

Kant on the Right to Property and the Value of External Freedom

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The primary exegetical aim of this paper is to make clear how Kant derives rights to property from the right to external freedom. The interest in this exegesis lies in the light it sheds on the kinds, or, as we would perhaps do better to say, the aspects of freedom that Kant recognizes, and on his reasons for assigning value to freedom. It seems to me clear that the insight driving Kant's practical theory is precisely his claim that freedom, or our capacity for self-determination, is what makes us 'higher' than animals, gives us dignity, and makes us capable of recognizing, participating in, and indeed, ourselves inventing the higher order of being described by morality. Kant's insistence on all the freedoms he discusses (transcendental freedom, practical freedom, inner freedom, external freedom) makes sense only if we see them all as necessary components of what Kant regards as our marvelous and intrinsically valuable ability to transform ourselves and the world around us according to our own reason—in other words, as necessary components of our capacity for self-determination, or, our freedom. I propose here to show how a right to property is connected to one of those freedoms, namely external freedom, and to show how it is not, and to indicate how Kant's view here can shed light on the structure of and value driving Kant's practical theory.

To prefigure: Kant's view of freedom stands at a crossroads between something like a Stoic view, according to which freedom is a property of the soul or will—its possibility, actuality, and value impervious to external interference—and something like an Hegelian view, according to which freedom must be expressed and manifested in order for the agent to be fully free and freedom's value to be realized. Property and external freedom represent precisely the site at which Kant's view breaks with each. Kant's views on property stand in opposition to the tradition—a tradition that goes back at least to Locke, and that was furthered after Kant by Hegel, Marx, and others—that sees property as *essential* to freedom, as something reason demands as integral to freedom. Kant rejects this view. At the same time, Kant affirms an 'innate' right to external freedom. Freedom of action is required if we are to be truly free beings. 'Internal' freedom is not enough.

To begin, let us turn straight to Kant's "Doctrine of Right" discussion of property.

To have something as property, to call something mine, is to be able to claim injury if anyone interferes with my use of the thing, even if it is not in my physical possession. (MS 6:249)

Kant's conception of property is perfectly in line with our ordinary conception: I call the money in my bank account or the land I have in Florida my property precisely insofar as I can claim injury if anyone interferes with my use of them. In particular, I claim that my rights to the thing have been violated. Rights are claims reason authorizes us to make against the actions of others. In providing an account of property, Kant's first task is thus to show that there are rational grounds from which the possibility of such injury 'from a distance,' that is to say, the possibility of property, can be derived.

The claim that property is possible is, Kant tells us, a synthetic a priori proposition about rights (MS 6:249). The only 'innate' right we have is a right to external freedom. This right contains the right to use the things in our hands, the things to which we are physically connected (MS 6:250), but there is no such analytic connection between the right to external freedom and a right to use things distant. Kant must provide an a priori claim that can be combined with our right to freedom to yield the possibility of a right to property.

Kant introduces what he calls 'the juridical postulate' of practical reason. The postulate, in its first formulation, is as follows:

It is possible for me to have any and every external object of my choice as mine [as my property]. (MS 6:246)

The postulate amounts to the claim that we cannot make it law that something be *res nullius*, i.e., inherently ownerless or not eligible to be property (MEJ, 246). The postulate asserts that property is possible. What warrants the postulate?

Kant offers the following *reductio ad absurdum* in its support. Suppose that we try to deny ourselves, in principle, the rightful use of a usable thing, i.e., that we try to make a general claim that the use of this (some)thing "would not be consistent with the freedom of everyone in accordance with a universal law" (MS 6:246). In this case, Kant writes,

freedom would be depriving itself of the use of its choice with regard to an object of the choice, by putting usable objects beyond any possibility of being used.... (MS 6:246)

In "putting usable objects beyond any possibility of being used" we would be robbing ourselves of an otherwise possible use of our choice. Kant tells us that an absolute prohibition of this kind "would constitute a contradiction of external freedom with itself" (MS 6:246). What exactly is the contradiction and what does it tell us?

Choice, or *Willkür*, fixes on objects that is wants (to 'use' in whatever fashion is appropriate). External freedom is the freedom to pursue the use of whatever objects we choose. It is rightfully limited only when it could not, if governed by universal law, coexist with others' freedom. Would we find the blessing of reason if we were to will a law that (MS 6:246: adopt "a maxim by which, if it were to become law") rendered potential objects of choice *res*

nullius? No, we would not, so long as the possibility of rightfully using objects of our choice does not interfere with everyone's freedom according to universal laws, prohibition on this possibility conflicts with the demand of justice to leave freedom unfettered, i.e., conflicts with external freedom's right to itself.

We should recall that a postulate of practical reason is "a corollary of an a priori unconditionally valid practical law" (KpV, 5:122). A prohibition on making usable objects property contradicts our innate right to external freedom and hence the postulate is a 'corollary' of that right; reason's positing the postulate, Kant tells us, is "justified by the law of freedom" (MS 6:255). The postulate relies on the demand that we give external freedom the widest possible scope; that choice not be arbitrarily limited. Here, in the claim that freedom must be left unfettered until it conflicts with freedom, is the a priori claim that allows a synthetic proposition about rights. The postulate tells us that any object of choice, any object that it is in someone's physical capacity to use, is eligible to become property. This can only mean that we must be left free to establish property—to set up a system of reciprocal obligations that respect the idea that we can be injured if our use of a thing is interfered with. As Kant puts it, the postulate permits us, authorizes us, "to impose an obligation on all others—an obligation that they otherwise would not have had—to refrain from using certain objects of our will" (MS 6:247). It authorizes us to invent property.

This authorization provides, as Kant had promised to provide (MS 6:250, 252), a way of extrapolating a priori from the concept of possession (physical detention) to the possibility of property. Possession carries with it a right to use the thing possessed—this right is just part of our external freedom. Can there be a right to use a thing not possessed (not physically detained)? Yes, because there is no reason to object to such a right—its possibility violates nothing, and its impossibility violates external freedom. Kant does not suggest, as Locke did, that labor infuses an object with the laborer's personality, thereby establishing the possibility of injury at a distance. Nor does Kant suggest, as Hegel does, that property is a necessary manifestation of free will, constitutive of freedom itself. The possibility of property is granted because its denial conflicts with external freedom; actual demand for property comes from ordinary self-interested people; and the eventual existence of property depends on our taking advantage of our authorization to secure a system of property.

So far, so good. We see that on Kant's understanding, the a priori demands of pure practical reason authorize but do not indicate a positive duty to property. The claim is not that without property, we would be unfree, but just that a prohibition on property would be an unjustified limitation on freedom. But then how are we to understand Kant's next claim, namely that we have a duty to enter civil society? The problem is this: Kant understands civil society as securing an actual system of property. Kant also tells us that we have a duty to enter

compel when it comes to protecting our possessions, and we can use this right to compel others into civil society (which will protect them in a way that seems best to us).

We have seen that property is not demanded by reason's demand to preserve freedom. But a right to external freedom is. Why? To point the question: practical reason does not demand any particular expressions of will, it just demands will's consistency with itself. Free will is not to undermine its own freedom: this is reason's practical demand. But why should this require external freedom? Transcendental freedom (our capacity to be uncaused causes, a capacity which is the condition of the possibility of a free will (KpV 5:29, 94, 97; A:533/B:561) is not undermined by external obstacles to action. Inner freedom, the freedom from internal compulsions to action (MS 6:380, 396, 407), is not threatened by external pressure (at least not according to Kant, and given transcendental freedom (cf. KpV 5:30)—it is up to each of us to develop our own strength of will. In what sense, then, could a prohibition on the use of objects or any other obstacle to the expression of will constitute a threat to freedom? Why, to put the question in other terms, isn't Kant satisfied to be a Stoic? Or, to put the question in other terms again, why isn't a good will by itself good enough?

The answer is that the capacity Kant thinks we, as rational beings, have an interest in preserving and promoting—the capacity that makes humanity an end in itself—is the capacity of choosing the grounds of our actions. But to choose a ground or reason for acting, to choose between, for instance (and of course for Kant most centrally), inclinations and grounds furnished by reason, is also always to act. Freedom of action is thus integral to, and not just an expression or manifestation of, freedom of choice. In choosing, we exercise the same capacity that transcendental freedom is the possibility of, and that inner freedom is the perfection of, namely, the capacity to decide which among possible reasons for action to honor, a capacity which always involves us in a pursuit of the corresponding objects. This is what, at the most general level, self-determination means.

We need not attribute to Kant the demand for any concrete expressions of this freedom. Pure practical reason demands not property, but the conditions of its possibility, namely the external freedom of each insofar as it is compatible with the external freedom of all.

Works Cited

- KpV *Kant's der praktischen Vernunft* (1788). Unless otherwise noted, translations are taken from: *Complete of Practical Reason*, trans. Lewis White Beck (New York: Macmillan, 1956). References to Academic volume and page number.
- MS *Die Metaphysik der Sitten* (1797). Unless otherwise noted, translations are taken from *The Metaphysics of Morals*, trans. Mary Gregor (Cambridge University Press, 1991). References to Academic volume and page number.

Notes

1. It is not problematic that in compelling others to enter civil society we interfere with their external freedom so long as the duty to secure property can be shown to be a specific expression of the general duty to hinder hindrances to freedom.
2. Notice also: "one is authorized to use coercion against someone who already, by his nature, threatens him with coercion" (MS 6:307). The context for this claim is Kant's discussion of well-known human inclinations to "lord it over others"—the result is that one is warranted, in the state of nature, to make, as it were, preemptory strikes, since all "by their very nature" pose a threat in such a state.
3. Likewise, the duty Kant tells us we have to enter civil society (provided we "cannot avoid living side by side with all others" (MS 6:307)) stems just from our duty to preserve external freedom. In explaining why such individuals ought to enter into civil society, Kant appeals to principles of justice. In §42, Kant tells us that the state of nature is a state of violence. In a state of nature there is no effective collective guarantee of the security of our possessions. Because a person "can quite well perceive within himself the inclination of men generally to lord it over others as their masters" (MS 6:307), we are warranted in regarding each other as threats, and in making preemptory strikes to protect our possessions. A state of violence must ensue. But a state of violence is, Kant tells us, opposed to "justice in external relations" (MS 6:307). A state of violence is not just a state wherein each exercises his innate right to external freedom as he sees fit—or rather, it is this, but is as a consequence, a state wherein this right ceases to have clear meaning. Under reason's law, I have the right to freedom so long as my actions do not interfere with the freedom of others. But in a state of nature, precisely because there are no public agreements about how to settle disputes about rightful possession, etc., the limits on freedom, the places where your freedom ends and mine begins, will be impossible to discern. Freedom will be exercised arbitrarily or "lawlessly." Absent public agreement to adopt mechanisms and policies that delineate property lines and public duties—absent the public establishment of property and a legal system—there can exist what Kant calls a "state of external lawless freedom" (MS 6:307). And this lawless state is precisely opposed to a state of "justice [observance of reason's laws] in external relations" (MS 6:307).