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DERIVING DUTIES: FICHTE'S ALTERNATIVE TO KANT

Abstract

In this paper, I interpret and evaluate Fichte's criticisms of Kant's methods of deriving and systematizing ethical duties in *The System of Ethics* (1798), as well as the alternatives that Fichte proposes to Kant's methods. In short, Kant derives ethical duties using his Formulas of Universal Law (FUL) and Humanity (FH), and he systematizes the resulting duties into four classes structured by the distinctions between duties to oneself and to others, on the one hand, and perfect and imperfect duties, on the other hand. Fichte, however, accepts FH as a principle for specifying some duties to others but denies that FH captures our duties to or toward ourselves, and he rejects FUL as a positive criterion of duty altogether. In place of Kant's methods, Fichte derives ethical duties through reflection on the conditions of being a self and a moral agent, where these conditions include continuous, reciprocal, and formally free interaction between one's intellect and body, the sensible world, and other rational beings; and he replaces Kant's system of classifying duties with two new distinctions between conditioned and unconditioned duties, on the one hand, and universal and particular duties, on the other. I argue that Fichte's alternative to Kant's approach to deriving and systematizing duties results in a more intuitive and streamlined way of specifying many of the same duties that Kant recognized, and that Fichte's departures from Kant are well-motivated from within Kant's own framework.

Keywords: Fichte · Kant · Kantian · ethics · duties

It is well known that Kant derives ethical duties using his Formulas of Universal Law (FUL) and Humanity (FH), and that he systematizes the resulting duties into four classes structured by the distinctions between duties to oneself and to others, on the one hand, and perfect and imperfect duties, on the other hand. It is less well-known than it should be, however, that Fichte, in his 1798 *System of Ethics* (SE), accepts FH as a principle for specifying some duties to others but denies that FH captures our duties to or toward ourselves, and that he rejects FUL as a positive criterion of duty altogether. In place of

these methods, Fichte instead derives ethical duties through reflection on the conditions of being a self and a moral agent (in his terms, a tool of the moral law), where these conditions include continuous, reciprocal, and formally free interaction between one's intellect and body, the sensible world, and other rational beings; and he replaces Kant's system of classifying duties with two new distinctions between conditioned and unconditioned duties, on the one hand, and universal and particular duties, on the other – the latter class being largely Fichte's own invention. In this paper, I interpret and evaluate Fichte's criticisms of Kant's methods of deriving and systematizing ethical duties in SE, as well as the alternatives that Fichte proposes to Kant's methods. I argue that Fichte's alternative to Kant's approach to deriving and systematizing duties results in a more intuitive and streamlined way of specifying very many of the same duties Kant recognized, even though Fichte rejects some of Kant's best-known ideas, and moreover that Fichte's departures from Kant that I discuss here are well-motivated from within Kant's own framework.

I. Kant appeals to FUL and FH to specify ethical duties, suggesting in the *Groundwork* (G) that at least some of the same duties can be derived from either formula of the categorical imperative (4:421ff., 429ff., 436). In his late work *The Metaphysics of Morals* (MM), which was published after Fichte developed the material for SE but a year before SE itself was published, Kant again identifies FUL as the principle of all duties (6:226, 376) and uses it to explain some specific duties (6:393, 451, 453) but says that FH is also required to specify ethical duties of virtue, as opposed to duties of right (6:380f., 389, 395. See also 6:434f., 462). Fichte also adopts two methods for deriving duties in Part III of SE, the first of which he explicitly compares to FUL and the second to FH. I will discuss Fichte's first method in this section and his second method in the next section.¹

1 In *Fichte's Moral Philosophy* (Oxford, 2020), Owen Ware also characterizes Fichte as "offering two derivations of moral content in the *System of Ethics*" (145). But what I will go on to describe as Fichte's first method of deriving duties corresponds in the text of SE to Ware's second derivation of moral content, and he does not distinguish what I call Fichte's second method. Ware takes Fichte to begin deriving duties much earlier in SE than I do, because he attributes to Fichte a "primitive reciprocity in the very act of desiring" that underlies the original drive and in relation to which the content and end of the moral law are specified (93. See also 180). My divergence from Ware on this point goes beyond the scope of this paper, but Ware seems to read Part II of SE as developing a theory of drives *independently* of the account developed in Part I of the moral law as the law of self-sufficiency. It is not clear to me what reason Fichte is then supposed to have, on Ware's reading, for taking his theory of drives to be true of us. On my reading, however, Fichte's argument in Part II does not proceed independently of Part I but rather develops a theory of drives that *would* have to be true of us *if* it were possible for us to conform fully to the moral law of self-sufficiency (and that also finds some phenomenological support from reflection, which is not however sufficient on its own to establish its truth), on the model of Kant's theory of freedom and his account of the incentives of pure practical reason in chapter III of the *Analytic of the Critique of Practical Reason*. In other words, Fichte's original drive expresses an ethical ideal rather

Fichte develops his first method of deriving duties mainly in §18 of SE. In Fichte's words, this method is to "provide a complete presentation of the conditions of I-hood and show how these conditions are related to the drive for self-sufficiency" (IV, 212).² Fichte identifies three such conditions of I-hood: 1) having a body, 2) having a power of reflection or being an intellect, and 3) being one individual among many. Fichte uses this method to derive duties corresponding to each of these three conditions of I-hood, and then he turns to discussing the relationship between this method and Kant's *FUL*.³

The duties Fichte derives from the first two conditions of I-hood, namely body and intellect, correspond to what Kant calls "a human being's imperfect duties to himself [...] to develop and increase his **natural perfection**" (MM, 6:444).⁴ In *G* Kant derives this type of duty from both *FUL* and *FH* (4:422f., 430), and in *MM* he uses language from both formulas as well (6:444ff). While Kant mentions duties to cultivate "*powers of spirit*," "[*p*]owers of soul," and "*powers of the body*" in this context, Fichte lumps the first two of these powers together under the rubric of intellect (6:445). For Fichte, the duty to cultivate one's body includes the following three requirements: a) that "our body [...] absolutely may not become an object of enjoyment for enjoyment's sake," b) that "the body ought to be cultivated in a manner that will make it suitable for all possible ends of freedom," and c) that "every enjoyment that cannot be related, with sincere conviction, to our efforts to cultivate our body in a suitable manner is impermissible and contrary to the law" (IV, 216). These three requirements are related to one another as a) negative, b) positive, and c) limitative moral laws, so that c) combines both a) and b) (IV, 218). Kant explicitly articulates b) (MM, 6:444f.) but does not explicitly articulate a) or c) as requirements falling under the rubric of duties to cultivate one's body. Nevertheless, one could argue in the following way that

than a primitive wholeness known already to be true of our nature. In any case, I do not think Fichte derives the content of ethical duties until Part III of SE.

- 2 Quotations from Fichte are taken from *The System of Ethics*, edited by Daniel Breazeale and Günter Zöllner (Cambridge, 2005), except where modifications are noted. References are to volume IV of *Fichte's Werke*, edited by Immanuel Hermann Fichte (De Gruyter, 1971, originally 1845/46). References to this German edition are printed in brackets in the English translation by Breazeale and Zöllner.
- 3 His first method of deriving duties is related to Fichte's ambitious attempt in Part I of SE to derive the moral law itself from the essence of I-hood, but it does not actually depend on that attempt being successful. If Kant would not agree with Fichte's deduction of the moral law from the essence of I-hood, then surely Kant would agree that being an I is nevertheless a condition of obeying the moral law. Fichte might justifiably think that Kant should agree with him that we have duties to preserve and promote what Fichte calls the conditions of I-hood, even though Kant does not adopt this principle as a method for specifying what duties we have.
- 4 Quotations from Kant are taken from *Practical Philosophy*, edited by Mary J. Gregor (Cambridge, 1996); and *Religion and Rational Theology*, edited by Allen Wood and George di Giovanni (Cambridge, 1996). References are to volume and page numbers of the *Akademie* edition, which are printed in the margins of the Cambridge volumes.

Kant is committed to a) and c) as well. Kant does explicitly hold that one's own happiness or enjoyment is not a morally necessary end or an end that is also a duty (MM, 6:385f., 388; G, 4:415ff). Moreover, Kant claims in the *Critique of Practical Reason* (CPrR) that the end of "complete conformity of dispositions with the moral law" cannot be achieved in this life but requires "endless progress toward that complete conformity" (5:122). While this end of "holiness" remains unachieved, then – that is, at any time in a human life – diverting oneself away from endless progress toward it by instead pursuing one's own happiness as an end would be contrary to duty. Indeed, Kant later incorporates this very conclusion into his account of ethical duties of virtue in MM, which include the duty to cultivate one's natural perfection. This duty, Kant says, is "wide and imperfect," in the sense that individual people may decide differently how and in what proportion to develop their powers of body and intellect, depending on whether they take up a "trade, commerce, or a learned profession" (6:445f). But the latitude afforded by this duty to adjust the proportions in which one aims to develop one's natural powers to the profession one has chosen in order to be "a useful member of the world" is not to be confused with license to pursue one's own happiness as an end instead (6:446). It is rather to be taken, Kant says, "only as permission to limit one maxim of duty by another" (MM, 6:390). Thus, there are solid Kantian grounds for Fichte's conclusion that we have an ethical duty a) never to pursue "enjoyment for enjoyment's sake," even though Fichte departs from Kant's presentation by associating it with the duty to cultivate one's body (IV, 216). And if Kant is committed to both a) and b), then Fichte might well infer that he should accept c) as well.

Fichte uses the third condition of I-hood, individuality, to derive an ethical duty to follow rules of right, retracing in some respects arguments from his *Foundations of Natural Right* (FNR), published two years earlier (before MM), on what Fichte regards as the higher philosophical level of ethics (IV, 218). Fichte argues that "[i]t is a condition of self-consciousness, of I-hood, to assume that there is an actual rational being outside of oneself," from which he infers that "I am not allowed to be self-sufficient at the expense of the other's freedom," (IV, 221) and indeed that "I am required [...] to limit myself every time I act freely, thus keeping open the possibility that other possible free beings might act freely as well" (IV, 223). The rules that require me to limit my freedom by the freedom of others are the rules of right, which Fichte details in FNR. So, the ethical duties Fichte initially derives by his first method are to follow rules of right and some purely ethical laws regarding one's own body as well as theoretical reflection.⁵

5 The duties Fichte derives from intellect as a condition of I-hood are: (negative) not to limit all theoretical inquiry to the pursuit of specific goals, (positive) to "cultivate your power of cognition as much as you are able," and (limitative) to "refer all of your reflecting to your duty" (IV, 218). Kant articulates the positive duty at MM, 6:444f. The negative duty is implied by Kant's claim in *What is Enlightenment?* that "in the public use

At this point in SE, Fichte poses another antinomy whose resolution leads into his discussion of Kant's FUL and then to deriving more duties by this first method, after further reflection on individuality as a condition of I-hood. The antinomy is that the moral law requires that I strive for absolute or *limitless* self-sufficiency, but reflection on individuality as a condition of I-hood has yielded the conclusion that I ought to *limit* my striving for self-sufficiency by rules of right that protect the freedom of others. The moral law, as Fichte puts it, thus seems to command that I both do and do not subordinate everything that limits me to "my absolute final end" (IV, 230).

Fichte's resolution of this antinomy is that we must "presuppose that all free beings necessarily share the same end," namely the "self-sufficiency of all reason as such" (IV, 230f). This is so, Fichte says, because "it is certainly a necessary feature of I-hood that each I is an individual – but only that it be an individual as such or in general, not that it be the determinate individual A or B or C, etc." (ibid). The goal we share of "the self-sufficiency of reason as such or in general" does not refer to any specific, determinate individuals, from which Fichte infers that there can be no rational ground for preferring my own self-sufficiency to that of any other person: "What I will is morality as such; it does not matter in the least whether this is *in* me or is *outside* me" (IV, 232). This implies, for Fichte, that I have just as much reason to care that others act morally as that I myself act morally: "If the wish for universal morality is my ruling wish, as it surely ought to be, then I absolutely must wish to abolish any use of freedom that violates the moral law" (IV, 233). But how should I act on this wish? Rules of right require me "to preserve the external freedom" of others and prohibit me from directly influencing others' "physical behavior," while it is "the formal condition of all morality" that "each person ought to act purely and simply in accordance with *his* conviction" concerning morality (ibid). Fichte concludes that, whenever my practical convictions differ from those of other people, I have a duty to seek to convince them of my convictions, and they likewise have a duty to seek to convince me of their convictions, so that we "must [all] seek to make our own judgment harmonize with that of the other[s]" (ibid).

It is in this context that Fichte comments explicitly on Kant's FUL. Fichte writes:

We are all supposed to act the same way. This is the reason for the Kantian proposition, Act in such a way that you could think of the maxim of your will as a principle of universal legislation. [...But] Kant's proposition only talks about the *idea* of an agreement and by no means about any *actual* agreement. We will see that this idea has real use, that one ought to seek to realize this idea of agreement and must, to some degree, act as though it were realized. Moreover, this proposition

of his reason [one] enjoys an unrestricted freedom to make use of his own reason and to speak in his own person" (8:38). I will discuss this below.

[FUL] is purely *heuristic*. I can very well and very easily employ it as a test to determine whether I might have erred in my judgment concerning my duty. It is, however, by no means *constitutive*. It is by no means a principle, but only a consequence of or an inference from a true principle, that is, a consequence of the command concerning the absolute self-sufficiency of reason. The relationship in question is not that something ought to be a maxim of my will because it is a principle of universal legislation, but conversely, because something is supposed to be a maxim of my will it can therefore also be a principle of a universal legislation. The act of judging begins purely and simply with me. (IV, 233f.)

In this passage Fichte affirms the usefulness of FUL as a defeasible negative criterion of duty: I might (but might not) have erred in my judgment concerning my duty if it is forbidden by FUL, because any duty could be willed as a universal law. But on the other hand, not everything that can be willed as a universal law, or on which everyone can agree, is *ipso facto* a duty. On these grounds Fichte rejects FUL as a positive criterion of duty. Employing reasoning that recalls Plato's *Euthyphro*, Fichte claims that what makes something a duty is not that everyone agrees it's a duty; but rather everyone should agree that something is a duty only if and because of the prior fact that it is one, for reasons independent of either actual or ideal agreement. These independent reasons stem from "the command concerning the absolute self-sufficiency of reason." Fichte is not criticizing the basic framework of Kant's ethical theory here but only Kant's use of FUL as a principle for deriving duties. He is claiming that his own first method of deriving duties from conditions of I-hood captures the spirit of Kant's ethics better than Kant's method of deriving duties from FUL.

Fichte also remarks here on what he thinks FUL gets right: we are all supposed to act in the same way, and we should both seek to realize the idea of agreement and, to some degree, act as though it were already realized. These remarks, along with Fichte's immediately preceding resolution of the antinomy with the claim that everyone shares the same end of the self-sufficiency of reason as such or in general, suggest that he may be thinking here of Kant's Formula of a Kingdom of Ends (FKE), which says that "all maxims from one's own lawgiving are to harmonize with a possible kingdom of ends" (4:436), understood as "a systematic union of various rational beings through common laws" that "abstract[s] from the personal differences of rational beings as well as from the content of their private ends" (4:433). For Kant, FKE presents the ideal of agreement that one ought to seek to realize, and Kant describes it as indeterminate just as Fichte describes his goal of the self-sufficiency of reason as indeterminate. Fichte's claims that there can be no rational ground for self-preference, and that I have just as much reason to care that others act morally as that I myself do, are thus well-grounded in Kant's FKE.

Fichte's claims that we should seek to convince others of our practical convictions in order to realize this idea of agreement, and that to some degree we should act as if it were already realized, also have Kantian credentials. In *What is Enlightenment?* (E), published a few months before G, Kant defends what he calls "the freedom to make *public use* of one's reason in all matters," which he defines as "that use which one makes of it *as a scholar* before the entire public of the *world or readers*," as opposed to its "private use [...]" in a certain *civil* post or office" (8:36f). Although the context of E mostly concerns right and Kant does not explicitly articulate an ethical duty to make a public use of one's reason, this is implied by his claims that "[t]he *public* use of one's reason [...] alone can bring about enlightenment" or thinking for oneself, and that "a rational valuing of one's own worth" calls "each individual to think for himself" (ibid). What one does in using reason publicly, on Kant's account, is to "argue" with "unrestricted freedom" about whatever one disagrees with on any topic that concerns the "whole commonwealth" or even "the society of citizens of the world" (8:37f). Kant's central example is of a clergyman who uses his reason publicly, "as a scholar," to argue about what he believes to be "erroneous" in "the creed [*Symbol*] of the church he serves" and to suggest "a better arrangement of the religious and ecclesiastical body" (8:38), but he emphasizes that the public use of reason can also extend to military matters (8:37), legislation (8:41), and anything else since it is unrestricted. Fichte seems to suggest that these claims from E are part of the meaning of FUL,⁶ and that although Kant was mistaken about FUL being a positive criterion of duty, these claims from E (i.e. what FUL gets right) can nevertheless be derived from further reflection on the way individuality as a condition of I-hood relates to the drive for self-sufficiency. The self-sufficiency of reason as such or in general is possible only if each person seeks to progress toward the goal of "unanimous agreement," which Fichte calls "a characteristic feature of our presentation of morals" (IV, 236). It is therefore an ethical duty to enter into dialogue with everyone "with whom we are in any way acquainted," aiming to convince or to be convinced by them through a Kantian public use of reason, with the goal of "producing communally shared practical convictions" (IV, 235f). Since progressing toward this goal in turn requires that "everyone starts from the same [currently] shared principles," which Fichte – borrowing these terms from Kant – calls the *Symbol* of a "*church* or an ethical commonwealth," Fichte thus derives a further duty to proceed in dialogue with others from

6 Kant himself may suggest as much in his *Orientation* essay, where he links freedom of thought to the freedom to publicly communicate (8:144) and then interprets thinking for oneself in terms of a universalizability test (8:146n). See also *Critique of Pure Reason* A752/B780, where Kant says that "the freedom to exhibit the thoughts and doubts which one cannot resolve oneself for public judgment" is an "original right of reason." While the language of right here is apparently metaphorical, note that by interpreting Kant's right of public reason as part of the content of FUL Fichte converts a permission to express one's thoughts into a duty to seek to convince others of one's thoughts.

the shared principles or symbol on which they already agree (IV, 243).⁷ There can be no duty to believe what others believe simply because they believe it, however; so “it is by no means a duty of conscience to believe inwardly in this same symbol” (IV, 244). But since it is nevertheless “a duty to communicate [one’s] convictions in order thereby to make them publicly useful,” there must be some forum with “no possible symbol, no plumb line, no restraint,” in which one is allowed “the absolute and unlimited communication of thought” even at odds with the currently accepted symbol (IV, 249ff). This is Fichte’s “*learned public*” or “*the republic of scholars*,” membership in which is not a duty for everyone but only for those who choose a scholarly profession or estate (IV, 248).

It is important to see that Fichte’s argument here is not contractualist in form.⁸ Recall that his criticism of FUL is that it mistakenly tries, and fails, to derive ethical duties from an ideal agreement. Fichte would obviously be making the same mistake if he tried to derive ethical duties from an ideal agreement of the church or learned public. Trying to derive ethical duties from the actual agreement of either body would fare even worse, because this move would be equally susceptible to the *Euthyphro* objection Fichte delivers against FUL, and moreover Fichte agrees with Kant that the content of the symbol can and must always be able to change as communally shared practical convictions progress (SE, IV, 243; E, 8:38f.), while the learned public has no symbol or shared principles. By contrast, the content of the ethical duties which Fichte derives by his first method of reflecting on conditions of I-hood, and which he further expands and systematizes using his second method, does not change over time.⁹ Fichte has identified three such classes of duties by the end of §18: 1) ethical laws concerning one’s own body and theoretical reflection, which are derived from the body and intellect as conditions of

7 Kant and Fichte use the same German word, *Symbol*, which is translated differently into English as symbol or creed in the editions I quote from here. In *Religion Within the Boundaries of Mere Reason*, Kant says that it is a duty to establish or to join an “ethical community” (6:94), which he identifies with the church (6:101).

8 Here I disagree with the contractualist interpretation of Fichte’s ethics defended by Allen W. Wood in *Fichte’s Ethical Thought* (Oxford, 2016), according to which “Fichte’s thesis [is] that moral truth consists in universal rational agreement” (208), and “the true criterion of morally binding ends and principles would be the actual rational agreement on them by all rational beings, resulting from a process of communication” (213). In *Fichte’s Ethics* (Oxford, 2018), Michelle Kosch criticizes Wood’s contractualist reading on similar grounds (22). It is not clear why Wood claims that Fichte derives duties from actual agreement when he also recognizes that Fichte derives duties by reflecting on conditions of I-hood (Wood 2016, 185).

9 I do not have space here to discuss the question of whether the system of duties Fichte develops beginning in §18 undercuts his account of conscience in §15, as Paul Guyer claims. See Paul Guyer, “Freedom as an End in Itself: Fichte on Ethical Duties” in Steven Hoeltzel, ed., *The Palgrave Fichte Handbook* (2019), 272f; Michelle Kosch, “Practical Deliberation and the voice of conscience in Fichte’s 1798 *System of Ethics*,” *Philosophers’ Imprint* 14:30 (2014), 1-16; Wood 2016, 244; and Kosch 2018, chapter 4.

I-hood; 2) ethical duties regarding rules of right; and 3) further ethical duties to communicate one's practical convictions using the church's current symbol as a starting point for discussion aimed at convincing others and ultimately at unanimous agreement. Classes 2) and 3) are both derived from reflection on individuality as a condition of I-hood. The only role for actual agreement in determining what duties we have concerns class 2): the content of rules of right insofar as they depend on "the *state contract*," which is itself an "[a]greement concerning how human beings are permitted to influence one another" (IV, 237f.), and the duty not "to overthrow the state unless I am firmly convinced that the *community* wills such an overthrow" (IV, 238).¹⁰ However, the ethical duties to obey rules of right (whatever their content is) and to revolt only if the community agrees to revolt are not themselves derived from agreement. That is, even these are ethical duties, for Fichte, not because anyone does or would agree on their being duties, but rather because individuality in the sense of membership in some sort of community is a condition of I-hood and thus progress toward the self-sufficiency of reason as such is possible only as a collective project.¹¹ So Fichte's ethics is not a form of ethical contractualism, which he associates with FUL but disavows as philosophically problematic and a poorer expression of the spirit of Kant's ethics than Fichte's own first method of deriving duties.

II. Fichte develops his second method of deriving duties in the third section of Part III of SE, from §19 to the end of the book. This method is initially to derive a classification of duties from the overarching principle that "reason as such" or "the entire community of rational beings outside me" is the "object of the moral law" (IV, 254). He then introduces subsidiary principles for deriving specific duties within each class. First, he argues for a class of what he calls universal conditioned duties, which correspond to but expand on class 1) above. Second, he argues for what he calls particular duties, which Fichte discusses both before and after the next class. Third, he argues for what he calls universal unconditioned duties, which mostly correspond to but expand on class 2) above. The overarching principle of Fichte's second method of deriving duties is not new – it is the same as his resolution of the antinomy that arose from reflecting on individuality as a condition of I-hood in accordance with his first method of deriving duties: namely, that all human beings share the same end of the self-sufficiency of reason as such or in general (IV, 230f). We've seen that Fichte's descriptions of this end in §18 suggest that he associates it with Kant's FKE. Kant does not derive duties directly from

10 Wood 2016 denies that the state contract is based on actual agreement (269).

11 Although Fichte's views depart from Kant's on revolution and some other political matters, Kant also describes morality as a collective project, for example in *Religion*: the "highest moral good will not be brought about solely through the striving of one individual person for his own moral perfection but requires rather a union of such persons into a whole toward that very end" (6:97).

FKE, and neither does Fichte derive duties from the end of the self-sufficiency of reason (with one exception).¹² It is instead from his subsidiary principles that Fichte directly derives duties on this second method.

His first subsidiary principle is that “I am *for myself* – i.e., before my own consciousness – only an instrument, a mere tool [*Werkzeug*] of the moral law, and by no means the end of the same” (IV, 255). This claim in §19 is related to an earlier claim Fichte makes in §18:

The object of the moral law within me, as an individual, is not simply me alone but *reason as a whole*. I am the object of this law only insofar as I am one of the instruments [*Werkzeuge*] of its realization in the sensible world. All it demands of me as an individual, therefore, and all for which it holds me alone responsible is that I should be a capable instrument [*Werkzeug*]. (IV, 236)

The first sentence of this passage states the overarching principle of Fichte’s second method of deriving duties, and the next two sentences use the same term, *Werkzeug*, as Fichte’s subsidiary principle in §19. But in the §18 passage Fichte’s point, as he goes on to say, is that my conscience alone governs how I am to develop my own capacities. In other words, his point there is positive: because I’m an instrument of the moral law, I’m qualified to judge my own case. Only with respect to what concerns others, not merely myself, must I look to the communal conviction or agreement of others. By contrast, the §19 passage is making a negative point, which is reflected in Fichte’s use of “only” and “mere” in his claim that I am “only an instrument, a mere tool of the moral law.” Fichte’s point here is that I am not anything more than a tool of the moral law, “and by no means the end of the same.” But he emphasizes that this principle is restricted to how I view myself:

For every rational being outside me, to whom the moral law certainly addresses itself in the same way that it addresses itself to me, namely, as the tool of the moral law, I am a member of the community of rational beings; hence I am, from his viewpoint, an end *for him*, just as *he* is, from my viewpoint, an end *for me*. For everyone, all others outside of oneself are ends, but no one is an end for himself. (IV, 255f.)

Fichte’s subsidiary principle in §19 thus makes a negative claim about how each of us should view ourselves: namely, as tools of the moral law, but not as ends.

Fichte claims that this principle, “when [...] further elaborated,” is compatible with Kant’s assertion that “*every human being is himself an end*” (IV, 255). Recall that FH says: “*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*” (G, 4:429). Since Fichte’s principle denies that we

12 Except for the duty to join an estate, to be discussed below.

may view ourselves as ends, it is not in fact compatible with the part of FH that says to use humanity in your own person as an end, never merely as a means. Before getting to that, however, let me first address the compatibility of Fichte's principle with the rest of FH: namely, the part that says to use humanity in the person of others as an end, never merely as a means. Fichte is clear, in the block quote directly above from §19, that each person is to treat all others as ends, but it may be asked whether this claim has the same sense for Fichte as it does for Kant. The translators of the Cambridge edition of SE answer this question by rendering Fichte's German as follows:

Everyone is an end, in the sense that everyone is a *means* for realizing reason. This is the ultimate and final end of each person's existence; this alone is why one is here [...] This does not diminish the dignity of humanity; instead, it elevates it. Everyone is, for himself and before his own self-consciousness, charged with the task of achieving the total end of reason." (IV, 256)

Fichte's German in the first sentence of this passage reads: "Er ist Zweck, als *Mittel*, die Vernunft zu realisiren." The Cambridge translation renders "*als*" as "in the sense that." But if Fichte were saying that the phrase "everyone is an end" is always equivalent in sense to the phrase "everyone is a means for realizing reason," then it is difficult to see what he could mean by claiming in the previous paragraph that his principle is compatible even with the part of FH that says every human being is himself an end. However, if what Fichte means in this sentence is instead that everyone is an end *because* everyone is a means for realizing reason, which would fit the German perfectly well, then his claim to be in agreement with Kant on this point makes sense. On this reading, Fichte is not saying that any person is *merely* a means for realizing reason, but that each person is both an end (at least for others) and also a means for realizing reason.¹³ It might be thought significant that Fichte's principle does not say that each person is an end *in itself* as Kant often says, for example when he claims that the ground of FH is that "*rational nature exists as an end in itself*" (4:428). But Kant's canonical expression of FH at 4:429 does not include "in itself" either, which suggests that Kant's phrase "end in itself" is equivalent for him to the phrase "always at the same time an end, never merely a means," which FH spells out. If so, then Fichte's principle affirms that each person is an end in itself (at least for others). It might also be thought that Fichte's principle runs afoul of Kant's contrast between an "end to be effected" and "an *independently existing* end," the latter of which, Kant says, is to be "thought only negatively, that is, as that which must never be acted against and which must therefore in every volition be estimated never merely

13 Here I disagree with Guyer's (2019) view that Fichte "reifies freedom" (269) and ends up "separating freedom from individuality altogether" (274) by treating freedom as "the *sole* end of ethics, to which all specific ethical duties and indeed all particular human agents themselves are merely the *means*" (258).

as a means but always at the same time as an end” (4:437). But this is not so either. As long as we distinguish the sense in which each person is an end (at least for others) from the sense in which each person is a means, rather than identifying them as the Cambridge translation of SE does, we can understand Fichte to be saying that we are to treat each other person as an independently existing end because of their ability to effect the end of realizing reason. This would indeed be compatible with Kant’s view that “morality, and humanity insofar as it is capable of morality, is that which alone has dignity [...] because of the *share* it affords a rational being *in the giving of universal laws*, by which it makes him fit to be a member of a possible kingdom of ends” (4:435).

Fichte’s principle is therefore not at odds with what FH says about treating others as ends, but it is clearly intended to be incompatible with what FH says about treating oneself as an end. FH says to treat humanity in one’s own person as an end, and Fichte’s principle says that no one is an end for himself. Why does Fichte think this part of FH is not worth preserving? Answering this question requires that we consider how Fichte further elaborates his principle in the remaining two subsections of §19, first by identifying what he calls “*conditioned* duties” (IV, 257), and second by arguing for what he calls “*particular* dut[ies]” (IV, 259).

Fichte’s class of conditioned duties corresponds loosely to Kant’s class of duties to [*gegen*] oneself, although Fichte thinks Kant’s category is misconceived. There is, Fichte says, really no such thing as “a duty *with respect to* [*gegen*] and *for the sake of* myself,” because “I am and remain a means for a final end outside of myself” (IV, 257). But Fichte does recognize duties “*toward* [*auf*] myself,” and instead of quibbling further about prepositions he renames these “*conditioned* duties,” because “if the moral law wills something that is conditioned (namely, the realization through me of the dominion of reason outside me), then it also wills the condition (namely, that I be a fit and capable means for this end).” He also calls them “*mediate*” duties, “because they have as their object the means for all our efficacious acting” (ibid). The disagreement between Kant and Fichte about prepositions here is immaterial, since Kant himself says that respect for persons is strictly speaking respect for the moral law they exemplify (CPrR, 5:76f). Kant can agree that any duty is properly a duty to [*gegen*] the moral law, whether its immediate object is oneself or others. Kant also agrees with Fichte that I am not myself the *final* end of the moral law, and Kant would concede that any end that is not final is a means to some further end(s) and ultimately to an end that is final. For Kant, no end, whether final or not, “can have a worth other than that which the law determines for it” (G, 4:436). Conceding that I am a means to a kingdom of ends, or to the self-sufficiency of all reason in general, would not imply that I am not also an end, albeit not a final end, or that I am *merely* a means to the final end of morality. On the interpretation given above of Fichte’s claim that “[e]veryone is an end, as [i.e., because] everyone is a *means*

for realizing reason,” Fichte affirms that I am, like everyone else, an end (IV, 256, translation modified). This is what Fichte says he agrees with about FH: “that *every human being is himself an end*” (IV, 255). What he is denying here, however, is that I have any duties to *treat myself* as an end. Rather, only others have duties to treat me as an end, and I have duties to treat others as ends; but I should treat myself as “only an instrument, a mere tool of the moral law,” or a mere means to the final end of morality (ibid).

To see what this departure from Kant amounts to, consider how Fichte derives universal conditioned duties – that is, conditioned duties that everyone has – from this subsidiary principle. He proceeds much as he did in his first method of deriving duties from the conditions of I-hood, except that now he derives these duties from the conditions of being a tool of the moral law. There are two such conditions: “first, that there is a continuous reciprocal interaction between me and the world [...], and second, that there is a continuous reciprocal interaction between me and [other] rational beings” (IV, 259). Since I-hood is itself a condition of being a tool of the moral law, all of the duties that Fichte derived earlier from conditions of I-hood can also be derived from these conditions of being a tool of the moral law. But this time Fichte derives other duties as well, most importantly the duty not to commit suicide but instead to preserve (as well as cultivate) one's body, soul, and their reciprocal influence (IV, 261). Kant recognizes these duties as well, so for the most part¹⁴ Fichte is not disagreeing with Kant here about what duties we have but only about how to derive and characterize those duties.

When Kant appeals to FH to explain the perfect duty to oneself not to commit suicide in G, he says that anyone who “destroys himself in order to escape from a trying condition [...] makes use of a person *merely as a means* to maintain a tolerable condition up to the end of life” (4:429). In MM, Kant says that “[k]illing oneself is a crime (murder)” and explains:

A human being cannot renounce his personality as long as he is a subject of duty, hence as long as he lives; and it is a contradiction that he should be authorized to withdraw from all obligation, that is, freely to act as if no authorization were needed for this action. To annihilate the subject of morality in one's own person is to root out the existence of morality in the world, as far as one can, even though morality is an end in itself. Consequently, disposing of oneself as a mere means to some discretionary end is debasing humanity in one's person (*homo noumenon*), to which the human being (*homo phaenomenon*) was nevertheless entrusted for preservation. (6:422f.)

So, suicide is wrong, according to Kant, because it involves using the intelligible self merely as a means to an end of the sensible self, while one should always

¹⁴ One difference, however, is that in MM Kant classifies the duty not to lie as a duty to oneself (6:429ff.), while Fichte classifies it as a universal *unconditioned* duty (IV, 283ff).

treat “the subject of morality in one’s own person,” i.e. the intelligible self, as an end, because “morality is an end in itself.” Failing to treat morality as an end, in other words, by removing the condition of morality in one’s own person, is what makes suicide wrong for Kant. This reasoning is compatible with Fichte’s explanation for why suicide is wrong. For Fichte, “enjoyment is, as such, never the end of the ethical way of thinking,” and therefore no end of the sensible self can be a reason either to preserve oneself or to end one’s life (IV, 260f). Rather, “my life is a necessary condition for carrying out the [moral] law [...] and therefore I am absolutely commanded to live, to the extent that this is something that depends on me” (IV, 263f). The problem with suicide for both philosophers, then, is that it involves not so much failing to treat oneself as an end, but failing to treat morality as an end and oneself as a means to or condition of that end. Fichte’s principle captures this reasoning better than FH does, where the two principles diverge.

Fichte’s principle that I am for myself only a tool of the moral law, and his corresponding class of universal conditioned duties, therefore do not depart substantively from Kant’s use of FH to specify perfect duties to oneself such as the duty against suicide, but rather they attempt mainly to clarify and tighten Kant’s reasoning, which in the end Fichte largely adopts but expresses differently. The same cannot be said, however, of Kant’s imperfect duties to oneself. Recall that Kant recognizes a duty to cultivate one’s natural perfection that allows each person latitude to decide differently from others how and in what proportion to develop their natural powers in order to be “a useful member of the world” (6:446), depending on whether they take up a “trade, commerce, or a learned profession” (6:445f), and that for Kant this latitude is to be taken “only as permission to limit one maxim of duty by another,” not as license to pursue one’s own happiness as an end (MM, 6:390). In MM Kant also recognizes an analogous duty to increase one’s “**moral** perfection,” understood both subjectively as “the *purity* [...] of one’s disposition to duty” and objectively as “fulfilling all one’s duties and [...] attaining completely one’s moral end with regard to oneself” (6:446). This duty, Kant explains, is “*narrow* and perfect *with regard to* its object (the idea that one should make it one’s end to realize), [but] *with regard to* the subject it is only a wide and imperfect duty to [one]self” (ibid). So, we have no latitude in the objective requirement of this duty but must always fulfill all duties “with regard to oneself,” and likewise we must always strive for the end of acting from a pure moral disposition, although we are not required to succeed at achieving this end (which is not humanly possible). In Kant’s words, “[i]t is a human being’s duty to *strive* for this perfection, but not to *reach* it (in this life), and his compliance with this duty can, accordingly, consist only in continual progress” (ibid).

Fichte’s agreement with the narrow and perfect component of Kant’s duty to increase one’s moral perfection is reflected in his explicit commitment to rigorism, which he expresses most vividly in his discussion of the duty not to commit suicide:

When I think of myself as standing under the command of the moral law is it ever really the case, even in this life, that I am merely *permitted* to alter my situation, that this is something I am free to do or not to do? Is it not the case instead that it is always either a *duty* or *contrary to duty* [to alter my situation]? Certainly the latter is the case, since [...] the moral law does not leave any leeway at all for my arbitrary choice. Under the dominion of the moral law there are no indifferent actions; in every situation of my life I either ought or ought not [to do something]. (IV, 264)

The Kantian argument I sketched earlier for Fichte's conclusion that we have an ethical duty never to pursue enjoyment for enjoyment's sake can also be used to support this rigorist conclusion. Since a pure moral disposition cannot be achieved in this life but requires continual progress, at any time during this life while this end remains unachieved it would be contrary to duty *not* to strive for it (that is, for a pure moral disposition). At every moment, then, we have a perfect duty to strive for moral perfection. Kant says that we must strive at each moment not only for a pure moral disposition, but also toward "fulfilling all one's duties and [...] attaining completely one's moral end with regard to oneself." This is a claim not only about the disposition with which one aims to fulfill whatever duties one has, but about the content of one's duty, namely that at each moment there is at least one duty that commands some action – even if only the duty to increase one's moral or natural perfection (as an instrument of the moral law, as Fichte would say). Fichte can thus plausibly claim to be expressing Kant's own view when he says that "in every hour of my life there is something for me to do" (IV, 265). Moreover, if Kant's duties of virtue allow latitude only to limit one maxim of duty against another but prohibit making exceptions for the sake of one's own happiness, then they also prohibit making exceptions for merely permissible actions that are not in any sense morally required. Thus, Fichte again can plausibly maintain that rigorism is implied by Kant's position, even if it is not clear whether Kant himself realized this.

Fichte's class of particular duties is his most significant departure from Kant's system of duties but may stem from Kant's remarks on what he calls the imperfect duty to increase one's natural perfection. Kant's remarks imply that we have a duty to be "a useful member of the world" and that the choice of a profession is relevant to this duty. Kant offers no determinate moral guidance in how to choose a profession, however, suggesting only that the priority one should accord to cultivating this or that natural power (of spirit, soul, and body) depends on which profession one has chosen (for example, trade, commerce, or a learned profession). Fichte appears to pick up on this undeveloped remark by Kant and develops it into a new class of duties, arguing on what may initially seem like consequentialist grounds for what he calls "*the establishment of different estates [Stände]*" (IV, 258).¹⁵

15 As claimed by Kosch 2018 (126) and Guyer 2019 (281).

Starting from the overarching principle that reason as such is the object of the moral law, and assuming that a division of labor is required to promote this end of reason in an orderly manner, Fichte infers that everyone has a duty either to work toward establishing such a division of labor (i.e., the distinction between estates) or, if it is already established, “to select a specific estate for oneself” (ibid). However, although I do not have the space to fully develop the point here, I suggest that this argument need not be understood as consequentialist. At least if we interpret Fichte as accepting what Rawls called the priority of the right over the good and as deriving the final end of reason from the formal law of self-sufficiency, then we should not read him as arguing that a division between estates is necessary as a means to some extrinsic end whose value is independent of the moral law.¹⁶ In any case, this is the only duty he derives directly from the final end of morality: the particular unconditioned duty to join an estate. It is noteworthy, however, that Fichte does not apply this reasoning to the choice of *which* estate one ought to select for oneself. From the final end of morality he deduces only the *class* of particular duties, and the specific duty to choose *some* estate or other, but like Kant he does not offer determinate moral guidance in how to choose a specific estate. The closest he comes is to say that, once a division of estates is established, my choice of an estate requires the consent of others, “and thus I have to inquire if there is space remaining for me, and, in case my effort is needed, [indicate] where I want to exert it. I have the right to apply to do this, and society has the right to turn me down” (IV, 273). Later he claims to have “pointed out the maxim according to which one has to choose one’s profession: not in accordance with inclination but in accordance with duty”

16 Rawls traces the priority of the right over the good back to Kant’s claim in CPR that “the concept of good and evil must not be determined before the moral law [...] but only [...] after it and by means of it” (5:63). See John Rawls, *Lectures on the History of Moral Philosophy*, edited by Barbara Herman (Harvard, 2000), 230ff. For Rawls, this is what distinguishes Kantian constructivism from utilitarianism and intuitionism. See also G, 4:436: “nothing can have a worth other than that which the law determines for it.” I read Fichte as agreeing with Kant that there is nothing objectively good (or evil) independently of the moral law. Rather, good is defined in terms of the ends that the moral law commands us to pursue, and evil in terms of the actions we ought to avoid. What these ends are, i.e. the objects or content of the moral law, is not specified prior to or independently of the moral law itself, as with consequentialism, whose moral principles articulate how we ought to realize independently specified, objective goods. Rather, in Fichte’s words, “as concerns the content of the law, nothing more is required other than absolute self-sufficiency, absolute undeterminability by anything other than the I. The material determination of the will according to the law is thus taken solely from ourselves” (IV, 56). I thus disagree with Kosch’s view that Fichte’s conception of autonomy is compatible with consequentialism (Kosch 2018, 167-171) and with Ware’s view that Fichte’s ethics is perfectionist at the level of philosophical reflection (Ware 2020, 178). I agree instead with Wood 2016 (185) that “Fichte derives the content of morality by identifying the conditions of I-hood” (this is what I characterize above as Fichte’s first method of deriving duties), rather than by calculating which actions would maximize self-sufficiency, as Kosch holds; or from an independent conception of original wholeness, as Ware holds.

(IV, 343). But he does not say any more about how duty directs us to make this choice. I suggest that Fichte's reluctance to say that we ought simply to choose the estate in which we are most needed (which would be consistent with a non-consequentialist ethical theory committed to the priority of the right over the good) might be better interpreted as evidence for his suspicion of consequentialist reasoning rather than as an instance of it.

The estate to which one belongs becomes a subsidiary principle from which Fichte goes on to derive particular conditioned duties. Although Fichte does not appeal explicitly in this context to his earlier subsidiary principle from which he derived universal conditioned duties, namely that I am for myself only a tool of the moral law, it makes sense to regard his derivation of particular conditioned duties as a specification of that earlier subsidiary principle, depending on which lower order subsidiary principle (i.e., which estate) one falls into. We saw that Fichte derived universal conditioned duties by reflecting on conditions of being a tool of the moral law, but in some (though not all) cases the duties so derived leave what Kant called latitude for deciding how and in what proportion to prioritize perfecting our natural powers. Now specifying the estate to which I belong, which itself (i.e. the estate as a whole) is a condition of realizing the final end of morality of which I am to regard myself as a tool, removes at least some of this latitude and replaces it with a more determinate set of particular duties. For example, both scholars and farmers have a duty to cultivate their body and intellect but in different ways and to different ends, due to the different natures of these professions and their respective roles in our collective project of promoting the final end of morality. Fichte's class of particular duties thus aims to provide more specific moral guidance than Kant does for how I – and not just anyone – should strive to act, given my profession or estate.

Fichte's remaining class of universal unconditioned duties – or unconditioned duties that everyone has – mostly expands on the ethical duties regarding rules of right that he derived by his first method but also concern what he calls “*the immediate dissemination and promotion of morality*” (IV, 276). The subsidiary principle of this class, which Fichte specifies after reminding us of his overarching principle that “[t]he final end of all the actions of any morally good human being” is “the community of rational beings,” is that “no action is moral that does not occur with freedom; hence every morally good human being's goal is the formal freedom of all rational beings” (IV, 275f). Earlier Fichte had characterized formal freedom as acting consciously in accordance with some drive or other, and he claimed that it does not require material freedom, which would produce a series of actions that nature could not accomplish (IV, 135ff). Here he adds that formal freedom requires “the continuous reciprocal interaction between [one's] body, both as a tool and as a sensory organ, and the sensible world” (IV, 276), which combines one of the conditions of I-hood he identified earlier, namely having a body (IV, 215), with one of the conditions of being a tool of the moral law,

namely that there is a continuous reciprocal interaction between oneself and the world (IV, 259). Since, as we saw, I-hood is a condition of being a tool of the moral law, it seems to follow that this new class of duties is also a further specification of Fichte's earlier subsidiary principle that I am for myself only a tool of the moral law. If so, then since Fichte is not here using this principle to derive duties toward oneself or what he calls conditioned duties, he must be drawing upon the part of this principle that concerns how we treat others and expresses agreement with Kant's FH: namely, the part that says "[e]veryone is an end, as [i.e. because] everyone is a *means* for realizing reason" (IV, 265, translation modified). In other words, the subsidiary principle of this class of universal unconditioned duties is that treating others as both ends in themselves and also means to the final end of morality requires treating them as formally free.

Fichte derives universal unconditioned duties from this subsidiary principle by articulating two conditions of formal freedom: first, "the inviolability of *the body*, that is, that nothing should be able to exercise a direct influence on the body by means of physical force, and [second] the continuation of one's free influence upon the *entire sensible world*" (IV, 276). From the first of these conditions Fichte specifies negative duties a) not to influence anyone else's body immediately and b) not to kill anyone intentionally, as well as a positive duty c) to preserve the health and life of others' bodies (IV, 277ff). Since Fichte holds that free influence on the sensible world depends on correct knowledge, from the second condition he specifies negative duties d) not to lie or deceive and e) not to break promises, as well as a positive duty f) to communicate known truths to others and to promote their correct insight (IV, 282ff). Fichte also argues that free efficacy requires property, and thus he derives from the second condition further ethical duties g) to institute the right of property (if it is not already instituted), h) to acquire some property, i) to establish (if one is not already established) and belong to a state, j) not to damage others' property, and k) to provide property to anyone you know to be without property (IV, 291ff). Finally, after deriving these various duties to protect the formal freedom of others by protecting its conditions, Fichte derives from the subsidiary principle of this class a further duty l) to promote the formal freedom and "dutiful disposition" of others by setting a good example (IV, 276), but this duty only directs us to do publicly what morality already requires us to do anyway (IV, 322f).

I do not have the space here to discuss each duty in this long, final list of duties, many of which I could not do justice to in any case without addressing the relation between right and ethics in both Kant and Fichte, which is a topic for another paper. Since my focus in this paper has been on Fichte's alternative to Kant's methods of deriving ethical duties, I will close by briefly discussing how the first triad of duties on this final list further indicates what I take to be the superiority of Fichte's methods, where Kant and Fichte agree on what duties we have. Kant never explicitly articulates duties a) not

to influence anyone else's body immediately, or c) to preserve the health and life of others' bodies. One might claim (importing assumptions about the relation of right to ethics not discussed here) that Kant's innate right to freedom (6:237) implies a), but such a claim would depend on just the sort of argument Fichte gives for the conclusion that the inviolability of the body is a condition of formal freedom, which is in turn a condition of being a moral agent. It is to Fichte's credit that his methods of deriving ethical duties focus *directly* on such conditions of being a self and a moral agent, while Kant's methods of deriving duties are at best more indirect since they often require supplementation by arguments such as those Fichte explicitly gives. Concerning the duty b) not to kill anyone intentionally, it is surprisingly difficult to find explicit endorsements of such a duty in Kant as an ethical (as opposed to juridical) duty, although one could argue that b) is implied by the way Kant reasons from FH to the duty not to commit suicide. I have already argued that Fichte's principle that I ought to treat myself as a tool of the moral law captures even Kant's own reasoning against suicide better than FH does. If we now turn to considering the intentional killing of other human beings, then both Kant and Fichte effectively agree that this is ethically wrong because human beings are moral agents. But, again, Fichte's methods draw attention *directly* to the key fact that we are also embodied beings whose moral agency depends on our being alive in order to freely act on the sensible world, while Kant's methods do not. So, at least concerning these and other duties that I've discussed here which Kant and Fichte agree that we have, Fichte's methods of deriving them are superior to Kant's because what makes these ethical duties is better and more directly articulated in terms of the conditions of being a self and a moral agent – which, again, include continuous, reciprocal, and formally free interaction between one's intellect and body, the sensible world, and other rational beings – than in terms of FUL or even FH alone.

To be sure, Kant and Fichte do not always agree on what ethical duties we have. I have also argued that several Fichtean duties that Kant does not explicitly articulate are at least well-motivated within Kant's own framework, and this argument could be extended to the remaining duties on the list above. For example, Kant accepts that we have duties d) not to lie or deceive and e) not to break promises, but he does not explicitly articulate a duty f) to communicate known truths to others and to promote their correct insight. Like the Fichtean duties discussed earlier to communicate one's practical convictions using the church's current symbol as a starting point for discussion aimed at convincing others and ultimately at unanimous agreement, f) seems to develop and extend ideas that Kant left relatively undeveloped – for example, Kant recognizes a duty of truthfulness and sincerity to oneself (6:430, 441), as well as a duty to reveal one's "secret judgments and feelings" to one's friends (6:470f.), but he does not explicitly articulate a positive duty to communicate known truths in order to promote the correct insight of others outside one's social circle, as Fichte does. But if, as I have argued, Fichte's

methods of deriving and systematizing ethical duties are superior to Kant's methods of deriving even many of the duties which Kant and Fichte *agree* that we have, then Kantians should concede that Fichte has a good *prima facie* argument that we also have other duties, like f) and others, which Kant does not explicitly articulate, as long as Fichte can show that they follow from *his* methods. At least that is the long argument in favor of such duties that I believe Fichte has in mind in SE.

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