

“Kantian Ethics and the Demands of Special Concern”

Mathew J. Lu

The Sage School of Philosophy, Cornell University

Note to the Reader: This writing sample is composed of materials taken from Chapters Four and Five of my dissertation (“On Loyalty”) modified to stand as an independent paper. To keep this writing sample to a reasonable length some of the details have been condensed or elided; naturally, the fuller presentation of the argument in the dissertation is available on request.

Loyalties play a central role in both our daily lives and our moral discourse. In particular, loyalties towards unchosen objects—e.g. family, community, country—constitute a large part of the substance of our moral lives, yet such loyalties offer a *prima facie* challenge to our most influential theories of normative ethics. These sorts of attachments and loyalties, which I shall call the “demands of special concern,” are intensely particular, while our most popular moral theories tend to be fundamentally universalist in their basic premises. This latter characteristic is perhaps most pronounced in the case of Kantian ethics; in this paper I examine the degree to which such an ethics can meet this challenge. I will show how the Kantian theory is inadequate for explaining the demands of special concern, because it is intrinsically insensitive to the nature of the values towards which they are directed. Instead, I argue that to fully comprehend the normative character of loyalty we need a theory of the will that can account for these values as expressions of the basic structure of volition itself.

Although my focus in this paper is entirely directed towards the Kantian theory, the methodology I propose here has broader application. I aim to advance a kind of asymmetrical argument, in which I do not intend to offer a comprehensive alternative to the moral theory I am criticizing. Rather, I address myself to a particular phenomenon—the demands of special concern—which I think we have reason to believe is morally important, but whose fundamentally normative character cannot be reconciled with the basic structure of a universalist

moral theory. Thus, although the following discussion is focused entirely on Kantian moral theory, the methodology I here invoke is broader in potential application to consequentialism and other fundamentally universalist moral theories.¹

I want to begin with an extended quote from a famous paper by Bernard Williams, to help situate the debate. Williams is discussing a situation in which a man finds his wife and another person trapped in a burning building. The question is whether the man's unhesitating attempt to save his wife, irrespective of the other person, is morally justified. Williams writes:

...surely *this* is a justification on behalf of the rescuer, that the person he chose to rescue was his wife? It depends on how much weight is carried by 'justification': the consideration that it was his wife is certainly, for instance, an explanation that should silence comment. But something more ambitious than this is usually intended, essentially involving the idea that moral principle can legitimate his preference, yielding the conclusion that in situations of this kind it is at least all right (morally permissible) to save one's wife.... But this construction provides the agent with one thought too many: it might have been hoped by some (for instance, by his wife) that his motivating thought, fully spelled out, would be the thought that it was his wife, not that it was his wife and that in situations of this kind it is permissible to save one's wife.

Perhaps others will have other feelings about this case. But the point is that somewhere (and if not in this case, where?) one reaches the necessity that such things as deep attachments to other persons will express themselves in the world in ways which cannot at the same time embody the impartial view, and that they also run the risk of offending against it.

They run that risk if they exist at all; yet unless such things exist, there will not be enough substance or conviction in a man's life to compel his allegiance to life itself. Life has to have substance if anything is to have sense, including adherence to the impartial system; but if it has substance, then it cannot grant supreme importance to the impartial system, and that system's hold on it will be, at the limit, insecure.

(Williams [1982], 18)

I take it that this answers to a powerful intuition. When faced with a situation like the one described, it is not merely that the proper theory of practical

¹ Of course this is exactly what my dissertation "On Loyalty" is. Chapter 3 of the thesis covers the consequentialist theories and is generally parallel to the discussion on Kant in Chapter 4 from which this writing sample is mostly drawn.

normativity should be able to legitimate the preference for the wife, but that even being concerned with justification at all is somehow illegitimate—“one thought too many.” My concern in what follows is to examine Kantian thinking about practical reason to see what a Kantian can say about situations like the one described here, in which particular attachments seem to obviate the very practice of moral deliberation.

I take for granted that the intuition itself is somehow significant. In other words, one possible response to these demands of special concern is to reject them outright, as mere irrational sentiment—irrelevant to our thinking about morality. While some philosophers may be tempted to take such a line,² given the strength of the intuition for many and the fact that it seems to bind us (at least superficially) in a manner similar to the way many feel bound by duty, at the very least it calls for explanation. These sorts of intuitions constitute a sufficiently striking part of our moral lives that they must be accounted for within any plausibly comprehensive moral psychology. Thus, to take them seriously is not to beg the question, because even a moral psychology which ultimately rejects the force of the intuition, to be tolerably complete, must still provide an argument for why they are to be rejected.

At this point I will turn to examining the case for a Kantian response to the *prima facie* challenge, as developed by Barbara Herman in her paper, “Agency, Attachment, and Difference” (Herman [1991]). It almost goes without saying that the issues in Kant exegesis alone, much less its application in these particulars, are so complicated as to demand much more comment than can be spared here. As such, I do not present Herman’s work as a comprehensive examination of the Kantian position. Rather, I consider her a particularly sophisticated modern

² See, for instance, Alasdair MacIntyre’s discussion in his review of the Williams’ book whence the long quote above comes (MacIntyre [1983], pp. 121-122). In it he refers to Godwin’s famous question: “What magic then in the pronoun ‘my’, that should justify us in overturning the decision of impartial truth?”

Kantian, whose work represents one of the most compelling attempts to respond to the challenge in an authentically Kantian manner. Thus, an examination of the way in which she construes these issues, while not exhausting the field of legitimately Kantian moves, will nonetheless give us real insight into the deep structure of the Kantian account and make possible an informed criticism of it.³

Herman

Herman explicitly addresses herself to the (potential) alienation felt by agents in response to the demands of a universalist (i.e. impartial) moral theory. Herman thinks that this kind of criticism—that Kant’s moral theory cannot adequately account for the demands of what she calls “attachment”—is predicated on a mistaken picture of the nature of practical deliberation. Thus, in place of the model she takes Kant’s critics to be using (the “plural interest model”), she offers an alternative (the “deliberative field model”), which she claims will make room for the demands of special concern within a picture of integrated, mature moral “agency.”

The demands of special concern often seem to be in conflict with the demands of *impartial* morality. This can lead an agent who cares about morality to feel internally split or conflicted, unable to respond to one set of demands without offending the other. Especially insofar as impartial morality demands that the agent give up relationships that are centrally important to her, this can become a burden that threatens to undermine her very commitment to morality. Herman claims that the picture of practical deliberation these concerns presuppose is the “plural interest model.”

³ Chapter Four of my dissertation (“Kant and ‘Kantian’ Approaches to the Demands of Special Concern”), in which I examine this question in more detail, is the longest of the thesis, in part because there are many complex issues in Kant interpretation that have to be addressed along the way. I direct the reader there for the more comprehensive discussion.

According to the first or plural interest model, where there is connection, there are those I care about, and the effect of my caring is to give their interests greater deliberative weight: for me. They matter more. And they matter more to me because I care about them. When I need to balance or weigh interests—should I do some good for my son or his friend—my son counts more...

On the plural interest model, when morality contends with attachments it forces one against the grain, attacking the immediacy of connection. It would be natural to feel hostile to or alienated from the requirements of morality if they in this way denied a deeply felt claim of partiality.... The problem arises when it looks like “over here” is what I most care about, what I want to happen (and cannot not want to happen), but “over there” is what impartial morality demands. There is then deep conflict and tension. And when impartial morality wins, it is not only at the expense of what I most care about, it provides no deliberative space even to acknowledge my concerns. (Herman [1991], 782-3)

In this model the realm of deliberation is a kind of empty space into which flow various demands—both the demands of special concern and the demands of impartial morality (and for that matter, demands of all sorts, from simple bodily desires to complex aesthetic ones, etc.). The purpose of deliberative reason is to weigh these various demands and arrive at a determination of the course of action that best agrees with what I care about most. On such a model, impartial morality might plausibly be assigned the highest weight; so if the demands of special concern were to conflict with the dictates of morality, then the inevitable result would be a feeling of alienation from one of my central concerns or a conflictedness before these irreconcilable forces.

According to Herman, the agent who reasons as this model describes suffers from a kind of fundamental immaturity. This immaturity lies in his failure to fold together the demands of both special concern and impartial morality into a fully human life informed by both. “Among the elements of a full moral theory we should find an account of how one is to integrate the requirements of morality into one’s life.” Accordingly, she offers a different model of practical reason—the “deliberative field model.”

According to this deliberative field model, the practical self does not have as its major task negotiating a settlement among independent competing claims. Insofar as one has interests and commitments, one is a (human) self. But a human life is not the resultant “bundle” of competing interests (among which is an interest in morality). One’s interest[s] are present on a deliberative field that contains everything that gives one reasons. Thus, in addition to interests and attachments, there are also grounds of obligation, principles of prudential rationality, and depending on the individual, a more or less complex conception of the Good. (784)

The key advantage of this model is that it allows for “the integration and transformation of the ends in light of one another, of one’s practical situation, and of one’s conception of place and importance understood through regulative principles—aesthetic, moral, prudential—one accepts” (785-6). This process of integration involves bringing the demands of special concern or attachment within a single deliberative field by “normalizing” them “to varying degrees to the principles of practical agency, both moral and nonmoral” (789).

This “normalization” is just the classically Kantian process of formulating maxims.⁴ The demands of special concern, or anything else, can only have a place within the sphere of practical reason—that is, can only appear within the scope of rational practical deliberation—once they have been processed into an intelligible form (i.e. embodied in maxims). The whole point of such maxims is to make explicit the agent’s means-ends reasoning by forcing him to articulate both his chosen ends or goals and how he intends to achieve them. For Kant agents *qua* agents are fundamentally reasoners (i.e. reason-givers). The centrality of maxim formation to rational practical deliberation makes this quite clear. As Herman says, desires “do not give reasons for action: they may explain why such and such

⁴ I have an extensive discussion of maxim formation in Chapter Four of my dissertation. The key idea for Kant is that we need to capture our mean-ends reasoning in a form that perspicuously connects the agent’s moral reasoning as (metaphysical) cause to his action as effect. Maxims typically have the form (as described by Rawls and some others): “I am to do X in circumstances C in order to bring about Y. (Here X is an action and Y a state of affairs)” (Rawls, 83). In a footnote in the *Groundwork*, Kant defines that a “maxim is the subjective principle of volition; the objective principle (i.e. that which would also serve subjectively as the practical principle for all rational beings if reason had complete control over the faculty of desire) is the practical *law*” (401).

is a reason for action, or even why something can be an effective reason for action, but the desire itself is not a reason. One can take the fact of a desire to be a reason, but that is just to hold that desire, or this desire, is good” (785).

The principle here holds that a desire itself, understood as something like a brute inclination, cannot enter into a rational agent’s practical deliberations. For the desire to become a motive—i.e. an explanation for acting—it must first be articulated in terms of a maxim. Thus my desire for coconut cream pie can only become a reason to get and eat one to the extent that I judge the satisfaction of that desire to be a good. In other words, desire by itself, as a mere psychological phenomenon, does not possess the right form to participate in the sphere of practical deliberation. Desires speak the wrong “language,” as it were, and so must first be “translated” into the language of reasons (i.e. couched in terms of a maxim) to enter into consideration within the deliberative field.

Practical reason, then, requires certain regulative “principles of practical agency” which, inform (i.e. determine the form of) the objects of deliberation. Herman’s description of a deliberative field is very much in the spirit of Kant, because she is seeking to describe the very structure of possible practical deliberation. She seeks, at the deepest level, to describe the “playing field” of practical reason itself and in so doing prescribe certain outcomes and proscribe others. The principles of practical agency are the rules of the game of practical deliberation. Any attempt to operate outside of them is simply to fail to play the game. Since the “game” itself is the practice of morality, to fail to play the game is *eo ipso* to be immoral.⁵

On this view, to insist, for example, that the demands of special concern could operate directly on the will—by-passing deliberation altogether—is

⁵ I hope the reader will indulge the metaphor. My use of ‘game’ and its cognates should not be taken as indicative of any lack of seriousness on my part, or lack of respect for Herman’s project. The success of the metaphor in getting across what I take to be a point of great seriousness is perforce left to the reader to judge.

analogous to allowing a spectator to run onto the field and knock a fly ball out of a fielder's glove. Such an event would not be a hit, because what constitutes a hit are not merely the physical events of the ball hitting the ground and the hitter reaching first, but that these events happen within the confines of the rules of baseball. To introduce elements outside the sphere of the game invalidates the result.⁶ In the same way, to introduce an outside, non-rational determination of the will (like a sufficient demand of special concern) that supercedes, or perhaps more accurately, *undermines* the process of rational deliberation is to invalidate the result as an example of moral agency (because it undermines the autonomy of the agent).

It is here that we have finally reached the root of the disagreement. Kant (and Herman, et al.) are claiming that the very structure of practical rationality places real restrictions on what can count as a *reason*. On this view, since practical rationality is constitutive of moral agency, these structural features are the inescapable conditions of moral action. Once we see this we are supposed to understand that the demands of special concern only have standing within deliberation to the extent that they are made conformal to the structure of reasons. This means that whatever real content they have will need to be formulated in the terms of maxims even to enter into consideration. And since the

⁶ Obviously, "outside" elements do not include things like the weather or the eccentricities of a ballpark which, by the rules of baseball, are part of the game. A spectator interfering with play on the field is clearly outside the rules, and so the "results" of such a play cannot actually be part of the game. What matters is the way in which the rules inform or "construct" the meaning of the physical events in this defined space at this particular time into a baseball game. In the same way the "rules" of practical deliberation "construct" what constitutes morality. The difference, of course, is that the rules of baseball are to a large degree arbitrary (in the sense that they could have been, and for that matter *have been*, different). On the other hand, the rules of morality, if Kant is correct, could not be otherwise than they are, because what counts as a valid (moral) deliberation is determined by the very structure of rationality, which prescribes the need for reasons and equal respect for all agents as instantiations of reason itself.

possible permutations of consistent maxims are constrained by the nature of practical reason, so the scope of possible *justified* action is constrained.

Appealing though this notion is,⁷ this conception of practical reason simply has no room for the point that Williams raises. Kant (according to Herman) has described the limits of the deliberative field by showing how practical reason requires its potential objects to be normalized within the formal structure of maxims. This approach, however, cannot capture the deep intuition to which Williams appeals in the case of the wife in peril, because it simply writes off the intuition without accounting for its *normative* power.

The point of Williams' example is not that the demand of special concern which motivates the man to save his wife can be justified or "integrated" within the deliberative field. The point of the example is precisely that deliberation is inappropriate in this case—it really is "one thought too many."

The disagreement between Kant's critics and defenders is very deep here, because the disagreement is a disagreement about the very nature of the will. For Kant, the will just *is* the faculty of practical reason. For Williams (and others like Harry Frankfurt), the will is in a sense more complicated, because practical reason is a *constituent* of, but not entirely *constitutive* of the will. Thus the structure of the will cannot be fully described in terms of practical reason alone. The movements of a reasonable will need not always be informed by maxims describing valid means-end reasoning; sometimes, in cases like being moved to save a beloved wife, the will itself will be directly determined by the centrality of "what we care about" most, those things which constitute the "ground projects" of our lives.

We ought to draw an important distinction here about the nature of justification in these sorts of cases. What we need to understand is that the kind of

⁷ I think this appeal, to which I am very sensitive, lies in the fact that Kant's theory apparently dangles before us the prospect of attaining complete moral knowledge by means of the sophisticated application of reason alone—the *most* sophisticated example of which is seen as the Kantian practice of the *critical* philosophy.

“justification” on offer here is necessarily external to the deliberations of practical reason. Indeed it is perhaps misleading to speak of *justification* at all, in these sorts of cases.⁸

As Kant points out and as Onora O’Neill in particular is keen to emphasize,⁹ the structure of reason itself constrains and informs the possibilities of deliberation. Accordingly, on a Kantian view, justification is necessarily limited to only those things that can be expressed in the theory’s own terms—i.e. in maxims. However, what Williams suggests is that there is a kind of determination of the will that bypasses, or more accurately *undercuts* the processes of deliberation. As more basic than rational deliberation, these determinations cannot be *justified* by means of such deliberation, precisely because they determine the ground of the will itself. This is not to say that they cannot be justified at all, but such a justification requires an altogether different sort of argument.¹⁰

When we turn our attention to a case like that of the man saving his wife we consider it not only after the fact, but more importantly in tranquility and divorced from the immediacy of the demand on his will that his love for her generates. In other words, the search for justification of the conventional sort is doomed to failure from the start, because the kind of “justification” I propose cannot be properly formulated from a *deliberative* perspective. The justification is nothing more than this: he could not have *willed* it otherwise. It is justified not because he introduced a maxim describing his means and ends into his

⁸ To see this, we need only consider the question: is some unalterable feature of human nature justified? The question seems almost nonsensical, analogous to asking whether our having four fingers (instead of three, say) is justified. Even if this were granted it would be a strange kind of “justification.” In Part II of my dissertation, I argue that to be fully human, we must possess the kind of will that directly expresses the values we try to classify as “demands of special concern.” Some of this argument is rehearsed below, but space considerations required heavy truncation.

⁹ See especially Chapter Three, “Reason and autonomy in *Grundlegung* III”, in O’Neill [1989].

¹⁰ In the concluding chapter of my dissertation I have more to say about the sort of justification required, but these sorts of questions actually constitute a separate project, one which I can imagine will be part of my next research program. As I suggest above, such a justification makes essential reference to a normative conception of human nature, like that underlying classical virtue ethics.

deliberative field and judged them consistent with the demands of the Categorical Imperative (i.e. at least permitted by reason itself), but because his will was already *determined* in this direction prior (conceptually as well as temporally) to his deliberating. In other words, some of the demands of special concern simply cannot be “normalized” as Herman would like, precisely because they operate outside the space of reasons, and thus outside the “principles of practical agency” *as she understands them*.

To better understand how this could be possible, we need to have a model of the will in place which will allow us to trace the distinction between deliberation (practical reason) and the determination of the will that results in volitional activity (of which practical deliberation is normally, but not always, a part). Therefore, I want now to examine just such a model, which has the resources necessary to capture the phenomena under examination, and so offers a compelling alternative to the presuppositions which drive Kant. Harry Frankfurt first developed this type of model in his rethinking of what constitutes freedom of the will, and has continued to chase out its implications in his more recent work on love.

Frankfurt and Volitional Necessity

Frankfurt originally developed his theory of the will in response to the question of how best to understand autonomy. The most characteristic aspect of the theory is his notion that the will must be understood hierarchically. There are (at least) two orders of desires—first-order desires with objects like food or drink (though these desires need not take bodily objects) and higher-order desires which take lower-order desires as their objects. A classic example: the desire for a cigarette is a first-order desire; the desire not to desire cigarettes (e.g. as part of a commitment to stop smoking) is a higher-order desire.

As he continued to develop this view, Frankfurt came increasingly to emphasize that higher-order desires are, at least in part, *constitutive* of the will itself. Agency expresses the internal structure of the will, manifesting in action the centrality of the agent's "core commitments"—that is, what he most "cares about." Frankfurt holds that autonomy itself lies essentially in having a will in which one is "wholeheartedly" committed to one's higher-order desires.

To support this Frankfurt offers an analysis of the relationship of freedom to necessity. Frankfurt is at pains to show how the contemporary "ideal of freedom," through which we are "fundamentally committed to encouraging a steady expansion of the range of options from which people can select" (Frankfurt [1999], 108), misses a vitally important fact about the relationship between freedom and necessity. Namely, "as the ideal of freedom is more closely approached, the progressive reduction of necessity tends to undermine that ideal; and it also tends to undermine the ideal of individuality. For it is true both of freedom and individuality that they *require* necessity" (109).

According to Frankfurt, this dependency is structural. It is only in virtue of a certain sort of necessity that an individual can exercise the faculty of choice so as to be an authentic expression of his will. The "extensive growth in the variety of a person's options may weaken his sense of his identity." The reason for this is simple: "without a definitive set of goals, preferences, or other principles of choice" a person's will lacks the kind of stability required for any given choice to be a genuine reflection of that will. His will itself will be in flux, and he "will be in a position to redesign his own will." However, if that happens no choice "will be fully or wholeheartedly his own" and as such he "is not volitionally equipped to make truly autonomous choices" (110).

The idea is that without a stable core of higher order commitments by which an agent organizes his lower order desires, identifying with (and attempting to gratify) some and rejecting others, there can be no truly autonomous volition.

Of course, the individual may still act, after a fashion, pursuing the objects of various desires as they come to the forefront of his psychic attention. However, in such a case his life lacks a long-term plan or organization. He becomes what Frankfurt earlier characterized as a “wanton,” buffeted by changing desires, driven from one object to another without an enduring (self-conscious) sense of self. The unity his life has is merely the unity of concatenation; he lacks *narrative* unity, the unity of a life lived in response to reflective commitments to principles and ideals that guide, organize (and so provide meaning to) that life.

Frankfurt’s key point is that autonomy does not consist merely in the absence of outside compulsion, nor is it strictly advanced by an expansion of options. Rather, autonomy consists in having a life organized around central volitional commitments, which themselves are not subject to easy change or alteration, and further that these commitments themselves partially constitute that will. These commitments—to persons, institutions, or more abstract ideals, etc.—provide the ground upon which real *choices*, as opposed to merely giving in to various inclinations or desires, can be advanced. “Unless a person makes choices within restrictions from which he cannot escape by merely choosing to do so, the notion of self-direction, of autonomy, cannot find a grip” (110).

This notion of “find[ing] a grip” is vitally important to understanding what is at stake here. For a will to be autonomous—the will of a morally responsible agent—it must itself be grounded in commitments which themselves are not subject to easy alteration. These commitments provide the core principles by which all the agent’s choices are made and managed, and as such represent the foundation for responsible agency itself. The agent is an agent only in virtue of these commitments, and his agency flows out of them. Without them he would cease to be the person he is, and would lose the very core of his personal individuality. *Pace* the Kantians, these commitments are not merely what reason requires; rather, they are what one most “cares about.”

Of course, this does not mean that an agent's core commitments are immutable and fully insulated from alteration. It is possible that in response to changing circumstances these commitments could grow or decline. If some of them were to weaken they might be overthrown by new commitments growing out of these changed circumstances. However, these changes will oftentimes be slow and tortured; they certainly will not proceed out of capriciousness or whimsy.¹¹ One thing is clear, however: these changes are not comprehensive; they do not normally throw the agent's *entire* psychic economy in disarray (though it is, perhaps, possible).

Now that we are in a position to recognize the structural importance of core volitional commitments to personhood, I want to examine an inescapable consequent of that structure—the phenomena that Frankfurt calls “volitional necessity.” This will help us to understand how volitional demands not arising from a universalist morality can nonetheless be normative.

Frankfurt introduces his discussion of volitional necessity with the example of a mother who has decided to give up her child for adoption. However, when “the moment arrives for actually giving up the child... she may find that she cannot go through with it—not because she has reconsidered the matter and changed her mind but because she simply cannot bring herself to give the child away” (111). What is happening here is that she is coming up against the “*limits of [her] will.*” What Frankfurt wants us to see is that it is not a question of belief or

¹¹ I may have given the impression that the controlling factor in such changes is temporal. Clearly this is not the case; although most such deep changes take time, it would be unwise to rule out the road to Damascus possibility. Oftentimes, the most profound deep alterations in our literature concern these sorts of religious conversions. This is of course a thicket into which it would be best not to delve too far, concerning as it does, for believers, the introduction of supernatural factors (e.g. Grace and/or Divine intervention). Nonetheless, whatever the ultimate causes of these types of conversions, it should be clear that the temporal results—the volitional reorganization—is itself not easy or painless. Even where a conversion, like St. Paul's, is temporally quick, according to the agent's own testimony, it represents a severe psychic trauma which upsets his entire way of life.

even desire—she has not changed in her belief that it would be better for her to give up the child, and perhaps she still desires (to some degree) to be free of him; rather, she cannot *will* the action. This limitation grows out of the structure of her will itself.

In this case, perhaps very much against her antenatal desires, she has come to love the child. The child's good has become for her a volitionally constitutive commitment. Thus, even though she may have the conscious belief that she ought to give up the child, she nonetheless finds herself volitionally incapable of doing so.

It is not the case that beliefs (conscious or not) are not in play here. As the will acts, it must necessarily act on and in light of beliefs about the world (and itself). Nonetheless, what this example shows is that her incapacity to give up the child is not the result of an all-things-considered prudential judgment. Indeed it is not a *judgment* at all—rather it is a volitional incapacity, in which the mother discovers something about herself (namely, that she loves the child).

Frankfurt says this incapacity is experienced by her “less as a defeat than as a liberation.” Although what we might call her “better judgment” is defeated by her volitional inability to carry through its conclusions, nonetheless this incapacity is not an external imposition, but rather the means by which she comes to understand something important about herself. It is liberating precisely because it gives her real knowledge about what matters to her of which she was formerly unaware. It is not a defeat because it proceeds from her will itself—it is her true self breaking through, as it were.¹² Frankfurt's key conclusion is simple: for a

¹² It is here again we recognize a key mistake in Kantian ethics—the supposition that practical reason and the will are identical. It was Kant's contention that the *pure* (i.e. fully moral) will collapses into practical reason. That is, there is no distinction between a fully moral pure will and a will determined by reason—practical deliberation in accord with the Categorical Imperative—alone. What Frankfurt's point about volitional necessity suggests is that this is impossible because real human wills are partially constituted by their deep commitments. I have a more extensive discussion of this feature of Kant's ethics in Chapter Four of my dissertation.

person in a situation like this woman's, this kind of "necessity is unequivocally constitutive of his nature or essence as a volitional being" (113).

Recognizing the phenomenon of volitional necessity is vital for understanding the true nature of agency. We should now be in a position to see that the demands of special concern are in many cases precisely a species of volitional necessity. The agent feels the deepest demands of special concern in virtue of the very structure of her will. These loyalties rise up within the agent herself; they are not external impositions, but internal imperatives rising from her integration of her care for them into her very volitional nature. This is true *autonomy*, because her actions issue from the very deepest commitments of her will—from what makes her *who* she essentially is as an agent.

To understand loyalty fully requires us to appreciate what is happening in cases like these. It is certainly not the case that all loyalties, all demands of special concern, will rise to the level of a volitional necessity. Nevertheless, it is important that we be aware that this is the limit, the edge of the scale, and the nature of the deepest commitments in human life.

It is particularly important that we see that the presence of such volitional necessities constrain and inform the very possibility of rational deliberation. They represent the limits to which deliberation can come, but cannot press over. Before a real, conclusive demand of special concern the will stands bound, and no decision or choice can overcome its internal determination. The only way in which it can be moved off of this course is for the agent to cease to love the object of that concern, and that is not within the bounds of rational choice. As Frankfurt notes, we "cannot help loving what we love, nor can we make ourselves love by a mere act of will" (114).¹³

¹³ Frankfurt continues: "The value of loving for us derives, precisely, at least in part, from the very fact that whether we love is not up to us. The importance of loving would be lost if we could love something or cease to love it merely by deciding to do so. The self-fulfillment and freedom that love provides depend upon the very necessity that love entails."

If I were able to reconstruct the nature of my will by merely choosing to do so, then my will would lack the stability necessary to make any particular configuration authentically mine. Unless there is some enduring ground from which my choices proceed, as accurate reflections of what *I* care about, then the choices are nothing more than whimsy—they are not *choices* at all. For a choice to be a real choice, it must proceed from principles of choosing or reflect values which themselves are, to some degree, fixed. Otherwise, “choices” are little better than passing fancies and fail to manifest anything significant about the will and character of the chooser.

When we concentrate on the nature of what we care about most—our families, our selves, the truth—I think it becomes apparent that there really is very little choice involved. I never made a choice to love my mother. This is not to say that a mature agent cannot repudiate any or all of these commitments; in fact, many have. It is a mistake, however, to think that because something can be repudiated by choice, it must have been originally accepted by choice.

I can choose to repudiate the color of my hair. I can choose to dye it blond, or red, or purple. But the fact that I can make that choice obviously does nothing to show that I chose for my hair to be black, or, for that matter, even assented to that fact. In the case of hair color this lack of choice may be unimportant. In the case of what I discover about my will, it clearly is not.

Obviously, there are considerable differences between a physical property of my body and the constitution of my will. Nonetheless, something can properly be said to be mine without my having chosen it. Further, the point of similarity is deeper than it might at first appear. We are so used to thinking that the will simply *is* the faculty of choice, that we tend to use ‘will’ and its cognates almost interchangeably with ‘choose’ and its cognates. Thus we have expressions like “willing accomplice” or being forced to do something “against my will.” These colloquialisms notwithstanding, it should be clear that Frankfurt’s use of ‘will’ as a

term of art is meant to make a clear distinction between the faculty of choice and the will.¹⁴

We exercise practical reason through the faculty of choice. It has been the habit of moral philosophers to concentrate almost entirely on the exercise of practical reasoning, and accordingly they have tended to see practical reasoning as the whole story of practical normativity. Consequently, cases in which the will is determined not by practical reason, but by love, have been left under-explored.

As above, when Herman talks of the deliberative field model and the need to “normalize” one’s “interests” into reasons, she is implicitly following Kant’s thought that truly autonomous action is fully reason-guided. Similarly, when Scanlon begins *What We Owe to Each Other* with the assertion that he takes “the idea of a reason as primitive” (Scanlon [1998], 17), he is also asserting the primacy of practical reasoning within the sphere of practical normativity. For these philosophers, the question of what we should do can be settled (in principle, if not always in fact) by an appeal to the available reasons. While they would certainly acknowledge the presence of powerful desires that affect how an agent actually *does* act (even at times preventing him from acting as he would rationally choose to do without those desires), it seems as if they are not sensitive to the degree to which the field of an agent’s possible activity is pre-determined by the higher-order commitments he has. Further, in supposing that reasons (and thus reasoning) are basic to practical normativity, they fail to appreciate the degree to which our actions are determined by volitional structures lacking any kind of independently rational basis. Those structures are what they are simply because we love what we love.

¹⁴ The Stoics’ idea of freedom—that my will can never be dominated except insofar as I allow it—shows the ambiguity of the notion of being forced to do something against my will. In fact, I cannot do something against my will. I can be forced to make choices I don’t want to make, or act in a manner I would not have chosen otherwise, but this is rather different from actually acting something *against* my will.

The role these philosophers assign to desire in their moral psychologies is very revealing. For somebody like Herman, a desire is important (i.e. can enter into the deliberations of practical reason) only as the object of a judgment—namely, the judgment that fulfilling that desire is good. Recall that she holds that desires “do not give reasons for action... One can take the fact of a desire to be a reason, but that is just to hold that desire, or this desire, is good” (Herman [1991], 785). This is, indeed, what we would expect from her. Her concern does not extend beyond reasons, thus it is very natural that for a desire to play any role whatsoever in her moral psychology it would have to be “normalized” in this way and then integrated into the all-encompassing deliberation of practical reason.

Implicitly, however, this approach ends up representing action as proceeding merely from practical reason. For Herman, all that matters is *deliberation*—i.e. practical reasoning. When she addresses herself to the challenge that deep seated attachments represent to impartial morality, she sees this challenge entirely through the lens of practical rationality. These deep seated attachments make themselves felt as (possibly mistaken) reason-giving judgments (i.e. that this desire is good) within the “deliberative field.” The key thing to see, however, is that her deliberative field (or the “space of moral reasons,” or whatever metaphor one might choose) presupposes the primacy of reasons and reason-giving. Attachments—the demands of special concern—matter only insofar as they generate reasons through judgments that they are good.

For Herman, in a healthy moral agent the “field” itself is flat. All psychic demands (be they the demands of impartial morality or of special concern) enter the field through the normalization process—that is, they are or become reasons. These demands play themselves out on that field according to the “rules” of the game—what she calls “the principles of practical agency, both moral and nonmoral.” These rules define the game by defining the “players”—through

reasons-yielding judgments, which are in turn defined by principles (explicit or not) that describe what can count as a well-formed reason. The ultimate goal of the moral theorist, on this model, is to describe these rules, and so ultimately define the game and the “victory” conditions.

This fails to account for the fact that the deepest attachments of human life, the demands of special concern that flow out of volitionally constitutive core commitments, do not enter into the deliberative field as legitimate players (i.e. as reasons). Instead, they tilt the field itself. They are not deliberated upon; there is no judgment that they are good. They do not give reasons. Rather by shaping the will directly (i.e. tilting the field) they prescribe the very limits within which practical reason can operate. Far from being normalized by the principles of practical agency, they can prescribe the very scope of those principles, by setting the limits within which deliberation can take place. They do not give reasons at all, but define the horizons within which reasons can matter. In other words, their presence in human life defies the notion that reasons are always basic.¹⁵

Heteronomy

Of course, Kant (and Herman) would respond to my claims about volitional necessity by observing that even if this is how the demands of special concern work upon the will, any agent whose will is determined according to these demands merely suffers from heteronomy of the will. According to Kant in the *Groundwork*, the will is heteronomous when it “does not give itself the law, but [its] object does so because of its relation to the will” (441).

¹⁵ This does not mean that we cannot deliberate about such commitments, for instance about what they require and how they fit together with other deep commitments we might also have (to justice, for example). However, this does mean that such deliberations are constrained by the shape of the will. There are simply certain commitments an agent cannot give up without ceasing to be the agent he is, and so he is not free to make certain choices which would offend against those constitutive commitments.

However, the obvious question is how seriously we should take Kant's notion that autonomy consists in the abstraction from every "interest not belonging to" the will such that it "show its own commanding authority as the supreme legislation" (441). Specifically, do we not have reason to think that Kant is begging a very important question by assuming that the demands of special concern do not truly *belong* to the will? In other words, to make sense of Kant's understanding of autonomy, we have to accept that the will merely *is* practical rationality itself.

For Kant, the demands of special concern, arising from an attachment or loyalty, seem to be properties of their various objects rather than properties of the subject (the agent). As he apparently conceived of them, these demands act *upon* the will, from outside of it. To understand his distinction between heteronomy and autonomy, there must be a clear difference between what is internal and what is external to the will, and the demands of special concern must fall outside of it.

I think that much of the intuitive pull of the Kantian notion of autonomy lies in the strong connection between moral responsibility and choice. When we are acted upon by very strong passions it is as if the faculty of choosing is so substantially undermined as to mitigate moral responsibility itself.¹⁶ In order to make sense of this mitigation of responsibility, however, we have to understand these kinds of passions as external to our real selves—our free moral agency.

Even if this is the case with passions like consuming anger, however, it is not at all clear that it is appropriate to consider the demands of special concern in this way. Structurally speaking, the demands of special concern are not "objects" that act upon the will. They do not act *upon* the will from outside of it, but are expressions *of* the will itself. The deepest demands of special concern manifest themselves as volitional necessities, and so proceed from and reflect the internal

¹⁶ Thus, we have the intuition that a "crime of passion" is somehow less blameworthy than a premeditated one. This is of course the moral underpinning of the diminished capacity defense, etc., but this topic is sufficiently convoluted as to be well beyond the scope of our present discussion.

structure of the will. This follows from the fact that the will itself is partially constituted by the higher-order desires which inform these volitional necessities.

Thus, the demands of special concern do not threaten autonomy, because they are not “objects” of the will at all, but rather products of it. They cannot threaten the will’s freedom, because they themselves are the ineluctable consequence of having a human-shaped will at all, expressing the agent’s central volitional commitments, which are themselves (partially) constitutive of that very will.

As we saw above, it is a mistake to conceive of the free will as a will completely unencumbered by volitional commitments. For a choice to constitute a real choice—an expression of the volition of an agent—it must reflect that agent’s deepest commitments. In other words, moral choice—a choice legitimately subject to praise or blame—must be the expression of a stable will, a will constituted by commitments to what the agent loves. Otherwise, the “choice” will either be arbitrary or impersonal.

Autonomy conceived of as Kant conceived of it is radically impersonal. The execution of the demands of the Moral Law done out of a respect for that law (i.e. the only morally praiseworthy actions according to Kant) must necessarily be what any other rational agent should do in the same choice situation. The Kantian metaphor of the “Kingdom of Ends” captures this perfectly—in correctly giving himself the law, every agent also gives the same law to all other relevantly similar agents as well. Nothing signifies the essential uniqueness of any given agent, because *qua* moral agent, all agents are interchangeable.

On the hierarchical model of the will, however, autonomy is not conceived of in terms of what all moral agents fully share,¹⁷ but is precisely the expression of

¹⁷ For Kant, all moral agents, in order to be moral agents, must fully share the formal capacity for practical reason. They obviously do not all have to have the same actual capacity. Furthermore, differences in the situations in which that rationality plays itself out may generate certain differences between significantly different classes of moral agents. In the famous fourth example of

what makes each of them unique. The demands of special concern thus do not undermine the agent's autonomy, but are an expression of part of what fundamentally grounds it. The confusion could only arise because Kant and his defenders beg the essential question of the relationship of practical reason to the will. The Kantians set up the question in such a way as to presuppose that autonomy proceeds entirely from the exercise of practical reason, and in so doing, they presuppose a moral psychology that does terminal violence to some of our strongest intuitions regarding the importance of attachment, loyalty, and love.

Ultimately the strong intuitions that underlie our valuing of autonomy and devaluing of heteronomy are a reflection of the fact that for an agent's choices to be free, they must be his *own* choices, and not externally compelled. The agent must "give himself" the volition. The mistake in the Kantian picture lies in the undefended (and indefensible) presupposition that only pure reason itself authentically belongs to the agent. I have argued instead that when acting on the deepest demands of special concern, which reflect the internal structure of his own will, the agent's acts are as fully authentic as any acts can be. To act through a volitional necessity is to make manifest the deepest structure of the will; this is indeed the purest expression of what makes the agent the agent he is. Nothing, especially not acting from mere respect for the Moral Law, could be more authentic, more *self* governing.

non-beneficence (in the *Groundwork*), contingent facts like our corporeality in fragile bodies have important consequences for understanding our moral duties, which may not affect other rational moral agents differently circumstanced (e.g. unembodied rational intelligences). See Herman's discussion in "Mutual Aid and Respect for Persons" (Herman [1993]).

Conclusion

The demands of special concern, which arise from the deepest loyalties in human life, present a significant problem for our universalist moral theories in general, and Kant's normative ethics in particular. I have argued that the considerable resources available in his moral outlook, even as marshaled by such sophisticated defenders as Barbara Herman, are inadequate to the challenge. In trying to derive morality from practical reason itself, Kant leaves behind the very structures of the will that make us most authentically human. In presupposing that the only truly normative aspect of the will is to be found in reason, Kant's theory threatens to undermine genuine agency itself.

The model of the will developed by Frankfurt has the considerable advantage of accounting for how the demands of special concern can be genuinely normative,¹⁸ without being the product of a commitment to a universalist morality. However, this does not mean that impartiality in ethics must be abandoned altogether—far from it. Though it is well beyond the scope of this paper to examine the issue, our commitment to moral demands of impartiality in certain important situations is fully compatible with the view on offer here. Indeed, a moral epistemology may be in many fundamental respects universalist, even if the ground of volitional agency itself cannot be.

Nor does it mean that we are utterly passive before the demands of special concern. Even though, for reasons outlined above, they cannot be altered by simple choice, our volitionally constitutive commitments can nonetheless be subjected to rational examination. It is certainly true, in any case, that they naturally evolve over time, as we come to love new objects and old objects fall

¹⁸ Frankfurt himself goes so far as to say that his “own view is that we act morally when we are moved by love for a certain kind of world or a certain kind of life” (Buss and Overton [2002], 277). In other words, the normativity underlying the actual determination of an agent's will, even when he self-consciously acts in accordance with a universalist morality, nonetheless proceeds out of volitional commitment—his love for “a certain kind of world or a certain kind of life.”

away. In fact, it is only in the most extreme cases that volitional necessities arise at all. So we may remain content to structure the greatest part of our moral lives around practical considerations that do not impact our wills at the deepest level, including a commitment to impartiality in most cases.

At the start I adverted to the fact that I planned to adopt an asymmetrical argumentative strategy. I hope what I meant by that is now clear. I have not offered a complete rival moral theory to Kant's, nor was that my intention. Instead, I have offered a series of what I hope are compelling complaints against the very foundations of the Kantian system. My complaints are motivated by intuitions about particular commitments like loyalties which I think cannot be ignored. I hope it is now clear is that there is no superficial modification of the Kantian system that would accommodate these complaints, because they strike at the core of Kant's understanding of agency itself.

The values which underlie the demands of special concern simply are not recognized by the universalist moralities for what they are—genuine normatively significant expressions of the will. They are dismissed as heteronomous, mere unjustified desire. As we have seen, however, these values are not only real, but the very ground of authentic volition. In the last determination, when the deepest loyalties of human life come into play—when a beloved wife is trapped or a beloved community is under attack—then the *fully* human agent's actions will not reflect a calculation of the requirements of a universalist morality, but rather express his deepest character and manifest the very structure of his will itself.

Bibliography:

- Buss, Sarah and Overton, Lee, editors. *Contours of Agency: Essays on Themes from Harry Frankfurt*. (Cambridge, MA: MIT Press, 2002).
in which, especially (including Frankfurt's replies):
Herman, Barbara. "Bootstrapping" (pp. 253-278).
Lear, Jonathan. "Love's Authority" (pp. 279-298).
Scanlon, T. M. "Reasons and Passions" (pp. 165-188).
Watson, Gary. "Volitional Necessities" (pp. 129-164).
- Frankfurt, Harry. *The Importance of What We Care About: Philosophical Essays*. (Cambridge: Cambridge UP, 1988).
in which, especially:
"Freedom of the will and the concept of a person" (pp. 11-25).
"The importance of what we care about" (pp. 80-94).
"Identification and wholeheartedness" (pp. 159-176).
_____. "Duty and Love" in *Philosophical Explorations*, Nr. 1, January 1998, pp.4-9.
_____. *Necessity, Volition, and Love*. (Cambridge: Cambridge UP, 1999).
in which, especially:
"On the Usefulness of Final Ends" (pp. 82-94).
"On the Necessity of Ideals" (pp. 108-116).
"Autonomy, Necessity, and Love" (pp. 129-141).
"On Caring" (pp. 155-180).
_____. "The Dear Self" in *Philosophers' Imprint*, Vol. 1: No. 1, Jan. 2001, pp. 1-14.
_____. "Some Mysteries of Love," the 2001 Lindley Lecture at The University of Kansas.
- Friedman, Marilyn. "The Practice of Partiality" in *Ethics*, Vol. 101: Issue 4 (Jul. 1991), pp. 818-835.
- Herman, Barbara. "Agency, Attachment, and Difference" in *Ethics*, Vol. 101: Issue 4 (Jul. 1991), pp. 775-797.
_____. *The Practice of Moral Judgment*. (Cambridge, MA: Harvard UP, 1993).
in which, especially:
"Mutual Aid and Respect for Persons" (pp. 45-72).
- Kant, Immanuel. *Critique of Practical Reason*. Translated by Lewis White Beck. (New York: Macmillan, 1993).
_____. *Critique of Pure Reason*. Translated by Paul Guyer and Alan Wood. (Cambridge: Cambridge UP, 1998).
_____. *Groundwork of the Metaphysics of Morals*, 3rd ed. Translated by James W. Ellington. (Indianapolis: Hackett Pub., 1981).
_____. *Metaphysics of Morals*. Translated and edited by Mary Gregor. (Cambridge: Cambridge UP, 1996).
_____. *Political Writings*. Edited by Hans Reiss, trans. H. B. Nisbet. (Cambridge:

- Cambridge UP, 1970).
in which, especially:
 “Idea for a Universal History with a Cosmopolitan Purpose” (pp. 41-53).
- MacIntyre, Alasdair. *After Virtue: A Study in Moral Theory*, 2nd ed. (Notre Dame, IN: Notre Dame UP, 1984).
 _____. “The Magic in the Pronoun ‘My’” in *Ethics*, Vol. 94: Issue 1 (Oct. 1983), pp. 113-125.
- O’Neill, Onora. *Constructions of Reason*. (Cambridge: Cambridge UP, 1989).
- Rawls, John. “Themes in Kant’s Moral Philosophy” in *Kant’s Transcendental Deductions*, ed. Eckart Förster (Stanford, CA: Stanford UP, 1989), pp. 81-113.
- Scanlon, T. M. *What We Owe to Each Other*. (Cambridge, MA: Harvard UP, 1998).
- Smart, J.J.C. and Williams, Bernard. *Utilitarianism For & Against*. (Cambridge: Cambridge UP, 1973).
- Stocker, Michael. “The Schizophrenia of Modern Ethical Theories” in *The Journal of Philosophy*, Vol. 73: Issue 14 (1976), pp. 453-466.
- Williams, Bernard. *Ethics and the Limits of Philosophy*. (Cambridge, MA: Harvard UP, 1985).
 _____. *Making Sense of Humanity*. (Cambridge: Cambridge UP, 1995).
 _____. *Moral Luck*. (Cambridge: Cambridge UP, 1982).
in which, especially:
 “Persons, Character, and Morality” (pp. 1-18).
- Wood, Allen W. *Kant’s Ethical Thought*. (Cambridge: Cambridge UP, 1999).