

To Kill and To Let Die: A Categorical Imperative?

Echoing Martha Nussbaum (1986), I will use a modified version of Agamemnon's Dilemma (AD, hereafter) to argue that there is no room for tragedy in Kantian ethics. It can not handle tragedy because Categorical Imperatives will generate bona fide duty conflicts even though Kant denies that duty conflicts are possible. As a result, it will be shown that Kantian ethics does not sufficiently justify some important distinctions between conducts that we feel should be justified by any moral theory. According to Kant (1959), the moral value of actions shall be strictly evaluated from duty. Only acting *from* duty, as opposed to acting in accordance with duty (13-16), has genuine moral worth (is good). Through AD, I will argue that there are situations in which one may act strictly from duty, but her act is not morally good.

I.

AD will expose the inherent deficiency in Kantian ethics. Rid of its religious meaning, AD is reduced to its pure moral dimension: to kill or to let die? In my not too liberal understanding, Agamemnon had either to kill Iphigenia, his innocent daughter, and thereby save everyone in the mission except her, or to let everyone including her die, eventually from starvation while stranded in the middle of the ocean. In neither case was Iphigenia going to be spared. But to kill her would save lives. It is a heinous thing to kill an innocent person, his daughter. But isn't it also a duty for everyone to save lives?

I here take one further liberty to change the story a bit. After all, we are only interested in the moral lesson anyway. Let's assume Iphigenia to be a toddler at the time (according to the story, she was old enough to be married to Achilles). Suppose she had not learned how to talk, and lacked any significant level of understanding of her surroundings. The reason I am proposing this change is not to make Agamemnon a person who commits infanticide; for a moralist, killing an innocent person is no better than infanticide. But we do simplify the issue by taking any possible action away from Iphigenia. For instance, one could no longer argue that Iphigenia ought to take her own life in that situation.

A modern version of AD is easy to come by, at least in thought. Suppose Joe pilots a small airplane with his newborn baby in the passenger seat. Above the Pacific Ocean, far away from any land, a contagious virus carried by the baby suddenly breaks out. Both lives are in immediate danger. As the best doctor in his field, he *knows* that both lives would be lost if he does not immediately remove her from the plane. In this case, shall he remove his baby? The situation here can not be simpler. The foreseeable loss of lives runs up only to two, not the whole fleet in Agamemnon's case. If it is a duty for anyone to save life, shouldn't Joe take immediate action to save a life in the situation, which happens to be his own?

I will explore various *Kantian* solutions to AD.¹ Each solution will be shown to

have its problem. But all the problems expose the same weakness in Kantian ethics: a theory confined to good or bad evaluation based on duty is not sufficient for handling situations of killing or letting die.

II.

There are in general three types of non-exclusive dilemmas in action. There could be a conflict between two desires (inclinations), between desire and duty, and between two duties. Of what type is AD? Understanding its nature is crucial to our ensuing discussions.

AD is certainly not between desires. Either he kills Iphigenia or he lets everyone die. He desires neither scenario. According to Kant, conflict between desires is not a moral problem.² But Agamemnon is facing a grave moral choice.

In the original story, Zeus enjoined Agamemnon to sacrifice his daughter. This divine command challenges the family tie between our heroes. But this conflict between duty (submission to the divine command) and inclination (affection to daughter) loses its ground once we disallow religious piety as a factor. If the conflict is between duty and inclination at all, the duty must come from a non-religious source. There are two ways to establish a secular duty for Agamemnon in order to sustain the dilemma between inclination and duty. On the one hand, everyone has a duty to save life. That may mean to Agamemnon that he has a duty to kill his daughter.³ On the other hand, one may have a duty to kill a person if her inaction would lead to a larger group's, including that person's, death. Of course, there is a third duty that may bind Agamemnon: not to kill no matter what. In the latter case, the dilemma could hold between this duty and one's inclination to save life.⁴

The third kind of dilemma, conflict between duties, is deemed inconceivable by Kant. Two rational rules never, according to Kant, come into conflict. He argues that, even when there are two conflicting moral rules, we have only one duty.⁵ One must find either in the agent or the moral rules themselves the prevailing moral ground that binds us into action. If one ground holds the place, "it is not only not a duty but contrary to duty to act according to the other rule" (Kant, translated in Donagan 1984, 294).⁶ Once certain about what her duty is, the agent ought to act from this duty alone. The more detached the agent remains from his or her inclinations, the better moral worth her act has.⁷

III.

The first Kantian solution is deflationary. We are rarely certain about consequences of our actions. The dilemmas faced by Agamemnon and Joe are so artificially designed that they do not normally happen to us. In a normal situation, it is wrong to kill an innocent person. One ought not to kill even if her inaction might lead to a severe consequence. It is impossible for us imperfectly rational beings to rule out or rule in all

the possible consequences before we act. But we have to act anyway. The ground of morality consists in the fact that we, being imperfectly rational, have to use our *own* rational thinking and take actions solely based on the commands (imperatives) of our good will.⁸ What ought Joe or Agamemnon to do in their respective situations? The Kantian reply in question would say that they should act in no different manner from how they ought to act in any other situation. Since they can not consistently will as a universal law to kill an innocent person, they should not kill in AD either.

There is indeed a general disregard of consequence in Kantian ethics. But its significance is often misunderstood. The autonomy of a person does lie, according to Kant, in the fact that only the *subjective* will of that person, not some *objective* outcome, dictates her action. We should not let *empirical* consequences of our action influence our decision making. But Kantian disregard of consequence operates only within the *empirical* realm. It is clear in Kant's writings that he does not rule out consequences in toto. He argues that making a false promise is immoral exactly because it would *result in* invalidation of all promises. There is a distinction between empirical and *formal* consequences. While the former should be precluded in our moral reasoning, logical or *formal* consequences should always be factored into the Kantian evaluation of our maxims.⁹

Consequences are empirical if they are known through experiences, but logical if they can be inferred through reasoning alone from the complete descriptions of the antecedent. That is to say, whether a consequence is empirical or not depends on what we know at the moment of our action. No consequences are empirical for God, for he is omniscient. In most cases, we have to rely on empirical investigations to figure out our action's consequence. But it is conceivable that we sometimes happen to know all the sufficient antecedents and are able to infer what a specific consequence would be. If I step into the way of an on-rushing train, I would be instantly killed. I do not need to do research to find that out. Agamemnon knows that either Iphigenia is sacrificed or everybody dies. One can not dismiss the *uniqueness* of this type of situation and embrace a general moral solution. The situation is *particular* because the agent, albeit an imperfect agent, knows perfectly well the consequence of her action. A particular situation needs a particular treatment. This is true of moral issues as well.¹⁰

IV.

A Kantian may insist that Agamemnon or Joe should not kill. The reason is that "Do kill" is strictly prohibited by the Categorical Imperative. Its illegitimacy can not be compromised by any particular situation. In fact, anything that is prohibited by the Categorical Imperative is an absolute duty for us in the negative sense. This Kantian approach could admit the particularity of Agamemnon's situation and the need to give it special treatment from a theoretical point of view. But it just happens, so it may argue, that this particularity does not matter here. We are dealing with killings. Not to kill happens to be a duty that we must observe no matter what.

Contemporary deontology calls the duty not to perform an act a 'deontological constraint.' A deontological constraint is formed if doing X would not pass the test of the categorical imperative. The reason we should refrain from doing X is not because doing X will result in harm, but because doing X is known, beforehand, wrong. At an occasion, at any time, for any person, it is wrong to do a wrong act. Whether an act is wrong or not is solely determined by the test result of the categorical imperative. As such "Deontological views require agents to refrain from doing the sorts of things that are wrong even when they foresee that their refusal to do such things will clearly result in greater harm (or less good)" (Davis 1991, 206). It is not just bad to lie or commit murder. It is wrong, period.

Kant (1959) calls the deontological constraints the narrow, perfect, strict, or impermissible duties. On the other hand, there are wide, imperfect, meritorious duties (42). A narrow duty is negative in form, such as "Do not lie." The form of a wide duty is positive, such as "Tell the truth." A negative duty can not be translated into a wide duty because when it is wrong to tell a lie one is not necessarily required to tell the truth. The main function of the categorical imperative is believed to prescribe narrow duties. If a maxim can not be *thought* as a universal law of nature without contradiction, not to act under the maxim becomes a perfect duty to us. A perfect duty "allows no exception in the interests of inclination."¹¹

But there are two ways the deontological constraint "Do not kill" (DNK) may fail to bind Agamemnon or Joe. On the one hand, "DNK" may be an over-generalized version of a negative duty with which a maxim for killing in AD does not conflict. There is a way to argue that "DNK" is not an accurate formulation of the duty, because a maxim eventually must contain a complete description of an act's both means and ends.¹² For this reason, it is not true that no exception shall be made to this rule. Kant himself endorses the death penalty. Maybe the duty shall be formed as "Do not kill with no good reason" or "Do not unnecessarily kill an innocent person", etc. In a word, the duty "DNK" may not apply to AD. It is conceivable that Agamemnon or Joe could universally will without contradiction this maxim: "Act so that you kill only a subset of those who would otherwise die from your inaction." This maxim does not conflict with "DNK" just as capital punishment does not conflict with it either.

On the other hand, even if "DNK" does bind, "Save a life when possible" (SL) may bind as a perfect duty as well. I suggest that the distinction between the wide and the narrow duty may have collapsed in AD. Both bind as narrow duties at the moment.¹³ If this is the case, we have a conflict between duties that is categorically denied by Kant. But before we argue for this in Section VI, we have to digress and address the earlier point: if Agamemnon could consistently will the act of killing under the previously specified maxim, does he therefore have the license to kill?

V.

Again, does Agamemnon have the duty to kill because it would be wrong to act against the right maxim: "Act so that you kill only a subset of those who would otherwise die from your inaction."¹⁴ I have two reasons to reject this solution. Both are indicative of what goes awry with Kantian ethics in general.

Firstly, if one has the duty to kill in AD, we have a conflict between this duty and the second formulation of the categorical imperative: *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 means, but always at the same time as an end.* Though both Iphigenia's and Joe's baby daughter's continued presence would bring death to everyone, each daughter is still an innocent, respectable person. The only reason for killing her is for the sake of saving other(s). Aren't you using her only as a means? I do not see how anyone could in this situation kill her and say that she is being treated as an end. Kant denies that there is any genuine dilemma between duties. If killing Iphigenia or Joe's daughter does conflict with the second formulation of the categorical imperative, it probably means that killing is not a genuine duty for anyone.

Secondly, even if killing becomes a duty, Kantian ethics would have another deep problem. According to Kant, one or one's act is good only if she acts from duty alone. But in AD, are you ready to say that it is *good* for Agamemnon to kill Iphigenia? Agamemnon acts according to the Kantian ideal. He is calm, cold and emotionless. He acts from duty alone. But we all find his way of so doing repugnant and disturbing. Though we do not say that his act is wrong, we will by no means praise him *because of* his act. We never praise him because he has killed Iphigenia. But Kantian ethics does just the thing we never do. It gives the highest moral praise for his killing act per se. This appalling discrepancy between our ordinary judging and Kantian ethics is even more dramatized in Joe's case. Suppose he kills his baby daughter and thereby saves himself. We may not say that Joe's act is wrong due to the situation, but we will never say that Joe's act is morally good.¹⁵

VI.

This is not the end of the story. Even if "DNK" still binds in AD, there is another reason that propels one to kill instead: the duty of "SL." Though "SL" is a wide duty and should normally yield to the narrow duty of "DNK", "SL" here binds as a narrow duty as well, due to the *abnormality* of AD.

As explained in Endnote 12, while a narrow duty must be carried out with no exception, a wide duty allows no exception either. It is not that one can refuse to do a wide duty but that one could defer it to another time. The only difference between a perfect duty and an imperfect duty is that one has more room to play with an imperfect duty. That is to say, one can defer a wide duty only if he *believes* that there is time ahead of him. When a beggar approaches me, I could refuse to show my charity. Though I have

a duty to be charitable, I do not have to be charitable to that particular person. If I suppose I am about to jump from a high rise building when a beggar approaches me. The time I must help, for I can not defer it any longer. Otherwise I die an immoral person. In Agamemnon's case, this is exactly what happens. Neither Agamemnon nor Joe could defer the duty to save life, for he knows that there is no time ahead of him otherwise. In an emergency situation like this, the distinction between a wide and a narrow duty collapses. A wide duty becomes narrow just because there is no actual room to play. As such, we are again in a dilemma that Kant denies as possible: a conflict between a narrow duty and a wide duty that binds narrowly.

VII.

Thus, AD exposes the underbelly of Kantian ethics. If to kill is the duty, Kantian ethics creates on the one hand a dilemma between two *duties* (to kill vs. to treat as a means) that Kant denies as possible, and on the other hand an incoherence that is detrimental to the overall Kantian theory: one's action is *not good* even if she acts strictly from duty. If not to kill is the duty, Kantian ethics again creates a dilemma between two *duties* (to let die vs. to save life). In either scenario, it begets irreconcilable imperatives that will paralyze a person in a situation like AD. Though AD is artificially designed and dramatized through idealizations, it is essentially nothing more than a tragedy. Tragedy often implies in its own term certain hopelessness or pauperism of choices. One is squeezed in a narrow space none of whose limited numbered exits is desirable or morally warranted. As a result, a high-minded moral dictum like Kant's would dwindle to insignificance or irrelevancy. After all, duties do conflict when rationality multiplies.¹⁷

Notes

I thank Richard Hull and Vincent Luizzi for their helpful discussions on this subject. The paper is for a large part a fruition of the intense discussions I had via e-mail with Kendall D'Andrade. His insight and deep understanding of Kant's ethics are invaluable for my writing this paper. But all the mistakes and misunderstandings in this paper are mine, not his. For we failed to agree with each other on many accounts throughout the discussions.

1. As we will see, both the first and the second prohibit killing, based on different reasons. The third solution enjoins that one go for killing.
2. According to Kant (1959), desires give hypothetical imperatives to actions, but only categorical imperatives belong to morals (cf. 34).
3. In fact, it is quite controversial as to whether the deontological transfer principle (for instance, Joe has a duty to do X, X entails Y, therefore, Joe has a duty to do Y) holds.
4. Detailed discussions of these different duties are found from section IV to X of this essay.
5. Kant says in the *Introduction to the Metaphysics of Morals* (1797): "When two such [moral] grounds are in conflict, practical philosophy does not say that the stronger obligation holds the upper hand, but that the stronger ground binding to a duty that holds the field" (translation from Donagan 1984, 294). See also Nussbaum 1986, 31.

6. Kant here practically denies multiple rationality, which is a very important issue in action theory and free will debates. See Kane 1986.

7. For Kant (1959), dutiful actions done from inclinations have no true moral worth. They may "deserve praise and encouragement but no esteem" (14). Interestingly, Kant may have offered the best explanation for Agamemnon's unregretful manner as he sacrificed Iphigenia. Agamemnon may have gone through this Kantian process of duty sorting. Once he concludes that the only duty is to obey divinity (in the original story), he carries out his duty as duty only.

8. According to Kant (1959), this explains all the significance of imperatives. Imperatives do not bind brute animals because irrational beings do not understand the rationale of imperatives. Imperatives do not bind divine beings, for the latter are perfectly rational. Their nature, their perfect knowledge of the consequences of the event make them always and necessarily act in accordance with the law of nature. Imperatives bind us just in part for the reason that we can not know every consequence of our action. We act on what we could consistently believe to be right and leave the outcome to some unknown factors that impinge upon the course of an event: "A perfectly good will, therefore, would be equally subject to objective laws (of the good), but it could not be conceived as constraints by them to act in accordance with them, because, according to its own subjective constitution, it can be determined to act only through the conception of the good. Thus no imperatives hold for the divine will or, more generally, for a holy will" (30-31).

9. Warning against the opposite kind of misunderstanding, Sullivan (1994) says in his surprisingly clear and accurate book: "It can not be stressed too strongly that although the Categorical Imperative requires us to assess the consequence of the adoption of a particular maxim, it is concerned only with the formal or logical consequence" (51).

10. It is important to notice that Agamemnon's dilemma is unique simply because the agent knows all the possible immediate consequences. It is not unique because of the nature of the consequences. Killing Iphigenia or letting everyone in the mission die is not an extremely unusual event. Nor is removing the infant from the airplane. Nor is Joe's dying together with his baby. Each individual consequence of this nature could happen at any place at any time. There is nothing terribly unique about any one of them. That is to say, Agamemnon's dilemma is still a moral dilemma. It is still a moral situation that needs an answer from a moral theory. In this sense, one can not, based on the uniqueness of the situation, say that Kantian ethics does not apply at all. Modern deontologist Fried (1978) has following comments on the applicability of Kantian ethics:

We can imagine extreme cases where killing an innocent person may save a whole nation. In such cases it seems fanatical to maintain the absoluteness of the judgment, to do right even if the heavens will in fact fall. . . . [T]he concept of the catastrophic is a distinct concept just because it identifies the extreme situations in which the usual categories of judgment (including the category of right and wrong) no longer apply. (10.)

Though Fried has not convinced me that extreme cases are deprived of a principled way of moral judging, I would like to give him the benefit of a doubt. However, I do not think Agamemnon's dilemma is too radically extreme (it may be an extremely tough situation but not to the level such that taking any alternative action would be fanatical. In fact, that it is a dilemma at all suggests that it is not an extreme case. For one suffers no hesitation in doing what he or she ought to do in an extreme situation: he does the non-fanatical thing.) Neither Agamemnon nor Joe is involved in an extreme case. Whatever choice they make will not have catastrophic consequences. Though, in Agamemnon's case, people may have misgivings about prospect of the large number of deaths resulting from inaction, the severity of the loss is not yet extreme enough to block a moral evaluation of the situation.

11. But one should not be misled into thinking that a wide duty may allow exceptions. "A wide duty is not to be taken as a permission to make exceptions to the maxim of actions, but only as a permission to limit one maxim of duty by another" (Kant 1959, 39 n.; also see Sullivan 1994, 113n.) The difference between a wide and a narrow duty is that one has to carry out a negative duty all the time no matter what the circumstance is, but one could defer a wide duty performance to another time. It is not that one could refuse to do a wide duty but that one could choose not to do this duty at this specific moment. For instance, it is a duty for me to help others in need. But I can not help everyone in need. I have a broad room to play in deciding when and where

to help others.

12. Though we should think of our maxims as abstractly as possible, each maxim still has its domain of quantification. The categorical imperative is a formal constraint. Due abstraction from a situation is necessary for a maxim to be tested for consistency based on its formality. We weed out minor details, nonessential social and natural background, desires or motives that are on the periphery of the mechanism of the action, and so on. However, the formulation of a maxim seems to require descriptions of two necessary factors for an action: (a) the means or the action itself and (b) the end of the action. There is a tendency for us to skip or ignore the end when we describe an act. For instance, we often name an action only by virtue of the way the action is carried out such as "to commit suicide", "to make a false promise", "to kill", etc. We do not mention why someone commits suicide, makes a false promise, or kills. I believe the omission is justified only if the end is too obvious to be mentioned. But the end is an integral part of an action. Omission of a not too obvious end would not complete a true description of an act. Especially when the maxim of an act is being tested, the inclusion of the end becomes far more important. The categorical imperative enjoins one to will in a consistent manner his or her maxim as a universal law of nature. If the end of an action were omitted in its maxim, there would be no ground for the willing. And more importantly, the desired consistency or inconsistency on the part of the willing could hardly be found.

Critics are justified in blaming Kant for his less than coherent discussions of the first formulation of the categorical imperative. Harrison complains that there is hardly any inconsistency in universally willing that one commit suicide, or refuse to develop his or her talents (see Harrison 1967, 228-45). But I think that many of the problems stem from Kant's informal descriptions of such acts because he has not clearly specified the end of each action in those discussions. Universally willing an act often results in a conflict between the act itself (means) and its end. If the end were not clearly formulated, it would be difficult to find any inconsistency. I believe that is the source for Harrison's complaint. A mere act of suicide could be willed universally without contradiction, as Harrison observes. But I do not think a mere suicide is what Kant meant to say in the context. A maxim for suicide is wrong only if the suicide is committed as a means to achieve the end of improving life. Kant (1959) says: "His maxim, however, is: For love of life, I make it my principle to shorten my life when by a longer duration it threatens more evil than satisfaction" (39-40).

The clause "For love of life" is essential here. It is self-contradictory to take your life for the purpose of loving your life. If everyone enjoined by this maxim takes his or her own life, life will disappear. It would be absurd for one to destroy life in toto for love of life. Without the phrase "for love of life", it would be difficult to pinpoint where the contradiction is. As I read Kant, the categorical imperative prohibits suicide only if one commits this act in order to escape suffering or weariness. I do not think that Kant means to outlaw a heroic act of a soldier who throws himself on a grenade in order to save another person's life. In the latter case, there would not be any contradiction in universally willing his maxim.

13. That is to say, it is not that a narrow duty is compromised by the circumstance, but that a wide duty is elevated into a narrow duty due to the circumstance.

14. I am unsure if one has a duty to do A, just because the maxim for doing A is universalizable. But I do not want to get into this difficult issue here. For a discussion of the related issue, also see Harrison 1967, 241-245.

15. I am not here endorsing moral intuitionism. Our intuition that Joe's behavior does not deserve any moral praise (though nor any moral condemnation) is so strong that we do not need to commit ourselves to any moral theory. Kant claims that he is merely making sense of how an ordinary person makes moral judgment. That is why this appalling discrepancy becomes a problem for him.

16. Here, one can not use the excuse that he or she gave money to a beggar before and thinks it is OK to refuse help this time. Specific duties always arise from concrete actions. Once an action is initiated—this time the beggar begs you, a duty arises right away—I should help. If you do not perform this duty now, you must perform this specific duty at some other time in the future. But once that duty is performed, one frees him or herself from the bond. Past done duties do not excuse one from performing future duties because past duties are old and done but future duties are new duties. In exactly the same way one can not excuse him or herself from paying back a new debt just because he or she paid debts before. If you know that you will die now, you must pay off your debts before your death. Otherwise, you will die an immoral person even though you have never defaulted on any other debt before.

17. Rationality multiplies when two or more actions are equally justifiable (or unjustifiable). Classical examples include Buridan's Ass and The Newcomb's Problem. Kant denies multiple rationality. It is no accident that his moral theory is unable to handle tragedies.

References Cited

- Davis, Nancy. 1991. Contemporary deontology. In *A companion to ethics*, edited by Peter Singer. Blackwell Companions to Philosophy, 205-18. Oxford: Blackwell.
- Donagan, Alan. 1984. Consistency in rationalist moral systems. *Journal of Philosophy*, 81: 291-309.
- Fried, Charles. 1978. *Right and wrong*. Cambridge, MA: Harvard University Press.
- Harrison, Jonathan. 1967. Kant's examples of the first formulation of the categorical imperative. In *Kant: A collection of critical essays*, edited by Robert Paul Wolff, 228-45. New York: Anchor Books.
- Kane, Robert. 1986. *The significance of free will*. New York: Oxford University Press.
- Kant, Immanuel. 1959. *Foundations of the metaphysics of morals*. Translated by Lewis White Beck. The Library of Liberal Arts, No. 113. New York: Liberal Arts Press.
- Nussbaum, Martha C. 1986. *The fragility of goodness: Luck and ethics in Greek tragedy and philosophy*. Cambridge: Cambridge University Press.
- Sullivan, Roger J. 1994. *An introduction to Kant's ethics*. New York: Cambridge University Press.