

# DEFENDING KANT'S ETHICS IN LIGHT OF THE MODERN BUSINESS ORGANIZATION

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## INTRODUCTION

Many case studies in business ethics settings involve the modern corporation, including its myriad workers, limited knowledge diffusion, and often dysfunctional patterns of communication. This modern business structure, the “organization,” is said to bring important new considerations into how a case is evaluated in terms of ethical decision-making. Luban, Strudler, and Wasserman<sup>1</sup> argue that modern organizations preclude the efficacy of classical theories of ethics—for instance, four “knowledge conditions” are said to be assumed by all major moral theories (utilitarianism, Kantian deontology, etc.) in regard to agent knowledge of a decisional moment, time frames, available choices, and resources available. All of these conditions are mitigated by the large, diffuse structure of many modern organizations. In distinction to classical theories, they propose various “preemptive duties” that can be used in analyzing cases of organizational and worker responsibility.

This paper demonstrates that these scholars are too hasty in their dismissal of Kantian ethical theory and its usefulness in addressing cases of organizational irresponsibility. Whereas Luban, Strudler, and Wasserman’s preemptive duties mainly chastise agents for not knowing what they should know about their tasks, organizations, etc., insights from Kant’s *Metaphysics of Morals* (1797)<sup>2</sup> can be used as a valuable theoretical apparatus from which to analyze the virtue and right components of a worker and her actions/inactions in regard to participating in organizational activities. Whereas the previously stated authors look to issues of right (i.e., actions that are open to external coercion), Kant’s analysis gives sharper detail to the worker as willing agent (the non-coercible act of internally setting ends for oneself). It is this agent that can possess a virtuous will depending on the ends he or she sets themselves to, and can be judged/analyzed by a given audience that has access to the motivations and maxims of this agent. Thus, case studies involving organiza-

tions can still involve evaluations of responsibility and include classical theory; in the case of Kantian theory, it can help show the orientation of the agent within an organization and the types of ends she should set in regard to complicity in wrongdoing and information that she should be seeking. Additionally, Kant's discussion of right can also highlight cases where workers can be charged and punished in a formal sense because of their "active" inaction—their resolve to remain ignorant. Thus, this paper will first highlight some of Luban et al.'s analysis of the modern business organization and how it supposedly thwarts classical ethical theories. The ways that Kantian theory can be employed both in terms of right and virtue will then be explicated.

#### CHALLENGES OF THE MODERN BUSINESS ORGANIZATION

Luban et al. structure their paper as a response to the problems brought on by large, impersonal, bureaucratic organizations. Their task is to find a way around the "positivist excuse" of "I was just following orders," as well as the more recent "epistemological excuse" of "I didn't know." The positivist excuse, evoked by Nazi officers at Nuremberg, was overcome by an appeal to classical natural law theory in that there are some actions/rights that ought never to be violated by any positive law. This excuse is fairly well addressed by classical moral theory, according to Luban et al. What has become the new challenge in this age of big business, according to the authors, is the rise of large organizations that foster the problem of "fragmented knowledge." This fragmentation of knowledge about what the company is doing and the corresponding fragmentation of responsibility worry Luban et al., and the resulting epistemological excuse that can be employed by the organization's employees is said to be recognized as legitimate by classical ethical theories. This, consequently, makes it "very difficult to find a workable account of moral responsibility within bureaucratic institutions."<sup>3</sup> The challenge is to find a way to reject the epistemological excuse and uphold a defensible notion of individual moral accountability in these large, diffuse organizations. These institutions function in a variety of ways to encourage group think, fragment knowledge, offer plausible deniability, etc. Without going into all of the ways that companies do these things, this inquiry will assume Luban et al.'s argument is adequate and will proceed to analyze the reasons given for the failure of traditional moral theories in this realm.

Traditional moral theories (Kant, utilitarianism, etc.) are said to assume four knowledge conditions in any "ethical situation."<sup>4</sup> Presum-

ably, it is in such situations that moral praise or blame can be accumulated. The first condition is an agent knows *that* a decision must be made in a given situation. Second, an agent knows *when* a decision must be made—right now, by the next opportunity for theft, etc. Third, an agent knows *what options* are available from which to choose—he can respond in this way, etc. Fourth, the agent knows *what information* she needs to know in order to make the decision. If these conditions are not met, an agent is generally held to be ignorant, and as such, is not liable to such levels of praise or blame as when he fulfills these conditions. What the authors are apparently getting at in these criteria are the preconditions to actual choice—when an agent lacks such preconditions, she either cannot act or does not know she is to act. What renders this situation problematic is that many recognize the state of culpable ignorance to be morally blameworthy—for instance, when one knowingly drinks too much, and then injures another while driving “under the influence” of alcohol. When organizational structure actively or covertly creates conditions in which these four conditions are not satisfied, can an adequate notion of individual moral responsibility be enunciated by traditional moral theories?

Before this paper attempts to provide such a reading through Kant's later ethical writings, it is useful to note the direction that Luban et al. are going with their inquiry. Given the forum they are writing in and the interests that become apparent in their paper, it appears the value of such an account of individual moral responsibility lies within its application in legal situations of blame and punishment. For instance, the case of corporations being moral persons is broached, which seems to be the only option remaining when the individual workers of a corporation are excused of all responsibility due to the failure of the above knowledge conditions. What seems to be at stake here is what actions are *wrong* in a presupposed natural law sense, hence legally wrong given correct positive laws. When one has culpable ignorance, one can be blamed and punished for harms that occur due to that condition. Luban et al. want to have someone to blame/hold responsible for harm, be it the corporation or individuals within the corporation. They eventually provide a variety of reasons why the corporation is not a moral agent, and thus focus on the duties of the individual within the modern business organization as a foundation for blame/responsibility. They produce an enforceable set of “preemptive duties” that deal with an individual being responsible for investigating his projects and activities, communicating with others about these projects, protecting “whistle-blowers,” and the taking of precaution

in dangerous projects.<sup>5</sup> Such a reading of individual moral responsibility, while valuable, dismisses classical ethical theory too quickly and ignores another valuable side to this problem—the realm of the ends the agent can virtuously set for him or herself.

### TYPES OF IGNORANCE & ACTION

Kant's latest and arguably most mature writing on moral philosophy came in 1797 with the publication of the *Metaphysics of Morals*, which was composed of two sections, the *Doctrine of Right* (DR) and the *Doctrine of Virtue* (DV). In this work, Kant lays out the culmination of his ethical system, expounding from the categorical imperative two separate systems, one addressing actions in a public sphere and the second dealing with the ends that individuals set through their choice of maxims. This paper proposes that ignorance (the root of the epistemological excuse) be addressed with these two divisions of Kant's system. Before such a story is proffered, it is useful to examine what Kant means by action and the prerequisites for moral judgment/evaluation.

In the Introduction to the *Metaphysics of Morals*, Kant analyzes the way in which humans can be said to be agents. The faculty of practical reason, will (*Wille*), is the source of practical laws that can command the individual agent. The power of choice (*Willkür*) is the source of the maxims that an agent actually uses to subjectively determine his or her actions (6:226).<sup>6</sup> Thus, the moral law (the categorical imperative) is the objective determination of individuals (how they should act/will), whereas the maxims that one adopts are the subjective determination of one's actions (how one actually acts/wills). An act can be imputed to an agent when that person can be "regarded as the author (*causa libera*) of an action, which is then called a *deed (factum)* and stands under laws" (6:227). From an external point, it appears that sufficient evidence is needed when one claims that an agent was the free cause of a certain action qua deed. From an internal standpoint, an individual can see him or herself as the free cause of an action when he or she acts upon some sort of maxim (freely chosen) that results in that action. Either way, the important part of a deed is that it is *chosen* and involves the power of choice of the agent.

Given such a reading of actions, one must wonder how Kant's theory can accommodate the problem of fragmented knowledge, in which individuals do not know what they are doing, involved with, etc., in situations that are not clearly demarcated. This theory, however, can be used to provide an interesting and sensitive analysis of this situation that

Luban et al. worry about. It is useful to distinguish two main types of ignorance one could fall under from a subjective point of view before discussing the resources of Kantian theory. First, an individual can find him or herself in a situation where he or she does not know wrongdoing is taking place, or that he or she is somehow involved in it (call this the N(o)K(nowledge) case). For instance, a worker follows company billing procedures, mainly carried out by the accounting department, that are eventually found to be illegal; this worker did not know she was part of this immoral action, but nonetheless was causally involved in it. The second type involves an individual who has some indication that wrongdoing is taking place or that he or she is participating in some type of immoral behavior, but who does not attempt to confirm such a suspicion or who takes active steps to not garner additional information (call this the A(nti) K(nowledge) case). Thus, a worker may come to the opinion that her division is stealing resources from a company with which they contract, but refuse to look for any information that may confirm the matter. Additionally, she may refuse to hear from others about this wrongdoing, so as to protect her "plausible deniability." In which cases can an action be morally imputed to a freely acting agent? What types of praise/blame can be meted out to which agent?

In the NK (No Knowledge) case, the agent does not seem to be doing anything that is culpable. She is participating in a corporation she sincerely believes is innocuous and finds that she is doing nothing harmful in her own position. If such a worker participates in wrongdoing due to the company's organizationally caused fragmented knowledge, one would not want to punish or legally admonish such a worker (under Kant's scheme) because she did not knowingly take part in something that was harmful, illegal, or immoral. The AK (Anti-Knowledge) case, on the other hand, involves an individual who *knowingly* acts to not find out more about a company or organization for which he or she has some evidence of wrongdoing. Just as the drinker knowingly impairs his or her ability to think and drive *from* a condition of knowledge and free choice, the worker who refuses to confirm the evidence of wrongdoing or actively fragments the knowledge that reaches him seems to be doing an action that can and should be punished with coercive sanctions. The NK case seems to involve a situation where an agent did not do all she should be doing in order to "guarantee" her free agency and insure that she was acting on complete knowledge. Such a lapse can be said to lie in the maxim she follows (or fails to follow) in regard to the information she collects concerning the organization of which she is a part. The AK case,

on the other hand, involves an action that seems *prima facie* wrong because it actively removes her from a position in which she can see harm that she is contributing to and to which she could potentially respond. Such an infraction seems to lie in the harmful nature of her actions in terms of the freedom of others (i.e., those hurt by the organization's wrongdoing).

### THE AK CASE & THE *DOCTRINE OF RIGHT*

The first half of the *Metaphysics of Morals*, the *Doctrine of Right* (DR), provides Kant's reading of how and why laws should operate in a system founded in a rightful condition (protecting mine and thine). Under the DR, actions are the locus of analysis, as they are the overt manifestation of external freedom of choice and must be brought into harmony to be rational and conducive to freedom. Thus, right focuses on chosen actions that directly or indirectly affect other individuals' use of choice, and abstract from the matter of the action in question and focus instead on the form in relation to universal choice (6:230). This refers to either an individual's *action* or *condition* (6:231). Thus, Kant offers his "Universal Principle of Right," which stipulates "Any action is *right* if it can coexist with everyone's freedom in accordance with a universal law, or if on its maxim the freedom of choice of each can coexist with everyone's freedom in accordance with a universal law" (6:230). In a state of right, actions should be allowed that do not adversely affect the capability of others for action. One must add to this the above notation that this could be direct action or a chosen *condition*.

This Principle of Right does not concern the maxims with which the agent actually determines his or her maxims—that is the realm of end setting, and that belongs to the province of ethics. Instead, right addresses merely actions that can coexist, and allows coercion against those actions that do not fit such a system (6:231). The key part to focus on in this analysis is the idea that some actions, as a product of free agents, must be able to coexist with other's powers of free choice in external matters. If such conditions are not met, coercion (such as legal sanction) is allowable as they bring the offending actor back into a system of right.

In the AK case, an individual is taking measures to not find out more about something for which she has evidence. Thus, the case can involve "active inaction" (not acting to find out more) or actual action (preventing more information from reaching them). Both of the above

individuals are using their power of choice in regard to external action to bring about a *condition* in which they do not know what their organization is doing, participating in, contributing to, etc. A salesperson who overhears another salesperson discussing how the company routinely cheats customers out of more money may walk away, not wanting to know what goes on with his own business practices. Such an individual is actively contributing to his state of ignorance about a wrong he is involved with—such an action is not of a rightful condition, and as such is liable for coercion. In this case, the form of the action of taking from others harms them materially and reduces the conditions of the exercise of their power of choice. In short, such an action is not in accord with the Principle of Right, and can be corrected by legal means so as to secure the rights and freedom of all involved.

Luban et al. address the example of the 1979 Air New Zealand accident, in which an incredibly opaque organizational structure so fragmented knowledge that an Antarctic sightseeing plane was inadvertently piloted into the side of a mountain.<sup>7</sup> For the sake of argument, let us suppose that a month beforehand an individual in management discovered that egregious errors in navigational plans could be given to the pilots of these low-flying passenger planes. The manager simply says to him or herself, “I don’t want to know about this,” and walks away from the problem. Such an action that fosters a condition of ignorance about a known problem is causally related to the actual accident, and is morally culpable as an action. While such an individual should not be held responsible for the actual airplane crash, he must share in the responsibility as he *actively* participated in creating conditions for such a tragedy. Obviously, such a condition that harms individuals in such a drastic bodily fashion cannot be included in a system of right, since such a use of freedom does not coexist with the freedom of others (such as those individuals on the plane).

#### THE NK CASE & THE *DOCTRINE OF VIRTUE*

The second portion of the *Metaphysics of Morals*, the *Doctrine of Virtue* (DV), addresses the ends that individuals should set for themselves. Whereas the actions addressed in the DR are solely external and are thus enforceable by others (i.e., the state), the DV deals with ends that are internal (and thus not forcibly set by other agents) and that can be used as the motives for types of actions. These duties deal with the inner freedom of the agent, and the ends that he or she actively sets through the

exercise of that inner freedom (of choice). These duties are not enforceable through external means, as they do not limit the external freedom of others in a non-rightful way; instead, one can be praised or blamed by themselves or others for acting virtuously or non-virtuously due to the success or failure in setting such ends as morality requires. Such a reading of ends and duties of virtue can be used to assess what is “wrong” in the NK case.

The “Supreme Principle of the Doctrine of Virtue” is to “act in accordance with a maxim of *ends* that it can be a universal law for everyone to have” (6:395). This variant of the categorical imperative addresses the ends that individuals set for themselves, and the ability of these ends to be universalized. In the DV, Kant continues on to detail those “universal” ends that reason commands one to adopt. These demands are typically wide and imperfect, meaning that they are open to interpretation and are not strictly binding in every case, whereas those concerning right were (i.e., do not murder an innocent person on the street). These duties are divided by their material constituents into duties to one’s self and duties to others, addressing the end of a person in his or herself and the end of other people. Such duties involve a wide obligation to “perfect oneself,” which Kant finds as involving the “*cultivation of any capacities whatever for furthering ends set forth by reason*” (6:391). The duties to others also includes the furthering of their ends, when possible; one is to respect others and not adopt ends that purposely set out to thwart their projects and their ability to attain their ends (6:402). Both of these themes in Kant’s DV are applicable to an analysis of the NK case that does not wholeheartedly allow the epistemological excuse but also does not hold an individual strictly liable for actions of which they lacked knowledge.

Kant’s DV holds strong indications that part and parcel of one’s rational being is their ability to set ends for themselves. For instance, the condition of all the duties of virtue deal with the inner freedom of the agent, the key parts of which are “being one’s own *master* in a given case (*animus sui compos*), and *ruling oneself* (*imperium in semetipsum*), that is, subduing one’s affects and *governing* one’s passions” (6:407). Being able to be one’s master and to rule one’s own actions both involve control and knowledge; without the later, one does not *know* that they lack control, have an opportunity to display mastery, etc. Just as Luban et al.’s preemptive duties were meant to encourage individuals to assault the problem of fragmented knowledge in modern organizations, Kant’s reading of the duties to one’s own rational nature (inner freedom) result in similar proc-

lamations. The only difference is that Luban et al. want to hold an individual responsible (seemingly) in the sense of right (thus with legal sanctions), whereas Kant would say that such innocent ignorance is not virtuous and should be avoided by an agent that values his or her rational nature (and thus their inner freedom).

Kant later discusses an agent's duties to him or herself as a moral being only, and also broaches a similar concern over knowledge and the pre-requisites for freedom; he says that this end issues a "prohibition against depriving himself [the agent] of the *prerogative* of a moral being, that of acting in accordance with principles, that is, inner freedom, and so making himself a plaything of the mere inclinations and hence a thing" (6:420). What is discernible here is Kant's emphasis on control of oneself, a demand that seems to require knowledge of what one is to control and against what one is contending. If one is innocently ignorant of a corporation's larger projects, that individual should actively seek to find out more about the corporation and its actions; in so doing, the individual upholds this duty of virtue to themselves and their rational nature qua free being. This individual is not a mere means to an end, but instead is a free being that enshrines the absolute value of humanity within themselves; as such, no individual or corporation should defile the freedom of this individual, and no individual should inhabit a condition that allows others to do such an action.

Thus, being ignorant of corporate actions that one is participating in violates this duty to oneself as it undercuts the knowledge necessary to make freely informed and rational decisions about how one is to act and set ends. Not seeking such knowledge could be equated to voluntary servility, as the organization can then use the unknowing individual more like a slave, and less like a fully knowledgeable, consenting employee.<sup>8</sup> As Kant wryly remarks later, "one who makes himself a worm cannot complain afterwards if people step on him" (6:437). One values him or herself by gaining knowledge about what he or she is involved in; such an endeavor is not one required by right, but instead is demanded by virtue.<sup>9</sup>

The NK case differs from the AK case in that the individual in the latter acts (even if through inactive action) to prevent further information from reaching him or her about a problem of which he or she is already aware. The NK case, on the other hand, involves an individual caught up in organizational webs that so fragment knowledge that he or she does not know that wrongdoing is occurring or that he or she is taking part in it. Given that they have no awareness that further investigation is needed, one cannot hold them liable for their inaction as it is not an active deed

that can be imputed to them in Kant's analysis. Yet many would say that the NK individual did something less than perfect in their actions within the corporate framework. What they can be claimed to have done is to fail to meet certain "duties of knowledge" that a virtuous person would uphold concerning what they are involved in and what harm they may be unintentionally causing to others. The NK individual cannot be held responsible for their actions, but can be judged as not being a virtuous person (Kant allows a middle ground here, so the remaining options are not limited to a "viceful" person)—they have not upheld cardinal duties to their own rational nature and the rational nature of others.

Approaching the demands of virtue from the opposite angle, that of the ends of others, one can be said to have a wide duty to help further the ends of others. Kant points out in the DV that "the maxim of beneficence (practical love of human beings) is a duty of all human beings toward one another, whether or not one finds them worthy of love" (6:450). The value of humanity in the persons of others demands that the ends of others be a part of the ends of any person. Thus, one should help others in their projects and lives as much as possible, without unduly sacrificing their own projects (6:451). In the NK case, the individual has this duty of virtue in regard to their employment and how it directly affects the lives and happiness of others; as a virtuous person, they should be trying to gain knowledge about how their own projects and actions affect the lives of others. Whereas Luban et al. lay out preemptive duties as the conditions an individual is responsible for as a part of an organization, a Kantian approach would see such duties of the innocent individual (i.e., not knowledgeable about any potential wrongdoing) as part of one's duties toward ends that promote the condition of one's self and the selves of others. Such an important part of the happiness of others is their physical safety and the treatment of them as rational, free agents; one is obliged by this wide duty to the ends of others to find out if any corporate activities are curtailing such ends of others.

## CONCLUSION

Luban et al. provide an interesting analysis of a modern problem that finds much relevance in the world of modern business. The exigency of fragmented knowledge is often a result of large corporate structures or intentional division of knowledge accountability; either way, traditional ethical theories such as Kant's moral system can provide resources for the analysis of such quandaries. This inquiry has analyzed two cases, one

in which the individual purposely avoids knowledge of a problem they know may exist (AK), and the other in which an individual lacks any knowledge or indication of their participation in wrongdoing (NK). The first case (AK) is liable to state measures since its external action affects the external freedom of others; under Kant's Principle of Right, coercion (sanctions) can be used to respond to this infraction of other's external freedom. The second case (NK) involves an individual who simply should have done more to find out what they were involved in; while not strictly liable for such an infraction of virtue, they can be morally criticized as not upholding wide duties to themselves and to others in the ends that they set.

What is at the heart of this analysis and the *Metaphysics of Morals* itself seems to be an extreme valuation of freedom. Recent Kantian scholarship, such as that of Paul Guyer and Barbara Herman,<sup>10</sup> has found that one can read Kant as valuing freedom as that which humanity should be. Thus, Guyer finds that in Kant's moral and political thought, Kant demands that the individual strive to preserve and promote our rational nature as a means to freedom. Looking at the issues that Luban et al. raise in their article, one can see that Kant's analysis of right and virtue holds much for this pressing issue of business ethics. How the individual uses his or her internal and external freedom in relation to others is of prime importance to Kant's theory; what also becomes apparent through the problem of fragmented knowledge is that what the individual does or fails to do in regard to gaining knowledge about their organizational participation also becomes important in considerations of right and virtue. An individual can knowingly not inquire and affect both the freedom of others and themselves qua rational agent. An agent can place himself or herself in a situation in which their inner freedom will not be cultivated or fostered by the projects and organizations in which they are involved. While Luban et al. are correct that Kant, like many other traditional ethical theories, fails to overtly discuss organizationally-caused fragmented knowledge, they are incorrect in asserting that classical theory cannot deal with such problems. Indeed, Kant's analysis of right and virtue does hold resources that can help modern agents deal with modern problems such as that occasioned by fragmented knowledge and the modern business organization.

## NOTES

<sup>1</sup>David Luban, Alan Strudler, & David Wasserman, Moral Responsibility in the Age of Bureaucracy, *Michigan Law Review*, 90, 1992.

<sup>2</sup>*The Metaphysics of Morals (The Cambridge Edition of the Works of Immanuel Kant: Practical Philosophy)*, translated by Mary J. Gregor, Cambridge University Press, 1996).

<sup>3</sup>David Luban, Alan Strudler, & David Wasserman, Moral Responsibility in the Age of Bureaucracy, 2352.

<sup>4</sup>Ibid., 2363-2364.

<sup>5</sup>Ibid., 2383-2384.

<sup>6</sup>References in Kant's works will be made using the volume and page numbers of the *Kants gesammelte Schriften* (Berlin, Walter de Gruyter).

<sup>7</sup>David Luban, Alan Strudler, & David Wasserman, Moral Responsibility in the Age of Bureaucracy, 2372.

<sup>8</sup>Kant explicitly speaks against such servility on 6:435.

<sup>9</sup>Kant even indicates that the "first command of all duties to oneself" is to "*know* (scrutinize, fathom) *yourself*" (6:441). Such knowledge can seemingly be extended to knowing what one is involved in concerning employment and organizational participation.

<sup>10</sup>Paul Guyer, *Kant on Freedom, Law, and Happiness* (Cambridge University Press, Cambridge, 2000); Barbara Herman, *The Practice of Moral Judgment* (Harvard University Press, Cambridge, 1993).