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On a Recent Attempt to Derive Positive Duties from Kant's Formula of Universal Law

Abstract: According to the positive duties objection, it is not possible to derive positive duties from Kant's Formula of Universal Law (FUL). However, in his recent "Deriving Positive Duties from Kant's Formula of Universal Law," Guus Duindam tries to answer this objection. More specifically, Duindam tries to show how both a duty of benevolence and a duty of self-perfection can be derived from the FUL.

In this article, I critically examine Duindam's arguments. I maintain that Duindam's argument for the positive duty of benevolence is ambiguous and that this ambiguity exposes him to a fatal dilemma: on one horn, Duindam faces the same objection that he concedes to be effective against other attempts to answer the positive duties objection; on the other horn, the procedure he recommends cannot be based on the FUL (because it does not evaluate actions on the basis of their corresponding maxims). In addition, I maintain that Duindam's benevolence argument rests on a procedure that is, in general, intractable and, in this particular case, foredoomed (because it can be shown that there are no positive duties of the kind he tries to derive). From there, I turn to Duindam's argument for the positive duty of self-perfection. I explain that Duindam's derivation of the duty of self-perfection, even if successful, does not answer the positive duties objection. This is because Duindam never appeals to the FUL in his derivation of the duty of self-perfection (the derivation is based, rather, on instrumental reasoning from the second-order end to accomplish our first-order ends). I elaborate on this by comparing and contrasting Duindam's argument with Sensen's interpretation of how to apply the FUL in the latter's recent "Universal Law and Poverty Relief."

Keywords: Kant's ethics; Kantian ethics; Formula of Universal Law; Formula of a Law of Nature; Contradiction in Willing; positive duties; universalization tests; Categorical Imperative

In his recent "Deriving Positive Duties from Kant's Formula of Universal Law," Guus Duindam attempts to answer the positive duties objection. However, this attempt does not work, and that is what I intend to show in this article. I begin, in section 1, with some background. In section 2, I examine Duindam's argument for the obligatory end of others' happiness. In section 3, I examine Duindam's argument for the obligatory end of self-perfection. I then wrap up with some concluding remarks.

Section 1: Some Background

According to Kant, in order to assess an action, we have to examine the maxim underlying it, and one of the standards that he gives us for doing so is the Formula of Universal Law (FUL):

> Act only according to that maxim through which you can at the same time will that it become a universal law. (GMS, AA 04: 421)

There is voluminous debate about how correctly to interpret the FUL.[1] For present purposes, it will suffice to note that the FUL is a test of permissibility: the FUL says that an action is permissible if, but only if, the associated maxim has some property U. Even if we knew exactly how to make sense of this property U, it is unclear how to use this test to determine whether an action is obligatory--and, thus, it is unclear whether the FUL can be used to derive positive duties.

[1] For my own incursion into this debate, see (Kahn, 2019).

As Duindam points out, according to one prominent school of thought, the solution to this problem is to test maxim pairs and, more specifically, maxim contradictories. If (1) instead of merely testing a maxim "to B," we test both this maxim and its contradictory, "not to B"; if (2) one of these maxims has property U whereas the other does not; and if (3) agents must adopt at least one of them; then (4) the maxim with property U (and the corresponding action, B-ing or not-B-ing) is obligatory. Thus, for example, it is argued that, because "to promote others' happiness" is universalizable whereas "never to promote others' happiness" is not, the former is obligatory.[2]

However, as Duindam also points out, this argument has a fatal flaw. For any pair of maxims, "to B" or "not to B," an agent need not adopt either one. This scuttles the attempt to derive positive duties because (i) when an agent fails to B, she need not do so on the basis of any maxim, much less on the basis of the maxim "not to B," and (ii) the FUL has no means of assessing maxim-less action. So, the argument in the previous paragraph does not work, and we are left, once again, wondering whether the FUL can be used to derive positive duties.[3] Here is how Duindam puts it:

> The prevailing method of deriving positive duties from the CW-test makes use of maxim contradictories. On this view, whenever the CW-test rejects a maxim, we have a duty to adopt its contradictory...[But] As Wood has argued, this strategy does not work (Wood 1999, 100–102). If adopting a maxim of principled slothfulness is forbidden, this means that we may not on principle refuse to perfect ourselves. It does not follow from this that self-perfection is obligatory, nor that we must adopt an affirmative principle of self-perfection. After all, refraining from a principled refusal to engage in self-perfection is not the same as adopting a principled commitment to self-perfection. (Duindam, 2023, p. 5)

It is at this juncture that Duindam picks up the argument: he thinks that he can supplement the traditional appeal to maxim contradictories in such a way as to show that refraining from adopting either "to B" or "not to B" is impermissible. That is, Duindam thinks that he can plug the gap opened up by proponents of the positive duties objection. So, let us look at how he tries to do so.

Section 2: Others' Happiness

Duindam's derivation builds on, rather than replaces, the argument canvassed in the previous section. First, Duindam appeals to the so-called Contradiction in Willing (CW) test of the FUL. Duindam asserts that, in order to show that a given course of action is non-universalizable and, therefore, impermissible, it suffices to show that an agent cannot rationally choose to live in a world in which that course of action is a universal law.[4] Duindam then asserts that, in order to show that it is impermissible to *refrain* from adopting a maxim about B-ing, a similar test can be used: it will suffice to show that an agent cannot rationally choose to live in a world in which this refraining is universal. In Duindam's words:

> I propose a different way of deriving positive duties. Although we can apply the CW-test by considering whether we could rationally will that a particular maxim become a universal law, this

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[2] Consider the following passage from Barbara Herman: "if the CI procedure shows that it is impermissible to adopt the maxim, 'to never help anyone,' it follows that we must adopt its contradictory, 'to help some others sometimes'" (Herman, 1993, p. 63). Consider also: "we know that none of us can rationally will to forego all help, so if the choice is between a principle of "no help" and "possible help," we are rationally constrained to endorse the latter" (Herman, 2021, p. 285; see, in addition, her 2007, p. 208).

[3] Duindam's summary of the debate, reproduced above, is incomplete. For fuller discussion, see my own (2014; 2017; 2020; 2021a; 2021b; 2022a; or 2022b).

[4] It is perhaps worth pointing out that, technically, the CW test is part of the Formula of a Law of Nature formulation of the Categorical Imperative, not part of the FUL. However, this technicality is overlooked by most in the debate (and, indeed, in many other debates besides), and it does not seem to do any material harm.

> is not the test's only possible application. We can also consider whether we could rationally fail to will that a particular maxim become a universal law. In other words: just as we can ask whether one could rationally will to live in a world where a particular maxim is a universal law, so too can we ask whether it could be consistent with rationality not to choose to live in that world. (Duindam, 2023, p. 7)

Whereas the argument in the previous section asks whether an agent rationally can choose to live in a world in which either one of a pair of maxim contradictories, "to B" and "not to B," is a universal law, Duindam asks, in addition, whether an agent can rationally choose to live in a world in which it is a universal law to refrain from adopting either of these maxims. If an agent is able rationally to choose to live in only one of these three worlds (i.e., (I) the world in which "to B" is a universal law; (II) the world in which "not to B" is a universal law; or (III) the world in which refraining from either of these is a universal law), then the corresponding course of action is obligatory. Thus, in the case of the end of others' happiness, Duindam argues as follows:

> [N]one would make it past infancy in a world of total non-beneficence. [So, we cannot rationally choose to live in a world in which non-beneficence is a universal law.] Now consider…whether we could rationally fail to will beneficence as a universal end. We cannot. It is just as irrational to choose to live in a world where everyone is non-beneficent as it is to fail to choose to live in a world where everyone is beneficent…Therefore, we cannot rationally fail to will that everyone adopt the end of others' happiness. It follows that FUL's CW-test affirmatively requires us to adopt that end. (Duindam, 2023, p. 12)

There are at least two problems with Duindam's argument, both of which are individually fatal.

The first problem arises from an ambiguity. Consider again Duindam's proposal that, in employing the CW test, we consider whether we could rationally fail to will that a particular maxim become a universal law. There are two different ways to interpret this. According to the first, Duindam is proposing that we test the maxim that an agent is acting on when she purposefully refrains from adopting either the maxim "to B" or the maxim "not to B" (i.e., he is proposing that we ask whether we rationally can choose to live in a world in which the refraining-maxim is a universal law). According to the second, Duindam is proposing that we evaluate the mere *absence* of either the maxim "to B" or the maxim "not to B," independently of any maxim on which this absence might be based (i.e., he is proposing that we ask whether we rationally can choose to live in a world in which nobody Bs, regardless of maxim).

However, if we take the first interpretation of Duindam's argument, then we have not advanced sufficiently far from the argument adumbrated in section 1 of this article, for, as emphasized at the end of section 1, an agent might refrain from adopting either of these maxims un-purposively (i.e., not on the basis of a maxim). Thus, on the first interpretation of the argument, it does not work (for the same reason that the original argument did not work) and, therefore, it does not provide an answer to the positive duties objection.

But, if we take the second interpretation of Duindam's argument, then it no longer can be read as an interpretation of the FUL or the CW test, for the FUL and the CW test assess actions *on the basis of maxims*. Therefore, if we read the argument in the second way, then it no longer provides an answer to the positive duties objection: the positive duties objection states that positive duties cannot be derived from the FUL, not that positive duties cannot be derived from the FUL conjoined with other, FUL-inspired ethical standards.

From this it may be seen that, on either interpretation of his argument, Duindam fails to provide an answer to the positive duties objection.

However, there is a second and independent problem with Duindam's argument. Consider the idea of dividing up possible worlds into precisely three equivalence classes: (i) worlds in which everyone has the end "to promote others' happiness"; (ii) worlds in which everyone has the end "not to promote others' happiness"; and (iii) worlds in which people do not adopt either of these ends. Duindam argues that we cannot fail to will the end of others' happiness because it is just as irrational to choose to live in type (ii) worlds as it is to choose to live in type

(iii) worlds. The problem is that there are infinitely many possible happiness-related ends that an agent might adopt other than "to promote others' happiness" and "not to promote others' happiness." For example, there are worlds in which everyone has the end "to promote the happiness of family but not of non-family," and there are worlds in which everyone has the end "to promote the happiness of community-members but not of non-community members."[5] It is impossible to test infinitely many possible worlds: not only do we not have the cognitive resources to go through these worlds one-by-one, but, in addition, there is no fixed enumeration of them. So, there is no way to test all type (iii) worlds. Moreover, when it comes to others' happiness, it is *prima facie* implausible that we rationally are able to choose to live in only type (i) worlds (i.e., worlds in which everyone has the end "to promote others' happiness"): if we cleave to Duindam's argument above, there does not seem to be any reason why we rationally cannot choose to live in type (iii) worlds in which agents have family- or community-oriented ends like those suggested in this paragraph. If this is correct, then not only is Duindam's procedure for deriving positive duties intractable, but there are no positive duties of the kind Duindam wants to derive, at least where others' happiness is concerned.

Now, for ease of reference, let me call the general end, "to promote others' happiness," the benevolence end; let me call the general end, "not to promote others' happiness," the non-benevolence end; let me call the end, "to promote the happiness of family but not of non-family," the family end; and let me call the end, "to promote the happiness of community members but not of non-community members," the community end. Using this shorthand, Duindam then might object to my fine-grained individuation of ends.[6] Duindam might argue that the alternate ends I have suggested, the family end and the community end, all come under the rubric of the benevolence end, and, therefore, for the purposes of Duindam's argument, worlds in which these alternate ends are universally adopted can be subsumed under type (i) worlds, worlds in which everyone has the benevolence end.

The problem with this objection is that it is possible for an agent to adopt either the family end or the community end without adopting the benevolence end. Indeed, this point can be strengthened: it is unrealistic to suppose that any actual agent ever has adopted the benevolence end (or, for that matter, the non-benevolence end). Thus, we are forced to confront the infinitely many possible worlds I noted above and, once again, it follows that Duindam's procedure is intractable, and that there are no positive duties to be derived anyway, even if the infinites fed into the derivation procedure could be tamed. Let me explicate each of these points.

Each of the ends described above is ambiguous. The benevolence end might be interpreted as "to promote all others' happiness" or as "to promote some others' happiness"; the family end might be interpreted as "to promote the happiness of all family but not of any non-family," as "to promote the happiness of some family but not of some non-family," as "to promote the happiness of all family but not of some non-family," or as "to promote the happiness of some family but not of any non-family"; and so on.

It is possible to imagine an agent who adopts the community end as part of a top-down reasoning procedure from the benevolence end. For example, someone who takes an ethics course might come to the conclusion that it is obligatory to adopt the end, "to promote some others' happiness," and thence might reason that the others on whom she is going to concentrate her energies will be the members of her community. However, it is also possible to imagine an agent who adopts the community end in the absence of this kind of top-down

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[5] It is perhaps worth noting that these two latter worlds are far closer to our own than any of those that Duindam considers.

[6] I would like to thank an anonymous reviewer from the *Kantian Journal* for pressing me to address this objection.

reasoning and, thus, without adopting the benevolence end.[7] For example, we might consider someone raised in a city known to be at war with everybody else. Such a person might come to care about the happiness of her compatriots but not the happiness of others. She might not have any ill will toward those others; the idea is merely that she has no immediate intention of doing anything for them. But, precisely because an agent can, but need not, adopt the community end in conjunction with (and perhaps even by reasoning from) the benevolence end, the community end does not fit neatly into Duindam's tripartite division of possible worlds: there will be some type (i) worlds in which all agents have the community end, and there will be some type (iii) worlds in which all agents have this end.

Of course, our imaginary agent has adopted an end that implies the benevolence end in some sense, at least on one interpretation of the latter, and, if our imaginary agent acts on her end, she will promote others' happiness. But, adopting an end E that implies end P is not the same as implying end P, and actually promoting others' happiness is not the same as adopting an end to promote others' happiness. On the one hand, there is no such thing as end-adoption-by-implication, and, on the other, there is the action-description problem.[8]

Furthermore, there does not seem to be any reason why we could not rationally will to live in a world in which one of these more particular ends, the family end, the community end, or something similar, is a universal law, at least if we operate with Duindam's understanding of the CW test. For example, if the family end were a universal law, then everybody would get the help and happiness that they need from family members, even if not from strangers.[9] So, if we operate with Duindam's understanding of the CW test, we are forced to conclude that it is permissible to adopt the family end (without necessarily adopting the benevolence end), whence it follows that there is no positive duty to adopt the benevolence end.

Finally, ascribing the benevolence end to any actual agent is profoundly unrealistic. If we interpret this end as having universal scope ("to promote all others' happiness"), it is too inclusive, whereas if we interpret it as having non-universal scope ("to promote some others' happiness"), it is too vacuous. In the first case, it would take over an agent's life; in the second, it provides no meaningful action guidance.[10] Either way, to say that there is anything more than a permission to adopt the benevolence end does not seem like an attractive option.

To sum up: in this section, I discussed two problems with Duindam's argument for the positive duty to adopt the benevolence end. First, I noted that his argument is ambiguous, and I showed that this ambiguity gives

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[7] It is important to disambiguate the issue in the sentence to which this note is appended from a related issue that sometimes arises in this context, namely: whether an agent who refrains from some particular action has the corresponding end. Thus, for example, Oliver Sensen notes that Herman, Marcia Baron, and Karen Stohr "argue that if I do not save a drowning child in a shallow pond, I do not have the maxim of helping others" (Sensen, 2023, p. 178, with references to Herman, 1993, p. 65; Baron, 1995, p. 88; and Stohr, 2011).

The question of whether the performance or omission of an action is grounds for inferring the presence or absence of a given maxim or end is not the same as the question of whether the adoption of one end (the family end or the community end) necessitates the adoption of another (the benevolence end).

It is also worth pointing out that Herman, Baron, and Stohr are mistaken. For example, a Nazi might have the maxim of helping others, but, because she does not think Jews qualify as rational beings, she will refrain from helping a drowning child in a shallow pond if (she believes) that child is a Jew. There are meaningful and useful generalities to be made about the connection between actions on the one side and ends and maxims on the other. But it is difficult to pin down any necessary connections. This is elaborated on further in section 4 of my (Kahn, 2021a).

[8] This idea about end-adoption-by-implication is discussed at greater length in section 3 of my (Kahn, 2022b). For present purposes, it is worth noting that (i) there are plenty of non-benevolence ends that are permissible, such as "not to promote Nazis' happiness by aiding them in their white supremacist projects"; and (ii) these ends do not imply, nor are they implied by, the benevolence end.

[9] Some might object that there could be extenuating circumstances in which no family members are around to help or promote happiness. The problem with this objection is that there equally well could be extenuating circumstances in which nobody at all is around to help or promote happiness. Thus, this objection shows that the family end fails the CW test if but only if the corresponding objection shows that the benevolence end fails the CW test. So, either the family end is impermissible, but so is the benevolence end, or the family end is permissible, along with the benevolence end. Either way, Duindam's attempt to show that the benevolence end is obligatory fails. To put this another way: if the objection in the first sentence of this note works, its victory is pyrrhic.

[10] It is perhaps worthing noting at this juncture that, although the universal non-benevolence end ("never to help anybody") is almost certainly impermissible, the non-universal non-benevolence end ("sometimes not to help some others") is equally almost certainly permissible, although it is profoundly unrealistic to ascribe either of these to any actual agent (as with the corresponding benevolence ends, the universal non-benevolence end is too inclusive, and the non-universal non-benevolence end is too vacuous).

rise to a dilemma: either his argument requires testing the maxim on which an agent refrains from adopting/omitting an end, in which case Duindam faces the same objection that he concedes to be fatal to the original strategy for deriving positive duties (namely: this refraining need not be maxim-based); or his argument tests maxim-less action, in which case it is no longer an interpretation of the FUL or the CW, which assess actions on the basis of their corresponding maxims. Second, I took aim at Duindam's attempt to partition possible worlds into three equivalence classes, (i) worlds in which everyone has the benevolence end, (ii) worlds in which everyone has the non-benevolence end, and (iii) worlds in which people do not adopt either of these ends. I noted that there are infinitely many possible happiness-related ends that an agent might adopt; that there is no way to test all of the corresponding worlds; and that it is almost certain that we rationally can choose to live in some of these worlds, even though, according to Duindam, they would be categorized as type (iii). Combined, these points give rise to two issues: (a) Duindam's procedure is, in general, intractable (there is no way to work with these infinites), and (b) in the particular case of the benevolence end, there is no positive duty anyway (there are other permissible ends in the vicinity). Let us turn to self-perfection to see whether Duindam's argument about that is more successful.

Section 3: Self-Perfection

Duindam's argument for the duty of self-perfection is different from his argument for the duty to promote others' happiness, and it is, for that reason, instructive to see why it, too, fails.

According to Duindam, the duty of self-perfection can be derived from the conjunction of (1) the hypothetical imperative, which requires us to take the necessary means to our ends, and (2) the fact that all agents have the second-order end that their first-order ends be accomplished:

> [A]ll rational agents share the second-order end that their first-order ends be accomplished. All agents are therefore rationally required to will their own self-perfection, for that is a necessary means to the universal second-order end. Accordingly, we could not rationally fail to will our own self-perfection. (Duindam, 2023, p. 11)

Now, I am not convinced that all agents do have this second-order end that their first-order ends be accomplished. It seems to me that one (fairly frequently found) form of self-destructive behavior involves commitment to a second-order end that first-order ends *not* be accomplished; it also seems to me that many agents have no such general second-order ends at all; and, finally, I am not convinced that self-perfection is necessary for the accomplishment of this second-order end. But, even if I am mistaken about all of this, Duindam's argument does not suffice to answer the positive duties objection. Why not?

The problem is that the positive duties objection is specifically about whether positive duties can be derived *from the FUL*. It might be true that a general theory of instrumental rationality, conjoined with a general theory of human nature, will enable us to derive various positive duties, and it even might be the case that these general theories are correct. But, that is besides the point, as far as the positive duties objection is concerned.

Duindam is aware of this, and he tries to head it off at the pass:

> It is important to notice that this conclusion follows from FUL's CW-test as I have construed it. After all, it is not controversial that Kant's ethics has the resources to derive duties to adopt ends…At issue in the objection from positive duties is whether the Formula of Universal Law can be used to derive such duties. If, as I have argued, the CW-test requires us to will those ends that we could not rationally fail to will, then it can independently ground the affirmative duty of self-perfection. (Duindam, 2023, p. 11)

However, this reply misfires. For one thing, it is not the case that "it is not controversial that Kant's ethics has the resources to derive duties to adopt ends" (*pace* Duindam). The positive duties objection, the topic of Duindam's article, is an attempt to show that, if Kant's ethics is equipped solely with the FUL, then no such duties are

forthcoming, and if, as many suppose, the other versions of the Categorical Imperative are equivalent to the FUL, then the positive duties objection may be generalized. So, this assertion seems particularly problematic for Duindam given that his project is precisely to overturn the positive duties objection.

For another thing, even if *other* parts of Kant's ethics (other than the FUL) have the resources to derive duties to adopt ends, this, conjoined with Duindam's argument about the hypothetical imperative, is no answer to the positive duties objection. According to Duindam's argument, the conclusion that we have a duty of self-preservation does *not* follow from the FUL's CW-test (*pace* Duindam), nor is it the case that Duindam has argued that *the CW-test* requires us to will those ends that we could not rationally fail to will (*pace* Duindam): Duindam has argued that the hypothetical imperative, conjoined with the second-order end that first-order ends be accomplished, entails a duty of self-perfection, and he has argued that the hypothetical imperative, conjoined with other obligatory ends (not derived from the FUL's CW-test), entails a duty of self-perfection. But, even if these arguments are granted, they are all consistent with there being no positive duties that flow from the FUL. Thus, Duindam has failed to rebut the positive duties objection.

It is useful at this point to disambiguate Duindam's attempt to derive positive duties using the FUL from Sensen's recent reading of the FUL.[11]

Sensen proposes a three step procedure in order to derive duties from the FUL: (1) come up with a list of universal ends, shared among all of us; (2) come up with a list of principles that describe the necessary means to these ends; (3) subject the principles in (2) to the CI (Sensen, 2023, p. 181 and pp. 186-187). For example, Sensen argues that (i) self-preservation is a universal end; (ii) help from others is a necessary means to the end of self-preservation; therefore, (iii) inasmuch as each of us wills self-preservation and, therefore, help from others, the Categorical Imperative requires each of us to help others:

> [M]y end of self-preservation generates a rule that I want to be helped in need. But it only has the form of duty if it qualifies as a universal law that I help others as well. (Sensen, 2023, p. 183)

I would like to say three things about this.

First, whereas both Duindam and Sensen appeal to individuals' non-moral ends (in Duindam's case, the second-order end that first-order ends be accomplished; in Sensen's case, self-preservation) in order to make claims about the necessary means to those ends (in Duindam's case, self-perfection; in Sensen's case, help *from* others), only Sensen appeals to the FUL. Duindam's argument for the duty to adopt the end of self-perfection is completed once we see that this end (self-perfection) is a necessary means to a universal end. Sensen's argument, by way of contrast, takes one additional step: Sensen applies the FUL to the necessary means (*receiving* help *from* others) in order to generate a duty (the duty to *provide* help *to* others). It is the absence, in Duindam's argument, of any step like the one in Sensen's argument, the absence of the FUL, that explains why Duindam's argument about self-preservation, even if it works, is not an answer to, but is, rather, orthogonal to, the positive duties objection.

Second, Sensen's appeal to universal ends seems superfluous. Kant is quite clear that the universality of an end is not sufficient for it to be considered moral or the subject of morality. Thus, for example, happiness and self-love are universal on Kant's account, but neither is considered moral, and Sensen does not seem to propose otherwise--Sensen seems open to the idea that the ends that feed into step (1) of his procedure are nonmoral (although not immoral). But, if this is so, then it is unclear why these ends need to be universal as opposed to particular, something Sensen never addresses. This ultimately might work out in Sensen's favor inasmuch as it is *prima facie* unlikely that there are any genuinely universal ends--the one example that Sensen gives, self-preservation, seems quite obviously not to fit the bill--even if there are, no doubt, widely shared ends.

Third, Sensen does not succeed in deriving positive duties. This is for two distinct reasons. One is that his argument is based on a disjunction schema. If M is shorthand for the necessary means to end E, then this disjunction schema is as follows:

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[11] I am grateful to an anonymous reviewer from the *Kantian Journal* for pressing me to address this.

Give up E, or will M morally.

From this it may be seen that, in any given case, morality does not require an agent to pursue M, morally or not; she equally well could give up E. That is not a positive duty. The other reason Sensen does not succeed in deriving positive duties is that he does not talk about any specific maxim or end that ought to be adopted, disjunctively or not. For example, as seen in the block quotation above, Sensen maintains that we ought to help others. But, as seen in the previous section of this article, one might help others on the basis of a general helping end ("to help others"), on the basis of a family helping end ("to help family members"), on the basis of a community helping end ("to help community members"), and many others besides.

Now, I want to be very clear about the fact that this third point is not a criticism of Sensen. Unlike Duindam, Sensen is not trying to answer the positive duties objection. So, Sensen, unlike Duindam, need not be bothered by the fact that he has failed to do so. Sensen's goal is, rather, to propose a new reading of the FUL, one that makes an ineliminable appeal to empirical, anthropological assumptions. I have said nothing against this general project, and it is in no way impugned by anything I have said here.[12]

To sum up: in this section, I explained why Duindam's derivation of the duty of self-perfection, even if successful, does not answer the positive duties objection, and I used this as a point of contrast between Duindam's project and Sensen's: Duindam never appeals to the FUL in his derivation of the duty of self-perfection (the derivation is based, rather, on instrumental reasoning from the second-order end to accomplish our first-order ends), whereas Sensen, who also appeals to instrumental reasoning, does appeal to the FUL in order to derive various moral precepts. I also explained that Sensen nonetheless does not provide an answer to the positive duties objection (he never derives any positive duties), while also emphasizing that this need not be a problem for Sensen inasmuch as he has other goals. I conclude that the positive duties objection remains unanswered--and, if the remarks I made in the previous section of this article are on target, perhaps unanswerable.

Conclusion

In the foregoing, I argued that Duindam's recent attempt to derive positive duties from the FUL does not work. If my arguments are successful, we must ask: is it the case, as Duindam maintains, that, absent positive duties, the FUL "could not be the supreme principle of morality, nor the principle from which all imperatives of duty are derived" (Duindam, 2023, p. 2)?

There are those within the debate who answer this question in the affirmative (e.g., Wood, 1999, pp. 100-102). However, at least some within the debate argue otherwise--at least some, including myself, argue that the push for positive duties results from a fundamentally misguided view of morality and, therefore, that this question should be answered in the negative (Kahn, 2021a). This significantly complicates the dialectic, for it reveals that there are at least four positions available: (1) positive duties can be derived from the FUL, and this is a problem; (2) positive duties can be derived from the FUL, and this is a solution; (3) positive duties cannot be

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[12] However, at least part of Sensen's rationale for his alternate reading seems confused. Sensen makes the following objections to what he calls the standard reading of the FUL:

> If I cannot will that everyone acts on a principle (e.g., the principle to become a medical doctor), this does not make it morally wrong for some individuals to act on it. Conversely, other principles that I could will as a universal law (e.g., that people drive above the speed limit on the interstate) are not thereby morally permissible. It needs a further criterion. (Sensen, 2023, pp. 184-185)

The problem with this is that, if the FUL has false negatives, as Sensen indicates in the first sentence of this passage, then adding a further criterion will not fix the issue--indeed, it threatens to compound it. However, even if I am right about this, it does not undermine the disjunction schema that I attributed to Sensen in the main text above, nor does it undermine his idea about the importance of empirical, anthropological assumptions when applying the FUL (indeed, I have advocated this latter idea in section 4 of (Kahn, 2021a), as have others (see, e.g., Wood, 1999)).

derived from the FUL, and this is a problem; and (4) positive duties cannot be derived from the FUL, and this is a solution. Which of these options is correct--or, at least, gains widespread acceptance--only time will tell.[13]

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