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Sex, Lies, and Politics

One way of exploring Kant's moral philosophy is to see how he applied it to some concrete questions. I would like to consider three applications—sex, lies, and politics. Philosophers are not always the best authorities on how to apply their theories in practice. But Kant's applications are interesting in their own right and also shed some light on his philosophy as a whole.

Kant's case against casual sex

Kant's views on sexual morality are traditional and conservative. He opposes every conceivable sexual practice except sexual intercourse between husband and wife. Whether all of Kant's views on sex actually follow from his moral philosophy is less important than the underlying idea they reflect—that we do not own ourselves and are not at our own disposal. He objects to casual sex (by which he means sex outside of marriage), however consensual, on the grounds that it is degrading

and objectifying to both partners. Casual sex is objectionable, he thinks, because it is all about the satisfaction of sexual desire, not about respect for the humanity of one's partner.

The desire which a man has for a woman is not directed toward her because she is a human being, but because she is a woman; that she is a human being is of no concern to the man; only her sex is the object of his desires.³⁴

Even when casual sex involves the mutual satisfaction of the partners, "each of them dishonours the human nature of the other. They make of humanity an instrument for the satisfaction of their lusts and inclinations."³⁵ (For reasons we'll come to in a moment, Kant thinks marriage elevates sex by taking it beyond physical gratification and connecting it with human dignity.)

Turning to the question of whether prostitution is moral or immoral, Kant asks under what conditions the use of our sexual faculties is in keeping with morality. His answer, in this as in other situations, is that we should not treat others—or ourselves—merely as objects. We are not at our own disposal. In stark contrast to libertarian notions of self-possession, Kant insists that we do not own ourselves. The moral requirement that we treat persons as ends rather than as mere means limits the way we may treat our bodies and ourselves. "Man cannot dispose over himself because he is not a thing; he is not his own property."³⁶

In contemporary debates about sexual morality, those who invoke autonomy rights argue that individuals should be free to choose for themselves what use to make of their own bodies. But this isn't what Kant means by autonomy. Paradoxically, Kant's conception of autonomy imposes certain limits on the way we may treat ourselves. For, recall: To be autonomous is to be governed by a law I give myself—the categorical imperative. And the categorical imperative requires that I treat all persons (including myself) with respect—as an end, not

merely as a means. So, for Kant, acting autonomously requires that we treat ourselves with respect, and not objectify ourselves. We can't use our bodies any way we please.

Markets in kidneys were not prevalent in Kant's day, but the rich did buy teeth for implantation from the poor. (*Transplanting of Teeth*, a drawing by the eighteenth-century English caricaturist Thomas Rowlandson, shows a scene in a dentist's office in which a surgeon extracts teeth from a chimney sweep while wealthy women wait for their implants.) Kant considered this practice a violation of human dignity. A person "is not entitled to sell a limb, not even one of his teeth."³⁷ To do so is to treat oneself as an object, a mere means, an instrument of profit.

Kant found prostitution objectionable on the same grounds. "To allow one's person for profit to be used by another for the satisfaction of sexual desire, to make of oneself an object of demand, is to . . . make of oneself a thing on which another satisfies his appetite, just as he satisfies his hunger upon a steak." Human beings are "not entitled to offer themselves, for profit, as things for the use of others in the satisfaction of their sexual propensities." To do so is to treat one's person as a mere thing, an object of use. "The underlying moral principle is that man is not his own property and cannot do with his body what he will."³⁸

Kant's opposition to prostitution and casual sex brings out the contrast between autonomy as he conceives it—the free will of a rational being—and individual acts of consent. The moral law we arrive at through the exercise of our will requires that we treat humanity—in our own person and in others—never only as a means but as an end in itself. Although this moral requirement is based on autonomy, it rules out certain acts among consenting adults, namely those that are at odds with human dignity and self-respect.

Kant concludes that only sex within marriage can avoid "degrading humanity." Only when two persons give each other the whole of themselves, and not merely the use of their sexual capacities, can sex be other than objectifying. Only when both partners share with each other

their “person, body and soul, for good and ill and in every respect,” can their sexuality lead to “a union of human beings.”³⁹ Kant does not say that every marriage actually brings about a union of this kind. And he may be wrong to think that no such unions can ever occur outside of marriage, or that sexual relations outside of marriage involve nothing more than sexual gratification. But his views about sex highlight the difference between two ideas that are often confused in contemporary debate—between an ethic of unfettered consent and an ethic of respect for the autonomy and dignity of persons.

Is it wrong to lie to a murderer?

Kant takes a hard line against lying. In the *Groundwork*, it serves as a prime example of immoral behavior. But suppose a friend was hiding in your house, and a murderer came to the door looking for him. Wouldn't it be right to lie to the murderer? Kant says no. The duty to tell the truth holds regardless of the consequences.

Benjamin Constant, a French philosopher and contemporary of Kant, took issue with this uncompromising stance. The duty to tell the truth applies, Constant argued, only to those who deserve the truth, as surely the murderer does not. Kant replied that lying to the murderer is wrong, not because it harms him, but because it violates the principle of right: “Truthfulness in statements that cannot be avoided is the formal duty of man to everyone, however great the disadvantage that may arise therefrom for him or for any other.”⁴⁰

Admittedly, helping a murderer carry out his evil deed is a pretty heavy “disadvantage.” But remember, for Kant, morality is not about consequences; it's about principle. You can't control the consequences of your action—in this case, telling the truth—since consequences are bound up with contingency. For all you know, your friend, fearing that the murderer is on his way, has already slipped out the back door. The reason you must tell the truth, Kant states, is not that the murderer is entitled to the truth, or that a lie would harm him. It's that a lie—any

lie—"vitiates the very source of right . . . To be truthful (honest) in all declarations is, therefore, a sacred and unconditionally commanding law of reason that admits of no expediency whatsoever."⁴¹

This seems a strange and extreme position. Surely we don't have a moral duty to tell a Nazi storm trooper that Anne Frank and her family are hiding in the attic. It would seem that Kant's insistence on telling the truth to the murderer at the door either misapplies the categorical imperative or proves its folly.

Implausible though Kant's claim may seem, I would like to offer a certain defense of it. Although my defense differs from the one that Kant offers, it is nonetheless in the spirit of his philosophy, and, I hope, sheds some light on it.

Imagine yourself in the predicament with a friend hiding in the closet and the murderer at the door. Of course you don't want to help the murderer carry out his evil plan. That is a given. You don't want to say anything that will lead the murderer to your friend. The question is, what do you say? You have two choices. You could tell an outright lie: "No, she's not here." Or you could offer a true but misleading statement: "An hour ago, I saw her down the road, at the grocery store."

From Kant's point of view, the second strategy is morally permissible, but the first is not. You might consider this caviling. What, morally speaking, is the difference between a technically true but misleading statement and an outright lie? In both cases, you are hoping to mislead the murderer into believing that your friend is not hiding in the house.

Kant believes a great deal is at stake in the distinction. Consider "white lies," the small untruths we sometimes tell out of politeness, to avoid hurt feelings. Suppose a friend presents you with a gift. You open the box and find a hideous tie, something you would never wear. What do you say? You might say, "It's beautiful!" This would be a white lie. Or you might say, "You shouldn't have!" Or, "I've never seen a tie like this. Thank you." Like the white lie, these statements might give your friend the false impression that you like the tie. But they would nonetheless be true.

Kant would reject the white lie, because it makes an exception to the moral law on consequentialist grounds. Sparing someone's feelings is an admirable end, but it must be pursued in a way that is consistent with the categorical imperative, which requires that we be willing to universalize the principle on which we act. If we can carve out exceptions whenever we think our ends are sufficiently compelling, then the categorical character of the moral law unravels. The true but misleading statement, by contrast, does not threaten the categorical imperative in the same way. In fact, Kant once invoked this distinction when faced with a dilemma of his own.

Would Kant have defended Bill Clinton?

A few years before his exchange with Constant, Kant found himself in trouble with King Friedrich Wilhelm II. The king and his censors considered Kant's writings on religion disparaging to Christianity, and demanded that he pledge to refrain from any further pronouncements on the topic. Kant responded with a carefully worded statement: "As your Majesty's faithful subject, I shall in the future completely desist from all public lectures or papers concerning religion."⁴²

Kant was aware, when he made his statement, that the king was not likely to live much longer. When the king died a few years later, Kant considered himself absolved of the promise, which bound him only "as your Majesty's faithful subject." Kant later explained that he had chosen his words "most carefully, so that I should not be deprived of my freedom . . . forever, but only so long as His Majesty was alive."⁴³ By this clever evasion, the paragon of Prussian probity succeeded in misleading the censors without lying to them.

Hairsplitting? Perhaps. But something of moral significance does seem to be at stake in the distinction between a bald-faced lie and an artful dodge. Consider former president Bill Clinton. No American public figure in recent memory chose his words or crafted his denials more carefully. When asked, during his first presidential campaign,

whether he had ever used recreational drugs, Clinton replied that he had never broken the antidrug laws of his country or state. He later conceded that he had tried marijuana while a student at Oxford in England.

His most memorable such denial came in response to reports that he had had sex in the White House with a twenty-two-year-old intern, Monica Lewinsky: "I want to say one thing to the American people. I want you to listen to me . . . I did not have sexual relations with that woman, Ms. Lewinsky."

It later came out that the president did have sexual encounters with Monica Lewinsky, and the scandal led to impeachment proceedings. During the impeachment hearings, a Republican congressman argued with a Clinton attorney, Gregory Craig, over whether the president's denial of "sexual relations" was a lie:

REP. BOB INGLIS (R-S.C.): Now, Mr. Craig, did he lie to the American people when he said, "I never had sex with that woman"? Did he lie?

CRAIG: He certainly misled and deceived—

INGLIS: Wait a minute, now. Did he lie?

CRAIG: To the American people—he misled them and did not tell them the truth at that moment.

INGLIS: OK, so you're not going to rely—and the President has personally insisted . . . that no legalities or technicalities should be allowed to obscure the simple moral truth. Did he lie to the American people when he said, "I never had sex with that woman"?

CRAIG: He doesn't believe he did and because of the way—let me explain that—explain, Congressman.

INGLIS: He doesn't believe that he lied?

CRAIG: No, he does not believe that he lied, because his notion of what sex is, is what the dictionary definition is. It is in fact something you may not agree with, but in his own mind, his definition was not—

INGLIS: OK, I understand that argument.

CRAIG: OK.

INGLIS: This is an amazing thing, that you now sit before us and you're taking back all of his—all of his apologies.

CRAIG: No.

INGLIS: You're taking them all back, aren't you?

CRAIG: No, I'm not.

INGLIS: Because now you're back to the argument—there are many arguments you can make here. One of them is he didn't have sex with her. It was oral sex, it wasn't real sex. Now is that what you're here to say to us today, that he did not have sex with Monica Lewinsky?

CRAIG: What he said was, to the American people, that he did not have sexual relations. And I understand you're not going to like this, Congressman, because it—you will see it as a technical defense or a hairsplitting, evasive answer. But sexual relations is defined in every dictionary in a certain way, and he did not have that kind of sexual contact with Monica Lewinsky . . . So, did he deceive the American people? Yes. Was it wrong? Yes. Was it blameworthy? Yes.⁴⁴

The president's attorney conceded, as Clinton had already done, that the relationship with the intern was wrong, inappropriate, and blameworthy, and that the president's statements about it "misled and deceived" the public. The only thing he refused to concede was that the president had lied.

What was at stake in that refusal? The explanation can't simply be the legalistic one that lying under oath, in a deposition or in court, is a basis for perjury charges. The statement at issue was not made under oath, but in a televised statement to the American public. And yet both the Republican inquisitor and the Clinton defender believed that something important was at stake in establishing whether Clinton had lied or merely misled and deceived. Their spirited colloquy over the *L* word—"Did he lie?"—supports the Kantian thought that there is a morally relevant difference between a lie and a misleading truth.

But what could that difference be? The intention is arguably the same in both cases. Whether I lie to the murderer at the door or offer him a clever evasion, my intention is to mislead him into thinking that my friend is not hiding in my house. And on Kant's moral theory, it's the intention, or motive, that matters.

The difference, I think, is this: A carefully crafted evasion pays homage to the duty of truth-telling in a way that an outright lie does not. Anyone who goes to the bother of concocting a misleading but technically true statement when a simple lie would do expresses, however obliquely, respect for the moral law.

A misleading truth includes two motives, not one. If I simply lie to the murderer, I act out of one motive—to protect my friend from harm. If I tell the murderer that I recently saw my friend at the grocery store, I act out of two motives—to protect my friend and at the same time to uphold the duty to tell the truth. In both cases, I am pursuing an admirable goal, that of protecting my friend. But only in the second case do I pursue this goal in a way that accords with the motive of duty.

Some might object that, like a lie, a technically true but misleading statement could not be universalized without contradiction. But consider the difference: If everyone lied when faced with a murderer at the door or an embarrassing sex scandal, then no one would believe such statements, and they wouldn't work. The same cannot be said of misleading truths. If everyone who found himself in a dangerous or embarrassing situation resorted to carefully crafted evasions, people would not necessarily cease to believe them. Instead, people would learn to listen like lawyers and parse such statements with an eye to their literal meaning. This is exactly what happened when the press and the public became familiar with Clinton's carefully worded denials.

Kant's point is not that this state of affairs, in which people parse politicians' denials for their literal meaning, is somehow better than one in which nobody believes politicians at all. That would be a consequentialist argument. Kant's point is rather that a misleading statement that is nonetheless true does not coerce or manipulate the listener in

the same way as an outright lie. It's always possible that a careful listener could figure it out.

So there is reason to conclude that, on Kant's moral theory, true but misleading statements—to a murderer at the door, the Prussian censors, or the special prosecutor—are morally permissible in a way that bald-faced lies are not. You may think that I've worked too hard to save Kant from an implausible position. Kant's claim that it's wrong to lie to the murderer at the door may not ultimately be defensible. But the distinction between an outright lie and a misleading truth helps illustrate Kant's moral theory. And it brings out a surprising similarity between Bill Clinton and the austere moralist from Königsberg.

Kant and justice

Unlike Aristotle, Bentham, and Mill, Kant wrote no major work of political theory, only some essays. And yet, the account of morality and freedom that emerges from his ethical writings carries powerful implications for justice. Although Kant does not work out the implications in detail, the political theory he favors rejects utilitarianism in favor of a theory of justice based on a social contract.

First, Kant rejects utilitarianism, not only as a basis for personal morality but also as a basis for law. As he sees it, a just constitution aims at harmonizing each individual's freedom with that of everyone else. It has nothing to do with maximizing utility, which "must on no account interfere" with the determination of basic rights. Since people "have different views on the empirical end of happiness and what it consists of," utility can't be the basis of justice and rights. Why not? Because resting rights on utility would require the society to affirm or endorse one conception of happiness over others. To base the constitution on one particular conception of happiness (such as that of the majority) would impose on some the values of others; it would fail to respect the right of each person to pursue his or her own ends. "No one can compel me to be happy in accordance with his conception of the welfare of

others,” Kant writes, “for each may seek his happiness in whatever way he sees fit, so long as he does not infringe upon the freedom of others” to do the same.⁴⁵

A second distinctive feature of Kant’s political theory is that it derives justice and rights from a social contract—but a social contract with a puzzling twist. Earlier contract thinkers, including Locke, argued that legitimate government arises from a social contract among men and women who, at one time or another, decide among themselves on the principles that will govern their collective life. Kant sees the contract differently. Although legitimate government must be based on an original contract, “we need by no means assume that this contract . . . actually exists as a *fact*, for it cannot possibly be so.” Kant maintains that the original contract is not actual but imaginary.⁴⁶

Why derive a just constitution from an imaginary contract rather than a real one? One reason is practical: It’s often hard to prove historically, in the distant history of nations, that any social contract ever took place. A second reason is philosophical: Moral principles can’t be derived from empirical facts alone. Just as the moral law can’t rest on the interests or desires of individuals, principles of justice can’t rest on the interests or desires of a community. The mere fact that a group of people in the past agreed to a constitution is not enough to make that constitution just.

What kind of imaginary contract could possibly avoid this problem? Kant simply calls it “an *idea* of reason, which nonetheless has undoubted practical reality; for it can oblige every legislator to frame his laws in such a way that they could have been produced by the united will of a whole nation,” and obligate each citizen “as if he had consented.” Kant concludes that this imaginary act of collective consent “is the test of the rightfulness of every public law.”⁴⁷

Kant didn’t tell us what this imaginary contract would look like or what principles of justice it would produce. Almost two centuries later, an American political philosopher, John Rawls, would try to answer these questions.