

# Kantian Ethics

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## Lies

Kant's strict views on lying have been regularly cited as a reason for thinking there is something fundamentally wrong with Kantian ethics. Some of Kant's statements here seem so excessive that most Kantians who have dealt with the topic have tried to distance themselves from them, usually claiming that they do not (or need not) follow from Kant's own principles. In this chapter, I will do a little of that, partly by questioning whether the famous example of the "murderer at the door" really fits the principles Kant applies to it, but mainly by claiming that some of what Kant says about lying as a violation of an ethical duty to oneself should be taken as warranted rhetorical exaggeration rather than as literal doctrine. By and large, however, I will argue that Kant's views about veracity are reasonable or at least defensible, if not self-evident. This is mainly because I also think some of them – especially his position in the brief, late, and famous (or notorious) essay *On a Supposed Right to Lie from Philanthropy* (1797) – have been badly misunderstood. My first task will be to correct that misunderstanding.

### 1. Intentionally False Declarations

Let's begin with an elementary point of terminology. 'Lie' (*Lüge*, *mendacium*) is a technical term for Kant. It means: an intentionally untruthful statement *that is contrary to duty*, especially contrary to a duty of *right*. An intentional untruth, when it violates no duty of right, is called a *falsiloquium*, a term I will translate here, for the sake of convenience, as "falsification" (MS 6:238n, VE 27:447). In Kant's usage, therefore, it is an analytic proposition that a lie is contrary to duty and hence analytic that lying is always wrong. (Actually, there is one possible exception to this last assertion, the case of the "necessary lie," which we will discuss later). However, it is by no means analytic that every falsification is contrary to duty (or wrong), and Kant does not believe that every falsification is contrary to duty. That it is an analytic truth that lying is contrary to duty tells us nothing about the conditions under which

a falsification becomes a lie. It therefore implies neither strict nor lax moral views about veracity.<sup>1</sup>

The next point to consider is not terminological. It is that Kant considers the prohibition on intentional untruthfulness in relation to two (and only two) kinds of duty. It is either a violation of a duty of *right* or a violation of a perfect ethical duty to oneself (though of course Kant may regard many lies as violating both duties at once). Here we will first consider lying as a violation of a duty of right and then turn to lying as a violation of a perfect ethical duty to oneself.

This brings to our attention once again Kant's basic distinction between right and ethics. The fundamental principle of morality derived in the *Groundwork* (in all its formulations) is the principle of ethical duties. But duties of right fall under a different principle: "Any action is right if it can coexist with everyone's freedom in accordance with a universal law, or if on its maxim the freedom of choice of each can coexist with everyone's freedom in accordance with a universal law" (MS 6:230). It is unclear (and controversial in the literature on Kant) whether the principle of right is based on the principle of morality or is independent of it (my own view, argued elsewhere, is that it is the latter).<sup>2</sup> Every duty of right, however, in Kant's view also generates an ethical duty, because respecting the innate right to freedom possessed by all persons is an ethical duty grounded on the right of humanity (according to FH) (MS 6:237).

Because the prohibition on lying, when lying is regarded as the violation of a duty of right, is a matter of right rather than of ethics, it is not natural for Kant to think about this duty by trying to derive it from the principle of morality (in any of its formulations), as a great deal of the existing literature on this subject tries to do – for instance, by considering this prohibition via the example of the lying promise discussed in the *Groundwork* (G 4:402–3, 422, 429–30).<sup>3</sup> I think this error alone vitiates most of the arguments found in that literature, regarded either as interpretations of Kant's views in the right-to-lie essay or even as properly Kantian views on the subject of veracity.

Not every intentionally false statement is a lie, in the sense of a violation of a duty of right. Many such statements are merely falsifications. In order to understand how a falsification can become a "lie" (in the technical sense that it is a violation of a duty of right), we need to understand yet another crucial piece of technical terminology – the term "declaration" (*Aussage*, *Deklaration*, Latin *declaratio*). All these terms, in Kant's vocabulary, refer to statements that occur in a context where others are warranted or authorized (*befugt*) in relying on the truthfulness of what is said, and make the speaker liable by right, and thus typically subject to criminal penalties or civil damages, if what is said is knowingly false.

The fact that (in juridical contexts) *Aussage* and *Deklaration* are technical terms for Kant is usually missed by readers of the essay on the right to lie. But this is quite clear from his consistent use of the term throughout his

writings, and especially in the *Metaphysics of Morals* (KpV 5:44, MS 6:254, 258, 304, 366). Sometimes Kant appends the adjective “solemn” (*feierlich*) to “declaration,” to emphasize the special significance of the term (R 6:159, MS 6:272, 304). One paradigm case of a declaration would be a statement made under oath in a court of law, where it is to be taken as probative (KpV 5:44, MVT 8:268, MS 6:272). Another clear case of a declaration would be a promise or warranty contained in the terms of a contract (MS 6:254, 272). However, because in Kantian ethics right is the larger rational system of morals (*Sitten*) that grounds mere positive legislation and the enforceable rights it secures, declarations are not limited only to statements with specific legal consequences. For example, Kant thinks that a person’s solemn avowal of religious faith counts as a declaration (R 6:159, MVT 8:268).<sup>4</sup>

**Declarations must be truthful.** Kant’s main principle governing the prohibition on untruthfulness regarded as a violation of duties of right is this: *An intentionally untruthful declaration is a lie, hence a violation of a duty of right.* This applies chiefly to cases of untruthfulness that deprive someone of something that is rightfully theirs – such as a piece of property, or a choice it is their right to make. “The only kind of untruth we want to call a lie, *in the sense bearing upon right (im rechtlichen Sinne)*, 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*)” (MS 6:238n). Such a *false declaration* or “wrongful falsification” contrasts with a mere falsification – that is, an intentional falsehood that involves no infringement of right:

[One 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 – such things as merely communicating his thoughts to them, telling or promising them something, whether what he says is true and sincere or false and insincere (*veriloquium aut falsiloquium*); for it is up to them whether they want to believe him or not. (MS 6:238)

The test for whether it is up to the person whether to believe me or not is whether it is he or I who assumes responsibility, in relation to matters of right, for his believing what I say. For instance: If I casually volunteer the information that my car has 35,000 miles on it, and you take some action on the basis of that, those actions are up to you and you bear the responsibility for them. But if in a contract of sale of the car I state to you that the mileage is 35,000 when really it is 135,000, then you can sue me, and I bear the blame for any other actions you take based on my declaration.

The basis of all duties of right, according to the principle of right, is the protection of unhindered external freedom according to universal laws. What is rightfully mine includes property (MS 6:260–70), or various other things that can be made the objects of contracts, including the promised performances of others (MS 6:274–6), or also a choice that is mine to make unhindered by coercion or by the deception of others as to the consequences

of my options. What belongs to me by right is regarded by Kant as falling under principles and duties of right because it bears on my external freedom under universal law. I am externally free only insofar as I can make use of what rightfully belongs to me, including the performances others have contracted and the unhindered choices that are rightfully mine to make.

In the context of right, a *declaration* is a statement made by another on whose truthfulness I am authorized to rely. If a declaration made to me is knowingly false, my freedom is wrongfully restricted. More generally, however, truthfulness in declarations in general is something on which all persons are authorized to rely, within a system of right (or external freedom of persons under universal laws). If someone lies in a court of law, for example, it is not only his adversary whose right is violated but the entire system of right, which must presume the truthfulness of declarations made in legal processes. If someone is defrauded in a contract, it is not only this person whose right is violated but the entire system of contract right, which is structured around the truthfulness of the declarations involved in contracts. (As we will see, this is what Kant regards as the crucial point of disagreement between himself and Benjamin Constant.)

Kant also puts this point in the following way: When I make a lying declaration, “I bring it about, as far as I can, that declarations (*Aussagen* [*Declarationen*]) in general are not believed, and so too that all rights which are based on contracts come to nothing and lose their force” (VRL 8:426). The claim here is *not* that some particular lie might *in fact* shake people’s confidence in trials or contracts (as if it by itself would cause them no longer to believe anyone, or had no other reason to mistrust what people say).<sup>5</sup> It is rather that the system of right is constituted by a set of laws that are universally valid – actions are right only if they can coexist with everyone’s freedom under this system according to a universal law. A statement counts as a declaration whenever reliance on its truthfulness is required to secure people’s rightful freedom under universal laws. Hence it is contrary to the very concept of right that it could be right to make an untruthful declaration when the truthfulness of that declaration is required by rational laws of right. By making such a declaration, I am in that sense acting in a way that, if its permissibility were generally allowed, would deprive all declarations of their validity, whether or not I intend that result and whether or not it actually occurs. Kant also puts it this way: “It cannot hold with universality of a law of nature that declarations should be allowed as proof and yet be intentionally untrue” (KpV 5:44).

We could put this point in the terminology of John Rawls (Rawls, TCR) if we said that for Kant, right is a “practice” (the rational practice involving what is necessary to guarantee people rightful freedom under universal law). Truthfulness in making declarations is one of the rules of the practice. “Right” is, in effect, a rational framework for understanding, justifying, and correcting not only state and legal institutions but also other kinds of

understandings between people guaranteeing their external freedom under universal laws. Kant attempts to justify the practice of right by showing the necessity of different aspects of it for protecting something regarded by Kantian ethics as of fundamental value – namely, the guarantee to persons of their external freedom according to universal law. The requirement that there be “declarations” at various points in the system of right is to be established by presenting contract law, judicial trials, informal promises, and so on, as requiring them. Once the making of truthful declarations is established as part of the “practice” of right, the rule of right requiring that declarations be truthful goes with the practice of making them. The duty always to be truthful in declarations needs no further defense.<sup>6</sup>

## 2. Kant and Constant

**History of the famous example.** In the famous late essay, untruthfulness is being considered (as the title of the essay, as well as its content, clearly indicates) solely as a violation of a duty of *right*. That essay is part of a controversy between Kant and the French writer Benjamin Constant. As I have said, the brevity of the essay, along with the common neglect of Kant’s entire theory of right, often prevents readers from appreciating the precise nature of the question being addressed in it. They are so fixated on the famous example (chosen by Constant) that is discussed in it, and by Kant’s apparently unreasonable position on that example, that they never even notice certain unusual, artificial, or even dubious features the example must take on if it is to be an illustration of the point Kant is trying to make.

The moral principle “it is a duty to tell the truth” would if taken unconditionally and singly, make all society impossible. We have proof of this in the very direct consequences drawn from this principle by a German philosopher, who goes so far as to maintain that it would be a crime to lie to a murderer who asked us whether a friend of ours whom he is pursuing has taken refuge in our house. (Constant, *Des réactions politiques*, quoted by Kant, VRL 8:425)<sup>7</sup>

Constant is perhaps<sup>8</sup> responding to an example Kant was to use in the Doctrine of Virtue – a servant lies to the police in saying that his master is not at home, and this lie enables the master to slip away and commit a crime:

For example, a householder has ordered a servant to say “not at home” if a certain human being asks for him. The servant does this and, as a result, the master slips away and commits a serious crime, which would otherwise have been prevented by the guard sent to arrest him. Who (in accordance with ethical principles) is guilty in this case? Surely the servant too, who violated a duty to himself by his lie, the results of which his own conscience imputes to him. (MS 6:431)<sup>9</sup>

If this is the example Constant has in mind, then he radically modifies it, transforming the servant of a would-be criminal into the friend of an

innocent man who is trying to escape someone intending to murder him.<sup>10</sup> What shocks people is that Kant's position about Constant's example is that the friend must not lie to the murderer:<sup>11</sup>

Truthfulness in declarations (*Aussagen*) 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; and though I indeed do no wrong to him who unjustly compels me to make the declaration 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 . . . ; that is, I bring it about, as far as I can, that declarations (*Aussagen* [*Declarationen*]) 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. (Kant, 8:426)

**What the dispute is about.** It is clear both in Constant's essay and in Kant's reply that the real issue is the duty to speak truthfully in declarations in *political* contexts, and the alleged limits on this duty.<sup>12</sup> This point is easy to miss because the example of the murderer at the door is not at all about the speech of politicians or statesmen. Constant's thesis is that moral principles can be applied to politics only by means of intermediate principles. Specifically, he claims that the principle of truthfulness in declarations must meet the condition that those to whom one speaks have a right to the truth. Kant's counterthesis is that the duty of right to be truthful in declarations is not limited by that condition.

Kant is usually interpreted as holding that while it may be permissible to refuse to answer the murderer's question, if you cannot avoid answering it (as Constant stipulates you cannot), then it is not permissible to lie to him, even if your truthfulness directly enables him to murder your friend (VRL 8:425–7). The natural reaction to Kant's position, so understood, is that it is a piece of rigoristic craziness. It is regularly used to call into question the moral sanity of any philosopher who could take such a position, and sometimes also to back up the crudely fallacious argument, discussed in Chapter 4, §1, that the very notion of a categorical imperative commits Kantian ethics to a set of rigid moral rules. (That Kantian ethics should in principle admit possible exceptions to any moral rule was argued in Chapter 3, §4.)

The usual interpretation of Kant's position gives no thought at all to the fact that he would see no violation of right whatever in a mere falsification uttered to the would-be murderer. Although the category of "declaration" includes more than assertions made under oath or in a contract, it is no part of Kant's theory to hold that just anyone who knocks on your door is automatically in a position to require from you a solemn declaration regarding the present whereabouts of some person. Perhaps a police officer, as in Kant's original example, might be in such a position. That is why Kant argues that the servant would be criminally liable as an accessory to his

master's crime (MS 6:431). But someone merely appearing at your door with murderous intent normally would not. Of course, if the murderer could not require a *declaration* from you, then telling him an intentional untruth would not count as a *lie* (*mendacium*). Kant explicitly allows that no lie, and no violation of right, occurs if we commit a falsification in order to prevent another from making wrongful use of the truth:

I can also commit a *falsiloquium* when my intent is to hide my intentions from the other, and he can also presume that I shall do so, since his own purpose is to make a wrongful use of the truth. 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*. (VE 27:447)

Sometimes Kant describes this situation, or one very much like it, in terms that make it permissible even to make a false *declaration*, and thus to tell a lie. This is the one possible exception to the proposition Kant seems otherwise to regard as analytic – namely, that lying is wrong, as being contrary to a duty of right. For there are passages in his lectures in which Kant invokes the traditional concept of a “right of necessity” (*Notrecht, ius necessitatis*), in which under compulsion in an extreme case of need or distress, a person is permitted to do something that would normally violate a rule of right. A “necessary lie” (*Notlüge*) occurs where someone forcibly compels you to make a declaration of which you know they will make wrongful use.

Yet since men are malicious, it is true that we often court danger by punctilious observance of the truth and hence has arisen the concept of the *necessary lie*, which is a very critical point for the moral philosopher. So far as I am constrained, by force used against me, to make an admission, and wrongful use is made of my statement, and I am unable to save myself by silence, the lie is a weapon of defense; the declaration that is extorted and then misused permits me to defend myself, for whether my admission or my money is extracted is all the same. Hence there is no case in which a necessary lie occurs except where the declaration is forced from me and I am also convinced the other means to make wrongful use of it. (VE 27:448)

In Constant's example it is stipulated that you have no alternative to making the declaration. Yet because the murderer has not forcibly extorted the declaration from you, a lie to him under these circumstances would not count as a necessary lie.<sup>13</sup>

**Can the murderer demand a declaration?** It might be argued that in the example of the murderer at the door, there could be no question of making a statement having the rightful import of a declaration. Tamar Schapiro has argued that a Kantian has good grounds to make an exception to a duty when the duty is based on a practice between people, but the understanding on which the practice rests has been reduced to a sham, as through the systematic misconduct of some of the parties to it.<sup>14</sup> To put it in the Rawlsian terms already mentioned, we might argue that the murderer at the door, through his wrongful intentions, has undermined the practice of right, and



therefore that the concepts of “declaration” and “lie” that presuppose the rules of this practice no longer apply to what I tell him.

I think Schapiro’s theory of excuses or exceptions is entirely cogent within a Kantian theory of right, and so is its application to this case. Yet Kant himself clearly rejects that argument, at least as applied to this example. The reason is that he holds that even when someone intends to use a declaration unjustly, it might nevertheless be possible in principle for him to be entitled to a *declaration*. Thus Kant allows Constant to assume that this is true in the case of the murderer at the door. When someone unjustly requires a declaration of you, Kant holds, you do no wrong to *him* in falsifying your declaration, but you nevertheless do wrong to humanity generally by violating your unconditional duty to be truthful in all your declarations:

Truthfulness in declarations (*Aussagen*) 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; and though I indeed do no wrong to him who unjustly compels me to make the declaration 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 . . . ; that is, I bring it about, as far as I can, that declarations (*Aussagen* [*Declarationen*]) 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. (VRL 8:426)

This point is closely related to one of the main issues between Kant and Constant, Kant’s rejection of Constant’s claim that we owe truthfulness only to those who have a “right to the truth” (VRL 8:426). It might seem that Kant should agree with Constant here, because the Kantian distinction between a lie and a mere falsification might seem to amount to the distinction between saying something false to someone who has a right to the truth from you and saying something false to someone who has no such right. Yet Kant rejects any such account of the distinction because he holds that the duty not to lie attaches to every declaration as such and is not owed only to the person to whom it happens to be made.

On this issue, moreover, Kant seems clearly to be right. As we have already seen, the duty to make a truthful declaration under oath in court is not owed merely to the attorney who asks you the question but involves you in a relation of right to the judge, the jury, and the entire process of justice. In relation to what ultimately interests Kant the most, the duty of politicians to be truthful in their public declarations is a duty whose performance must be relied upon by the public at large.<sup>15</sup> In the essay on the right to lie, Kant sometimes distinguishes between a lie in the strict sense of the jurists, where the untruthful declaration violates the right of an assignable individual or individuals, and a lie in a broader sense, in which it violates the right of humanity (VRL 8:426; cf. VE 27:448). His main point in that essay is to insist on the validity of this broader conception, making an untruthful

declaration wrongful (a lie, the violation of a duty of right) even where no assignable individual (with a “right to the truth”) is wronged by it. This point seems especially pertinent if the real target is lies in a political context, where statesmen or politicians make untruthful declarations to the public. For here it is the public at large, or humanity in general, and no assignable individual, whose right is infringed by the lie.

Kant’s *further* view here, that you might be *unjustly* required to give a declaration that you nevertheless have no right to falsify, seems more questionable. This is a first cousin of his also questionable view that you are required to obey even the unjust commands of a civil authority, as long as they do not require you to do something that is in itself wrong. But this questionable view clearly plays a role in his willingness to regard it as conceivable that the murderer at the door, even with his plainly unjust intent, might in principle be in a position to demand a declaration from you.

Once we appreciate all these points, we should begin to see how extreme and artificial (or even dubious) is the kind of case in which Kant’s principles require him to say that it would be wrong to lie to the murderer at the door.<sup>16</sup> If our statement to the would-be murderer is not a declaration, then we need not speak truthfully, because that would be a mere falsification, not a lie. If he *extorts* a declaration from us, intending to use it unjustly, then that would be a case of a “necessary lie” and would again be permissible. It is only where a declaration is unavoidable yet not extorted that lying to the murderer at the door would violate the right of humanity. Most people who read Kant’s essay seem bedazzled by the thought that Kant is willing to say about *any* case of the murderer at the door that you may not rightfully lie to him. The glare prevents them from seeing anything else about the case, including any of the more specific principles involved.<sup>17</sup>

What seems to me most implausible about Kant’s claims about the murderer at the door is not that it would be wrong to make a lying declaration to him, given the conditions stipulated, but rather that the stipulated conditions could ever obtain in the case of a murderer at the door. That, however, is not the error with which Kant is usually charged. It would be an error merely about whether this example could really fit his principles, not an error infecting Kantian principles themselves. With two centuries hindsight, and in light of how often and how badly Kant’s claims in this essay have been misunderstood, it seems clear that he would have done better to reject the example itself as unsuited to illustrate the issue on which he and Constant disagree. Even Kant’s tactical decision to accept the example is defensible, however, at least to this extent, that there are certainly cases very much like that of the murderer at the door, where it is by no means unreasonable to hold that one must not lie even in order to prevent a great harm or wrong. Hence in order to gain a better appreciation of the issue Kant means to address, we might do better to consider a different example, in which the necessary assumptions would be less artificial or implausible.

Suppose you are a witness under oath in a court of law. You are asked by the prosecutor a question the truthful answer to which will predictably result in the conviction of your friend (or in Kant's example, your brother), whom you know to be innocent, on a charge of murder. Here an unscrupulous prosecutor might play the role of the murderer at the door, the innocent defendant the role of his intended victim, and again you are faced with the choice between telling the truth and saving him.<sup>18</sup>

No one should deny that this would be a deeply troubling predicament to be in, but a decision can be troubling even though you know how it has to be made (and all the more troubling just *because* you know this). And my own considered view about it is the Kantian one: Unless I think the legal process is illegitimate, or a mere sham, I think I had better tell the truth and be prepared to live with the consequences. Otherwise (as Kant himself suggests), *I* am the one turning the process into a sham, by behaving according to a principle that, if generally followed, would bring all solemn testimony and all legitimate legal processes into discredit (VRL 8:426).<sup>19</sup>

**Political lying.** As I have mentioned, the issue that appears to have really concerned both Kant and Constant is the duty of politicians and statesmen to be truthful in their official declarations. Here we surely need no "trolley problems"; there is no shortage of crying examples all around us in real life.

Stephen Holmes persuasively describes Constant's position in the dispute with Kant as the outcome of his experiences during the French Revolution, where the line separating police officials from murderers was not necessarily well defined and where declining to lie (even, we may suppose, in a declaration to a policeman or in solemn declarations in a political context) might easily result in you, or your friends, being sent to the guillotine.<sup>20</sup> Under those circumstances, Constant's position is certainly understandable. Looking at the dispute from this angle, Kant might be faulted for failing to appreciate the extreme conditions that motivated it.

Kant's contrary view, however, belongs to his insistence in *Perpetual Peace* that for rulers and statesmen, political expediency must always be subordinated to principles of right and that high office and political power – and the need to confront the kinds of decisions that go with the possession of such extraordinary power – earn no one an exemption from these principles. Maxims involving deception, moreover – denying the wrongs you have done, for example, or concealing your true aims and policies from the public – are prominent in that discussion (EF 8:375–6, 381–2).<sup>21</sup> Considered in historical context, the dispute between Kant and Constant is one in which each of the parties is making a valid point but about quite different issues, though issues that can interact in real life. If Constant's position is understandable as a reaction to the extreme conditions he faced during the Revolution, Kant's position is the fundamentally correct one about the duties of statesmen and politicians in the context of political life in general.

More recent real-life examples of lying declarations by political leaders and government officials leave me feeling far less ambivalent. Outrageously wrong political lying has played a decisive role in the political life of the United States certainly as far back as most of us can remember, and since the beginning of the new millennium (January 2001) it has become the chief determinant of governmental policy in virtually every area, from foreign policy to law enforcement to health and environmental policy.<sup>22</sup> But perhaps what should perhaps be uppermost in our minds is the outrageous political manipulation and falsification of intelligence leading up to the U.S.–British invasion of Iraq in 2003. This involved systematically untruthful declarations to the public by many officials of both governments, including the president's State of the Union Address in 2003 and that of U.S. Secretary of State Colin Powell before the United Nations delivered on February 5 of the same year. These officials have since claimed that they did not deliberately lie, but were only misinformed by their intelligence sources. But it has also been well documented that they carefully picked and chose among what those sources told them, ignoring stronger evidence in favor of weaker when it suited their purposes, and that they even manipulated the gathering of intelligence with a view to rationalizing the policies they had already decided upon. In light of this, such excuses are obviously nothing but further lies compounding the wrongs they have committed. Reflection on recent history, I think, should increase our sympathy with the supposedly extreme position Kant takes in the right-to-lie essay.

**Rules and exceptions in philosophy and real life.** Philosophers are always looking for counterexamples to general theses, and this makes them look hard for exceptions to every rule of right or morality that might be proposed. As I have argued in Chapter 3, §4, Kantian ethics says they are right. For in moral philosophy it is an important truth that because of the great complexities of human life, no moral rule simple enough to be practically useful can be framed so delicately as to be free of exceptions. But alongside this truth, philosophers should also appreciate another truth, one that was always vividly before Kant's mind and that I think explains some of the things he says about lying as well as other subjects.

The following is a true empirical generalization about people's behavior in real life: People have a powerful tendency to use the fact that there are exceptions to moral rules in order to rationalize making exceptions when they should not. For this reason, the speech act of asserting truly that there are exceptions to rules is more often than not used to justify wrongdoing, while the speech act of asserting falsely that there are none is most often a rhetorical attempt (probably unsuccessful) to prevent wrongdoing. Sometimes, on the contrary, the opposition is between inflexible moral prejudice and an open-minded reasonableness that is trying to take circumstances into account. Philosophers prefer to imagine the latter situation, because it

flatters them by making their subtle reasonings a force for good rather than for evil. But if we take human beings as they are, we must admit that this is not the typical case.

If we take proper account of this true generalization, it tends to justify those moralists who rhetorically exaggerate the strictness of important moral rules and to cast doubt on the wisdom and even the moral integrity of philosophers who derive conceptual titillation from devising counterexamples to them and treat such counterexamples as reasons for relaxing strictness of the rules. Kant shows himself to belong to the former class of moralists, for example, when he denies we should teach children that there can be “necessary lies,” because (he says) “they would soon take the smallest excuse for a necessity, and often allow themselves to tell lies” (VP 9:490).

In this respect, people in power tend to be far worse than even the naughtiest of children.<sup>23</sup> When they argue for exceptions to important rules restricting their conduct – using murderer-at-the-door arguments to justify lying, or ticking-bomb arguments to justify torture, or weapons of mass destruction in the wrong hands to justify preventive war – then you can be certain that they will lie to your face when there is no murderer at the door, use torture on prisoners when there is no ticking bomb, and start wars of aggression when there are no weapons of mass destruction.

Constant claimed that Kant’s position would make political life impossible. The charge seems exaggerated, but the decisive Kantian rejoinder, which is surely no exaggeration, is that the policy of politicians to permit themselves lying declarations for supposedly worthy ends is precisely what *does* make possible much of what is utterly intolerable in our actual political life.

### 3. Truthfulness as an Ethical Duty to Oneself

A *lie* (*Lüge*, *mendacium*), in the strict sense of the term, is an untruthful *declaration*. Except perhaps in the case of necessary lies, all lies, in that sense, are (analytically) contrary to a duty of right. Kant considers the topic of untruthfulness also in the context of ethics, and here a “lie” (let’s call this a “lie in the loose sense”) is any intentional untruth that violates a duty – in ethics, a perfect duty to oneself, grounded in self-respect. As before, to call an untruth a “lie” is to say already that it is contrary to duty, so the claim that lying is always wrong turns out once again to be analytic. The terminological points just made do seem to be functioning in Kant’s discussion of lying as a violation of a perfect duty to oneself.

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 (*aliud lingua promptum, aliud pectore inclusum genere*). In the doctrine of right, an intentional

untruth is called a lie only if it violates another's right; but in 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. (MS 6:429)

This statement is far more extreme than anything Kant says in the essay on the right to lie. Taken literally, he is saying that any intentional untruth whatever violates a duty to oneself by displaying contempt for oneself as a rational being. Kant seems further to be claiming that all such lies are of equal gravity and "the greatest violation of a human being's duty to himself as a moral being." But should we take such statements literally?

Although Kant repeats similar claims in his lectures (e.g., VE 27:701), I do not think they can be taken at face value as expressions of his considered views. I think they have to be understood as the rhetorical exaggerations on the part of a moralist who is not only motivated by the philosophical aim of systematizing moral rules for theoretical purposes but also – or even instead – concerned to have what he sees as the proper effect on his audience.

**Moral doctrine and moralistic rhetoric.** Kant would be contradicting himself if he said that every intentional untruth, regardless of context, is a worse expression of self-contempt than servility, or than the refusal to pay attention to one's conscience (MS 6:434–5, 437–40). Further, only two pages later, in the "Casuistical Questions" pertaining to this section, he clearly entertains an example in which intentional untruthfulness seems justified.

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. – An author asks one of his readers "How do you like my work?" One could merely seem to give an answer, by joking about the impropriety of such a question. But who has his wit always ready? The author will take the slightest hesitation in answering as an insult. May one, then, say what is expected of one?" (MS 6:431; VA 7:151–3)

Though Kant's "casuistical questions" are intended more as invitations to the reader's reflections and exercises in judgment than as firm statements of doctrine, in this case it is clear that Kant regards an affirmative answer to the final rhetorical question as entirely understandable. It is hard to see how self-respect could require that we be impolite to people even to the point of violating the conventions of letter writing. Nor would the self-respect of the great Professor Kant seem to be at risk if he gave a kind rather than a frank reply to the overconfident question asked him by a foolish young author at one of Kant's famous dinner parties. Indeed, Kant might sooner lose his self-respect if he gave a bluntly truthful answer – which might cruelly damage the questioner's career, as well as his self-esteem. In discussing "necessary lies," or *falsiloquia* that violate no duty of right because they are told under constraint in a case where it is known that the person spoken to intends to make wrongful use of the truth, Kant never suggests that these intentionally false statements should be avoided because they violate a duty to oneself. Obviously that suggestion would be absurd in these cases.

I think Kant was well aware that for many truths, there is a right time and place to tell them. In a situation where they must not be told, sometimes the only other option is to tell an untruth. Kant shows this in a passage from his lectures that once again follows hard upon some of his most extreme and apparently unqualified condemnations of all forms of intentional falsehood: “A moral casuistic would be very useful, and it would be an undertaking much to the sharpening of our judgment, if the limits were defined as to how far we may be authorized to conceal the truth without detriment to morality” (VE 27:701). Thus when we consider all the evidence, it seems clearly not to be Kant’s real opinion that all intentionally false statements display self-contempt and are violations of a duty to oneself. His statements that they are should be read as rhetorical exaggerations rather than as literal doctrinal pronouncements.<sup>24</sup>

The claim that speaking falsely to another violates your self-respect contains a truth that far too many people ignore far too often. This may be why Kant feels justified in stating it so boldly and without qualification. If taken as a universal rule, however, it is obviously subject to many exceptions, and even entire classes of exceptions. We have seen that Kant acknowledges some of these himself. In addition, there are many cases in which telling intentional falsehoods is even the best way of exhibiting and retaining your self-respect. Kant condemns behavior that is overly inquisitive – prying into the secrets of others that are none of your business (VE 27:451–2). Sometimes the most effective way to protect yourself from such misconduct and assert your self-respect is to answer a prying question untruthfully. Sometimes the aim may be to deceive (as when a truthful answer, or even a refusal to answer, would divulge damaging information you have a right, or even a duty, to conceal), but sometimes it will be merely to convey impudently to busybodies (and to anyone else overhearing the conversation) that they are not going to get trustworthy information by asking questions they should not ask.<sup>25</sup>

This is one point Constant may have had in mind when he argued that we have a duty to tell the truth only to those who “have a right to the truth.” Kant may be correct in rejecting Constant’s defense of untruthfulness in the special case of solemn declarations, but in its proper context, Constant’s point is correct.<sup>26</sup> I don’t think Kant is unaware of this. In his lectures and in the *Metaphysics of Morals*, where he sees himself as playing the role of moral instructor as well as that of moral theorist, he feels entitled to indulge in the rhetorical exaggeration of truths to which, as moral philosopher, he should have recognized (and even does recognize) some important limitations and exceptions.<sup>27</sup>

**Deception and the social condition.** Why did Kant feel it so necessary to indulge in rhetorical exaggeration here that makes him so vulnerable to misinterpretation? We have already looked at one reason: Kant thinks people tend to make exceptions to rules in their own interest when they should