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## Kant's categorical imperative and Jahr's bioethical imperative

### ABSTRACT:

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Immanuel Kant and Fritz Jahr have a similar cultural background, despite the almost two century's gap between their lifetimes. They were both raised in protestant tradition and lived their whole lives in towns with rich cultural heritage of the Prussian Kingdom.

In the light of these contextual circumstances, Jahr's inspiration by Kant is not so surprising. Jahr quotes Kant, but – what is more important – he takes terminology of Kant's practical philosophy in formulation of his own views. The most striking example is Jahr's formulation of his Bioethical Imperative which directly echoes Kant's (ethical) categorical imperative.

Those two imperatives are compared and some points about possible challenges and perspectives which Jahr's views pose to Kant's thought have been given.

**Keywords:** categorical imperative, Immanuel Kant, Bioethical Imperative, Fritz Jahr

### **Introduction: some points on the cultural background of two philosophers**

Even though, especially to "an analytically minded philosopher, the biography of a thinker is simply irrelevant, since it says nothing about the truth of his position and adds nothing to the soundness of his arguments", we could hardly not be in agreement with the instructive consideration of Manfred Kuehn: "the lack of context – or perhaps better, the substitution of an anachronistic context – often stands in the

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way of appreciating what a philosopher wanted to say."<sup>1</sup> Having these thoughts in mind, at least some points on cultural background of Immanuel Kant and Fritz Jahr should be stressed before we investigate the relations between them. There are at least two similar points underlying their lives which should not be overlooked – protestant tradition and Prussian culture: both of them spent their whole lives in their birthplaces<sup>2</sup>, towns with significant cultural heritage of the Prussian Kingdom and both were deeply connected with Protestantism.

Immanuel Kant was born in 1724, lived, and died in 1804 in Königsberg, a seaport in East Prussia, located where the River Pregel flows into the Baltic Sea. In Kant's time, the city was an isolated eastern outpost of German culture, and remains as such until the middle of the twentieth century.<sup>3</sup> The city became the university centre and the seat of protestant learning very early. The University of Königsberg was founded by Duke Albrecht of Prussia in 1544 (the so-called Albertina) and became the centre of Protestant teachings. Martin Luther himself assisted Duke Albrecht with advice and some authors say that Wittenberg could be called the intellectual mother of Königsberg.<sup>4</sup> The city has an important place in German history and culture. It "was originally the capital of East Prussia, the base of Prussian power before the acquisition of Brandenburg and the growth of Berlin, and in Kant's time it remained the administrative center of East Prussia and a leading Hanseatic mercantile city, the most important outlet east of Danzig for the vast Polish and Lithuanian hinterlands."<sup>5</sup> Even though "it was never a capital of art and culture, in Kant's time", stresses Paul Guyer, the city "was a business, legal, military, and educational center with many connections to the rest of Europe."<sup>6</sup> The city was extremely important in the time of the rising of Prussian state, and it was the crowning place of the first Prussian king – Frederick William I.<sup>7</sup>

<sup>1</sup> Kuehn, Manfred, *Kant: A Biography*, Cambridge University Press, Cambridge, 2001, p. 19.

<sup>2</sup> It is very interesting that both philosophers lived their whole lives in their birthplaces. Kant went outside Königsberg just during his practice as private teacher and even refused a few offers from prestigious universities in other towns (Erlangen, Jenna, Halle). Fritz Jahr lived his entire life even at the same address in Halle(!). (Cf. Kuehn, M., op. cit., passim and Sass, Hans-Martin, "Postscriptum and References", in: Sass, Hans-Martin (ed.), *Selected Essays in Bioethics 1927-1934: Fritz Jahr*, Zentrum für Medizinische Ethik, Bochum, 2010, p. 25.)

<sup>3</sup> After the Second World War Königsberg "was ethnically cleansed of its German population, renamed Kaliningrad (after a thoroughly hateful Stalinist henchman), and became what it still is, an isolated western outpost of Russian culture." Wood, Allen W., *Kant*, Blackwell Publishing, Malden – Oxford – Carlton, 2005, p. 3.

<sup>4</sup> Cf. Barnstorff, Hermann, "The Rise of the German Universities", *The Modern Language Journal*, Vol. 23, No. 4, Jan. 1939, p. 285, and Shennan, Margaret, *The Rise of Brandenburg Prussia*, Routledge, London – New York, 1995, p. 5.

<sup>5</sup> Guyer, Paul, *Kant*, Routledge, London – New York, 2006, p. 16.

<sup>6</sup> Ibid.

<sup>7</sup> Cf. Shennan, M., op. cit., p. 43, and Gawthrop, Richard L., *Pietism and the Making of Eighteenth-Century Prussia*, Cambridge University Press, Cambridge, 1993, pp. 64–65.

Fritz Jahr was born in 1895, lived, and died in 1953 in Halle, a city in the south of Saxony-Anhalt and is located on the river Saale. As a new university place and protestant centre Halle got in direct rivalry with Königsberg. The University of Halle was founded in 1694, and was very successful: "the free spirit attracted the best teachers, of whom the philosopher and rationalist Christian Wolff<sup>8</sup> became the center."<sup>9</sup> With the tacit approval of the king Frederick himself "the first leader of the Pietists in Germany, Philipp Jacob Spener (1635–1705) (...) and his followers, August Hermann Francke (1663–1727), a theologian and orientalist, and the distinguished philosopher Christian Thomasius (1655–1728), established Pietism in the new university of Halle. Thomasius broke new ground by lecturing in German rather than Latin. In addition, by separating philosophy from theology he was to make Halle the leading centre for the new cultural thought in Protestant Germany."<sup>10</sup>

Königsberg and Halle are undoubtedly the two pillars of German culture, which is especially formed on the basis of Protestantism. Both towns were firm seats of pietism, a movement within Lutheranism (Protestantism), indeed they were rivals in creating the pietism's fundamentals of German culture.<sup>11</sup>

Kant was raised in pietism and Jahr himself was a protestant pastor. Having in mind the tradition which connects these two thinkers, these facts are not of little importance. Some authors, despite the historical discontinuities and unsuspected continuities, argue for the idea of the "long story" of German philosophy inside the framework of possibility of a German "national history of philosophy"<sup>12</sup>. Such framework connects Kant and Jahr, especially in terms of "characteristically Prussian ethos", which "first crystallized and gained wide spread acceptance during the reign of Frederick William I (1713-1740)"<sup>13</sup>, i.e. during the time of Kant's youth and maturation. This ethos "laid the basis for the subsequent influence of 'Prussianism' on the development of modern Germany"<sup>14</sup>, Germany of Fritz Jahr's time. It is important to bear in mind that this ethos "can be best understood in terms of the his-

<sup>8</sup> On Leibniz's recommendation Christian Wolff (1679–1754) "was appointed Professor of Mathematics in 1707, a position he held for sixteen years. Wolff was known as an exponent of Rationalism and he became a leading figure in the German Enlightenment." Shennan, M., op. cit., p. 65.

<sup>9</sup> Barnstorff, H., op. cit., p. 287.

<sup>10</sup> Shennan, M., op. cit., pp. 63–65.

<sup>11</sup> This rivalry was especially prominent after the founding of the University of Halle, which could be seen "as a continuation of the rivalry between Saxony and Brandenburg-Prussia, initiated by Frederick William, for regional supremacy and for leadership within German Protestantism as a whole." (Gawthrop, R., op. cit., p. 61.)

<sup>12</sup> Cf. especially Beck, Lewis White, *Early German Philosophy: Kant and His Predecessors*, The Belknap Press of Harvard University Press, Cambridge, 1969, pp. 1–15.

<sup>13</sup> Gawthrop, R., op. cit., p. i.

<sup>14</sup> Ibid.

tory of German ascetic Protestantism, especially Lutheran Pietist movement", which "emphasized a 'bornagain' conversion, followed by a highly disciplined life centered around 'doing good for others'."<sup>15</sup>

Kant and Jahr are both deeply enrooted in German culture and protestant tradition. It is important to be aware of such cultural continuum between them if we want to understand Kant's influence present in Jahr's writings.<sup>16</sup> Bearing this in mind, it is not so surprising that Jahr took the fundamental concept of Kant's ethics – the concept of imperative – to ground his vision of bioethics. The mentioned view based on "doing good for others" has perhaps had the greatest reflection and the most impressive formulation exactly in the concept of the imperative as the guiding law of human moral conduct.

## Kant's categorical imperative

If we want to understand what is contained in the concept of categorical imperative it is always the best to follow the Kant himself. Kant's work *Groundwork of the Metaphysics of Morals* is "nothing more than the search for and establishment of the *supreme principle of morality*, which constitutes by itself a business that in its purpose is complete and to be kept apart from every other moral investigation." (4:392<sup>17</sup>). Thus, we should focus on the presentation of this "complete business" and our main reference should be the *Groundwork*<sup>18</sup>.

At the beginning of the First section of the *Groundwork* Kant asserts: "It is impossible to think of anything at all in the world, or indeed even beyond it, that would be considered good without limitation except a *good will*" (4:393). However, "without the basic principles of the good will they [affects and passions, added: I.E.] can become extremely evil" (4:394), and we need some *a priori* (which means necessary and universal) rule of reason which could guide our will in moral conduct. These thoughts bring us to the concept of duty, which "*is the necessity of an action from respect for law*" (4:400). Acting out of duty is "acting with inner rational moral constraint, motivated solely by the thought of following a moral principle. The crucial claim is that we think there is something uniquely worthy of esteem about a person

<sup>15</sup> Ibid.

<sup>16</sup> Jahr himself often quotes Kant and other thinkers, which is one of the marks of the influence of his predecessors on his thoughts.

<sup>17</sup> Kant's writings are cited in the body of the text according to volume and page number in *Kants gesammelte Schriften*, edited by Königliche Preußische [now Deutsche] Akademie der Wissenschaften (Berlin, Georg Reimer [now Walter De Gruyter], 1902–). All translations are taken from Guyer, Paul – Wood, Allen W. (eds.), *The Cambridge Edition of the Works of Immanuel Kant*, Cambridge, Cambridge University Press, 1992ff.

<sup>18</sup> I will use abbreviated title further in text.

who fulfils their duty in the absence of (or even in opposition to) all other inducements of inclination or self-interest, solely out of respect for the moral law."<sup>19</sup> "But what kind of law can that be", asks Kant, "the representation of which must determine the will, even without regard for the effect expected from it, in order for the will to be called absolutely and without limitation?" (4:402). His answer is that the purely rational appeal of a universally valid practical principle is the only thing that could motivate us, and he gives the first formulation of what we may call the Formula of Universal Law<sup>20</sup>: "*I ought never to act except in such a way that I could also will that my maxim*<sup>21</sup> *should become a universal law*" (4:402). In this formulation there are implicitly contained all main ideas which he goes on to develop and it is the basis for his systematic exposition of the supreme principle of morality which takes place in the Second section of the *Groundwork*. In this section the crucial idea is the idea of categorical imperative as an articulation of the moral law.

Kant begins with the extensive theory of human agency. Shortly, for Kant we are "agents who are self-directing in the sense that we have the capacity to step back from our natural desires, reflect on them, consider whether and how we should satisfy them, and be moved by them only on the basis of such reflections. An inclination (or habitual desire we find in ourselves empirically) moves us to act only when we choose to set its object as an end for ourselves, and this choice then sets us the task of selecting or devising a means to that end."<sup>22</sup> For Kant, setting an end is the basic normative act. Many acts command us to perform an action as a means to some wanted end. Such command is stated in the form of hypothetical imperative. Hypothetical, because it articulates the needed means for some particular end, and imperative, because it is the command of reason requiring the agent to do something (e.g. If you want to end hunger, take some food).

But the fundamental principle of morality should be unconditionally valid and necessary true, thus the form of hypothetical imperative is inappropriate for moral guidance. Kant claims that only rational beings (including humans) have "the capacity to act *in accordance with the representation* of laws, that is in accordance with principles", while "everything in nature works in accordance with laws" (4:412).

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<sup>19</sup> Wood, Allen W., "The supreme principle of morality", in: Guyer, Paul (ed.), *Cambridge Companion to Kant and Modern Philosophy*, Cambridge University Press, Cambridge, 2007, p. 347.

<sup>20</sup> Kant scholars use this designation widely. There are other abbreviations used in Kantian scholarship which will be introduced below. For such usage see for example Wood, Allen W., *Kantian Ethics*, Cambridge University Press, Cambridge, 2008, pp. 66–67., Guyer, P., op. cit., pp. 191–207.

<sup>21</sup> Kant is very clear about the distinction between maxims, as the subjective principles of our volition, and laws, as the objective principles of it: "A *maxim* is the subjective principle of volition; the objective principle (i.e. that which would also serve as subjectively as the practical principle for all rational beings if reason had complete control over the faculty of desire) is the practical *law*." (4:402f)

<sup>22</sup> Wood, A. W., "The Supreme...", p. 348.

With this claim Kant opens the door for his arguments about rational beings as simultaneously free beings. Rational beings could only act according to principles which are not present in nature, as natural laws. Such principles are part of special, moral realm. Thus, fundamental principle of morality is presented to us in the form of "categorical imperative", because only such imperative is not based on some contingent ends (as is the case with hypothetical imperative) and gives a basis for unconditional and necessary validity. Categorical imperative "tells you what you must do independent of any end you might have."<sup>23</sup> In other words, "a moral imperative is *categorical* because its function is not to advise us how to reach some prior end of ours that is based on what we happen to want but instead to command us how to act irrespective of our wants or our contingent ends. Its rational bindingness is therefore not conditional on our setting any prior end."<sup>24</sup>

Kant then argues that:

When I think of a *categorical* imperative I know at once what it contains. For, since the imperative contains, beyond the law, only the necessity that the maxim be in conformity with this law, while the law contains no condition to which it would be limited, nothing is left with which the maxim of action is to conform but the universality of a law as such; and this conformity alone is what the imperative properly represents as necessary. (4:420–421)

And he further explicates the notions of "maxim" and "law" in a footnote:

A *maxim* is the subjective principle of acting and must be distinguished from the *objective* principle, namely the practical law. The former contains the practical rule determined by reason conformably with the conditions of the subject (often his ignorance or also his inclinations), and is therefore the principle in accordance with which the subject *acts*; but the law is objective principle valid for every rational being, and the principle in accordance with which he *ought to act*, i.e. an imperative. (4:420–421f)

To put it in a few words, Kant argues that human beings, as rational beings, are self-governing beings who should be guided by the moral law, and the only form of such law could be given in the form of categorical imperative. Such imperative articulates and expresses a universally valid moral law, on the basis of which we *ought to act*.

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<sup>23</sup> Guyer, P., op. cit., p. 184.

<sup>24</sup> Wood, A. W., *Kantian Ethics...*, p. 67.

"Kant actually formulates the categorical imperative in five different ways<sup>25</sup>, although he himself refers to only three."<sup>26</sup> For the purposes of this paper it is enough to follow these three main formulations. Allen Wood differentiates three main formulas of categorical imperative in *Groundwork* and various variants of them. Even though we shall focus on the three mentioned formulas, it is instructive to list all of them, with Wood's abbreviations and designation of each of them:

*FIRST FORMULA:*

FUL *The Formula of Universal Law*: "**Act only in accordance with that maxim through which you at the same time can will that it become a universal law**" (4:421; cf. 4:402); with its variant,  
FLN *The Formula of the Law of Nature*: "So act, as if the maxim of your action were to become through your will a *universal law of nature*" (4:421; cf. 4:436).

*SECOND FORMULA:*

FH *The Formula of Humanity as End in Itself*: "**So act that you use humanity, as much in your own person as in the person of every other, always at the same time as an end and never merely as a means**" (4:429; cf. 4:436).

*THIRD FORMULA:*

FA *Formula of Autonomy*: "the idea of *the will of every rational being as a will giving universal law*" (4:431; cf. 4:432), or "Not to choose otherwise than so that the maxims of one's choice are at the same time comprehended with it in the same volition as universal law" (4:440; cf. 4:432, 4:434, 4:438), with its variant,  
FRE *The Formula of the Realm of Ends*: "**Act in accordance with maxims of a universally legislative member for a merely possible realm of ends**" (4:439; cf. 4:433, 4:437, 4:438).<sup>27</sup>

I have emphasized three main formulas which could be taken as three standard formulations of categorical imperative. "Kant says that all three are formulations of 'the very same law,' but differ both 'subjectively' (in the way the law is presented to an agent)

<sup>25</sup> Cf. Wood, A. W., *Kantian Ethics...*, pp. 66–67., Guyer, P., op. cit., pp. 191–207., Wood, Allen W., "Kant's Formulations of the Moral Law", in: Bird, Graham (ed.), *A Companion to Kant*, Blackwell Publishing, Malden – Oxford – Carlton, 2006., pp. 291–292.

<sup>26</sup> Guyer, P., op. cit., p. 191.

<sup>27</sup> Cf. Wood, A. W., *Kantian Ethics...*, pp. 66–67; Wood, A. W., "Kant's Formulations...", pp. 291–292; Wood, A. W., "The Supreme Principle...", p. 358. Bold emphasis is mine.



and also in the aspect of the law that they present."<sup>28</sup> The mentioned aspects of categorical imperative are: "form", "matter" and "complete determination" (cf. 4:436-437).<sup>29</sup>

*The first formula of categorical imperative is related to "form" of practical law.* It gives just a formal condition for the possibility of such law. It "was derived from the concept of a maxim that is compatible with this kind of imperative, and the general form that such a maxim would have to have."<sup>30</sup> In Kant's words, "a *form* (...) consists in universality; and in this respect the formula of the moral imperative is expressed thus: that maxims should be chosen as if they were to hold as universal laws of nature". (4:436) For Kant, FUL/FLN provides to agent a formal condition for evaluating his maxims. It gives the agent condition for detecting if his maxim is "without contradiction", which means it could be willed as a universal law of every rational beings' conduct (FUL) with adequate regularity as if it were a law of nature (FLN). The first formula provides a test for permissibility of agent's willing of maxims: if the maxim can be universalised it is permissible to follow it.<sup>31</sup>

*The second formula is related to the "matter" of this law.* It informs us about conditions of cognitive application of the moral law. It "was derived from the concept of the substantive value (or the end) that could give us a rational ground to follow a categorical imperative."<sup>32</sup> In Kant's words: every maxim has also "a *matter*, namely an end, and in this respect formula says that a rational being, as an end by its nature and hence as an end in itself, must in every maxim serve as the limiting condition of all merely relative or arbitrary ends" (4:436). In FH Kant includes the most important feature of categorical imperative, i.e. the notion of "humanity" as an unconditional value which is the ground of his entire ethical enterprise. Thus, many scholars interpret this formula recently as the most significant one, from which all others derive their strength.<sup>33</sup> This formula is also the best answer to all of the so-called critics who object to Kant that his ethics is too formalistic. A. Wood provides the sharp answer to all such critics and it is important to bring in its fullness, because even to-

<sup>28</sup> Wood, A. W., "Kant's Formulations...", p. 294.

<sup>29</sup> Behind Kant's presentation of moral law through the aspects of form, matter and complete determination lies the Leibnizian doctrine of forming the concepts. For a fuller account of Kant's application of these logical assumptions to his concept of the moral law see Wood, A. W., "Kant's Formulations...", pp. 293-294, 303 and Wood, A. W., *Kantian Ethics...*, pp. 68-69.

<sup>30</sup> Wood, A. W., "Kant's Formulations...", p. 300.

<sup>31</sup> For a fuller account of the meaning and scope of the First formula see Wood, A. W., "Kant's Formulations...", pp. 293-298 and Wood, A. W., *Kantian Ethics...*, pp. 69-74.

<sup>32</sup> Wood, A. W., "Kant's Formulations...", p. 300.

<sup>33</sup> See for example Wood, A. W., "Kant's Formulations..." and Guyer, P., op. cit., Ch. 5.

day there are still critics who insist on this "formalistic" objection (even F. Jahr is taking this side, about which we will discuss below):

For example, Kant's entire approach to ethics has been (and still is) widely described as "formalistic". He has been criticized for not providing (or even for not allowing the possibility of) any substantive value lying behind the moral principle, or providing the rational will with any ground for being able to will one maxim, and not another, to be a universal law (or law of nature). The very concept of a categorical imperative has sometimes been rejected as nonsensical, on the ground that this concept precludes our having any substantive reason for obeying such an imperative. Schopenhauer, for instance, explained the alleged incoherence of Kant's thinking by attributing to him an ethics of divine command but without admitting a divine lawgiver to back up the command.

Such criticisms are obviated, however, at least in the form they are usually presented, as soon as we turn from Kant's first to his second formulation of the moral principle. For it deals explicitly with the "matter" of the principle, by which Kant means the "end" for the sake of which it is supposed to be rational to follow a categorical imperative. Kant's "formalism" applies only to the first stage of his development of the principle; it is complemented immediately by considering the principle from the opposite, "material" point of view, in which Kant inquires after our rational motive for obeying a categorical imperative, and locates this motive in the distinctive value that grounds morality, which he identifies with a kind of *end*.<sup>34</sup>

The only end which could give the "matter" to the moral law but without jeopardizing the apodictic validity of the moral law is some of substantive values, which is an end in itself (it is not merely means for any other end). For Kant, the rational being is the only candidate for an end which has an "absolute worth" (4:428): "Now I say that the human being, and in general every rational being, *exists* as an end in itself, *not merely as a means* to be used by this or that will at its discretion" (4:428). Kant provides a brief argument for assertion that "only 'humanity', understood in the technical Kantian sense of rational nature regarded as the capacity to set ends, can qualify as an end in itself: we value our own existence as an end in itself, but we

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<sup>34</sup> Wood, A. W., "The Supreme...", p. 352. At another place he stresses: "It is deplorably common to regard FUL and FLN (usually not clearly distinguished from each other) as the chief, if not the only, formulation of the moral law. Even some of Kant's most faithful defenders speak of them as 'The Categorical Imperative' (with capital letters) – as if there were no other, and no more adequate, formulations of the moral principle." (Wood, A. W., *Kantian Ethics...*, p. 69.)

do it so *rationaly* only insofar as we value the existence of other rational beings in precisely the same way."<sup>35</sup>

*The third formula is related to "complete determination".* "The third formula combines the conception of a law valid universally for all rational beings (in FUL) with the conception of every rational nature as having absolute worth [in FHE, added: I.E.], to get the idea of the will of every rational being as the source of a universally valid legislation."<sup>36</sup> In Kant's words, the one thing left is "*a complete determination* of all maxims by means of that formula, namely that all maxims from one's own lawgiving are to harmonize with a possible kingdom of ends as with a kingdom of nature" (4:436). By "realm of ends" Kant means "a systematic combination of various rational beings through communal laws", or "whole of all ends in systematic connection" (4:433). The third formula brings stronger conclusion and "justifies a correspondingly stronger conclusion about maxims, telling us not merely which ones are permissible and which not, but also which ones we have a positive duty to adopt because they are part of a system of universal moral legislation given by our own rational will."<sup>37</sup> In other words Kant "completely determinates" the meaning and scope of moral law by the third formulation, which articulates universality and necessity of taking all rational beings as interconnected by the obligation of mutual respect of every one of them toward other ones by taking them always (also) as ends in themselves. This special realm of universal moral legislation is exactly the realm of morality, which differentiates all rational beings from other natural living and non-living beings.

Even though this is just a sketch of Kant's articulation of the moral law, it should be sufficient demonstration of powerfulness and strength of Kant's grounding of "supreme principle of morality". This justificatory power should be kept in mind during reflection on other attempts of grounding morality, among which the Jahr's concept of bioethical imperative is a specific and original one.

<sup>35</sup> Wood, A. W., "Kant's Formulation...", p. 299.

<sup>36</sup> Ibid., p. 301.

<sup>37</sup> Ibidem. By "realm of ends" Kant means "a systematic combination of various rational beings through communal laws", or "whole of all ends in systematic connection" (4:433).

## Jahr's concept of bioethical imperative

We can turn to Jahr's concept of Bioethical Imperative<sup>38</sup> now. Jahr completely abandons Kant's criteria for forming a concept of practical law. He also does not speak in terms of universal and necessary validity. Instead, he makes a few short remarks on the idea of his Bioethical Imperative, without extensive theoretical justification (contrary to Kant's practice).

Hans-Martin Sass points out that Fritz Jahr in a few published articles is "in close discussion with Kant, extending the formal Categorical Imperative towards a more encompassing content-based Bioethical Imperative"<sup>39</sup>. Jahr cites Kant in a few articles before the presentation of his Bioethical Imperative, which states:

**Respect every living being on principle as an end in itself and treat it, if possible, as such!**<sup>40</sup>

The echo of Kant's second formula is obvious, but Jahr provides at least two very important changes. First, he calls for the extension of the application of practical law on *all living* beings. Second, he points out that following this law is an obligation whenever it is *possible* to follow it. Thus, the question is: can Jahr categorically demand such an imperative, and simultaneously keep the possibility of exceptions in following the law?

Jahr stands in critical relation to Kant, mostly looking on Kant's thoughts in negative light<sup>41</sup>, but he also appreciates some parts of his opus, especially his disapproval of unnecessary torturing of animals presented in *The Metaphysics of morals* (cf. 6:443). Jahr says about it further:

[S]enseless cruelty towards animals is an indication of an unrefined character becoming dangerous towards the human environment as well. Among other thinkers, philosopher Kant expressively has hinted at this fact of highest importance for social ethics, when in 'Metaphysische Anfangsgründe der

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<sup>38</sup> Writing 'Bioethical Imperative' in capital letters I'm trying even on the linguistic level to keep the essence of Jahr's idea which will be explained below.

<sup>39</sup> Sass, Hans-Martin, "European Roots of Bioethics: Fritz Jahr's 1927 Definition and Vision of Bioethics", in: Čović, Ante – Gosić, Nada – Tomašević, Luka (eds.), *Od nove medicinske etike do integrativne bioetike/From New Medical Ethics to Integrative Bioethics*, Pergamena – Hrvatsko bioetičko društvo, Zagreb, 2009, p. 22.

<sup>40</sup> Jahr, Fritz, "Bioethics: Reviewing the Ethical Relations of Humans towards Animals and Plants", in: Sass, H.-M. (ed.), *Selected Essays...*, p. 4; Jahr, Fritz, "The Relationship of Animal Protection and Ethics", in: *ibid.*, p. 8; Jahr, Fritz, "Three Studies on the Fifth Commandment", in: *ibid.*, p. 23.

<sup>41</sup> See for example Jahr, Fritz, "Egoism and Altruism: Two Basic Moral Problems, their Contradiction and Unification in Social Life", in: *ibid.*, pp. 12, 13; Jahr, F., "Three Studies...", p. 19.

Tugendlehre' ['Metaphysical first principles of the doctrine of virtue', added: I.E.] he calls the careful and compassionate treatment of animals a human obligation towards oneself.<sup>42</sup>

But the most direct critical relation to Kant is presented by the extension of his moral imperative. Jahr "extends Kant's moral imperative to all forms of life; but he modifies the inflexible categorical structure of Kant's model into a pragmatic and situational model of balancing moral obligations, rights and visions"<sup>43</sup>.

Jahr's thoughts concerning Bioethical Imperative are scattered through a few essays and he did not provide any systematic account of his Imperative. So it is very useful to use Hans-Martin Sass' attempt of providing a coherent reading and interpretation of Bioethical Imperative. He identifies at least six major points in Jahr's enterprise of expanding Kant's imperative:

- (1) *The Bioethical Imperative guides ethical and cultural attitudes and responsibilities in the life sciences and **towards all forms of life.*** (...)
- (2) *The Bioethical Imperative is **based on historical and other evidence** that 'compassion is an empirical established phenomenon of the human soul'. (...)*
- (3) *The Bioethical Imperative **strengthens and complements moral recognition and duties towards fellow humans in the Kantian context** and should be followed in respect of human culture and mutual moral obligations among humans. (...)*
- (4) *The Bioethical Imperative has to recognize, to steward, and to cultivate the struggle for life among forms of life and **natural and cultural living environments.*** (...)
- (5) *The Bioethical Imperative implements **compassion, love, and solidarity** with all forms of life as a **content-based principle** and virtue into the 'golden rule' and into the Kant's Categorical imperative, which are reciprocal and formal only. (...)*
- (6) *The Bioethical Imperative includes **obligations towards one's own body and soul as a living being.***<sup>44</sup>

Bioethical Imperative with such a wide scope gives to Hans-Martin Sass a reason to state that "Jahr develops his vision of bioethics as a discipline, a principle, and a vir-

<sup>42</sup> Jahr, F., "The Relationship...", p. 6.

<sup>43</sup> Sass, H.-M., "Postscriptum...", p. 24.

<sup>44</sup> Sass, H.-M., "European Roots...", pp. 22–25. Bold emphasis is mine.

ture". He stresses that the "Bioethical Imperative is a guide for ethical and cultural attitudes and responsibilities in the life sciences and towards all forms of life."<sup>45</sup>

He further emphasises that Jahr's Bioethical Imperative, as extension of Kant's formal Categorical Imperative, is a more encompassing content-based imperative. He turns our attention to the fact that "the 'sanctity' of life is the foundation of Jahr's 1927 Bioethical Imperative, while 1788 Kant named 'sanctity of moral law'<sup>46</sup> as the foundation of the Categorical Imperative."<sup>47</sup> Taking in consideration Jahr's critical stand towards Kant he concludes that "Jahr's imperative is content-rich; Kant's imperative allows himself the luxury of formality only."<sup>48</sup> On another place Sass states more sharply: "While Kant reserved his moral imperative to humans only kept it formal, Jahr's imperative encompasses all living beings and their interactions in order to present a flexible and pragmatic imperative, which takes the struggle for life as an essential part of all life into account."<sup>49</sup>

Even though Sass points out that Kant's imperative is unconditional and that Jahr's one is conditional, he is convinced that they have similar motivation:

But Jahr and Kant share the concept that ethics and bioethics are categorical in as far as they do not depend on reciprocity. For Kant the moral imperative is unconditional regardless of whether fellow persons reciprocate. For Jahr reciprocity cannot be expected from nonhuman forms of life, and unfortunately also not from every human person. For Kant and Jahr, it is human dignity, expressing itself in the dignity of the individual conscience, that calls for moral action and attitude, for compassion, and for integrating ethics and expertise.<sup>50</sup>

If these thoughts are even partially true, the question is: how could a Kantian take into consideration Jahr's views seriously, but at the same time not to jeopardize the stability and coherence of his ethical system?

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<sup>45</sup> Sass, Hans-Martin, "Asian and European Roots of Bioethics: Fritz Jahr's 1927 Definition and Vision of Bioethics", *Asian Bioethics Review*, Vol. 1, Issue 3, 2009, p. 188.

<sup>46</sup> Kant speaks about "holiness of the moral law" in his *Critique of practical reason*. (Cf. 5:82, 87.)

<sup>47</sup> Sass, H.-M., "Asian...", p. 188.

<sup>48</sup> *Ibidem*.

<sup>49</sup> Sass, H.-M., "Postscriptum...", p. 27.

<sup>50</sup> Sass, Hans-Martin, "Fritz Jahr's 1927 Concept of Bioethics", *Kennedy Institute for Ethics Journal*, 2008, Vol. 17, No. 4, p. 287.

Taking all these points into consideration, we could now ask: do these pose some challenges for Kant's ethical thought? We can ask further: if they do, which challenges are in question?

## Is there a challenge for Kant?

Kant would have had straightforward answers to all considerations, but the final question would be: are these answers satisfactory? We should see which would be the Kantian answer to all six features of Bioethical Imperative listed above.

We can start with the last – sixth – consideration. Kant would agree with Jahr that there are obligations of beings toward themselves, but exclusively on the ground of rationality. For Kant, rational beings exclusively have obligations towards themselves, because they only can be moral agents. Ground for this claim is located in Kant's theory of rationality and freedom, where those two concepts are taken as two sides of the same coin.

This is closely related to the first point. Jahr demands extension of moral obligations on every living being. As said, Kant strongly argues for the thesis that just rational beings could be moral agents. Jahr's advocates should firmly justify this demand, which does not necessarily have to be in contradiction with Kant's imperative, but substantially upgrade it. The justification of non-anthropocentric, more precisely bio-centric ethics is still needed.<sup>51</sup>

Jahr is going further in the fourth point: he advocates for extension of moral obligations on all natural and cultural environment. This point is even harder to justify because although we can find some basis in arguing for obligations toward all living beings, there is much harder to find such basis for a non-living matter.

Jahr's guidelines for justification of mentioned extension of the ethical imperative are contained in the second and the fifth point. The second point suggests that empirical facts in various cultures (customs and practices) provide solid bases for the bioethical imperative. The fifth point indicates that many values should be included in the ethical imperative. Kant is clear about these two points. Against the first, he argues that there are no empirical sources for practical law, because it has its seat exclusively in reason and *a priori* reasoning. Against the second, Kant argues that there are only two absolute values, which can be the basis for categorical nature of practi-

<sup>51</sup> For a one way of criticism of non-anthropocentric ethics, as the ones which lead in absurd positions see for example Čović, Ante, "Biotička zajednica kao temelj odgovornosti za ne-ljudska bića", in: Čović, A. – Gosić, N. – Tomašević, L., op. cit., pp. 33–46.

cal law: "The only things which are good in themselves and thus of absolute worth are a good will and a person."<sup>52</sup>

The third point is the most interesting. It suggests that Jahr does not advocate for the cancellation of Kant's imperative, but just for its upgrading and extension of his scope. This claim, as a postulate, has legitimate position in calling every Kantian ethics to provide firm grounds of Bioethical Imperative in Jahr's sense.

At the end, three very important points should be noted. First, Kant's categorical imperative, as we have seen above, is not at all formal as Jahr and other critics assume. Kant provides a firm material basis for his moral law in the form of humanity as the substantive value. It is misleading to read Kant as a formalistic in the articulation of his moral imperative.

Second, Jahr is starting from the results of (empirical) sciences of his days<sup>53</sup> to give a basis for his arguments in favour of the Bioethical Imperative. Kant would never have accepted such methodology. For him, the "supreme principle of morality" can be determined exclusively *a priori*, because the practical law could not be based on the contingent empirical truths. Moral imperative should have its seat in reason alone, because this is the only way of securing its universality and necessity.

Third, Kant's categorical imperative is, as its name says, a categorical demand. When the practical law is in question, the only acceptable form is categorical imperative. Jahr's Bioethical Imperative leaves space for exceptions. It is hypothetical in its form.

These three final remarks are crucial in comparison of Kant's and Jahr's thought. They form sufficient reason to rule out, from Kantian standpoint, the Bioethical Imperative as a possible constitutive principle<sup>54</sup> of our morality. There is eventually some possibility for its justification as a regulative principle of our moral conduct.

Jahr does not provide thorough theoretical justification for his Bioethical Imperative, but he poses, on the basis of new cognitions about living world, reference to Eastern wisdom and some intuitions of his contemporaries, a challenging question for Kantian ethics: could Kantian ethics provide a justification for our responsible behaviour to other living beings? This challenge could be formulated differently: can we find some guidelines inside the Kantian philosophy to justify bioethical imperative?

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<sup>52</sup> Caygill, Howard, *A Kant Dictionary*, Blackwell Publishing, Malden – Oxford – Carlton, 2005, p. 411.

<sup>53</sup> Cf. Sass, H.-M., "Postscriptum...", pp. 25, 26.

<sup>54</sup> Kant's categorical imperative is constitutive in the sense that it defines moral agents as rational/free beings, and *vice versa*: rationality and freedom are conditions for morality. Thus, categorical imperative is in the essence of rational being as practical being.



## Conclusion: possible Kantian answers to Jahr's objections

Kantian scholars could reject Jahr's Bioethical imperative on the basis of insufficient justification. But, Jahr's thought, although not precise and thorough as Kant's thought, could be a valuable guiding thread for a kind of bioethical re-reading of Kant's philosophy. Such bioethical re-reading of Kant is simply necessary today in the epoch of bioethics<sup>55</sup> and it is a challenge for every Kantian who tries to find a true place of Kant's thought in struggling with and answering to current bioethical issues. Having in mind the global environmental deterioration and endangering all life on earth<sup>56</sup> Jahr's ideas could be really seen as a "cultural and moral innovation for the 3<sup>rd</sup> millennium"<sup>57</sup>.

I can identify one possible way of trying to accomplish such project of re-reading of Kant. It starts with Kant's philosophy of biology and on the grounds of teleological power of judgment tries to give *a priori* ground for establishing a kind of Kantian ecology<sup>58</sup>, which could be guided with bioethical imperative as its main regulative principle. In such reading, Bioethical Imperative would perhaps never accomplish the strength of constitutive principle of reason, but could take place of regulative principle of reason which could be an excellent supplement to the constitutive force of the categorical imperative in determination of our moral conduct.

To conclude, I see the central strength of Jahr's thought, inside Kantian horizon, as a stimulator of a new bioethical re-reading of Kant's, not just ethical, but whole philosophical heritage.

<sup>55</sup> Cf. Čović, Ante, "Integrativna bioetika i pluriperspektivizam" ["Integrative bioethics and pluriperspectivism"], in: Valjan, Velimir (ed.), *Integrativna bioetika i izazovi suvremene civilizacije*, Bioetičko društvo u BiH, Sarajevo, 2007, p. 71–72; Čović, Ante, *Etika i bioetika: Razmišljanja na pragu bioetičke epohe*, Pergamena, Zagreb, 2004, passim.

<sup>56</sup> Cf. for example Cifrić, Ivan, *Bioetička ekumena: Odgovornost za život susvijeta*, Pergamena, Zagreb, 2007., passim (especially pp. 30–31).

<sup>57</sup> Sass, Hans Martin, "Bioethics as a European Innovation. Fritz Jahr's 1927 Concept of Bioethics", in: Gimmler, Antje – Holzinger, Markus – Knopp, Lothar (eds.), *Vernunft und Innovation: Über das alte Vorurteil für das Neue. Festschrift für Walther Ch- Zimmerli zum 65. Geburtstag*, Wilhelm Fink, Paderborn, 2010., p. 369.

<sup>58</sup> An attempt of providing such rereading of Kant is given in: Eterović, Igor, "Kantova teleologija kao podloga orijentiranju u ekologiji" ["Kant's Teleology as a Basis for Orientation in Ecology"], *Filozofska istraživanja* 122, Vol. 31, No. 2, 2011, pp. 299–309.

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