

[In: Christoph Horn and Robinson dos Santos (eds.): *Kant's Theory of Value*. Kantstudien-Ergänzungshefte Vol. 219, De Gruyter, Berlin/Boston 2022, pp. 89–104]

Blind Spots in the Formula of Humanity: What Does It Mean Not to Treat Someone as an End?

Corinna Mieth, Ruhr-Universität Bochum

Jacob Rosenthal, University of Konstanz

Abstract: The aim of our paper is to develop a more differentiated understanding of the ‘negative’ part of the formula of humanity. What does it mean to treat others *not* as ends in themselves? At first glance one might think that this would mean treating others as mere means, and indeed, the focus within the literature has mainly been on that kind of wrongdoing (recently Kleingeld 2020; Audi 2016, Part I; Kerstein 2013, Part I). But there are more categories. If you do not help someone in need whom you could easily help, but instead simply ignore her, then you do not treat her as an instrument for your purposes, but also not as an end in herself. One could say that you treat her like a mere thing (Sticker 2021). Furthermore, if someone is in your way and you simply remove him, you treat him neither as a means nor as an irrelevant thing, nor, for that matter, as an end in himself, but as a mere obstacle. In the first part of our paper, we will explain the relevance of the distinction between (1) treating or regarding someone as a means, (2) as an irrelevant thing, or (3) as an obstacle. These can all be viewed as subcategories of the ‘thing’ part of the person–thing distinction that plays a central role in Kant’s ethics and which is the topic of the second part of our paper. In the third part we will point out that the distinction between ends in themselves or persons, on one hand, and things, on the other, still does not cover an important kind of moral wrongdoing: we can treat others as *negative* ends. This is the case when harming others is the ultimate purpose of our action.

Keywords: Kant, formula of humanity, ends, means, persons, things, absolute worth, instrumentalization, Schopenhauer, egoism, negative ends, inclinations, malevolence, moral wrongdoing

One way in which Kant states his fundamental moral principle is his famous formula of humanity: “So act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means.” (G 4:429 / Kant [1785] 1996a, p. 80)

The first thing that comes to mind is that the formula of humanity forbids us from using others merely as means to our ends. This is explicitly stated in the formula but is also implied by the requirement to treat others as ends.¹ Kant talks about “using as an end”, which seems awkward, as ‘using’ seems to be appropriate for means only. What could be considered a linguistic lapse here is due to the fact that he wants to use the same verb for the agent’s relation to means *and* ends. ‘Treating’ is more appropriate here.² The formula elucidates what is meant by treating persons as ends by making the converse explicit. The answer to the question: ‘What does the formula of humanity require?’ is: ‘to treat every person, or the humanity within her, as an end.’ The answer to the question: ‘What does the formula forbid?’ is: ‘to use or treat persons, or the humanity within them, merely as a means.’ The prohibition on using others as mere means to one’s ends, which is often referred to as the prohibition of instrumentalization, “is one of the best-known and most influential elements of Immanuel Kant’s moral theory.” (Kleingeld 2020, p. 389)

The focus within the literature has mainly been on that kind of moral wrongdoing (Kleingeld 2020; Audi 2016, Part I; Kerstein 2013, Part I). But there are other kinds that are not captured by the prohibition of instrumentalization. This is why we speak of ‘blind spots’ in the formula of humanity. The focus on instrumentalization can obscure these other forms of moral wrongdoing, which are just as important. Our aim is to systematically explore in outline the different varieties of treating someone *not* as an end. Thereby the converse, as it is required by the formula of humanity, is delineated indirectly and *ex*

¹ Kant refers to humanity in one’s own or another person, and it is this humanity in a person, rather than the person as such or as a whole, that is to be treated as an end. This is an important point to be kept in mind, but for reasons of simplicity we will mostly refer to treating persons as ends. Moreover, we will largely omit the case of conduct towards oneself, as it raises questions and problems of its own.

² According to Kleingeld, “[t]he locution ‘using as an end’ is probably best understood as meaning ‘using qua end’ or ‘in accordance with its standing as an end’, that is, as indicating that one ought to use a human being in a way that is consistent with the latter’s moral standing as an end in itself.” (Kleingeld 2020, p. 399) But ‘using qua end’ is still awkward, and moreover, a person affected by an action need not be used at all: she can, for example, also be treated solely as an end in herself. And there are more possibilities, as we will see. Thus, a neutral and more encompassing term such as ‘treating’ is needed.

negativo, but we do not claim that this approach already yields a full understanding of what it means to treat persons as ends. We are not going to address the latter question directly; rather, we will focus on the ‘negative’ aspect of the formula.

In the first part of this paper we take a closer look at the kinds of wrongdoing not covered by instrumentalization. In the second part we examine the person–thing distinction. For Kant, this distinction is connected to the absolute worth of persons and the only relative worth of things. This contrast is more adequate and more encompassing with respect to moral wrongdoing than the contrast between ends and means. But it still does not cover the category of ‘negative ends’ which we will address in the third part. The point here is that there are kinds of moral wrongdoing that do not amount to treating someone like a mere thing. Instead, they relate to her specifically as a person, albeit in a negative way.

I. What the focus on instrumentalization does not capture

One could conclude from the formula of humanity that when we treat someone in our action in way that does not involve using her merely as a means, we are treating her as an end, i.e., in the morally required way. But this is not true on any intuitive reading of ‘using as a means’. There are at least two sorts of failure to treat others in the morally required manner even without using them as means: (1) treating them as irrelevant (cf. Sticker 2021; O’Neill 1996, ch. 7) or (2) treating them as mere obstacles. Both these categories constitute failures to treat others as ends in themselves. Once we treat someone as an end in herself, we ascribe absolute worth to her and are treating her as the “supreme limiting condition” for our ends. (G 4:431 / Kant [1785] 1996a, p. 81; cf. G 4:438 / Kant [1785] 1996a, p. 87). That is incompatible with using her as a mere means for one’s ends, a mere obstacle in one’s path or as completely irrelevant. But these are different kinds of wrongdoing. Not all moral wrongdoing is instrumentalization.

Let us first have a closer look at the standard cases of instrumentalization: deception and coercion (see, e.g., O’Neill 1996, ch. 6). In deception, for example in the case of borrowing money from someone via insincerely promising that one will pay it back soon while having no intention of doing this, the other person is used as a mere means to get the money. She is viewed by and relevant to the agent only as a source of money, and that is why she is treated as a *mere* means (at least within this transaction). Another standard example is slavery. To the slaveholder, the slave is only relevant as a tool, e.g. to

harvest the cotton. The slaveholder does not deceive the slave into labour by false promises, but uses the more brutal instrument of coercion: threat of physical punishment or death.

Note, however, that in both cases, deception as well as coercion, although a person is treated like a mere means or instrument in one sense, in another respect they are not, since it is the person's (free) *agency* that is required. The lender has to give the money, the slave has to harvest the cotton. Neither of them need act in the required way; they could, at least in principle, refuse to do so. It is impossible to use an *agent* as an instrument in the same sense in which his *body* can be used when, e.g., a runaway trolley is stopped by pushing someone into its path. Instrumentalizing an agent *as* an agent, and not merely his body, means that the agent has to *do* something specific, and at least according to Kant, as long as there is agency proper the person can in principle refrain from doing this (lending the money, working for his master).

This fact gives rise to a characteristic duty to oneself. In the Introduction to the *Doctrine of Right*, Kant refers to "rightful honour": "*Rightful honour (honestas iuridica)* consists in asserting one's worth as a human being in relation to others, a duty expressed by the saying, 'Do not make yourself a mere means for others but be at the same time an end for them.' This duty will be explained later as obligation from the right of humanity in our own person (*Lex iusti*)." (MM 6:236 / Kant [1797] 1996b, p. 392; emphases in the original) There are related passages in the *Doctrine of Virtue*, §12, where Kant states that there is a "duty with reference to the dignity of humanity within us" (MM 6:436 / Kant [1797] 1996b, p. 558), implying that "[b]owing and scraping before a human being seems in any case to be unworthy of a human being", and even that "one who makes himself a worm cannot complain afterwards if people step on him." (MM 6:437 / Kant [1797] 1996b, p. 559) It is, however, not clear whether Kant would have been ready to apply these sayings to slavery; the context in §12 of the *Doctrine of Virtue* is rather that of servility.

To be sure, in cases of instrumentalization the perpetrator would certainly *wish* to use the victim as a mere means and therefore applies deception or coercion in order to manipulate the victim's agency. The perpetrator's attitude towards the victim is indeed that of instrumentalization and in this sense he treats the other person as a mere means, although literally using a person as a means would mean to directly use her body, as in the trolley case.

Let us now look at kinds of moral wrongdoing other than instrumentalization. We can fail to treat others as ends even though we are not using them as means. One way to

do this is to treat others as irrelevant. This kind of indifference comes in several varieties: for example, not helping others when they are in dire need and we could easily help them, or recklessly not caring whether others are disturbed, endangered, or otherwise negatively affected by our conduct. In both cases we proceed as if the others were not there. It is artificial to subsume this under the category of '(merely) using as means'. It may be claimed that in such cases ignoring the others is a means to achieve one's end (see, e.g., Prauss 2006, §17). This is a strange way of putting it, though, because calling 'ignoring someone' a means suggests other kinds of situations, in which, for example, the ignoring is deliberately employed to provoke or suppress a certain reaction from another person. But even if one were also willing to describe in this way failure to help, inconsiderateness or, in general, cases in which the agent simply does not care, it would still not be true that other persons are used as means in these cases. Rather, they do not matter to the agent at all; they are treated as irrelevant.³

Another type of moral wrongdoing is that of removing or destroying someone who is in one's way, of treating her merely as a hindrance to one's plans. Perhaps there is a competition: the other person wants what you want: the position, the partner, the house. If you aim at getting what you want by killing or threatening her, by deceiving her in order to distract her, or by damaging her reputation by making false accusations against her, etc., you treat her as a mere obstacle, as nothing but a hindrance to your aims that is to be removed. The removal of the other, to be sure, is a means to one's ends, but it is not the case that she is used or treated as or like an instrument. On the contrary, you have to get rid of her in order to get what you want.

Both treating a person as irrelevant and as a mere obstacle in one's way are incompatible with what the formula of humanity requires: to treat her as a supreme limiting condition for one's own ends. But as long as one sticks to anything like the ordinary meaning of 'using as means', these kinds of moral wrongdoing are no instances of it. Thus, the distinction between treating others as ends in themselves and treating them as mere means is not exhaustive. We can mistreat others without instrumentalizing them.

³ The notion of 'treating' is used in a broad sense here, as is inevitable if every kind of morally relevant behaviour is to be covered by this term (cf. Parfit 2011, p. 184). If a person is affected by an action or omission of some agent and the agent knows or could reasonably be expected to know this, then he treats the person in his action in one way or another.

II. The person–thing distinction

Related to the end–means distinction in Kant is the person–thing distinction. It is insofar better suited to capture moral wrongdoing as ‘thing’ is a wider notion than ‘means’. Kant ascribes absolute worth or dignity to persons and relative worth to things, that is, value relative to the desires and inclinations of agents. Whether a thing has relative worth for an agent depends on whether it is useful or useless with respect to her goals. She judges the value of things in relation to her ends: if they are useful, they can become means to her ends; if they are useless, she will ignore them; and if they stand in the way of attaining her goals, she will try to remove or destroy them. Correspondingly, one could talk about the positive, neutral, and negative value of things. Other persons, as ends in themselves, limit the application of this view. They constrain the agent’s judging the value of everything according to its (positive, neutral, or negative) value for her ends.

For, to say that in the use of means to any end I am to limit my maxim to the condition of its universal validity as a law is tantamount to saying that the subject of ends, that is, the rational being itself, must be made the basis of all maxims of actions, never merely as a means but as the supreme limiting condition in the use of all means, that is, always at the same time as an end. (G 4:438 / Kant [1785] 1996a, p. 87)

In the *Groundwork*, Kant refers several times to rational beings as ends in themselves or “limiting conditions” for the ends of others (G 4:431, 436, 438 / Kant [1785] 1996a, pp. 81, 86, 87). That is linked to their capacity to set themselves ends and thereby to give value to things (G 4:437 / Kant [1785] 1996a, p. 86). That a person has absolute worth or dignity in contrast to the merely relative worth of things means just that she is a supreme limiting condition for everyone’s setting of ends (G 4:428 / Kant [1785] 1996a, p. 79). Using someone as a mere means to one’s ends is of course a moral wrong from this perspective, but as we have seen, it is only a subcategory of treating someone as a mere thing.

‘Treating’ refers to the agent’s attitude and not only to his outward behaviour. ‘Treating as a mere thing’ means to regard other persons as if they were just things. The topic of the formula of humanity, like that of the other formulas of the categorical imperative and the moral law in general, is the morality, not the legality of actions (see

Nyholm 2015, sect. 4.1–4.3). The formulas distinguish conduct based on (respect for) the moral law from conduct based on inclination, and only indirectly, or secondarily, do they distinguish conduct in accordance with duty from conduct contrary to duty. It is the first contrast that is expressed in the formula of humanity, so ‘using’ or ‘treating’ are to be read as ‘regarding in practice’. For example, if you save the life of a drowning person *just* to become famous and be on TV, you are using her merely as a means and thus treat her in a manner contrary to what the formula requires. To be sure, rescuing the person is still the right thing to do; this is because this is also what someone would do who *did* regard the person as an end.⁴

The notion of ‘treating as a mere thing’ is better suited to conceptualizing moral wrongdoing than the notion of ‘treating as a mere means’ is, provided the terms are taken in their ordinary meaning. That Kant speaks as if (and may be understood as implying that) they amount to the same thing may be due to the fact that the end–means contrast is fundamental in the theory of action. Referring to it in the context of moral philosophy fits one of Kant’s main ideas: that morality directly arises from practical rationality, i.e., rational agency. So Kant talks about *means* also in places where he should rather and may indeed be taken to refer to *things*.⁵ But tacitly turning ‘means’ into a technical term in this way invites misunderstanding. In particular, it wrongly suggests that instrumentalization is the core of all moral wrongdoing, when it is in fact a specific variety of it.

Thus, treating or regarding other people as ends in themselves is opposed to treating or regarding them as (mere) things, and there are three subcategories of this: treating or regarding people (1) as a (mere) means, that is, as things useful to one’s

⁴ This is also relevant for the following point: As Sticker has pointed out to us in conversation, the category of treating others as mere irrelevant things includes violations of negative as well as of positive duties (running over a person through reckless driving versus failure to help in an emergency), whereas ‘treating as a mere means’ and ‘treating as a mere obstacle’ always seem to imply violations of negative duties. But if you fail to help someone in an emergency not because he is irrelevant to you, but because he is your competitor and you are happy that he is now incapacitated (assume you would have helped him otherwise), you may be said to have treated him as a mere obstacle. In general, the categories we deal with here do not track the distinction between negative and positive duties, so we leave that aside. Likewise, these categories display no general connection to degrees of severity of moral infringements.

⁵ Another reason for Kant’s choice of terms will be addressed in the next section. It is the thought that acting from inclination always amounts to pursuing one’s own happiness, so that whatever one does out of inclination is only a means to that.

purposes; (2) as irrelevant, that is, as (mere) useless things not mattering at all; or (3) as (mere) obstacles or hindrances, that is, as things opposed to one's purposes.

An alternative phrasing has been proposed by Parfit (2011, Ch. 9) and Sticker (2021). Sticker, instead of viewing treating someone as a thing as a comprehensive category with three subcategories, contrasts treating someone as a mere *means* and treating them as a mere *thing*. His idea is that we are indifferent towards things but not towards means, since the latter are useful to us. But this fails to do justice to the fact that there is a third possibility. Things that are not useful need not be indifferent to us: they can also be *contrary* to our goals. Thus it seems better to stick to the contrast between persons and things that Kant himself puts so much emphasis on and use 'thing' (or 'treating or regarding as a mere thing') as an overarching category to characterize moral wrongdoing.

III. What the person–thing distinction does not cover: treating others as negative ends

Even if what we have argued so far is correct, the distinction between ends in themselves, or persons, on one hand, and things, on the other, still does not cover an important kind of moral wrongdoing. Other persons can also be treated with malevolence or as 'negative ends'. This is the case when hurting, harming, or humiliating other persons is the ultimate purpose of our action and pursued for its own sake. These persons are clearly not treated as ends in themselves, nor are they treated as means to achieve something we want, nor as obstacles in our way, and nor are they indifferent to us. On the contrary, they matter to us a lot. However, they matter to us not as things do, but specifically as persons, and even, in a sense, 'in themselves', albeit in a negative way. They have become the object of our envy or hatred or cruelty, and thus motivated, we aim at harming or even destroying them *as persons*. They can be the object of malevolence only because they are viewed in that way.

In contrast, the slaveholder who has his slaves harvest the cotton would be served just as well by a machine. Margalit (1996, p. 103) describes the behaviour of "masters of grand palaces" towards their servants in this manner. Masters gave their servants orders and otherwise 'looked through them', as if they were things, part of the equipment of the rooms. This means in particular that "in essence, one may do anything whatsoever in front of them." (ibid.) Likewise, the insincere promise is made to raise money, regardless of the lender's person, and there would be no relevant difference to the deceiver if the money

came instead from an automaton or were simply to be found in the streets. To be sure, the deceiver knows very well that he is dealing with a person, but his aim is just to use this person's agency for his own purposes, so the other person does not ultimately matter to him *as a person*.⁶

Thus we get a threefold distinction of practical attitudes towards others: treating (or regarding) them as ends in themselves or 'positive' ends, treating (or regarding) them as things, and treating (or regarding) them as negative ends; 'treating as a thing' in turn comprises three subcategories: treating as a means, treating as an irrelevant thing, and treating as an obstacle. Clearly, there are all kinds of 'mixed cases' in the treatment of others, and therefore the "merely" is important in Kant's formula. What is morally required is to treat others always (also) as ends in themselves, never *merely* as means, obstacles, irrelevant things, negative ends, or any combination of these.

In contrast to Kant, Schopenhauer ([1841] 2007, §§14–15) puts forward three categories of attitudes towards others: first, egoism; second, altruism, benevolence or compassion; and third, malevolence or malice. He who acts out of (pure) egoism regards and treats others as (mere) things that can further or hinder his aims or be irrelevant in that respect. Altruism, benevolence or compassion mean that the other person is taken into account for her own sake. This attitude parallels Kant's 'treating as an end', although, to be sure, for Schopenhauer the attitude is being emotion-based rather than reason-based. Malice, passively mirrored in 'schadenfreude', means that the suffering of others is viewed with pleasure and pursued for its own sake. It is not that one wants to harm others because they are somehow in one's way; rather, their degradation, distress, or even destruction is the ultimate aim of the action. This is what we call 'treating as a negative

⁶ It is, however, not clear whether all cases of instrumentalization function in this way. Aren't there also cases in which the victim is treated specifically as a person, but still used as a mere means? Imagine someone craving for admiration and applause whose behaviour towards (certain) other people is shaped by the sole aim to bask in their admiration. Isn't he using these other people merely as a means, while still needing them as persons – for only persons can admire? As long as the admiration is given voluntarily, it seems that he treats the other people also as ends in themselves and does not instrumentalize them after all. If, by contrast, he *forces* them to cheer him, he certainly treats them as mere means. But then the applause is not given voluntarily, and the admiration is only simulated and worth nothing. If he is satisfied with this, he would indeed be served just as well by machines. Thus it seems that the envisaged distinction can be upheld also in view of such examples. We are grateful to Irina Schumski for raising this point.

end'. It is an everyday phenomenon that comes in any number of more and less severe varieties.

The difference between malevolence and egoism can also be explained in the following way: Egoism is about the manner in which one pursues one's ends – that is, recklessly, without taking into account other persons for their own sake – whereas malevolence sets a certain kind of end with respect to another person. Therefore, the 'thing'-category is relevant to how the egoist relates to other persons, whereas in malice, the other is conspicuously regarded as a person; there is no malice towards things, let alone 'mere' things.⁷

Characterizing malice as relating to other persons as negative ends is not what Kant himself does. The central point for him is that both egoism and malevolence in their numerous varieties originate in our inclinations. For Kant, an action is either motivated by inclination or by respect for the moral law. Moreover, acting from inclination ultimately amounts to pursuit of one's own happiness, or self-love. These are Kant's general titles under which he categorizes all our various inclinations and desires. This means, first, that in acting from inclination others are generally treated as mere means to one's own happiness, and second, that enjoying evil that happens to others, or taking pleasure in actively harming or humiliating them, are forms of self-love.

Now, to subsume motivation driven by inclination generally under the heading of 'self-love' is unjustified. Inclinations need not have anything specifically to do with oneself, except that they are one's inclinations. One is the subject of one's inclinations (and, in this sense, the lover), but not always also the object (or the beloved). It cannot be called self-love when one wants to help others for their own sake, or preserve the environment for its own sake, etc., even when the motive is not respect for the moral law, but, say, compassion or admiration of nature's beauty. Acting from such emotions or sentiments does not mean that with or in the respective actions one ultimately aims at one's own happiness, because the object of these inclinations is not oneself. They aim at states of affairs that do not involve oneself in any sense. Thus, Kant's all-encompassing use of 'self-love' is misleading; for the same reason, as well as for those reasons given in the previous

⁷ Note, however, that some, but by no means all, kinds of malevolence can also be directed at animals, for example cruelty. Animals, or in general sentient beings that are not at the same time rational beings, constitute a category in between things and persons in that respect.

section, it is misleading to suggest that everyone following his inclinations treats other people merely as means to his own happiness.

One may, however, suspect that in the case of malevolence or what we call 'treating someone as a negative end' there is always self-love involved in the *substantial* (not purely formal, or Kantian) sense of the term. Kant writes about malice in the *Doctrine of Virtue*, §36, where he, like Schopenhauer after him, describes it as "the direct opposite of sympathy":

Malice, the direct opposite of sympathy, is likewise no stranger to human nature; but when it goes so far as to help bring about ills or evil it makes hatred of human beings visible and appears in all its hideousness as *malice proper*. It is indeed natural that, by the laws of imagination (namely, the law of contrast), we feel our own well-being and even our good conduct more strongly when the misfortune of others or their downfall in scandal is put next to our own condition, as a foil to show it in so much the brighter light. But to rejoice immediately in the existence of such *enormities* destroying what is best in the world as a whole, and so also to wish for them to happen, is secretly to hate human beings; and this is the direct opposite of love for our neighbour which is incumbent on us as a duty. (MM 6:459–460 / Kant [1797] 1996b, pp. 576–578; emphases in the original)

So Kant acknowledges the existence of malice, but locates its source in self-love, because it is due to the motive to "feel our own well-being and even our good conduct more strongly". Likewise, the concept of self-love seems to naturally capture arrogance, contempt, defamation and ridicule (cf. *Doctrine of Virtue*, §42) as vices that give oneself a higher standing in comparison with others. The problem of distinguishing between egoism and malevolence, as Schopenhauer conceives them, is that the latter may be rooted in our desire to be placed or place ourselves above others, which is an egoistic motive and connected to self-love in the substantial sense. Although the desire to harm others can be so strong that it is pursued contrary to one's self-interest (in an intuitive sense of 'self-interest'), and so although in this manner malice mirrors altruism, a closer look reveals the self-interested motivation behind many forms of malevolence. Self-love, taken in a substantial sense, also contains the phenomena of hate and cruelty towards others if these are a reaction to a perceived lower standing of oneself. That kind of attitude can even spring from benefits bestowed upon one by others:

When *ingratitude* toward one's benefactor extends to hatred of him it is called *ingratitude proper*, but otherwise mere *unappreciativeness*. It is, indeed, publicly judged to be one of the most detestable vices; and yet human beings are so notorious for it that it is not thought unlikely that one could even make an enemy by rendering a benefit [...] for we fear that by showing gratitude we take the inferior position of a dependent in relation to his protector. (MM 6:459 / Kant [1797] 1996b, p. 577; emphases in the original)

While there are undoubtedly varieties of malevolence that are in this way rooted in self-love in the substantial sense, it is questionable whether this is so for other kinds of malice, for example, a general "hatred of human beings" (to use Kant's own words). But even if all such vices had their roots in and could be analysed in terms of self-love, they would still not fall into the category of regarding or treating others as mere things. Rather, the attitudes in question are directed specifically at *persons*. In these attitudes, we take a negative interest in the other person *as* a person, and aim at degrading her as a person. While according to the person–thing distinction the moral wrongdoing consists in not acknowledging the other's status as a person, it is the other way around with malice: we *do* acknowledge the status of the other as a person, but relate to that status in a negative way, wanting to degrade the other person and in extremis wanting to deprive her of that status: to destroy her as a person.

When it comes to the desire for revenge, Kant uses the same terms as Schopenhauer does for malevolence, namely that we make it our own end to harm others even if we do not secure any advantage by it: "The sweetest form of malice is the desire for revenge. Besides it might even seem that one has the greatest right, and even the obligation (as a desire for justice), to make it one's end to harm others without any advantage to oneself." (MM 6:640, Kant [1797] 1996b, p. 578)

This, however, does not mean that Kant also arrives at a threefold distinction of attitudes towards others after all. He speaks of a desire for revenge that goes along with the misguided idea that we have the right or even the duty to harm the other. Such a desire of course goes back to feelings that would still be subsumed under self-love or egoism by Kant. It is only that an agent in the grip of these feelings pretends before himself and deceives himself into thinking that he is doing the work of duty. Still, and to reiterate our point, the desire for revenge is an attitude specifically towards persons, not things, and in

taking revenge the other is not regarded as or treated like a mere thing. On the contrary, in the desire for revenge the other person is viewed as essentially on a par with oneself.⁸ In most other cases of malevolence there is a lack of recognition of the other and therefore, as one might say about the more severe of these cases, an element of dehumanization. This is a main theme of Margalit (1996). It does not contradict our claim that in malevolence one relates to and regards the other specifically as a person. Rather, it points to a paradoxical aspect of or even a contradiction in certain malevolent attitudes: they involve acknowledgment of the other as a person, but at the same time she is denied (full) recognition.⁹ We cannot here discuss, let alone settle the question whether this paradox is real or merely apparent, and for which forms of malice it is real; we only note that it constitutes a potential way of arguing for the irrationality of these forms of malice. But the paradox does not seem to affect the desire for revenge.

Another passage in Kant with respect to which one might think that he introduces a third possibility for an attitude besides self-love and respect for the moral law is a famous note on Schiller in the *Religion within the Boundaries of Mere Reason*.¹⁰ There, Kant addresses the possibility of a “hidden hatred of the law”:

Now if we ask, ‘What is the *aesthetic* constitution, the *temperament* so to speak of *virtue*: is it courageous and hence *joyous*, or weighed down by fear and dejected?’ an answer is hardly necessary. The latter slavish frame of mind can never be found without a hidden *hatred* of the law, whereas a heart joyous in the *compliance* with its duty (not just complacency in the *recognition* of it) is a sign of genuineness in virtuous disposition, even where *piety* is concerned, which does not consist in the self-torment of a remorseful sinner (a torment which is very ambiguous, and usually only an inward reproach for having offended against prudence), but in the firm resolve to improve in the future. This resolve, encouraged by good progress, must effect a joyous frame of mind, without which one is never certain of having *gained* also a *love* for the good, i.e. of having incorporated the good into one’s maxim. (Rel 6:23, FN / Kant [1793/1794] 1998, p. 49; emphases in the original)

⁸ We are grateful to Damiano Ranzenigo for pointing this out to us.

⁹ See Margalit (1996, pp. 109–110, 118). The possibility of expressing the (apparent) paradox by contrasting acknowledgment and recognition was brought to our attention by Eva Buddeberg.

¹⁰ We are grateful to Christoph Horn for pressing us to clarify the relevance of this passage for our topic.

Is this hatred of the moral law a third kind of motivation connected to the category of malevolence or treating others as negative ends? No: For virtuous persons, autonomy as self-legislation transforms what they ought to do into what they want to do, as they are vividly aware of their autonomy. They realize that respect for the law is nothing but self-respect for the law-giving capacity within themselves. To vicious persons, by contrast, the moral law appears as an alien law requiring their submission, i.e., it is felt as heteronomy (to use a term of the *Groundwork*), and therefore with hidden hatred, since it is only seen as constraining. Thus, the hatred of the law the vicious person feels arises from self-love, which “is precisely the source of all evil” according to Kant (Rel 6:45 / Kant [1793/1794] 1998, p. 67). So, Kant’s usual twofold distinction is maintained here, too.

“Hatred of the law” as an independent motivational category would aim at moral evil for its own sake, at evil *as evil*, and therefore lead to actions performed ‘under the guise of evil’. That corresponds to treating someone as a negative end in a narrow and, from Kant’s perspective, literal sense of the term. In Kant’s system respect for the law corresponds to treating the humanity in persons as an end, and so hatred of the law as an independent motivational category would correspond to treating the humanity in persons as a negative end. It would mean mistreatment of persons, or of the humanity within them, independent of self-interested motives, or, to use Kant’s own words: “to make it one’s end to harm others without any advantage to oneself.” This would in turn mean that in this respect other persons do not have relative (positive, neutral, or negative) worth for the agent, conditional on his inclinations, but a kind of absolute value: namely absolute negative value, absolute *disvalue*. Other persons would be the supreme limiting condition of his ends, insofar as they are given by inclination, but again in a negative sense. The hatred of mankind in the sense of and due to hatred of the moral law would lead to a constraint on acting from inclination in a way that mirrors and is symmetrical to the constraint imposed by respect for the moral law. Kant rejects this possibility:

The depravity of human nature is therefore not to be named *malice*, if we take this word in the strict sense, namely as a disposition (a subjective *principle* of maxims) to incorporate evil *qua evil* for incentive into one’s maxim (since this is *diabolical*), but should rather be named *perversity* of the heart, and this heart is then called *evil* because of what follows. An evil heart can coexist with a will which in general is good. Its origin is the frailty of human nature, in not being strong enough to comply

with its adopted principles, coupled with its dishonesty in not screening incentives (even those of well-intentioned actions) in accordance with the moral guide, and hence at the end, if it comes to this, in seeing only to the conformity of these incentives to the law, not to whether they have been derived from the latter itself, i.e. from it as the sole incentive. (Rel 6:37 / Kant [1793/1794] 1998, p. 70; emphases in the original)

From this passage it is again clear that Kant sees the human desires or inclinations, summarized by him under the label of self-love, as the basis of evil. The depravity of human nature does not consist in malice “in the strict sense”, which would be that one aims at evil for its own sake. This – the “diabolical” – is not possible for humans, according to Kant (cf. Rel 6:35 / Kant [1793/1794] 1998, p. 68), and that explains why he, in contrast to Schopenhauer subsuming all inclination under self-love, does not see the need for a third category of motivation. Perhaps Kant was not altogether sure about this point, as there is a tension between the *Doctrine of Virtue* and the *Religion* on malice and the diabolical. He describes some vices as “devilish” in the *Doctrine of Virtue* (MM 6:461 / Kant [1785] 1996b, p. 578) and refers to “hatred of human beings” as “*malice proper*” (MM 6:460 / Kant [1785] 1996b, p. 577; emphasis in the original). So “malice in the strict sense” does not exist in human beings according to the *Religion*, but “malice proper” does, according to the *Doctrine of Virtue*. But even if this distinction could be upheld and Kant was correct in claiming that pursuing evil for its own sake or acting under the guise of evil is no human possibility – a question that we do not try to settle here – it would still be true that malevolence in the broad sense, whatever its source, is an attitude that cannot appropriately be described by claiming that in (acting on) it other human beings are regarded or treated as mere things.

Conclusion

What does it mean to treat persons always at the same time as ends? We approached this question by asking the reverse: what does it mean to treat someone *not* as an end? It turned out that this cannot simply be equated with treating them merely as a means. Therefore we speak of ‘blind spots’ in the formula of humanity.

First, if we avoid treating someone merely as a means this does not necessarily mean that we are treating her as an end in herself. To ignore someone in dire need or to

eliminate someone who is a hindrance to one's plans are forms of not treating someone as an end even though they do not involve treating her (merely) as a means. In these sorts of cases, the person is treated rather as a mere irrelevant thing or as a mere obstacle.

Second, treating someone as an end implies not treating him as a mere thing. Treating someone as a (mere) thing means either treating him as a (mere) means, as a (mere) irrelevant thing, or as a (mere) obstacle. All these are subcategories of the 'thing'-part of the person–thing distinction. We observed that Kant's way of speaking is somewhat metaphorical, since, in particular, when we use someone merely as a means we rarely treat him literally like a thing in the sense of a lifeless object. 'Using' someone often means using his *agency*, and whether or not he acts in the required way is ultimately up to him. Still, the attitude of the perpetrator is properly described as that of instrumentalization or treating as a mere means.

Third, the person–thing distinction is still not suited to capture all kinds of moral wrongdoing or moral wrongdoing as such. While it is more appropriate than the end–means distinction on the 'negative' side, as 'thing' is broader than 'means', it is less appropriate on the 'positive' side. Malevolent action of every kind relates to the other specifically as a person with the aim of degrading her as a person. Here, the other is not treated or regarded as or like a mere thing, nor as an end in herself, but as a person, albeit in a negative way, which we have called 'treating as a negative end'. To introduce this as a separate category of moral wrongdoing does not mean to question Kant's fundamental distinction between acting from respect for the moral law and acting from inclination. While this is a twofold distinction, it does not match the person–thing contrast (nor, for that matter, the end–means contrast): to be moved by an inclination to behave in a certain way towards another person does not imply that one relates to, regards or treats this person as if she were a (mere) thing. We arrive at a threefold categorization of practical attitudes towards others: treating or regarding them as ends in themselves or 'positive' ends, treating or regarding them as things, and treating or regarding them as negative ends.¹¹

¹¹ We are very grateful for the opportunities to discuss previous versions of this paper at a Kant-Workshop in Bonn, the Conference *Kant in Progress* at Bayreuth, the Practical Philosophy Workshop at Ujue, the Kantian Rationality Lab, the Practical Philosophy Colloquium at the University of Konstanz, and the Colloquium for Practical Philosophy and Ethics at LMU Munich. We are especially grateful to Christoph Horn, Robinson dos Santos, Alice Pinheiro Walla, Anna Goppel, Martin Sticker and Thomas Sturm for the invitation to these events and comments on earlier versions of the paper. Corinna especially thanks the Berlin Institute

References

- Audi, Robert (2016): *Means, Ends, and Persons*. Oxford: Oxford University Press.
- Kant, Immanuel [1785] (1996a): "Groundwork of the Metaphysics of Morals" [G]. In: Mary J. Gregor (ed.): *Practical Philosophy: The Cambridge Edition of the Works of Immanuel Kant*. Cambridge: Cambridge University Press, pp. 37–108.
- Kant, Immanuel [1797] (1996b): "The Metaphysics of Morals" [MM]. In: Mary J. Gregor (ed.): *Practical Philosophy: The Cambridge Edition of the Works of Immanuel Kant*. Cambridge: Cambridge University Press, pp. 353–603.
- Kant, Immanuel [1793/1794] (1998): "Religion within the boundaries of mere reason" [Rel]. In: Allen Wood/George di Giovanni (eds.): *Religion within the Boundaries of Mere Reason and Other Writings*. Cambridge: Cambridge University Press, pp. 31–192.
- Kerstein, Samuel J. (2013): *How to Treat Persons*. Oxford: Oxford University Press.
- Kleingeld, Pauline (2020): "How to Use Someone 'Merely as a Means'". In: *Kantian Review* 25(3), pp. 389–414.
- Margalit, Avishai (1996): *The Decent Society*. Cambridge (Mass.): Harvard University Press.
- Nyholm, Sven (2015): *Revisiting Kant's Universal Law and Humanity Formulas*. Berlin, Bosten: De Gruyter.
- O'Neill, Onora (1996): *Towards Justice and Virtue: A Constructive Account of Practical Reasoning*. Cambridge: Cambridge University Press.
- Parfit, Derek (2011): *On What Matters. Volume One*. Oxford: Oxford University Press.
- Prauss, Gerold (2006): *Die Welt und Wir. Band I, 2: Die Grenzen einer Absicht*. Stuttgart: J. B. Metzler.
- Schopenhauer, Arthur [1841] (2007): *Über die Grundlage der Moral*. Hamburg: Meiner.
- Sticker, Martin (2021): "Poverty, Exploitation, Mere Things and Mere Means". In: *Ethical Theory and Moral Practice*. DOI <https://doi.org/10.1007/s10677-021-10238-9>

for Advanced Studies for a fellowship in the academic year 2020/21 and for the support of Anja Brockmann from the WiKo library. Last but not least, we are grateful to Christopher von Bülow and James McGuiggan for improving our English.