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## Comments on Claudio La Rocca's "Kant and the Problem of Conscience"

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Just like conscience itself, Kant's conception of conscience poses problems, and in his Mary Gregor Lecture Claudio La Rocca tackles them elegantly and incisively. There is not much I can do in the short time assigned to me; so let me just highlight a few features of what I take to be Kant's theory that I do not see clearly reflected in the lecture. I am curious to see what Claudio La Rocca makes of them.

1. Kant's conception of conscience is more positive than Claudio La Rocca is prepared to admit. Before the act, conscience raises questions about proposed courses of action. After the act, conscience at times condemns what we have done. But both prospective and retrospective conscience can declare our acts legitimate. What we are about to do can be right; it is possible that we know what we have done to be permissible. Particularly with a view to the latter we speak of a 'clear' or 'clean' conscience. This does not as such amount to a positive sense of fulfilment or satisfaction because it satisfies none of our inclinations (*that* would conjure up the spectre of eudaimonism). We merely escape a negative verdict (*pangs* of conscience). (In that respect Claudio La Rocca's pessimism is justified.) Doing the right thing merely leads to a sense of moral or intellectual contentment (cf. *Critique of Practical Reason* V 118.1).

2. I am not sure whether Kant's conception of conscience – presumably in its prospective or probing capacity – “mainly concerns the reflective relation of the moral subject with his beliefs” (CLR). Its primary task seems to be that of relating abstract and general commands of reason to concrete cases; for that we need to investigate matters of fact. The book on *Religion* contains the following passage:

“It is a moral principle that requires no proof: one ought to venture *nothing that runs the danger that it might be wrong* [*unrecht*] (quod dubitas, ne feceris! Pliny). The *consciousness* that an action *that I want to undertake* is right [*recht*] is thus unconditionally my duty. Whether an action in general is right or wrong is judged by the understanding, not conscience. And it is not absolutely necessary to know of all possible actions whether they are right or wrong. But with respect to the action that I want to undertake I must not only judge, and be of the opinion, but also *be certain* that it is not wrong [*nicht unrecht*], and this requirement is a postulate of conscience that is opposed to *probabilism*, i.e. the principle: that the mere opinion that an action may well be right is already sufficient for undertaking it.” (VI 185.23–186.9)

In *Vigilantius*, Kant similarly says that the judgement of conscience concerns a *factum* (a deed? matters of fact that would, in conjunction with a law, justify a deed? we have, *Vigilantius* tells us, a duty

to investigate the latter, called *Umstände*, 'circumstances'), whereas the judgement of the understanding relates to a general proposition (XXVII 614.31–32).

Conscience connects general rules with what *I* want to do (or have done). That is why it is a kind of practical apperception. In the *Groundwork's* second example, the agent "still has enough conscience to ask himself: is it not impermissible and contrary to duty to help oneself out of need in such a way?" (IV 422.19–20) – namely by a false promise? This would explain why conscience is declared a precondition of all duties in the Doctrine of Virtue (VI 400–401 and, particularly clearly, VI 406–407).

3. Kant was more optimistic about the certainty of at least some kinds of moral cognition than Claudio La Rocca makes it seem. The key to understanding Kant's position is this. In keeping with the juridical metaphor of the *court* of conscience, conscience concerns itself with the legality of action in the sense that they do not violate *strict* or *perfect* duty. (Let us bracket the question whether there are juridical duties to oneself and focus on strict duties to others, including *equity*, which must be decided in the internal court of conscience.) This point is much clearer in the original than in (standard English) translation(s).

So, in the *Religion*, Kant does not see conscience as a guide to the rightness and wrongness of actions in general (actions conforming or not conforming to duty). Rather, it can serve as a guide with regard to duties like the one an inquisitor – in Kant's view *indubitably* – has towards someone who has not broken the just laws of the state (a "good citizen", VI 186.23–24): the duty not to kill him. Vigilantius uses the word *Rechtmäßigkeit*, i.e. legality. Prohibitions of strict duty are so clear that no evidence can be made to bear against it. For instance, it is Kant's view that the conscientious examination of all relevant facts can never substantiate the position of the Roman Church in the late fifteenth century, that someone should be put to death on account of his heretical beliefs. Revelation is uncertain, as are human exegetical endeavours. By contrast, the principle that no innocent person must be put to death is apodictically certain.

As a consequence, the formal infallibility of conscience – I know whether I have examined the question of permissibility conscientiously – turns into a substantive kind of infallibility with regard to certain prohibitions (omissions of certain action types). I can be sure, Kant argues, whether I have pursued the question of permissibility to my subjective satisfaction – and he assumes that in some cases I never will. Either I reach the conclusion that the action is impermissible; or I do not, at any rate, reach the wholehearted conclusion that it is permissible. It is impermissible in either case; and I am aware of it, no matter whether my understanding, relying on Church or positive law, comes to a different conclusion. It is this certainty in matters of strict duty (to others) that, among other things, allows Kant to say that the Doctrine of Right does not need either casuistry or a doctrine of method (see VI 411).

Relatedly, I take the lack of transparency of our moral selves to concern our *maxims* only, not the *prescriptions* issued by reason. What we ought to do is always reasonably clear; but even if we act accordingly, we can never be certain whether we do so for the right kind of reason. Conscience may or may not have much to say about this latter question.