

Why 'Ought' Still Implies 'Can'

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1 Introduction

There is a Kantian maxim that 'ought' implies 'can' (henceforth, 'the maxim'). Though I have no knock-down argument for the maxim, I believe it to be true.¹ And I have some reasons. For on reflection, it seems true, and, when formulated with sufficient care, it is free of counterexamples.

This paper is a defense of the second claim, for the maxim has come under fire. I shall present some counterexamples to the maxim that have been pressed in recent years. The counterexamples will motivate a refinement of the maxim. We shall by this method arrive at a formulation free of exceptions.

2 Preliminaries

Kant thought that 'ought' implies 'can,' or so we have been taught since youth. And this attribution is not far from the truth. Indeed, for a first gloss on the maxim, we can do no better than look to a few quotations from Kant himself. Here are four relevant passages:

... since reason commands that [certain] actions should take place, it must be possible for them to take place.²

¹Some positive arguments in favor of the maxim can be found in Howard-Snyder (2006): 236-242.

²Kant (1933): 637.

The action to which the 'ought' applies must indeed be possible under natural conditions.³

But if a human being is corrupt in the very ground of his maxims, how can he possibly bring about this revolution of his own forces and become a good human being on his own? Yet duty commands that he be good, and duty commands nothing but what we can do.⁴

But in a theory that is based on the concept of duty, concern about the empty ideality of this concept quite disappears. For it would not be a duty to aim at a certain effect of our will if this effect were not also possible in experience.⁵

Perhaps it goes without saying that it is unclear what Kant is up to in these passages. But it seems that we can learn from them in the following ways.⁶ First, duties attach at least *to actions*. Whatever else it does, duty at least requires of us that we act in certain ways. Second, of interest to us are those actions that *we* can perform. It is not enough that the performance of an action be logically possible, for example, for there are many logically possible feats that are beyond our abilities. Kant's insight is that *we humans* can do all those things that duty requires of us.

I make two further assumptions. First, duties attach to actions *at times*, so a formulation of the maxim must be temporally specified.⁷ Second, the maxim must be universally quantified, applying to all subjects, all times, and all acts; we can expect nothing less from a principle of Kantian origin.

Moral 'oughts' may be ambiguous between a concept involving action, duties, and so forth ('he oughtn't to have acted like that'), and a concept involving the evalu-

³Ibid.: 437.

⁴Kant (1996a): 92.

⁵Kant (1996b): 280.

⁶For one take on what Kant did in fact mean in these very passages see Stern (2004).

⁷One might conceive of act types or tokens as somehow *including* temporal indices; nothing I say precludes a formulation of the maxim accommodating this view. Further, more careful formulations of the maxim would temporally specify every predicate; I haven't done this for brevity's sake, since nothing I have to say hangs on the point.

ation of states of affairs ('Hurricane Katrina ought not to have struck'). In this paper, all 'ought' talk is to be read in the former sense.⁸

In formulating the Maxim, I shall make use of three concepts: obligation to perform an action ('ought'), performance of an action, and ability to perform an action ('can'). In the sequel, let S , t and a be universally bound variables ranging over subjects, times, and actions, respectively.

We now have the resources to offer an initial gloss on the maxim:

FIRST PASS: Necessarily, S is obligated to perform act a at t only if S is able to perform act a at t .⁹

3 Counterexamples

This initial formulation of the maxim holds in a wide range of contexts. We're inclined to excuse a subject of an alleged duty when we learn that she cannot perform the action it requires of her. That Cinderella is locked in her room by an evil step-mother implies that she is not under obligation to rendezvous with the prince. But FIRST PASS is only an initial gloss. And this is fortunate for its defenders, for it is false. Walter Sinnott-Armstrong has pressed the following counterexample:

ADAMS' PROMISE. Suppose Adams promises at noon to meet Brown at 6:00 p.m. but then goes to a movie at 5:00 p.m. Adams knows that, if he goes to the movie, he will not be able to meet Brown on time. But he

⁸I remain neutral as to whether there really are two moral 'oughts' or whether one is, say, reducible to the other. For one discussion, see Humberstone (1972). Disambiguating 'can' is a more tenuous project, so shall not attempt it. I note only that I shall not assume that an agent can perform only those acts she is skillful in performing ('She can't do a cartwheel since she's not very physically coordinated'), nor shall I assume that an agent can perform an act only if she has an opportunity to perform it ('She can't do a cartwheel since there isn't enough room in the hallway'). For interesting discussion of the senses of 'can' see van Inwagen (1983): 8-13 and Vihvelin (2000): 141-142.

⁹FIRST PASS asserts more than a relation of mere implication between 'ought' and 'can.' But this is as it should be, for if the maxim is to capture the essentially *modal* intuitions driving it, it must assert that 'ought' *entails* 'can.' And so it does.

goes anyway, simply because he wants to see the movie. The theater is 65 minutes from the meeting places, so by 5:00 it is too late for Adams to keep his promise. Consequently, if 'ought' entailed 'can,' it would not be true at 5:00 that Adams ought to meet Brown. Similarly, if Adams is still at the theater at 6:00, he cannot then meet brown on time. Consequently, if 'ought' entailed 'can,' it would not be true at 6:00 that Adams ought to meet Brown.¹⁰

Surely this isn't the right result; for Adams has promised to meet Brown, and his being unable to fulfill the promise does not excuse him of his duty. For if it did, we could excuse ourselves of duties quite easily by merely making ourselves unable to satisfy them.

William Alston responds to cases like ADAMS' PROMISE by claiming that, "Various exceptions to [the maxim] have been noted recently. However, none of the exceptions involve kinds of actions that are not *normally* under our voluntary control."¹¹ Alston's rejoinder is unsatisfying. If the maxim is true, it is true without exceptions (universally quantified sentences with necessity operators in front of them are like that!); more importantly, we need not make use of so vague a restriction as "normally" when formulating the maxim.¹² A precise characterization of when 'ought' implies 'can' is available to us, as I show later in this paper.

In defense of the maxim against counterexamples, I favor this strategy: reformulate the maxim so that it takes into account all our moral intuitions while not including in its scope cases like the counterexample in question. Bart Streumer adopts this strategy, but his formulation of the maxim is mistaken, or so I shall now attempt to show. Streumer responds to ADAMS' PROMISE by offering a 'tensed' formulation of

¹⁰Sinnott-Armstrong (1984): 252. See also Stocker (1971), Kekes (1984), Sinnott-Armstrong (1985), Sinnott-Armstrong (1988), Forrester (1989), Pigden (1990), Saka (2000), and Ryan (2003) for a selection of roughly equivalent counterexamples.

¹¹Alston (1988): 295 (emphasis added). Alston notes this in response to Stocker's counterexamples to the maxim.

¹²Furthermore, cases involving agents who normally lack voluntary control over actions that are nonetheless obligatory for them can be constructed. See Ryan (2003): 53-54.

the maxim (that is, three formulations of the maxim corresponding to past, present, and future):

TENSED MAXIM. '*Had an obligation*' entails '*was able to*': if it is true that a person *had an obligation* to do something, it must be true that this person *was able* to do this thing at the time when he had the obligation.

'*Has an obligation*' entails '*is able to*': if it is true that a person *has an obligation* to do something, it must be true that this person *is able* to do this thing.

'*Will have an obligation*' entails '*will be able to*': if it is true that a person *will have an obligation* to do something, it must be true that this person *will be able* to do this thing at the time when he will have the obligation.¹³

On Streumer's account, Adams *had* an obligation to meet Brown; after becoming unable to satisfy the obligation, it remains a fact that he once *had* the obligation. But is this enough? I don't think so, and here's why: in watching his movie, Adams has not merely failed to satisfy his duties in the past, he *is failing* to satisfy his duties in an *ongoing* sense (until 6:00, at least). It seems to me to be true upon consideration, a datum of moral sense, that Adams is *still failing* to fulfill his duties while he watches his movie, even up until the moment of 6:00.

Additionally, given TENSED MAXIM, "if Adams never was, is, or will be able to meet Brown, it is never that case that Adams ought to meet Brown."¹⁴ This is a problem, and Streumer responds that "Like all of us, Adams has an obligation not to make promises that he believes he cannot fulfill. In this example, when Adams promises Brown to meet him at 6:00, he violates this obligation. And it is the violation of this obligation, rather than the violation of an obligation to meet Brown at 6:00, that Adams owes Brown an excuse for."¹⁵

Streumer is surely correct that making promises one cannot fulfill is impermissible. But TENSED MAXIM implies that this is the *only* breach of duty we can blame

¹³Streumer (2003): 224.

¹⁴Ibid.: 225.

¹⁵Ibid.: 225.

Adams with. Surely there are circumstances where one takes on a duty by making a promise, even when one is unable at any time to fulfill that duty (I shall make clear what sense of inability I have in mind). Consider the following:

TERRY. Terry is intemperate, even an alcoholic. She is constitutionally unable to refuse a drink (or four, or five) when offered. After arriving at a party where liquor is served, Terry promises her husband that she will refuse any drinks offered to her at the party. But she does partake, and with predictable results.

It seems that Terry is guilty of more than knowingly making a promise she cannot keep. We can further blame her for *breaking* her promise. Though Terry is unable to fulfill her promise at *any time* in our story, she still ought not to accept a drink, in virtue of the fact that she has *promised* not to. Is this compatible with any formulation of the maxim? Might Terry have this further obligation even though she is unable to fulfill her promise at any time? I believe so, and reflecting on why this is the case uncovers an important distinction.

4 Tracing

One principle that has taken center-stage in debates about moral responsibility is the so-called Principle of Alternate Possibilities (PAP). It asserts that:

PAP Someone is morally responsible for doing something at a time only if she could have done otherwise at that time.

There are exotic counterexamples to PAP, many modeled after Harry Frankfurt's classic cases.¹⁶ But one often sees (in the literature about PAP) a simple point about how PAP is to be formulated. We can learn from this point while refining our statement of the maxim. PAP suffers from counterexamples like TERRY. Terry is morally

¹⁶This literature begins with Frankfurt (1969), spawning a cottage industry in so-called 'Frankfurt-style-cases.' Fischer (1999) offers an overview of subsequent debates.

responsible for drinking at the party even though she could not, at the party, do otherwise than drink at the party. But note this: when agents freely place themselves in situations where they are unable to do otherwise than they in fact do, there is still a derivative sense in which they may be held morally responsible. Terry could not have done otherwise *at the party*, but she could have left party altogether, and in doing this, rendered herself able to do otherwise than drink at the party.

In the actual sequence, Terry never had the opportunity to do otherwise than drink at the party; but when we evaluate relevant nearby possible worlds (eg, those where she refrains from going to the party), Terry does have the ability to do otherwise. And that is enough.¹⁷ This insight suggests an addition to PAP: a so-called ‘tracing condition’ (because it invites us to *trace backwards* in our story until we find some relevant act that Terry could have performed or refrained from performing):¹⁸

TRACING PAP. Someone is morally responsible for doing something x at a time only if she could have done otherwise than x at that time or if she could have done something at some prior time such that, had she done it, she would have been able to do other than x .

If all this is right, then neither FIRST PASS nor TENSED MAXIM are good enough. And we have the resources (a tracing condition) to do better:

TRACING MAXIM: Necessarily, S is obligated to perform act a at t only if either S is able to perform act a at t or S was at some time t^* able to perform act b such that were S to have performed b at time t^* , S would have been able to perform act a at t .¹⁹

¹⁷Fischer (2003) suggests that Frankfurt-style cases can be employed as counterexamples to the maxim. The success of this strategy hangs on issues rather distant from my topic (eg, the analysis of counterfactuals), so I do not take it up in this paper. For the record, I hold that Frankfurt-style cases succeed as counterexamples to PAP, but not as counterexamples to the maxim.

¹⁸This is a common move to make when defending PAP. See, for example, Ekstrom (2000): 200. I am indebted to Speak (2005): 263 for explicitly connecting these insights from formulating PAP to issues in formulating the maxim.

¹⁹ b is hereafter to be read as a universally bound variable ranging over actions.

Our TRACING MAXIM does not fall prey to ADAMS' PROMISE, and it better accounts for our moral intuitions than does TENSED MAXIM. So far, so good.²⁰ I shall now consider another rival formulation of the maxim, one advocated by Frances Howard-Snyder; I have the resources to now argue that TRACING MAXIM fares well in comparison. Howard-Snyder is impressed with Sinnott-Armstrong and company's counterexamples to FIRST PASS. In response, she suggests a restricted formulation:

TIME MAXIM. Necessarily, if S ought to do a at t , then there is a time t^* such that S can at t^* do a at t .

Howard-Snyder is right that TIME MAXIM avoids the counterexamples of Sinnott-Armstrong and company. And it is an improvement on TENSED MAXIM, allowing for occurrent duties without occurrent abilities. But like TENSED MAXIM, it is vulnerable to TERRY. I now argue for this claim.

In the actual sequence, there is no time t^* at which Terry is able to perform a at t , since Terry is unable at any time to perform a at any time. We can see this with an argument by elimination of possibilities (past, present, future). First, it's plausible to think that one can perform action tokens of the a -type only if one is at a party. Looking into Terry's past (before she arrives at the party) will do no good; we will not find a time in her past at which she was able to perform a (suppose she has never been to a party before). Second, once Terry is at the party, she is as good as gone (that is, unable to perform a), so there is no 'present' time at which she can perform a . Finally, looking to future party scenarios Terry may find herself in hardly seems relevant to the evaluation of the one before us. Terry is thus unable to perform a at all times.

Terry is blameworthy for more than merely promising to do something she cannot; she is blameworthy for accepting a drink. She promised to refuse drinks, after all; I do not believe we're inclined to excuse her of this duty on the basis of her alcoholism. Here's why: there's still a relevant sense in which *things didn't have to be this way*. Had Terry attended an AA meeting six months prior, she *would have been*

²⁰I note that the use of tracing conditions is a strategy that has recently come under fire in debates about moral responsibility and PAP. See Vargas (2005) for a forceful statement of these worries.

able to perform a. And that is why we remain free to blame her for imbibing her first (and fourth, and fifth) drink. More importantly, this is why she still ought to refuse a drink at the party. Her actual inability to so do doesn't figure into the picture, so long as the relevant counterfactual (tracing) condition is true. Terry is under obligation to perform an action even though she cannot perform it at any time in the actual sequence; TIME MAXIM is false.

Sinnott-Armstrong anticipates something like the tracing condition I have proposed and responds:

An opponent who wants to allow that Adams ought until 6:00 p.m. to meet Brown can claim that 'ought' entails (or presupposes) 'could have'... However, such a principle is too weak. It allows that, if Adams plans to meet Brown, but his car is stolen, so he cannot meet Brown, then he still ought to meet Brown, since Adams could have parked where the car would not have been stolen.²¹

Sinnott-Armstrong is right that TRACING MAXIM allows this odd result. Indeed, it is compatible with many things, some true, some false. TRACING MAXIM does not *require* the odd result, however, so Sinnott-Armstrong's argument doesn't have much force. Perhaps his point is this: there is no pressure for a formulation of the maxim to account for all cases where an agent fails to have a duty, but it must account for all such cases where the agent's not having a duty is in virtue of some inability of that agent. Suppose this is so; it still seems that there is a fix we may help ourselves to.

We are inclined to let Adams off the hook, to excuse him of his duty to meet Brown when his car is stolen because the theft is not something Adams is morally responsible for. One way of getting at this idea is this: while Adams' parking his car where he did allowed it to be stolen, he breached no duties in so parking. If Adams was under a moral obligation to park elsewhere (a safer lot, say), and he breached this duty, then I think we'd be less inclined to on this basis excuse him from a duty to meet with Brown. The fix to TRACING MAXIM, then, is obvious:

²¹Sinnott-Armstrong (1984): 253.

TRACING MAXIM 2: Necessarily, *S* is obligated to perform act *a* at *t* only if either *S* is able to perform act *a* at *t* or *S* was at some time *t*^{*}, able to perform act *b* such that were *S* to have performed *b* at time *t*^{*}, *S* would have been able to perform act *a* at *t* and it is not the case that *S* is obligated to refrain from performing *b* at *t*^{*}.

I have defended the maxim against criticism. When formulated with sufficient care, it is true and free of counterexamples.²²

²²I should note that I have suggested a rather strong tracing condition. The tracing condition I've offered requires of an agent that she had the ability to act in a way such that had she so acted, she would *guarantee* her ability to perform the action currently under evaluation. This requirement (the 'would' counterfactual) seems right to me, but it may be too strong. And I have a reformulation to retreat to without abandoning the maxim: a weaker ('might') counterfactual. On this reformulation, the agent need only have had the ability to act in a way such that had she so acted, she *might* have been able to perform the action currently under evaluation.

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