Critiques of the Formalist Reconstructions in Kant’s Ethics

Yuhang Guo, Munster University

Abstract

This essay seeks to contribute to current debates about emptiness critique of Kant's Categorical Imperative. Kantian formalists, like Silber, Rawls, and O’Neill reconstruct Kant’s ethics by demonstrating that moral test can be made by C1 (the universal formulation of categorical imperative). In order to judge right or wrong, they predicate moral contents that could be based on common sense, rationality and socio-politics. I will argue those interpretations imply two shortages: 1) those interpretations are proposing a background theory, consisted of buttressing rules of C1, which are too heavy for Kant’s ethics to bear. 2) The formalists demonstrate the formal moral law, whether it is an effective procedure for determining moral obligation or duty is still uncertain.

Key words: formalism, universal law, emptiness argument, procedure, categorical imperative, moral content, Hegel’s empty formalism

Introduction

Ever since Hegel, Kant’s ethical theory is characterized as the paradigm for formalism in ethics. It contends that Kant’s supreme principle of morality is too abstract and general to tell us what we ought to actually do in the concrete particular. ‘supreme principle of morality’ or the ‘ultimate norm for correct moral judgment,’ namely, ‘Act only on that maxim through which you can at the same time will that it should become a universal law’, ‘has constituted the merit of Kant's moral philosophy and its loftiness of outlook’; ‘Every action explicitly calls for a particular content and a specific end, while duty as an abstraction entails nothing of the kind.’

To Mill, C1 cannot do the work it is meant to do – show us which specific rules of conduct are impermissible and which ones permissible. ‘All Kant shows is that the consequences of their universal adoption would be such as no one would choose to incur.’

Dissatisfied with characterization and criticisms, formalists try to defend Kant by treating C1 as a formal accomplishment, there has been the tradition that C1 is regarded as a formalist expression, there is a decision procedure for testing maxims from which, by running our proposed maxims through this procedure and testing them

Commentators have used emptiness or formalism in describing the abstract and hallow of the Kantian ethics, Ping-cheng lo, Robert M. Wallace, Allen W. Wood, Sally Sedgwick adopt the former while F.Freyenhagen, Stephen Houlgate, Michael Baur, would prefer the latter. notably, Kant constantly talks about the issues of formalism and does not say the ‘emptiness’, in this paper my critics of the emptiness argument is deriving from Hegel's original writing, I would prefer ‘emptiness’ in narrow sense and formalism in broad sense.


for universality, we can construct rational maxims, either to disclose the real nature of the Categorical Imperative or spell out the specific procedures for applying it. 4

The aim of this paper is to present how formalists reconstruct Kant’s ethics in various ways. I will analyze three formalist reconstructions. The first reconstruction which derives from Silber states that the moral law specifies the procedure of judgment via amoral schema which enables one to determine the embodiment of the highest good. Silber sees the formulation of universal law in accordance with nature and in harmony with Kant’s purpose of providing the content for the rationality of the procedure. The second reconstruction, proffered by Rawls, states that moral content does not directly come from the ends or values; rather it rests on a special rationality and social-political background. The third reconstruction contributed by O'Neill, also advocates a formula for universal law as the canonical case of universality test, by showing how achieving consistency of action in the approach of textually-close recognizing of Kant’s universality test.

Formalists predicate that moral necessities are based on common sense, rationality and socio-politics. To make it, I will show how formalists add a declarative set of subsidiary maxims and other ‘buttressing’ rules. These rules, I argue, cannot furnish a concrete guide for human conduct because the ethical judgment is not an outcome of the consistency test. The ‘emptiness’ of Kantian ethics could not be solved through those reconstructions.

1. Silber’s Procedural Formalism

Over the last twenty years, various formalist reconstructions have drawn on Kant’s ethics in order to inform the process of making moral decisions. John Silber was the first philosopher who espoused a procedure to explicate Kant’s ethics. He reconstructs Kant’s ethics by arguing that Kant’s ultimate goal is to explain how moral judgments are made, which he names ‘Procedural Formalism’.

Silber, like most formalists, aims to reconstruct Kant’s ethics based on his understanding of the formulation of universal law (or as he terms it Formulation I).

But unless we assume that the Formulation I is the law for humans, or some other rational and sensible beings, Formulation I alone, together with the

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4 In contrast C1 is regarded as formal expression, C2 and C3 is regarded as non formal expression, given C2 that there must be ‘something the existence of which in itself has an absolute worth’ and that something by elimination must be persons in virtue of their capacity for rational agency. The absolute worth of persons or rational agents comprises an independent order of value which precedes and grounds the moral law. C3, the stance of the members of an ideal kingdom of ends defines what is right. On this view ‘morality consists, then, in the reference of all action to the lawgiving by which alone a kingdom of ends is possible’, and such a kingdom is ‘admittedly only an ideal’ Gr.4:433–4. The members in such a merely ideal realm would construct the laws for themselves as the ones to bind us. The ideal legislators do the ideal legislating so that we are bound with this. However, the content of the moral law itself is not implicit to be self-legislated. That is, the moral law that we are bound with as self-given universally valid maxim in an ideal realm of ends will not be the outcome in accordance with what we do.
judgment which it informs, could not give expression to maxims containing both form and matter. Furthermore, Formulation I would not be an obligation at all unless it constituted the form of moral judgment for a being who is tempted to reject all rational determination in action...From the standpoint of form nothing more than Formulation I is needed...In determining the maxim of a moral act, judgment must incorporate the form of universality.5

When Kant advocates a ‘Universal Principle’ in Silber’s view this is tantamount to advocating CI. Silber’s interprets Kant to mean that there is only one categorical imperative. This is Silber’s position regarding the traditional question: How many formulations of CI are there in the second chapter of Groundwork?

According to Silber, this question is misleading because, first, the number of formulations is actually indeterminate. The formula of universal law (C1), the formula of nature law (C1A), the formula of humans as ends in not means (C2) and the formula of the kingdom of ends (C3) specify the procedure for making intuitive the demands of the moral law which yields maxims leading to appropriate moral judgment. For Silber, Kant does not have the problem of relating the categorical imperative to the moral context: it emerges from it. Kant’s problem is rather to make clear what the demand actually involves. Therefore, the universal formula of the categorical imperative presupposes the moral context. If we do not presuppose categorical imperatives as principle of the human will, the universal formula would not express any obligation at all, then it would of course not express the form of moral judgment for a maxim:

In the act of judgment by means of which the goal of the moral person is determined as the material object of volition by reference to the moral law, one is moving from the abstract to the concrete, not from the concrete to the abstract, which is how the mind works in the theory of knowledge, therefore the number of formulations is as unlimited as sensibility is diverse.6

Secondly, the persistent peculiarity among various formulations of CI can be understood as differing views of procedures. The illustrations of CI in the Groundwork in Silber’s view are merely rehearsals of procedures. The examples Kant enumerates that illustrate actual duties (e.g., indifference to the plight of others, suicide, false promising, development of our own talents) for Silber, offer us merely “apparent examples” that are ‘hurriedly determined’ in the Groundwork.7

Thirdly, the derived formulas of CI are misunderstood if we look upon them as rules for the application of the moral law. There can, according to Silber, be no rule for the application of the moral law; instead the moral law must guarantee its own application and must specify the procedure of judgment in the act of moral schemata or determining the embodiment of the highest good.8

5 Silber,p.206
6 Silber,p.204
7 Silber,p.207-208
8 Silber,p.200
Silber leaves this concept of the embodiment of the highest good somewhat vague, although fundamentally this principle relates to a method of rationality which Silber outlines by stating the rules that attend the method of rationality. These rules mostly derive from Kant’s logies, anthropologies and the critics of judgments which he intended to apply to all intellectual pursuits as rules for the attainment of wisdom whether in the pursuit of aesthetic, scientific or moral analysis. Silber reconstructs these rules which are:

1. Think for one’s self.
2. When communicating with others imagine oneself in the place of the other person.
3. Always think in agreement with one’s self.9

Silber says these rules are postulates of rationality since applying these rules in moral law could guarantee a rational consequence in a requisite sense. He explains:

Only if the norms of morality, rules of thought and rules of aesthetic evaluation are treated as descriptive procedures, then there can be initially rational knowledge in science, the free play of sensibility and recognizing in aesthetic experience, autonomous action in moral experience.(Ibid)

Through postulates of rationality, Silber understands Kant to imply that his readers should follow the pragmatic rational-directed procedural ethic as he explains in the following:

The procedural interpretation of rationality, that is, the attempt to account for the rationality of thought and action in terms of the process or activity of judgment, receives its greatest emphasis and amplification in Kant’s ethics. (Ibid)

Silber sees the account of Kant’s rationality constrained by postulate rationality, which as a result lacks substance. Kant might scrutinize substance through offering us the formulation of the universal law of nature, that is, an analogy with nature to create laws or imperatives, namely, the typic of the moral law. Consequently, moral agents are able to create laws via their imaginary worlds which are applicable in their everyday worlds of sensibility. Silber, therefore, explains his understanding of typic as Kant’s purpose of providing the content for the rationality of the moral procedure in the Second Critique:

This law as one which can be exhibited in concerto in objects of the sense is a natural law. But this natural law can be used only in its formal aspect, for the purpose of judgment, and it may therefore be called the typic of the moral law. If the maxim of action is not so constituted as to stand the test of being made the form of a natural law in general, it is morally impossible, though it may still be

9 Silber.p.202
The question, therefore, is whether C1A (the universal law of nature) given Silber’s interpretation that Kant’s purpose is to provide the content for the rationality of the procedure, guarantees a process for deciding the permissible or impermissible. If not, conceivably there might be no theoretical and practical improvement regarding C1. We might simply disregard this process or recognize it as a form of the universal law of nature; C1A and C1 might be, then, the same law in different forms.

Actually, however, Silber attempts to disguise content as a form, although it seems that C1A is intended to provide the content for procedural rationality; Silber insists nonetheless that the typic is merely formal. Kant and Silber both contend that C1 and C1A are the same law in form. They deny that the analogy with nature and the talk of harmony in a kingdom of ends introduce material considerations (i.e. concrete function or purpose) into the universalization test. However, as soon as Kant introduces the purpose of Bestimmungen in the suicide illustration, we know this notion of formalism is in trouble: we cannot prohibit suicide relying on C1 unless we also introduce C1A which holds that purpose of self-love is fundamentally self-preservation.

For Silber, suicide as an illustration dependent on C1A does not weaken Kant’s ethics because suicide and other illustrations are ‘apparent examples’ that are ‘hurriedly determined’ in the *Groundwork* (Silber, p.204). In Silber’s view, Mill and Dewey’s consequentialism constitute the greatest threat to Kant’s ethics since they criticize Kant for appealing to unfortunate consequences, such as indolence, false promises, and indifference to others, in a purely formal manner thereby eliminating maxims. Even though the universal law of nature does allow for the consideration of consequences, Silber argues that Kant’s ethics still does not fall into the “consequentialist slip.”

Kant insists that it is our duty to consider what the willed consequences of our action are. And we determine the willed consequences of our action by projecting in imagination the sort of world that would come into existence were the maxim of our act to become a universal law of nature.\(^{11}\)

For Silber, Kantian consequentialism is benign because it does not concern the actual consequence of an action but rather the willed consequences.\(^ {12}\) When agents act as the result of an imaginary law, expected or intended consequences of an act result.\(^ {13}\) Accordingly, the nature of Kantian consequentialism is particularly counter-factual or possible in nature.\(^ {10}\)

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\(^ {10}\) KpV p.70  
\(^ {11}\) Silber, p.212  
\(^ {12}\) In my view, however, this is a peculiar sense in a premise of no incompatibility among willed consequences.  
\(^ {13}\) Harald Kohl makes this point in chapter 1 of his Kant’s ethics of conviction (Berlin: 1990). He analyzes Kant’s unusual use of the term intentions, to show that Kant rules out an appeal to intended or expected consequences of an action.
more precisely what may be called subjunctive consequentialism.

What would be the consequences of an act if the act were universalized and became a causal law in an imaginary world (the kingdom of ends)? The inhabitants of which all acted on maxims which were analyzed according to the subjunctive consequences of the action as spelled out in this sentence.14

However, how do agents following subjectively casual laws achieve objective self-reference? To answer this, Silber points out that Kant’s proceduralism presupposes a moral context - no rational egoists exists in the kingdom of ends; non-adversarial rationality is guaranteed when a game-theoretical situation is completely absent. In the Kantian kingdom agents are all good-natured and well-behaved. We may then, appropriately ask: Are these characteristics additional premises or simply the result of agents acting under the moral law? Only the latter would be true to Kant’s ethics.15 I think Silber’s interpretation is essentially close to Kant’s perspective in so far as maxims derive from moral propriety such as self-preservation or security, rather than moral goodness.

While Silber has defended Kant’s ethics against the charge of consequentialism to some degree,16 he has not done so in an essential way. Kantian consequentialism or specifically subjunctive consequentialism still seems unable to inform a permissible or impermissible maxim. If the subjunctive consequences possess no moral weight, Kant will be no better off than a Utilitarian who contends that Kant’s ethics is completely formal. Utilitarianism straightforwardly holds that the consequences of an act compromise the moral weight in the procedure, as, for example, when an agent prefers satisfaction or happiness. However, why is happiness held as the means by which one justifies consequences or maximized good, rather than suffering? Utilitarianism does not pretend to give a purely formal answer. Likewise, Kant must assign some moral content to subjunctive consequences. While much detail may exist in these consequences through the typic (the nature of law) and while all possibilities of the kingdom of ends might be specified and imagined, the permissibility of maxims is still undecided.

The second formulation of CI, namely C2, includes moral concerns and stresses the concept of treating humanity not merely as means but as ends. However, Silber, like most Kantian formalists denies the possibility of supplementing C2. In Silber’s view, C2 as a limiting condition on valid maxims expresses merely a negative condition that one never treats others as means.

Kant also explained that C2 acts solely as a limiting condition.

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14 Cf. Silber’s simpler but less precise formulation: “The moral man considers what other men would have to do if his maxim were a universal law. p.213

15 I would thank to Prof. Miachel Kuhler for reminding me of this point.

16 See Henry Sidgwick the Methods of Ethics, London, 1922, “This is one of the intuitions a utilitarian theory must come down on. The question ‘Why is happiness good?’ cannot be answered without referring in some essential way to a special moral property of happiness, namely, that it is good.”
In the idea of an absolutely good will [one] good without any qualifying condition (of attainment of this or that end)—complete abstraction must be made from every end that has to come about as an effect... And so the end must here be conceived, not as an end to be effected, but as an independently existing end. Hence it must be conceived only negatively, i.e., as an end which should never be acted against.\(^{17}\)

Silber, therefore, recommends that we would be better served by eliminating C2:

It is regrettable that Kant did not think to express this formulation in terms of his second maxim of common human understanding: rather than write about treating mankind as an end in itself. Kant should have written about putting oneself in thought in the place and point of view of others.\(^{18}\)

The context for understanding Silber’s comments is found in the Critique of Judgment (p. 295) when he writes, ‘The agent can only determine a universal standpoint formulated by shifting one’s standpoint to the others.’ Thus Silber relies upon the principle of perspective-exchange instead of the principle of respecting the humanity of rational agents. Silber’s perspective principle is unable to equip one to arrive at a decision under the procedure of the moral law or explain what the procedure requires. Ironically, when the ‘view from nowhere’ is applied to Silber’s perspective principle, and then when the agent follows the directive to ‘think for oneself’ he or she must at the same time consider views not his or her own because of the need of to consider the perspective of another.

This criticism, which originated with Hegel, has been the most challenging debate and most effective criticism of Kant’s ethics. Silber notes that Hegel’s criticisms of C1 are based on the principle of consistency or more specifically the inconsistencies in Kant’s thought, which hold only limited applicability for deriving logical maxim mistakes, i.e. ‘I want to stay dry by walking naked in the rain.’ C1 is thus charged with emptiness that lacks meaning. Therefore, Silber seeks to demonstrate that C1 represents not mere logical consistency, but most importantly, volitional consistency, which conforms to practical reason, not necessarily logical reason:

There is a universally valid will-manner when we try to justify stealing while striving to do so. The agent must, in order to will in this manner, place himself in the thought of the person whom he intends to steal. Once taking this standpoint, I cannot treat the property in which I may steal in question as my property. Rather, I see the situation from a universal point of view in which the concept of property cannot be manipulated.\(^{19}\)

\(^{17}\) Gr.437
\(^{18}\) Silber, p.15
\(^{19}\) Silber, p.232-234
In other words, Silber’s universal standpoint is a priori to the principle of the sanctity of property which arises from practical, not logical, reason. Silber’s procedural formalism does, indeed, yield consequences; however these consequences are actual or expected rather than evaluated. Evaluations of consequences, furthermore, occur via the subjunctive scenario. According to Silber, Hegel’s criticism presupposes that practical reason does not form maxims by working on man’s sensuous maxims, but is itself capable of creating moral maxims. Hegel contends that all moral laws arising from practical reason are contingent upon unique situational contexts which reveal their authentic meaning. As I perceive it, Silber’s procedural formalism may well be a modal variation of consequentialism in which agents supply the content of C1A which corresponds with the law of nature, in order to achieve purpose and harmony. This approach along with formality would inevitably undercut Kant’s moral philosophy resulting in an unacceptable dependence, or heteronomy.

2. Rawlsian Constructivism

Rawls’ reconstruction is based on his understanding of C1-a unity of the formulation of the universal law (C1A) and the formulation of universal law (C1), namely, ‘C1-Procedure’. (Themes p.88-89) Rawls explicates the moral content indeed is ‘rational agents’ subject to various reasonable constraints’ (Ibid.p.98). Ideal agent embodies pure practical reason to ‘frame the Rational with the Reasonable’ which Rawls emphases ideal agents are not only rational, but must also be reasonable. Rationality for Rawls is the means-ends calculation generated by Kant’s hypothetical imperative or empirical practical reason which Rawls names. Ideal moral agents not only learn how to achieve ends (efficiently or rationally), but also how to achieve them from a moral a point of view. This point of view is itself constructed by agents to approximate objectivity, under the social background.

In order to explain the notions of reasonability and objectivity, Rawls ascribes four steps in the details of the procedure. At the first step, we have the agent’s maxim, which is, rational from the agents’ point of view: that is, the maxim is rational given the agent’s situation and the available alternatives, together with agent’s desires, abilities, and beliefs…’ Rawls continues, ‘the second step generalizes the maxim of the first step; the result is what we may call a universal precept… that applies to everyone. When this precept passes the test of CI- procedure, it is a practical law, an objective principle valid for every rational being…’ he continues further, ‘at the third step we are to transform the universal precept… into a law of nature…’ finally, he claims: the fourth step is the most complicated… it is assumed that a new order of nature results from the addition of the law at step(3) to the other laws of nature, and that this new order of nature has settled equilibrium state the relevant features of which we are able to figure out. Let us call this new order of nature an ‘adjusted social world’. 21

Although Rawls has proposed a plausible interpretation of Kant’s conception of

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20 See The Dewey Lectues,p.532
21 Rawls, lectures on the history of moral philosophy, 167
objectivity and rationality, his conception of the reasonable person includes too much normative content and is too heavy for Kant’s ethics to bear. Rawls says:

CI-procedure is simply laid out rather than constructed. Kant believes that human understanding is implicitly aware of the requirements of practical reason. (Themes p.99)

In the Second Critique, practical reason through human understanding depends on the ‘fact of reason’; this ‘fact of reason’ for Rawls’ understanding is to authenticate pure practical reason and its first principle, moral law. This authentication is valid only if agents have already acknowledged them from a practical point of view. (Ibid.107-08) Rawls writes:

The particular characteristics of a realm of ends are, then, to be adapted to empirical, that is, to historical and social conditions…we also know that, under favorable conditions, a realm of ends is some form of constitutional democracy. (Ibid.111)

The unity of practical reason (the reasonable and the rational) is explicitly for Rawls how the reasonable frames and constrains the rational absolutely. Consequently, the ‘truth’ of moral principles is grasped relying on the coherence with others in socially expedient way, rather than what he or she can coherently believe.

I will propose this is serious objection for any account of Kant’s moral doctrine from a social or political starting point. The union of the moral ideals and the social circumstances will extremely subordinate ‘pure’ moral considerations, and ‘tempt us to conclude that Kant's approach is empiricist all the way down’. 22

3. O’Neill’s Constructivism: Consistency in action

Highly influenced by and being critical of the work of Rawls, O’Neill reconstructs Kant’s ethics that CI in its own right as a non-heteronomous ethic. O’Neill announces this constructivism will ‘challenge the view that Kantian ethics…must be seen as either trivially empty or relying covertly on heteronomous considerations in order to derive substantive conclusions’. (Constructions, p.82)In doing this, she focuses on the problems that Silber unsuccessfully approaches in supplementing the universality procedure. 23

O’ Neill claims, the formula of universal law has two formal aspects,
1: we ought to act on maxims.
2: the maxims that we act upon are limited by the universality test, that we should will them to be universal laws.

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22 I take a quote from Sedgwick’s objection to Herman’s formalism that is appealed in ‘locating obligations within a social setting’. See Herman ‘embracing Kantian formalism’ (2011) and Sedgwick ‘Letting the Phenomena In’ (2011): On How Herman's Kantianism Does and Does Not Answer the Empty Formalism Critique.

23 As mentioned, I call it unsuccessfully for that heteronomy was introduced into the universality test.
Inconsistency without Universalizing

There are two non-universalized inconsistencies on this part. (Ibid. p.89) They are accorded with the conceptual and volitional inconsistency in the *Groundwork*.

The first type (the internal inconsistency) emerges when the human willing in question incorporates something in its aim that is not possible. Maxims are principles of action in that they give us principles that we aim to realize and this aim is what is meant by saying that we have willed the maxim. For example, one cannot be willing successful and unworldly at the same time. However, one can consistently will success in public life while remaining unworldly in private life. O’Neill sees this kind of ‘schizophrenic’ willing is problematic, but tolerable within the bounds of the Kantian doctrine, such nuances dictate some formal guidelines in maxim symbolization.

The second type (volitional inconsistency) is the inconsistency on specific intentions that were ancillary to more fundamental intentions (underlying intention); O’Neill connects this to Kant’s ‘contradiction in willing’ or the inconsistency productive of imperfect duties. This inconsistency for O’Neill particularly runs afoul of the empirical practical reason, while for Rawls and Kant, the hypothetical imperative. According to Kant, if one wills a particular end, one also wills the necessary and indispensable means to secure that end. A practical inconsistency occurs if the means (specific intentions in this case) are incompatible with the maxims (underlying intention) which they are meant to serve. Consider the ‘coffee’ example: if a maxim of severing my guest coffee is my underlying intention. Then, if I adopt the ancillary and specific intention of preparing and offering coffee combine with another specific intention of drinking all the coffee myself in front of my uncomfortable guest, I would fall into inconsistency.

Inconsistencies in Universalizing

O’Neill suggests inconsistency in universalizing derives from that we treat ourselves as special. O’Neill account of volitional inconsistency in universalizing is similarly related to the practical contradiction account of Kant’s test given by Korsgaard. Korsgaard sees the maxim could fail in the universality test due to its inefficiency and defeating, when universalized, for the achievement of one’s own purpose. Maxims of indifferent to developing of one’s talents and plight of others are akin to degrading oneself or humanity at the bottom. O’Neill’s similar account is:

Human beings…have at least some maxims or projects, which (since they are not self-sufficient) cannot always realize unaided, and so must (since they are rational) intend to draw on the assistance of others, and so must (if they

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24 Schizophrenic’ willing is expressed widely by commentators Pablo Muchnik(2009), Jens Timmermann(2007) Gabriele De Anna(2013) Michael Stocker(1976), as an appearance of Schizophrenia that is a mental disorder often characterized by abnormal social behavior and failure to recognize what is real.

universalize) intend to develop and foster a world that will lend to all some support of others’ beneficence and talents. (ibid, p.101)

This interpretation is available to oppose Mill’s consequentialist trend that parallels Kant’s arguments of non-beneficence and false-promising in the *Groundwork*, in these two cases maxims of selfishness and lying may be incompatible with one’s purposes in helping others and making promises. However, in the case of the maxim of not developing one’s talents, this pragmatic argument is less convincing. O’Neill claims that, ‘Forming and universalizing maxims would commit either a world no talents were developed, or a situation necessary means were lacking not just for some, but for any sort of complex action.’ (Ibid. p.99) This type of maxim, in O’Neill’s view, fails into its volitional inconsistency.

I think here O’Neill is misleading us by supposing a slothful person who has no non-commitment to any sort of complex action. Such non-commitment is an achievement in the context of that person’s set of underlying purposes. Moreover, O’Neill’s pragmatic account fails to handle one of Kant’s favorite examples: suicide. If consistency with one’s own purposes is the only test, then surely we can imagine an agent whose (final) purpose is suicide even holds no other competing purposes.

If volitional inconsistencies can be easily recognized then avoided; one might tend to fall into conceptual inconsistencies (internal inconsistencies), which are symmetrical inconsistencies listed by O’Neill:

- Slavery: ‘if everybody became a slave there would be nobody with property rights, hence no slaveholders, and hence nobody could become a slave.’
- Coercion: ‘if all coerce others, including those who are coercing them., then each party both complies with others’ wills… and simultaneously does not comply with others’
- Abrogating: ‘if everyone defers to the judgments and decisions of judging others, then there are no decisions to provide the starting point for deferring in judgment.’

I would suggest symmetric inconsistencies would not be forthcoming for at least two aspects. First, O’Neill does not permit the symmetric exchange of the relation. I.e., ‘for all X, if X is a slave…’ and ‘for all Y, if Y is a slaveholder…. that is, if relation is concerned over one side, alleged contradiction will disappear. O’Neill’s interpretation somehow implies a strange ‘universality’ in the world-- no one can be a slaveholder and everyone is a slave. Second, O’Neill’s test enforces reciprocity and fairness, other innocuous symmetric inconsistencies may show this reciprocity and fairness could be deceiving though. Consider a soldier wants to become a general. He has a maxim of being a general, once he universalizes his maxim, he will recognize that this intention will be inconsistent: if everyone was the general, there would no soldier to command. This case has the similar structure with O’Neill’s ‘I will become a slave’; both cases are at the very least not immoral. Likewise, there are a lot of counterexamples- considering as morally permissible, but non-symmetric acts: fixing breakfast for one’s partner or spouse, allowing a rival to have the last word, opening
the door for others, etc. These non-symmetric acts accompanied with improper relationships, does not mark the immorality at all.

Maybe O’Neill implies a simple symmetric concept of maxim, no one can morally will to win because not everyone could win. That is, the human willing to win cannot be universalized. Assuming a game, all interests are involved, specific intentions were ancillary to the underlying maxims or intentions, if only one appropriate attitude is we have to play and win at all? Or we can surely have this attitude that we may not win even the game-result would be zero for me, but it still is worth playing. If winning is not the overriding aim in such activities, if they are playing for their own sake, then the activity will be consistent and universal. Hence two different attitudes will not make the underlying maxim immoral or incoherent. As a part of the prospective eventuality, we must assume and simply accept the defeat. The purpose drawn our attention to a game is not for its outcome, rather than the procedure itself. Nonetheless, what this procedure means or how we are supposed to play is not the ethical question we need to answer.

But I don’t think it’s quite that simple. I think O’Neill does not make the last move, given that the maxim of ‘to be a General’ is not permissible for the agent committed to take part in a non-symmetric relationship. Alternatively, we could assume that not only the agent engaged in competitive activities of other sorts (e.g. Games and sports) plays to win, but his polite competitors also want to take part in such non-symmetric relationships; there is of course nothing of immoral in their action. It suggests that there should be a better argument of abandoning slavery than O’Neill’ account that the slavery is moral impropriety considering the one cannot be at the same time a master and a slave.

In reading O’Neill’s paper, I found there are merits and demerits in understanding universality test and the supreme law. Silber demonstrates formalism by supplementing the universality test with the designated results. These demonstrations are problematic for the supplement treats the universality test heteronomy. O’Neill reproaches the moral action from the logical consistency to a practical coherency, without adding normative elements to the universal test. In this sense O’Neill’s interpretation is more convincing than Silber’s and Rawls’ interpretation that immoral action comes from irrational action or normative content brings moral content. When it comes to the progresses of maxims: in the first part of the test, the maxim is formulated by underlying and specific intentions; in the second part, these intentions are available in turn to formulate the maxim. We can conceive that the maxim will be formulated differently by the first part or the ‘entire’ test. The example of choosing the coffee cup shows ‘thick’ maxim that contains all intentions ancillary to the underlying intention, cannot be universalized. That is, not everyone make their guests feel welcome by serving them coffee with this coffee cup. Test is thus failed but by generating the maxims on morally-irrelevant grounds.

**Conclusion**

Let me summarize the point of my critical remarks so far. I have been drawing attention to various incarnations of Kantian formalism. I was originally motivated to
undertake this because I have become convinced that Kantian formalism is wrong, though the foundational problems posed in his works are very much alive and must be answered before ethics is proceed. I feel that it is important to do so, since there have appeared heretofore in the literature very few formally-sophisticated accounts of Kantian formalism.

In short, I want this work to be a genuine enquiry into Kantian ethical formalism; these are presumably non-trivial, non-normative axioms which somehow capture what it is to act with practical reason. Kant's illustrations of the categorical imperative suggest that he adopts this very plan of buttressing the "mere consistency" version of the test. In these illustrations, Kant introduces some common-sense principles. For instance, he argues that, since feelings are purposeful, and the purpose of the feeling of self-love is self-preservation, it would be a contradiction to commit suicide out of the feeling of self-love. This may appear to us now to be a bad argument, but that is not to the point.

Kantian formalists have suggested that we ought to include background theory in some common-sense rules. Such rules are called, variously, postulates of rationality by Silber, constraining principles of empirical practical reason by Rawls, and principles of rational intending by O’Neill. Like most of Kantian formalists, Silber, Rawls, and O’Neill share a strategy of demonstrating that moral test can be made by C1. In order to judge right or wrong, they essentially agree on where their theories would be going, but there are disagreements on how to get there.

I think there are two problems within formalists’ interpretation of Kant’s ethics. On one hand, Formalists predicate various moral necessities based on common sense, rationality and socio-politics, are too heavy for Kant’s ethics to bear. On the other hand, formalism merely plays at best a subsidiary role in Kant’s ethics, formalist demonstrates the moral law, but the question is how an effective procedure for determining moral obligation or duty can be operated by such formal moral law. They interpret Kant as a moral formalist, but the content of the procedure or moral law is still not clear though.

**Bibliography**


Fabian Freyenhagen. *Empty, Useless, and dangerous? Recent Kantian Replies to The


Oliver Sensen. Kant's Conception of Inner Value. European Journal of Philosophy 2009

Patricia Kitcher. Kant's Argument for Categorical Imperative. Noûs.2004

Paul Formosa. Is Kant a Moral Constructivist or a Moral Realist? European Journal of Philosophy, 2010

Ping-Cheung Lo. A Critical Reevaluation of the Alleged Empty Formalism Chicago Journals Ethics, 1981(91)


Sidgwick Henry. The Methods of Ethics. London, 1907

Silber John R. Procedural Formalism in Kant's ethics. Review of Metaphysics v.28,1974