as the right kind of object for this is that to aim at welfare means to aim at human's mental states, their senses of happiness. And humans' senses of happiness are highly contingent on each individual's unique and arbitrary desires and tastes. Sometimes people require a lot of resources to satisfy their grand ambitions or expensive desires or oversensitive feelings, sometimes they only requires very little resources if they are stoics or ascetics.

Besides this, in my opinion, human's desires and senses of happiness are constantly changing, so it would be difficult, if not impossible, to track these frivolous desires and feelings. More importantly, also in my opinion, it is impossible to assess the authenticity of claims made by individuals on the level of their feelings of happiness, since they may lie in order to have more resources assigned to them. Therefore, to achieve equality of welfare or sense of happiness would mean assigning unequal resources differing in large quantities to individuals with arbitrary desires, which in fact are unjust.

In rejecting equality of welfare, Dworkin then asserts equality of resources, since it is the best candidate to bridge the gap between liberty and equality, the gap between individual responsibility and requirements of justice - equal concern for all citizens. In detail, he suggests that governments should only aim at correcting inequalities of



resources resulting from a lifetime events out of 'brute luck', the circumstances out of control of individuals, such as disabilities and lack of talents; but not at correcting inequalities of resources out of 'option luck', formed by deliberative choices in control of individuals, such as hard working, and willing to taking risks.<sup>30</sup>

But a problem similar to distinguishing needs and wishes also lurks in Dworkin's theory of equality. It is the problem of cutting a clear line between brute luck and option luck or, in other words, between contingency and free choice. Roland Pierik, in his book review on Dworkin's *Sovereign Virtue*, points out this problem. Pierik argues that 'the clear distinction evaporates in most actual decisions e.g. should lung cancer in the case of a moderate smoker be seen as resulting from choice or circumstance?'<sup>31</sup> He doesn't elaborate on this problem, but it is easy to interpret. If lung cancer occurred to a heavy smoker can be regarded as resulting from option luck or choice, and lung cancer occurred to a non-smoker is a case of brute luck or circumstance, then a moderate smoker sets in the middle and thus is a mixed case. In this moderate smoker case, how does one know that his lung cancer is caused by smoking, or it has nothing to do with it at all? Since we still cannot correlate the chance of having lung cancer closely with the degree of smoking. It may not be a liner relationship at all. Then how should a government deal with this kind of mixed cases in its health care policies? Should the people with bad life style choices, such as smoking, be punished in a health insurance scheme which assigns a higher premium to those in high risks?

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<sup>30</sup> *ibid*, 'Equality of Resources'.

<sup>31</sup> Pierik, Roland. Review of *Sovereign Virtue*, by Dworkin, Ronald. *Journal of Applied Philosophy*, Vol. 19, No. 2, 2002, p.189-191. He also mentioned the example of general education.

Pierik also briefly refers to Kymlicka's criticism to Dworkin's approach, in which Kymlicka states that 'culture is the context of choice'.<sup>32</sup> I agree that the individual is formed in society, and thus his personalities and the styles of making life choices are heavily conditioned by the culture under which he has grown up.

But I disagree that all of human behaviors are acted in this way - without any self-reflection on what is right and wrong, and what is prudent or stupid. Individuals should surely be responsible for those decisions made in clear consciousness, deliberation and calculation. But how about other majority of cases which do not belong to the above situation? This is the basic debate between the school of free will and the school of determinism. And it is also a debate between communitarianism and liberalism since the realization of individual responsibility is crucial in a liberal theory.

The issue is very complicated. Since even we agree that free choice is possible in human's socialization, as a Kantian philosopher or a believer in free will would do, one cannot deny a huge percentage of a person's daily activities are not made in a self-conscious and deliberative way. And these activities are not totally under the influence of 'bad brute luck', which are completely out of individual control, either.

For example: brute luck are such events that a person gets lung cancer with unknown obvious causes, or one is hit by lightning or a car in an accident of not his fault. But when a person eats too much sugar in her diet and have diabetes, because she lives in a society where people enjoy sweet food or depend on carbohydrates as the main energy source, it is not alright to either say that she is under bad brute luck, and her life style is not under

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<sup>32</sup> Kymlicka, Will. *Multicultural Citizenship*. Oxford University Press. 1995. Referred in Pierik's book review.

her control at all, or to say that she has made conscious and deliberative decision on her food choices.

The question is: should we be responsible for our unconscious or non-deliberative decisions? To illuminate the problem of whose responsibility it is, it is better to frame the question this way: should individuals alone be responsible for these socially conditioned activities? Or should it be the responsibility of the society as a whole, since it is the society, its traditions and cultures, that are the main social forces to form those behavior patterns? When the case is framed this way, the question seems a little clear.

But in reality, in a society where multiculturalism is a norm, where information and knowledge is easily circulated, it is difficult to find a clear case which a person is totally under the influence of one cultural tradition or a school of ideas, ignorant of free and useful information floating around her.

All in all, this debate goes into the heart of the big subject areas of moral responsibility and free will, which is too much to cover, and not very relevant to the topic of this dissertation any way. What I want to suggest is that those are very difficult questions, difficult to solve even under Dworkin's advanced theory of equality.

But Dworkin's contribution is that he has pushed how to solve the question of social justice a little further. He points out that within the two categories of basic needs and consumer good, there is a deeper distinction that we need to make: whether the individual is responsible for the events in his life that have changed his status in society and the level of his sense of well-being. He suggests that the demands of social justice- giving

equal concern to each citizen- should be considered in combination with the requirements of liberty and individual responsibility. More importantly, he suggests that these two demands can be combined. If there is conflict between the two values - equality and liberty, it can be solved by giving equality a supreme status. That is where his book title - sovereign virtue- comes from. Equality is the sovereign virtue. But the value of liberty is not to be sacrificed too heavily. Its value can be incorporated into a scheme of social justice which assigns a crucial place to it. So while Nozick concerns that the value of liberty, in the form of individual rights, will be inevitably violated in a scheme of distributive justice; Dworkin suggests that the problem can be addressed in a refined system of social justice.

Furthermore, to the question of what kinds of life conditions can be counted as justifiable ground for distributive justice, and the question of how to distinguish basic human needs and consumer good, Dworkin's approach makes another contribution. Nozick could only agree that dire human needs and 'catastrophic moral horror' are the legitimate ground for distributive justice (he does not say this explicitly in his theory of government. But his moral theory could imply this). And Thomson only discusses that dire human needs such as saving someone's life can trump property rights, and leaves the question of redistribution for concerns of equality unanswered. But Dworkin suggests that other less dire and catastrophic individual situations such as disabilities and lack of talents can be counted as justifiable grounds for infringing individual property rights. Why these life situations, even not as serious as death, can be given such a power to trump individual rights, is because they result from bad brute luck, out of individual's

control and thus are not her responsibility. And the value of liberty always means that individuals should have liberty to choose their own life style and life projects and be only responsible to the consequences of their choices. And a system of social justice, embodied in government's policies of redistribution taxation, if valuing both equality and liberty, should take the degree of freedom in individual choices into account.

However, Dworkin's approach is only good at solving some types of problems of social justice, but not other types. Such as these cases that have little or nothing to do with free choice and individual responsibility. For example, the previous examples of public transportation and education. They are just some kinds of human needs or wants. Those children who need free education are not responsible for their needy situation, since they are not even adults capable of sufficient reasoning and are not a member of labor force. If one may say that their parents have this responsibility, but it is not right to say that these children should bear the consequences of their parents' choices. And it is difficult to use the system of brute luck and option luck to analyze the cases of free college education and public transportation. So a big part of this puzzle of social justice still remains unsolved.

#### 4. Rawls's Theory Of Primary Goods And Social Justice

Before I go to Kant, there is another political philosopher whose insights are worthy of consideration for this topic. John Rawls, in his *A Theory of Justice*,<sup>33</sup> proposes a unique and effective method to deal with the problem of social justice, including the distribution of rights, liberties, and material means. His method consists of many useful tools to avoid many possible conflicts among rights and needs.

#### i. Rawls' Idea Of Primary Goods

First, he names the things that a human community has the authority to distribute as 'primary goods': 'things that every rational man is presumed to want', no matter what a person's rational plan of life is or whatever ends that they pursue. And 'the chief primary goods' are 'rights, liberties, and opportunities, and income and wealth'. These are also 'the social primary goods'. Other goods, such as 'health and vigor, intelligence and imagination', are 'natural goods', which are not directly under the society's control.<sup>34</sup> In other words, only those social primary goods should be in control of the society.

Before we discuss why only 'rights, liberties, and opportunities, and income and wealth' are counted as primary goods, and why they must be counted as primary goods, we need to discuss why we need a concept of primary goods itself. What does this concept bring us as fresh and new that has not been seen in other previously discussed theories of social justice? What insights does it give us about how to balance liberty and

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<sup>33</sup> Rawls, John. *A Theory of Justice*, Harvard University Press, revised edition, 1999.

<sup>34</sup> *ibid*, p.54.

equality, how to balance the individual herself's self interests, the pursuit of her own life projects, and the need to help others?

The main characteristic of those social primary goods is that every rational man would agree that these goods are necessary means to attain their various ends and aims.<sup>35</sup> It is clear that this method is built upon a framework of a constructivist theory. While the primary goods have some objective feature: they are universally wanted with good reason; at the same time they also have a subjective feature: they are goods that are wanted by rational human beings. The reason of why they are good is not because they have some good features that are independent from desires of human beings, but because these good features are desired by humans. And the two sides are connected by this method of moral constructivist theory.<sup>36</sup>

Constructivist theories are a good way to bridge the two opposed metaethical theories: metaethical subjectivism and metaethical objectivism. Metaethical subjectivism is the kind of metaethical theory which claims that there is no objective ground for ethical truth, but only subjective individual attitudes toward ethical experience. And objectivism claims otherwise, namely, that there are objective grounds for ethical truth. But both theories have their pitfalls. Metaethical subjectivism easily falls into moral relativism, where such clearly unjust human activities as Nazi Germany's killing of Jews cannot be criticized, if all our moral claims just represent our own attitudes, and there is no moral criteria to judge human behavior. But metaethical objectivism also faces difficulties in

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<sup>35</sup> *ibid.*

<sup>36</sup> John Rawls used this term and discussed moral constructivism in his paper: 'Kantian Constructivism in Moral Theory', *The Journal of Philosophy*, Vol. 77, No. 9, Sep. 9, 1980, p. 515-572. Also in *Collected Papers* by John Rawls, Harvard University Press, 2001. but here the discussion is mine.

providing solid philosophical grounds for those objective external moral criteria. Moral constructivism tries to avoid both those problems, by combining objectivity with subjectivity: If something is good, its goodness must fit human desire and need, and must be desired by humans for good reason.

Later on Rawls explains this feature in detail when he explains what is human good in his theory of the good - goodness as rationality. He defines that some specific item A is a good X (a class of this kind of items) for K (some person) 'if and only if A has the properties which it is rational for K to want in an X, given K's circumstances, abilities, and plan of life (his system of aims), and therefore in view of what he intends to do with an X, or whatever'.<sup>37</sup> For example, it is a good watch for Alex because it shows accurate time and fits his outfit. This definition of goodness in a thing for a person is clearly based on certain concept of rationality. A thing is good for some person if and only if its properties are rational for this person to have.

Sometimes we also simply say that some item is a good object of a certain kind, without mentioning it is good for some particular person. But in this case, Rawls points out, we usually mean it is good for all kinds of persons, since 'there is enough similarity of interests and circumstances among persons concerned with objects of this kind so that recognized standards can be established'.<sup>38</sup> For example, we could just say, it is a good watch. This is an important step based on which it is possible for us to find common primary goods for human beings.

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<sup>37</sup> *ibid*, p350-351.

<sup>38</sup> *ibid*, p352.



Why we have ‘enough similarity of interests and circumstances’ is because we have ‘sufficient common experience with or knowledge of these things’ and thus have ‘an understanding of the desired features’ by such a standard object. And convention and culture are usually the vehicle by which we establish those common understandings upon things that are desirable.<sup>39</sup> Here although Rawls only discusses that given similar conditions, humans would have similar understanding of desirability of certain things, he makes an important point that ‘insofar as a similarity of conditions permits can we safely abstract from anyone’s special situation.’<sup>40</sup> So it is possible to generalize from anyone’s special situation about what are desirable features in things to what we as human usually want in similar situations.

To acknowledge that possibility makes it possible to acknowledge that various cultures and traditions can have similar understanding of desirability of certain things. Since human beings face similar life challenges: we all need to survive the harsh nature, need to feed ourselves, to find mate, and to reproduce, etc. Besides those basic needs, we also all have our various life projects to do, different higher desires to meet. To meet those desires and accomplish those life projects, we need certain means to achieve them. Those primary goods as listed above are those necessary means for us to have to achieve them. We know that those primary goods are necessary means from our ‘common experience with and knowledge of’ these things. It is based on our rationality: our practical rationality realizes that we need liberties, rights and opportunities, and income and wealth to pursue whatever life projects and aims we have.

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<sup>39</sup> *ibid.*

<sup>40</sup> *ibid.*

But why are those primary goods, and only those primary goods considered as primary? Is it really true that various cultures should and can also recognize those things as necessary means to achieve various ends that their individuals have? It needs further discussion in later parts of this thesis. Here I just point out the philosophical foundation of the common primary goods which is based on a theory of rationality. Fundamentally, this is a kind of Kantian constructivism, as Rawls claims in his paper. Humans' rationality has some universal quality across all cultures and traditions. If its actuality and degree of maturity depends on favorable social conditions to realize, its potential is always there rooted in every human mind. And in this sense human beings can share some common understanding regarding social goods that we all need to pursue our life projects and desires.

This idea is basically made salient and significant by Immanuel Kant. That is why Rawls names this method as Kantian constructivism. In the following sections on Kant, we will see clearly that Kant's idea of humanity is just a rational will: the capacity of capable of setting up ends and pursue them. Since here I have discussed the existence of universal capacity of reason in humans across various cultures, I won't discuss it again in the chapter of Kant.

## ii. Rawls' Two Principle Of Justice And The List Of Basic Liberties

Rawls's theory of primary goods is just the first step on which he builds his theory of justice. But it is essential since the content of his theory of justice is based on those primary goods: the distribution of rights, liberties, opportunities, and income and wealth.

The fundamental idea behind Rawls' theory of justice is that 'justice is the first virtue of social institutions, as truth is of system of thought'.<sup>41</sup> Of course the statement is a normative or prescriptive one, not a descriptive one. Surely the existing social institutions in the world lie in a spectrum between being extremely unjust and being close to just. What Rawls means is that justice should be the benchmark, the moral criterion, from which we can judge existing social institutions, and a base on which we can design a better model for societies to emulate.

Rawls states that his theory of justice is based on a more general conception of justice:

All social values - liberty and opportunity, income and wealth, and the social bases of self-respect - are to be distributed equally unless an unequal distribution of any, or all, of these values is to everyone's advantage.' And 'injustice, then, is simply inequalities that are not to the benefit of all. <sup>42</sup>

Here is not the place to evaluate this general conception of justice, which sets the benchmark of equality at the center. To explain why this is so requires us to reexamine Rawls' whole scheme of theory of justice from the bottom up. I can just briefly say that Rawls' theorizing is, again, based on moral constructivism, and here for a design of basic structure of society, also a contract theory. Moral constructivism is more at the philosophical level, claiming that human rationality is at the base of judging social

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<sup>41</sup> *ibid*, p.3.

<sup>42</sup> *ibid*, p.54.

values. Contractarianism states that any social structures and institutions should be evaluated and judged by the consent of all parties of society.

Why is the value of equality regarded by Rawls as the default value for judging and designing basic structure of society? Because he believes that the parties at the original position will view this kind of design of social structures based on equality as the most rational for them to accept, since at the original position they don't know their future social status and levels of natural endowments behind the veil of ignorance. The devices of the original position and the veil of ignorance are just for the sake of allowing human reason to function at an ideal situation, in order to filter off all kinds of prejudices, bias, self-interests, all the irrationalities that can hinder the working of reason to achieve a neutral and universal conclusion. And without knowing whether they themselves will occupy an advantageous social position, the parties at the original position would agree that it is better to have a society with a basic structure providing an equal status for everyone.

Although Dworkin and Rawls both advocates the value of equality as the highest among all social values, the two use different background philosophical methods to demonstrate their arguments. Rawls is on a constructivism and contractarianism framework. While Dworkin does not explain his philosophical method, and how he argues why equality is the sovereign value. His method is more of an intuitionism, I think.

What we can learn more from Rawls is the idea of setting the primary subject of justice at the basic structure of society, not at the later stages of welfare distribution

involving interpersonal wellbeing comparison. I think this is a revolutionary idea, which can solve many problems an egalitarian theorist such as Dworkin usually faces. And it is because of this, the way that Rawls advocates the priority of the value of equality over the value of liberty is different from that of Dworkin.

While Dworkin only tries to separate requirements of liberty and those of equality, and the factors of individual choice and contingencies at the piecemeal policy making level, and does not separate the discussion of those fundamental liberties from that of social and economical equality; Rawls takes a totally different way to separate the demands of liberty and equality, and to deal with their possible conflict. Rawls assigns the first principle of justice to the regulation of equal basic liberties and rights, and the second principle to the regulation of income and wealth. Furthermore, he gives the priority to the first principle over the second principle. The following is Rawls' content of two principle of justice:

The First principle: each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others.

The Second principle: social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all.<sup>43</sup>

While basic liberties are the most important social values, they have to be assigned equally to citizens. Thus, at the first principle, equality and basic liberties are perfectly combined: basic liberties has to be equal for all. There is no conflict between equality and basic liberties at this fundamental level. The only possible conflicts that can happen

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<sup>43</sup> *ibid*, p53.

between the requirements of equality and those of liberty are at the social and economical level. Therefore the requirements of social and economical equality can only be in conflict with those liberties that are not basic. Since based on the priority of the first principle, the demands of social and economical equality can never outweigh those of basic liberties and rights. Furthermore, according to the second principle, 'the distribution of wealth and income, and positions of authority and responsibility, are to be consistent with both the basic liberties and equality of opportunity.'<sup>44</sup> The demands of equality of opportunity are the requirements that at first are of equality; but at the same time are the constraints that the value of liberty puts on the distribution of wealth and income.

In this way Rawls easily avoids most of the conflicts between the demands of liberties and rights and the requirements of social and economical equality, though not all of those conflicts.

Rawls only makes a list of basic liberties, and does not explain why they are basic. These basic liberties are: 'political liberty (the right to vote and to hold public office) and freedom of speech and assembly; liberty of conscience and freedom of thought; freedom of the person, which includes freedom from psychological oppression and physical assault and dismemberment (integrity of the person); the right to hold personal property and freedom from arbitrary arrest and seizure as defined by the concept of the rule of law.'<sup>45</sup> Those liberties that are not basic include 'the right to own certain kinds of property (e.g., means of production) and freedom of contract as understood by the

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<sup>44</sup> *ibid*, p54

<sup>45</sup> *ibid*, p.53.

doctrine of laissez-faire', etc..<sup>46</sup> Here it is not the place to discuss Rawls's rationale behind this list (and he does not explain it anyway), and whether each of the liberties in this list is to be counted as necessary element of a list of basic liberties and rights, and whether this list is complete.

But Rawls does mention that in case of internal conflict among those basic liberties, those 'liberty of the moderns' such as freedom of speech and assembly, liberty of conscience and freedom of thought, freedom of the person, and civil liberties, should have greater value than those 'liberty of the ancients' - political liberty, 'the freedom to participate equally in political affairs'. These categorizations of liberties in terms of the moderns and the ancients come from Benjamin Constant. But Rawls does not explain why liberty of the moderns should outweigh liberty of the ancients.<sup>47</sup>

### iii. Rawls's Second Principle Of Justice And Its Philosophical Ground

Both Dworkin and Rawls advocate that it is necessary and possible to combine the values of equality and liberty. While Dworkin suggests that we separate brute luck from option luck, and thus distinguish choice from contingency and individual responsibility from contextual factors; Rawls has similar ideas that individuals should not be responsible for those social and natural factors that are out of their control, such as their

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<sup>46</sup> *ibid*, p.54.

<sup>47</sup> *ibid*, p.176-7.

starting points in life, the initial distribution of income and wealth in the society, and their natural endowments—their talents and skills.<sup>48</sup>

But regarding natural endowments, Rawls's theory is more 'radical' than Dworkin's in the sense that Rawls regards more factors than those natural endowments as the factors that are out of individuals's control. Such as the willingness to take risks and the willingness to learn, counted as results of option luck and individual choice in Dworkin's theory, are considered not of individuals' responsibility in Rawls's theory. Rawls says, 'Even the willingness to make an effort, to try, and so to be deserving in the ordinary sense is itself dependent upon happy family and social circumstances.'<sup>49</sup> Since a person's willingness to take risks and to make efforts may be due to her favorable growing up conditions that help her to develop those willingness.

And even the clear case of hard-working, counted as in the category of individual free choice in Dworkin's theory, is located in the social contingency area in Rawls' theory. Rawls' claim states that 'the willingness to make an effort, and to try' depends on social conditions, and the willingness to make an effort can include the willingness to work hard. Since a person's willingness to work hard may be raised by a favorable family condition and a supporting social context, such as, his family tradition or cultural tradition has this habit of hard working, or his family or cultural background gives him the confidence that hard-working will surely pay off later in life.

Therefore, compared to Dworkin's theory, in Rawls' theory, there is much less room, if there is any, for the play of individual choice and responsibility to account for social

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<sup>48</sup> *ibid*, p.62-65.

<sup>49</sup> *ibid*, p.64.



justice and welfare distribution. If the willingnesses to take risks and to hard-working are among those that are believed to be out of an individual's control, then almost nothing about the individual's choice is left to be taken as the individual's responsibility, and therefore as the basis for unequal income and wealth distribution, in Rawls' theory of justice. Since it is impossible in practice to fully compensate those 'arbitrary effects of the natural lottery' and to give each person the real equal chance in life, the social and economical inequalities are regarded as morally arbitrary and should be mitigated as far as possible, to the extent that the principle of efficiency or the Pareto optimality allows it.

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It is this above rationale that is behind Rawls' second principle in his theory of justice. His second principle, as stated above, says that 'social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all.' From the first part of the statement, it is clear that equality is set as the benchmark for judging social and economic arrangements. Besides the contractarian theory that Rawls uses to explain the reason of why parties at the original position lean to choose this as their second principle of justice, the above argument is the main philosophical ground behind this assertion.

Then, Dworkin and Rawls, which one is right? Shall we decide this by studying more psychology- on how individuals develop those willingnesses? If we go this way, we would find more evidence to support Rawls' theory, based on the current development of psychology. This part of his theory thus seems very convincing.

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<sup>50</sup> *ibid*, p.58.

But is this the right way to solve the problem by doing the relevant research in the empirical science of psychology? Is this just an empirical question or also an ethical question? As Kant suggests, the realm of human behavior is the subject of practical philosophy, where human's free will functions. That means, there is always room for human choice in social practice and their individual lives. Of course, there are always social and historical contingencies working behind every human behavior. But does that mean humans have no free will and free choice, and should take no responsibility for their actions, even intentional and deliberative ones? This is the long-lasting debate between the school of free will and the school of determinism, either soft or hard. I also discussed this issue in Dworkin's section. Here is not the place to solve this heavily debated problem.

Therefore, shall we suspect that Rawls' theory shrinks the realm of humans' free choice too much?

And would this shrinking of the realm of free will contradict his more fundamental idea of moral constructivism and contractarianism? Since both of those theories assert that human reason should play a crucial role in designing basic structure of society. Why does he allow human reason and free will to work at the original position, but not at the later stages of income and wealth distribution? But here is not the place to evaluate this part of Rawls' theory.

#### iv. Rawls' Idea Of Society As A Cooperative Entity

Furthermore, while both Rawls and Dworkin advocate that it is necessary and possible to combine the value of equality and that of liberty, their theories do not necessarily suggest that a balance between individual self-interest and the duty to help others can be easily achieved. Since harmonizing the value of equality and liberty is a different question from balancing between individual self-interest and the duty to help others. The duty to help others does not necessarily mean that the helper should help the helped to the extent that his social goods, including his rights, liberties and opportunities, income and wealth, and even natural goods, including his intelligence and health, should be reduced to the equal value of those goods held by the helped.

On the other hand, a third rationale behind Rawls's defense of the second principle of justice is that all human products are social products - the results of the community's cooperation, thus the distribution of benefits and burdens in this community should be to the benefit of all, and be fair and equal to each's advantage.

Therefore there is no such thing as the duty to 'help others'. It is not about helping others and balancing one's self-interest and the need of others, since there is no such clear cut between one's ownership of things and others' ownership to start with. It is about a fair distribution of a set of social products that belong to all in this community at the beginning. All property ownerships are contingent upon further redistribution policies of government, since all property rights are not fixed and given as natural rights, but are taken as acquired rights which boundaries are to be defined by the community.

#### v. The Issue Of Putting Limits On Government Authority Over Our Property

But a big problem still lurks there. The problem is whether we should allow the boundaries of our property rights to be totally fluid and completely flexible, without any limitations put on the government's infringements on our property rights. Should we give the complete authority to a government, which allows it to confiscates our property, without our consent, whenever it wants in the name of fulfilling state's interests? Should we give the authority to a government and let it tear down our houses without our consent for the sake of building a highway on our land? Or let it nationalize our private companies as it wishes? Or let it just take most of our income and give it to the poor either of our own nation or of some foreign countries? Even if with the compensation offered by the government afterwards to our lost property, are we totally happy to let the government do those things to our personal property without our consent first?

Again, one may answer that if a government is a democratic one, then the government's decisions are with consent of its citizens. We may need briefly go back to Nozick and Thomson's arguments about this. Nozick says that democratic decisions are just majority decisions. For those minorities who disagree on the usage of their properties, the decisions are without their consent. Thomson rejects this argument, and maintains that society as a whole should take responsibility to care about those in dire need. That means, even some of them in this society are not willing to help those in dire need, the majority's decision to help should overwhelm those minorities' wishes. It looks like that Thomson may also have this idea of society as a cooperative entity in her mind, similar to Rawls's idea of social products.

However, no matter whether one has this idea of society as a cooperative entity or not, the problem of whether we should put limits on government's decisions on our private property still exists. Even a democratic government should have its limits on its public policy making. This kind of government still needs some guidance on how to make just public policies.

And usually in a constitutional democracy, the existence of a constitution and its related institutions of courts already puts limits on the democratic decision making. Its constitution, and the laws embodied by the supreme courts decisions, have put the constraints on those decisions made by the democratic procedure.

A country's constitution often is vague in language about the boundaries of property rights. But its property laws are often exact in detail. They are often a result of the mixture of democratic decision making and courts' orders, or just one of them, depending on which specific political system is.

But after all, the law-making process itself, no matter it is a legislative law-making or a judiciary law-making, requires not mere consent from the majority of its legislative members or the deciding justices, but also to follow certain rules and principles of law making. For this law-making part, we need guidance from philosophical principles about how to make just, effective, and consistent laws.

Rawls himself also makes a distinction between one's personal property and productive property. While he categorizes 'the right to hold personal property' as one of

the basic liberties,<sup>51</sup> he does not think that ‘the right to own certain kinds of property (e.g., means of production)’ should be counted as a basic liberty.<sup>52</sup>

Overall, for Rawls, the ideal system of political economy is one of ‘a property-owning democracy’ with a perfectly running market system. Here, ‘property-owning’ does not necessarily mean that means of production are privately owned. The central idea that Rawls wants to advocate is that the market mechanism is a crucial economic institution that any social system should adopt. And he leaves the question of deciding whether to privately or publicly own the means of production to the particular society itself, since he believes that either of them can work well along side with the market system. Why he uses the model of ‘a property-owning democracy’ for his ideal scheme is just because ‘this case is likely to be better known’.<sup>53</sup>

Rawls agrees with the common recognition of economists that the market mechanism is the most efficient to allocate resources, since ‘perfect competition is a perfect procedure with respect to efficiency’. He also suggests that the market institution is ‘consistent with equal liberties and fair equality of opportunity’, since citizens thus have free choice of occupations and there is no reason for ‘the forced and central direction of labor’. ‘Moreover, a system of markets decentralizes the exercise of economic power’.<sup>54</sup> Therefore the market system is not only better in practical or prudential terms, but also better in terms of morality and justice.

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<sup>51</sup> *ibid*, p.53.

<sup>52</sup> *ibid*, p.54.

<sup>53</sup> *ibid*, p.242.

<sup>54</sup> *ibid*, p.240-1.

For him, both a private-property economy and socialism are perfectly consistent with having market institutions. Rawls does not use the term of capitalism. It is probably because the term of capitalism is usually associated with both the free market and private property ownership regarding means of production, and Rawls thinks that the free market is not necessarily tied with a private property economy.

And it is also because of this separation of the market institution and the private-property economy, it is possible for Rawls to distinguish the right to one's personal property and the property right to means of production. I deduce that the consumption goods that are produced by the market system and bought by its consumers are regarded as personal property of the owners. Otherwise, if all properties are publicly owned, even including those consumption goods bought by consumers, there is no need to talk about the difference between personal property and the ownership of means of production, and their different treatments in a system of rights and basic liberties. Also no need for the question whether there could be some limits to be put on the state's authority to distribute income and wealth of its citizens.

For Rawls, the difference between a private-property economy and socialism lies only at the relative size of the public sector which is measured by the proportion of the output of state-owned firms in the total productive output of the state. While for a private-property economy that size is small, in a socialist economy that size is much larger.<sup>55</sup> Rawls also thinks that all kinds of economical regimes use the market to allocate consumption goods, with the preferences of households showing by their purchase as the

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<sup>55</sup> *ibid*, p.235.

guidance of their production. It is just in a socialist economy ‘planners’ preferences or collective decisions often have a larger part in determining the direction of production’. Furthermore, he thinks that in both kinds of regimes there are free choice of occupation and of the place of work. Only a kind of ‘command systems’ interfere with this freedom of occupation.<sup>56</sup>

It seems that in his approval of such an economical regime under which means of production are publicly owned, Rawls ignores the complex relationship between the working of a market system and the ownership of means of production.

One may suspect with good evidence and reason that if most of means of production in a country are owned by the state, not just ‘managers elected by workers’<sup>57</sup>, the state is usually also in the business of managing the allocation of natural and human resources, and the direction of production, including its kind and quantity.

That means, the working of a market system is usually linked tight with a private-property economy with most of its means of production not publicly owned.

Of course, if publicly owned means of production only mean owned by local ‘workers’ council’<sup>58</sup>, not the state, the above complication of producing an overarching economic power by the central government might be avoid. But here is not the place to discuss the detail of this problem.

Nonetheless, Rawls also has a term for this kind of central government with the overarching power to economy: ‘command systems’. Therefore there is just difference in

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<sup>56</sup> *ibid*, p.239.

<sup>57</sup> The term is used by Rawls in *ibid*, p.241.

<sup>58</sup> The term is used by Rawls in *ibid*, p. 235.



terminology between Rawls and those who consider what Rawls regards as ‘command systems’ are just regular socialism in our actual world.

Although Rawls suggests that the background rationale of the second principle of justice, as discussed above, is that all natural endowments of persons should be counted as parts of the collective assets of the society, and therefore should not be the basis for unequal wealth distribution of persons with different talents and abilities. He does care about economic efficiency, and more importantly, the freedom of choosing one’s occupation and career. If a society really takes it seriously that all natural endowments of persons should be counted as parts of the collective assets of the society, then one’s freedom of choice of occupation and career can and should be sacrificed for the overall benefit of the community: individuals can be commanded to work at the occupation where their natural talents and abilities can be used to their maximum level. But Rawls counts the freedom to choose one’s occupation and career as one important liberty. Although he does not mention it in his list of basic liberties, he emphasizes the importance of it while he praises the moral advantages of the market system since it allows the equal liberty and fair equality of opportunity, therefore there is no forced labor in this system.

In modern China under Mao’s regime between 1950s and 1970s, not only there was no private sector at all, and all decisions regarding production including kind and quantity of it were decided by planners of government. But also the allocations of consumption goods were determined by the central planning of the government. Furthermore, there was limited freedom of choosing one’s career and occupation as one wishes, and even

one's place to work and live, thus no freedom of movement. One's residential status was fixed on the place where she was born, and she was only permitted to live and work where her residential status allowed her to do so. If a citizen wanted to go to college or go to work, she had to get approval from the local communist officials of where she lived. Moreover, since there was no private sector, all industries were state-owned, the individual had to try whatever she could to get into the system; and there was no opportunity to start one's own business or change one's jobs if she was unhappy with the one within the planned system.<sup>59</sup>

Under Mao's 'socialism', there was not only no private sectors, there was no private-property economy. There was also no market mechanism. There was not only no efficiency, but also no equal liberties and fair equality of opportunity. People were forced to labor on the career and occupation not of their own choosing, but the one planned by state officials. In some sense, it was proper to call them 'slaves of the state'.

#### vi. Summary of the Discussion of Rawls

To summarize Rawls' genius designs: the idea of basic structure of society as the main subject of justice, the idea of primary goods, the list of basic liberties, the separation of the justice requirements of basic liberties and the justice requirements of economic and

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<sup>59</sup> I have this knowledge from numerous places: my family and neighbors' experience, official party documents, newspapers and books in Chinese, etc. But one can check these books: Twitchett, Denis And Fairbank, John K. eds. *The Cambridge History Of China, Volume 14, The People's Republic, Part 1: The Emergence of Revolutionary China 1949-1965*. Cambridge University Press, 2008. *The Cambridge History Of China, Vol. 15, The People's Republic, Part 2: Revolutions within the Chinese Revolution, 1966-1982*. Cambridge University Press, 2008.

social equality, and the lexical order he puts on his two principles of justice with the priority given to the justice requirements of basic liberties. Through them he avoids most of conflicts between different requirements of justice, such as those of liberty and those of equality, and the difficult task of differentiating and ordering humans' basic needs and luxury wants.

What should count humans' basic needs are those named as primary goods including basic liberties and fair opportunities, and income and wealth. Among those primary goods, those goods with higher rank of importance and higher degree of inviolability are those listed as basic liberties, so there will be no such cases as violating individuals' basic liberties for the sake of achieving economic and social equality, or simply of increasing the sum of benefits for all in the community.

Moreover, Rawls suggests that social justice involving with the distribution of both benefits and burdens of social cooperation, including these liberties and opportunities, and income and wealth, should be mainly taken care of at the basic structure of society, not at the individual level. These basic structure of society are those main political, social, and economic institutions. So the individual should face little burden of conscience and responsibility for realizing social justice for all citizens in a well-ordered society with a just set of main institutions.

But there still remain other conflicts between individuals' self-interest or duty to oneself and the duty to help others in Rawls' system, after employing all these devices to avoid these conflicts.

Firstly, in a not-well-ordered society, or an unjust society, where one cannot count on the basic structure of society to take care of all issues of social justice, there still remains individuals's responsibility for helping to realize social justice. Its citizens still need to take it seriously that they need to consider the duty to help others, to provide them with basic means for their survival and even the means for their life plans, while also care about their own interests and duty to themselves.

In addition, those who live in a country with an advanced economy also need to consider whether they have the duty to help those of poor countries, and how much they can contribute to that course.

Secondly, the separation that Rawls makes between the market institution and the private-property economy makes it possible to distinguish the right to one's personal property and the property right to means of production, and to only categorize 'the right to hold personal property' as one of the basic liberties. But since Rawls' second principle of justice does not ask to distribute all income and wealth in a society to an equal pattern, but only 'to the benefit of all', once the property rights of personal property as basic liberty is established, and only with fair equality of opportunity with openings for all, there will arise the inequalities of social and economic status.

Therefore the question of how much amount of one's time and wealth she should spare for the need of others still remains. Although here after Rawls we have little problem of knowing what are the basic needs of humans, and what are not, so it is easier for us to decide which needs of others we should help. But we need to take a close look

at his lists of primary goods, and basic liberties and rights. We need to understand why these goods should be counted as primary, and as necessary means that everyone can recognize their use, and why some of those goods have higher degree of inviolability than others.

## 5. Thomson, Taurek, Foot, Nagel On Conflicts Among Consequences And Rights

We still need to face the conflict of meeting those needs of others and those of our own, and to decide which and whose needs should take priority over others. There is much more complexity among the conflicts of these liberties and needs than it meets in the eye.

While in continental philosophy this kind of debate is about ‘ends never justify means’. In analytic philosophy, especially in its ethic branch, the problem is taken out by the debates between utilitarianism and rights theorists, and the debates on conflicting rights by rights theorists. Utilitarians usually advocate ends can justify means, since they only care about consequences, the total amount of utility produced, and what are the effects of our actions in the future, if we choose to influence the consequences of them. On the other hand, the rights theorists usually care about the moral nature of the actions themselves, the moral mind state of the agent, and what have happened in the past.

Although utilitarianism’s main principles of social justice as maximizing the sum of utility of a community has been refuted by Kantians and other rights theorists, there still

remain many problems about the conflicts between the liberties and the concerns over consequences. Such as the conflict between having catastrophic consequences versus the violation of basic liberties and rights. How should we decide their relevant weights or priorities?

Before we discussed when someone's right to life is in danger, other's less important right to personal property can be infringed to save this person's life, as Thomson suggests. But how about to murder a few innocent people intentionally in order to save the lives of millions? Now it is not about a more stringent right such as the right to life against another less stringent right such as the right to certain property. It is about the same kind of right to life, and the difference seems just in numbers. This is a heavily debated topic among rights theorists.

Judith Thomson, for example, in her paper, 'The Trolley Problem,'<sup>60</sup> argues that saving five people's lives is a greater good than saving one's, and thus claims it is a right thing to do, other things being equal. One is permitted, even morally required, to change the track of the lost controlled trolley car, making it move towards one worker on the right track and kill him instead of letting it move towards five workers on the left track and kill them. But John Taurek makes a different claim, in his paper 'Should the Numbers Count?',<sup>61</sup> saying that when we have limited resources to save lives or prevent harm, the relative numbers of people we can save should not count as morally significant. If one owns a medicine which he needs as a whole to save his own life, while if it is split to five

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<sup>60</sup> Thomson, Judith J. 'The Trolley Problem.' *Rights, Restitution, and Risk: Essays in Moral Theory*. Harvard University Press, 1986, p.94-116.

<sup>61</sup> Taurek, John. 'Should the Numbers Count?' *Philosophy & Public Affairs*, Vol.6, No.4, summer, 1977, p. 293-316.

portions it can save five people, it is not right to ask this person to sacrifice his own life in order to save these five people.

But both of Thomson and Taurek would agree that it is not right for a surgeon to kill one person who just comes in for a body check up, in order to harvest his organs to save five dying people who need organ transplant. Because the Surgeon case differs from the above Trolley case and Medicine case in a fundamental way. In other two cases there is no active killing involved, but people needed saving. In the surgeon case, an active killing is needed. Philippa Foot first introduces this difference between one's negative rights and positive rights.<sup>62</sup> If one is already on a path to die, whether it is due to natural causes or by the hands of criminals, to save him is to fulfill his positive right to be saved. But actively murdering him is violating his negative right not to be murdered. And Foot asserts that our negative right not to be murdered has more weight than our positive right to be saved. Therefore, we cannot kill an innocent person in order to save others.

But it seems not alright to say that the worker on the right track is also on a path to die. He is not. Therefore, by changing the track we also actively kill him. However, Thomson insists that while he is a worker of the trolley company and works on the spot, somehow he puts himself, as the other five, in a risk of death. So, he is actually in a kind of path to die. Hence, it is not like the case of the fat man on the bridge, whom we can push over to the track and stop the trolley car. If we push the fat man over the bridge, we actively murder an innocent person who is not on a path to die, and it is morally impermissible.

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<sup>62</sup> See Foot, Philippa. 'The Problem of Abortion and the Doctrine of the Double Effect.' *Oxford Review*, no. 5, 1967, p.5-15.

Furthermore, the difference between Thomson and Taurek may not really be whether we should count the numbers or not. Taurek's medication case emphasizes that property ownership can play a part in deciding who needs saving. All of the six people need saving. But one who owns the drug should have the right to the drug, therefore to save himself, not required to sacrifice himself to save other five. So it is not only impermissible to murder one in order to save five, but also impermissible to not save one in order to save five, if this one owns the medication.

But how about the case in which we can only save millions of people by not saving an innocent one, or even murdering one? This is the Catastrophe case. Thomas Nagel suggests that it is permissible to do so. In his paper 'Personal Rights and Public Space', he defends a theory of rights as status, suggesting that "even if there is a general right not to be tortured or murdered, perhaps there are evils great enough so that one would be justified in murdering or torturing an innocent person to prevent them."<sup>63</sup> In the extreme cases involving catastrophic outcomes, Nagel suggests that it is a right thing to do if murdering an innocent person can save millions of lives. However, what Nagel wants to propose is that although rights are not absolute and a rights theorist or absolutist still needs consider consequences, the thresholds of violating a basic right, such as the right not to be murdered and tortured, are very high. Below that threshold it is still not permitted to violate such a right in order to produce a greater good.

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<sup>63</sup> Nagel, Thomas. 'Personal Rights and Public Space.' *Concealment and Exposure*. Oxford University Press, 2002, p.36. The whole paper is also in *Philosophy and Public Affairs*, Vol. 24, No. 2. (Spring, 1995), p. 83-107.



Thus, the totalitarian dictator's call on individuals to sacrifice their own rights and interests in order to fulfill a bigger plan for society seems not to be easily discarded. But that does not mean we should then go to the extreme of utilitarianism and treat the consequences as a trump card against individual rights either. As Nagel maintains, only to prevent a very great evil can we violate a right to life. Furthermore, only when an equally stringent right is at stake, and with massive numbers of people involved, a same right of a few people could be violated, such as an innocent person being murdered or tortured to save the lives of millions.

But it is not permissible to murder a person just for the sake of distributing his property to a million people, if these people's lives are not at stake. One person's right to life should outweigh a million people's right to property. Therefore, for a frequent practice in totalitarian states, the practice of asking individuals to sacrifice their lives in order to give their property to the poor, should be easily discarded as a brutal violation of individual rights. The right to life, a more stringent right, should always overwhelm the right to property, and the requirements of social and economic equality. In Mao's regime during 1950s, in order to either redistribute or confiscate the properties of landlords and the owners of private industries, most of the property owners were murdered by the masses, who were authorized and organized by government officials.<sup>64</sup> These kinds of cases are not permissible in the name of a greater good. Since in the scale of rights, the tipping of weights should always go to the more stringent, no matter how many numbers of people's interests are at stake.

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<sup>64</sup> Can check those general history books on modern China, such as *The Cambridge History Of China, Volume 14, The People's Republic, Part 1: The Emergence of Revolutionary China 1949-1965*.

But the problem of conflict of rights is more complicated than what is discussed above. It seems obvious that a comparison between a more stringent right and a less stringent right is easy. But when we consider hard cases, it's not so easy. For example, should one give up one's education plan and give the money to a poor foreign country to save someone's life? If that is the case, then most of us living in an advanced industrial society should be required to give up the right to self-development in order to save the poor people in Africa who either starve to death or need medication to cure their AIDS. But that does not seem right according to our moral intuitions. We are not generally required to do so. Therefore, even the right to self-perfection and self-development is less stringent, and the right to life is more stringent, the answer is still not obvious that the rich people should be required to sacrifice their right to education in order to meet the duty to fulfill the poor's right to life.

This hard cases show how difficult it is to solve the conflict of rights. Even the degree of stringency of rights cannot give us a clear guidance.

The above brief discussion of the complex situation involving the relationships and conflicts between rights and consequences suggests that the problem is very intriguing. I mention it just to show that there is a need to mapping out our moral compass systematically, which is provided by Kant. We need such a systematic approach to map out those needs of ours versus others and make priorities among them as clear as we possible. Kant's ethical theory of duties can help us map the complicated relationships and priorities among our and others' rights and duties. But I need to say that it is still not

omnipotent to solve every single conflict of rights and consequences. There are still some conflicts left for the individual agent to decide.

## Chapter IV: Kant's Ethic Theory of Duty

In this chapter I will examine the content of each duty in Kant's ethic theory of duty. Kant's doctrine of virtue, described in his *The Metaphysics of Morals*, classifies human beings' duties into four basic categories: perfect duty to oneself, imperfect duty to oneself, perfect duty to others, imperfect duty to others. We need to know for Kant, what is the meaning and content of the terms of 'perfect duties', 'imperfect duties', 'duty to oneself' and 'duty to others', 'perfect duty to oneself', 'imperfect duty to oneself', 'perfect duty to others', and 'imperfect duty to others'. By examining their details, we will get a clear idea on what human needs can count as true needs, and thus the candidate for serving the foundations of basic human rights. And only based on this detailed analysis of each duty's meaning and content, are we able to decide which one should have more moral weight than others when they conflict.

I will also discuss Kant's definition of humanity in various sections. It includes two features: the capacity of setting up and realizing one's ends, and the capacity to admit reciprocal and universal moral laws and limit one's actions according to the law. I discuss them in the sections of the perfect duties to oneself: sections on suicide, respecting our humanity, being one's innate judge, and treating other beings.

Overall, humanity in each person serves the foundation for Kant's conception of duty and rights. Kant believes that one has to '(assert) one's worth as a human being to others', by 'not (making) yourself a mere means for others but be at the same time an end for

them' [6:236]. No matter whether we call the respect to this humanity a duty or a right. It is this humanity that gives meaning to our lives. And a meaningful life demands being treated differently than a life without meaning. Therefore it is this humanity that grants us the highest moral status in the animal kingdom, and separate us from the rest of animals. And thus it serves the foundation of our moral obligation only towards other human beings, but not towards other animals or artificial intelligence.

Here I also want to emphasize this point: the concept of the duty to oneself strongly supports the idea that there is nothing wrong to respect the humanity in our own person, and treat ourselves equally with, and in some cases more important than, others. Only when we respect our own humanity, take our own life plans seriously, and do not condemn this respect as being egoistic or selfish, can we avoid the totalitarianism's calls upon us to sacrificing the life of single individuals for the sake of the community. We should not give up our humanity no matter for the sake of a more equal wealth distribution, or for the sake of a greater sum of benefits and a less sum of harms, only in the exception of the catastrophic cases, as Nagel mentions. And only when we respect our own humanity inside us, do we need to consider Kant's categorization and comparisons of these duties of us.

### 1. 'Perfect Duties' And 'Imperfect Duties'

In Kant's system of duties, imperfect duties are also called 'wide duties'. These duties 'can prescribe only the maxim of actions, not actions themselves, this is a sign that

it leaves a latitude for free choice in following (complying with) the law, that is, that the law cannot specify precisely in what way one is to act and how much one is to do by the action for an end that is also a duty'. But a wide duty is not to be taken as permission to make exceptions to the maxim of actions, but only as permission to limit one maxim of duty by another (e.g., love of one's neighbor in general by love of one's parents), by which in fact the field for the practice of virtue is widened. The wider the duty, therefore, the more imperfect is a person's obligation to action; as he, nevertheless, brings closer to narrow duty (duties of right) the maxim of complying with wide duty (in his disposition), so much the more perfect is his virtuous action.

Imperfect duties are, accordingly, only duties of virtue. Fulfillment of them is merit (meritum = +a); but failure to fulfill them is not in itself culpability (demeritum = - a) but rather mere deficiency in moral worth ( = 0 ) '. [6:390]

Unlike perfect duties, imperfect duties only ask moral agents to follow some maxims of actions, and do not prescribe in precision which action is permitted, required or prohibited. Moral agents are only required to do as much as they can, under the guidance of the maxim of actions, to fulfill these duties of virtue. And they are only allowed to disregard these duties of virtue when they have other duties of virtue to fulfill. We will get clearer sense of what this means when we discuss particular duties of virtue.

Perfect duties are also called narrow duties, and are duties of right. They prescribe in precision which action is permitted, required or prohibited, and demand strict moral blameworthy if moral agents fail to fulfill them.

I have already discussed the difference between duties of virtue and duties of right in the first chapter. Duties of right govern our outer freedom and are capable of external law-giving, and duties of virtue govern our inner freedom and are not capable of external law-giving. [6:406-407] Therefore, since duties of right govern our external relations with others, they demand what is due to us by precise laws. On the other hand, duties of virtue only require conformity of us to their demands inside our mind and thus their demands cannot be precise.

But inner freedom, regarded by Kant, is ‘the condition of all duties of virtue’, [6:406-407] since Kant believes, if there is no inner freedom, and thus no internal law-giving, external law-giving is not possible.

Overall, fulfilling these duties of virtue counts as being meritorious, thus supererogatory in contemporary terms. The moral agents fulfilling duties of virtue deserve moral approval and praise. And failure in them does not count as being culpable and does not deserve moral blame and punishment, but just moral deficiency. Therefore the failing moral agents do not deserve full-bloomed moral blame and punishment. Whether failure in fulfilling duties of virtue which results in deficiency in moral worth should at least deserve some reserved degree of moral blame has no obvious answer though. And here is not the place to discuss this in detail.

On the other hand, fulfilling the duties of right is morally required, since they require what is due to agents, not something meritorious. Failing in fulfilling duties of right is considered to be culpable, and morally blameworthy.

The imperfect duties include one's own natural perfection and moral well-being, and others' happiness, natural perfection and moral well-being. Why Kant thinks that one's own happiness does not count as the end that is a duty is because he thinks that one's instincts will push him or her to pursue his or her own happiness, and it does not need reason to demand it as a duty for him or her to do so. [6:391-394] I will discuss the details of these duties in the following sections.

## 2. 'Duty To Oneself' And 'Duty To Others'

A duty to oneself, by its term, means a person puts himself under the constraints of duties which are also made by himself. Kant acknowledges that this seems self-contradictory. Since the concept of duty usually means 'being passively constrained (I am bound),' so the person bound is oneself. But the duty to oneself also means the person who actively constrains (impose obligation, to bind) is also oneself. So the one imposing the obligation is the same one who is bound by the obligation, therefore he can always release himself from the obligation. [6:417]

Kant utilizes a dual concept of human psychology to solve this contradiction. He thinks we can view human beings as both '*a sensible being*' and '*an intelligible being*'. As a member of the animal kingdom we are sensible beings. But besides our animal nature, we humans also have the capacity of reason and moral capacities, which make us intelligible beings. And our moral capacities, based on our practical reason, arise from our 'morally practical relations'. Based on these moral capacities we gain this 'inner



lawgiving will' and 'the incomprehensible property of *freedom*'. [6:418] Our own practical reason, which gives us this moral capacity, therefore make us capable of inner lawgiving and thus being free: our freedom consists in our choice in line with the demands of our inner laws. Since it depends on our choice whether to follow those laws or not, therefore we are free in this sense. If we understand Kant's whole scheme of moral philosophy, especially his idea of inner lawgiving and freedom, we will be easy to understand this concept of duty to oneself.

Furthermore, Kant not only believes that the duty to oneself is not a self-contradictory concept, but also believes that it serves as the foundation for duties to others, and external duties to right too. Since all duties of virtue come from inner lawgiving and our own practical reason, and govern inner freedom. If one cannot govern herself and put herself under obligation to herself, she cannot put herself under obligation to others either. [6:418]

I will discuss the duty to others in the following sections under the detailed analysis of 'perfect duties to others' and 'imperfect duties to others'.

### 3. 'Perfect Duties To Oneself'

The perfect duties to oneself include two categories: the duty to oneself as an animal being and the duty to oneself as a moral being. The duties to oneself as an animal being include the commands that one shall not commit suicide and mutilate oneself, and shall not engage in excessive food, drink, and sex.

Kant suggests that ‘the first, though not the principal, duty of man to himself as an animal being is to preserve himself in his animal nature.’ It is self-preservation in our physical being. The duty includes preserving our life and maintain our body integrity, and most of all, maintaining our capacity for the use of our natural powers.

### i. The Command Against Suicide

For Kant, suicide is regarded as a crime. While it may also violate our duty to others, since we may forfeit our duty towards our children, spouses, our fellow citizens, etc., it also violates our duty to ourselves. Even for a person without any relations, ‘a human being is still bound to preserve his life simply by virtue of his quality as a person’.

[6:422] For Kant, the humanity in our person, the ability in us which allows us to govern our ‘strongest sensible incentives’, has higher value than our life. This humanity inside us with higher value than our life puts us under an obligation to preserve it. And a human being has no authority in himself to withdraw from this obligation. So even in the present or anticipated illness, we shall still hold on and continue living, and shall not for the sake of ‘peace of soul’ to ‘depart from life’ as the Stoic advocates. [6:422]

In the part of *Casuistical Questions*, Kant seems to mention many exceptions to the absolute command that we shall not kill ourselves. But as all the cases are presented in a question format, we are not sure of Kant’s positive answers to them. What is sure is that here Kant presents some doubts to this command, and indicates there may be some legitimate exceptions to the command.

Such as, when one has been bitten by a mad dog and already felt hydrophobia, and he knew this disease is incurable, he is probably permitted to take his own life to avoid harming others. [6:423-424]

Here it is not very obvious to say that Kant is for sure against euthanasia. Following the example of rabies, it is not clear that the reason of why Kant allows suicide in the case of rabies is because the disease is incurable, or is to prevent the patient from harming others, or both. Probably both reasons are necessary, and none of each alone is an sufficient reason. While the case of euthanasia is usually only involving incurable diseases, not involving in preventing the patient from harming others.

Besides these two reasons, if we review the points Kant makes about killing oneself in illness, the answer is still not obvious. Surely he says that in the presence of illness one has to hold on and continue living, but at that time he doesn't mention whether the illness is incurable or not. Although he recommends that one should have courage not to fear death in case of being in an illness. At the same time, we should not forget that the overall reason for preserving our life, asserted by Kant, is for continuing using our capacities and powers. Therefore, if a person is in a terminal stage of malicious cancer and suffers greatly under the pain, and thus there is no point of using his capacities and powers any more, I think even following Kant's principle of valuing one's humanity, we would probably still come to the conclusion that euthanasia is permissible. Since firstly, if the person is under great pain, this humanity inside him of overcoming his sensible impulses is not functioning any more; Secondly, under great pain, bedridden, and with no future of getting better, the patient is and will not be able to use his capacities and powers

to do anything at all. His capacities and powers are already lost, and so there is no point of preserving them.

But of course, if a terminal cancer patient under such conditions can still function in certain ways, such as thinking fruitfully and being able to put his thought into records, this should count as being able to use his capacities. In this case, Kant would oppose the idea of euthanasia for him.

In sum, Kant would agree to euthanasia only for those patients who are very close to the end of their lives and cannot function at all as an intelligible being.

Kant's idea that there is 'something that a human being can value even more highly than his life,...(since he is) a being with such powerful authority over the strongest sensible incentives'[6:422] is very illuminating to the topic of suicide, and to the topic of the meaning of life. Since the two topics are closely related.

Of course, there are many reasons for people to commit suicide, and some of them are not related to the agent's realization that life is not worth living. As Kant in the part of *Casuistical Questions* of this chapter mentions, people can commit suicide for honorable reasons, such as a king kills himself to avoid being held hostage to the disadvantage to his country. Durkheim in his *Suicide* discusses three main types of suicide, and one of them is altruistic suicide - killing oneself for political or religious ideals <sup>65</sup>, which is similar to suicide for honorable causes in Kant's discussion. Is this type of suicide for honorable causes also not permitted in Kant's moral world?

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<sup>65</sup> Emile Durkheim, *Suicide: A Study in Sociology*, Translated by John A. Spaulding and George Simpson, Routledge Classics, 2002. I used a copy published in Routledge e-library in 2005. P175-200.

But we can try to answer the question ourselves in the light of Kant's reason against suicide. In normal cases, one who commits suicide disregards or renounces one's humanity, that is why Kant condemns it. But a person who commits suicide for honorable ends can be viewed as honoring his humanity: a human being's humanity is his capacity to set up ends and pursue them, and follow certain principles he sets for himself. Through the act of killing himself in order to promote certain higher social causes, the person was demonstrating his capacity to follow his moral principles and life goals. Thus this kind of acts of suicide should be counted as the embodiment of his humanity.

Durkheim in his *Suicide* also discusses other two main types of suicide: egoistic suicide, which happens when an individual loses connection with the rest of the world, with little family and religious ties connecting him to a community, and thus feels not belonging to this world; anomic suicide, which occurs when an individual loses the used social regulations to his life, such as in the case of divorce and a sudden change of economic and political situations, which makes him feel he cannot handle his life any more.<sup>66</sup> Although both of these two types have social causes, we can still categorize them in the normal case of suicide: the agent finds his life not worth living. But this kind of cases is in some sense slightly different from other normal cases of suicide to avoid physical pain and suffering. Of course, people who commit egoistic and anomic suicide have the company of emotional pain and suffering. But feeling pain is not the main reason for the agents to commit suicide. Why they commit suicide is because they find their pain and suffering meaningless, their life meaningless, thus not worth living.

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<sup>66</sup> *ibid*, p.105-240.

Albert Camus in his 'The Myth of Sisyphus' makes the problem of suicide in the face of a meaningless life 'the only truly serious philosophical problem' worth consideration. He argues that in the absence of faith in a God, humans necessarily find the world we live full of pain and suffering, far from our expectations and hopes. 'At this point of his effort man stands face to face with the irrational. He feels within him his longing for happiness and for reason. The absurd is born of this confrontation between the human need and the unreasonable silence of the world'<sup>67</sup>. And Camus thinks that reason, the trumpet of the Enlightenment philosophers, is useless when confronting with this irrationality and absurdity. But Camus does not suggest that from the premise that our life is meaningless we can conclude that we should commit suicide. For him, we can and should accept the fact that our life is meaningless but still try to live to the fullest, without any help from God or reason. The pleasure of the moment and the beauty of our diverse experiences are enough to move us forward.

However, Nozick in his *Anarchy, State, and Utopia* invents a thought experiment to point out that what matters to humans should be more than our experiences. He asks that if there are an experience machine, a transformation machine, and a result machine which can let us experience whatever we want to experience, be whatever kind of person we like to be, and produce whatever result on the world we want to produce, do we want to plug into them for life? Of course we do not want. So there must be something

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<sup>67</sup> Camus, Albert. 'The Myth of Sisyphus.' *The Myth of Sisyphus and Other Essays*. Translated by Justin O'Brien. New York: Vintage Books, 1991, P.28.

matter to us, 'other than how our lives feel from the inside'. We cannot have the machines to live our life for us.<sup>68</sup>

A very important question in connection with the meaning of our life is our moral status - what other beings may do to humans, and in what manner other beings should treat us. If our life has no other meaning, but feeling the pleasure of various experiences, why should we have a higher moral status than that of animals and other sentient beings? Animals can also feel pleasure and experience a colorful life according to their senses. But animals do not have the same moral status as humans. Morality suggests that humans may eat them, enslave them, and kill them. But we may not eat and enslave other human beings, and may not kill them unless in certain cases of self-defense. Thus the meaning of human life constitutes humans' moral status, in turn it forms the foundation of human rights theories - moral constraints that limit the way how we shall be treated.

The same concerns on our moral status and moral constraints apply to the question of suicide. If our life has no other meaning but various experiences, when we cannot enjoy our life moments and have various experiences due to serious illnesses, then we may commit suicide. But if our life, as Kant asserts, has a higher value of humanity to preserve, then we shall not commit suicide when we cannot enjoy our life any more. For Kant, humanity inside each of us gives us this higher moral status and limits how other beings and ourselves may treat us.

So the discussion of suicide is deeply connected with the issue of humanity and the philosophical foundation of human rights. I will leave the detailed discussion on

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<sup>68</sup> Nozick, 'The Experience Machine', in *Anarchy, State, and Utopia*, p.42-45.

humanity to the section (vi) and (vii) focusing on it, and the discussion on its connection with human rights in the conclusion part.

## ii. The Command Against Mutilating Oneself

It means that one should not ‘deprive oneself of certain integral and organic parts’, and thus ‘depriving oneself (permanently or temporarily) of one's capacity for the natural (and so indirectly for the moral) use of one's powers’. [6:420] Thus it allows cutting one's hair or nails, and does not allow selling or damaging our crucial organs or limbs.

But does it allow one to sell or donate one's kidney or teeth? Selling one's teeth is a tricky but solvable case. When at the time in history one has to sell one's teeth for a living, there is no opportunity for her to buy a fake set of teeth. So it should count as the case of her depriving herself of her capacity for using teeth to chew food. So Kant is right to suggest that selling a tooth is ‘partially murdering oneself’ and it should not be allowed under the duty to oneself. [6:423]

But the case of selling kidney is trickier than this. Since we can still function with one kidney, it is not alright to say that by losing one of our kidneys, we deprive ourselves of our capacity for the use of our powers. But having only one kidney does increase our chance of losing our capacity for a healthy life, since we may have kidney diseases in the future or getting infected during the kidney transplant. Kant does not discuss this case of selling kidneys. But according to his rejection on the case of selling a tooth and having oneself castrated in order to have an easier life, he would stand against selling kidneys for



a easier life, but probably won't be against it when it is done for the sake of saving the life of someone's relative.

### iii. The Command Against The Use Of Excessive Food And Drink, Narcotics And Sexual Life

Kant's opinion on humans' sexual pleasure is too outdated, and has little relevance to my current topic, so I just briefly mention it.

He thinks that anyone who uses his sexual capacity for pleasure only, not for the preservation of the human species, is a 'violation of which is a defiling... of the humanity in his own person.' [6:424] Following his moral philosophy and philosophy of mind, it seems natural for Kant to think this way. Since he always advocates human reason should govern our impulses and desires. But these ancient Greek philosophers, such as Socrates, Plato, and Aristotle, who also believe the governing status of human reason, and hold some sort of view of teleology on human purposes, do not claim such a view on our sexual behavior. Thus there is probably more that is at work behind Kant's such ideas on our sexuality. And I don't have time to discuss this here.

Kant's reason against excessive use of food and drink, and the use of narcotics, is not only reasonable, but also informative to contemporary societies. Kant also emphasizes that it is not because these misuses can cause harm and bodily pain and diseases to the person. Since if it is so, then the principle he violates is not a moral principle, a ethical duty, but a principle of prudence, 'one of well-being and comfort'. [6:427] Again, his

reason is because the indulgence of food, alcohol, and drugs ‘restricts or exhausts our capacity to use them intelligently.’ ‘A human being who is drunk is like a mere animal, not to be treated as a human being.’ And a human being in a state of gluttony, over-eating, or under the influence of narcotics, cannot function well and use his deliberation powers and other skills.

The following five duties to oneself are categorized as duty to oneself as a moral being: against lying, avarice, servility, being one’s own innate judge, knowing oneself.

#### iv. The Command Against Lying

Kant opposes lying at all costs. It is a very controversial idea, which is heavily debated among Kant’s followers and opponents. Here is not a place to discuss in detail of this idea.

But one thing needs to mention is that here Kant invokes the concept of humanity. Kant says, ‘by an internal lie,... he... violates the dignity of humanity in his own person.’ It is not the concerns of the harm the liar brings to others and himself that matter; it is about his dignity as a human being. The act of lying ‘is directly opposed to the natural purposiveness of the speaker’s capacity to communicate his thoughts, and is thus a renunciation by the speaker of his personality, and such a speaker is a mere deceptive appearance of a human being’. [6:429]

I will leave the full discussion of the definition of humanity in Kant to the sections (vi) and (vii). But I want to point out that here Kant seems to invoke the concept in terms of a person's capacity to communicate his thoughts, which is a natural capacity, not a moral capacity. While in section (vi) Kant explicitly defines the concept of humanity in terms of our natural capacity to set up and pursue ends, in section (vii) he implicitly suggests that the concept may include our moral capacity of judging our behavior according to certain moral law. The idea of humanity invoked in this section (iv) seems to confirm the definition made only in section (vi). Since we usually assume that the issue of lying should connect with our moral capacity to subject to a moral law, but Kant does not treat it this way. This leaves some doubt in the assertion that Kant wants to include our moral capacity in his concept of humanity.

## v. The Command Against Avarice

Kant's discussion of the vice of avarice is worth mentioning, since it is connected to our main discussion.

The kind of avarice Kant rejects is not the kind of 'greedy avarice', nor 'miserly avarice', but the kind of avarice which is 'restricting *one's own* enjoyment of the means to good living so narrowly as to leave one's own true needs unsatisfied'. For the greedy avarice and miserly avarice, both of them are just the cases of neglecting the beneficence duty to others. Since being greedy means acquiring too much means for a good living beyond one's true needs, and one should have used this excessive means to help others;

and being stingy or niggardly simply means unwilling to spend one's wealth to help others even one can. But the kind of avarice considered by Kant is a violation of duty to oneself, not a violation of duty to others, the main feature of which is a person possessing 'all the means to good living', but 'unwilling to use them for *oneself*, and so depriving *oneself* of the comforts necessary to enjoy life, and this is directly contrary to duty to oneself with regard to the end'. [6:432-3] (But in modern English this is called 'miserly'.) This is the vice that one violates a duty of taking good care of oneself, and meeting one's true needs.

The reason for Kant to oppose this vice is the same as he always advocates: miserliness is 'slavish subjection of oneself to the goods that contribute to happiness, which is a violation of duty to oneself since one ought to be their master. It is opposed to *liberality* of mind generally..., that is, opposed to the principle of independence from everything except the law'. [6:434] By Kant's idea of freedom, one has to have one's desires and impulses under the control of one's reason, therefore being one's desires and impulses' master, and being able to use one's capacities and powers freely. No external objects such as the goods contributing to our happiness, and the desires and impulses caused by them, should be our masters.

This duty to oneself is worth mentioning, because here Kant makes an important point: one must try to meet one's true needs, fulfill one's ends of life, and try to have a good living and achieve happiness, if one possesses the means to do so. The indication of this point seems that an ascetic is probably not a role model for any individual to emulate in Kant's moral theory. It seems to create a line under which it is not desirable, or even

not permissible, for a moral being to live such a life. Since one is required to live a morally good life. And it seems to suggest that if a person wants to help others, this is probably the bottom line she should not cross.

Does Kant really think so? We need more analysis on this important point. Kant notices the usual objection to his assertion that promoting others' happiness should be our duty, but not our own happiness. This objection says: Only others themselves can decide what count as their happiness.

(But) it is open to me to refuse them many things that they think will make them happy but that I do not, as long as they have no right to demand them from me as what is theirs. But time and again an alleged obligation to attend to my own (natural) happiness is set up in competition with this end, and my natural and merely subjective end is thus made a duty (an objective end). [6:388]

The objection seems very reasonable. And it seems that Kant is in contradiction with himself. On the one hand, in the above discussion about the duty to oneself against miserliness, Kant makes it clear that one has a duty to meet one's true needs and have a good living. On the other hand, Kant also asserts that the end of one's own happiness should not be counted as a duty at all, 'since it is unavoidable for human nature to wish for and seek happiness, that is, satisfaction with one's state, so long as one is assured of its lasting, this is not an end that is also a duty.' [6:387] It means, since it is in our natural instincts and desires that we ourselves want to be happy, we don't need to set the pursuit of happiness as an end that is also a duty, by our reason, to make it happen.

But Kant does not contradict with himself. Or, it is better to say, he supplements his argument of opposing setting one's own happiness as a duty by the following statement. He says:

Adversity, pain, and want are great temptations to violate one's duty. It might therefore seem that prosperity, strength, health, and well-being in general, which check the influence of these, could also be considered ends that are duties, so that one has a duty to promote one's own happiness and not just the happiness of others. But then the end is not the subject's happiness but his morality, and happiness is merely a means for removing obstacles to his morality — a *permitted* means, since no one else has a right to require of me that I sacrifice my ends if these are not immoral. To seek prosperity for its own sake is not directly a duty, but indirectly it can well be a duty, that of warding off poverty insofar as this is a great temptation to vice. But then it is not my happiness but the preservation of my moral integrity that is my end and also my duty. [6:388]

In sum, Kant here suggests that promoting one's own happiness can be a duty, but only an indirect duty, since it is a necessary means for preserving one's moral integrity. Because a person in poverty, adversity, and pain is tempted greatly to violate his duties and commit vice.

Therefore, when Kant says that one's own happiness is not considered to be a duty, he does not mean it is not important, nor it should or can be sacrificed when in competition with the happiness of others. Since the underlying reason for opposing there is a duty to one's own happiness is only that it is in our natural instincts and desires to promote it, no need to command it as a duty by our reason.

On the other hand, Kant regards promoting one's own happiness as quite important, since it is a guarantee that protects the moral agent from sliding into moral weakness and moral viciousness. Furthermore, here Kant also says 'no one else has a right to require of me that I sacrifice my ends if these are not immoral', which means that one is not required to give up her ends in order to serve others, if her ends are not immoral. Here Kant makes an important claim, that the duty to help others has its boundaries. It should not command the agent that she sacrifice her own true needs and moral ends for others.

To make such a significant moral sacrifice is not morally required, which means, if you cannot do it, no one should blame you.

In another place where Kant discusses the happiness of others as a wide duty, he explicitly asserts that it is not morally required that one sacrifices one's own happiness in order to promote the happiness of others; and beyond this bottom line of the requirements of meeting one's own true needs and happiness, there is no specific limits that can be set to determine how much one should contribute to others' happiness.

But I ought to sacrifice a part of my welfare to others without hope of return because this is a duty, and it is impossible to assign specific limits to the extent of this sacrifice. How far it should extend depends, in large part, on what each person's true needs are in view of his sensibilities, and it must be left to each to decide this for himself. For a maxim of promoting others' happiness at the sacrifice of one's own happiness, one's true needs, would conflict with itself if it were made a universal law. Hence this duty is only a wide one; the duty has in it a latitude for doing more or less, and no specific limits can be assigned to what should be done. [6:393]

But can sacrificing one's true needs and happiness be morally permitted? Which means, if you are willing to do it, will you be blamed? Can one not be blamed morally when he sacrifices his true needs and moral ends for others' happiness? Of course not, most of us would say, and agree that this kind of meritorious behavior should not only not be blamed, but be praised. But the case is more subtle than we think. Some philosophers suggest there is much nuisance in this issue, such as Susan Wolf in her famous paper '*Moral Saints*' maintains.<sup>69</sup> She claims that such a moral saint, though should be praised, should not be promoted or advertised as a role model for the general public. I will talk more of this question in the following sections.

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<sup>69</sup> Wolf, Susan. 'Moral Saints.' *The Journal of Philosophy*, Vol. 79, No. 8, Aug., 1982, p. 419-439.

## vi. The Command Against Servility And The Duty To Respect Our Humanity

This is another important duty to oneself which sets boundaries between one's needs and ends and those of others.

This duty of oneself against servility, for Kant, is based on his fundamental concept of 'humanity', or human 'dignity'. And this concept of humanity also gives the foundation for the value of equality. Why every human being should value himself and others on an equal footing is because each one of us has this humanity inside us. [6:434-5] There is no point of comparing whose humanity is greater or less than that of others. As far as one has it, we should treat him equally as others. This is a kind of threshold theory on human moral status. A person's moral status is determined by his being human alone, not by his moral right-doings or wrongdoings. And the concept of moral status is tightly connected with those human rights that a person can have, as I discussed in section (i) on suicide. This way of viewing the basis of the value of equality can clear up many confusions and misunderstandings, such as those regarding the question 'equality of what?', the question how we should treat criminals and those morally bad people, and also many other practical issues which I discussed in the previous sections. And here is not the place to dive into this discussion.

Then, **what is humanity**, in Kant's moral theory? First of all, this is a feature of human beings which distinguishes them from other animals. At one place Kant defines humanity as



**(T)he capacity to set oneself an end** —any end whatsoever —**is what characterizes humanity** (as distinguished from animality). Hence there is also bound up with the end of humanity in our own person *the rational will*, and so the duty, to make ourselves worthy of humanity by culture in general, by procuring or promoting the capacity to *realize* all sorts of possible ends, so far as this is to be found in man himself. [6:392].

And a similar definition at another place: ‘humanity, by which he alone is capable of setting himself ends’ [6:387] . And many others.

From above, we can see there are two parts in his definition. The most important part is our capacity of ‘setting’ ends for ourselves; the second part is our capacity of ‘realizing’ these ends. The second part is usually called by philosophers of mind, as ‘instrumental reason’, which is the capacity to find means for certain ends set by other capacity of human mind. The idea of ‘instrumental reason’, is usually regarded as being first suggested by David Hume. For Hume, reason is a slave to human desires and emotions, and its only function is to find means to achieve the ends our desires demand.<sup>70</sup> But Kant’s concept of reason is not merely an instrumental one. His definition of ‘the capacity to set oneself an end’ as a rational will gives reason more function and authority than just being means to our desires. It states that reason itself can set up ends and aims.

We can set up a thought experiment to manifest how brilliant this concept of humanity is: if we invent an artificial intelligence who has an enormous storage of knowledge of the world and has an efficient processing function, and is capable of emotions and communications. How can we tell it from a human being? The AI lacks the capacity to set itself an end, a task. It may be very efficient in accomplishing a task set

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<sup>70</sup> Hume, David. *A Treatise of Human Nature*. edited by David Fate Norton and Mary J. Norton, Oxford University Press, 2007, vol1.

up by a human being, but it cannot order original tasks to itself. The AI has instrumental reason, but has not the kind of reason capable of setting up ends. Therefore a thing only capable of being the means will be treated as the means to other beings' ends, never being the ends itself.

From this, we may rightly call this capacity of humans a 'free will', the capacity separating us from the rest of the phenomena world. A human being sounds like a being who can initiate a movement without any physical forces determining it beforehand. But this is another controversial topic about determinism and free will. I won't go to details about this.

But the definition of humanity in this section is probably only a part of its full definition. Since in the following discussion on our duty to ourselves as moral beings, Kant implicitly hint that this concept may include our moral capacity to subject our behavior to certain moral laws. I will discuss this in that section.

As I mentioned before, the topic of humanity is closely related to the topic of the meaning of life, and the foundation of our human rights. Nozick in his *Anarchy, State and Utopia* summarizes the following candidates of valuable characteristics of humans as the basis of establishing the moral constraints on treating humans: 'sentient and self-conscious; rational (capable of using abstract concepts, not tied to responses to immediate stimuli); possessing free will; being a moral agent capable of guiding its behavior by moral principles and capable of engaging in mutual limitation of conduct; having a soul.'<sup>71</sup> But he refutes each one of them as sufficient to forming such basis. Why should

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<sup>71</sup> Nozick, p.48.

a person being smart or autonomous be treated differently than others? And a being capable of setting conduct-governing rules to limit its behavior only shows that 'it can observe limits'. 'But it does not show which limits should be observed toward it, or why any limits should be observed at all.' <sup>72</sup>

In the end Nozick suggests that there is an additional characteristic of humans when combining the three features - rationality, free will, and moral agency together: 'the ability to regulate and guide its life in accordance with some overall conception it chooses to accept.' It is a combination of being capable of 'long-term planning', formulating abstract principles and deciding on them instead of responding to immediate stimuli, and having 'an overall conception of a life that guides particular decisions'<sup>73</sup>. For Nozick, it is this additional feature of humans that gives the meaning to their life. 'A person's shaping his life in accordance with some overall plan is his way of giving meaning to his life; only a being with the capacity to so shape his life can have or strive for meaningful life.'<sup>74</sup> And a meaningful life grants the moral constraints on treating it in a certain way. But after saying this, Nozick shows some uncertainty towards this answer. Why should we treat 'beings shaping their lives' with some constraints? Why should we respect a meaningful life? He does not have answers to these questions. But we may accept his arguments for the foundations of moral constraints for now.

Nozick in this sense is a Kantian philosopher. His above arguments show clear signs of his being influenced by Kant's analysis of humanity. And this type of arguments serve

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<sup>72</sup> *ibid*, p.48-49.

<sup>73</sup> *ibid*, p.49.

<sup>74</sup> *ibid*, p.50.

the analysis of the foundation of human rights. Since human rights in essence are moral constraints restricting us to treat humans in certain ways. Kant's analysis of humanity makes him the founder of a main type of human rights theory. And this type of human rights theory is based on reason, including moral reason and practical reason. So unlike Camus, Kantian theorists think reason has a lot to do with the meaning of life - it gives the meaning to life. Without the help of a God or faith, and without resort to instant pleasure, humans can still find meaning in life in a world full of suffering and death.

If Kant's concept of humanity has already provided ammunition to human rights theories, why is it still necessary to invigorate Kant's theory of duty to protect individual interests against the over-demanding communal calls? Besides the previous reason I mentioned in the introduction that rights can be waived and the concept of inalienable rights is counterintuitive, my another main reason is that this kind of analysis does not offer detailed guidance on comparing one's interests and rights with those of others. In other words, rights can conflict with each other. In these cases we need some clear guidance on what to do to solve the conflicts. As I discussed in the chapter II, there have been a lot of debates on conflict of rights. Rights theorists have invented the concepts of negative rights, positive rights, natural rights, acquired rights, and basic liberties, etc., to analyze this entanglement. But if we disentangle this problem from the angle of comparing the duty to oneself with the duty to others, and look into what is really at stake when we compare them, we will have a better understanding on the problem of conflict of rights, and ultimately, the conflict between individual goods and communal goods.

The duty to oneself with regard to respect one's humanity thus demands the individual that he must not forfeit his humanity.

Since he must regard himself ... as a person who has duties his own reason lays upon him, his insignificance as a human animal may not infringe upon his consciousness of his dignity as a rational man, and he should not disavow the moral self-esteem of such a being, that is, he should pursue his end, ... not in a servile spirit as if he were seeking a favor, ... but always with consciousness of his sublime moral predisposition... And this self-esteem is a duty of man to himself. [6:435]

One must set up and pursue his ends as a duty to himself; and he must pursue it with a sublime sense of self-esteem, which arises from just being human.

And for Kant, the only true sense of 'humility' is 'the consciousness and feeling of the insignificance of one's moral worth in comparison with the law' [6:435]. But that does not mean that since the moral law is holy and strict and we are always in distance with it, one then should have little respect for oneself. Instead, 'from our capacity for internal lawgiving and from the (natural) man feeling himself compelled to revere the (moral) man within his own person, ... there comes exaltation and the highest self-esteem, the feeling of his inner worth (valor), in terms of which he is above any price and possesses an inalienable dignity, which instills in him respect for himself.' [6:436]

How can a sense of humility and a sense of highest self-esteem be combined perfectly together? It is possible, since on one hand, the standard of the moral law is very high and we know we can never achieve it, or not all the time. On the other hand, a man knows that he has this capacity of internal lawgiving- setting up ends and pursuing them- and he is motivated to move towards the moral law; and the recognition of his capacity and willingness to realize the moral law gives him a feeling of his inner worth, thus his self-

respect, if not self-confidence. So one's sense of inner worth comes from one's willingness to try to fulfill the moral law, not the status of fully arriving at it.

Comparing oneself with others and feeling inferior to others is not the right kind of humility. 'Waiving any claim to moral worth in oneself, in the belief that one will thereby acquire a borrowed worth, is morally-false servility.' 'Belittling one's own moral worth merely as a means to acquiring the favor of another, whoever it may be (hypocrisy and flattery) is false (lying) humility' [6:435-6]. Here Kant seems only to discuss the case of hypocrisy and flattery, in which one degrades oneself in order to gain some benefits from others.

Kant also discusses an ordinary sense of 'humility'. Certain religious advocates usually say that we should cultivate humility in comparing ourselves with others, not with the moral law. But Kant thinks this is a kind of 'self-abnegation', which can only let others make us despise our person, and thus it is contrary to our duty of respect to ourselves. [6:437]

Kant makes some examples to illuminate on the duty to respect one's own dignity of humanity. He says: 'Be no man's lackey. Do not let others tread with impunity on your rights. Contract no debt for which you cannot give full security. Do not accept favors you could do without, and do not be a parasite or a flatterer or ... a beggar.' Other examples include that 'kneeling down or prostrating oneself on the ground' to show one's respect towards another person or even 'heavenly objects', violated one's dignity of humanity, since 'for you then humble yourself, not before an ideal presented to you by your own reason, but before an idol of your own making'. [6:436]

One needs to protect her dignity carefully. Sometimes one's dignity is embodied in her human rights. If one cannot always prevent the violation of her rights, at least she can make sure that the violations should not go unpunished. Doing this is paying respect to one's own dignity in humanity. It is not right if we forgive the right violator. Forgiving a crime, making it unpunished, is a disrespect to our dignity of humanity. Kant further says, 'one who makes himself a worm cannot complain afterwards if people step on him.' [6: 437]

Other times, one's dignity of humanity can only be protected by one's prudential and moral choices. One should not put herself in a position which can jeopardize her equal status in relation to other humans. Such as, borrowing debt and accepting unnecessary favors, being in poverty, etc., can put a person either indebted to others, or in an vulnerable situation in which she is prone to forfeit her human dignity.

But how about the case of a certain kind of moral saint, who chooses to forfeit the pursuit of her own ends and happiness, in order to help others realize their ends? Does that indicate that she forfeits her humanity? That she serves as someone's lackey (servant)? Does that mean that she 'waives any claim to moral worth' in herself? Does that count that she does this for acquiring 'a borrowed worth', such as the praises on her as a saint?

We should not forget that Kant also says this: 'for as a person, he is not to be valued merely as a means to the ends of others or even to his own ends, but as an end in himself, that is, he possesses a dignity (an absolute inner worth) by which he exacts respect for

himself from all other rational beings in the world. He can measure himself with every other being of this kind and value himself on a footing of equality with them.' [6:435]

So no one should treat oneself as a means to the ends of others. Or in other words, one should not be a servant to other human beings. This is in contradiction with the concept of equality, the idea of each human being having equal status in humanity. No one is inferior to others, and no one should submit one's needs and ends to those of others.

The usual philosophical paradox in 'a slave contract', that whether one can freely choose to enter a slave contract and be a slave to others, may have a good answer here. While the usual answer to this paradox is that once one loses the moral status as a freeman, the contract he has made will lose its validity. Since a valid contract, the basis of which is an agreement among parties, can only be made by freemen in a voluntary way. But there is still a problem lingering. At the moment one made the contract, one was free. Does the concept of contract demand that the parties that once have made the contract should always stay as freemen after the contract is made? Is the voluntariness at the moment of making not valid enough?

Here Kant deals with the paradox in another way: A person has a duty to himself not to be a means, a slave to others. And a slave contract violates the principle of equality in our humanity. No one should degrade oneself into a morally inferior position, even by free choice. So the value of freedom should not be the only one that can be applied in judging the validity of a contract. The value of equality is important in its validity too.



But some philosophers argue that the concept of contract and agreement should not contain such a 'content judging' element, and should only concern the style by which the contract is made. It is rather a subject of procedural justice, not of substantive justice. If the contract is made in a free and voluntary pattern, with no cheating and coercion, then it is valid. This is a strong objection against the Kantian way of looking at the concept of a contract. But others can still say that the reasons why the contract should just be a subject of procedural justice do not give a final answer to this question. Michael J. Sandel in his book *Justice: What's the Right Thing to Do?*<sup>75</sup> mentions the two sides of reasons about this.

Furthermore, Kant's point is not about merely content judging of the slave contract, such as what material benefits and harms each party gains or loses; it is about the status of the participating parties themselves, whether they maintain the same moral status as they had before the contract. This goes beyond the debate of procedural and substantive justice. Anyway, this is not my main topic in this dissertation, and let's stop the discussion here.

And the question regarding the kind of moral saints who sacrifice her own ends and needs in order to help others realize their needs and ends, it can be asked in a different way. It can be said, the moral saint sets her ends of life as 'helping others to realize their needs and ends'. Then it is not about her violating her humanity and her serving as a means to the ends of others, but it is about her pursuing her own ends, which just happen

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<sup>75</sup> Sandel, Michael J. *Justice: What's the Right Thing to Do?* Farrar, Straus and Giroux publishing, 2010, p. 142-149.

to be helping others. Can this way of explanation be in line with Kant's idea of respecting humanity in our own person?

Again, let's review what Kant says on this issue: 'for as a person, he is not to be valued merely as a means to the ends of others or even to his own ends, but as an end in himself.' And be reminded that the concept of humanity or human dignity in ourselves is about the capacity to set up and pursue our ends. Moreover, we have this imperfect duty to ourselves to enlightening ourselves from ignorance, and developing learning skills and the ability of self-correcting our errors.

The first sentence indicates that even the saint sets as her ends sacrificing her own ends to help others, (here the term 'ends' in 'her ends' means enlightening herself from ignorance, and developing learning skills and the ability of self-correcting her errors) , the saint just uses herself as a means to her own ends, and does not treat herself as an end in herself. This end in herself is her own humanity, her capacity as a human being to set up and pursue ends. She seems to not treat her inner humanity seriously. This inner humanity also needs nutritions to develop.

However, the concept of humanity is only about the capacity to set up and pursue one's ends. The moral saint can develop this capacity during the course of helping others. Even she may not do this consciously- devoting her time and energy in developing herself, she may still learn enough and grow substantially in her projects of helping others. So, the question remains open, with no conclusive answer to it.

Furthermore, the duty to ourselves to develop our learning ability is just an imperfect duty, which means, in face of a perfect duty more urgent or with higher moral weight, it

can be violated to fulfill this another duty. I will discuss more of this after I introduce all kinds of perfect and imperfect duties in Kant's system. I will compare their weights pairwise in the chapter III.

## vii. The Command That One Be One's Own Innate Judge And To Know Oneself

That one has the duty to be one's own innate judge means that the subjection of one's actions through an internal court to 'a law (a moral imperative limiting one's freedom)'. Our capacity of 'practical understanding' provides with us this concept of duty and this law. Our 'faculty of judgment' makes imputations of our actions under this law. Following them is 'the conclusion of reason (the verdict)'. All of these processes take place before a court, and 'the consciousness of an internal court in man is **conscience**'. And this conscience has two parts: intellectual and moral predisposition.[6:438]

Kant believes that 'every human being has a conscience', and 'this authority watching over the law in him is not something that he himself (voluntarily) makes, but something incorporated in his being' (the word 'voluntarily' is bracketed in its original translated text, not by me).

As I mentioned in the previous sections, here Kant seems to imply our moral capacity to judge our behavior according to a moral law limiting our freedom is part of our humanity. When he says that 'every human being has a conscience', and 'this authority watching over the law in him is not something that he himself (voluntarily) makes, but

something incorporated in his being', he seems to suggest that having a conscience is a human nature. Since every human being has it, and every human being has it 'incorporated in his being', not what he voluntarily makes. But since Kant does not explicitly use the term humanity here, we are not sure whether this moral capacity should be included in his definition of humanity.

But this moral capacity is very important to the problem of the moral status of humans. If a being is capable of making rules in a spirit of equality and universality to guide its behavior towards other beings, it earns a certain respect from other beings when they decide how to treat it.

But there are still many questions in regard to this moral capacity of us. It seems that in the most part of human history, there are little evidence showing many people have demonstrated their conscience. Can we conclude that those men have no conscience? Modern psychology has already found that psychopaths have no sign of conscience. Kant would say that those men still have conscience which voice they can always hear; it is just that they 'stun (themselves) to sleep by pleasures and distractions'. And if they decide to hear the voice of it, they can always bring themselves to notice it. [6:438]

The next command is 'know (scrutinize, fathom) yourself, not in terms of your natural perfection (your fitness or unfitness for all sorts of optional or even commanded ends) but rather in terms of your moral perfection in relation to your duty. That is, know your heart — whether it is good or evil, whether the source of your actions is pure or impure...' [6:441]

Since the center of Kant's moral theory is the good will, or to follow our conscience, how to make people always have a good will and follow their conscience is a very difficult question to answer, considering there have been so many morally bad people in this world.

Kant points out a way: moral self-reflection - to find the evil source of our will, remove it, and then sow the seeds of good will in it. 'Moral self-knowledge,' <sup>76</sup> which seeks to penetrate into the depths (the abyss) of one's heart that are quite difficult to fathom, is the beginning of all human wisdom'. Furthermore, to find and follow a good will inside us, we need to first go to the bottom of our heart and remove the obstacle - an evil will, then can we begin to develop our 'predisposition to a good will'. [6:441]

Following this duty to know oneself, Kant in addition presents a secondary duty to this: 'Impartiality in appraising oneself in comparison with the law, and sincerity in acknowledging to oneself one's inner moral worth or lack of worth are duties to oneself.' Why he presents this, is because humans always do self-lying in regards with our inner worth. Some times people feel 'fanatical contempt for oneself'. Other times they have this 'egoistical self-esteem which takes mere wishes - wishes...remain empty of deeds - for proof of a good heart.' [6:441]

But here in Kant's words shows a problem. It is the problem which is always in our heart when we see a morally bad person: is this person really worth of our respect? And although Kant always suggests that each human being has this humanity inside, here he

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<sup>76</sup> This translation is from 1991 version. The new translation in 1996 version is this: moral cognition of oneself.

says that someone may lack of this inner moral worth. But Kant here quickly discards the problem by clarifying that we can feel contemptible toward ‘the human being himself, but not the humanity in him’, if the person acts contrary to his predisposition to a good will. So a person always has this predisposition to a good will which deserves the respect from the rest of us; but if he chooses to act against this predisposition, since this predisposition is just a tendency or liability, not an already determined personality or characteristic trait, he then will lose our respect to him as an individual.

This separation of the individual as a human being from his humanity in him, at first it seems strange, but it actually can provide us with useful guidance in treating people. For example, in the case of facing a criminal, we may lose our respect to him as a person, since he has done evil things. We won’t need to treat him as a friend, salute him or treat him as a teacher or mentor any more if he was that to us before, or as a good neighbor whom we can pay warm visits. But we still need to respect the humanity in him, which means, we have to give him a proper trial with due process of law; we cannot give him inhuman treatment when he is in jail, such as torturing him, or even insulting him; etc. And if he shows real remorse for his sins, we should give him a second chance to have a decent life.

#### viii. The Command To Treat Other Beings Respectfully

Kant claims that the duty to oneself commands us to treat beautiful objects, animals in a respectful manner.

Kant suggests that humans only have duties to humans, not to other beings, because only humans are capable of obligation - the conformity with the rule. Since only reason can judge and make us in conformity with a rule. The constraining subject must be a being with a rational will. And one's duty to any subject means 'moral constraint by that subject's will'. The rational will in the other obligates us.[6:442] To better understand the meaning of obligation, Kant explicitly defines the term as: 'Obligation is the necessity of a free action under a categorical imperative of reason.'[6:222] Only humans have the capacity of reason and also the freedom to engage in moral relations. Hence we humans only have duties to other humans.

In other words, it is the humanity inside us that makes us the beings capable of moral obligation, and the beings who can put other beings under the moral obligation to us.

I think Kant wants to say that only a being capable of obligation himself deserves our having a duty towards him, because the moral binding procedure should only work in a reciprocal manner. We can only be morally bound to a subject who can be morally bound to us by his capacity of moral obligation. Without this requirement by the principle of reciprocity, it is hard to understand Kant's point why only the constrained party having this capacity of obligation is not enough. Animals have no such capacity of obligation, while humans do. When we deal with the moral relations between humans and animals, the constraining party is animals and the constrained party is humans. Since only the constrained party has this capacity of obligation so the moral bound won't happen between the two parties. And animals do not share the same moral status as humans.

We may deduce more indications from this principle of reciprocal moral obligation in morally bounding relations. There should not exist such moral relations in which only one party can put moral obligations on another all the time, but not the other way around. So there should be no parties in the world who only enjoy rights over others, but never be under obligation to others. So a tyrant, or a dictator, who claims he rules over its subjects, while he is under no obligation to obey the same law which rules the country, is suggesting he can put moral obligation on others, but no one can put him under any moral obligation. And this type of moral relationship is invalid, according to Kant's principle of reciprocal moral obligation.

But there seems to be a counter example to this principle. It is that of parents' obligation to raise up their children. The moral relation exists in a one way manner, not reciprocal. Parents have this obligation to raise up their children; But on the other hand, at least in the western culture, adult children have no duty to take care of their parents in the same manner as they were cared as children and youth, in return for their care given to them. In some cases the adult children probably need to support the old parents only because the elderly need help. This can be morally justified since the moral relation is established not out of children's free choice to be their parents' child, but by parents' decision to bring children into this world and raise them up. So this case of special obligation can be explained why it does not follow Kant's principle of reciprocal moral obligation.

But another counter example of the mentally ill is very powerful against this principle. Those mentally ill who lose their rational will are not capable of moral



obligation, but we still have certain obligations toward them, such as taking care of them and treating them medically. These are usual objections to Kantian theory of rights, or choice-based theory of rights (the term is coined by Hart<sup>77</sup>). But here is not the place to discuss this issue in detail.

Here again we may add a crucial feature to Kant's definition of humanity: being capable of making and following universal and abstract rules, especially recognizing the rule of reciprocity in one's moral relationship with another. Or more specifically, being capable of using the capacity of reason to bind one's action in accordance with some universal moral laws, and thus being free of arbitrary rules of one's instincts and desires which belong to a realm of necessity.

In responding to previous discussion on the humanity, the meaning of life, and the basis of moral constraints including rights and duties, we may say that this feature of human reason among the features of humanity is the most qualified candidate to serve as the basis of moral constraints. A being capable of observing a reciprocal and universal rules and being able to treat others in a same respectful manner as he treats himself is worth being treated respectfully.

But again, as Nozick doubts (I discussed this in the section on suicide), being able to observe limits is nice; but it does not say what kinds of limits there is. Since the reciprocal rule only suggests the format of our behavior, not its substantive content. A being may treat himself very badly. Can we say he then can treat others very badly? Of course not.

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<sup>77</sup> Hart, 'Are there any absolute rights?'

Another good point of Kant worth mentioning is his idea that beside the requirement of being a human, there is an additional requirement that moral obligation should be assigned to a person '(being) given as an object of experience'. Since 'a mere thought-entity cannot be the cause of any results', only a person experiencing in relations with other humans can be possible to strive to achieve his ends as his rational will sets. [6:442] Without this opportunity for our rational will to work, we won't encounter the problem of rights and obligations. And rights and obligations can only happen between persons when they act since only actions can have consequences, not when the agents only think inside their mind.

Here Kant makes a good point that only experience through actions and deeds that count. Only actions have results and impacts, and only through which we can pursue our ends. We need to see to it that our ends are actualized in the real world. And humans need to use and develop their reason through the relations with other human beings. These require real life engagement. So for the question of the meaning of life, Kant would say: develop your capacity such as that of reason, pursue your ends, and those can only be achieved through engaging with other human beings.

Anyway, under the duty to ourselves, Kant claims that we have the duty to treat beautiful objects in a respectful way, since it will raise inside us 'a disposition of sensibility that greatly promotes morality or at least prepares the way for it: the disposition, namely, to love something .. even apart from any intention to use it.' [6:443] Kant here suggests a moral disposition that thinking beyond the use of a thing to oneself,

and appreciating the goodness of the thing in itself. It is a kind of feelings of empathy or compassion towards the other being itself, and thinking beyond one's egoistic needs.

Similar arguments go to the treatment towards animals too. 'Cruel treatment of animals ...dulls his shared feeling of their suffering and so weakens and gradually uproots a natural predisposition that is very serviceable to morality in one's relations with other men.' [6:443] In other words, it is the feeling of empathy and compassion that consist this natural predisposition.

Here the important point worth mentioning is that, although Kant always praises reason as our highest and most effective engine toward morality, here he seems to suggest that moral feelings such as empathy and compassion can help us build up this natural predisposition toward a good will. Actually Kant explicitly discusses the function of moral feelings in the working of our morality.[6:387, 399-400] Here it is not the place to go to the details of this.

#### ix. Can These Duties Be Regarded As Humans' True Needs And Basic Human Rights?

Let's summarize the perfect duties to oneself:

First, Respect your bodily integrity: do not commit suicide; do not mutilate your crucial organs and limbs; do not over eat and drink and engage in unnecessary sex;

Second: Provide yourself with necessary means for your true needs and a good living.

Third: Respect the humanity inside you: set up your own ends and try to realize them, do not serve as a servant or feel inferior to other people; Know yourself, its deep motives and incentives, in other words, do moral self-reflection. Be your own inner judge, face your own conscience, and try to follow its command in all your actions.

Of course, we shall treat the whole list as every human's 'true needs'. Since without either one of them on the list, our humanity will not have any chance to develop. And no matter to call them our duties, or our rights, we should provide each citizen with them.

But even they are all our true needs, not all of them can be regarded as basic human rights. Since rights not only command us not to do something, but also require others to provide us with something. When it is the latter case, it demands the contribution from others to provide for us. As a universal law, it therefore also demands us to provide for others. Hence we need to distinguish two different nature of rights.

In Philippa Foot's terms, it is the difference between negative rights and positive rights. The right not to be murdered and the right to bodily integrity are the most important negative rights. And the right to a good living, equivalent to some economic and social rights, along with the right to be saved, are positive rights. As I discussed before, only when we compare the same kind of rights, can we say that the negative right of the same kind have more moral weight than the positive right of the same kind. Such as the right not to be murdered should outweigh the right to be saved since they are both the right to life. But a positive right to be saved can outweigh a negative right to certain property, since the right to life should outweigh the right to property. But, overall, only those negative rights are regarded as basic human rights in consensus by philosophical

and political thinkers; the positive right to certain social and economic well-being is not so.

Firstly, the right not to be murdered and the right to bodily integrity are considered as the most important negative rights, so they are regarded as basic human rights.

Second, let's consider the duty to oneself to a basic good living. Of course it is a true human need. Without this, our humanity has no opportunity to develop. And it is regarded as a perfect duty to oneself. But should it also be regarded as a basic human right? The right to a basic good living is a positive right, like an economic and social right. How much moral weight should it bear? How much can this right require others to do for us? I want to emphasize that here Kant only suggests that the person herself should provide means for her living. It is the individual's own duty, not a duty of others to provide for her. Otherwise it becomes a duty to others: since others are required to provide a living for us.

Thirdly, in regarding to the important duty to respect to our humanity, should we also treat it as a basic human right? And how? We may ask the question in a different way so it becomes more clear. shall we give each citizen the chance to develop a capacity to set up and pursue their ends - to develop their rational will? Since respecting humanity, or the human dignity inside us contains this, it would be a very important right to us, if not the most important. Because it is only this humanity that sets us apart from animals.

A closely related right to this duty to respect the humanity in each of us, is our political right to participate in government. Because no one should be a servant to others,

and each of human beings should and can set up and pursue their own ends, so only a government based on the principle of consent can have legitimate authority over each citizen. Furthermore, participating in governing is a very crucial, if not the only, way for citizens to develop their rational will. Through participating in those public affairs that have fundamental impacts on their lives, they are provided with the greatest opportunities to develop their capacity of setting up and pursuing their ends.

#### 4. Imperfect Duties To Oneself

##### i. Duty To oneself To Increase One's Natural Perfection

A person has an imperfect duty to oneself to cultivate one's natural powers. And the basis on this cultivation is not technical reasons: not for 'the advantages that their cultivation can provide', since the advantage might come about on a morally bad side. Rather 'it is a command of morally practical reason and a duty' to oneself, and 'to be...a human being equal to the end of his existence'. [6:444-5]

Our natural powers include three parts: First, powers of spirit. They are our *a priori* theoretical reason which can only be developed through thinking from abstract principles, such as those employed in mathematics, logic and the metaphysics of nature. It can not be drawn from experience. Second, powers of soul. They are our capacities of understanding which are developed through experience. They include the power of memory, imagination, etc., on which we build learning and taste, etc. Third, powers of

the body. We develop them through physical exercise - gymnastics. This builds our basis as an animal being, but without which we cannot realize other ends. [6:445]

This duty of cultivating our natural powers is only an imperfect duty, which means how much proportion of one power among others should be developed and to what extent, cannot be determined in a manner of exact laws to humans. Humans are allowed a latitude for free choice in the kind and extent of specific actions towards developing them. But overall, humans cannot choose not to follow this duty as a maxim, even no precise command on specific actions are not required, because we have a duty 'to be a useful member of the world'. [6:445-6]

## ii. Duty To Oneself To Increase One's Moral Perfection

This duty first commands us to have a pure motive toward our actions: we must do what duties require us from the incentive of following duties [6:446]. 'The greatest perfection of a human being is to do his duty from duty (for the law to be not only the rule but also the incentive of his actions)'. [6:392] We should not do our duties out of some pragmatic concerns, such as whether we may be punished, or praised, etc., or out of certain feelings such as love.

Second this duty commands us to always strive to be perfect, to fulfill all our duties. And this is a long journey and we should be always on the road: always in the moral progress. [6:446]

Here Kant again emphasizes that the duty to be perfect as a maxim is a perfect duty. Only it is an imperfect duty as in its degree, or the command on how much we can achieve. [6:447]

In the end, Kant repeats that ‘all duties to oneself regarding the end of humanity in our own person, are, therefore, only imperfect duties’. [6:447]

### iii. Can These Duties Be Regarded As Humans’ True Needs And Basic Human Rights?

Here we may discuss the question, whether we should treat the imperfect duties to ourselves also as our ‘true needs’, besides those perfect duties to ourselves?

Of course the duty to increase our moral perfection cannot be treated as a true need, and therefore not a candidate for being a basic human right.

But how about the duty to develop our natural powers and the duty to increase our power of body? In other contemporary philosophy words, the duty to our (natural) perfection? Kant suggests that while we have latitude in deciding how much we can achieve and which powers of the three we should give priority to; the command to develop them is a perfect duty, since we need to be ‘a useful member of the world’.

Here be reminded that I discussed in the previous section (1) that the duty to respect our humanity - the rational will inside us - should be treated as a basic human right. Since it does not belong to the perfection command.



I think we can use this duty to develop our natural powers to analyze our right to education. Each of us need basic education to have some basic level of development of our natural powers, and the duty to develop our rational will also requires us this. We have a duty to be a useful member of the world. And we need help at the beginning of our lives to develop our powers. We cannot do it ourselves before we reach our adulthood.

But regarding professional education and higher education, we should not treat them as basic human rights, and demand the government to provide them to every one in society. Since the duty to develop our natural powers is just an imperfect duty. And after we reach adulthood and have natural body and mind powers sufficient to provide ourselves with the means for a good living, it is our responsibility to develop our powers, not others or society's.

## 5. Perfect Duties Of Respect To Others

Kant claims that we have this narrow duty of 'limiting our self-esteem by the dignity of humanity in another person, and so as respect in the practical sense'. In detail, it means 'not to degrade any other man to a mere means to my ends (not to demand that another throw himself away in order to slave for my end)'. [6:449-50] Therefore, it is not a definition we usually use in our ordinary life: not the mere feeling that results from 'comparing our own worth with another's'. [6:449]

It is a mirror duty to our duty to ourselves not to be mere means to others. It is the demand of the universality of the law. If we cannot degrade ourselves in front of others, we cannot degrade others in front of us either.

This duty of respect to others is ‘a negative one (of not exalting oneself above others)’, since it is defined with a no in its demand: it prohibits us from doing something, not requiring us to do something. And although it is merely a duty of virtue, it is regarded as a narrow duty when comparing it with the wide duty to love others. It is ‘thus analogous to the duty of Right not to encroach upon what belongs to anyone’. (In) observing a duty of respect I put only myself under obligation; I keep myself within my own bounds so as not to detract anything from the worth that the other..’ So as the duty of Right, it is a narrow and perfect duty. [6:449-450]

The details of this duty include the duty of us not to be arrogant toward others, not to defame them, and not to ridicule them. [6:465-468] I just skip the discussion here, since the details are not very important.

Here Kant mentions a concept of negative duty. There are a lot of similarities between this concept and the concept of negative rights. First of all, they are both moral concepts commanding someone not to do something to others. While negative duty, as the concept Kant invokes here, prohibits us from doing something to others due to our having this duty to others; Negative rights prohibit others from doing something to us due to our having these rights against others’ wrongdoings. And as discussed before on the section on Kant’s concepts of rights and duties, as a general rule, the claim-rights,

including both positive and negative rights, of someone A actually correspond to the duty of someone B to perform or not perform something to A. So the two negative concepts can be regarded as describing the same kind of prohibiting command from different points of agents.

There is another similarity between the two concepts. In most cases, the stringency of negative rights is higher than that of positive rights, such as someone's negative right not to be murdered should have more moral weight than another's positive right to be saved; and in some other cases, this is not the case<sup>78</sup>. As the case I discussed before, someone's property rights to his box with some medicine inside can generate a negative right of his that it is not to be broken. And a dying kid who can be saved by this medicine only has a positive right to be saved. But here, the positive right outweighs the negative right, since the positive right is a right to life, which should have more stringency than the negative right to some property. So we cannot in general say that negative rights have more moral weight than positive rights, since it also depends on the nature or kind of rights. Similar to the concept of negative duty as Kant invokes here. He never says that a negative duty should always have more moral weight than a positive duty, such as the positive duty to help others. Of course, in general, the negative duty of respecting others' humanity of course is very stringent: It is fundamentally important that we should not degrade others to mere means to us, and we should not enslave others. In most cases, this duty is more stringent than the positive duty to help others. But in some occasions this is not the case. Sometimes it is more morally important to perform a positive duty of saving a person

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<sup>78</sup> Thanks professor Larry Temkin to point this out to me.

from dying than to perform a negative duty to restrain from stealing a car to save this dying person. Since stealing someone's car is using this person as a mere means.

When Kant discusses these two concepts, positive and negative duties, the main concern of his is the degree of demanding of these two duties. Since positive duties require people to do something for others, while negative duties only prohibit people from doing something to others, so positive duties in general are more demanding than negative duties, since they require more from us.

Overall, Kant does not use these two concepts as his main categories of duties. It is perfect duties and imperfect duties that are his main categories. And only when he discusses the duties to others does he invoke the concepts of negative and positive duties, since only in case of the duties to others is our relationship with each other involved, and the two concepts only describe the external moral relations between persons. So he does not use these two concepts in case of duties to oneself. So it is not right to correspond perfect duties to negative duties and imperfect duties to positive duties as a general rule. But in cases of duties to others, Kant does define the duties of loving others as both an imperfect duty and a positive duty, and the duties of respecting others as both a perfect duty and a negative duty. Again, when Kant uses these terms, he does not indicate that a negative duty should outweigh a positive duty in moral stringency.

## 6. Imperfect Duties Of Beneficence To Others

Kant suggests that we have imperfect duties to promoting the happiness of others. Here, Kant defines happiness as ‘satisfaction with one’s state, so long as one is assured of its lasting’. And he clarifies that the so called ‘moral happiness’ defined by other philosophers, as ‘satisfaction with one’s person and one’s own moral conduct’, is actually moral perfection. [6:387] So the content of happiness does not include moral perfection. And our duties to others’ happiness and moral well-being have different features.

For the happiness of others, or in other words, ‘natural welfare’ of others, we have this duty of benevolence - practical love - toward them. [6:393,449]

It does not mean or require us to fulfill this duty out of love, in its ordinary sense, for others. Since Kant understands that the feeling of love, in the ordinary sense, defined as ‘pleasure in the perfection of others’ [6:449], cannot be demanded upon us: Humans cannot be put under obligations to have feelings. Our feelings can only come naturally, and are not under control of our reason, thus cannot be summoned by reason to generate as a kind of obligation. Kant says, ‘Love is a matter of feeling, not of willing, and I cannot love because I will to, still less because I ought to... ; so a duty to love is an absurdity. ... every duty is necessitation, a constraint, ... What is done from constraint, however, is not done from love’. [6:401]

But we have this duty of benevolence to others. ‘(To) do good to other humans insofar as we can is a duty, whether one loves them or not’. Even when we find them unlovable; even we need to do good to a misanthropist who hates humans. [6:402,450]

On the other hand, Kant also thinks the feeling of hatred on vice in humans is rather ‘a mere feeling of aversion to vice’, a feeling our will cannot control, so we are not

required to remove this kind of hatred on certain humans inside us. The duty of beneficence only require us to do good to others, and does not require us to love them in the ordinary sense [6:402] , unlike what some religion requires on us.

The exact content of the duty of practical love for others is defined as ‘the duty to make others’ ends my own’. [6:450]

Why do we have this duty of practical love, or benevolence, to all human kind? Kant says, it is because of the requirements of the principle of reciprocity, or of the principle of universality. ‘Since our self-love cannot be separated from our need to be loved (helped in case of need) by others as well, we therefore make ourselves an end for others; and the only way this maxim can be binding is through its qualification as a universal law, hence through our will to make others our ends as well. The happiness of others is therefore an end that is also a duty.’ [6:393] Similar words here [6:451]. In other words, under the requirement of a universal law, if we want love, help, or benevolence from others, we have to give love, help, or benevolence to others in return.

But some may argue if a person is too independent and self-reliant to need help and benevolence from others, does that mean he does not have the duty to give help and benevolence to others? From pure logic, the argument seems valid. But if we look at the premise of this argument carefully, we may come to a different conclusion and found the above one not sound. Since we can say, in a civil society, there is no human being that can survive and live as a human all by himself. The story of Robinson Crusoe happens only temporarily, and is not a standard of living conditions of ordinary human beings in our world. We all live under a certain society, with division of labor and cooperation

among us, in order to survive and live a better life. If one lives in a society and enjoy the fruits of social cooperation, he has then already received help from others. He then has the duty to do benevolence to others.

Here we see that Kantian moral theory is not at the total opposite of communitarian theory after all: both of them recognize our mutual needs of each other, and command us to do good and help others as we can.

But the following statements of Kant will suggest that the two kinds of moral theories still have their differences.

Why this duty of benevolence is only a wide, or an imperfect duty? Kant says, since this duty requires us to sacrifice a part of our welfare to help others, and ‘without hope of return, because this is duty’,

(I)t is impossible to assign determinate limits to the extent of this sacrifice. How far it should extend depends, in large part, on what each person's true needs are in view of his sensibilities, and it must be left to each to decide this for himself. For a maxim of promoting others' happiness at the sacrifice of one's own happiness, one's true needs, would conflict with itself if it were made a universal law. Hence this duty is only a wide one; the duty has in it a latitude for doing more or less,...  
[6:393]

It is because we need to sacrifice some of our welfare in order to help others, so there are no specific limits that can be assigned to what require from us.

Furthermore, there is indeed some limit that can be made to the maximum amount of help to others that we can give: our own welfare. This is an old question I discussed many times when I analyze the duty to oneself. But here the duty to others is a good place to discuss it again. We will see if we can find some new angles to the precious open

question of how to solve the conflict between the duties to one's own and the duty to others.

Here Kant explicitly says the following:

I want everyone else to be benevolent toward me; hence I ought also to be benevolent toward everyone else. But since all others with the exception of myself would not be all, so that the maxim would not have within it the universality of a law, which is still necessary for imposing obligation, the law making benevolence a duty will include myself, as an object of benevolence, in the command of practical reason....in the duty of mutual benevolence, in accordance with the principle of equality,... [6:451]

Therefore the requirement of the universality of the moral law, and of the principle of equality, also command us to cherish our own welfare and happiness when we contribute our shares to others' happiness.

And I need to emphasize the importance of the above requirement with some examples. Remember before I discussed Taurek's paper 'Should the numbers count?', in which the author claims that one is not morally required to give up his own drug which can save his life and to split it up to save the lives of other five people. Taurek argues that we should compare the value of life of the owner, only with that of each one of these five people one by one, not by the total number of five. Since each of us only has one life, for the owner of the drug, the lost to him is his whole life, his whole world, and he cannot lose more than that. And for these five people, the lost to each is also one's whole life. There is no difference when you compare a whole life to another whole life. So the numbers do not count. We should only do one by one value comparison. That is the strongest opposition against the communitarian claim of the superiority of society's value



over that of individuals, and utilitarianism's claim of maximizing welfare of all and their denial that the distribution of welfare does not matter.

But of course, this type of argument cannot explain why it may be permissible to murder or torture an innocent person in order to save millions of lives, as Nagel asserts. If you only compare this person's life with one of those millions of people one by one, the answer would be that it is not permissible. Nagel's argument is that although a person has the right not to be murdered or tortured, and this right has a very high threshold where violating it is permissible; thus the lives of millions can pass this threshold, but the lives of five people cannot. So unlike Taurek's argument, in Nagel's argument, the numbers still count, and we cannot only compare the value of life one by one between two groups of people with size difference in scale of millions.

Here following Kant's principles of universality of the moral law, and the principle of equality, we may come to the same conclusion as that of Taurek's, although through slightly different arguments. First, there is an argument that can be made from the principle of equality: we are equal among each of us. That means, one's life is equal to that of another. It seems this argument may lead to the conclusion that we should compare values of life one by one. But it is not necessarily so. It is actually unclear how we should compare those values of life when the difference in numbers come into picture.

Let's try a second way to approach this, also inspired by Kant's above assertions. Even we have this duty to do good for others, we also have our own welfare to take care. Most importantly, the conclusion to this mutual benevolence is based on the following argument: both the universality of a law and our self-love are needed premises in this

argument which leads to that conclusion that we are required to love others. Since if we want love and help from others, the universality of a law requires us to love and help others. Without this self-love in the first premise, we cannot get to the conclusion that there is a duty to help others at all. And there is no other basis on which we are required to help others. We need to help others because we need love and help from others. If we ourselves are totally sacrificed to save others, if the value of our own life does not count when the value of community demands, the whole argument collapses and here goes the claim that there is a duty to help others. Therefore, we cannot, for the sake of helping others, sacrifice our own welfare so much to the extent that we may need help from others to live a good life, or we even cannot preserve our own life at all.

This argument seems sound. And it aligns with Taurek's argument that the numbers do not count. But it still cannot explain Nagel's claim that millions of lives can trump one single person's right to life, which our moral intuition seems to agree to.

We may learn something from Thomson when she in her paper 'The Trolley Problem' tries to explain why we can change the trolley track to save five and kill one, but not allow a surgeon to kill a person coming for a body check up in order to use his organs to save five people. She says, maybe in the trolley case, the five and the one are all workers of the trolley company, and they would agree in advance that in case of such happens, a third party can change the track to save more rather than less, since they all could be end up in this situation, and the chance of ending up in the group of five is five times bigger than that ending up in the group of one. So, following this argument, that if and only if an agreement based on one's probability of being killed could be made among all

participating parties, it is permissible to sacrifice one to save five; Hence, in another case scenario that a mayor is on one track, invited by the company, and promised by the company that in any situation he wouldn't be sacrificed to save others no matter how many, it is then not permissible to sacrifice the mayor. Similar to this, in the surgeon case, no such agreement can be made, so it is impermissible either.

Maybe we could use the same argument to adopt to Nagel's claim. We could agree to sacrifice one of our lives in order to save millions in our community, but not to save five people. It seems working. But why so? how do we know we could agree on some things but not others? Here I have to stop, and discuss it in another time if there is.

And let's go back to our previous case of moral saints. Before I seem to conclude that the question is still open, leaning toward a negative answer though, whether moral saints are doing the right thing to sacrifice their own true needs and ends, in order to serve others' needs and ends. But here Kant seems to point an answer to a determinate direction. It seems impermissible. Yes, you may still develop your capacity of being capable of setting and pursuing ends by helping others, so you preserve and even develop your humanity inside you. But based on the universality of law, if we ourselves do not need love and help at all, there is no duty to help others.

Can one totally accept others' ends as her own, and give up all her own original ends? Such as, if Jack wants to be a violinist, I then devote myself totally to help him to realize it. That seems noble, but that seems to count as my being a servant to Jack and it is a case of self-abnegation, which Kant opposes as a violation of duty to oneself.

But how about a case in which a rich man decides to spend all his fortune to save those poor people's lives in Africa? It seems not only permissible, but also praiseworthy.

Maybe we should discuss more of Kant's concept of 'true needs'. Here we come back to the previous discussion on the distinction between basic needs and luxury wants.

In defining the term of 'true needs', Kant suggests that what each person's true needs are are in view of his sensibilities, which is subjective. [6:393], [6:432]. So there is little help that we can get from only studying Kant's explicit definition of true needs.

But the whole long discussion of Kant's theory of duties is about how to define our true needs. We need to analyze carefully, among those various perfect and imperfect duties to oneself and to others, which can be counted as true needs, and which can be counted as luxury wants. But we can deduce some important ideas from him by studying his ideas of perfect and imperfect duties, and his concept of humanity.

Kant also briefly mentions other imperfect duties of us to others beside that of beneficence, such as the duty of gratitude and sympathetic feeling. [6:454-458] Here I just skip them, since they are just minor issues.

## Chapter V: Comparisons and Discussions

As stated before, to make comparisons among the above four categories, Kant gives some clear guidance, such as perfect duties always take priority over imperfect duties. But in general he didn't systematically compare them pairwise. Some of those pairwise comparisons can be easily made by following Kant's guidance. But I think some of those easily made comparisons have complications and need more analysis than what Kant originally thinks. For some other comparisons, Kant himself makes it clear that the exact comparisons between them are not possible. I will describe and evaluate those comparisons to see if that is really the case. And for other pairwise comparisons which Kant does not make and which are important for our purposes, I will try to make the comparisons on my own.

Let's review the pairwise comparisons are the following. I also put the results of comparisons here.

- (1) perfect duties to oneself vs. perfect duties to others; (no conflict)
- (2) perfect duties to oneself vs. imperfect duties to oneself; (no conflict)
- (3) perfect duties to oneself vs. imperfect duties to others; (little conflict)
- (4) perfect duties to others vs. imperfect duties to others; (no conflict)
- (5) imperfect duties to oneself vs. imperfect duties to others; (conflict)
- (6) perfect duties to others vs. imperfect duties to oneself (no conflict)

Let's do the pairwise comparison one by one in order. Why is it needed to do this? Because by this way we can get a clearer picture of what our rights and duties mean, and what they indicate in terms of what is the right thing to do in both our public and private lives, and when our own rights and duties are in conflict with those of others, we may get a better idea of how to solve them.

### 1. Perfect Duties To Oneself Vs. Perfect Duties To Others

Remember the perfect duties to oneself include the following:

First, Respect your bodily integrity: do not commit suicide; do not mutilate your crucial organs and limbs; do not over eat and drink and engage in unnecessary sex;

Second: Provide yourself with necessary means for your true needs and a good living.

Third: Respect the humanity inside you: set up your own ends and try to realize them, do not serve as a servant or feel inferior to other people; Know yourself, its deep motives and incentives, in other words, do moral self-reflection. Be your own inner judge, face your own conscience, and try to follow its command in all your actions.

And remember the perfect duties to others include the following:

The duty of respect: Do not degrade any other man to a mere means to your ends. In other words, do not demand others to be a slave to you.

When we compare the two perfect duties, we will find that there is no conflict between them at all. Since the perfect duty to others is a negative duty, which does not demand a person to positively do something for other people, so there is no need to demand the agent to sacrifice anything of his own.

And it works as a mirror duty to one of the duties to oneself: the duty to oneself against servility. Since both duties follow from a same universal law: do not degrade any person to a mere means to others' ends. This is the fundamental principle in Kant's moral theory. In his another essential book on ethics, *The Groundwork of Metaphysics of Morals*, Kant writes that the second formula of the categorical imperative commands:

‘Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end.’ (II:49 [428-429])

It is clear that both these two perfect duties are just the applications of this fundamental moral principle, for Kant.

Because the two perfect duties to ourselves and to others are like in a mirror, we maybe should also treat those detailed duties in the list of perfect duties to oneself as in the perfect duties to others: we should respect their life, their bodily integrity, their humanity. In relation to our duties to others, these become the corresponding rights of others to us.

Therefore those perfect duties to ourselves and others can be treated as belonging to basic human rights, such as the right not to be murdered, the right to bodily integrity (which also implies the right not to be tortured), and the right to a basic good living.

But think it again: should the right to a basic good living really be treated as part of those basic human rights? It seems that it should be, since all others on the list are in this 'mirror'. But unlike others which are negative rights (see previous citation on Philippa Foot and my analysis), this right is a positive one. While a negative right only requires the agent not to do something to others, or be forbidden to do something; a positive right asks the agent to do something for others, and therefore need to sacrifice the time and/or wealth of the agent.

But Kant says that the perfect duties to others to respect them is only a negative duty, corresponding to a negative right only. So let's just leave this right out for now as a basic human right.

## 2. Perfect Duties To Oneself Vs. Imperfect Duties To Oneself

Since both are duties to oneself, and the perfect duties are the foundations for the imperfect duties to oneself, so there is no conflict between the two either.

## 3. Perfect Duties To Oneself Vs. Imperfect Duties To Others



Remember the imperfect duties to others, for Kant, is to do good for others, which means, to treat others' ends as one's own.

The possible conflict between the perfect duties to oneself and imperfect duties to others is one of most controversial conflicts.

I have already discussed the possible conflict between the two in length when I introduce Kant's ideas of these two duties. But just consider it again. It seems that Kant is in contradiction with himself. At one place, when he discusses the perfect duties to oneself, he says no one should treat oneself as a mere means to others' ends. But when he discusses the imperfect duties to others, he suggests that we should treat others' ends as our own.

But there is no contradiction, if one reads Kant carefully. When he says that we should treat others' ends as our own, he does not say that we then have to treat ourselves as a *mere* means to others. Maybe while we help others to fulfill their ends, we can pursue our own ends too.

It is alright for a person to be a means to others, as long as he is not a mere means to others. The difference lies in whether both the ends of the helper and the helped are satisfied. For example, if both you and I are trading with each other for exchanging some items, we both treat each other as a means to our own ends. But this is morally permissible, since when this contract is fair and made in a voluntary manner, we both have also served our own ends. So we are not a mere means to others: none of us have not fulfilled our own needs.

But, the duty to do practical love, or benevolence to others, unlike trading, requires us not to ask for returned favors. Otherwise, it becomes an exchange of favors or just simple trading, not a duty to help others. So, how can we be a means to others' ends, not a mere means to others when we help others?

An obvious way to answer this is that while we help others, we should never sacrifice our own ends and true needs, which are our perfect duties. Then there should be no conflict between the two duties at all. Since Kant seems to say that the perfect duties to ourselves take priority over the imperfect duties to others.

But in order to fully understand this question, let's look at the detailed list of the perfect duties to oneself, to see whether any of them can be in conflict with the imperfect duty to treat others' ends as our own. Overall, we need to remember that there are two different categories of true needs, as previously discussed. One category includes the need to preserving life and bodily integrity which are negative in nature, which means they won't conflict with the duty to help others in normal cases. Another category includes the need to a basic good living, which are positive in nature, which means they can be in conflict with the duty to help others.

In detail, firstly, those duties that command us to protect our bodily integrity, to not commit suicide and mutilate our organs and limbs, and command us know ourselves and listen to our conscience, in common cases, won't conflict with the duty to help others anyway.

Secondly, in appearance, the duty of trying to provide ourselves with necessary means for a good living seems to be possible to conflict with the duty to help others. But when

we look at it carefully, there should be no conflict either. As discussed before, if by helping others, one falls into such a poor situation that one cannot even have a decent life oneself, we may say that this person goes too far to help others, to the point that we may agree that it is not praiseworthy, or even not morally permissible for him to do so, according to Kant's doctrines of virtue. Since then one treats oneself as a mere means for others.

The most obvious lessons that we can learn from above discussion is its implications: we are able to condemn some of most frequent practices in those communist and totalitarian regimes in history, such as when they kill many innocent people including ethnic and religious minorities, political dissidents, rich landlords and private industrial owners, in the name of providing a better life for others.

But the question is more complicated than it appears to be. We will understand this complicity by considering some real life scenario, which can illuminate us with its hidden issues. They will let us realize that we may have mixed feelings toward this kind of moral behavior. Consider a case of a beggar, which is a real story in contemporary China. A beggar saved most of the money he begged from others and used the money to support many poor children going to school. Even this beggar himself did not provide enough means for his own living, our moral intuition would still want to praise him. I think it is better to treat the specific actions of this kind of moral saints as supererogatory, which means, not morally required, but permitted and also praised. Other similar cases include sacrificing one's own life to save others.

But we should not demand or even advocate this kind of behavior for every citizen to follow as a norm, as communist totalitarian leaders often do. While it is praiseworthy, when this kind of supererogatory behavior is urged and made into role models by a government to its citizens, the effects can be mixed with good and bad. It is putting the responsibility of the whole society on the shoulder of some individuals; while this responsibility should be fairly distributed to the whole citizenry. Furthermore, it leaves the jobs which should belong to professionals such as firefighters, the police, and other government officials, to ordinary citizens. For example, in this case of the beggar, it is the job of the society's organized power to provide basic education for children and provide food for the poor. So this kind of supererogatory scenario should not happen in a decently functioning society. Therefore, even we may praise some rare cases in which a heroic individual sacrifices his true needs, his humanity, and even his life to help others, we should not advocate it as a role model. And we should definitely not try to build up a society depending on this kind of morally supererogatory behavior of ordinary citizens.

More importantly, when the proposal of this supererogatory behavior becomes a propaganda in a totalitarian state, it can become a manipulative tool for the government to violate individual rights and interests. In this way, the communist party of China under the rule of Chairman Mao always call on its people to sacrifice their lives to save some public owned properties from flooding water or fire. And those 'heroic' behavior were advocated as moral role models for citizens to emulate.<sup>79</sup>

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<sup>79</sup> remembered from my childhood memory of those communist propagandas: in our textbooks, newspapers, etc. in 1970s and 1980s when I grow up.

For those people who have been brainwashed by this kind of propaganda that they shall waive their rights to fulfill their duties to society, realizing that they have *duties* to themselves is a very strong antidote to the manipulative claim and their poisoned mind. To talk in duties' term is a better way for them to recognize the principle of equality and the moral command of a universal law: We should always treat each other as equal to ourselves; And we should always treat us and others as ends, not as a mere means to others' ends.

Again, as I discussed before, the concept of inalienable rights can to a certain degree provide shield against this kind of government infringement of individual rights. But it is not right to say that in a supererogatory behavior, a right is infringed. And it is also not right to suggest those heroes alienate their inalienable rights. When we label the supererogatory acts as alienation of inalienable rights, we indeed indicate that they are morally wrong. But they are not morally wrong. They are just not morally required. And they should be morally praised. So when a totalitarian government publicizes and promotes this type of supererogatory acts to its citizens, urging them to be moral saints and asking them to sacrifice their life and property for others, it is hardly right to say this government is wrong, in terms of rights violations.

When we talk in the language of duty, if we assert that there is a duty to oneself to respect one's life, bodily integrity, and humanity, and there is a duty not to be a mere means for others' ends, not to be a servant to others, then we may also conclude that it is not only not praiseworthy to violate these duties to ourselves, but even morally wrong to

do so. It seems that both theory of rights and theory of duty share this problem of mistakingly labeling a supererogatory act as morally wrong.

I don't know how rights theorists deal with this problem. But in regarding to the Kant's theory of duty, I will tentatively say, Kant's theory of duty can deal with this problem to a certain extent. Since Kant never suggests anything explicitly about the degree of stringency, or moral weights, of his different duties, but only explain their different degree of exactness in commanding people to fulfill them in specific ways. We may say, while we cannot be a mere means to others since this is a perfect duty to ourselves; and treating others' ends as our own is only an imperfect duty. But the imperfect duty is imperfect only in the sense that in what manner and to what degree it is fulfilled is not required specifically. At the same time, it is a perfect duty in the sense that we shall fulfill it as possible as we can. Therefore it is morally permissible to sacrifice one's life, or one's basic good living, for the sake of serving others' same important true needs. So it is morally permissible to die to save another's life, but not permissible to die to save others' property. And it is morally permissible to sacrifice one's basic good living, for the sake of helping some children to develop their basic level of the rational will. Because life, a basic good living, and developing one's humanity are all humans' true needs, and in this sense the sacrificed need and the served need bear equal moral weights. But the need to have certain property to the extent to require someone to give up his life to preserve it is of course not a true need, and to preserve it in this way is certainly morally wrong.

But if we explain Kant's theory of duty this way, it seems that we lose its power of giving different duties different moral weights. Then it seems that totalitarian leaders can still jump in to ask its citizens to sacrifice for others. But again, as I explained in the previous paragraph, only to serve a true need with the same moral weight as the one sacrificed can one sacrifice one's true need. This limitation reduces the majority of 'moral saints' cases urged by totalitarian leaders. As for other cases, if a person sacrifices his life to save another's, being encouraged by some government officials, it is hardly to say it is morally wrong anyway.

#### 4. Perfect Duties To Others Vs. Imperfect Duties To Others

These two should not conflict with each other either. Since the first is a negative duty: do not degrade others as mere means to us; the second is to require us to do good for others, to treat others' ends as our own.

#### 5. Imperfect Duties To Oneself Vs. Imperfect Duties To Others

Shall our duties to ourselves to develop our natural powers conflict with our duty to do good to others, to treat others' ends as our own?

Of course. In other contemporary philosophers' words, it is our right to our own perfection that is in conflict with our duty to helping others. For example, I could spend

the same amount of money for my own college education, or spend it on saving some poor people's lives in Africa.

Contemporary utilitarian Peter Singer suggests that we have the duty to save those poor people's lives everywhere in this planet. His famous claim is this: 'If it is in our power to prevent something bad from happening, without thereby sacrificing anything of comparable moral importance, then we ought, morally, to do it.'<sup>80</sup> But based on our current discussion on Kant, we know better of what it means by 'sacrificing anything of comparable moral importance'. In this section, it is our own natural power development that is asked to sacrifice. Is this morally important? Yes. But is it 'anything of comparable moral importance'? The answer would be 'No'. After all, it is the lives of those poor people that are at stake against our natural power development. Of course the second is not as important as the first.

But if it is morally required that we who live in a relatively developed country sacrifice our advanced needs, such as the need to perfection, only leaving our basic needs for a living intact, to save the lives of the poor in all foreign countries, our industry, our education, our arts and sciences, our entertainments, our life comforts, and maybe most of the fruits of our civilization would be required to be sacrificed. To our moral intuition, it is unthinkable.

But why is it so? Singer's principle seems reasonable from a glimpse. And in my previous sections on the stringency of rights, it seems that the right to life should have

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<sup>80</sup> Singer, Peter. 'Famine, Affluence, and Morality.' *Philosophy and Public Affairs*, vol. 1, no. 1, Spring 1972, p. 229-243.



more weight than the right to education, to understand the nature, to develop arts, and to other luxury wants.

Nagel in the last two chapters of his *The View From Nowhere*<sup>81</sup> makes a similar attempt to map out our moral compass, using a system of his own. The above conflict is mentioned by him. Here I skip his discussion.

Susan Wolf's 'Moral Saints' also discusses this problem, along with other conflicts of rights and duties. She suggests that we should not give up our right to our own perfection that easily, even in demand of following moral principles. Wolf in her paper understands Kant's moral commands this way. She suggests that there are two ways to understand the degree of stringency of the demand of Kant's moral principle: The first way: he only asks us to just follow the narrow duty of Right, which means, do not violate others' rights, which is not very demanding at all. The second way: try to treat others' ends as our own, which is the imperfect duties to others, and which would demand too much from us to help others.

But if we understand that Kant says it is only an imperfect duty to help others, which means, we have some latitude in our free choice of doing so, then Kant's moral principles do not demand too much. He does not claim, as Wolf suggests, that an universally valid moral law always requires impartiality: that one should always treat oneself as only one equally important member as all others, and treat all of the content of the duties to oneself as the same content of our duty to help others.

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<sup>81</sup> Nagel, Thomas. *The View From Nowhere*. Oxford University Press, 1986, chapter 9,10, p. 164-207.

Even he says that we have this duty to treat others' ends as our own, when he describes in details of what this indicates, Such as, he does not say that we should have the duties to help others develop their natural and moral powers, or we should help others to know themselves, to do self-reflection, or to be their inner judge. Only one command is universal and demands impartiality or equality: respect the humanity in each of us. And this is only a negative duty to others, which requires us sacrificing nothing of us.

Or even we have duty of Right not to violate others' right to life and bodily integrity, etc., we don't have the duty of Virtue to make sure others's right to life and bodily integrity, etc. to be protected. Otherwise we would be others's body guards or servants, in order to do so. If we should organize a government in order to protect our right to life and bodily integrity, etc., it is not because we have the duty to others in regarding to this. It is because we realize it is the duty to ourselves, to preserve our own life and limb, and it is in our common interests to do so.

This also indicates, we cannot just simply compare the stringency of rights to get conclusions to problems like this. Kant's approach is better. While he doesn't provide detailed analyses and exact comparisons on what we should do in case of conflicting duties, he provides many clues and hints for us to get a reasonable answer from this chaos. The way he presents the duty to oneself and to others with different contents suggest that he does not think we should just mirror the duty to oneself as corresponding duties to others.

Here in this case, he only says both duties are imperfect, which means, the degree of their fulfillment totally depends on the free choice of the moral agent. One may choose

to fulfill one imperfect duty more than another, it does not matter. No one should be required to choose specific one out of the two.

## 6. Perfect Duties To Others Vs. Imperfect Duties To Oneself

There is no conflict between the two either. Since the perfect duties to others is a negative duty of respecting others' humanity, it won't conflict with other duties.

## Chapter VI: Conclusion

Firstly in this dissertation, I analyzed how rights theorists, including Nozick, Thomson, Dworkin, Nagel, Rawls, Taurek, and Philippa Foot dealt with conflicts of rights and needs and related issues of social justice, using their special frames of theory. Since the topic of social justice is, in a fundamental sense, a question of conflict of rights and needs, a balance between a duty to oneself and a duty to help others, so these topics are closely related. I studied the following debates and theories: Thomson's criticism on Nozick of his discussion on property rights and the legitimacy of redistribute taxes; Dworkin's theory of equality of resources and his effort of harmonizing the requirements of equality and those of individual responsibility; Rawls's construction of principles of justice, the idea of primary goods, and basic structure of society, in order to avoid possible conflicts between the individual interest and the communal interest; and Nagel, Philippa Foot, and Taurek's discussion on rights and consequences. After the examination of their discussions, I found out that their many debates hinge on two important questions: How to define humans' true needs; How to find a proper balance between one's true needs and others'. Thus, the study on duties to oneself and duties to others in Kant's ethic theory of duty is much needed.

I then analyzed Kant's concepts of four categories of duties, compared them pairwise, and determined the indications from the comparisons. Overall, in his system, there are

only conflicts in two pairwise comparisons: perfect duties to oneself to maintain our bodily integrity, to have a basic good living, and to respect our humanity versus imperfect duties to others to treat others' ends as our own; and imperfect duties to oneself to develop our physical and intellectual capacities versus imperfect duties to others to treat others' ends as our own. Since Kant treats the perfect duty to others as only the duty to respect others' humanity — to not degrade others as mere means to our ends, it demands little from us for others. But the two above possible conflicts can be solved by Kant's system of duty. For the first conflict, Kant suggests that the perfect duties to ourselves should take priority over the imperfect duties. The second conflict can also be solved: one can choose either one, since both are imperfect duties.

Hence Kant's moral principles do not demand too much from individuals, unlike what Susan Wolf in 'Moral Saints' asserts. And his theory of duty can provide us with detailed guidance on what we ought to do to balance our own needs with the needs of others, which contradicts many theorists' claim that his theory is too vague to solve any ethical problems in real life.

Because Kant grants priority to the individual's own true needs over one's duties to others, his theory gives us persuasion power against overwhelming demands from the community, and also gives us a strong theoretical weapon to fight against manipulative totalitarian leaders who urge their citizens to be moral saints and alienate their individual rights.

In addition, the command of respecting each's humanity is an effective antidote against the 'leveling-down' problem since it provides the minimum requirement below

which the principle of equality should not request the individual to sacrifice. Susan Wolf and Peter Singer's points on the demands of others will also be discussed during the analysis of Kant's theory. They too hold relatively opposite views on this point. A brief discussion on the importance of ideas in public affairs and in running of political and social institutions is also in order.

But there are more analyses that need to be done about Kant's theory of duty. For example, we need to check whether Kant's moral theory can fully support and explain his list of duties, and whether these duties can be deduced from his moral principles.<sup>82</sup> Although, many duties on his list can be deduced in a direct sense from his theory of humanity, his principle of universality, his emphasis on reason governing desires, etc.; Some duties seem out of place, such as the duty to oneself not to engage in sex without the purpose of reproduction. Although, it follows from his emphasis on reason over desires, it still seems awkward. Since ancient Greek philosophers, such as Socrates, Plato, and Aristotle, who also believe the governing status of human reason, and hold some sort of view of teleology on human purposes, do not claim such a view on our sexual behavior.

Another problem that needs scrutiny is how the concept of supererogatory acts—acts performed beyond the duty—and the concept of the imperfect duty to be beneficent to others differ from each other in their moral constraining power over us. And eventually, the related question that needs further research is what is the real moral force of imperfect

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<sup>82</sup> Thanks for Professor Larry Temkin pointing this out to me.

duties<sup>83</sup>. When one does not perform a supererogatory act, no one will blame him. The moral constraining power of this contemporary concept seems clear. But there is still a lot of controversy regarding which acts should count as supererogatory and which acts should count as demanded by duty. For example, is saving a drowning kid supererogatory or a duty, if there is some, but not too much, danger in the saving act?

Regarding to the definitiveness of the moral constraining power of imperfect duties, Kant's own thoughts on it are not very clear, and need more examination and analysis. On the one hand, when Kant defines the moral constraining power of imperfect duties, he says the following: 'Fulfillment of them is merit; but failure to fulfill them is not in itself culpability but rather mere deficiency in moral worth' [6:390]. On the other hand, in other places, Kant says the command to fulfill the imperfect duties is perfect and narrow, and one ought to perform them as much as one can; and people are only allowed to disregard some duties of virtue when they have other duties of virtue to fulfill. We only have latitude in the degree and the type of imperfect duties. Then how much shall we blame a person who fails his imperfect duties in a particular act, such as a person did not save a drowning kid even if he could? Or a person who never spent time in developing his natural powers including both his power of mind and body? Should we suspend our moral judgement until we consider most of the events in one's life to see whether he has performed some other imperfect duties? If he has, then we should not blame him for not fulfilling this particular imperfect duty? The requirement seems reasonable if we want to judge the moral worth of a person as a whole, and to decide whether this person deserves

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<sup>83</sup> Thanks for Professor Larry Temkin pointing this out to me.

moral praise or blame. But the requirement seems unreasonable if we only want to morally judge a particular act, since it requires us to know the full life history of the performing agent before making our judgment.

Then Kant's theory of duty becomes more of a theory on judging a person's virtue or moral worth, and is not particularly useful in judging the moral worth of a particular action. But this may be what it is meant to be, since Kant names this part of his moral theory as the doctrine of virtue.

But it is not that simple. My whole dissertation tries to suggest that Kant's doctrine of virtue has a lot to offer in terms of providing guidance on our behavior. Virtue theories in ethics in general only provide us with some general and vague guidance on deciding whether to perform a particular act: you imagine what a virtuous person would do in your situation and then follow her example. But we cannot say that Kant's doctrine of virtue is only a virtue theory, since it can provide more than a virtue theory provides.

Kant's theory works in a different way than a general virtue theory. It does give command on the domain of actions, but just in terms of maxims of actions. Kant states explicitly that the doctrine of virtue regulates maxims of actions, while the doctrine of right regulates particular actions. Although Kant's doctrine of virtue cannot provide us with precise guidance on whether we should perform a particular act, it can still provide us with good, sometimes sufficient, guidance on our decisions to do certain things, by following certain universal rules of action—maxims of actions. Such as the example I mentioned before, following Kant's doctrine of virtue, we can decide whether we should



spend our money on our education, or give it to some poor people, or spend it on some luxury goods.

And Kant's doctrine of virtue can offer clear guidance to government decision making to a certain degree. Besides those examples I mentioned before about totalitarian states, democratic governments can also benefit from his theory on how to spend their budget when many aspects of society need be attended to. Such as whether they should spend their limited budget on their basic education system or their higher education system. Following Kant's theory, there is a definite answer to this question. In general, I think, that Kant's theory asserts that those needs represented as the perfect duties to oneself, which I consider them as true human needs, should take priority over those needs represented as the imperfect duties. Thus the investment in basic education, basic housing, and basic health care should take priority over the investment in higher education, foreign aid, etc. But Kant's theory cannot give us a definite answer to another kind of question: whether a government should spend their limited budget on improving basic housing for the poor, or invest it in basic education. When two needs represented both as perfect duties to oneself thus considered both as humans' true needs, Kant does not give us clear guidance on how to prioritize them.

Some people may think that the above questions are not important in politics. They think politics is all about power, about power struggle, and balance of power. They claim that since no matter what you believe is right or just, if you don't have sufficient power, your ideas and thinking habits do not matter, so only power matters. I agree that power is

crucial in realizing one's personal and political ideas. But power is just an instrument to realize whatever is worth pursuing in the eyes of an agent. These things can be his life goals, perceived self-interests, moral and political principles, and religious beliefs. And all these things exist as 'ideas' in the mind of the agent. An action always starts with some ideas inside the agent's mind: his ends—the objects of his choice. Following this, the agent needs to find the means to realize his ends.

Power just represents an agent's executive function—his determination and capacities to actualize his ideas in the form of his ends and goals. The agent may want to only advance his self-interests or to achieve a better and more just society. If moral and political principles are called ideas, the motive to pursue egoistic and factional interests are also ideas—they are all an agent's ends. Hence, while an agent's ideas provide him with ends, his power is just the measurement of the effectiveness of his means to realize those ends. So without power, an agent cannot realize his ideas; without ideas, the agent doesn't know what to pursue and which direction to go. The same principle operating in an individual agent also holds for groups of political agents in society. Therefore, ideas and political culture are as important as power in our political life. They are both needed as necessary conditions in running a certain form of government effectively. While the power of political agents equips them with sufficient means to found and run an effective government, their moral and political principles, and the political culture they form, guide them to establish and maintain a particular form of government modeled by these principles. Thus, political agents can form a just government if and only if they hold certain ideas. Hence, the political culture of a state, its level of civic education and the

degree of maturity of rationality of its citizens, is crucial to the establishment and maintenance of a just government.

The main motive of writing this dissertation is that I realize that unless the political leaders and citizens of China know better of the limitations on the means they use to achieve their ends, and the right relationships between the communal good and individual rights and interests, there will be continuing crimes, mistakes, and suffering produced by the Chinese government. Contemporary China is not a totalitarian state anymore, as it was under Mao's rule, so the terror produced by the government is significantly less than before. But China nowadays is still an authoritarian country, with many totalitarian traces left intact in its government operations. The old system of ideas is still widespread in its political life. And the most crucial of those harmful ideas are the ideas that the ends can justify the means, and the state interests can at any time trump any individual rights and interests.

Ideas can be learned. Cultures and traditions can be changed, just as the idea of communism was learned by the Chinese. Hence, introducing new systems of ideas to China and other similar totalitarian and authoritarian countries is possible. It is the first step to move them toward a bright future with more justice and less suffering. Of course, as I said before, knowing the right conceptions of justice and rights is just a necessary condition, not a sufficient condition to achieve a just society. If certain political agents have no effective means—power—to actualize those ideas, these ideas will only remain as ideas and will not become a political reality. But without the right ideas, another

necessary condition, and only having powerful political agents, there will be no agents with the right direction and justifiable means to pursue a better and just society at all.

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