IMPERFECT DUTIES *ALONE* ARE DUTIES OF VIRTUE?[1]

Jeffrey Edwards

Abstract: According to the Introduction to Kant's Doctrine of Virtue (TL = *Tugendlehre*), it seems incontestable that all duties of virtue should be duties of wide obligation, and thus imperfect duties. Yet the initial set of duties treated in the first main part of TL includes 'perfect duties to oneself', which suggests that there must be perfect duties that are also duties of virtue. Why, then, the apparent discrepancy between, on the one hand, the definitional account of duties of virtue that Kant presents in the Introduction to TL and, on the other hand, the systematic treatment of duties to oneself that we encounter in the main text? The answer to this question, I argue, requires that we keep the account of laws for *maxims* of actions, which goes hand in hand with Kant's conception of casuistic questioning, entirely separate from the problem of relevant act descriptions that can be linked to the application of laws of right as laws for *actions*.

Let us begin with four passages in the *Metaphysik der Sitten* where Kant lays out his conception of duties of virtue. The following quotations are taken from the introductions to the *Rechtslehre* (hereinafter: RL) and the *Tugendlehre* (TL): **[HANDOUT I]**

> [α] Alle Pflichten sind entweder *Rechtspflichten* (*officia iuris*), d. i. solche, für welche eine äußere Gesetzgebung möglich ist, oder *Tugendpflichten* (*officia virtutis s. ethica*), für welche eine solche nicht möglich ist; - die letztern können aber darum nur keiner äußeren Gesetzgebung unterworfen werden, weil sie auf einen *Zweck* gehen, der (oder welchen zu haben) zugleich Pflicht ist; (RL 6:239.4-9)
>
> > [All duties are either *duties of right* (*officia iuris*), that is, duties for which external lawgiving is possible, or *duties of virtue* (*officia virtutis s. ethica*), for which external lawgiving is not possible. – Duties of virtue cannot be subject to external lawgiving simply because they have to do with an end which (or the having of which) is also a duty. (RL 6:239.4-9)]
>
> [β] Aller Pflicht correspondirt *ein* Recht, als Befugniß (*facultas moralis generatim*) betrachtet, aber nicht aller Pflicht correspondiren *Rechte* eines Anderen (*facultas iuridica*) jemand zu zwingen; sondern diese heißen besonders *Rechtspflichten*. - Eben so correspondirt aller ethischen *Verbindlichkeit* der Tugendbegriff, aber nicht alle ethische Pflichten sind darum Tugendpflichten. Diejenige nämlich sind es nicht, welche nicht sowohl einen gewissen Zweck (Materie, Object der Willkür), als blos das *Förmliche* der sittlichen Willensbestimmung […] betreffen. Nur ein *Zweck, der zugleich Pflicht ist*, kann **Tugendpflicht** genannt werden. (TL 6:383.5-14)
>
> > [To every duty there corresponds a right in the sense of an *authorization* to do something (*facultas moralis generatim*); but it is not the case that to every duty there correspond rights of another to coerce someone (*facultas iuridica*). Instead, such duties are called, specifically, duties of right. – Similarly, to every ethical *obligation* there corresponds the concept of virtue, but not all ethical duties are thereby duties of virtue. Those duties that have to do not so much with a certain end (matter, object of the power of choice) as merely with *what is formal* in the moral determination of the will (e.g., that an action in conformity with duty must also be done *from duty*) are not duties of virtue. Only an end that is also a duty can be called a **duty of virtue**. (TL 6:383.5-14)]

[1] Kant is cited according to volume, page, and line numbers of *Kants gesammelte Schriften* (Akademie-Ausgabe) in conjunction with the now standard abbreviations for Kant's published writings, lectures, and handwritten reflections (see www.kant-gesellschaft.de/de/ks/HinweiseAutoren/Siglen_neu.pdf).

> [γ] [W]as zu thun Tugend ist, das ist darum noch nicht sofort eigentliche *Tugendpflicht*. Jenes kann blos das *Formale* der Maximen betreffen, diese aber geht auf die Materie derselben, nämlich auf einen Zweck, der zugleich als Pflicht gedacht wird. (TL 394.33-395.1)
>
> > [But what it is virtuous to do is not necessarily a *duty of virtue* strictly speaking. What it is virtuous to do may concern only *what is formal* in maxims, whereas a duty of virtue has to do with their matter, that is to say, with an end that is thought as also a duty. (TL 394.33-395.1)]
>
> [δ] [W]as die Unterscheidung des Materialen vom Formalen (der Gesetzmäßigkeit von der Zweckmäßigkeit) im Princip der Pflicht betrifft, so ist zu merken: daß nicht jede *Tugendverpflichtung* (*obligatio ethica*) eine Tugendpflicht (*officium ethicum s. virtutis*) sei; mit anderen Worten: daß die Achtung vor dem Gesetze überhaupt noch nicht einen Zweck als Pflicht begründe; denn der letztere allein ist Tugendpflicht. Daher giebt es nur eine Tugendverpflichtung, aber viel Tugendpflichten: […]. (TL 6:410.21-28)
>
> > [[W]ith regard to the distinction of the material from the formal in the principle of duty (of conformity with law from conformity with ends), it should be noted that not every *obligation of virtue* (*obligatio ethica*) is a duty of virtue (*officium ethicum s. virtutis*); in other words, respect for law as such does not yet establish an end as a duty, and only such an end is a duty of virtue. – Hence there is only *one* obligation of virtue, whereas there are many duties of virtue; [...] (TL 6:410.21-28)]

Three facets of Kant's definitional work concerning duties of virtue, as it is conveyed in the passages just indicated, generate the problem that I will address in this paper. Thus, before laying out the problem, let me list the facets here in question: (1) While all duties are either duties of right or duties of virtue, not all ethical duties to which the *obligation* to virtue (*Tugendverpflichtung*) extends are duties of virtue. (2) A duty of virtue has to do with a matter or object of the power of choice, and thus with a matter of maxims, that is an obligatory end, i.e., an end that is also a duty. (3) *Only* an end that is also a duty can be called a duty of virtue.

The problem with which I am concerned emerges when these specifications concerning the type of duty that can qualify as a duty of virtue are brought into alignment with the conceptual distinctions at issue in Kant's account of perfect duties, narrow duties, or duties of narrow obligation, on the one hand, and his corresponding account of imperfect duties, wide duties, or duties of wide obligation, on the other.[2] For it initially seems incontestable that all duties of virtue should be duties of wide obligation (hence imperfect or wide duties) if their classification is to be consistent with the key programmatic statement about ethical and juridical duties that Kant makes at the beginning of the seventh section of the introduction to TL: **[HANDOUT II]**

> Die ethischen Pflichten sind von weiter, dagegen die Rechtspflichten von enger Verbindlichkeit. [Ethical duties are of *wide* obligation, whereas duties of right are of *narrow* obligation. (TL 6:390.2-3)

[2] For succinct discussion of the problem, see Bernd Ludwig's introduction to Immanuel Kant, *Metaphysische Anfangsgründe der Tugendlehre* (Hamburg: Felix Meiner, 1990), pp. XX-XXIV. See also Mary Gregor, *Laws of Freedom: A Study of Kant's Method of Applying the Categorical Imperative in the* Metaphysik der Sitten (Oxford: Oxford University Press, 1963), pp. 113-115.

Given that duties of virtue are directly ethical duties,[3] it seems to follow from this proposition that no perfect or narrow duty should be characterized as a duty of virtue. That is because it is entirely unclear to begin with how any perfect duty could plausibly be thought of as a duty of wide obligation, and therefore be classified as a wide duty, even if there are perfect duties that are not duties of right alone.[4]

Yet there is also the undeniable textual circumstance that the initial set of duties treated in the first book of the first main part of Kant's ethical *Elementarlehre* falls under the classificatory heading of 'perfect duties to oneself' (TL 6:421.5), which ostensibly requires that they should be regarded as duties of narrow obligation, and thus as narrow duties.[5] Moreover, if these duties are indeed perfect duties, then the objective division of duties to oneself provided in § 4 of TL seems diametrically opposed to the idea that all duties of virtue are wide duties or duties of wide obligation: **[HANDOUT III]**

> Es wird daher nur eine *objective* Eintheilung der Pflichten gegen sich selbst in das **Formale** und **Materiale** derselben statt finden; wovon die eine *einschränkend* (negative Pflichten), die andere *erweiternd* (positive Pflichten gegen sich selbst) sind: jene, welche dem Menschen in Ansehung des **Zwecks** seiner Natur *verbieten* demselben zuwider zu handeln, mithin blos auf die moralische *Selbsterhaltung*, diese, welche *gebieten* sich einen gewissen Gegenstand der Willkür zum Zweck zu machen und auf die *Vervollkommnung* seiner selbst gehen: von welchen beide zur Tugend entweder als Unterlassungspflichten (*sustine et abstine*) oder als Begehungspflichten (*viribus concessis utere*), beide aber als Tugendpflichten gehören. Die erstere gehört zur moralischen **Gesundheit** (*ad esse*) des Menschen, sowohl als Gegenstandes seiner äußeren, als seines inneren Sinnes zu *Erhaltung* seiner Natur in ihrer Vollkommenheit (als *Receptivität*), die andere zur moralischen *Wohlhabenheit* (*ad melius esse; opulentia moralis*), welche in dem Besitz eines zu allen Zwecken hinreichenden *Vermögens* besteht, so fern dieses erwerblich ist und zur *Cultur* (als thätiger Vollkommenheit) seiner selbst gehört. - Der erstere Grundsatz der Pflicht gegen sich selbst liegt in dem Spruch: lebe der Natur gemäß (*naturae convenienter vive*), d. i. *erhalte* dich in der Vollkommenheit deiner Natur, der zweite in dem Satz: *mache dich vollkommner*, als die bloße Natur dich schuf (*perfice te ut finem; perfice te ut medium*). (TL 6:419.15-36).
>
> > [The only *objective* division of duties to oneself will, accordingly, be the division into what is formal and what is material in duties to oneself. The first of these are *restrictive* (negative) duties; the second, *widening* (positive duties to oneself). Negative duties *forbid* a human being to act contrary to the end of his nature and so have to do merely with his moral *self-preservation*; positive duties, which *command* him to make a certain object of choice his end, concern his *perfecting* of himself. Both of them belong to virtue, either as duties of omission (*sustine et abstine*) or as duties of commission (*viribus concessis utere*), but both belong to it as duties of virtue. The first belong to the moral **health** (*ad esse*) of a human being as object of both his outer senses and his inner sense, to the *preservation* of his nature in its perfection (as receptivity). The second belong to his moral *prosperity* (*ad melius esse, opulentia moralis*), which consists in possessing a *capacity* sufficient for all his ends, insofar as this can be acquired; they belong to his *cultivation* (active perfecting) of himself. – The first principle of duty to oneself lies in the dictum "live in conformity with nature" (*naturae convenienter vive*), that is, *preserve* yourself in the perfection of your nature; the second,

[3] See MS 6:221.1.
[4] That is, even if there are duties of right that internal lawgiving makes *indirectly* ethical: see RL 6:221.1-3.
[5] For a recent general discussion of perfect duties to oneself in Kant's metaphysics of morals, see Lara Denis, 'Freedom, Primacy, and Perfect Duties to Oneself', in *Kant's* Metaphysics of Morals: *A Critical Guide* (Cambridge: Cambridge University Press, 2010), pp. 170-191.

> in the saying "*make yourself more perfect* than mere nature has made you" (*perfice te ut finem, perfice te ut medium*). (TL 6:419.15-36 – Gregor translation slightly modified)]

Let us consider what Kant maintains in the first half of this quotation (TL 6:419.15-25) in view of his classification of perfect duties to oneself as 'restrictive [*einschänkend*]' or negative duties of moral self-preservation. It is difficult to see how such duties could be anything other than narrow duties or duties of narrow obligation as long as they are, as Kant says, duties that differ from the widening (*erweiternd*) duties having to do with the perfecting of oneself. (These widening duties pertaining to self-perfection are the particular wide or imperfect duties involved in the promotion of one's own perfection as an end that is also a duty, i.e., as a duty of virtue). Presumably, therefore, the restrictive duties concerned with moral self-preservation cannot be wide duties or duties of wide obligation. Yet according to Kant's 'objective division' of all duties to oneself, not only the duties pertaining to human self-perfection, but also the duties concerned with moral self-preservation belong to 'virtue' as duties of virtue. This strongly suggests that the latter, i.e., the duties concerned with moral self-preservation that are treated under the general heading of perfect duties to oneself, belong to the doctrine of virtue *as* duties of virtue. Thus, the implication seems to be that these perfect duties belong to ethics as a doctrine of virtue not simply on account of the *obligation* to virtue (*Tugendverpflichtung*, *obligatio ethica*), i.e., not simply on account the overarching formal relation of ethical bindingness that applies to all duties just because they are duties,[6] but also because they are perfect duties that are also duties of virtue. Indeed, this implication seems inescapable, *even if* such duties are not directly concerned with the intrinsically obligatory end—viz., one's own perfection understood as an end that is also a duty—to which wide or imperfect duties to oneself directly pertain because they are widening duties that have to do with the perfecting of oneself.

So what exactly is going on here? Why the apparent discrepancy between, on the one hand, the definitional account of duties of virtue that Kant gives in the introduction to TL on the basis of his portrayal of morally practical reason's intrinsically obligatory ends and, on the other hand, the treatment of perfect duties to oneself that we encounter in the *Elementarlehre?* Should we attribute this discrepancy to contingent factors having to do with the production of the relevant texts or with the ageing Kant's mental state during the late 1790s? Or is there something of far

[6] See RL 6:219.31-32; TL 6:410.27-32.

greater philosophical significance in play? The following considerations will be guided by the latter question.

I

To come directly to grips with the discrepancy problem just mentioned, I refer here to the seventh section of the introduction to TL, where Kant treats the twofold proposition that ethical duties are of wide obligation, whereas duties of right are of narrow obligation: **[HANDOUT IV]**

> Die ethischen Pflichten sind von *weiter*, dagegen die Rechtspflichten von *enger* Verbindlichkeit.
>
> Dieser Satz ist eine Folge aus dem vorigen[7]; denn wenn das Gesetz nur die Maxime der Handlungen, nicht die Handlungen selbst gebieten kann, so ists ein Zeichen, daß es der Befolgung (Observanz) einen Spielraum (*latitudo*) für die freie Willkür überlasse, d. i. nicht bestimmt angeben könne, wie und wie viel durch die Handlung zu dem Zweck, der zugleich Pflicht ist, gewirkt werden solle. - Es wird aber unter einer weiten Pflicht nicht eine Erlaubniß zu Ausnahmen von der Maxime der Handlungen, sondern nur die der Einschränkung einer Pflichtmaxime durch die andere (z. B. die allgemeine Nächstenliebe durch die Elternliebe) verstanden, wodurch in der That das Feld für die Tugendpraxis erweitert wird. - Je weiter die Pflicht, je unvollkommener also die Verbindlichkeit des Menschen zur Handlung ist, je näher er gleichwohl die Maxime der Observanz derselben (in seiner Gesinnung) der *engen* Pflicht (des Rechts) bringt, desto vollkommener ist seine Tugendhandlung. **[¶]** Die unvollkommenen Pflichten sind also allein *Tugendpflichten*. (TL 6:390.2-18)

> [ETHICAL DUTIES ARE OF *WIDE* OBLIGATION, WHEREAS DUTIES OF RIGHT ARE OF *NARROW OBLIGATION.*
> This proposition follows from the preceding one; for if the law can prescribe only the maxim of actions, not actions themselves, this is a sign that it leaves a playroom (*latitude*) for the free power of choice in following (complying with) the law, that is, that the law cannot specify precisely in what way one is to act and how much one is to do by the action for an end that is also a duty.[6:390] – But a wide duty is not to be taken as permission to make exceptions to the maxim of actions but only as permission to limit one maxim of duty by another (e.g., love of one's neighbor in general by love of one's parents), by which in fact the field for the practice of virtue is widened. – The wider the duty, therefore, the more imperfect is a man's obligation to action; as he, nevertheless, brings closer to *narrow* duty (of right) the maxim of complying with wide duty (in his disposition), so much the more perfect is his virtuous action. [¶] Imperfect duties alone are thus *duties of virtue* (TL 6:390.2-18 – Gregor translation modified)]

Considering this passage from the viewpoint of our discrepancy problem, its decisive claim is presented by the final sentence translated—that is by the sentence which originally runs as follows: **[again, HANDOUT IV]**

> Die unvollkommenen Pflichten sind also allein *Tugendpflichten*.

Now it initially seems that the entire weight of Kant's argumentation in the paragraph preceding this claim comes down in favor of the translation provided (that is, its translation as 'Imperfect

[7] That is, from the proposition at issue in the sixth section of the introduction to TL: 'Die Ethik giebt nicht Gesetze für *Handlungen* (denn das thut das *Ius*), sondern nur für die *Maximen* der Handlungen' (TL 6:388.31-32).

duties alone are thus *duties of virtue*'),[8] which of course implies that only imperfect duties are duties of virtue. Yet Kant's formulation is perhaps not, grammatically speaking, absolutely airtight as far as English translation options are concerned. Taken by itself, it arguably allows for a rendering that could support a quite different semantic commitment. Specifically, it might be translated as 'Imperfect duties are thus *duties of virtue* alone' or as 'Imperfect duties are thus alone *duties of virtue*'; and these formulations in turn could be interpreted as implying that imperfect duties are *only* duties of virtue (and nothing more than just that). Thus, in keeping with this interpretation, Kant's own formulation could conceivably be construed as leaving open the possibility that there are duties of virtue that are not just imperfect duties, which would indeed support the idea that the doctrine of virtue can contain duties of virtue that are also perfect duties just because it includes them in their quality as ethical duties, i.e., as duties of wide obligation.

The further question, then, is whether this syntactically construed possibility could suffice as the condition for resolving our discrepancy problem. An affirmative response to this question would require that the concept of a perfect duty *qua* ethical duty can be made consistent with the conception of wide and narrow obligation that underlies the published text of TL. This in turn would demand, according to the twofold proposition that makes use of this conception (see the first two lines HANDOUT IV), that a perfect duty can be a duty of wide obligation *insofar* as it is an ethical duty.

On the face of things, of course, the very thought that a perfect duty could in any sense be regarded as one of wide obligation may seem to amount to an incoherent thought. Then again, one of the more irritating features of the introduction to TL is that Kant is not overly scrupulous about explicitly sorting out the relationship between, on the one hand, perfect duties, narrow duties, and duties of narrow obligation and, on the other hand, imperfect duties, wide duties, duties of wide obligation, and duties of imperfect obligation. So does the way in which he uses these expressions offer sufficient conceptual wriggle room, as it were, to allow for perfect duties that are in *some* sense duties of wide obligation?[9]

---

[8] Compare Mary Gregor's translation in the Cambridge Edition of the Works of Immanuel Kant: 'Imperfect duties alone are, accordingly, *duties of virtue*' (Immanuel Kant, *Practical Philosophy* [Cambridge: Cambridge University Press, 1996], p. 521.

[9] Kant maintains, of course, that there is an imperfect duty to oneself which is narrow and perfect in one respect: see TL 6:446.25-33. But he does not explicitly maintain that there is a perfect duty whose obligation is in any respect wide or imperfect. Our "wriggle room" question concerns the latter type of duty.

For our purposes at least, much of the irritation can be overcome if we bear in mind the connection between the concepts of duty and obligation that underlies Kant's portrayal of the laws of duty in the *Metaphysik der Sitten* as a whole. The connection lies in Kant's determination of the material and formal elements of the duty/obligation conceptual couplet: **[HANDOUT V]**

> Pflicht ist diejenige Handlung, zu welcher jemand verbunden ist. Sie ist also die Materie der Verbindlichkeit […]. [Duty is that action to which someone is bound. It is therefore the matter of obligation [...].] (MS 6:222.31-32)

Let us apply this primary definitional account of the matter/form relation between duty and obligation to the view of the breadth (i.e., the wideness or narrowness) of duties and obligation at issue in the main paragraph of quotation IV. As Kant portrays it, the breadth of obligation is a function of the wideness (or narrowness) of its deontic content: The wider the duty furnishing the matter of obligation is, the more imperfect is a human being's obligation to action. Thus, as long as we grant that 'more imperfect' is here equivalent to 'wider', we can see why Kant holds that the wide duties which furnish the matter(s) of imperfect obligation should be characterized as imperfect duties. Specifically, we can see why he implicitly identifies wide duties with imperfect duties, even when he also holds that a human being makes his virtuous action more perfect in proportion to how close his maxim of complying with wide duty is brought to the '*narrow* duty (of right)' that figures in penultimate sentence of quotation IV (see TL 6:390.16-17).

Regarding this identification, the key thing for us to take note of is this: Nothing that Kant says here (in quotation IV) about the relationship between the perfection of virtuous action(s) to which a human being is bound and duties of right *qua* narrow duties implies that there is *any* duty of right that can be understood as a duty of wide or imperfect obligation. Moreover, when Kant's basic definitional account of the connection between duty and obligation is brought to bear, his operative assumption that wide duties are imperfect duties seems to preclude that restrictive duties of moral self-preservation like those thematized in quotation III should be able to furnish duties of wide obligation that belong to ethics as perfect duties. For the very notion that such narrow duties could furnish the content of wide obligation is inconsistent with the account of the breadth of duties and obligation that presupposes Kant's fundamental conception of the connection between duty and obligation as such (see again HANDOUT II). While that basic account does not exclude the notion that narrow duties, like all duties, belong to ethics in virtue of the overarching obligation to virtue (*Tugendverpflichtung*), it does not allow any narrow or perfect duty to furnish a matter of wide obligation.

If that is so, however, then there would seem to be but one way to make room for such a duty in the systematic context of the doctrine of virtue. One would have to maintain that Kant's account of the breadth or scope of duties and obligation, as he in fact presents it in the introduction to TL, allows for a duty of narrow obligation that somehow *becomes* a duty of wide obligation simply on the strength of its integration with ethics as a doctrine of virtue.[10] But nothing that Kant argues in the *Metaphysik der Sitten* (or elsewhere, for that matter) lends credence to such a view. First, it is ruled out to begin with by his foundational treatment of the relationship between juridical and ethical lawgiving. (On this point, see the appended special note at the end of your handout [**HANDOUT XVI**].[11]) Second, none of Kant's considerations on the wideness or narrowness of duties and obligation offers a platform for regarding the concept of a perfect (or narrow) duty of wide (or imperfect) obligation as anything more than what it appears to be on first consideration—namely, an incoherent concept.[12]

---

[10] That is, simply in virtue of its insertion into ethics on account of the obligation to virtue (*ogligatio ethica*) that applies to all duties just because they are duties.

[11] Like all duties, duties of right belong to ethics just because they are duties. But the lawgiving for duties of this type must remain juridical even when, in accordance with what ethics teaches, the externally coercive incentive connected with duties of right in the context of the doctrine of right is set aside. In other words, if the lawgiving from which duties of right arise could itself be specifically ethical, then these duties could not actually qualify as duties of right. Thus, the actions prescribed by this kind of lawgiving would be in the same class as benevolent actions with their corresponding (wide) obligation. And in this case, it would not be possible to draw a proper distinction between (external) coercive duties of right and duties of virtue:

> Hieraus ist zu ersehen, daß alle Pflichten blos darum, weil sie Pflichten sind, mit zur Ethik gehören, aber ihre *Gesetzgebung* ist darum nicht allemal in der Ethik enthalten, sondern von vielen derselben außerhalb derselben. So gebietet die Ethik, daß ich eine in einem Vertrage gethane Anheischigmachung, wenn mich der andere Theil gleich nicht dazu zwingen könnte, doch erfüllen müsse: allein sie nimmt das Gesetz (*pacta sunt servanda*) und die diesem correspondirende Pflicht aus der Rechtslehre als gegeben an. Also nicht in der *Ethik*, sondern im *Ius* liegt die Gesetzgebung, daß angenommene Versprechen gehalten werden müssen. Die Ethik lehrt hernach nur, daß, wenn die Triebfeder, welche die juridische Gesetzgebung mit jener Pflicht verbindet, nämlich der äußere Zwang, auch weggelassen wird, die Idee der Pflicht allein schon zur Triebfeder hinreichend sei. Denn wäre das nicht und die Gesetzgebung selber nicht juridisch, mithin die aus ihr entspringende Pflicht nicht eigentliche Rechtspflicht (zum Unterschiede von der Tugendpflicht), so würde man die Leistung der Treue (gemäß seinem Versprechen in einem Vertrage) mit den Handlungen des Wohlwollens und der Verpflichtung zu ihnen in eine Classe setzen, welches durchaus nicht geschehen muß. Es ist keine Tugendpflicht, sein Versprechen zu halten, sondern eine Rechtspflicht, zu deren Leistung man gezwungen werden kann. (MS 6:219.31-220.13).

Since, on Kant's account, duties of right—both external and internal—are perfect duties (see RL 6:240 [table]), the only way that any duty of right could possibly come to be a duty of wide obligation would be if it originated in ethical lawgiving, not in juridical lawgiving. But then it could never have been a duty of right or a duty of narrow obligation in the first place.

[12] See TL 6:390.1-391.25, 6:410.2-411.17, 6:419.15-36, 6:433.10-38, 6:445.20-446.8, 6:446.24-447.15; VATL 23:246.15-33, 23:377.5-7. 23:384.25-34, 23:385.1-6, 23:387.8-25, 23:388.8-25, 23:389.15-32, 23:391.21-393.21, 23:393.24-395.11, 23:417.6-20. See also V-MS/Vigil 27:528.18-37, 27:536.21-537.2, 27:577.34-578.37, 581.21-586.8, 27:17-30.

Thus, the main upshot of the preceding considerations on the breadth or scope of duty and obligation is this: The alternative renderings proposed for Kant's pivotal formulation (see the final sentence of HANDOUT IV) cannot provide the conceptual space needed to make sense of the idea that the doctrine of virtue should contain perfect duties of virtue. For the considerations pursued thus far offer no reason to deny the claim that imperfect duties *alone* are duties of virtue.

II

Perhaps, though, everything that we have (rather tediously) worked our way through up to this juncture is just beside the *substantive* point of Kant's portrayal of duties to oneself in the first book of his ethical *Elementarlehre* (Part I). Indeed, maybe all of the aforementioned worries about perfect duties and duties of virtue have been misdirected from the outset. Should we not be prepared to dismiss the entire classificational problematic that has hitherto occupied us for the obvious reason that we really ought to regard it as the result of looseness in formulation? Specifically, shouldn't we simply view Kant's unqualified and unexplained reference to 'duties of virtue' in TL § 4 (see again HANDOUT III) as amounting to nothing more than an incautious insertion, or perchance a manuscriptive flourish of the goose quill, that unfortunately remained uncorrected in the printed text?

To be sure, we do not have the option of replacing the reference to duties of virtue (*Tugendpflichten*) with obligations of virtue (*Tugendverpflichtungen*).[13] (There is, after all, but one obligation to virtue on Kant's account. [See quotation [δ] under HANDOUT I.[14]]) Yet we could, it seems, quite easily give Kant a helpful nudge by making the following suggestion: When examining his objective division of duties to oneself, one merely needs to pay attention to a useful distinction that can be drawn between duties of wide and narrow obligation as such, without further qualification, and duties of wide and narrow obligation according to the wider and narrower interpretations of these classificatory terms. Making use of this distinction should be enough (one might think) to allow Kant cleanly to separate duties to oneself as perfect duties of narrow obligation from all duties of virtue that are duties of wide obligation, including those duties of virtue that are perfect duties to oneself. That is because it could enable him (or enable us, at any rate) to distinguish between (a) duties of wide obligation that are imperfect duties of

[13] Cf. Ludwig, "Die Einteilungen der *Metaphysik der Sitten"*, p. 76.
[14] See quotation [δ]: TL 6:410.27-28.

virtue and (b) duties of virtue that can reasonably be characterized as perfect duties because they are not duties of narrow obligation in the narrow sense. Thus, even if latter type of aretaic duties cannot be duties of wide obligation *in the same way* that wide (i.e., imperfect) duties of virtue are of wide obligation, the matter or content that they furnish for the relation of obligation is such that they can still coherently be incorporated into Kant's ethical doctrine of elements as perfect duties.[15]

There are, however, two very basic difficulties with this sort of solution. First, it does nothing to deflect (let alone resolve) the formal issue that has occupied us—namely, the issue presented by the objection that the characterization of perfect duties as duties of virtue can be seen to involve a *contradictio in adiecto* as soon as the character of obligation's formal deontic reach is brought into play. A duty *of* wide obligation will always be a wide duty, no matter how close one's maxim of complying with wide duty comes to being a maxim of complying with '*narrow* duty (of right)' (once again: HANDOUT IV).[16] For any given duty of wide obligation must remain wide and imperfect in terms of its *degree* (if not in terms of its quality[17]) even when taken in comparison with all narrower duties. In other words, while a wide duty may be quite narrow when compared with a wide duty of wider obligation,[18] it cannot cease to be a wide or imperfect duty as long as its *obligation* must be wider than that of a narrow or perfect duty. And this entails that no duty of virtue can coherently be thought of as a narrow (i.e., perfect) duty—not even in view of the content it offers for the relation of obligation.[19] That is because there is just *no* way that its obligation can be narrow in the same way as that of the narrow duties which furnish the content, or matter(s), of narrow obligation.

The second difficulty with the proposed solution is this: Precisely because it cannot deflect the formal issue just outlined, this intended solution fails to provide an adequate platform for addressing a key substantive issue that informs Kant's attempt to integrate perfect duties to oneself with his doctrine of virtue by characterizing them as duties of virtue. This genuinely substantive (hence philosophically far more interesting) issue can be conveyed as follows.

---

[15] For a similar strategy of interpretation with respect to the breadth (i.e., the wideness and narrowness) of *duties* to oneself, see Andrea Marlen Esser, *Eine Ethik für Endliche: Kants Tugenlehre in der Gegenwart* (Stuttgart-Bad Cannstatt: Frommann-Holzboog, 2004), pp. 361-364.
[16] TL 6:390.16-17.
[17] Cf. TL 6:446.4-8, 6:446.25-34, 6:449.31-450.2.
[18] Cf. TL 6:449.31-450.2.
[19] The entailment here at issue is anchored in Kant's position that the wideness or narrowness of obligation is a function of the corresponding properties of its matter or deontic content (i.e., duty), and vice versa.

Kant holds that the practice of virtue, hence virtuous action, presupposes that there is a latitude (*Spielraum*) for the free power of choice; and he maintains that this latitude has to be understood in terms of the limitation of one maxim of duty by another maxim of duty (see HANDOUT IV).[20] But he also explicitly states that such latitude-yielding maxims are those which apply to the exercise of the power of judgment in relation to imperfect duties (i.e., wide duties or duties of wide obligation); and he makes it abundantly clear that this sort of exercise results in a form of casuistry that has no valid role to play in the juridical doctrine of right: **[HANDOUT VI]**

> Die *Ethik* […] führt wegen des *Spielraums*, den sie ihren unvollkommenen Pflichten verstattet, unvermeidlich dahin, zu Fragen, welche die Urtheilskraft auffordern auszumachen, wie eine Maxime in besonderen Fällen anzuwenden sei und zwar so: daß diese wiederum eine (untergeordnete) Maxime an die Hand gebe (wo immer wiederum nach einem Princip der Anwendung dieser auf vorkommende Fälle gefragt werden kann); und so geräth sie in eine *Casuistik*, von welcher die Rechtslehre nichts weiß. (TL 411.10-17)
>
> > [But ethics, because of the latitude it allows in its imperfect duties, unavoidably leads to questions that call upon judgment to decide how a maxim is to be applied in particular cases, and indeed in such a way that judgment provides another (subordinate) maxim (and one can always ask for yet another principle for applying this maxim to cases that may arise). So ethics falls into a casuistry, which has no place in the doctrine of right. (TL 6:411.10-17)]

Now the duties of moral self-preservation that Kant treats as perfect duties of virtue in quotation III of your handout are precisely those which, within the systematic framework of his doctrine of right, he links to 'internal duties of right', that is, to perfect duties whose principle is to be 'explained from the right of humanity in our own person' (see jointly: TL 6:419.32-34 and RL 6:236.28-30, 237.9-12, 6: 240 [table]). Hence the substantive issue that unavoidably confronts us when the argument of quotation VI is brought to bear: How can perfect duties that are linked to a basic principle of the juridical theory of *right* provide the occasion for *ethics* to become involved in casuistry if casuistic practice requiring the exercise of the power of judgment has no place in the doctrine of right? Whether or not perfect duties to oneself can coherently be thought of as duties of virtue, Kant must be able to give a compelling response to this query if he is to incorporate the duties of moral self-preservation into his doctrine of virtue *as* perfect duties (i.e., as duties that in principle can qualify as duties of right). Why? Because his account of such duties within the framework of his doctrine of virtue in fact incorporates casuistic questions.

[20] TL 6:390.4-14.

III

I will shed light on the ramifications of Kant's integration of casuistic questions with his account of perfect duties by considering his treatment of lying in the second chapter of his doctrine of virtue's ethical *Elementarlehre.* In particular, I will examine the line of casuistic questioning generated by Kant's TL portrayal of lying as a vice opposed to the perfect duty to oneself as a merely moral being.[21] To set the stage for doing this, however, we will need to expand our textual horizon somewhat beyond the *Metaphysik der Sitten* by first focusing on Kant's account of the duty of truthfulness as a duty of right in *Über ein vermeintliches Recht, aus Menschenliebe zu lügen* (1797).[22] Thus, it is only after assessing this juridical account that I will turn, in the fourth and final section of my paper, to Kant's treatment of lying in the systematic context of his doctrine of virtue. This procedure will allow us to determine why the principle that grounds the juridical duty of truthfulness cannot generate *casuistic* questions, even though it unavoidably gives rise to questions about its applicability to lying actions that can fall under different act descriptions. And it is in view of this result that I will discuss, in the concluding section, the implications of the conception of casuistry at issue in the TL portrayal of lying.

The 1797 article on the alleged right to lie contains Kant's highly critical treatment of the views on duty, rights, and the permissibility of lying that Benjamin Constant had previously directed against Kant's conception of truthfulness as a duty of right. According to Constant, there is of course a duty to tell the truth, but this duty cannot be unconditional. For telling the truth is a duty only in relation to someone who has a right to it; and where there is no relevant right, there can be no corresponding duty. Most everyone acquainted with Kant's practical philosophy will be quite familiar with the most striking component of the story line involved in Kant's refuting argument: Someone bent on murder appears at the door, asking if the intended victim is in the house. If you lie in this case, stating that the would-be murderer's target is not at home, then you are legally responsible for all of the consequences that might arise from your act of lying, including all of its unforeseen and undesirable consequences. Thus, if the prospective victim has

---

[21] See TL 6:431.16-34.

[22] My discussion of this account makes (heavily revising) use of the considerations on VRML presented in my article, "'Truthiness' and Consequences in the Public Use of Reason: Useful Lies, a Noble Lie, and a Supposed Right to Lie", *Veritas: Revista de Filosofia* 53 (2008): 73-91 (especially pp. 81-90).

left the house unnoticed, and the murderer ends up finding him outside and manages to do him in: **[HANDOUT VII]**

> so kannst du mit Recht als *Urheber* des Todes desselben angeklagt werden. Denn hättest du die Wahrheit, so gut du sie wußtest, gesagt: so wäre *vielleicht* der Mörder über dem Nachsuchen seines Feindes im Hause von herbeigelaufenen Nachbarn ergriffen und die That verhindert worden. (VRML 8:427.13-17 – italics mine [J.E.])
>
> > [[...] then you can by right be prosecuted as the *author* of his death. For if you had told the truth to the best of your knowledge, then the murderer might *perhaps* have been apprehended by neighbors walking by while he was searching for his enemy, and the deed would have been prevented. (VRML 8;427.13-17 – italics mine [JE]; Gregor translation modified).]

These lines clearly raise empirical questions about the character of neighbors. If my neighbors, at any rate, were that vigilant about what goes on privately inside my house when they walk by, I would *likely* have moved out long before anyone bent on murder appeared on the scene. This observation, of course, is superciliously anachronistic to the point of being downright silly. Yet it also serves to highlight the epistemic point that Kant's appeal to what might occur offers only the most tenuous support for the position that he wants to take. This in turn encourages us to focus on the thought that is supposed to be supported by that appeal, namely, the thought that is less than remarkable for its initial transparency. By maintaining that you can by right (*mit Recht*) be prosecuted as author of the death described, Kant seems to move from the claim that you are juridically responsible (*auf rechtliche Art verantwortlich*) for all of the consequences that might arise from your act of lying to the notion that you are subject to prosecution because of being causally responsible for an event caused by another.

As this notion is not self-evidently plausible to begin with, we need something more to work with if we are to clarify what is behind this sort of inferential move. Let us therefore consider what Kant says two paragraphs further on, where he exposes a crucial piece of conceptual confusion that underpins Constant's entire line of argument concerning the right to lie: **[HANDOUT VIII]**

> [S]o verwechselte »der französische Philosoph« die Handlung, wodurch Jemand einem Anderen schadet (*nocet*), indem er die Wahrheit, deren Geständniß er nicht umgehen kann, sagt, mit derjenigen, wodurch er diesem *Unrecht thut* (*laedit*). (VRML 8:428.18-21)
>
> > ["[T]he French philosopher" confused an action by which someone *harms* (*nocet*) another by telling a truth he cannot avoid admitting with an action by which he *wrongs* (*laedit*) another. (VRML 8:428.18-21)]

Thus, if the distinction between harming (*schaden*) and doing wrong (*Unrecht tun*) is carefully adhered to, then (in keeping with the murderer-at-the-door situation already introduced to exemplify Kant's position) two substantive points can be made against the type of position that

Constant wants to defend. First, we can see that the agent put on the spot has, just as any other agent, **[HANDOUT IX]**

> nicht allein ein Recht, sondern sogar die strengste Pflicht zur Wahrhaftigkeit in Aussagen, die er nicht umgehen kann: sie mag nun ihm selbst oder Andern schaden. (VRML 8:428.26-28)
>
> > [not only a right but even the strictest duty to truthfulness in statements he cannot avoid, though they may harm him or others. (VRML 8:428.26-28 – Gregor translation slightly modified)]

Second, we can discern that such an agent, by telling the truth in accordance with this requirement of strictest duty, does not do harm to the other who suffers it. For it is merely an accident if anyone is harmed as the result of making a truthful statement; and it is this accident which causes that harm, in the event that anyone actually ends up being harmed: **[HANDOUT X]**

> Es war bloß ein *Zufall* (*casus*), daß die Wahrhaftigkeit der Aussage dem Einwohner des Hauses schadete, nicht eine freie *That* (in juridischer Bedeutung) […] Er selbst *thut* also hiemit dem, der dadurch leidet, eigentlich nicht Schaden, sondern diesen *verursacht* der Zufall. (VRML 8:428.21-23 & 28-30)
>
> > [It was merely an *accident* (*casus*) that the truthfulness of the statement harmed the resident of the house, not a free *deed* (in the juridical sense). [...] Thus in telling the truth he himself does not, strictly speaking, *do* the harm to the one who suffers by it; instead, an accident *causes* the harm. (VRML 8:428.21-23 & 28-30)]

Let us consider the assumption that underlies Kant's use of the distinction between doing harm and causing harm in connection with the notion of accident (*casus*). The assumption is this: The truth-telling agent who causes the accident that causes harm done to another is someone who *does* no harm (and *a fortiori* does no wrong) when he causes that accident by telling the truth. This is an assumption that Kant requires if he is to make his point against Constant, i.e., the point that one does not (and indeed cannot) do wrong to another by telling the truth, even if one is thereby causally responsible for the accident that causes harm to another. But exactly therein lies the key difficulty in understanding the general position that Kant takes regarding relationship between juridical responsibility, causal agency, and prosecutorial warrant. For the distinction that Kant needs in order to establish that acts by which someone is harmed are not necessarily acts by which someone is wronged—viz., the distinction between doing and causing harm—is precisely the distinction which seems to exclude that an agent should be prosecutable (*anklagbar*) if she is the author of an event caused by the criminal deed of another. If I am causally responsible for the accident that in fact enables another to wrong someone else, then I am indeed (in some sense) the author (*Urheber*) of an event in which, or by which, someone is harmed as the result of my action. Yet it is by no means obvious why I should be subject to prosecution for being the author of an event by which, or in which, someone is *wronged by me* if I am the responsible for that

event *only insofar* as my action causes harm to another (or more precisely: *only insofar* as my action causes the accident that causes harm to another). Event authorship, it seems, should not furnish a sufficient condition for prosecutorial warrant in the event of wrongdoing if the author of an event does no wrong.

So why should *I* be subject to prosecution for *doing wrong* in the event that my act of lying causes the accident that is the cause of unforeseen harm to a victim just because it happens to furnish the occasion for another agent's act of wrongdoing?[23] According to the conditions of action described thus far, the victim wronged in the wake of that act is not *my* victim, even if it should ultimately turn out that I am (accidentally) one of the authors of his demise. Thus, it seems that this should be the end of the murderer-at-the-door story (though probably the beginning of the finding of fact, of course).

That said, of course, it cannot be the end of the story as far as Kant is concerned. For the pivotal issue that he wants to be able to address by criticizing the consequentialist features of Constant's thinking is the link between truthfulness and the definition of external right as the consistency of the freedom of each with the freedom of everyone in accordance with a universal law[24] **[see HANDOUT XI]**. It is view of this pivotal issue that Kant specifies the jurisprudential import of his treatment of lying in the lines leading up to his discussion of the murderer's appearance at the door: **[HANDOUT XII]**

> Die Lüge also, bloß als vorsetzlich unwahre Declaration gegen einen andern Menschen definirt, bedarf nicht des Zusatzes, daß sie einem anderen schaden müsse; wie die Juristen es zu ihrer Definition verlangen (*mendacium est falsiloquium in praeiudicium alterius*). Denn sie schadet jederzeit einem anderen, wenn gleich nicht einem andern Menschen, doch der Menschheit überhaupt, indem sie die Rechtsquelle unbrauchbar macht. [¶] Diese gutmüthige Lüge *kann* aber auch durch einen *Zufall* (*casus*) strafbar werden nach bürgerlichen Gesetzen; was aber bloß durch den Zufall der Straffälligkeit entgeht, kann auch nach äußeren Gesetzen als Unrecht abgeurtheilt werden. (VRML 8:426.25-427.2)

---

[23] Arguing against the plausibility of 'Kants Ehrenrettung unumgeschränkter Wahrhaftigkeit' ("Kant und die Lüge aus Pflicht: Zur Auflösung moralischer Dilemmata in einer kantischen Ethik", *Philosophisches Jahrbuch* 107 [2000]: 267-283), Jens Timmermann has written:

> Wenn allerdings der Befragte wie in unserem Beispiel ahnte, was der Mörder vorhatte, und er dem Mörder hilft, indem er pflichtgemäß auskunft, anstatt, aus welchem Motiv auch immer, die Unwahrheit zu sagen, so kann von Zufall, der den Schaden verursacht, im Grunde nicht mehr die Rede sein; selbst wenn keine notwendige Verbindung zwischen Wahrhaftigkeit und Mord besteht (p. 275).

On the line of interpretation followed in my discussion of the murderer-at-the-door example, however, it is entirely admissible for Kant to characterize an accident as the cause of harm done by the dutifully truth-telling agent as long as an agent can cause an accident to occur by acting. Indeed, as we will presently see, it is precisely because such an agent can cause harm to be done to someone by acting to cause an accident that causes harm that she can either do or not do wrong by performing an action that *happens* to cause harm.

[24] 'Zusammenstimmung der Freiheit eines jeden mit der Freiheit von Jedermann nach einem allgemeinen Gesetze' (VRML 8:429.11-12).

> [Thus a lie, defined merely as an intentionally untrue declaration to another, does not require what jurists insist upon adding for their definition, that it must harm another (*mendacium est falsiloquium in praeiudicium alterius*). For it always harms another, even if not another individual, nevertheless humanity generally, inasmuch as it makes the source of right unusable. [¶] Such a well-meant lie *can*, however, also become by an *accident* (*casus*) punishable in accordance with civil laws; but what escapes being punishable merely by accident can be condemned as wrong even in accordance with external laws. (VRMI 8:426.25-427.2)]

Thus, even in the event that no one in particular is harmed by a well-meaning act of lying, this kind of act is strictly impermissible just because it inflicts harm on humanity in general (*die Menscheit überhaupt*) by rendering the very source of right unusable, thus undermining the possibility that the freedom of each can be consistent with the freedom of everyone. Moreover, a lie can be condemned as wrong, and thus in principle be punishable in accordance with external laws of right, even if no harm is done to anyone in particular. Accordingly, as Kant elaborates on what follows from these tenets toward the end of his article, the moral danger presented by lying is **[HANDOUT XIII]**

> nicht die Gefahr (zufälligerweise) zu *schaden*, sondern überhaupt *Unrecht zu thun*: welches geschehen würde, wenn ich die Pflicht der Wahrhaftigkeit, die gänzlich unbedingt ist und in Aussagen die oberste rechtliche Bedingung ausmacht, zu einer bedingten und noch andern Rücksichten untergeordneten mache und, obgleich ich durch eine gewisse Lüge in der That niemanden Unrecht thue, doch das Princip des Rechts in Ansehung aller unumgänglich nothwendigen Aussagen überhaupt verletze (formaliter, obgleich nicht materialiter, Unrecht thue): welches viel schlimmer ist als gegen irgend jemanden eine Ungerechtigkeit begehn, weil eine solche That nicht eben immer einen Grundsatz dazu im Subjecte voraussetzt. (VRML 8:429.26-37)
>
> [But here one must understand not the danger of *harming* (contingently) but of *doing wrong* generally, as would happen if I make the duty of truthfulness, which is altogether unconditional and constitutes the supreme rightful condition in statements, into a conditional duty subordinate to other considerations and, though by a certain lie I in fact wrong no one, I nevertheless violate the principle of right with respect to all unavoidable necessary statements *in general* (I do wrong formally though not materially); and this is much worse than committing an injustice to someone or other, since such a deed does not always presuppose in the subject a principle of doing so. (VRML 8:429.26-37)]

In summary: The conditional permissibility of even well-meaning acts of lying must be ruled out if the source of right is to be preserved as usable, thereby avoiding the infliction of harm on humanity by undermining the source of everyone's freedom. And by presenting us with the duty of truthfulness as an unconditional duty of right, the juridical principle of truthfulness sets forth a strictly formal truth-telling condition that must be satisfied if doing wrong generally is to be avoided, even when no one in particular is wronged by someone's lying action.

So is this the end of Kant's story regarding the prohibition of lying on strictly juridical grounds? If it is, it is not yet the end of our story about juridical duties and the type of questions they give rise to.

Given the way in which Kant draws the distinction between doing harm and causing harm to be done, and consequently between wrongdoing and harming, we have to ask whether the position he takes on harm done to humanity in general by an act of lying is supportable with respect to *all* conditions under which actions can accord with principles of right (i.e. with principles of the freedom of everyone). As far as it concerns lying actions that fall within the purview of the doctrine of right, Kant's position in this regard evidently does call for significant qualification. For the blanket juridical prohibition against lying under all conditions of action is not obviously compatible with Kant's use of his own criteria for the conceptual determination of wrongdoing in the specifically juridical sense of that term.

The problem of compatibility here in question is this: Given the ways in which Kant distinguishes between doing wrong, on the one hand, and between doing and causing harm, on the other, it is unclear how I can avoid doing harm to humanity *in general* if I *allow* a preventable wrong to be done to a particular person. But if this is so, then it is also unclear how I can avoid wrongdoing, even when my action formally accords with a juridical principle of right, as long as my allowance of a preventable wrong is what causes wrong to be done to this person.[25] Let me explain.

As a principle of external right, the principle of truthfulness in making statements rules out a type of action by which harm is done to humanity in general, even if it *happens* that someone is harmed when an action accords with its prescription to tell the truth. But, as is the case for every other principle of external right, the application of this principle of truthfulness presupposes that an agent must do no wrong to anyone. Thus, it is not clear how my action can be consistent with the principle of truthfulness, *insofar* as this serves as a principle of right that *opposes wrongdoing*, if I act in such a way that I am willing to become the author (or co-author) of an event in which a person is wronged so that I can avoid being the author of an event by which that same person might be harmed. For if I do come to be the author of an event in which a person is

[25] As will soon be apparent, the central point of my analysis of the murderer-at-the-door example in VRML is that Kant ignores the *possibility* that (in the event of actual or possible wrongdoing) one and the same case of action is open to more than one description when an agent is causally responsible for harm that is done to someone by causing an accident that causes harm. My broader concern with Kant's overall treatment of the principle of truthfulness in making statements in conjunction with the (indeed illicit) notion of a *right* to lie is this: In ignoring the possibility just mentioned, Kant in effect erases whatever line of demarcation may be drawn between (i) the metaphysically foundational account of practical laws that furnish the normative basis for warranted prosecution and (ii) the juristic prosecutorial practice of determining *which* law (or laws) of external right can apply to a case of action involving possible wrongdoing of some description. Yet this broader concern is not something that I will further address in this paper.

wronged by causing this event as the way to avoid being the author of an event involving possible harm to another, then how can I *not* be an agent who *causes* wrong to be done to that person? And if I cause wrong to be done by authoring an event in which someone is in fact wronged, then how can this wrong not be *my* punishable doing as long as wrongdoing can be perpetrated *by* doing wrong to particular persons? (How else, indeed, can wrong be *perpetrated?* It is hard to see how even someone like Donald Trump, who arguably harms humanity in general nearly every time he opens his mouth in public, could do *wrong* by any other means, even if he always does harm to every single human being on the face of the earth whenever he says anything at all.[26]) To be sure, Kant could appeal to the harm done to humanity in general by an action's violation of a law of external right in order to mount a reply to the objection that event authorship is not a sufficient condition for liability to punishment if the event by which someone is harmed is not one in which that person is wronged by the (or an) author of that event. But this kind of strategy of reply would not entail—or at least would not obviously imply—that the author of such an event does no wrong if the event authored causes foreseeable and preventable wrong to be done to someone.

Needless to say, then, Kant's line of argument against Constant gives rise to many issues concerning the criteria by which we should distinguish between causing, doing, intending, and allowing harm and wrongdoing. And these are the conceptual issues for the metaphysical account of human action that in turn raise questions about the application of the juridical principle of truthfulness to lying actions that, on the one hand, may be describable as acts of doing wrong but, on the other hand, can also be acts *intended* to prevent wrong from being done. Nevertheless, the questions thereby raised concerning the application of this kind of principle are not *casuistic* questions, at least not in the Kantian sense. Instead, they concern the applicability of a principle of external right, which serves as a law for *actions*, to a case of action to which different (and indeed opposing) act descriptions can apply. Thus, whatever questions may be raised about the application of such a juridical principle to an action that can fall under such different act descriptions, these are not questions about the application of a law for *maxims* of actions. For they do not concern the way in which the power of judgment is called upon to decide how a maxim is to be applied in particular cases when *another* (subordinate) maxim is

[26] The characterization of this difficulty assumes, of course, that such a person occasionally does mean what he says when his mouth is open, which is indeed questionable. Still, interpretive charity requires the assumption.

given (see again HANDOUT VI). Nor do such questions concern a law that applies to a given maxim for which one can always ask for yet another principle, or law, of its application as a maxim to particular cases.[27] It is one thing to ask whether a law for actions applies to a case of action that lends itself to different descriptions. It is another thing to ask how different maxims should be applied in, or to, particular cases in accordance with laws that furnish principles for judging how maxims are to be applied.

IV

Where, then, does all this leave us with respect to the question that has motivated the preceding observations on Kant's account of the duty of truthfulness as a duty as a duty of right? More to the point, do these observations enable us to put Kant in a position to explain how a perfect duty linked to a law of right provides a platform for *ethics* to become involved in casuistic questioning, although this is the kind of questioning that has no place in the doctrine of *right*?

Bearing this question in mind, let us consider what Kant says in the final paragraph of his TL treatment of the vice of lying, which is offered under the heading of perfect duties to oneself:[28]
[HANDOUT XIV]

> In wirklichen Geschäften, wo es aufs Mein und Dein ankommt, wenn ich da eine Unwahrheit sage, muß ich alle die Folgen verantworten, die daraus entspringen möchten? Z. B. ein Hausherr hat befohlen: daß, wenn ein gewisser Mensch nach ihm fragen würde, er ihn verläugnen solle. Der Dienstbote thut dieses: veranlaßt aber dadurch, daß jener entwischt und ein großes Verbrechen ausübt, welches sonst durch die gegen ihn ausgeschickte Wache wäre verhindert worden. Auf wen fällt hier die Schuld (nach ethischen Grundsätzen)? Allerdings auch auf den letzteren, welcher hier eine Pflicht gegen sich selbst durch eine Lüge verletzte; deren Folgen ihm nun durch sein eigen Gewissen zugerechnet werden. (TL 6:431.25-34)
>
> > [If I say something untrue in more serious matters, having to do with what is mine or yours, must I answer for all the consequences it might have? For example, a household master has ordered his servant to say "not at home" if a certain human being asks for him. The servant does this and, as a result, the master slips away and commits a serious crime, which would otherwise have been prevented by the guard sent to arrest him. Who (in accordance with ethical principles) is guilty in this case? Surely the servant, too, who violated a duty to himself by his lie, the results of which his own conscience imputes to him. (TL 6:431:25-34 – Gregor translation modified)]

Given Kant's portrayal of the relationship between the servant and the household master, we can presumably agree that the former should indeed have a share in the burden of moral debt or guilt according to *ethical* principles (as distinguished from principles of right). For it is by means of

---

[27] See again quotation [μ]: TL 6:411.14-16.
[28] For lucid discussion of Kant's TL treatment of lying as a violation of a duty to oneself, see Stefano Bacin, "The Perfect Duty to Oneself as a Merely Moral Being", in Andreas Trampota, Oliver Sensen, Jens Timmermann (Eds.), *Kant's "Tugendlehre"* (Berlin/Boston: De Gruyter, 2013), pp. 247-255.

the servant's violation of his perfect duty to himself as a moral being that the master is able to commit the crime that could have been prevented by the guard sent for this purpose. But let us take Kant's procedure of casuistic questioning several steps further by adding to his crime-laden story. Why not? Casuistry, as Kant understands it [see **HANDOUT XV**], is not a scientific doctrine about how to *find* something, but is instead a practice in how to *seek* truth. It is therefore woven into ethics only in a fragmentary way, not systematically, and is added to ethics only by way of scholia.[29] So let us scholiastically extend Kant's line of questioning with respect to the vice of lying by engaging in some casuistic role and character switching, not to mention a significant bit of scenario alteration. We can handily do this by making use of the illustrative scenario already depicted in connection with Kant's criticism of Constant.

Thus, we extend Kant's line of truth-seeking practice as follows. We first have someone bent on murdering the household master appear at the door and knock the crime-preventing guard on the head, thereby taking him out of commission. Second, we exchange the crime-committing master for a much nicer one who most regrettably ends up being the victim of the murderer's criminal act. Third, we replace the guilt-ridden poor sap who plays the servant with 'you' or (even better) with 'me,' who lies like a bandit as the means of thwarting the murderer's aim. Since we have already seen how this story ends, all that remains is to cast aside the duty of external right that corresponds to the juridical duty of truthfulness. In its place we put the duty linked to the principle of moral self-preservation at issue in HANDOUT III, namely, the perfect duty to oneself that is putatively violated by the lying action which I perform in order to save my master's life.

With everyone in their assigned places and playing their designated roles with reference to *this* perfect duty, we can now bring to bear the following question: What maxims can apply to my bold-faced lying *in addition to* any truth-telling maxim supported by the principle of moral self-preservation, and thus linked to the duty I that have toward myself as a merely moral being? According to Kant, as we know from HANDOUT VI, ethics becomes involved in casuistry because the latitude which it allows on account of its imperfect duties unavoidably leads to questions that call upon the power of judgment to decide how *a* maxim is to be applied in

[29] 'Die *Casuistik* ist also weder eine *Wissenschaft*, noch ein Theil derselben; denn das wäre Dogmatik und ist nicht sowohl Lehre, wie etwas *gefunden*, sondern Übung, wie die Wahrheit soll *gesucht* werden; *fragmentarisch* also, nicht systematisch (wie die erstere sein mußte) *in sie verwebt*, nur gleich den Scholien zum System hinzu gethan (TL 6:411.18-23).'

particular *cases* of action (as distinguished from questions concerning one and the same case of action that can fall under different act descriptions).[30] We also know, from HANDOUT IV, that the latitude in question (i.e., the latitude for the free power of choice) has to be understood in terms of the limitation of one maxim of duty by another maxim or other maxims of duty.[31] So just what would be a maxim that I could apply to the case of my *life-preserving* lying action because ethics allows me to decide how it is to be applied, although I also know that I have the duty to tell the truth? It certainly cannot be one whose principle of application is provided by a practical law that presents me with the duty to myself as a merely moral being, i.e., a law of duty that would rule out the permissibility of my lying action if it were applied to this particular case. Moreover, given the particular life-preserving aim of my action, my maxim will not be one that directly concerns the promotion of my own perfection as an end that is also a duty. (When acting on a maxim of the type here being sought, my end will not be to further my *own* capacities for furthering ends set forth by reason; nor will such a maxim apply directly to the cultivation of morality in *me* as a feature of the own-perfection that is my obligatory end.[32]) Instead, a maxim that I could decide to apply to the case at hand would evidently have to be one which pertains to promoting the other intrinsically obligatory end of morally practical reason: the happiness of others. In this particular case of action, then, it would most obviously be the benevolent maxim to give aid to another that undergirds my attempt to ensure my master's physical well-being by leading the murderer astray. (If there is an unambiguous case of *not* promoting this natural feature of another's happiness it would certainly be to let him or her be killed when I can easily prevent this event by not acting on a truth-telling maxim pertaining to my duty to myself as a merely moral being.)

Now there is, to be sure, the further question to raise in view of the unfortunate circumstance that the murderer is ultimately successful in achieving his aim: Should I not have a very large share in whatever moral guilt may in fact result from acting on the aid-giving maxim of benevolence just indicated? But to simplify things for the sake of seeking truth, let us just eliminate this question by altering the casuistic story to the extent that I am depicted as

---

[30] See TL 6:411.10-17.
[31] See TL 6:390.11-14.
[32] Cf. TL 6:391.30-31, 6:392.20. This is not to assert that maxims pertaining to the promotion one's own perfection may not be *considered* when deciding upon which maxim should apply determinatively to the case at hand. See note 35 for further relevant discussion.

successfully preserving my master's life.[33] If we do this, we can see that the crucial truth-seeking import of this kind of illustrative account for Kant's ethics lies in the following consideration.

A decision favoring the determinative (i.e., the maxim-superordinating) application of my maxim to give aid to my master may *appear* to be the result of properly casuistic practice. That is because, when exercising my power of judgment, I seem to have taken appropriate account of at least one principle of duty distinct from the principle of active benevolence that applies to my aid-giving maxim.[34] Moreover, given this result of my putatively casuistic practice, I can inquire whether there are further principles that would put me in an enhanced position to determine whether, and why, my aid-giving maxim of other-directed benevolence should apply to the particular case described. Consequently, it seems that the consideration of these additional principles is what can lend support to my judgment that in *this* particular case of action my maxim to give life-preserving aid must *not* be subordinate to any maxim that pertains to the duty to myself involving the prohibition of lying as a vice.[35] In this way, then, the exercise of the power of judgment that is characteristic of ethics may appear to lead me, by way of casuistic

---

[33] The question just eliminated concerns the perfect duty to oneself as one's own innate judge, i.e., the duty pertaining to conscience that is linked to judgment's internal imputation (*innere Zurechnung*) of one's deeds as cases falling under laws (see TL § 13, 6:438.1-12). It should be clearly noted here, however, that eliminating a question with which this duty is concerned is not to eliminate any question concerning the internal imputation of deeds from our story. Because Kant's principle of internal imputation applies to all actions that can fall under laws, whatever questions that its application raises cannot be eliminated just by altering an exemplifying account that allows us to understand the decision to apply a particular maxim in a case of action to which other maxims may apply. In brief, eliminating a question of conscience by altering a casuistic story is not the same thing as eliminating a casuistic question. That said, it should also be noted that the principle of internal imputation at issue in TL § 13 is not suitable as a basis for judging *which maxims* apply in particular cases of action. It is unsuitable for this purpose just because it applies to *all actions* that can occur as internally imputable deeds—which in turn is why, although it is a principle presupposed by every internally imputable deed as a case of action falling under law, it is not a principle to consider specifically when judging how *casuistic* questions can be answered. (More on this presently: see note 35.) In this regard, it may further be noted (in passing) that Kant does not append casuistic questions to his treatment of the perfect duty to oneself at issue in TL § 13.

[34] In this case: the principle that applies to my maxim to tell the truth, which is a principle that pertains to my perfect duty to myself as a merely moral being (i.e., the duty opposed to lying as a vice).

[35] These additional principles will be laws of *ethical* lawgiving that provide a specifically aretaic (i.e., non-juridical) basis for judging the permissibility of being the author of an event that causes foreseeable and preventable wrong. One such additional principle for me to *consider* when applying my maxim to give life-preserving aid would be the law that enjoins me to increase my moral perfection as an imperfect duty (see TL 6:446.10 –11). For it is difficult to see how being the author of an event that causes foreseeable and preventable wrong to be done to a particular person, or to particular persons, can ever be in accordance with such a law for maxims, even in the event that it is not my maxim to further my own moral perfection by cultivating morality in myself (cf. TL 6:392.20 –23, 6:446.13–17). Other principles of imperfect duty to consider, in view of event authorship resulting in harm or wrongdoing, would be those furnished by laws for maxims pertaining to free respect toward others and to gratitude (see TL 6:449.31– 450.8, 6:454.30– 455.4). It should be noted, however, that the casuistic consideration of all these additional principles of imperfect duty rests on the arguably illicit assumption that maxims pertaining to imperfect duties can limit the prescriptive force of maxims pertaining to perfect duties. (More on this presently.)

questioning, to understand that my maxim to give this aid to another is the one that should apply determinatively to the case represented, even if it is a maxim that pertains to an *imperfect* duty (viz., the duty to promote the happiness of others as an end that is also a duty). All this presupposes, however, that the maxims which my aid-giving maxim of other-directed benevolence limits—*including*, therefore, any truth-telling maxim that concerns my perfect duty to myself as a merely moral being—are those which *allow* for limitation by a maxim pertaining to an imperfect duty. How, though, is such limitation possible if no truth-telling maxim concerns a duty of wide obligation? In other words, how could *ethics* afford me permission to limit a truth-telling maxim's application in favor of an aid-giving maxim if the duties to which these maxims pertain were not *both* duties of wide obligation, no matter how close one of them comes to being a narrow duty?[36] And therein lies the whole difficulty in Kant's endeavor to integrate perfect duties to oneself with his account of ethical duties as duties of wide obligation, i.e., as duties of virtue that are imperfect duties alone. For there can be no perfect duty that is anything other than a narrow duty or duty of narrow obligation.

***

The upshot of my presentation's overall argument is therefore this: Perfect duties evidently should have no place among the elements of a doctrine of virtue that give rise to *casuistic* questions. For whether or not such duties can coherently be characterized as duties of virtue when belonging to ethics as (indirectly) ethical duties,[37] the lexical ordering of maxims of duty pertaining to particular cases of action can only be decided in view of the latitude that ethics allows in its *imperfect* duties; and this latitude unavoidably leads to casuistic questions that have no possible application to narrow duties, i.e., to duties of narrow obligation or perfect duties. We can clearly discern this if we cleanly separate the account of laws for maxims of actions, which goes hand in hand with Kant's conception of casuistic questioning, from the problem of relevant act descriptions that can be linked to the application of laws of right as external laws for actions: An action may fall under more than one case description relevant to judging its *juridical* permissibility or impermissibility, even if it is one that (according to some description) we are bound to perform because it is prescribed by a law of right that makes it a narrow or perfect duty. Yet an action can never be the matter of *wide obligation* required for the casuistic exercise of the

[36] See again quotation IV: TL 6:390.9-13.
[37] On this, See Gregor, *Laws of Freedom*, pp. 122-127.

power of judgment unless the following condition is satisfiable: Its maxim must be prescribed by a law for *maxims*, that is, by a practical law that makes room for deciding how a given maxim of duty is to be applied in, or to, cases of action to which other maxims of duty may apply as well. No practical law that presents a perfect duty can satisfy this condition, though, since no perfect duty can furnish the matter of wide obligation required for the properly casuistic exercise of the power of judgment.

Jeff.Edwards@stonybrook.edu