

# Review of: "Kantian Constructivism and Practical Reasoning in Clinical Bioethics"

Vivek Kumar Radhakrishnan

**Potential competing interests:** No potential competing interests to declare.

This paper is an interesting attempt to examine the extent to which Kant's ethics can be applied to moral conundrums in clinical practice. The author's objective is to argue that Kantian moral constructivism can indeed be applied to the field of biomedicine to resolve key ethical issues in day-to-day clinical practices. The author claims that Kant's CI procedure alone cannot be the solution to all the moral dilemmas, and hence it must be combined with Viafora's principle of treating patients with respect and dignity for its successful application in the field of bioethics. While I appreciate the efforts of the author to connect the complicated moral theory of Kant to applied ethical scenarios in the field of medicine, I do find some problems in the article that I would like the author to take note of and revise the article.

One problem that I want to point out right at the start is author's treatment of Kant's moral theory as synonymous with moral constructivism. The question of whether Kant's moral theory can be categorized as a version of moral constructivism or of moral realism is an ongoing debate in the secondary literature. Constructivist readings of Kant have been provided by prominent scholars like Barbara Herman (1993), Christine Korsgaard (1996) and Onora O'Neill (2003) and realist readings of Kant have been given by well-known scholars like Karl Ameriks (2003), Paul Guyer (2006) and Allen Wood (1999 & 2008). For a constructivist reading, one may have to pay attention to Kant's account of categorical imperative as a deliberation procedure in the *Groundwork for the Metaphysics of Morals* (see: Kant *GMS*, AA, 04: 421-424); For a realist account of Kant, one may have to turn the focus to Kant's doctrine of the moral law as a fact of reason from his *Critique of Practical Reason* (see: Kant *KpV*, AA, 05: 31, 46-47). Whether a constructivist account of Kant's moral theory is strictly anti-realist is a matter of another debate altogether. Instead of assuming Kant to be a constructivist (which is problematic), the author could have focused just on Kant's moral theory and its application to moral dilemmas in the field of biomedicine.

The second problem that I have with this article concerns author's views in section 1.1. of the article. Firstly, I am not clear why the author has to introduce constructivism by juxtaposing it with instrumentalist moral theories. Secondly, the constructivist criticism of instrumentalist moral theories that the author discusses is very brief and unclear. A constructivist moral theory that treats reason instrumentally is conceptually possible (e.g., Humean constructivism), and I do not understand why these two views have to be treated in contrast with each other. Moral constructivism can be treated as an alternative to moral realism and anti-realism (depending on how we define these terms) and a moral theory that treats reason instrumentally can be placed in contrast to a moral theory that is founded solely on reason (like Kant's). The author could have just introduced Kant's moral theory by discussing its basic tenets and its lasting significance, instead of trying to show it as a better alternative to a certain type of moral theoretical frameworks.

Another problem with the paper lies in the way Kant's moral theory has been discussed in section 1.2 (under the title "Kantian Constructivism") of the article. First, the author claims that, from Kant's ethical framework, moral principles arise from natural facts about our psychology and physiology. That is, our reason constitutes moral judgements on the basis of our physiological need to seek pleasure and avoid pain. Second, the author argues that it is upon a rational deliberation about these natural facts that we realize ourselves as autonomous agents amidst other rational agents. Finally, the author also claims that our moral judgements acquire universal validity because of our realization of ourselves as intersubjectively rational autonomous agents. These points, which the author puts forward as "Kantian" is actually anti-Kantian. First, as opposed to how the author thinks about it, Kant claims that our moral principles and concepts "cannot be abstracted from any empirical and hence merely contingent cognition" like our physiological or our psychological condition; Rather, they must "have their seat and origin completely *a priori* in reason" (Kant *GMS*, AA, 04: 411). Second, for Kant, the principle of autonomy, i.e., "the principle of every human will as a will universally legislating through all its maxims" (Kant *GMS*, AA, 04: 432), does not emerge due to rational deliberation about human nature; Instead, it is *a priori* principle that "can very well be established by mere analysis of the concepts of morality" (Kant *GMS*, AA, 04: 440). Finally, unlike how the author understands it, for Kant, the universal validity of our moral principles is not due to their intersubjective justifiability; But it is due to its objectivity, and specifically due to its *a priori* origins. Keeping these points in mind, I suggest the author to carefully read Kant's *Groundwork* to get a clear picture of how he thinks about the origins of our moral principles.

I would also like to add author's views on the CI procedure to the points mentioned above. Although the author almost got it right, the way contradiction in conception and contradiction in will are put forward (point 2 and 3) are slightly incorrect. The author writes that a maxim fails the contradiction in conception test if "if the intention expressed in the maxim is bound to be frustrated in such a world". Firstly, although Kant is generally understood to have given importance to intentions (rather than consequences), it would be a mistake to think about these "intentions" as anything other than the principles of actions (or maxims). So, intentions and maxims are not two separate variables, but are one and the same thing. Secondly, for Kant, contradiction in conception results when "maxims cannot even be thought without contradiction as a universal law of nature" (Kant *GMS*, AA, 04: 424). That is, when a maxim is put through this universalizability test, it cannot be universalized. In other words, a maxim that is "literally inconceivable" (author's words) as a universal law fails the contradiction in conception test. Hence, there is no "intention" that is "frustrated" in "a world" (as the author puts it) when a maxim fails this test. There is a mistake in author's understanding of the contradiction in will test too. The author writes that a maxim fails the contradiction in will test if "it cannot be successfully executed" once universalized. For Kant, the moral worth of actions depends on an agent's willing of practical principles as laws and not on the effect or execution of actions. So, a maxim fails the contradiction in will test if there is a contradiction in willing the maxim as a universal law. In Kant's words, "a will would contradict itself" if it is "impossible to will that their maxim be elevated to the universality of a law of nature" (Kant *GMS*, AA, 04: 424). Hence, this contradiction in will test is not about the execution of actions (as the author thinks about it). I suggest the author to also take a look at the discussions in the secondary literature on the so-called Kant's CI procedure for a better understanding (See: Allen Wood (1999), Mark Timmons (2006), Richard Galvin (2009), Oliver Sensen (2014) and Pauline Kleingeld (2017)).

I also want to point out a specific error that the author makes in section 2.2. of the article. This mistake arises during author's attempt to apply Kant's CI procedure to the clinical case of Luce. The author writes that a moral conundrum ensues when the parents of the critically ill baby, Luce, demand the doctors to provide active intervention strategies even when the doctors prefer to opt for palliative care. The author, in an attempt to argue for Kant's CI procedure in such cases, frames the following maxim: "help my daughter regardless of the clinical condition". Author's argument is that this maxim fails both contradiction in conception and the contradiction in the will test because universalizing it would mean that all the medical resources would be exhausted for patients like Luce. One problem in this way of forming the maxims and discussing this case is that it goes against Kant's view of maxims as general principles (instead of being specific ones). Second, the extent to which medical resources would be used in Luce's case is not mentioned in the maxim itself for a contradiction in conception to occur. To avoid these problems (and may be more), I would like to give a better alternative here. The maxim that Luce's parents would have wanted the doctors to use would be: "Provide active curative care to a seriously ill patient even if the prognosis suggests that curative care is likely to worsen the health condition of the patient". This maxim when willed as a universal law leads to a contradiction in conception. That is, if, in every clinical case, curative care is actively given even when it is evident that it will worsen the health, then it is impossible to believe that curative care is meant to improve health. If medical intervention is supposed to lead to advancement of life, then contradiction results if it destroys life at the same time. I suggest the author to consider this alternative and also take a look at Kant's own examples (at *GMS*, AA, 04: 421-424) to correctly apply the CI procedure to Luce's clinical case.

Finally, I did not understand why the author has to move away from Kant's moral theory to Viafora for supplementing the tool of practical reasoning with ethical principles such as humanity, dignity and respect in clinical context. The CI procedure constitutes only a small portion of Kant's sophisticated moral theory and it is unfair reduce Kantian ethics to the universalizability tests. Ethical principles that the author draws from Viafora for use in clinical contexts are available as central tenets of Kant's moral theory. For instance, one of the formulas of the categorical imperative (that is generally dubbed as the formula of humanity in the secondary literature) suggests that we should always treat ourselves and others never as means to some personal ends (i.e., as things) but as ends in themselves (i.e., as persons) (see: Kant *GMS*, AA, 04: 428-430). From this follows the view that the treatment of ourselves and others as ends in themselves constitutes absolute worth and dignity (and not relative worth and price) of human persons (see: Kant *GMS*, AA, 04: 434-435). The author could have used these ideas of Kant and applied it to clinical contexts to make the claims made in the article. Drawing these ideas from Kant (instead of Viafora) will make this article more focused and its main claims more consistent.

I hope the author takes the points mentioned above into consideration and improves the article.

## References

Ameriks, Karl. *Interpreting Kant's Critiques*. Oxford: Oxford University Press, 2003.

Galvin, Richard. "The Universal Law Formulas." In *The Blackwell Guide to Kant's Ethics*, edited by Thomas E. Hill, Jr., 52-82. Oxford: Oxford University Press, 2009.

Guyer, Paul. *Kant*. New York: Routledge, 2006.

Herman, Barbara. *The Practice of Moral Judgment*. Cambridge: Harvard University Press, 1993.

Kant, Immanuel. *Critique of Practical Reason*[KpV], in *Practical Philosophy*. Translated and Edited by Mary Gregor. Cambridge: Cambridge University Press, 1996.

Kant, Immanuel. *Gesammelte Schriften*, Akademie Ausgabe [AA]. Edited by Royal Prussian Academy of Sciences. 29 Vols. Berlin: Georg Reimer/de Gruyter, 1900-.

Kant, Immanuel. *Groundwork of the Metaphysics of Morals*[GMS], in *Practical Philosophy*. Translated and Edited by Mary Gregor. Cambridge: Cambridge University Press, 1996.

Kleingeld, Pauline. "Contradiction and Kant's Formula of Universal Law." *Kant-Studien* 108, 1 (2017): 89-115.

Korsgaard, Christine M. *Creating the Kingdom of Ends*. Cambridge: Cambridge University Press, 1996.

O'Neill, Onora. "Constructivism Vs. Contractualism." *Ratio* XVI (2003): 319-331.

Sensen, Oliver. "Universalizing as a Moral Demand." *Estudos Kantianos* 2 (2014): 169–184.

Timmons, Mark. "The Categorical Imperative and Universalizability (GMS, 421–424)." In *Groundwork for the Metaphysics of Morals*, edited by Christoph Horn and Dieter Schönecker, 158–199. Berlin: De Gruyter, 2006.

Wood, Allen. *Kant's Ethical Thought*. Cambridge: Cambridge University Press, 1999.

Wood, Allen. *Kantian Ethics*. Cambridge: Cambridge University Press, 2008.