

Treating Others Merely as Means: A Reply to Kerstein

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At the heart of Kantian theory lies the prohibition against treating humanity merely as a means. Two of the most influential interpretations of what this means are Wood's and O'Neill's. Drawing on these thinkers' ideas, Kerstein formulates two accounts of what is involved in the idea of treating a person merely as a means: the 'end-sharing' and 'possible consent' accounts. Kerstein's attempt is to show that they are problematic. He introduces his 'reinforced hybrid account' to alleviate the problems they face. I argue that the end-sharing and possible consent accounts are not vulnerable to Kerstein's criticism. However, they both face a shortcoming: they fail to support the Kantian conclusion that the prostitute and the servile person are treated merely as means. Through reconstructing these accounts, I surmount this difficulty. Moreover, my proposal helps Kerstein's own account overcome a problem he admits it has, without the need to resort to consequentialism.

INTRODUCTION

At the heart of Kantian theory lies the prohibition against treating humanity merely as a means:

So act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means.¹

Humanity is an objective end, an end that holds for all rational beings, and gives them grounds for securing it. The characteristic feature of humanity is the capacity for rationally setting and pursuing one's own ends. A being with humanity is capable of deciding what is valuable, and of finding ways to realize and promote this value. According to Korsgaard:

[T]he distinctive feature of humanity, as such, is simply the capacity to take a rational interest in something: to decide, under the influence of reason, that something is desirable, that it is worthy of pursuit or realization, that it is to be deemed important or valuable, not because it contributes to survival or instinctual satisfaction, but as an end – for its own sake.²

Humanity is what is special about human beings. It distinguishes them from animals and from inanimate objects. Because human beings are

¹ Immanuel Kant, *Groundwork of the Metaphysics of Morals*, trans. Mary Gregor (Cambridge, 1997), 4:429.

² Christine Korsgaard, 'Kant's Formula of Humanity', *Creating the Kingdom of Ends* (Cambridge, 1996), pp. 106–32, at 114.

special in this sense, they have, unlike animals and objects, a *dignity* (an ‘inner worth’, as opposed to a ‘relative worth’).³

One way of showing disrespect for the worth of humanity, according to Kant, is treating it merely as a means for the attainment of some further end. But what does it mean to treat humanity merely as a means? Two of the most influential interpretations of what is involved in the Kantian notion of treating a person (or a person’s humanity) merely as a means have been offered by Allen Wood and Onora O’Neill. Focusing on Kant’s lying promise example, Wood explains that, according to Kant, ‘a false promise, because its end cannot be shared by the person to whom the promise is made, frustrates or circumvents that person’s rational agency, and thereby shows disrespect for it.’⁴ And, according to O’Neill’s interpretation of Kant, an agent treats another merely as a means, if in his treatment of the other the agent does something to which *the other cannot consent*. As she puts it, ‘to treat others as persons we must allow them the *possibility* either of consenting to or dissenting from what is proposed.’⁵

Drawing on Wood’s and O’Neill’s views, Kerstein, in his article ‘Treating Others Merely as Means’, formulates two accounts of what is involved in the idea of treating a person merely as a means. According to what he calls the ‘end-sharing account’, which has its inspiration in Wood’s position, if *the other cannot share an agent’s end* in treating her in some way, then the agent treats the other merely as a means.⁶ Kerstein, here, wishes to construct a sufficient condition for using others merely as means.⁷ According to the ‘possible consent account’, which has its roots in O’Neill’s position, an agent treats another merely as a means, if in his treatment of the other the agent does something

³ Kant, *Groundwork*, 4: 434.

⁴ Allen W. Wood, ‘The Formula of Humanity as an End in Itself’, *Kant’s Ethical Thought* (Cambridge, 1999), pp. 111–55, at 153 (my emphasis).

⁵ Onora O’Neill, ‘Between Consenting Adults’, *Constructions of Reason* (Cambridge, 1989), pp. 105–25, at 110.

⁶ Samuel Kerstein, ‘Treating Others Merely as Means’, *Utilitas* 21 (2009), pp. 163–80, at 167 (my emphasis). Kerstein explains that two agents share a particular end, if they are both trying, or have chosen to try, to realize this end.

⁷ Wood himself does not take it that the inability to share another’s end is, for Kant, a sufficient condition for treating an individual merely as a means. Wood mentions that there are actions that restrict or frustrate someone’s agency through deception or coercion, whose end cannot be shared by the agent, but which nevertheless do not fail to respect the agent’s humanity. Just punishment is an example of this. According to Kant, Wood explains, it is impossible to will one’s own punishment, and yet he regards it as respecting the dignity of the criminal (Wood, ‘The Formula of Humanity’, p. 153). I take it that it is open to interpretation whether Wood takes the inability of end-sharing to be a necessary condition for treating someone merely as a means. I am inclined to think that this could be the case. To say that one is treated merely as a means, if one cannot share the other’s end in treating her in some way, is so wide-ranging that it is hard to think of a case of being treated as a mere means which cannot be subsumed by this condition.

to which *the other cannot consent*.⁸ As with the end-sharing account, Kerstein takes the possible consent account to construct a sufficient condition for treating a person merely as a means.

Kerstein's aim, in his article, is to show that both the end-sharing and possible consent accounts are, to an extent, problematic. To achieve this, he offers a series of examples, which, he believes, demonstrate the shortcomings of these two accounts. Finally, Kerstein introduces his preferred account of what it means to treat somebody merely as a means, which he calls the 'reinforced hybrid account'.⁹ In his view, this account overcomes the problems faced by the end-sharing account and the possible consent account, and offers a more plausible understanding of what is involved in treating an agent merely as a means.

In this article, I argue that the end-sharing and possible consent accounts are not vulnerable to the objections mentioned by Kerstein. In section I, I focus on the end-sharing account. Drawing on Kerstein's examples, I explain why this account does not face the problems he has suggested. Section II deals with the possible consent account. Here, again, I explain how this account can avoid Kerstein's criticisms. In section III, I present Kerstein's own reinforced hybrid account, which is meant to overcome the alleged difficulties with the end-sharing and possible consent accounts. I also mention a problem which, as Kerstein also acknowledges, his preferred account faces. Section IV examines the cases of prostitution and servility. Even though, for Kant, the prostitute and the servile person are treated merely as means, I explain that both the end-sharing and possible consent accounts fail to yield such a conclusion. This is because it appears that the prostitute and the servile person *can* share the others' ends of treating them in certain ways and give their consent to such treatment. In section V, I propose a reconstruction of the end-sharing and possible consent accounts. These reconstructed accounts are in a position to support the Kantian conclusion that the prostitute and the servile person are indeed treated merely as means. This is because, as I argue, the prostitute and the servile person *cannot* in fact share their users' ends of treating them in these ways or give their consent to such treatment. This would be inconsistent with an end they ought as rational beings to embrace: that of respecting their humanity. My proposed reconstruction of the two accounts can also help Kerstein's reinforced hybrid account overcome the problem it faces. This is without the need to resort to consequentialism, as Kerstein himself does.

⁸ Kerstein, 'Treating Others', p. 172 (my emphasis).

⁹ Kerstein, 'Treating Others', p. 176.

I. THE END-SHARING ACCOUNT

Kant explains, in the *Groundwork of the Metaphysics of Morals*, why the promisor treats the promisee merely as a means in making a lying promise that he will pay him back:

He who has in mind to make a false promise to others sees at once that he wants to make use of another human being *merely as a means*, without the other at the same time containing in himself the end. For, he whom I want to use for my purposes by such a promise cannot possibly agree to my way of behaving towards him, and so himself contain the end of this action.¹⁰

According to the end-sharing account of what it means to treat an agent merely as a means, what troubles Kant here is that the promisee *cannot share the promisor's end*. This, as Wood also explains, 'frustrates or circumvents that person's [the promisee's] rational agency, and thereby shows disrespect for it'.¹¹

Kerstein examines three ways to understand what it actually means to say that the promisee cannot share the promisor's end, and argues that each of them is, to some degree, problematic. In what follows, I will examine these three ways to understand the idea that an agent cannot share another's end, and argue that they do not face the problems Kerstein believes they do.

According to the first understanding, the promisee cannot share the promisor's end, in the sense that it is *logically impossible* for him to do so. This account has been offered by Thomas Hill Jr. The lender, for Hill, cannot share the borrower's end of taking his money without the intention of repaying him. This is logically impossible. For, if the lender could share the borrower's end in question, he would not be *lending* him the money, but merely *giving* it to him. The concept of a loan involves the belief on the part of the lender that the borrower will pay him back. In the absence of this belief, there can be no loan.¹²

Kerstein argues that there is a problem with this understanding of being able to share an end. There are cases, he holds, where it is not logically impossible for an agent to share another's end, even in cases where the agent is being treated merely as a means:

[a] The borrower, let's say, is trying to secure the end of getting money from the lender without ever repaying it in order ultimately to enjoy a vacation to Tahiti. The lender is also trying to realize this end – not so that the borrower can enjoy a vacation in Tahiti, but so that he, the lender, who despises the borrower, can revel in the demise of the borrower's reputation. The joy the lender would

¹⁰ Kant, *Groundwork*, 4: 429–30.

¹¹ Wood, 'The Formula of Humanity', p. 153.

¹² Thomas E. Hill, 'Hypothetical Consent in Kantian Constructivism', *Human Welfare and Moral Worth* (Oxford, 2002), pp. 61–96, at 69–70.

experience at the borrower's loss of reputation would more than compensate for his loss of the money, the lender might think.¹³

In this case, Kerstein thinks, it is not logically impossible for the lender to share the borrower's end of getting his money without paying it back.¹⁴

[b] Take, for example, a loiterer who threatens an innocent passer-by with a gun in order to get \$100. . . . It is improbable, but still logically possible, that the passer-by shares the loiterer's end of his getting \$100. . . . Suppose the loiterer is the passer-by's nephew whom she hasn't seen in a few years and that on this dark, foggy night the two do not recognize one another. The aunt (the passer-by) has the end of her nephew (the loiterer) having \$100, which is coincidentally precisely the amount of cash she has in her purse. She was planning to give the \$100 to him for his birthday the next day.¹⁵

The nephew, in this example, treats the aunt merely as a means in mugging her. Yet, this is a case in which the aunt shares the nephew's end of getting \$100. Kerstein concludes: 'It is logically possible for two agents to share an end even in cases paradigmatic of one's using the other merely as a means.' Therefore, the logical impossibility of sharing an end cannot be a sufficient condition for an agent treating another merely as a means.¹⁶

In what follows, I argue that Kerstein's examples fail to support his conclusion that it can be logically possible for two people to share an end, in cases where one treats the other merely as a means.

Let us begin with example (a). The case described by Kerstein in this example is not that of a loan, but of a 'pretence loan'. The borrower (B) *pretends* to be asking for a loan, knowing very well that he will not pay back the money. On the other hand, the lender (L) *pretends* to be making a loan to B, suspecting and hoping that B will not repay him. In this case, L is not treated merely as a means by B because L is aware that there is a serious likelihood B will not pay him back. That is, L is aware of B's end of never returning his money and, moreover, he shares B's end because it is in line with L's own end of deriving joy from B's loss of reputation.

In fact, we might think, it is B who is being treated merely as a means by L in this example. L's end is that B will not repay him, so that he can humiliate B. This is the reason why L, who despises B, engages in this 'pretence loan'. B, however, is unaware of L's end in question. If

¹³ Kerstein, 'Treating Others', pp. 167–8.

¹⁴ Kerstein, 'Treating Others', p. 168.

¹⁵ Kerstein, 'Treating Others', p. 168.

¹⁶ Kerstein, 'Treating Others', p. 168.

B knew the reason L was offering him this money, he would not in all likelihood accept it. This is a case, then, where B cannot share L's end of damaging his reputation. And so it is L who treats B merely as a means and not the other way around.

I will now proceed to example (b): the loiterer nephew. Kerstein naively assumes here that the aunt's (A's) end is simply that her nephew (N) gets \$100 no matter what and under any circumstances. This assumption is mistaken. A's end, it is plausible to think, is not that N gets \$100 through killing somebody, through prostituting himself or through mugging somebody (and let alone herself). A's end, rather, is to *give* N \$100 as a birthday present. In this case, then, A clearly does not share N's end of getting \$100 through mugging her.

It is logically impossible, we can say, for the person who is being mugged to share her mugger's end of taking her money in this way. If the victim shared the mugger's end in question, then the case would not be one of mugging. For it belongs to the concept of mugging that the victim does not share the mugger's end.¹⁷ Similarly, as Hill has rightly suggested, it belongs to the very concept of a loan that the lender believes (and – we can also add – wants and hopes) to get his money back from the borrower. In Kerstein's first example, as we have seen, it is logically possible for L to share B's end of not repaying him only because the case he describes is not a loan, but a pretence loan. And, in Kerstein's second example, it is obvious that the aunt does not share her nephew's end of stealing \$100 from her.

This was the first way to understand the idea that an agent cannot share another's end; it is *logically impossible* for him to do so. Another way to understand this idea is offered by Christine Korsgaard. A person cannot share another's end in treating him in some way, if the other's behaviour 'prevents [him] from *choosing* whether to contribute to the realization of that end or not'.¹⁸ In the lying promise example, L cannot share B's end of not repaying him. This is because something prevents L from choosing to share this end, namely that he is *unaware* that B's end is that of the permanent, rather than the temporary, possession of his money. As Korsgaard puts it, 'people cannot assent to a way of acting when they are given no chance to do so.'¹⁹

¹⁷ One of the reviewers for *Utilitas* has suggested that the mugger is not a sadist, but a mercenary. He wants money and so he would not object to a willing victim turning it over to him. Thus, they argue, it is not obvious that the concept of mugging contains the idea that the victim does not share the mugger's end. It is my belief that, even in the case of the individual who willingly turns over her money to the mugger, the victim cannot be seen as sharing the mugger's end of getting her money.

¹⁸ Christine Korsgaard, 'The Right to Lie: Kant on Dealing with Evil', *Creating the Kingdom of Ends* (Cambridge, 1996), pp. 133–58, at 139.

¹⁹ Korsgaard, 'The Right to Lie', p. 138.

Even if L was aware of B's end, he would still, according to Korsgaard, be unable to share B's end:

If I call your bluff openly and say 'never mind that nonsense, just take this money' then what I am doing is not accepting a false promise, but giving you a handout, and scorning your promise. The nature of the transaction is changed: now it is not a promise but a handout. . . . My knowledge of what is going on makes it *impossible* for me to accept the deceitful promise in the ordinary way.²⁰

Kerstein offers the following example to show the problem with Korsgaard's understanding of what it means for an agent to be able to share an end:

Consider an agent, namely a customer in a restaurant seated at a table not far from the bar. She has the end of getting a clear view of the attractive bartender who is making the drinks. The other is a large waiter who, seated between the customer and the bartender, is busy doing paperwork. Suppose that the customer orders a drink from the waiter just to get him to move out of her line of sight. The customer realizes that she could, but she chooses not to, tell the waiter that she is ordering a drink to get a good view of the bartender. She just goes ahead and orders the drink. The way she acts prevents him from choosing whether to contribute to the realization of her end.²¹

According to Korsgaard's understanding, Kerstein suggests, the customer treats the waiter merely as a means since he is unable to share her end. This, however, is an implausible implication of Korsgaard's account. There are cases where a person uses another without the other being aware of his doing so, and there need be nothing morally problematic about this lack of awareness.²²

Kerstein is right that there is nothing morally problematic about the waiter's lack of awareness of the customer's end of ordering a drink from him in order to get a better view of the bartender. However, he unfairly criticizes Korsgaard's account. In offering her account of what it means for an agent to be able to share an end, Korsgaard focuses on Kant's example of a lying promise. This is a case in which the agent's (lender's) awareness of the other's (borrower's) end is *morally relevant*. In other words, this is a case where the agent has a legitimate claim to be informed of the other's end. Korsgaard's account, however, is not meant to apply to cases in which the agent does not have a right to be aware of the other's end, like Kerstein's cute bartender case.

²⁰ Korsgaard, 'The Right to Lie', p. 139.

²¹ Kerstein, 'Treating Others', p. 169.

²² Kerstein, 'Treating Others', p. 169.

Let us see in more detail why the agent's awareness of the other's end is morally relevant in Kant's lying promise example, whereas it is morally irrelevant in Kerstein's example. Kerstein is right to hold that the waiter cannot share the customer's end of ordering a drink *in order to get a better view of the bartender*. However, he has no right to be informed that this is the reason she ordered a drink in the first place. It is not part of his job to know why his customers make the orders they do. What is important in this case is that the waiter *can* share the customer's broader end of making an order. In accepting his job, the waiter has agreed to be used in this way by customers (i.e. take orders). It is part of his job to share this end of theirs. By contrast, in the lying promise example, the lender has not agreed to be used in this manner by the borrower (i.e. be lied to). He is not in a position to share this end. While it is part of the job agreement that the waiter receives orders from customers, it is not part of L and B's agreement that the latter will never return the former's money. It is, rather, the opposite (that B will return L's money) that is part of their agreement.

The woman's attitude towards the waiter, we may add, is not in any way disrespectful. She acknowledges the fact that this man makes a living by serving people drinks, and her behaviour in ordering a drink is in line with this fact. Moreover, the woman does not harm the waiter's interests in ordering a drink. This is not the case with the borrower, who not only treats the lender's humanity in a disrespectful manner, but also harms his interests in never returning his money.

If the customer used the waiter in a way he had not consented to be used when accepting his job, for example, if she shot him, locked him in a room or merely lied to him to get him out of her way, then she would be using him merely as a means. In these cases, the waiter would have the right to be aware of the woman's end, as well as the means she was considering to use in order to achieve it, and thus the right to choose whether to help her realize it.

As mentioned earlier, Korsgaard focuses on exactly these sorts of cases where the agent has a legitimate claim to be informed of the other's end in using him in some way. Any worries one might still have, however, about her account possibly including cases like this of the waiter in Kerstein's example as ones of treating an agent merely as a means could be eased with a simple amendment of her account: a person cannot share another's end in treating him in some way, if the other's behaviour prevents him from choosing whether to contribute to the realization of that end or not, *even though he has a legitimate claim (right) not to be prevented from making this choice*. Since the waiter does not have a legitimate claim to choose whether or not to

contribute to the realization of the customer's end of getting a better view of the bartender, and since he can share the customer's broader end of ordering a drink from him, Kerstein's example fails to show that the customer treats the waiter merely as a means.²³

I will now proceed to the third way of understanding the claim that an agent cannot share another's end in using him in some way discussed by Kerstein:

An agent treats another merely as a means if it would be unreasonable for the agent to believe that the other can share the end the agent is pursuing in treating him in some way. The other can share the agent's end when the other can pursue it without practical irrationality, namely violation of the hypothetical imperative.²⁴

In Kant's lying promise example, it is unreasonable for B to believe that L can share his end of never paying him back. L cannot share B's end because, in typical cases, it would be practically irrational for L to share B's end; sharing the end in question would prevent L from attaining other ends he has, like buying a new car, saving money for college or just getting his money back.²⁵

Kerstein gives the following example, in order to show the shortcomings of this third account:

Suppose that Pete and Andre are competing in the men's singles final at the US Open tennis tournament. At stake is the number one ranking for the year, which each player has, and has announced publicly, as his goal . . . according to the present account, Pete is . . . treating Andre *merely* as a means . . . Andre cannot share Pete's end in the sense it would be practically irrational for him to do so. Moreover, it would obviously be unreasonable for Pete to think that Andre can share his end. Pete knows that Andre too aims to be number one.²⁶

This third account of being able to share an end, according to Kerstein, entails that Pete's treatment of Andre in entering the competition is morally impermissible and that, generally speaking, competitive behaviour of this sort is wrong.²⁷

²³ This is not to say that we cannot think of a case in which a customer's treatment of a waiter seems morally inappropriate, even in cases in which the waiter is able to share the customer's end of serving her. For example, one of the reviewers for *Utilitas* has pointed out that if I go to a restaurant simply because I enjoy ordering others around and I know that, for a price, I can order the waiter around all evening, there is something morally problematic with my behaviour. I believe this is right. We do, however, need further argumentation, which is well beyond the scope of this article, to support the conclusion that in this case I treat the waiter merely as a means.

²⁴ Kerstein, 'Treating Others', p. 170.

²⁵ Kerstein, 'Treating Others', pp. 169–70.

²⁶ Kerstein, 'Treating Others', p. 171.

²⁷ Kerstein, 'Treating Others', p. 171.

According to Kerstein, then, Andre's (A's) end is to be number one. And Pete's (P's) end is to be number one. It is unreasonable for P to think that A can share his end. If A shared P's end, he would be willing to be thwarted in attaining his own end of being number one. A would be acting contrary to the hypothetical imperative, according to which if an agent wills an end, he ought also to will, as far as possible, the means that are necessary to achieve this end. A, in this case, would be acting irrationally. Thus, in this example, P treats A merely as a means in entering the competition while having the end to be number one.

A, then, according to Kerstein, cannot share P's end to be number one, since A also has the end to be number one, and they clearly cannot both be number one. But what does it mean to say that A cannot share P's end in this case? A *cannot* share P's end, we might think, in the sense that it would be irrational for A to act in a way which makes P's victory more likely. For example, A would act irrationally if he showed up to the competition drunk, or if he somehow let P win intentionally.

However, A *can* share P's end in another sense. In order to achieve his end of being number one, A must compete with P, and A is well aware of this fact. A accepts P's end of being number one as a legitimate end for P to have in entering the competition. He understands that just as he desires to be number one, so does P. What is more, he understands that unless P had the end of being number one, he would not be entering this competition with A. And this would mean that A would not have the chance to achieve his end of being number one. It is not irrational for A to enter the competition with P knowing that P has the end of being number one because A's end cannot be realized otherwise. What would be irrational in this case is for A not to enter the competition with P.

Moreover, we can say that A can share P's end of being number one in another sense. A's awareness that P's end is to be number one could make A even more determined to win and more eager to compete with P. The potential victory in this case would be greater than if P was a mediocre player with no ambitions. And, if A is not a particularly nice person, we might think that he can share P's end in yet another way: A wants P to have the end to be number one in entering the competition with him because he wants P to suffer the disappointment which would result from P's end being thwarted after A's victory.

So A *cannot* share P's end to be number one in the sense of helping him win. And yet A *can* share P's end in the above-mentioned ways because it is consistent with, and a necessary condition of, the achievement of A's own end of being number one. Because A can share P's end of being number one in entering the competition with him, Kerstein's example fails to show that A treats P merely as a means.

II. THE POSSIBLE CONSENT ACCOUNT

According to the possible consent account, which has its inspiration in O'Neill's ideas, 'An agent treats another merely as a means and thus wrongly if in his treatment of the other the agent does something to which the other cannot consent.'²⁸ O'Neill explains that a person can consent to a course of action, if it is possible for her to dissent from it. If it is possible, that is, for the person in question to 'avert or modify the action by withholding consent and collaboration'.²⁹

Let us see how the possible consent account can be applied to Kant's lying promise example. L is in no position to dissent from B's treatment of him. This is because L is not aware that B's plan is to never pay him back, and this makes L unable to avert or modify B's treatment of himself by withholding consent and collaboration. O'Neill argues that, in cases where an agent is deceived or coerced by another, her dissent is in principle ruled out.³⁰

Kerstein argues that there is a problem with the possible consent account. He gives the following examples to explain this problem:

[a] ... if your spouse deceives you so that your birthday party will be a surprise, then the nature of her action (deception) renders you unable to avert or modify it. But you might be able to share your spouse's end in throwing the party, namely that of your enjoying your birthday.³¹

[b] ... consider an action of deceiving a tipsy friend into believing that her husband has already left with their car and that she must therefore have you drive her home. Your action itself prevents the friend from consenting to the way you are treating her, but she might be able to share your end – for example, if it is to get home safely.³²

According to Kerstein, in the above cases it seems counterintuitive to say that the spouse (in example a) and the friend (in example b) treated the others merely as means and so in a morally wrong manner. He concludes: 'That the nature of an action itself precludes consent does not entail that it is wrong.'³³ That is because, Kerstein explains, in the first case, you might be able to share your spouse's end to throw

²⁸ Kerstein, 'Treating Others', p. 172.

²⁹ O'Neill, 'Between Consenting Adults', p. 110.

³⁰ O'Neill, 'Between Consenting Adults', p. 111.

³¹ Kerstein, 'Treating Others', p. 174.

³² Kerstein, 'Treating Others', p. 174. Kerstein gives more examples to illustrate the problems with the possible consent account: the example of the hypnotized cab driver and the example of the unconscious jogger. However, he explains how O'Neill's account could overcome the difficulties highlighted in these examples. This is the reason I only focus my attention on the examples of the spouse's surprise party and the tipsy friend, which, according to Kerstein, show that the possible consent account suffers from unacceptable implications.

³³ Kerstein, 'Treating Others', p. 175.

you a surprise party in order to enjoy your birthday; and, in the second, because the tipsy friend might be able to share her friend's end to get her home safely.³⁴

Because the wife's and protective friend's ultimate ends are ones that the husband and tipsy friend are expected to share, however, it does not follow that the latter are not treated merely as means in being deceived. Let us consider a modified version of the lying promise example to illustrate this point. Suppose that the borrower (B) makes a lying promise to lender (L) in order to get L to lend him some money, which B needs in order to afford an operation that would save his child's life. Let us further assume that B prefers not to explain to L the reason why he needs the loan. B might excuse his own lying to L in thinking that L would share his ultimate end of using L's money to save his child. But, even if, indeed, L ended up sharing B's end in question, it does not mean that B did not treat L merely as a means in making the deceitful promise in the first place.

One's ultimate end being a good or moral one does not make deception less morally wrong. Not under a Kantian account, in any case. Viewed from a Kantian perspective, Kerstein's tipsy friend and husband examples also entail these individuals' treatment merely as means. The only reason they might strike one as less morally suspicious is because these cases are more trivial and innocent. (Who would want to admit that there might be Kantian reasons against surprise parties, after all!³⁵)

This is not to say that I disagree with Kerstein that there are reasons not to judge the spouse's and friend's deception of their loved ones as morally wrong. However, this can be done if one adopts a consequentialist, not a Kantian, way of thinking. What justifies the deception that takes place in both these cases is that the individuals perform the actions (even if deceiving ones) that are assumed to have the best outcomes. The wife's act of lying to her husband and the individual's act of lying to his tipsy friend appear the wisest consequentially speaking: the husband is expected to enjoy his surprise birthday party and the tipsy friend is expected to get home risk-free. Even though the means of achieving these outcomes (using deception) are morally suspicious, the expectation is that the consequences of such deceiving actions are good ones. The husband and the tipsy friend are indeed quite likely to end up sharing the deceivers' ultimate ends once sober and safely at home, or once they find themselves in the midst of their surprise party. However, the reasons they have for sharing

³⁴ Kerstein, 'Treating Others', p. 174.

³⁵ Those surprise parties that rely on deception.

these ends are consequentialist ones. It is not their being deceived they appreciate, but the fortunate outcomes of this deception.

Finally, even if the deceivers in Kerstein's examples have good reasons to think that those they deceive will end up sharing their ultimate ends, this need not necessarily be the case. It is indeed possible that the husband and the tipsy friend do not end up sharing the ends of their deceivers. This can be either for consequentialist reasons, that is, because they are unhappy with the ends themselves: the husband might have made his own plans for a quiet birthday and the tipsy friend might have had reasons to stay at the party longer; or – if we talk about a Kantian husband and tipsy friend – because they disapprove of the means used for the achievement of these ends (deception). It is not unreasonable to think that the tipsy friend would have preferred that her friend used other – more honest – means to ensure her safety (for example, staying with her until she was sober enough to drive home or decide for herself whether she wanted her friend to drive her home). Even the husband could be assumed to have preferred his wife to be honest about the birthday plans, rather than lie to him.

Consequently, the possible consent account of what it means to treat someone merely as a means does not suffer from the problems Kerstein believes that it does. If an agent is made unable to consent to the way others treat her, there are Kantian reasons to think she is used merely as a means and thus wrongly.

III. KERSTEIN'S REINFORCED HYBRID ACCOUNT

Because Kerstein believes (wrongly, as I have argued in sections I and II) that the end-sharing and possible consent accounts suffer from a number of problems, he goes on to offer his own preferred account of what is involved in the treatment of an agent merely as a means. He calls this the 'reinforced hybrid account'. According to it:

[T]he agent ... uses the other merely as a means if it is reasonable for the agent to believe neither that:

(a) The other can consent to the agent's use of him or can share the end he is pursuing in using him. *nor*

(b) That which, rationally speaking, prevents the other from sharing the agent's end is the following: the other is himself using someone in pursuing an end, and it is reasonable for the other to believe neither that this person can consent to the other's use of him, nor share the end the other is pursuing in using him.³⁶

This account, according to Kerstein, can overcome the problems he takes the end-sharing and possible consent accounts to face. Applying this account to the Pete and Andre example, we can conclude that,

³⁶ Kerstein, 'Treating Others', p. 176.

even though it is not reasonable for P to believe that A can share his end of being number one, it is nonetheless reasonable for P to believe that A can consent to the way P treats him. In the surprise party example, it follows that the wife does not treat her husband merely as a means in lying to him so that his party is a surprise. This is because, even though it is not reasonable for the wife to believe that her husband can give his consent to her plan (since he is unaware of it), it is nonetheless reasonable for her to believe that her husband can share her end of enjoying his birthday via the party. In the tipsy friend example, similarly, even though it is not reasonable for the protective individual to believe that her drunken friend can give her consent to drive her home, it is reasonable for the individual in question to believe that the drunken friend can share her end of getting home safely.

Since, as I have argued in sections I and II, the end-sharing and possible consent accounts are not vulnerable to the problems suggested by Kerstein, it is my belief that a more complicated hybrid account is not in any way needed. I have explained, in section I, that the end-sharing account does not yield the verdict that Pete treats Andre merely as a means. This is because there is a way that Andre *can* share Pete's end. And, in section II, I have explained that the possible consent account does not entail that the customer treats the waiter merely as a means because he *can*, unlike Kerstein thinks, give his consent to the way the customer treats him.

Kerstein admits that his own preferred account, despite its advantages, is not invulnerable to objections. He gives the following example, in order to show the problem with the reinforced hybrid account:

[Y]ou live out in the country with just one neighbour within miles. Your child has suffered a life-threatening injury, and you need to get him to the hospital right away. By far, the fastest way to get him there is to drive him yourself. Unfortunately, your spouse is using your car on a business trip. So, you reason, the only way to get your son to the hospital in time is to take your neighbour's truck. You run over to his farm in order to ask him to lend it to you, but you cannot find him. He has left the keys in his truck, and you drive off in a frantic attempt to get your child the medical attention he needs.³⁷

Kerstein explains that, according to the reinforced hybrid account, it might be that you treat your neighbour merely as a means and thus wrongly. This is because it might not be reasonable for you to believe that the neighbour can consent to your taking his truck or share your end of getting your child to the hospital. For example, you might be aware that his pursuing your end to take your child to the hospital with his truck would prevent him from attaining another end of his,

³⁷ Kerstein, 'Treating Others', p. 177.

namely that of getting top dollar for his produce at the city market. Let us further assume that, even in light of the knowledge of your end, you know that the neighbour would still be unwilling to give up his end of getting top dollar for his produce, as he is greedy and ill-disposed to you and your family. In this case, it would be practically irrational for him to pursue your end of saving your child, and thus you end up treating him merely as a means in taking his truck.³⁸

Kerstein admits, quite rightly, that it seems implausible to conclude in this case that the agent has acted wrongly in taking the neighbour's truck. Kerstein's conclusion is that an agent's treating another merely as a means is always wrong *pro tanto*, and yet, in certain cases, it is not wrong all things considered (when weightier moral reasons apply). In this example, he argues that: 'though you have moral reason not to use your neighbour merely as a means in the way described, you have a greater moral reason to take the truck in order to save your child's life.'³⁹ But this, as Kerstein admits, might open the path for a consequentialist way of thinking. It is difficult to know in which cases an agent's moral reason not to treat another merely as a means gets outweighed by another moral reason that he has. What, for example, Kerstein asks, of the case in which someone's killing an innocent person is the sole means of saving millions?⁴⁰

In section V of this article, I explain how my proposed reconstruction of the end-sharing and possible consent accounts can offer a plausible solution to the problem Kerstein admits his own hybrid account faces. This is without the need to resort to consequentialism.

IV. PROSTITUTION AND SERVILITY

In sections I and II of this article, I have argued that the end-sharing and possible consent accounts are not vulnerable to Kerstein's criticisms. It follows from what I have said above that an agent A is indeed treated merely as a means by B, if A cannot share B's end (end-sharing account). Similarly, A is treated merely as a means by B, if A cannot give her consent to the way B treats her (possible consent account).

In this section, I will deal with the cases of prostitution and servility, two paradigmatic cases for a Kantian where people are treated merely as means. The prostitute and the servile person, however, appear to be able to share their users' ends, as well as give their consent to the ways the others treat them. This means that both the possible consent

³⁸ Kerstein, 'Treating Others', pp. 178–9.

³⁹ Kerstein, 'Treating Others', p. 179.

⁴⁰ Kerstein, 'Treating Others', p. 179.

account and the end-sharing account fail to yield the conclusion that the people in question are treated merely as means.

Let us begin with prostitution, which is defined by Kant as the offer for profit of one's person for another's sexual gratification. He writes: 'if a person allows himself to be used, for profit, as an object to satisfy the sexual impulse of another . . . then he is disposing over himself, as if over a thing, and thereby makes himself into a thing.'⁴¹

A person, for Kant, cannot sell her sexuality without becoming a thing, an object of others' use.⁴² Kant's arguments in support of this conclusion are given in the following passage:

Man cannot dispose over himself, because he is not a thing. He is not his own property – that would be a contradiction; for so far as he is a person, he is a subject, who can have ownership of other things. But now were he something owned by himself, he would be a thing over which he can have ownership. He is, however, a person, who is not property, so he cannot be a thing such as he might own; for it is impossible, of course, to be at once a thing and a person, a proprietor and a property at the same time.⁴³

Kant says in this passage that an individual cannot be both the proprietor and his property. Property is, by definition, the *thing* to be owned by the proprietor. The proprietor is, by definition, the *person* who owns property. Thus a person cannot be property (and property cannot be a person). In selling her sexuality, a person disposes over herself as a thing (a property). The prostitute offers herself as a thing to others, allowing them to use her for the satisfaction of their sexual inclinations.

We need to explain here Kant's idea that selling part of one's body (one's sexuality in the case of prostitution) amounts to selling one's 'whole person'. While it is clear that the individual who sells himself

⁴¹ Immanuel Kant, *Lectures on Ethics*, trans. Peter Heath (Cambridge, 1997), 27:386.

⁴² In his discussion of prostitution, Kant blames the prostitute for her objectification and degradation. One might be led to think from this that it is the prostitute who turns her own person into an object, not the clients. On this reading, the clients are not to blame for the loss of her humanity. There are complications with the view, however. According to Kant, sexual use occurring in prostitution is natural, that is, use of one person's sexual attributes by another person. If the prostitute already was an object by the time she was sexually used by the clients, then the latter would be using a thing, something that, in Kant's own theory, would make the sexual use in question unnatural (Kant, *Lectures on Ethics*, 27:390–2; Kant, *The Metaphysics of Morals*, 6:277). Even though the clients are the ones who make the prostitute into an object, Kant primarily blames the prostitute for her objectification. It is she, after all, who allows others to harm her humanity. It seems, then, that there are, for Kant, two wrongs involved in prostitution: what the prostitute does (voluntarily allowing others to use her sexually in exchange for profit), and what the clients do (using the prostitute for sexual gratification, and so reducing her to an object). In this article, my focus is primarily on the latter wrongdoing. That is, I explore the Kantian position that the clients use the prostitute merely as a means.

⁴³ Kant, *Lectures on Ethics*, 27:386. Kant also expresses the view that body and self are inseparable in this way in Kant, *The Metaphysics of Morals*, 6:279.

into slavery sells his whole person, it is far from obvious that this applies to the individual who sells her sexual services.

Kant himself explains why the above is indeed the case:

[M]an is not his own property, and cannot do as he pleases with his body; for since the body belongs to the self, it constitutes, in conjunction with that, a person; but now one cannot make one's person a thing . . .

Now, it is evident that if someone concedes a part of himself to the other, he concedes himself entirely. It is not possible to dispose over a part of oneself, for such a part belongs to the whole.⁴⁴

An individual's body and self, for Kant, are inseparable and together they constitute one's person. The prostitute, then, does not have the option of selling *only* her sexuality. Kant is clear that, in so doing, she necessarily sells herself, that is, her whole person, and allows others to treat her merely as a means.⁴⁵

The clients, to use Kant's language, make the prostitute into an 'object of appetite', something of merely instrumental value. Here is what Kant thinks people do to the person they use to satisfy their sexual inclinations: 'they make the person into an object of their appetite. As soon as the person is possessed, and the appetite sated, they are thrown away, as one throws away a lemon after sucking the juice from it.'⁴⁶ The prostitute, who is used for the clients' sexual gratification, is reduced to a mere instrument, a thing to use and then discard. Since it is Kant's belief that she cannot but give her whole person to the clients (not just her body or sexuality), the clients treat her person merely as a means.

Of course, Kant's view about the inseparability of body and self is not invulnerable to criticism. Parts of the body and/or the person are attached, but that does not mean that the aggregate, as it were, comes as an undifferentiated package. If a woman gives permission to have her throat examined, she is entitled to object if the doctor then starts to examine her breasts. It would be no defence for the doctor to say that, in conceding part of herself to him, the woman conceded all of herself. Likewise, if someone is curious to know how the back of my hand feels, I may permit them to stroke it. However, I do not thereby permit them to touch other parts of my body.⁴⁷

Moreover, even if we grant that a person would not be a self without a body, we are not rationally compelled to embrace the view that selling one's sexuality amounts to the agent's selling her whole

⁴⁴ Kant, *Lectures on Ethics*, 27:387.

⁴⁵ For an analysis of Kant's views on sexuality and prostitution, see Lina Papadaki, 'Sexual Objectification: From Kant to Contemporary Feminism', *Contemporary Political Theory* 6 (2007), pp. 330–48, at 331–3.

⁴⁶ Kant, *Lectures on Ethics*, 27:384.

⁴⁷ I would like to thank Paul Sludds for coming up with these examples.

person. According to Stephen Munzer, Kant here commits the ‘fallacy of division’, that is, he mistakenly argues that what is true of a whole must also be true of its parts. Munzer explains:

Human beings have dignity. Human beings can also suffer offenses against dignity . . . But it is fallacious to argue that, in consequence, human body parts have dignity or can suffer offenses against dignity. Similarly, even if a living human being has an unconditioned and incomparable worth, it does not follow that parts of that human being’s body do. And even if persons lack property rights in themselves or their whole bodies, it does not follow that they lack property rights in their body parts or that those parts are not commodities.⁴⁸

It is not my intention to deal further with the shortcomings of Kant’s account of prostitution. For the purposes of this article, I wish to focus on Kant’s own justification of the wrongness involved in prostitution. Both the end-sharing and possible consent accounts are unable to support the Kantian conclusion that the prostitute is treated merely as a means by the clients.

Let us start with the end-sharing account. According to it, since the prostitute appears to be able to share the clients’ end of using her for their sexual gratification, this account fails to support the Kantian view that they treat her merely as a means. This is the case for all three understandings of what it means for an agent to be able to share an end. First of all, we can say that it is clearly not *logically impossible* for the prostitute to share the customers’ end in question (Hill’s understanding). Second, going back to Korsgaard’s understanding, given that there is no violence or coercion used, the customers do not prevent the prostitute from *choosing* whether to contribute to the realization of their end to get sexual gratification. And, finally, it is not unreasonable for the customers to believe that the prostitute can share their end to get sexual satisfaction in exchange for money. It is not *practically irrational* for the prostitute to share the customers’ end in question, given that she has chosen to make a living through selling her sexual services. The prostitute, then, can share the customers’ end in all these three ways. Therefore, the end-sharing account fails to entail that the customers treat the prostitute merely as a means.

Things are no better when turning to the possible consent account. On the face of it, the prostitute can (and does) give her consent to be used sexually by the customers in exchange for profit. If no violence or coercion is used by the customers, the woman is in a position to dissent from the customers’ using her for their purposes. The possible consent

⁴⁸ Stephen Munzer, ‘An Uneasy Case against Property Rights in Body Parts’, *Social Philosophy and Policy* 11.2 (1994), pp. 259–86, at 275.

account too, then, fails to support Kant's conclusion that the prostitute is treated merely as a means by the clients.⁴⁹

Let us now move to the case of servile behaviour. Hill, in his article 'Servility and Self-Respect', offers the famous example of the 'deferential wife':

[A] woman who is utterly devoted to serving her husband. She buys the clothes he prefers, invites the guests he wants to entertain, and makes love whenever he is in the mood. . . . She does not simply defer to her husband in certain spheres as trade-off for his deference in other spheres. On the contrary, she tends not to form her own interests, values, and ideals. . . . No one is trampling her rights she says; for she is quite glad, and proud, to serve her husband as she does.⁵⁰

Let us further assume that the husband encourages the wife's deferential behaviour. Even though he is in a position to help her overcome her deference, he refrains from doing so because he actually uses his wife's deference to promote his own purposes and interests.

Hill's concern in his article is to show what is problematic with the deferential wife's attitude towards her own person.⁵¹ She treats herself in a way that is inconsistent with morality. Hill explains that, no matter how willing a person is to submit to humiliation by others, they ought to show her some respect as a person. If a person gives her consent to humiliations incompatible with this respect, she acts as if she waives a right which she cannot in fact give up.⁵²

I agree with Hill's arguments that the deferential wife treats her own person and humanity in a morally problematic manner.⁵³ My aim in this article, however, is to explain what is problematic with the husband's

⁴⁹ Kerstein's reinforced hybrid account also fails to entail that the prostitute is treated merely as a means by the clients. This is because it is indeed reasonable for the clients to believe that she can consent to their use of her, as well as share the end they are pursuing in using her (the attainment of sexual gratification).

⁵⁰ Thomas Hill, 'Servility and Self-Respect', *Autonomy and Self-Respect* (Cambridge, 1991), pp. 4–18, at 6.

⁵¹ Following Kant's idea that servility is contrary to a perfect non-judicial duty to oneself (Kant, *The Metaphysics of Morals*, 6:434–7).

⁵² Hill, 'Servility and Self-Respect', p. 16.

⁵³ Although one might worry (like my friend, Paul Sludds) that the deferential wife example is paradoxical, or at least less easy to understand than it first appears. Deference is an action or attitude only to the extent that the person is indeed autonomous. The deferential wife and her husband have a compact which shapes their behaviour. Were this not the case she would not be a deferential wife, but a victim of domestic abuse. We may still think that this is the case depending on how we understand the source of her deference, but it seems that on the face of it we would wish to keep the two issues separate. So, the fact that it is appropriate to see her as deferential indicates that we see her as not under the control of her husband. The deferential wife, in virtue of her deference, is an agent and retains her autonomy. Once we assume that she is no longer autonomous, then we must also assume that she is not showing her husband deference, but is merely acting as if doing so rather like an automaton might act as if it is deferentially bowing.

treatment of his wife. His behaviour is wrong because, rather than fall in line with his wife's deference, he ought to recognize her as an autonomous agent, and seek to encourage this autonomy. Since the husband exploits her deference in order to promote his own interests, and encourages her to go on willing to submit to humiliation by others (himself), there are Kantian reasons to believe that the husband treats the deferential wife merely as a means, and thus wrongly.

Both the end-sharing and possible consent accounts, however, fail to yield the verdict that the husband treats the wife (who is happy and proud to serve him as she does) as a mere means. Let us begin with the end-sharing account. Because the wife appears to be able to share her husband's end of exploiting her deference, the account in question fails to entail that the husband treats the deferential wife merely as a means. And, according to the possible consent account, the wife appears to be able to give her consent to the way her husband (mis)treats her. This means that this account too fails to yield the verdict that the husband treats his wife merely as a means.⁵⁴

Both the end-sharing and possible consent accounts, therefore, fail to entail that the customers treat the prostitute merely as a means, and that the husband treats his deferential wife merely as a means. And yet, there are Kantian reasons to believe that these are two instances in which individuals are being used merely as means by others.

V. RECONSTRUCTING THE END-SHARING AND POSSIBLE CONSENT ACCOUNTS

My aim, in this section, is to reconstruct the end-sharing and possible consent accounts so that it will become possible for them to explain the Kantian idea that the prostitute and the deferential wife are treated merely as means and thus wrongly.

The reconstructed end-sharing account:

Agent X treats Y merely as a means, if, even though Y *can* share X's end in treating her this way – in the sense that there is no logical impossibility in Y's sharing X's end (Hill), Y has chosen to share X's end (Korsgaard), and it is not practically irrational for X to believe that Y can share his end (Kerstein) – Y nonetheless *cannot* share X's end in a different sense: Y's sharing X's end in question would

In sum, if she is not free, then she is not deferential; and if she is deferential, then she is free.

⁵⁴ In the case of the deferential wife, again, Kerstein's reinforced hybrid account is in no position to explain how it is that the wife is treated merely as a means by her husband. This is because she can share his end, as well as give her consent, to the way he treats her.

be inconsistent with promoting some other end that Y is rationally compelled to have. The end in question being respecting humanity.⁵⁵

The reconstructed possible consent account:

Agent X treats Y merely as a means, if, even though Y *can* give her consent to the way X treats her – in the sense that she is able to dissent from being treated in this way by averting or modifying X's treatment of her (O'Neill) – Y nonetheless *cannot* consent to being treated in this way by X in a different sense: because consenting to this sort of treatment would entail consenting to give up an end that Y is rationally compelled to have. The end in question being respecting humanity.

The end of respecting humanity ought to be regarded as the ultimate end in a Kantian theory. It is difficult, if at all possible, and certainly beyond the purposes of this article, to come up with specific conditions under which an agent does or does not respect humanity. Kant's own system of duties can give us some guidance as to what is involved in respecting humanity. For example, an individual, according to Kant, has a perfect duty to avoid suicide. In committing suicide, the individual in question fails to respect humanity in her own person, or – to use Kant's language – she 'is debasing humanity in one's person'.⁵⁶ In that sense, we can say that she fails to have the end of respecting humanity. Of course, someone might disagree with Kant here. It is possible to think that humanity is respected by ending your life if, for instance, you are in the final stages of a terminal illness. In any case, respecting humanity (even though there is bound to be disagreement as to what is involved in this) is an end an agent is rationally compelled to have. Her other ends can be regarded as legitimate ones only in so far as they conform to it.

⁵⁵ In another article of his, Kerstein appeals to a version of the reconstructed end-sharing account, in order to explain what it means for an agent to treat her own person merely as a means. An agent would act irrationally if she willed an end, while at the same time willing another end, the attainment of which, as she is aware, would make it impossible for her to promote her original end. The latter is an end that she is rationally compelled to have. An end of this kind is, for instance, the preservation of one's own humanity. Kerstein explains that the kind of practical irrationality he describes takes place when a person acts contrary to the hypothetical imperative. The latter instructs that if an agent wills an end, then she should also will, to the extent that she can, the means that are necessary for its achievement. Alternatively, she should abandon the end. In the case of the person who commits suicide, his end of taking his life would render himself unable to promote an end he is rationally compelled to have: that of protecting his own humanity. This is how we can explain that suicide is morally impermissible (Samuel Kerstein, 'Treating Oneself Merely as a Means', *Kant's Ethics of Virtue*, ed. Monica Betzlerr (Berlin and New York, 2008), pp. 201–18, at 210–12).

⁵⁶ Kant, *Metaphysics of Morals*, 6:423.

It is my belief that the above two reconstructed accounts can explain the Kantian idea about the moral wrongness involved in prostitution and servility. Let us begin with prostitution. The prostitute, as we have seen, appears to be able to share her clients' end of using her for sexual gratification in exchange for profit: there is no logical impossibility in sharing that end, the prostitute can choose to share it, and it is not practically irrational for the clients to believe that she can share this end. However, there are Kantian reasons to believe that the prostitute *cannot* share the clients' end in question in a different sense: the prostitute's sharing this end would be inconsistent with an end that she is rationally compelled to have. Sharing the customers' end of using her for their sexual appetites and so, according to Kant, allowing them to reduce her to an object, would make the prostitute unable to promote the end of respecting her own humanity. Since she cannot share the customers' end in question in a consistent manner, it follows from the reconstructed end-sharing account that the clients do treat the prostitute merely as a means.

Let us now proceed to the reconstructed possible consent account. The prostitute appears to be able to give her consent to being treated as a mere instrument for the clients' sexual gratification (in the sense that she is able to dissent from being treated in this way). And yet there are Kantian reasons to think that she *cannot* give her consent to be so treated in a different sense: consenting to such treatment by the clients would amount to consenting to give up an end that she is rationally compelled to have. She would be consenting, that is, to disrespect her own humanity through her objectification. Thus, it follows from the reconstructed possible consent account that the clients treat the prostitute merely as a means.

I would like to illuminate further here the Kantian idea that the prostitute cannot share the clients' end of gaining sexual gratification in using her or give her consent to such treatment. Doing so, as I have said, would be at odds with an end she is rationally compelled to have: the end of respecting humanity. Assuming that Kant is right to think that, in prostituting herself a woman is inevitably reduced to the status of an object, it is clear in this case that the prostitute's humanity is not respected.⁵⁷ Since the end of gaining money through selling one's sexual services is not in any way demanded by morality, it follows that

⁵⁷ Of course, there is bound to be disagreement whether the prostitute is indeed reduced to an object (her humanity disrespected) in being sexually used in exchange for profit. As I argue in section IV, there are various ways one might object to Kant's idea that prostitution inevitably involves objectification. My aim, in this article, is to explain how it is possible to support Kant's own conclusion that prostitution involves the treatment of the woman merely as a means. It is my belief that the end-sharing and possible consent accounts can do this.

the prostitute ought to give it up for the sake of promoting the end of respecting humanity.

In addition to the above, we might think that prostitution (the way Kant describes it, at least) promotes a perspective from which people in general can be viewed as mere means. Kant's position on animals springs to mind here. According to him, we have no duties towards animals. The only reason he believes we should refrain from treating them with unnecessary cruelty is because of our rational nature. He writes:

[V]iolent and cruel treatment of animals is far more intimately opposed to a human being's duty to himself, and he has a duty to refrain from this; for it dulls his shared feelings of their suffering and so weakens and gradually uproots a natural predisposition that is very serviceable to morality in one's relations with other men.⁵⁸

If mistreating animals can inculcate morally problematic traits in us, which could make us more prone to cruel treatment towards human beings, then it seems plausible to worry that mistreating a person (the prostitute in our case) could make the clients more prone to disrespect other people's humanity as well. Viewed from this angle, prostitution can be seen as promoting a view of human beings as mere means, a view that fails to show respect towards their humanity. So, if Kant is right that selling sexual services entails objectification, then it might be legitimate to worry that such an activity coarsens and so threatens the perceived status of persons in general as beings that deserve respect.⁵⁹

While failing to respect the prostitute might have detrimental consequences along these lines, however, we could say that this is in fact a side issue. From a Kantian point of view, treating persons as more than mere objects is simply how we ought to behave regardless of the consequences. The kind of beings that other people are, and the kind of beings that we are as appreciators of what they are, entails a certain attitude, which we could naturally call one of respect.

The reconstructed end-sharing and possible consent accounts can furthermore explain the Kantian idea about the moral wrongness involved in servility. The deferential wife, as we have seen, can share her husband's end of exploiting her deference, in the sense that there is no logical impossibility in sharing this end of his, she can choose to share it, and it is not practically irrational for the husband to believe that his wife can share his end. According to the reconstructed end-sharing account, however, the deferential wife *cannot* share her

⁵⁸ Kant, *The Metaphysics of Morals*, 6:443.

⁵⁹ I am grateful to Paul Sludds for urging me to explore this idea.

husband's end, a Kantian is inclined to think, in the sense that sharing this end would be inconsistent with the end of respecting her own humanity: an end that she is rationally compelled to have. For this reason, the husband treats his deferential wife merely as a means.

Moreover, even though the deferential wife can consent to the way her husband treats her, in the sense that she is able to dissent from being used in this way if she so chooses, viewed from a Kantian perspective, she *cannot* give her consent to be so treated in a different sense: consenting to this way of being treated would amount to consenting to give up the end of respecting her humanity. And this is an end that she is rationally compelled to have. Since the deferential wife cannot, for this reason, consent to her husband's treatment of her, it follows that he treats her merely as a means, and thus wrongly.

Let me say a bit more about how we could understand the Kantian position that the deferential wife cannot share her husband's end or give her consent to the way he treats her, while at the same time having the end of respecting her humanity. According to Kant, servility is contrary to a perfect duty to oneself.⁶⁰ In devoting her life to serving her husband, the wife fails to show the appropriate respect to herself as a person. Instead of forming her own ends and ideals, as is appropriate to rational beings, she uses her person as an instrument to promote her husband's ends and interests. Kant explains that a person

is not to be valued merely as a means to the ends of others or even to his own ends, but as an end in himself, that is, he possesses a *dignity* (an absolute inner worth) by which he exacts *respect* for himself and from other rational beings in the world. . . . Humanity in his person is the object of respect which he can demand from every other human being, but he must also not forfeit.⁶¹

In being deferential, the wife forfeits her own humanity, instead of showing respect for it. The husband, who is in a position to encourage his wife to overcome her deference and show the appropriate respect for her humanity, simply goes along with it. He exploits her deference to promote his own interests and ends. The Kantian idea, here, is that the deferential wife *cannot* share her husband's end of furthering his interests through exploiting her deference (or her own end of being deferential, for that matter). Neither can she give her consent to being so treated by her husband. Doing so would render her unable to have the end of respecting humanity in her own person, which as a rational being she ought to have.

Perhaps, we could say furthermore, referring to Kant's argument of why we ought not to treat animals cruelly, the husband's mistreatment

⁶⁰ Kant, *The Metaphysics of Morals*, 6: 434–7.

⁶¹ Kant, *The Metaphysics of Morals*, 6:434–5.

of his wife, as well as the wife's mistreatment of herself, could make these people more prone to problematic attitudes towards other human beings. If an individual goes so far as to forfeit humanity in her own person, as the deferential wife does, there is no certainty that she will show the appropriate respect for the humanity of others. Such a person, we might think, either is unaware of what is entailed in respecting humanity, or her desire to serve her husband renders her indifferent towards showing the appropriate respect for the worth of humanity. Likewise with her husband. He fails to respect humanity in a person so close to him. If he has no moral qualms using his wife's vulnerability to promote his own interests, it is hard to see what would stop him from using other people merely as means for his purposes. As with the case of prostitution, then, there are Kantian reasons to worry that the husband's treatment of his wife (as well as the wife's treatment of herself) threatens the perceived status of persons in general as beings deserving of respect.

It is my belief, furthermore, that the idea behind the two reconstructed accounts, namely the instruction to respect humanity, can offer a solution to the problem Kerstein's own reinforced hybrid account faces. As we have seen in section III, the concern with the reinforced hybrid account is that you might end up treating your neighbour merely as a means in taking his truck to drive your sick child to the hospital. This is because you might be aware that he would not give his consent or share your end in question. Doing so would be inconsistent with pursuing another end that he has: that of getting top dollar for his produce at the city market.

The case of the neighbour is different from the cases of prostitution and servility in the following ways: in the latter cases, it appears that the agents *can* share their users' ends as well as give their consent to the way the others treat them. By contrast, it appears that the neighbour in Kerstein's example *cannot* share your end or give his consent to the way you treat him, as this clashes with another end of his. Moreover, the goal in the cases of the prostitute and the deferential wife was to support the Kantian idea that these individuals are indeed treated merely as means. In the case of the neighbour, by contrast, the goal is to show that your stealing his truck does not amount to treating him merely as a means. The following modifications of the reconstructed accounts are therefore needed here.

The reconstructed end-sharing account (modified):

An agent X *does not* treat Y merely as a means, if, even though it appears that Y *cannot* share X's end because it clashes with another end of Y's (which Y is not rationally compelled to have), Y nonetheless *cannot refrain from sharing* X's end: Y's not sharing X's end would be

inconsistent with promoting an end that Y is rationally compelled to have. The end in question being respecting humanity.

The reconstructed possible consent account (modified):

An agent X *does not* treat Y merely as a means, if, even though it appears that Y *cannot* give her consent to the way X treats her (Y cannot dissent from this sort of treatment: she cannot avert or modify it), Y nonetheless *cannot refrain from consenting* to X's treatment of her: Y's not consenting to this sort of treatment would entail consenting to give up an end that Y is rationally compelled to have. The end in question being respecting humanity.

In the case of the neighbour, then, it initially appears that he cannot share your end to get your child to hospital or give his consent to your taking his truck. He cannot share your end because it clashes with his end of getting top dollar at the city market, which is of utmost priority to him as a greedy and ill-disposed individual. And he cannot give his consent to the way you treat him because he is not in a position to avert or modify your treatment of him. However, the neighbour cannot in fact refrain from sharing your end to use his truck to save your child or give his consent to the way you treat him. This is because not sharing your end or not giving his consent to the way you treat him would be inconsistent with an end he is rationally compelled to have: that of respecting humanity through saving a life. Respecting humanity (whether in one's own person or in that of another), unlike getting top dollar at the city market, is an end one is *rationally compelled* to have. In this case, then, it seems plausible to say, morality demands that the neighbour give up his end of getting top dollar, in order to pursue the end of saving a life.

As we have seen, according to Kerstein's reinforced hybrid account, an agent uses another merely as a means, if it is not reasonable for the agent to believe that the other can consent to the agent's use of him or can share the end he is pursuing in using him.⁶² According to the modifications of the end-sharing and possible consent accounts, it is reasonable for you to believe that your neighbour *can* indeed consent to your use of him, as well as share the end you are pursuing in using him. That is because, from a Kantian point of view, the end of saving your child is one he is rationally compelled to have. The modifications of these accounts, therefore, do not yield the verdict that you are using your neighbour merely as a means in stealing his truck. There is no reason, then, to resort to consequentialism, as Kerstein does, to explain

⁶² Kerstein, 'Treating Others', p. 176.

why giving priority to saving your child's life is the morally right thing to do.

CONCLUSION AND FURTHER REFLECTIONS

In this article, I have argued that, even though the end-sharing and possible consent accounts are not vulnerable to the objections raised by Kerstein, they nonetheless face a shortcoming: they are unable to explain the Kantian idea that the prostitute and the servile person are being treated merely as means. My reconstruction of these accounts has rendered them able to offer such an explanation. The idea behind the two reconstructed accounts, furthermore, has managed to offer a solution to the problem faced by Kerstein's reinforced hybrid account, without the need to resort to consequentialism.

This is not to say that there are no challenges for the reconstructed end-sharing and possible consent accounts, or that there are no cases where a Kantian might have strong reasons to adopt a consequentialist perspective. I would like to end this article by mentioning some difficult cases, where there are no clear answers offered by the two reconstructed Kantian accounts.

In Kerstein's own example of the greedy neighbour, the reconstructed end-sharing and possible consent accounts do not yield the conclusion that you treat the neighbour merely as a means in taking his truck because the end of saving a life is one he is rationally compelled to have, and he ought to consent to your action. But what if, by a strange coincidence, on that very day, the neighbour happened to need his truck to drive his own two dying children to hospital? Your end of taking his truck to save your child (respect her humanity) is an end your neighbour is rationally compelled to have. But so is the end to save his own two children (respect their humanity). If he gave up the latter to promote your end, it seems that he would be treating his own children merely as means. On the other hand, if he chose to promote the end to save his children, he would be treating your child merely as a means.

Similarly in the case mentioned briefly by Kerstein, in which you can either kill one innocent person or let a million innocent people die. While the utilitarian would resolve this dilemma by instructing you to sacrifice the one individual, things are not at all straightforward for a Kantian. On a first reflection, it might appear that you ought not to kill the one because the requirement not to kill an innocent person is an instance of a perfect duty. Yet, the earlier discussion of respecting humanity as an end one is rationally compelled to have reveals that the situation is far more complicated.

To return to the reconstructed end-sharing and possible consent accounts, the end of not killing the one individual (respect her

humanity) is an end you are rationally compelled to have. But so is the end not to let the million people die (respect their humanity). In this case, it seems inevitable that you treat humanity merely as a means: if you kill the one, you treat her as a mere means to save the million. If you let the million die by refraining to kill the one, then you treat their humanity merely as a means.

Such conflicts of humanity pose a serious challenge for Kantian theory. The Kantian, typically, does not appeal to numbers to measure the wrongness involved in each scenario (respect the humanity of the two or of the million people rather than the humanity of the one). This means that the above dilemmas remain irresolvable. At this point I find it tempting to bring in the consequentialist perspective. It might be plausible to think that, in these hard cases in which using someone merely as a means is inevitable, it is better – other things being equal – to treat one individual rather than many merely as a means. Your treatment of this person as a mere means is no doubt morally problematic. But it is, one might hope, less morally problematic than treating a million people's humanity in a disrespectful manner.⁶³

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