

Kant on Lies

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I. Introduction

Perhaps more than any other element in his moral philosophy, Immanuel Kant's prohibition on lying under any circumstances whatsoever has exasperated even the most sympathetic commentators on his work.¹ The short essay he wrote in reply to Benjamin Constant's *On Political Reactions*,² entitled *On a supposed right to lie from philanthropy*,³ in which he defends the position attributed to him by Constant that one must not lie to "a murderer who asked us whether a friend of ours whom he is pursuing has taken refuge in our house," (*RL*, 8:426 (p. 611))⁴ has, at least according to one influential commentator, "done more damage to Kant's reputation than any piece of writing against him by his opponents and critics."⁵ Commentators who find Kant's conclusion in this notorious essay unacceptable⁶ have generally argued that the prohibition on lying in his moral philosophy is not, properly understood, exceptionless, and that the conclusion he reached in the essay is a mistake.⁷ Kant's mistake is due either to his writing the essay "in a bad temper in his old age,"⁸ or to his polemical ambition, as a pro-Jacobin, to defend the foundations of his moral and political views against Constant's anti-Jacobin tract "under the guise of defending a position on lying."⁹

Such well-meaning commentators underestimate the extent of Kant's contempt for lies and those who tell them, however. This contempt is not merely evident in the late essay, but is evident in all of Kant's moral philosophical writings. The very first example of a moral law provided by Kant in the *Groundwork of the Metaphysics of Morals*¹⁰ is the law that "thou shalt not lie" (*G*, 4: 389 (p. 2-30)).¹¹ In the *Doctrine of Virtue*, Part II of *The Metaphysics of Morals*,¹² Kant argues that lying is the "greatest violation of a human being's duty to himself regarded merely as a moral being (the humanity in his own person)" (*DV*, 6: 429 (p. 182)). A person who tells a lie is said to be "a mere deceptive appearance of a human being, not a human being himself." (*DV*, 6: 429 (p. 182)) Here Kant also points out that the "Bible dates the first crime, through which evil entered the world, not from *fratricide* (Cain's) but from the first *lie* (for even nature rises up against fratricide), and calls the author of all evil a liar from the beginning and the father of lies." (*DV*, 6: 431 (p. 183)) Statements such as these would appear to support the conclusion that the prohibition on lying in Kant's moral philosophy is indeed an exceptionless one, and that he held a position on lying similar to that held by St. Augustine,¹³ St. Thomas Aquinas,¹⁴ and Cardinal Newman,¹⁵ each of whom argued that it is never morally permissible to tell a lie.

In this paper I argue that there is not one prohibition on lying in Kant's moral philosophy, but two, and that both of these prohibitions are exceptionless. According to the *Doctrine of Virtue*, to tell a lie is to violate the duty of virtue to oneself to be truthful. One must not tell a lie because to tell a lie is to fail to respect humanity in one's own person. This prohibition can also be found in Kant's lectures on ethics given in the period between 1775 and 1784. According to the *On a supposed right to lie* essay, however, to tell a lie is to violate the duty of right to others to be truthful. One must not tell a lie because to tell a lie is to harm humanity in general. This prohibition can also be found in Kant's lectures on ethics given in the period between 1775 and 1784. Importantly, however, this prohibition is not to be found in the *Doctrine of Right*, Part I of *The Metaphysics of Morals*. Although Kant's two prohibitions on lying belong to distinct spheres of morals, nevertheless the two prohibitions are co-extensive. The result of the two prohibitions being co-extensive is that for Kant there is no such thing as a harmless lie

II. Three Preliminary Distinctions

Before discussing either of the two prohibitions on lying, three important distinctions implicit in all of Kant's writings on the subject of lying must first be noted. The first distinction concerns the difference between a person saying (*sagen*) something and a person declaring (*erklären*) something. When a person, in saying something, either to herself or to another person, intends to get either herself or the other person to place her faith in her, or to trust her, such that she intends either herself or the other person to believe what she says, then she is said to make a declaration (*Erklärung*) to herself or to the other person. In this respect, a declaration is similar to a confession, an oath, or a promise. While it is true that every time a person makes a declaration, either to herself or to another person, she says something — or at least, she does something which can be described as saying something¹⁶ — it is not the case that every time a person says something, either to herself or to someone else, she makes a declaration. When a person curses, issues a command or an exhortation, says hello, and so forth, she says something. In such cases, however, she does not make a declaration. In all of his writings on the subject of lying, Kant is only concerned with cases in which a person makes a declaration.

The second distinction implicit in all of Kant's writings on the subject of lying is the distinction between truth (*Wahrheit*) and truthfulness (*Wahrheitsliebe*). When a person makes a declaration, then what she says is either true or false. A person who makes a declaration, however, is either truthful or untruthful. In *Religion within the Boundaries of Mere Reason Alone*,¹⁷ Kant distinguishes between the truth of what a person declares, and the truthfulness of a person who makes a declaration, as follows:

One cannot always stand by the *truth* of what one says to oneself or to another (for one can be mistaken); however, one can and must stand by the *truthfulness* of one's declaration or confession, because one has immediate consciousness of this. For in the first instance we compare what we say with the object in a logical judgment (through the understanding), whereas in the second instance, where we

declare what we hold as true, we compare what we say with the subject (before conscience). (RBRA, 8: 267 (p. 27))

Truth is defined in the *Critique of Pure Reason*¹⁸ as “the agreement of knowledge with its object” (CUPR, A58/B82 (p. 97)). What a person says is true if what she says agrees with its object (“we compare what we say with the object”); what she says is false if it does not. For Kant there can be no such duty as the duty to say what is true — the duty to be accurate in what one says, as it were. Human beings are fallible beings with limited intellects. A person cannot always know if what she says is such that it agrees with its object. That is, a person cannot always know that what she says is true. Since, for Kant, a person cannot have a duty unless it is possible for her to fulfill it (*ought* implies *can*),¹⁹ it follows that a person cannot have a duty to say what is true.²⁰

Truthfulness may be defined as the agreement of what a person declares with what she holds to be true. A person is truthful if her declaration is in agreement with what she holds to be true (“we compare what we say with the subject”); a person is untruthful if her declaration does not agree with what she holds to be true. Since a person can always know what she holds to be true, there can be a duty to be truthful. The duty to be truthful is the duty to declare only what one holds to be true. In all of his writings on the subject of lying, Kant is only concerned with the duty to be truthful, that is, the duty to declare only what one holds to be true. The duty to be truthful is equivalent to the duty to be honest or veracious. As he says in the *Doctrine of Virtue*: “Truthfulness [*Wahrheitsliebe*] in one’s declarations is also called *honesty* [*Ehrlichkeit*] and, if the declarations are promises, *sincerity* [*Redlichkeit*]; but, more generally, truthfulness is called rectitude [*Aufrichtigkeit*].” (DV, 6:429 (p. 182)) Untruthfulness is thus equivalent to dishonesty (*Unaufrichtigkeit*) or mendaciousness (*Verlogenheit*). On Kant’s account of what it means for a person to be truthful, it is perfectly possible for a person to be truthful and for her declaration to be false, and for a person to be untruthful and for her declaration to be true.²¹

The third distinction implicit in all of Kant’s writings on the subject of lying is the distinction between an untruth (*Unwahrheit*) and a lie (*Lüge*). In the applied or casuistic section of the discussion of lying in the *Doctrine of Virtue*, Kant invokes this distinction in the following way:

Can an untruth from mere politeness (e.g., the “your obedient servant” at the end of a letter) be considered a lie? No-one is deceived by it. (DV, 6:431 (p. 184))

If the reply “No-one is deceived by it” is taken to mean that such an untruth of politeness is not to be considered a lie, then there is a difference between an untruth and a lie. An untruth is a declaration made by person who is being untruthful — or, to put it awkwardly but more simply, an untruth is an untruthful declaration. There are two kinds of untruthful declarations: untruthful declarations that deceive others, and untruthful declarations that do not deceive others. Untruthful declarations that do deceive others are lies.²²

The distinction between an untruth and a lie would appear to be an important distinction for Kant. The distinction is not, however, discussed in any

detail in his published writings. It is only discussed in his lectures on ethics.²³ These lectures offer conflicting accounts of the distinction between an untruth and a lie. However, it is possible to provide an account of the distinction between an untruth and a lie that is compatible with most of what Kant says in these lectures and that is consistent with his use of the distinction in his published writings. Kant may be said to hold the following distinction between an untruth and a lie. An untruth is a declaration made by a person who is being untruthful. A lie is a declaration made by a person who is being untruthful with the intention to deceive others.

This conclusion is consistent with Kant's claim in *Anthropology from a Pragmatic Point of View*²⁴ that although compliments, gallantry at the court, excessively warm expressions of friendship, and so forth, are not always "the truth" — that is, people are not always being truthful in making such declarations — nevertheless they are examples of "Permissible Moral Semblance" (APPV, 7; 151 (P. 30)). This is because people are not being deceptive in making such declarations:

Courtesy (politesse) is a semblance of graciousness that inspires love. *Manifestations of deference* (compliments) and the whole variety of *courtly gallantry*, along with the warmest verbal protestations of friendship, are not always the *truth* ("My dear friends: there is no such thing as a friend." Aristotle); but this still does not make them *deception*, because everyone knows how to take them, and especially because these tokens of benevolence and respect, though empty at first, gradually lead to real attitudes of this kind. (APPV, 7: 152 (p. 31))

If this account of the distinction between an untruth and a lie is accepted, then a prohibition on lying is not a prohibition on untruthful declarations. It is only a prohibition on untruthful declarations made with the intention to deceive others. Polite untruths or jokes, understood as untruthful declarations made without the intention to deceive others, are permitted.

III. The First Prohibition On Lying: *Doctrine of Virtue*

In the *Doctrine of Right*, Kant divides all moral duties into duties of right and duties of virtue:

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. No external lawgiving can bring about someone's setting an end for himself (because this is an internal act of the mind), although it may prescribe external actions that lead to an end without the subject making it his end. (DR, 6: 239 (p. 31))

Right (*Recht*) is a distinct sphere of morals²⁵ that concerns the freedom to act of each person to the extent that this freedom to act is compatible with the freedom to act of every other person. Duties of right are duties to respect the freedom to act of others, and are enforceable by law. To act contrary to a duty of right is to violate the freedom to act of another person. To act contrary to a duty of right is to harm another person, and hence, to be subject to legal punishment.

Virtue is a distinct sphere of morals that concerns the ends of human beings. Duties of virtue are duties to have, or to respect, certain ends, and are not enforceable by law. To act contrary to a duty of virtue is to fail to have, or fail to respect, a certain obligatory end. It is not necessarily the case that to act contrary to a duty of virtue is to harm either oneself or another person. Hence, it is not necessarily the case that to act contrary to a duty of virtue is to be subject to legal punishment.

In the *Doctrine of Virtue*, Kant divides all duties of virtue into duties to oneself and duties to others. These duties are in turn divided into perfect duties to oneself, imperfect duties to oneself, perfect duties to others, and imperfect duties to others. A perfect duty is a duty to perform an action, or to omit an action (to respect an obligatory end). An imperfect duty is a duty to enjoin a certain maxim of action (to pursue an obligatory end).

For the purposes of this paper, this division of duties is relevant insofar as it is a perfect duty of virtue to oneself as a moral being to be truthful, or, what is equivalent to this, it is a perfect duty of virtue to oneself as a moral being to omit to tell a lie (to respect humanity in oneself as an end). For Kant the duty of virtue to oneself to be truthful is the paramount perfect duty of virtue to oneself as a moral being. The violation of this duty is the greatest possible violation of a person's duty to herself as a moral being:

The greatest violation of a human being's duty to himself regarded merely as a moral being (the humanity in his own person) is the contrary of truthfulness, lying (*aliud lingua promptum, aliud pectore inclusum gerere* [to have one thing shut up in the heart and another ready on the tongue — Sallust]). (*DV*, 6: 429 (p. 182))

For Kant "humanity" is the "capacity to set oneself an end" (*DV*, 6: 392 (p. 154)), and is itself an end to be respected. For a person to tell a lie is for her to fail to respect humanity in herself. When a person tells a lie, she is using herself "as a mere means (a speaking machine)" (*DV*, 6: 430 (p. 183)). When a person tells a lie she "makes [herself] contemptible in [her] own eyes and violates the dignity of humanity in [her] own person" (*DV*, 6: 430 (p. 183)).

While it is true that lies can be harmful, this is to move out of the sphere of virtue and into the sphere of right. The account of lying in the *Doctrine of Virtue* makes no reference to whether or not a lie is harmful to the liar herself or to others. As Kant says, "[I]n ethics, where no authorization is derived from harmlessness, it is clear of itself that no intentional untruth in the expression of one's thoughts can refuse this harsh name [of lie]" (*DV*, 6: 429 (p. 182)). Within the sphere of virtue, independently of whether or not she harms herself or another person, someone who tells a lie fails to respect humanity in her own person:

And so, since the harm that can come to others from lying is not what distinguishes the vice... this harm is not taken into account here. Neither is the harm that a liar brings upon himself... By a lie a human being throws away and, as it were, annihilates his dignity as a human being. A human being who does not himself believe what he tells another (even if the other is merely an ideal person) has even less worth than if he were a mere thing. (*DV*, 6: 429 (p. 182))

The first prohibition on lying in Kant's moral philosophy, then, is as follows. A lie is a violation of a duty of virtue to oneself to be truthful. For a person to tell a lie is for her to fail to respect humanity in her own person. Hence lying under any circumstances whatsoever is prohibited. This first prohibition is derived from the second formulation of the categorical imperative provided in the *Groundwork of the Metaphysics of Morals*, namely, "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 (p. 38)).²⁵

On the basis of this first prohibition on lying it follows that one is morally prohibited from lying to the murderer at one's door, since in doing so one would be failing to respect humanity in one's own person. However, in his essay *On a supposed right to lie from philanthropy*, Kant does not invoke this first prohibition on lying. Instead he says the following in a footnote:

I here prefer not to sharpen this principle to the point of saying: "Untruthfulness is a violation of duty to oneself." For this belongs to ethics, but what is under discussion here is a duty of right. The doctrine of virtue looks, in this transgression, only to *worthlessness*, reproach for which a liar draws upon himself. (*RL*, 8: 427 (p. 612n))

The purpose of *On a supposed right to lie* essay, then, is to establish that truthfulness is a duty of right, such that to tell a lie to the murderer at one's door is to violate a duty of right. In order to do this, it is necessary to establish that to tell a lie to the murderer at the door is to violate the right of another person. That is, it is necessary to establish that to tell a lie to the murderer at the door is to harm another person, and hence, to be subject to legal punishment. The reason why the essay must establish this conclusion is that no such conclusion can be drawn from the *Doctrine of Right*.

IV. Lying in the *Doctrine of Right*

As was stated above, for Kant duties of right are legally enforceable duties to respect the freedom to act of others. To act contrary to a duty of right is to violate the freedom to act of another person, that is, to harm another person, and to be subject to legal punishment. In discussing duties of right, Kant says that, in virtue of a person's innate right to "*Freedom* (independence from being constrained by another's choice), insofar as it can coexist with the freedom of every other" (*DR*, 6: 237 (p. 30)), she is "authorized to do to others anything that does not in itself diminish what is theirs, so long as they do not want to accept it"

(*DR*, 6: 238 (p. 30)). That is, a person has the right to do to others anything that does not violate their right to freedom. Kant gives as examples of exercising this right “merely communicating his thoughts to them, telling or promising them something” (*DR*, 6: 238 (p. 30)).

In arguing that a person has the right to tell or promise another person something, however, Kant adds that a person has the right to tell or promise people something “whether what he says is true and sincere or untrue and insincere (*veriloquium aut falsiloquium*); for it is entirely up to them whether they want to believe him or not.” (*DR*, 6: 238 (p. 30-31)). On this account, it would seem, a person has the right to be insincere to another person — to *lie* to another person — because the other person is free to believe, or not believe, what she is told. The freedom of the liar to tell a lie does not conflict with the freedom of the other person to believe or not believe her. In lying to another person the liar does not harm the other person, and is not subject to any legal punishment.

The exception to this authorization to tell lies — “so long as they do not want to accept it” — relates to contracts. In a contract, a person’s promise to do something has been accepted by another person. Because this promise has been accepted, the other person’s right to have an action performed by the person who has made the promise has been established. Kant provides the following footnote to this passage:

Telling an untruth intentionally, even though merely frivolously, is usually called a lie (*mendacium*) because it can also harm someone, at least to the extent that if he ingenuously repeats it others ridicule him as gullible. The only kind of untruth we want to call a lie, in the sense *bearing upon rights*, is one that directly infringes upon another’s right, e.g. the false allegation that a contract has been concluded with someone, made in order to deprive him of what is his (*falsiloquium dolosum* [deceitful falsehood]). And this distinction between closely related concepts is not without basis; for when someone merely says what he thinks, another always remains free to take it as he pleases. (*DR*, 6: 239 (p. 31))

Here, after rejecting a rather tenuous and indirect way in which even a frivolous untruth may harm another person (it may harm a person insofar as, if he unknowingly repeats the untruth, he runs the risk of being ridiculed as being gullible),²⁷ Kant argues that the only kind of untruth that harms another is one that “directly infringes upon another’s right”. The example he gives is that of an untruth to the effect that a contract has been concluded with another person when it has not been so concluded. Here the other person’s right to have the action performed for her has been violated, and she has been harmed by this untruth, since she has not received what is owed to her in the contract.

The point of this footnote is to establish what is meant by a lie in the sense of right (*Recht*), as opposed to a mere untruth. Kant here stipulates that only untruths that directly infringe upon another person’s right are to be called lies in the sense of right. This stipulation is referred to in the *Doctrine of Virtue*: “In the doctrine of right an intentional untruth is called a lie only if it violates

another's right." (DV, 6: 429 (p. 182)) To refer to the case discussed above of the person who lies to another person but who does not violate the other person's right, such a liar is not actually telling a lie, in the sense of right.

The result of this stipulation is that the class of untruths that are not lies in the sense of right includes untruths that are lies in the virtuous sense of untruthful declarations made with the intention to deceive others. As Kant says in the *Doctrine of Virtue*:

Lying (in the ethical sense of the word), intentional untruth as such, need not be *harmful* to others in order for it to be repudiated; for it would then be a violation of the rights of others. It may be done merely out of frivolity or even good nature; the speaker may even intend to achieve a really good end by it. But his way of pursuing this end is, by its mere form, a crime of a human being against his own person and a worthlessness that must make him contemptible in his own eyes. (DV, 6: 430 (p. 183))

This makes the class of untruths that are not lies in the sense of right very extensive indeed. It includes all lies in the virtuous sense that do not violate another person's right. That is, the class of untruths that are not lies in the sense of right includes all untruthful declarations made with the intention to deceive another person that nevertheless do not harm another person, and that are not subject to legal punishment. It therefore includes the majority of everyday lies — for example, "I'm sorry Helen, I can't help you pack for your trip on Friday, I have to write a paper for a conference." Lies like this are not lies in the sense of right, since they do not violate another person's right, that is, do not harm another person, and are not subject to legal punishment.

Much more importantly, the class of untruths that are not lies in the sense of right includes the kind of lie considered in the *On a supposed right to lie* essay — namely, a lie told to a murderer at one's door. A murderer is someone who has violated (or intends to violate) a duty of right to another person, and who has harmed (or intends to harm) another person, and hence who is (or will be) subject to legal punishment. Such a person, through his actions (or intentions) has forfeited his right to have his freedom to act respected by others. Hence, such a person has forfeited his right to have others be truthful to him. If another person lies to him, she does not violate his right, and does not harm him, and is not subject to legal punishment with respect to her lie to him. However, a lie that does not violate the right of another person, that is, does not harm another person, is not subject to legal punishment, and is not a lie in the sense of right. A lie told to a murderer at one's door is *not* a lie in the sense of right.

Kant considers the case of the murderer at the door in precisely this way in the *On a supposed right to lie* essay: "I indeed do no wrong to him who unjustly compels me to make the statement if I falsify it" (RL, 8: 427 (p. 612)). He discusses a similar kind of case in his lectures on ethics in the period between 1775 and 1784. His conclusion in these lectures is that a lie told to a person who has forfeited his right to have others be truthful to him is *not* a lie:

If an enemy, for example, takes me by the throat and demands to know where my money is kept, I can hide the information here, since he means to misuse the truth. That is still no *mendacium* [lie], for the other knows that I shall withhold the information, and that he also has no right whatever to demand the truth from me. (LE, 27: 447 (p. 203))

The result is that, on the account of lying advanced in the *Doctrine of Right*, a lie told to a murderer at one's door is not a lie in the sense of right. On the basis of the account of lying advanced in the *Doctrine of Right*, I do not have a duty of right to be truthful to the murderer. I do not violate a duty of right in being untruthful to him. I do not harm him by being untruthful to him, and I am not subject to legal punishment for being untruthful to him.

It now remains to be explained why Kant reached a different conclusion in the *On a supposed right to lie* essay.

V. The Second Prohibition On Lying: *Lectures on Ethics*

According to the account of lying advanced in the *Doctrine of Right*, a lie in the sense of right violates the right of a particular person, and hence harms that particular person. For example, the false allegation that a contract has been concluded with another particular person, made in order to deprive that particular person of what is owed to her (the action of another), violates the right of that particular person, and hence harms that particular person. This account of lying is identical to what Kant elsewhere calls the "jurist" or strictly legal sense of a lie:

Lying, in the ethical sense at any rate, is to be viewed as the transgression of a duty to oneself, since it injures the respect for one's own person. The jurist recognizes and applies this only insofar as it involves a violation of the duties towards others (*officii iuridicorum* [duties of law]), and understands thereby a *falsiloquium dolosum in praejudicium alterius* [deceitful falsehood that harms another]; he is therefore looking to the consequences and relation to others. (LE, 27:604-605 (p. 350-351))

The account of lying advanced in the *Doctrine of Right*, however, omits an extremely important distinction invoked in many places in Kant's lectures on ethics. This is the distinction between a lie that harms a particular person, and a lie that does not harm a particular person, but which nevertheless harms humanity in general. As Kant says in the lectures in the period between 1775 and 1784:

The question arises, whether a lie that affects nobody's interests, and does nobody any harm, is likewise a lie? It is, for I promise to speak my mind, and if I fail to speak it truly, I do not, indeed, act *in praejudicium* [harmfully] of the particular individual concerned, but I do so act in regard to humanity. (LE, 27: 449 (p. 204))

Here Kant argues that even if a lie “does nobody any harm,” even if a lie does not harm “the particular individual concerned,” nevertheless a lie harms “humanity” in general. Wolfgang Schwarz has argued that by “humanity” in general Kant does not mean “the human race,” but rather “the distinctive character of man, his “humanness”” as opposed to his “animality,”²⁸ where a person’s humanity is understood to be her capacity to set ends for herself. However, I take it that these two interpretations are not mutually exclusive. By “humanity” in general Kant means the humanity of every human being, that is, the humanity of every member of the human race. A lie harms humanity in general insofar as it harms the humanity of every human being.

Kant invokes the distinction between a lie that harms a particular person, and a lie that does not harm a particular person, but which nevertheless harms humanity in general, in the context of discussing the question of whether it is permissible to lie to someone who has already lied to you. Here is that it is taken as given that if someone has lied to me, then I do *that* person no wrong (*unrecht*) by lying to him. However, Kant insists that even in this situation, if I lie to him in return, then I have wronged humanity in general:

If anyone has defrauded me or lied to me, then I do him no wrong if I defraud or tell lies to him in turn; but I have done wrong in general according to the universal laws of humanity. He himself can certainly not complain of me, but I am also in the wrong for having done it at all. Hence there is nothing, if we can plume ourselves on having done nobody any wrong; for we may still have done wrong in general. (*LE*, 27: 434 (p. 193))

In arguing that a lie told under such circumstances “does wrong in general according to the universal laws of humanity,” Kant means that a person has harmed humanity in general. This much is clear from another passage in the same lecture in which he says that such a lie, although it is not contrary to the right of the particular liar to whom it is told, nevertheless is “contrary to the right of humanity,” in the sense that it is “contrary to the condition, and the means, under which a society of men can come about”:

If the other has cheated me, and I cheat him in return, I have certainly done this fellow no wrong; since he has cheated me, he cannot complain about it, yet I am a liar nonetheless, since I have acted contrary to the right of humanity. It is therefore possible for a *falsiloquium* to be a *mendacium* — a lie — though it contravenes no right of any man in particular. Whoever may have told me a lie, I do him no wrong if I lie to him in return, but I violate the right of mankind; for I have acted contrary to the condition, and the means, under which a society of men can come about, and thus contrary to the right of humanity. (*LE*, 27: 447 (p. 203))

A lie told under such circumstances, although it does not violate the right of a particular person, is nevertheless a violation of the “right of humanity.” As such,

a lie harms all of mankind, in the sense that it harms the humanity of every human being:

And thus though something may not infringe the particular right of a man, it is still already a lie, since it is contrary to the right of humanity. If a man publishes a false report, he thereby does no wrong to anyone in particular, but offends against mankind, for if that were to become general, the human craving for knowledge would become thwarted (*LE*, 27: 447-448 (p. 203)).

Here Kant argues for a distinction between a lie in the “jurist” or strictly legal sense of a lie that is contrary to the right of a particular person, and which thus that harms a particular person, and a lie “from the moral viewpoint” that is contrary to the right of humanity in general, and which thus harms humanity in general:

A *mendacium* [lie] is thus a *falsiloquium in praejudicium humanitatis* [untruth damaging to humanity], even when it is not also in violation of any particular *jus quaesitum* [special right] of another. In law a *mendacium* is a *falsiloquium in praejudicium alterius* [untruth damaging to another], and cannot be anything else there, but from the moral viewpoint it is a *falsiloquium in praejudicium humanitatis*. (*LE*, 27: 448 (p. 203))

In these lectures Kant allows for the possibility of a lie that does not violate the right of any particular person, and thus, that does not harm any particular person, but which nevertheless is a violation of the right of humanity, and thus, which harms humanity in general. This is because any lie, simply in virtue of being a lie, is “contrary to the condition, and the means, under which a society of men can come about”.

However, this is precisely the argument that Kant gives in the *On a supposed right to lie* essay, at least thirteen years later, to establish that a lie always violates a duty of right to others to be truthful.

VI. The Second Prohibition On Lying: *On a supposed right to lie from philanthropy*

In his essay *On a supposed right to lie from philanthropy*, Kant considers the ‘hard case’ for any prohibition against lying, the case of a murderer at one’s door asking for the whereabouts of one’s friend.²⁹ It is important to note how Kant frames this case. He frames the case in terms of two questions. The first question is whether a person ever has a “right” to tell a lie; the second question is whether a person who is under unjust constraint has a “duty” to tell a lie in order to prevent a misdeed. These two questions are treated as distinct questions because, as H. J. Paton has pointed out, “[S]ome might hold that a man may have a right to tell an untruth even when he has no duty to do so”.³⁰ Furthermore, both questions are phrased in the language of right, rather than virtue:

Now the *first question* is whether someone, in cases where he cannot evade an answer of “yes” or “no,” has the *authorization* (the right) to be untruthful. The *second question* is whether he is not, indeed, bound to be untruthful in a certain statement which he is compelled to make by an unjust constraint, in order to prevent a threatened misdeed to himself or another. (RL, 8:426 (p. 611-612))

Kant’s reply to both questions is in the negative. The answer to the first question is that a person never has a right to tell a lie, because to tell a lie is to act contrary to a duty to others to be truthful in declarations one cannot avoid: “Truthfulness in statements that one cannot avoid is a human being’s duty to everyone, however great the disadvantage to him or to another that may result from it” (RL, 8:426 (p. 612)). In the footnote to this answer Kant indicates that this duty is “a duty of right”, and not something which belongs to the “doctrine of virtue” (RL, 8:427 (p. 612n)). Hence to tell a lie is to act contrary to a duty of right to others to be truthful in declarations one cannot avoid.

The answer to the second question is that even if the person to whom one lies is someone who has placed himself in a position whereby, in lying to him, one does not violate his right, and thus, does not harm him, and is not subject to legal punishment for one’s lie to him, nevertheless one has a duty to be truthful to him. One has a duty to be truthful to him because to tell a lie is to act contrary to a duty of right to others to be truthful in declarations one cannot avoid. A lie always harms another, insofar as a lie always harms humanity in general. A lie always harms humanity in general insofar as it brings it about that people’s declarations are not believed, and that all rights based on contracts are undermined:

[A]lthough I indeed do no wrong to him who unjustly compels me to make the statement if I falsify it, I nevertheless do wrong in the most essential part of duty *in general* by such falsification, which can therefore be called a lie (though not in the jurist’s sense); that is, I bring it about, as far as I can, that statements (declarations) in general are not believed, and so too that all rights which are based on contracts come to nothing and lose their force; and this is a wrong inflicted upon humanity generally.

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* [a lie is an untruth damaging to another]). For it always harms another, even if not another individual, nevertheless humanity generally, inasmuch as it makes the source of right unusable. (RL, 8:426 (p. 612))

[T]ruthfulness is a duty that must be regarded as the basis of all duties to be grounded on contract, the law of which is made uncertain and useless if even the least exception to it is admitted. (RL, 8:427 (p. 613))

It is important to note here that, insofar as the duty to others to be truthful in declarations that one cannot avoid is a duty of right, it must follow that if one violates such a duty, and harms humanity in general, one is subject to legal punishment. While a person is not subject to legal punishment if she simply tells a lie (unless she perjures herself in court), nevertheless, according to Kant, if you tell a lie, then “you are legally accountable for all the consequences that might arise from it” (RL, 8:426 (p. 612)) (cf. “Thus one *who tells a lie*, however well disposed he may be, must be responsible for its consequences even before a civil court and must pay the penalty for them” (RL, 8:426 (p. 612))). In this sense, a person who tells a lie is subject to legal punishment, insofar as she is legally responsible for all of the consequences of her lie. In particular, she is legally responsible for all the harmful consequences of her lie.¹

The second prohibition against lying in Kant’s moral philosophy, then, is as follows. A lie is a violation of a duty of right to others to be truthful. For a person to tell a lie is for her to harm humanity in general. Hence lying under any circumstances whatsoever is prohibited. This prohibition is not derived from the categorical imperative, insofar as it belongs to a distinct sphere of morals.

Although Kant’s two prohibitions on lying belong to distinct spheres of morals, nevertheless the two prohibitions are co-extensive. The result of these two prohibitions being co-extensive is that, according to Kant, there is no such thing as harmless lie. All of Kant’s statements about lies that do not harm anyone must therefore be read as statements about lies that do not harm a particular person.

Notes

¹ The other contenders for this dubious honor include his denial that the motive of instinctive fellow-feeling has any moral worth, and his denial that there is ever a right to revolt against a sovereign. On the former, see Barbara Herman, “On the Value of Acting from the Motive of Duty,” [1981] in *The Practice of Moral Judgment* (Cambridge, Mass.: Harvard University Press, 1993), p. 1-22. On the latter, see Christine Korsgaard, “Taking the Law into Our Own Hands: on the Right to Revolution,” in *Reclaiming the History of Ethics: Essays for John Rawls*, edited by Andrews Reath, Barbara Herman, and Christine Korsgaard (NY: Cambridge University Press, 1998), p. 297-328.

² *On Political Reactions* (*Des réactions politiques* [1796]) was translated into German by Carl Friedrich Cramer and printed in the journal *Frankreich im Jahr 1797*, Part IV, No. 1, in 1797. Kant read the Cramer translation.

³ *On a supposed right to lie from philanthropy* (*Über ein vermeintes Recht aus Menschenliebe zu lügen* (1797)), in *Immanuel Kant: Practical philosophy*, translated and edited by Mary Gregor and Allen Wood (Cambridge: Cambridge University Press, 1996), p. 611-615. Hereafter referred to as “RL”. Pagination references in the text and footnotes are as follows: firstly, to the volume and page number in the Berlin Academy Edition of the works of Immanuel Kant; secondly, to the Cambridge Edition.

⁴ Constant had claimed that “a German philosopher” had maintained this (RL, p. 611). Although the philosopher was not named, we know that the philosopher he had in mind was Kant. As Cramer says in a footnote to his translation: “The author of this paper himself [Constant] told me that the philosopher spoken of in this passage is Kant” (RL, 8: 426 (p. 611n)). Although Kant agreed that he had indeed maintained this (“I hereby grant

that I actually said this somewhere or other, though I cannot now recall where" (RL, 8: 426 (p. 611n))), there is no trace of such an assertion anywhere in his writings. Cramer himself pointed out that "[Johann] D[avid] Michaelis of Göttingen put forward this extraordinary opinion earlier than Kant" (RL, 8: 426 (p. 611n)).

⁵ Lewis White Beck, *Early German Philosophy: Kant and His Predecessors* [1969] (Bristol: Thoemmes Press, 1996), p. 436. A somewhat eclectic assortment of critics of Kant's prohibition on lying can be found in Heimo Hofmeister, "The Ethical Problem of the Lie in Kant," *Kant-Studien* 63 (1972), p. 353-368.

⁶ Commentators who appear to be more sympathetic to Kant's conclusion include Wolfgang Schwartz, "Kant's Refutation of Charitable Lies," *Ethics* 81 (1970), p. 62-67, and Alasdair MacIntyre, "Truthfulness, Lies, and Moral Philosophers: What Can We Learn from Mill and Kant?," in *The Tanner Lectures on Human Values*, vol. 16, edited by Grethe Peterson (Salt Lake City: University of Utah Press, 1995), p. 307-361.

⁷ See, for example, H. J. Paton, "An Alleged Right to Lie; a Problem in Kantian Ethics," *Kant-Studien* 45 (1954), p. 190-203; Roger Sullivan, *Immanuel Kant's Moral Theory* (NY: Cambridge University Press, 1989), p. 350n24; and Sally Sedgwick, "On Lying and the Role of Content in Kant's Ethics," *Kant-Studien* 82 (1991), p. 42-62.

⁸ Paton, 1954, p. 201. Many commentators express sympathy with Paton's verdict, if not outright agreement. Sullivan, for example says that "Perhaps there is some merit after all in the accusation that here he was being cantankerous!" (Sullivan, p. 177), and Sedgwick comments "More than any other passage in the essay, I admit that this one makes Paton's appeal to Kant's 'bad temper' and 'old age' extremely seductive." (Sedgwick, p. 61)

⁹ Robert Benton, "Political Expediency and Lying: Kant vs Benjamin Constant," *Journal of the History of Ideas* 43 (1982), p.144. See also Jules Vuillemin, "On Lying: Kant and Benjamin Constant," *Kant-Studien* 73 (1982), p. 413-424. Sedgwick seems to agree, ultimately, with Benton's verdict (Sedgwick, 1991, p. 61-62).

¹⁰ *Groundwork of the Metaphysics of Morals* (*Grundlegung zur Metaphysik der Sitten* (1785)), translated and edited by Mary Gregor (Cambridge: Cambridge University Press, 1998). Hereafter referred to as "G" Pagination references in the text and footnotes are as follows: firstly, to the volume and page number in the Berlin Academy Edition of the works of Immanuel Kant; secondly, to the Cambridge Edition.

¹¹ It is important to note here, as Allen Wood has pointed out, that the arguments of the *Groundwork* against lying promises are not arguments against all lies as such, but only against "lies of a certain sort" ("Kant on False Promises," *Proceedings of the Third International Kant Congress*, edited by Lewis White Beck (Dordrecht: D. Reidel, 1972), p. 616).

¹² *The Metaphysics of Morals* (*Die Metaphysik der Sitten* (1797)), translated and edited by Mary Gregor (Cambridge: Cambridge University Press, 1996). This work is divided into the *Doctrine of Right* (*Rechtslehre*) and the *Doctrine of Virtue* (*Tugendlehre*), hereafter referred to as "DR" and "DV" respectively. Pagination references in the text and footnotes are as follows: firstly, to the volume and page number in the Berlin Academy Edition of the works of Immanuel Kant; secondly, to the Cambridge Edition.

¹³ *Lying* (*De mendacio*), translated by Mary Sarah Muldowney, and *Against Lying* (*Contra mendacium*), translated by Harold Jaffee, in *Treatises on Various Subjects*, edited by R. J. Deferrari, *Fathers of the Church, Volume XVI* (New York: Fathers of the Church. 1952), p. 53-110 and p. 125-179.

¹⁴ *Summa Theologica, Part II, CX*, translated by the Fathers of the English Dominican Province (London: Burns, Oates and Washbourne, 1935), p. 85-98.

¹⁵ "Lying and Equivocation," in *Apologia Pro Vita Sua*, edited by Martin Svaglic (Oxford: Clarendon Press, 1967), 302-311.

¹⁶ Frederick Siegler makes the point that a person may do something which can be described as saying something even though she does not, as such, utter any words. When a person writes a letter, uses sign language, signals by semaphore, makes smoke signals, and so forth, or when she nods her head or winks her eye, she may do something which can be described as saying something. Nevertheless "Speaking or saying something seems to be connected with conveying meaning through conventional signs... If this is so, then although uttering words is not a necessary condition for lying or telling a lie, it may be that saying something or doing something which can be described as saying something is a necessary condition for lying or telling a lie." ("Lying," *American Philosophical Quarterly* 3 (1966), p. 128).

¹⁷ *Religion within the Boundaries of Mere Reason* (*Die Religion innerhalb der Grenzen der bloßen Vernunft* (1793)), in *Religion within the Boundaries of Mere Reason And Other Writings*, translated and edited by Allen Wood and George di Giovanni (Cambridge: Cambridge University Press, 1998). Hereafter referred to as "RBRA". Pagination references in the text and footnotes are as follows: firstly, to the volume and page number in the Berlin Academy Edition of the works of Immanuel Kant; secondly, to the Cambridge Edition.

¹⁸ *Critique of Pure Reason* (*Kritik der reinen Vernunft* (1781, 1787), translated by Norman Kemp Smith (NY: St. Martin's Press, 1929). Hereafter referred to as "CPUR". Pagination references in the text and footnotes are as follows: firstly, to the respective edition (either the first edition, "A", or the second edition, "B") and page number in the Berlin Academy Edition of the works of Immanuel Kant; secondly, to the Kemp Smith translation.

¹⁹ In the *Critique of Practical Reason* (*Kritik der praktischen Vernunft* (1788)), translated and edited by Mary Gregor (Cambridge: Cambridge University Press, 1997), hereafter referred to as "CPR"; pagination references in the text and footnotes are as follows: firstly, to the volume and page number in the Berlin Academy Edition of the works of Immanuel Kant; secondly, to the Cambridge Edition, Kant states this principle as follows: "[O]ne can do it [what the moral law prescribes] because our own reason recognizes this as its command and says that one ought to do it." (CPR, 5: 159 (p. 131))

²⁰ Cf. Heimo Hofmesiter: "Truth means for Kant the agreement between facts and the propositions about them. The agreement between these is established through a logical judgment. Now it is Kant's opinion that nobody is ever able to guarantee that what he asserts is actually in agreement with the facts. The possibility of error cannot be excluded, since the proposition and the facts are not immediately related to one another but are related by the means of a judgment. Does it not seem absurd to require that someone always tell the truth, knowing that there is no chance that he always knows the truth?" ("Truth and Truthfulness: A Reply to Dr. Schwarz," *Ethics* 82 (1972), p. 263-264))

²¹ Cf. Arnold Isenberg: "A lie is a statement made by one who does not believe it with the intention that someone else shall be led to believe it. This definition leaves open the possibility that a person should be lying, even though what he says is true." ("Deontology and the Ethics of Lying," *Philosophy and Phenomenological Research* 24 (1964), p. 466)

²² Siegler distinguishes between lying and telling a lie, such that it is possible for a person to tell a lie and not to lie (Siegler, 1966, p. 128f). In this paper, however, I make no distinction between lying and telling a lie.

²³ *Lectures on ethics*, translated by Peter Heath and edited by Peter Heath and J. B. Schneewind (Cambridge: Cambridge University Press, 1997). Hereafter referred to as "LE". Pagination references in the text and footnotes are as follows: firstly, to the volume and page number in the Berlin Academy Edition of the works of Immanuel Kant; secondly, to the Cambridge Edition.

²⁴ *Anthropology from a Pragmatic Point of View* (*Anthropologie in pragmatischer Hinsicht* (1798)), translated by Mary Gregor (The Hague: Martinus Nijhoff, 1974). Hereafter referred to as "APPV". Pagination references in the text and footnotes are as

follows: firstly, to the volume and page number in the Berlin Academy Edition of the works of Immanuel Kant; secondly, to the Martinus Nijhoff Edition.

²⁵ Cf. Allen Wood: "Right and ethics are two distinct spheres of practical philosophy, or "morals" (*Sitten*)" (*Kant's Ethical Thought* (Cambridge: Cambridge University Press, 1999), p. 322).

²⁶ In "The right to lie: Kant on dealing with evil." ((1986), reprinted in *Creating the Kingdom of Ends* (NY: Cambridge University Press, 1996), p. 133-158), Christine Korsgaard argues that a prohibition on lying can be derived from the second formulation of the categorical imperative. Her argument is as follows. It is a conceptual impossibility for a person to assent to being lied to. Since it is a condition of a person being used as an end that she can assent to do or believe whatever it is she is supposed to do or believe, it follows that, necessarily, a person who is being lied to is being used as a mere means, and not as an end. Hence lying to others is always morally prohibited (Korsgaard, 1996, p. 137-140). Korsgaard does not, however, acknowledge Kant's own argument that in telling a lie a person uses humanity in herself as a mere means and not as an end.

²⁷ In the lectures on ethics given in the academic year 1793-1794, Kant says that "[T]he credulous one, who takes the story to be true, and makes use of it to his injury, in that he accords belief to an untruth, runs the risk of himself in the end being despised, if he is often taken in that fashion." (*LE*, 27: 601 (p. 427))

²⁸ Schwarz, 1970, p. 63n8.

²⁹ It should be noted that the 'hard case' of a murderer asking after his victim was not original to Kant or even Johann David Michaelis. It was a traditional counter-example to the prohibition against lying. Dr. Johnson, for example, is quoted by Boswell as saying that "The general rule is, that Truth should never be violated, because it is of the utmost importance to the comfort of life, that we should have a full security by mutual faith... There must, however, be some exceptions. If, for instance, a murderer should ask you which way a man is gone, you may tell him what is not true, because you are under a previous obligation not to betray a man to a murderer." (James Boswell, *The Life of Samuel Johnson*, quoted in MacIntyre, 1995, p. 310).

³⁰ Platon, 1954, p. 194.

³¹ It is important to note here that Kant is not describing the actual legal practice of his day, but is "[O]nly giving an illustration of what the law should be" (Paton, 1954, p. 195). (Cf. Schwarz: "He [Kant] might have added: Never mind what the codified law of our country provides. I am telling you what civil laws — the principles of a civil status — demand. Inasmuch as our enacted laws, A.D. 1797 do not provide this punishment, they are defective." (Schwarz, 1970), p. 65))