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Rawls on Kant

Is Rawls a Kantian or Kant a Rawlsian?

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ABSTRACT: This article will investigate Rawls's claim that his theory is Kantian in origin. In drawing on the *Lectures on the History of Moral Philosophy*, I will show that Rawls's claim to be Kantian cannot be conclusively explained and assessed without the *Lectures*. An investigation of the *Lectures* shows that Rawls forces onto Kant's theory a Rawlsian interpretation which crucially alters Kant's theory. So far the secondary literature has neglected to subject Rawls's *Lectures* to detailed philosophical scrutiny. This article aims to fill this gap in the literature on Rawls's Kantianism. I will identify three points in Rawls's interpretation of Kant (need for CI-procedure, willing condition, true human needs) which are questionable. I argue that the similarities of Rawls's theory to Kant are due to these (mis)interpretations, which makes Rawls's claim to be Kantian ultimately not legitimate.

KEY WORDS: *categorical imperative, Kant, Kantian interpretation, original position, Rawls, Theory of Justice*

Ever since Rawls's claim to a Kantian interpretation of justice as fairness in *A Theory of Justice* it has been highly debated whether his theory can be called Kantian or not.¹ In calling his theory Kantian Rawls understood the adjective 'Kantian' to indicate 'analogy, not identity, that is resemblance in enough fundamental respects so that the adjective is appropriate'.² So although we can legitimately expect differences to Kant's own theory, we should also be able to detect fundamental resemblances in key aspects.

Since the adjective Kantian leaves considerable leeway for interpretation, the debate regarding Rawls's Kantianism has not yet come to a conclusion. However, within the Kant–Rawls debate Rawls's *Lectures on the History of Moral Philosophy* (hereafter referred to as *Lectures*) have received surprisingly little attention and philosophical scrutiny. The *Lectures* contain an extensive and detailed interpretation of Kant's practical philosophy and therefore are a crucial reference point if one wants to examine to what extent Rawls's theory is Kantian. I shall therefore in the following provide a close analysis of the *Lectures* to conclude that Rawls's specific interpretation can shed light on why Rawls calls his own theory Kantian,

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as his procedural interpretation of the categorical imperative resembles the original position procedure. However, I shall argue that this similarity is due to a fundamental misinterpretation of Kant on three points: (a) the need for a CI-procedure, (b) the willing condition, (c) true human needs. Crucially it is these misinterpretations which lead Rawls to an explication of the categorical imperative which makes it look very similar to the original position. I shall further argue that it is the rejection of key Kantian elements like apriority and formality and their substitution through (empirical) elements of his own theory which informs Rawls's specific interpretation of Kant. However, as the key elements that Rawls rejects are fundamental to Kant's moral theory and the explanation of the objective normative force of moral principles and the Rawlsian substitutes empirical and therefore conditional in nature, Rawls's claim to be Kantian cannot be sustained. This analysis of Rawls's interpretation of Kant can in turn also shed light upon Rawls's own attempt to explain and ground the normative force of moral and political principles.

Rawls's Interpretation of Kant's Categorical Imperative

Rawls maintains in the *Lectures* that he begins his interpretation:

... with how Kant thinks of the moral law, the categorical imperative, and the procedure by which that imperative is applied to us as human beings situated in our social world. This last I call the categorical imperative procedure or the CI-procedure.³

Rawls makes explicit that the moral law, the categorical imperative and the CI-procedure are three different things. However, while his distinction between the moral law, applying to all reasonable and rational beings, and the categorical imperative, applying to all reasonable beings who experience the moral law as a constraint, is quite conventional and clear, Rawls's definition and reasoning for the need of the CI-procedure is more surprising. He says that for:

... the categorical imperative to be applied to our situation, it must be adapted to our circumstances in the order of nature. This adaptation is made by the CI-procedure as it takes into account the normal conditions of human life by means of the law of nature formulation.⁴

Rawls then goes on to set out the CI-procedure in four steps, which consist of, first, a particular imperative, second, a generalized maxim, third, the transformed general maxim into a law of nature and, fourth, the addition of this potential law of nature to the existing laws of nature and the effect of this so 'adjusted social world'.⁵

Rawls then goes through two of Kant's examples in the *Groundwork* of applying the categorical imperative to a maxim, now applying his CI-procedure. In the case of the deceitful promise, Rawls interprets the law of nature condition to imply that it would be as a 'law of nature' public knowledge that everyone is to make a false promise.⁶ He deduces a 'publicity condition' for universal moral precepts. When

Rawls applies the CI-procedure to the maxim of indifference, he encounters a problem. Rawls interprets Kant's assumption that we cannot will a maxim of indifference as meaning that it would be *irrational* to will such a social world. Rawls interprets the 'willing' condition as one of rational⁷ 'wanting', and sees a difficulty emerge with Kant's reasoning, in that it would reject any maxim of mutual aid. The reason Rawls has for assuming this is that any precept of mutual aid would require us to help others in situations where it might be inconvenient for us to help and we therefore would not want to help. In that case a maxim of mutual aid would contradict 'our will'.⁸ Because of this Rawls thinks that the CI-procedure 'as Kant states it' calls for some revision.

This revision contains two things, which Rawls thinks can preserve Kant's main and essential spirit and thought (although admittedly adding something to it⁹). Rawls thinks that we first must give more content to the will of the agents by determining the wants and priorities of the agents, and that we secondly must specify an appropriate point of view to assess social worlds.¹⁰ Rawls solves the 'problem' of the appropriate point of view by imposing two limits on information when we decide if we can will a social world, namely ignorance about particular features of persons and the content of their final ends, and ignorance about our future place in the world.¹¹ Rawls's solution to give sufficient content to the will of the agent is to develop a conception of 'true human needs', a phrase which Kant uses several times in the *Metaphysics of Morals*, which Rawls interprets as Kant conveying to us that we 'have certain true human needs, certain requisite conditions, the fulfilment of which is necessary if human beings are to enjoy their lives. It is a duty to ourselves to try to secure these needs . . .'¹²

After introducing 'true human needs', the problem of 'choice' (or willing) between adjusted social worlds has a definite solution. We can only will a social world associated with a precept of mutual aid, because 'only that world *guarantees* the fulfilment of our true human needs, to the securing of which a rational, prudent being gives priority'.¹³ Rawls goes on to say that we should suppose that we have such needs as part of the CI-procedure, and that they are roughly the same for everyone. This revised CI-procedure makes explicit that we 'understand that any general precept will restrict our actions as moved by our desires on some and perhaps many occasions'.¹⁴ Rawls therefore thinks we have to compare the consequences of willing alternative worlds, taking into consideration the effect on our true human needs. Thus we require according to Rawls an account of such needs. Rawls thinks that Kant holds:

. . . that we have 'true human needs' (or basic needs) not only for food, drink, and rest, but also for education and culture, as well as for various conditions essential for the development and exercise of our moral sensibility and conscience, and for the powers of reason, thought, and judgment.¹⁵

The categorical imperative, then, takes on Rawls's interpretation the following shape. It seems that we (or 'the agents') find ourselves with a hypothetical imperative (rational maxim), in a situation in which we have to decide if this maxim could

serve as a law (of nature), in an (adjusted) social world. In assessing this we are subject to the constraints of two limits of information, which remove all the particular information through which we could prefer a social world that would be tailored to our advantage. But as we have to decide which social world we 'rationally want', we must be able to base our decision on something. Here we know that we have some true human (or basic) needs, and can assess the consequences that our maxim has as a law (of nature) in the social world for our true human needs. And as our true human needs have priority we would choose only that social world that preserves or advances them best. While so legislating for a realm of ends (adjusted social world containing all permissible maxims), we mutually recognize each other as rational and reasonable and can rely on a background of common-sense beliefs and knowledge about the world, which is public and mutually shared.

Rawls claims for his theory of justice Kantian origins and especially states in *A Theory of Justice* that the principles of justice and the original position can be given a Kantian interpretation. However, while Rawls at this place says that he does 'not wish to argue here for this interpretation on the basis of Kant's text',¹⁶ we can see now how his interpretation of Kant's categorical imperative shows strong similarities to Rawls's account of the original position. However the question still remains as to whether he is justified in calling his original position a procedural representation of the categorical imperative. All that has been demonstrated is the reason why Rawls maintained that the original position is an interpretation of Kant's categorical imperative. Rawls, however, is mistaken in his interpretation at three crucial points, to which I will turn in the next section.

Critique of Rawls's Interpretation

(a) Need for the CI-Procedure

From the very beginning of the *Lectures*, Rawls is adamant that we cannot apply the categorical imperative to ourselves directly in the actual world, but must adapt the categorical imperative for the circumstances in which we as beings in the world find ourselves.¹⁷ He then develops the CI-procedure with all its specifications and tells us that, although it might not be the categorical imperative itself, it is the most usable expression we have.¹⁸ Both statements are nowhere really justified. Rawls gives us no explanation why the CI-procedure is the most usable expression of the categorical imperative. There is, for example, no comparison with other possible formulations that would highlight why the CI-procedure is preferable above all others. Rawls's initial statement that it is impossible to apply the categorical imperative directly 'to us as human beings situated in our social world'¹⁹ also comes out of nowhere, and he treats the statement in a 'matter of fact' way, giving us no clue as to how he came to such a conclusion. This is especially surprising as Kant arrived at the formula of the categorical imperative

by deducing it from ordinary reasoning about a good will and the concept of duty in the first section of the *Groundwork*. One would think that the fact that the imperative is a concept that conveys constraint because it is applied to beings to whom pure practical reason is not automatically authoritative, but who can also be influenced by inclinations, would show that Kant meant the concept exactly to apply to us as human beings. Kant also calls on us always to use the strict method of the categorical imperative as the basis for moral evaluation if we want to be on the safe side.²⁰ Such thoughts must leave us puzzled how Rawls could with such certainty proclaim that the categorical imperative cannot be used to apply the requirements of moral law to us.

We might, however, be able to detect Rawls's reasons for not using the categorical imperative by looking at the reasons he gives for adopting the categorical imperative formulated as a law of nature. Rawls seems to think that because we are 'finite beings with needs'²¹ or 'human beings situated in our social world',²² we need to interpret the categorical imperative in terms of the law of nature formula through the CI-procedure so that it can be finally 'adopted to our circumstances in the order of nature' through which it also takes into account 'the normal conditions of life'.²³ What we might interpret from these remarks is that as the categorical imperative is perhaps too formal and abstract it cannot account for our real life experience. This real life experience is characterized through our 'needs', our 'social world' and the 'normal conditions of human life'. Rawls seems to think that the law of nature formulation can take all these features into account and mediate between the categorical imperative and 'us' in the world. The thought might be that the formulation 'act as if the maxim of your action were to become by your will a universal law of nature'²⁴ asks us to imagine the maxim as a law in our real world. How would it be if we, knowing about the world what we know now, taking into account our needs and desires, were to apply this maxim as a law of our social world? This interpretation might be natural enough, but if we look at Kant's introduction of the law of nature, this interpretation does not seem entirely plausible. In the *Groundwork* Kant says, after stating the categorical imperative:

Since the universality of law in accordance with which effects take place constitutes what is properly called *nature* in the most general sense (as regards its form) – that is, the existence of things insofar as it is determined in accordance with universal laws – the universal imperative of duty can also go as follows: *act as if the maxim of your action were to become by your will a universal law of nature*.²⁵

What is clear is that Kant speaks here of nature in the most general sense, intending to draw an analogy from the formal aspect of nature (i.e. the lawfulness) to the nature of a will governed by the categorical imperative. Kant thought of this not as a different aspect of the categorical imperative (one that could mediate between the strictness of the categorical imperative and our will as natural beings), but just as an alternative expression, conveying the same intention, the absolutely necessitating universality of a maxim which one wants to hold as a law. If I am to think

of my maxim as capable of becoming universal law I am to think of it in analogy to a universal law of nature in a formal sense, such as a law of physics. This analogy, I think, is there to make clear the unconditionality and necessity we have to think of as adjoined to our maxim. In the same way as we cannot exempt ourselves from the laws of physics – for whatever (good) reason – we have to think of our maxim as also unconditionally valid for everyone if the maxim is to pass the test of the categorical imperative.

How such a definition of nature, or more specifically the aspect of ‘nature’ Kant uses and intends for his analogy of the law of nature formula, makes it much easier or possible in the first place to apply the categorical imperative to our ‘social world’ and our everyday existence is doubtful, as ‘our’ more complex, more circumstanced social world may not express ‘the universality of law in accordance with which effects take place’, which Kant thought the term nature expressed. The need and necessity to interpret the categorical imperative through the CI-procedure is therefore not fully justified.

(b) The ‘Willing Condition’

Let me now turn to Rawls’s treatment of the ‘willing condition’, which refers to Kant’s requirement that not only must a maxim be able to be thought without contradiction to become a universal law, but that we also ‘must *be able to will* that a maxim of our action become a universal law’.²⁶ Rawls investigates this willing condition in his interpretation of Kant’s maxim of indifference (the fourth example in the *Groundwork*).²⁷ Rawls comes to the conclusion that Kant’s verdict, that a maxim of indifference would be a contradiction of the will, is grounded on the idea that it would be irrational to will a world in which everyone is deaf to our appeals for help.²⁸ Rawls thinks this leads to an immediate difficulty: it seems that the very same reasoning would lead to a rejection of any precept of mutual aid to become a universal law:

[A]ny such precept [of mutual aid] will sometimes enjoin us to help others when they are in need. But situations may arise in any associated adjusted social world in which we very much want not to help others. . . . Our circumstances may be such that doing so is extremely inconvenient, given our current plans. Once again, by a law originating from our own will, we would have prevented ourselves from doing what we very much want.²⁹

Furthermore: ‘in any adjusted social world, all moral precepts will oppose our settled intentions and plans and natural desires on at least some occasion; in those cases they will be contrary to our will’.³⁰

Rawls’s reasoning in this interpretation seems to be that from Kant’s identified contradiction of a maxim of indifference where we would want something out of self-interest (to be indifferent to others in need), while we at the same time want to be helped, the contradiction lies in our ‘wants’ being thwarted by a maxim. This seems clear from the problem of a maxim of mutual aid which would force us sometimes to do what we do not want. The reasoning would then, as the logical

reversal of the argumentation of a maxim of indifference, go as follows: I will a maxim of mutual aid, because I want to be helped in need; however, as a universalized maxim I cannot will it, because it would force me to help others while I sometimes might not want to. The decisive point then for Rawls in the condition of universal willing is to ask if a moral precept 'will oppose our settled intentions and plans and natural desires on at least some occasions' as 'in those cases they will be contrary to our will'. This, in turn, would mean I cannot will them as a universal law of nature. But this, as Rawls rightly points out, would indeed be a great difficulty as any moral law is bound to oppose our intentions and desires, which would mean no moral law could be 'willed'. Rawls comes therefore to the conclusion that 'the test of the CI-procedure, as Kant states it, seems to call for some revision'.³¹ And then Rawls moves swiftly on to solve the problem of the will by giving it more 'content' and a proper 'point of view' from which the decision of willing should be made. However this solution is only necessary if we accept that Kant manoeuvres himself with his willing condition into a position in which it seems that no moral precept can be willed.

Let us return to Rawls's identification of the problem. The problem for Rawls was that he could not envisage a moral precept that would not on some occasions oppose our own intentions and desires. The conclusion for him is that we cannot will such a moral precept. But is Kant really saying or implying that it is a condition of wholeheartedly (and coherently) willing a maxim to become a universal law that it never opposes our plans, intentions or natural desires? Given that the very essence of the moral law and the categorical imperative for Kant is to determine the will independently from all inclinations and all material conditions, solely by virtue of its form as a law, this seems very unlikely. Indeed, the role of the categorical imperative is to oppose our desires and inclinations if duty tells us to do so. It seems therefore very implausible that a duty or the categorical imperative could only be that which would never oppose our intentions and plans.

What are we to make of the willing condition? Kant, in essence, seems to say that we cannot will a maxim of indifference because there will be times when we desire help, and a maxim of indifference would oppose this desire. We therefore cannot will (want) it.³² This reading is indeed suggested by the passage, but I propose to look more carefully at Kant's treatment of the willing condition. What Kant is expressing in the maxim of indifference is that from self-love I do not want to help others in need, but if I universalize this maxim of self-love, I see that this maxim as a universalized law of nature would be contrary to my self-love. The decisive moment of contradiction seems here to be that I cannot universalize a maxim which I will from self-love, without willing something which would oppose my self-love. A maxim of self-love, which seeks that an action is to my advantage, cannot be universalized, as the unique feature of the condition of self-love (everything is geared to my advantage) cannot exist in a universalized condition without losing the effect of particularity. The reasoning which exhibits the contradiction 'but on occasions I want to be helped by others' makes no sense

in isolation but only with the first part of the 'will', that because of 'self-love' I do not want to help others. The contradiction lies in the relation of the self-love as a singular (subjective) willed maxim, which is possible, and the self-love as universalized willed maxim, which is impossible as it will always oppose particular self-love. The contradiction, therefore, lies not in the fact that my self-love was thwarted (i.e. my intentions, desires), but that I could not universally will the principle of my individual self-love without also including the self-love of others. Rawls takes only the 'second' part of the contradiction (my wants and desires are opposed) as the element which determines the contradiction, without setting it into the proper context. This condition of contradiction, which is related to the initial condition of willing the maxim, becomes for Rawls, then, an independent touchstone of contradiction. This leads him to the perceived difficulty that every moral law then has to be opposed because it cannot be willed as it would oppose our intentions and desires.

To reiterate: this reading of the willing condition is highly superficial and misleading. If we consider Kant's other arguments for a maxim of benevolence and against a maxim of indifference my point becomes clearer. First consider the following argument in the *Metaphysics of Morals*:

The reason that it is a duty to be beneficent is this: since our self-love cannot be separated from our need to be loved (helped in case of need) by others as well, we therefore make ourselves an end for others; and the only way this maxim can be binding is through its qualification as a universal law, hence through our will to make others our ends as well. The happiness of others is therefore an end that is also a duty.³³

And secondly in the *Groundwork*:

Thus, for example, I ought to try to further the happiness of others, not as if its existence were of any consequence to me (whether because of immediate inclination or because of some indirect agreeableness through reason) but simply because a maxim that excludes this cannot be included as a universal law in one and the same volition.³⁴

Considerations of my happiness (of making myself the end for others) cannot be universalized without including the happiness of others (others as ends in themselves for me). A maxim which cannot do this (maxim of indifference) contradicts itself in the will.

However would we not still be confronted with the problem Rawls identifies, that any maxim of mutual aid cannot be willed? This at least, seemed the logical conclusion from the reasoning that a maxim of indifference cannot be willed. What Rawls has overlooked in his inference is that which I have called the 'first' part of the willing, or my motive or end of willing the maxim in the first place. I wanted a maxim of indifference because of considerations of self-love, i.e. I did not want to help others if they are in need and I am in a position to help them. When I universalized this maxim, I saw that the reason why I willed it, my self-love, would contradict itself if universalized, i.e. out of self-love I would thwart my self-love: a clear case of contradiction. But if we look at a possible maxim of mutual aid

we also, then, have to look at the motive of willing it to be my maxim. Let's say that my maxim of mutual aid is one that can be stated as follows 'If I see someone in need and I can help, I will, because I will to treat human beings as ends in themselves'. Now Rawls seems committed to saying that, because that would sometimes lead to thwarting our own intentions and inclinations, we cannot will it. But here there is no contradiction of the will: our initial willing of the individual maxim was not from self-love and that has as a consequence that if the universalized maxim sometimes opposes self-love, it does not constitute a contradiction of the will. Our reason for willing the particular maxim can be perfectly coherently universalized for willing a universal law based on this maxim. Only a maxim which entails as a willing condition self-love contradicts itself if the universalized maxim thwarts exactly that self-love (inclinations).³⁵ The thwarting of self-love/inclinations, then, is not the decisive moment of contradiction, but it is that all maxims of self-love, if they are to be universalized, have to include the happiness (self-love) of others, to qualify as a universal law. Only if my maxim contains self-love as a ground for willing it, can it contradict itself on those terms. The problem for Rawls is that he equates willing with 'wanting', but Kant's emphasis is on the possibility of universal willing, if the reason, motive or end for willing a maxim can be consistently, lawfully universalized (whatever the reason or end is).

We can see from this that Kant's test of contradiction is, first, still strictly formal and logical and, second, still able to determine maxims in a meaningful way to be either moral or non-moral without entangling itself in the alleged dead-end of it being impossible to will any maxim.³⁶ The major point on which Rawls identifies a need to supplement Kant's theory, then, rests on a misinterpretation of the willing condition. All the remedies Rawls introduces to make good this 'need' are remedies for a problem that does not as such exist. Rawls here alters significantly the character of Kant's theory, which can only be justified if it were absolutely necessary, but I have shown that this is not the case.

(c) True Human Needs

After maintaining that the problem Rawls identified with the willing condition might not be a problem at all, I want to turn to Rawls's suggested 'problem-solution'. Rawls suggests two things to 'preserve Kant's main thought'. His first solution is to give more content to the will of the agent 'in deciding whether they can will an adjusted social world'.³⁷ The second is a solution to the question about the point of view agents take when deciding if they can will the social world, i.e. what information is available to them. I will concentrate on Rawls's first revision ('true human needs'), and not on the second (two limits of information), as the two limits of information Rawls introduces are not particularly innovative. One can easily argue that they are inherent in the demand for maxims to qualify as a universal law. Let me therefore turn to Rawls's introduction of 'true human needs'. To recapitulate, Rawls thinks Kant is in a dilemma as to how we can consistently

will a maxim to become a universal law of nature. It seems for Rawls that we can will neither the maxim of indifference nor the opposing maxim of mutual aid, because it will go against our desires on some occasions and 'in those cases they will be contrary to our will'. In fact we seem to be able to will no moral precept, as all those will be contrary to our will at sometime. The pure concept of 'willing' is therefore not able to determine any moral precept. It seems natural that the solution is to give 'more content' to the will. We have to know 'What do such agents will? What priorities if any do they have?'³⁸

This is indeed a difficult question, but the solution, Rawls thinks, 'is to develop an appropriate conception of what we may call "true human needs", a phrase Kant uses several times in the *Metaphysics of Morals*'.³⁹ What do we have to understand under the term 'true human needs'? Rawls interprets Kant to mean by this term 'certain true human needs, certain requisite conditions, the fulfilment of which is necessary if human beings are to enjoy their lives', like, for example, food, drink, but also education and culture, as well as conditions necessary for the exercise of reason and thought.⁴⁰ Rawls further supposes that we all have those needs and 'that they are more or less the same for everyone'.⁴¹

What role does Rawls intend these true human needs to play, in their task to give content to the will? One can gather the following: Rawls holds that it is a 'duty to oneself to try to secure these [true human] needs', and we therefore 'must will . . . a social world in which that guarantee obtains'.⁴² True human needs are then necessary to guide our decisions in that we have to give priority to them over all other things we might want/will. After Rawls introduces true human needs there can finally be a decision between a world which contains a universalized maxim of indifference and a world which contains a universalized maxim of mutual aid, which clearly decides for the latter as 'only that world guarantees the fulfilment of our true human needs, *to the security of which a rational, prudent being gives priority*'.⁴³ Again we see here that the solution to the problem of Rawls's interpretation of willing as wanting is to make the test for moral laws a 'rational choice situation'. Initially, we can never want any moral precept 'as we understand that any general precept will restrict our actions as moved by our desires on some and perhaps many occasions'. We can only compare between the 'least worse' of such a consequence of moral precepts if we have any priority in our wants. Therefore we have to 'compare alternative social worlds and estimate the overall consequences of willing one of these worlds rather than another'.⁴⁴

Our true human needs are 'decision breakers'. Confronted with our various desires, all of which might be impinged upon by various moral precepts, we need to have some kind of scale or benchmark to decide which of these infringements we can tolerate, which we can will more than others. The role of true human needs is therefore to play a decisive role in comparing the adjusted social worlds associated with a maxim – my true human needs provide the benchmark on which I decide whether an infringement on my wants and desires is tolerable and maybe even necessary and which I therefore can will.⁴⁵

How does Rawls justify the use of true human needs in an interpretation of Kant's categorical imperative apart from the discussed need to give content to the will of an agent? That one might require a justification for the use of a concept of human needs in an interpretation of Kant's categorical imperative is quite obvious, as our needs are for Kant intrinsically linked with our inclinations and desires, which can only ground hypothetical imperatives.⁴⁶ Rawls himself raises this as a potential charge against his interpretation later in the *Lectures*,⁴⁷ but replies to this charge that 'true human needs' were to meet 'a need of pure practical reason' to 'ensure content for the moral law'. And this is justified as we can 'distinguish true human needs from particular inclinations and wants as they arise in everyday life'.⁴⁸ The justification of true human needs requires that 'the idea of true human needs can be filled out relying on truly basic – even universal – needs of human beings conceived as finite rational agents in the order of nature'.⁴⁹ Having succeeded herein, Rawls obviously thinks that the charge of heteronomy no longer applies. The reason seems to be that, instead of particular wants, desires and needs, we rely only on basic and universal needs, which we can claim are absolutely necessary for us, as rational agents in the order of nature, to enjoy life or to pursue our rational ends in life, our happiness. I will later discuss Kant's views on the topic of universal and general needs.

What, then, are we to make of this introduction of 'true human needs' into the CI-procedure. Rawls notes that this is a phrase Kant himself uses several times in the *Metaphysics of Morals*, and he references three paragraphs: 6: 393; 6: 432f.; 6: 453ff.,⁵⁰ before giving his own interpretation of what he understands Kant to mean by these phrases. I would like to examine closely in the following the first of the three paragraphs, 6: 393, as it is the most expressive of what Kant meant by true human needs. Kant states here that:

I ought to sacrifice a part of my welfare to others without hope of return, because this is a duty, and it is impossible to assign determinate limits to the extent of this sacrifice. How far it should extend depends, in large part, on what each person's true needs are in view of his sensibilities, and it must be left to each to decide this for himself. For, a maxim of promoting others' happiness at the sacrifice of one's own happiness, one's true needs, would conflict with itself if it were made a universal law. Hence this duty is only a *wide* one; the duty has in it a latitude for doing more or less, and no specific limits can be assigned to what should be done.⁵¹

Now it is clear that Kant is here discussing limits to the duty of beneficence, that is, how much do we have to give? Kant says that the answer to this question depends on our true needs, as it would be contrary to duty to promote other people's true needs at the expense of one's own. So, it depends on each person's true human needs how much she/he should give.

What is interesting here is first the sentence: 'How far it should extend depends in large part, on what each person's true needs are in view of his sensibilities, and it must be left to each to decide this for himself.' It seems a little ambiguous here what 'it must be left to each to decide this for himself' refers to. It might at first

seem that it refers to the extent of our giving, which we are then free to decide for ourselves in view of our true human needs. Even if we accept this interpretation, we see that Kant does not seem to have held the view that true needs are something we could determine for all human beings as the same, as then we would have been able to state a limit to the duty of beneficence (in the sense that one should not give more than one needs to feed and educate oneself, or something along those lines). But if we look at the German original it becomes even clearer that Kant meant the sentence 'it must be left to each to decide this for himself' to refer to each person's true needs.⁵² It is our true needs which each has to determine for himself and, after having determined that, can decide what his limits are regarding the duty of beneficence. It is clear from this passage then that the true needs of each person are expected to vary and it is up to each person to determine what they are.

Furthermore, if we have a close look at the second sentence, it becomes clear what Kant thought true human needs signify, namely, our own happiness: 'For, a maxim of promoting others' happiness at the sacrifice of one's own happiness, one's true needs, would conflict with itself if it were made a universal law.' Here one could still interpret Kant as saying that one's happiness and one's true human needs might be two different things and that we should not sacrifice either, but again a closer look at the German original is instructive as here after one's own happiness 'his own true needs' follows in brackets as a clarification and definition.⁵³ Kant clearly means to equate our true needs with our (concept of) happiness. From this it is evident why Kant says that determining our true needs must be left to each of us alone, because, as Kant insists again and again, what makes us happy can only be determined from experience and will be different for each of us.

Now, it is in view of this that it also becomes clear that Kant could not have intended true human needs to play a role in explicating the categorical imperative and in determining moral laws. If one accepts that true needs signify our (concept of) happiness, then Kant's insistence that the 'direct opposite of the principle of morality is the principle of *one's own* happiness made the determining ground of the will'⁵⁴ has to apply also to true human needs. Even if there can be true human needs which are both general and universal (which Kant does not think there are), one would still have to take into account the fact that Kant on several occasions says that, even if one can find agreement on what makes us happy, it is still not possible to ground a moral law on it. An example of such a statement can be found in the *Critique of Practical Reason*:

But suppose that finite rational beings were thoroughly agreed with respect to what they had to take as objects of their feelings of pleasure and pain and even with respect to the means they must use to obtain the first and avoid the other; even then they could by no means pass off the *principle of self-love* as a *practical law*; for, this unanimity itself would still be only contingent.⁵⁵

It is clear that, for Kant, happiness, even universal happiness, cannot be a determining ground of our maxim if we want it to become a universal law. Indeed we would have to disregard our happiness if the moral law requires it.

Kant states for example that the moral law would require us to die rather than give false testimony.⁵⁶ This implies not only the complete destruction of our happiness now, but also the destruction of possible future happiness as well as the future cultivation of reason or rationality. The moral law can require us to abandon all our true human needs. It is not possible that we should decide on the moral law when we go through the CI-procedure, then, on grounds of how well our true human needs are preserved or guaranteed. Following the moral law is for Kant absolutely consistent with the reduction of our happiness (in this world) of below zero.⁵⁷ But even more explicitly, at the end of the *Critique of Practical Reason*, in the *Doctrine of the method of pure practical reason*, Kant states a requirement even to renounce our true human needs to become conscious of our freedom.⁵⁸

It has become clear that, first, Kant did not understand by true needs certain prerequisite conditions to enjoy life, but instead understood them as being related to our own particular conception of happiness. Second, we can see that, far from being able to give an account of true needs which specifies these true needs for everyone, each person has to determine them for him or herself. And, finally, we can see that for these reasons they can play no role in determining if a maxim is fit to become a universal law, as this requires us to disregard all considerations of happiness or true needs (however general they might be).

To summarize this section then, I have shown that, first, Rawls's insistence for the need of the CI-procedure is questionable and needs at least to be justified in more detail. Second, it has been demonstrated that Rawls's interpretation of the willing condition as 'wanting' is a superficial one. It leads to absurd consequences (we can will no moral precept) which can only be 'redeemed' by the introduction of 'true human needs'. With regard to those I have finally shown that Rawls totally misinterprets Kant's concept of true human needs and the role they play. Their introduction into the CI-procedure to help determine the content of the will does not 'preserve Kant's main thought' and is on the contrary opposed to Kant's main principles. Here now we can finally assess Rawls's claim to be Kantian. It is clear that Rawls is not justified in calling his theory Kantian as he relies on a misinterpretation of Kant to draw similarities to his own theory which goes beyond the legitimate differences that one expects as it alters Kant's theory in crucial aspects.

A Speculation on Possible Reasons for Rawls's Interpretation

Why did Rawls interpret Kant in this peculiar, suggestive, and one could even say mistaken way? It is particularly surprising, as Rawls generally takes much time and care with his interpretation of Kant's moral theory in the *Lectures*. At places it

seems that Rawls is aware of the dangers of his own interpretation. Later in the *Lectures*, he says that:

The difficulty with the conception of true human needs is that, while the phrase occurs in the text, the problem that this conception addresses – the problem of how the agent at step (4) is to assess alternative adjusted social worlds – is not. Kant does not discuss it in the form in which we have considered it, so we seem to have little to guide us.⁵⁹

Here, Rawls is aware that he is connecting two concepts which are not originally related to one another by Kant. This is a high-risk step because Kant's intention regarding the possible connection of these two concepts is not clear. And we have seen after careful examination that even if one accepts Rawls's description of the problem, Kant's use of the concept of true human needs would exclude using them to solve the problem as they are inexplicably linked to our conception of happiness. One, therefore, has to be curious as to Rawls's reasons for the introduction of true human needs into the interpretation of the categorical imperative.

A possible reason could lie in Rawls not believing that the formal test of contradiction in the will can give rise to determinate moral precepts and that instead 'content' has to be given to the will of the agent. Towards the end of the *Lectures* Rawls says:

I conclude these remarks by saying that in presenting Kant's moral philosophy, I have played down the role of the a priori and the formal. . . . These things I have done because I believe that the downplayed elements are not at the heart of his doctrine. Emphasizing them easily leads to empty and arid formalities, which no one can accept. . . .⁶⁰

Before agreeing with Rawls's interpretation that these elements of formality and apriority do not lie at the heart of Kant's philosophy, it is vital to look at the role Kant intended these elements to play, because by disregarding these elements their role would also be disregarded, or would have to be substituted by other elements. Kant asserts in the *Groundwork*:

[S]ince the imperative contains, beyond the law, only the necessity that the maxim be in conformity with this law, while the law contains no condition to which it would be limited, nothing is left with which the maxim of action is to conform but the universality of a law as such; and this conformity alone is what the imperative properly represents as necessary.⁶¹

Here it is clear that Kant intends the form of universality to be the determining factor for maxims to conform to the categorical imperative. There are also many places in the *Critique of Practical Reason* where the role of necessity, mere form and objectivity for the determination of the will is stressed.⁶² The role of the elements of the pure form of law and its a priori character serve to give absolute necessity and objectivity to the moral law, and determine it immediately and independently of all mere contingent conditions. Why should Rawls have such a problem with these notions, especially with that of the will being necessitated unconditionally to conform to the maxim to will the universal law? It seems the only reason is that the ordinary notion of freedom (of choice) is threatened here, if one perceives the moral law, what one ought to do, as determined a priori and by mere form which

excludes all material conditions; it does not include what one might 'want'. Kant, however, held that the will's conformity with the law is freedom,⁶³ and could therefore comfortably hold both the notion of freedom and an a priori apodictic necessitation of the will through the mere form of law. For Kant, that the categorical imperative can determine maxims and actions by its mere form of lawfulness and universality is exactly the strength of the moral law. It is the capacity of pure reason, which rational beings have independently of all inclinations. For pure reason to be practical it has to lead to determinate results through the mere lawfulness of a maxim, and Kant obviously believed that he had shown that to be possible (and at least Rawls's challenge in the case of a maxim of mutual aid has proven to be unsuccessful).

I think one can see a general 'uneasiness' with such concepts in Rawls's interpretation, which leads then to them being 'downplayed'. Paired with that comes a concern for scepticism, which Rawls is somewhat disappointed not to find in Kant:

Kant is also not troubled by the diversity and conflicts between our moral judgments; he supposes that what he calls 'common human reason' . . . which we all share, judges in more or less the same way . . .⁶⁴

I don't see Kant as at all concerned with moral skepticism. It is simply not a problem for him, however much it may trouble us.⁶⁵

Rawls is clearly deeply troubled by it, and I suggest this gives him reasons for interpreting Kant's categorical imperative in a certain way. Rawls is committed to believing in 'reasonable pluralism' or deeply diverging and opposing conceptions of the good, beliefs and religion, which makes agreement in such judgement very difficult if not impossible. The a priori and necessary elements of Kant's moral philosophy allow exactly no such diverging judgements. Every rational being can determine the moral law independently of any set of material conditions and because it only relies on its mere lawful form it has to be the same for everybody and always holds necessarily for everyone insofar as he is rational. Rawls disregards these formal and decisive elements in Kant's moral theory, but because of that he is left with a problem of determination (as we saw in the willing condition). So he has to replace the determining elements with something else, and as this something else cannot be formal, it must be material. Rawls, deprived of a belief in a possible 'necessary' convergence in judgement, depicts the determination of the moral law as a situation of agreement or rational choice. But as Rawls evidently does not think that Kant's elements of universality and formality can determine such a choice, the determining factor has to lie elsewhere, hence the introduction of true human needs. This solves the problem in a way, by avoiding any 'thick' conception of 'the good' to which Rawls cannot commit himself, but still gives a solid empirical foundation to show that it is in everybody's 'interest' to want the securing of true human needs. Rawls can claim that true human needs are so basic and universal that everyone equally can agree to need them, whatever

their thick conception of the good is, but at the same time being material and solid enough to determine our choice when testing maxims to become a universal law. This change or substitution of Kant's theory, however, concerns the very essence of the nature of moral theory. At stake here are the resources for the authority of the moral law or what grounds their objective necessitating force. To Kant morality is grounded in pure reason which through its universality and formality can guarantee the unconditionality and objective necessity of moral laws in opposition to the conditional, empirical and subjective practical rules based on desire. Empirical reason could never ground the objectivity of moral principles as empirical reason depends on the end sought, which is conditional upon individual desires. Rawls's rejection of the capacity of pure reason alone to ground moral principles through a priori and formal reasoning pushes him to an attempt to derive objective moral principles partly through empirical reasoning. Well aware that, as such, empirical reasoning is based on desires which are different for each person, Rawls tries to argue for universal human needs, the 'rational wanting' of which can then explain the force and authority of moral principles. However, this justification remains conditional: the moral principles hold as long as one desires the true human needs that the principles guarantee. Far from being a minor interpretative issue, Rawls's interpretation of Kant alters the very nature of Kant's moral theory and the justification of moral norms. The problem that the authoritative force and objectivity of moral principles cannot be argued for on metaphysical or formal grounds pervades and haunts Rawls's whole theory, as it forces him to travel the only alternative route and seek objectivity and moral force (partly) through empirical reasoning. Rawls's interpretation of Kant is then, it is my contention, crucially determined by his own theoretical position which cannot accept certain key features of Kant's position, and as a consequence Rawls interprets Kant in a way that incorporates his own presuppositions, but changes Kant's theory in vital aspects, up to the very nature of how to perceive and justify normative principles.

Conclusion

I have argued that Rawls's interpretation of Kant makes clear that he is convinced that Kant's theory needs elements of his own theory if it is to work. This is triggered by the fact that Rawls cannot or does not want to believe that certain elements of Kant's theory actually work (the a priori and formal). After disregarding these elements he then, however, substitutes for the role these elements filled in Kant's theory new elements. Here, Rawls introduces features similar to his own theoretical devices and tools which he thinks are necessary to deal with philosophical questions like the determination of principles (veil of ignorance/limits of information; rational choice/deciding which social world we 'want'; primary goods/true human needs). Only after we have looked at Rawls's peculiar interpretation of Kant can we then, for instance, make sense of Rawls's statement

that Kant ‘begins with the idea that moral principles are the object of rational choice’.⁶⁶ But these changes transform the whole nature of Kant’s theory. In the case of the CI-procedure it makes empirical and hypothetical reasoning the basis of the particular categorical imperatives, and makes the authority of moral principles dependent and conditional upon (empirical) desires. One might still consider and question if such changes would be necessary for a viable theory today, but one cannot claim that the theory after such changes is still Kantian. Therefore, Rawls should have claimed, not that his theory is Kantian, but that Kant with suitable adjustments is a Rawlsian.⁶⁷

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Notes

1. Rawls has often claimed that his theory of justice is Kantian in nature and origin; indeed, he goes so far as to say that he ‘must disclaim any originality for the views I put forward’. John Rawls (1999) *A Theory of Justice*, rev. edn, p. xviii. Oxford: Oxford University Press. Specifically, and most importantly, he says that the ‘original position may be viewed, then, as a procedural interpretation of Kant’s conception of autonomy and the categorical imperative’, *ibid.* p. 226. Rawls’s claim that his theory is Kantian has engendered heated discussion. While some authors in the secondary literature defend Rawls and claim that his theory legitimately builds on and advances the massive legacy of Kant’s moral thought, others have rejected outright that there is a close connection between Rawls’s theory and Kant’s principles. For a discussion see Stephen L. Darwall (1976) ‘A Defense of the Kantian Interpretation’, *Ethics* 86: 164–70. Otfried Höffe (1984) ‘Is Rawls’ Theory of Justice really Kantian?’, *Ratio* 26: 103–24. Oliver A. Johnson (1974) ‘The Kantian Interpretation’, *Ethics* 85: 58–66. Oliver A. Johnson (1977) ‘Autonomy in Kant and Rawls: A Reply’, *Ethics* 87: 251–4. Andrew Levine, ‘Rawls’ Kantianism’, in Chandran Kukathas (ed.) (2003) *John Rawls, Critical Assessments of Leading Political Philosophers*, vol. 1, pp. 345–57. London and New York: Routledge. H.E. Mason (2003) ‘On the Kantian interpretation of Rawls’ theory’, *ibid.* pp. 358–72. Joseph M. Grcic (1983) ‘Kant and Rawls: Contrasting Conceptions of Moral Theory’, *Journal of Value Inquiry* 17: 235–40.
2. John Rawls (2001) ‘Justice as Fairness: Political Not Metaphysical’, in Samuel Freeman (ed.) *John Rawls: Collected Papers*, p. 389 n. 2. Cambridge, MA: Harvard University Press.
3. John Rawls (2000) *Lectures on the History of Moral Philosophy*, ed. Barbara Herman, p. 162. Cambridge, MA, and London: Harvard University Press.
4. *Ibid.* p. 167.
5. *Ibid.* pp. 168–9.
6. *Ibid.* pp. 170–2.
7. Rawls had clarified that he uses reasonable and rational ‘as handy terms to mark the distinction that Kant makes between the two forms of practical reason, pure and

empirical. Pure practical reason is expressed in the categorical imperative, empirical practical reason in the hypothetical imperative.' Ibid. p. 165. We can therefore equate rational with empirical, and reasonable with pure practical reason.

8. Ibid. pp. 172–3; my italics.
9. Ibid. p. 174 n. 4.
10. Ibid. p. 173.
11. Ibid. pp. 175–6.
12. Ibid. p. 174.
13. Ibid. p. 174.
14. Ibid. p. 174.
15. Ibid. Later Rawls, on a more cautious consideration, speaks only of two true human needs we need to assume, security and development of rationality, but leaves it open if more exist. Ibid. pp. 174–5.
16. Rawls (n. 1), p. 221.
17. Rawls (n. 3), pp. 162, 167, 182.
18. Ibid. pp. 182–3, 183, 200.
19. Ibid. p. 162.
20. Immanuel Kant, 'Groundwork of The Metaphysics of Morals', in (1996) *The Cambridge Edition of the Works of Immanuel Kant*, ed. and tr. Mary J. Gregor, *Practical philosophy*, 4: 437. Cambridge: Cambridge University Press.
21. Rawls (n. 3), p. 182.
22. Ibid. p. 162.
23. Ibid. p. 167.
24. Kant (n. 20), 4: 421.
25. Ibid. 4: 421, see also 4: 437.
26. Ibid. 4: 424, italics in original.
27. Ibid. 4: 423.
28. Rawls (n. 3), p. 173.
29. Ibid.
30. Ibid.; my italics.
31. Ibid.
32. Kant (n. 20), 4: 423.
33. Immanuel Kant, 'The Metaphysics of Morals', in Kant (n. 20), 6: 393.
34. Kant (n. 20), 4: 441. See also Immanuel Kant, 'Critique of Practical Reason', in Kant (n. 20), 5: 34.
35. The interesting point here is that we see that a maxim of self-love which is universalized can be imagined to exist. We can very well imagine that our self-love will be denied help if we need it, that our self-love is opposed is no contradiction in conception, but once we turn ourselves to our ground of willing the maxim in the first place, we see that our will contradicts itself, and that we therefore cannot will it.
36. Here it is important to pay attention that the only object of the will which is for Kant possible to determine a priori without any reliance on material objects is human being, as end, in themselves. Rawls's neglect of this formulation of the categorical imperative has, I think, significance here, as it is easy to forget otherwise that the will can have, according to Kant, an object of the will (and therefore 'content') totally a priori. See e.g. Kant's statement in the *Groundwork* that all maxims have 'a matter, namely an end, and in this respect the formula says that a rational being, as an end by its nature and hence as an end in itself, must in every maxim serve as the limiting condition of all merely relative and arbitrary ends'. Kant (n. 20), 4: 436.
37. Rawls (n. 3), p. 173.

38. Ibid.
39. Ibid. pp. 173–4.
40. Ibid. pp. 174–5. Later on Rawls admits that ‘the meaning of the phrase “true human needs” is not very exact and cannot be gathered from the few places that Kant uses it’ (ibid. p. 233), and that he therefore offers ‘the conception of true human needs with some hesitation’ (ibid.). But Rawls feels safe enough to advance (at least) two true human needs even on this more cautious consideration, which he deems as ‘particularly basic’ (ibid.). The two basic needs which he so deduces are ‘the need for security and order in society, required to remove the state of war, and the need for those conditions necessary to develop and exercise our capacity for rationality in order to advance our happiness’ (ibid. p. 234). Rawls leaves it open how much more ‘human needs’ there might be or Kant’s view might require. How well this interpretation of true human needs conforms with Kant’s understanding is questionable, as in the argumentation against avarice Kant says that we should not neglect our true needs, Kant (n. 34), 6: 432. Now no one can bring himself through avarice back to the state of war again. But as Rawls’s whole use of the concept of true needs is a mistaken one, as I will shortly show, I leave the point here.
41. Rawls (n. 3), p. 174.
42. Ibid.
43. Ibid.; my italics.
44. Ibid.
45. Also ibid. pp. 221, 233.
46. See e.g. Kant (n. 20), 4: 441.
47. Rawls (n. 3), p. 251. He states there that ‘suppose it is objected that particular categorical imperatives are really hypothetical and conditional, since the CI-procedure in arriving at them relies on a conception of true human needs . . . at step (4)’.
48. Ibid.
49. Ibid. p. 234.
50. Ibid. p. 174.
51. Kant (n. 34), 6: 393.
52. ‘Es kommt sehr darauf an, was für jeden nach seiner Empfindungsart wahres Bedürfniss sein werde, welches zu bestimmen jedem selbst überlassen bleiben muss’. Immanuel Kant, ‘Die Metaphysik der Sitten in zwei Teilen’, in Ernst Cassirer (ed.) (1922) *Immanuel Kants Werke*, vol. 7, p. 203. Berlin: Bruno Cassirer.
53. ‘Denn mit Aufopferung seiner eigenen Glückseligkeit (seiner wahren Bedürfnisse) andere ihre zu befördern, würde eine an sich selbst widerstrebende Maxime sein, wenn man sie zum allgemeinen Gesetz machte.’ Ibid.
54. Kant (n. 34), 5: 35.
55. Ibid. 5: 26; see also 5: 25; 5: 28; Kant (n. 20), 4: 389; 4: 418.
56. Kant (n. 34), 5: 30.
57. ‘In this case it is entirely consistent with the wisdom of nature if we perceive that the cultivation of reason, which is requisite to the first and unconditional purpose, limits in many ways – at least in this life – the attainment of the second, namely happiness, which is always conditional; indeed it may reduce it below zero without nature proceeding un-purposively in the matter, because reason, which cognizes its highest practical vocation in the establishment of a good will, in attaining this purpose is capable only of its own kind of satisfaction, namely from fulfilling an end which in turn only reason determines, even if this should be combined with many infringements upon the ends of inclination.’ Kant (n. 20), 4: 396.
58. ‘Now, however, the second exercise begins its work, namely to draw attention, in the lively presentation of the moral disposition in examples, to the purity of will, first only as

a negative perfection of the will insofar as in an action from duty no incentives of inclination have any influence on it as determining grounds; by this, however, the pupil's attention is fixed on the consciousness of his *freedom* and, although this renunciation excites an initial feeling of pain, nevertheless, by its withdrawing the pupil from the constraint of even true needs, there is made known to him at the same time a deliverance from the manifold dissatisfaction in which all those needs entangle him and his mind is made receptive to the feeling of satisfaction from other sources.' Kant (n. 34), 5: 160–1.

59. Rawls (n. 3), pp. 232–3.

60. Ibid. p. 275.

61. Kant (n. 20), 4: 420–1.

62. Kant (n. 34), 5: 20, 24, 31, 48, 64, 26, 29, 27, 62, 74.

63. E.g. 'Therefore, a will for which the mere lawgiving form of a maxim can alone serve as a law is a free will' and 'Thus freedom and unconditional practical law reciprocally imply each other'. Ibid. 5: 29.

64. Rawls (n. 3), p. 15.

65. Ibid. p. 149.

66. Rawls (n. 1), p. 221.

67. Flikschuh observes exactly this peculiar relationship when stating that the 'section of the book entitled "A Kantian Interpretation of the Original Position" might equally have been headed "An Original Position Interpretation of Kant"'. Katrin Flikschuh (2000) *Kant and Modern Political Philosophy*, p. 23. Cambridge: Cambridge University Press.