11.2: Kantian Ethics on Stealing

In Chapter 2 before considering the application of Kantian thinking to the issue of stealing in this section. Background knowledge of this theory is therefore assumed in what follows.

To determine whether an act is morally permissible (acceptable) or not, we can utilise two formulations of the Kantian Categorical Imperative. According to the first formulation, if we consider the maxim behind an action (the general principle that supports the action in the mind of the person acting), then we should consider whether or not that maxim could be willed to become a universal law. According to the second formulation, we should consider whether or not the action involves treating another person merely as a means to an end, rather than an end in themselves.

To consider what guidance Kantian Ethics would provide regarding stealing, let us first take an example of stealing where the question of whether it seems possible that it might be morally acceptable can apparently be answered uncontroversially with a “no”. Consider a person who steals a toy from a child when their parent’s back is turned. The thief, in this case, seems to act on the maxim “take the property of others whenever you please”. It seems that we could not will this maxim to become a universal law, because if everyone took the property of others whenever they pleased, then whole concept of property would break down. Thus, such a maxim could not be universalised without contradiction (much like the example of breaking promises). The reason for the breakdown of the concept of “property” in this case is clear if we think about the idea of “ownership”. If anyone can take any object whenever they want, then no one can truly be said to own anything. For example, if I could (without moral condemnation) take the pen out of your hand on the basis of the universalised maxim as described above, then there is a clear sense in which you might have been holding the pen without ever owning the pen.

Indeed, not only does the act of theft as described fail against the first formulation of Kant’s Categorical Imperative, it also fails against the second formulation. If you steal from the child, then you are quite clearly not treating the child (or the person caring for the child) as a free and rational agent with their own dignity; on the contrary you are using them...
merely as a means to your own end of securing property that you desire.

That Kantian Ethics speaks against the moral permissibility of stealing toys from children should be no surprise — any theory that did not speak against such actions would likely be in trouble. However, the structure of the Kantian response to this case is what really matters, for it is a structure that we can apply to other cases. Take an example of stealing that is plausibly moral defensible, perhaps involving stealing from a financially powerful and internationally influential supermarket chain in order to feed your hungry family. The Kantian view regarding this case will be informative as to the wider response of Kantian Ethics to stealing.

In this new example, the maxim behind the action might be thought to be “take the property of others only when it is necessary for survival” (putting this example into the most extreme and therefore plausibly morally defensible form that we can). Can this maxim be willed to be a universal law? Well, even as it stands, there are reasons for thinking that such a maxim could not be universalised. For one, food is always strictly necessary for our survival, along with water, medical treatment and, in the modern age, some financial resource. Indeed, even someone who burgles a house to steal a television might act on such a maxim if they plan on selling that television in order to pay a debt to a potentially violent individual. The breadth of such a universalised maxim thus brings us back to the issue that afflicted the previous maxim, and the concept of property may not survive universalisation of such a maxim.

Still, even in referring to the maxim in the more specific form of “take the property of others only when it is necessary for survival”, it might be suggested that we are venturing away from the approach with which Kant would be happy. Alasdair MacIntyre (1929–) has suggested that when it comes to applying the test of universalisation the system can be manipulated by being overly specific with the maxim. He says:

All I need to do is to characterise the proposed action in such a way that the maxim will permit me to do what I want while prohibiting others from doing what would nullify the action if universalised.²

Thus, on this view, I apparently could universalise the maxim “take bread from a financially powerful supermarket only when you or immediate family members are at the point of starvation”. Indeed, less desirably, I seemingly could universalise the maxim “People with my fingerprint can steal from a shop whenever they feel hungry”, since there would be nothing contradictory in this becoming a universal law; the concept of property would not break down if only I could steal things I desired. However, there is a question — as referred to in Chapter 2 when this formulation of the Categorical Imperative was explained in more detail — as to whether or not a maxim of this type could be understood as a universal law. This is because its application would clearly not be universal in the sense that it would apply only to me or, in the case of the first maxim of this paragraph, to a limited number of desperate people. This, therefore, forms the basis of a response that the Kantian can offer to the MacIntyre-style worry.

Indeed, the maxim universalised must also be the maxim acted upon, so, just because it might be the case that we could attempt to universalise a maxim of the form “take bread from a financially powerful supermarket only when you or your immediate family members are at the point of starvation” (as per the MacIntyre approach), this would not help someone who actually acts on the maxim “steal food when hungry”, but tries to cover this maxim up with more dramatic language. Thus, even if the MacIntyre criticism has some bite to it, this will still cover only a very small number of instances of possible theft; moral assessment must be of actual maxims motivating behaviour, not reinterpreted maxims described as favourably as possible.
What is more complex in this example of stealing from the internationally owned and financially powerful supermarket is the question as to whether or not it involves the use of another person merely as a means to an end, thereby denying them their fundamental human dignity as a rational agent. In this case of stealing from a supermarket — an act sometimes referred to as a “victimless crime” — it is not immediately clear who might be being used merely as a means to an end. Is it the management of the supermarket? Is it the shareholders? Is it the shelf-stacking staff? Is it the security personnel on site? If stealing from a sole trader, this issue would not arise. However, it is far more complex in the modern context of large supermarkets. Working through specific instances of stealing, perhaps with real case studies, and seeing if those examples could escape falling foul of the second formulation of the Categorical Imperative, would be useful for you to consider for yourselves.