

Larry Krasnoff, Nuria Sánchez Madrid, Paula Satne (eds.), *Kant's Doctrine of Right in the Twenty-first Century*, Cardiff: University of Wales Press, 2018, 304 pp.

Kant's legal and political philosophy has often been viewed as his least important contribution, branded by the likes of Hannah Arendt as a work of his autumn years, and vastly overshadowed by his contributions to ethics, epistemology, and even aesthetics. The editors of this volume have sought to remedy that by showing that the renewal of interest in that part of Kant's work, visible in the last two decades, is in fact justified by the potential inherent in it. This collection of articles, addressing the topics of Kant's legal and political *magnum opus*, his *Doctrine of Right* (published in 1797 as the first part of *The Metaphysics of Morals*), has thus two main, interwoven ambitions. The first is to show that his legal and political philosophy comprises a domain separate from his ethics, interesting and fruitful in its own right. The second is to suggest some of the ways in which that autonomous domain "might have real application[s] to the contemporary world" (*Introduction*, 1)

The twelve articles in the volume are obviously not intended to provide a comprehensive guide to the whole *Doctrine of Right*, but they manage to cover its main topics taken as potential contributions to contemporary debates. These include the nature and the role of the social contract, the justifiability and content of human rights, the purpose of the state (especially in the context of debates about its role in the welfare of its citizens), the limits of political authority and obligation, international relations and, finally, in-

terpersonal relations viewed with the benefit of distinction between ethical and juridical domains. All of the important topics are addressed, although some are approached from unusual perspectives, which is definitely a conceptual plus, because it adds to the argument of the fruitfulness of applying Kant's insights to contemporary debates. Opposing views are also included, which Kant himself, as a staunch supporter of public intellectual debates, would surely have welcomed.

The opening chapter of the book is fittingly selected for its attempt to present Right as a domain independent of ethics, establishing it as a stand-alone part of Kant's moral philosophy. Concerned only with duties for which external lawgiving is possible, whose enforcement can be secured by lawful coercion, and thus only with external freedom, Right is clearly distinguished from ethical considerations, while at the same time included under the obligations dictated by practical reason. Starting with that demarcation, Macarena Marey then continues by establishing the role of the social contract in Kant's philosophy. It is used as a normative idea, intended to provide the justification for the state's monopoly on the legitimate use of coercion, at the same time establishing the state as an obligatory end in itself, necessary for achieving external freedom and equality. It is not used to legitimize ethical norms, nor is it used in purely pragmatism reasoning, aimed at ends such as the maximization of happiness. Marey thus suggests that Kant's purely juridical standpoint is a welcome addition to contemporary debates concerning the nature and the role of the social contract, which have been revitalized ever since Rawls renewed the interest in the subject.

Addressing the same topic, Alice Pinheiro Walla aims to show that the social contract is not seen by Kant exclusively as a normative standard, nor as a useful heuristic principle. Instead, she claims that the united general will, seen as an entity established by the actual consent of all human beings, is a real goal envisioned by Kant, necessitated by the need to establish legitimate private property claims. Without it, the use of external objects by finite rational beings can never be fully compatible with the external freedom of all, thus making all property rights prior to establishing a global (republican) political community merely provisional.

The interconnected topics of human rights and the purpose of the state take up a third of the book. In an attempt to show the way in which Kant's insights might bring something new to the table, Eric Boot starts with the observation that in current liberal theories of human rights there is a tendency to treat rights as a fundamental moral category, then used to develop the corresponding duties supposedly based on them. Kant's approach turns things the other way around. Duty is the fundamental moral category, and rights are established only on the basis of those duties which Kant calls perfect duties. Their "perfection" stems from the fact that they prescribe with precision who owes what to whom, thus making the enforcement of them possible, in principle, by lawful coercion, which makes them juridical duties (the only exceptions being the duties not to lie, not to commit suicide and the duty of respect, which are perfect but concern internal motives, not external actions, thus making them the only perfect ethical duties). The upshot of Boot's observation could be the potential to stop the hyper-inflation (and the corresponding devaluation) of human rights. The downside, at least for

some, is the fact that Kant sees the duty of beneficence as an imperfect duty, its imperfection stemming from its latitude, which does not prescribe with precision who owes what to whom, implying that there can be no such thing as a right to, for instance, a decent standard of living.

Picking up where Boot left off, Masataka Oki tackles the question of the purpose and the role of the state, pointing to the obvious fact that Kant does not see the state as an entity tasked with promoting the material well-being of its citizens. This point connects with Boot's claim of the impossibility of establishing the normative foundations of the modern welfare state based on Kant's legal and political philosophy. However, Oki claims that the functioning of the Kantian state is internally connected with human happiness, but in a different way. Man, being the sensual, finite but also rational being that he is, requires freedom for his happiness. And human freedom, Kant claims, is only possible within the confines of a civil condition, in which the external freedom of all is made possible by universal laws, made by all (as lawgivers), and applied equally to all (as citizens).

Driving the point further, Nuria Sánchez Madrid acknowledges Kant's claim that the state can and should tax the wealthy citizens to support those who are destitute, but points out that claims like that in no way support the reading of Kant as an advocate of the welfare state. Proceeding not from a supposed right to a decent standard of living, but from the state's duty to preserve the civil condition (which might be endangered by internal strife, external aggression prompted by the state's weakness, or simply by losing parts that make up the whole), she claims that these measures simply don't equate to the current concept of poverty removal as a duty on national as well as global levels. Limited in their scope to the preservation of life, in Kant's vision they do not include the removal of social inequality, which is seen as compatible with republican citizenship and equality before the law.

A dissenting voice on the topic can be heard from Larry Krasnoff, whose thesis is that the *Doctrine of Right* should be read as a rejection of the familiar difference between classical and welfare liberalism altogether. The supposed difference rests on the premise that law and freedom can be separated. The so called classical liberals maintain that freedom predates law, which can then be seen as a potential threat to freedom, and that the state should be concerned only with the legal equality of its citizens, rejecting modern welfare programs as attacks on individual liberty. The so called welfare liberals maintain that law in a way creates freedom, making it conditional, and enabling the state to pursue welfare programs after freedom has been secured; those programs are then legitimized by considerations other than political liberalism (usually by a version of utilitarianism). In the *Doctrine of Right*, on the other hand, Kant claims that (external) freedom and law are essentially connected. Freedom cannot be seen as predating positive law, nor can positive law be normatively conceptualized without the concept of mutual external freedom (thus it cannot be said that we start with positive law, and only then come to understand what freedom is). From there, Krasnoff builds up an argument that modern welfare programs can be legitimate from a liberal perspective, but not as contributions to some further goal beyond freedom (such as material well-being), but as freedom-enabling devices, making individuals independent of the choice of others.

A pair of articles in the mid-section of the book tackles Kant's infamous claim that resistance to political authority can never be justified, a claim based on the very logic of sovereignty, which precludes the possibility of legitimate public action bypassing the sovereign (and made worse by the usual interpretation that Kant considers all existing regimes as legitimate, no matter how far they stray from his proclaimed republican ideal). Wendy Brockie delivers an overview-style text, pointing to the key aspects of the topic (whether all regimes can be considered legitimate, passive vs. active resistance, the role of free speech in peaceful reform measures envisioned by Kant). Also pointing to some contemporary contributors to the debate, she concludes by observing that there seems to be no ground in the *Doctrine of Right* that can legitimize resistance to an abusive regime. Alyssa R. Bernstein offers an alternative take on the subject, pointing that there is room in Kant's political philosophy for the claim that not every thug wielding organized power must *eo ipso* be considered a sovereign, commanding respect in a civil condition. Contributing original content to the debate, she proceeds to describe a scenario in which there is even a Kantian basis for acts of civil disobedience in a legitimate civil condition, provided some very specific circumstances are in place.

On the other end of the popularity scale, Kant's most beloved politically-related claim, and arguably his most influential contribution to political philosophy to date, is his insistence that perpetual peace and global political community are to be considered the highest political good, and thus pursued as the obligatory final end of politics. The two articles covering the subject here aim to avoid the head-on tackling of the obvious points of discussion, which have been extensively covered in the existing literature (a global state vs. a global confederacy; the question of legitimate means of establishing a global community). Approaching the subject of legitimate means from a different angle, Milla Emilia Vaha points to an implication of Kant's theory that modern liberal authors, inclined to draw inspiration from Kant, might not welcome. Observing their tendency to ascribe the full extent of rights in the international domain to liberal-democratic states only, she claims that Kant's theory does not support such a view. Stemming from the moral personhood of the state, equal rights and duties belong to all states alike, even non-liberal ones (or, in Kant's parlance, despotic ones, which nevertheless are full-blown states). A consequence of this approach is that liberal states cannot have a right to meddle in the internal affairs of non-liberal states (although the question of whether all coercion-enforcing regimes qualify as states remains open).

Sorin Baiasu makes his contribution to the topic even more original, approaching the question of the means from an epistemological perspective. Claiming that there are important differences between Kant's highest ethical good and his highest political good (again delineating juridical and ethical domains of Kant's moral philosophy), Baiasu sets out to differentiate their respective guarantees. Opting for the interpretation in which perpetual peace is seen as secured by the outward workings of nature (irrespective of the internal human motives), Baiasu points that its guarantee is then the object of a *doctrinal* belief, centered on the teleological picture of nature, as opposed to a different epistemic category, a *moral* belief in the postulates of

pure practical reason (god, freedom, immortality), which is needed for the possibility of attaining the highest ethical good.

Closing the volume are two articles that approach the topic of interpersonal relations, suggesting some of the ways in which their ethical and juridical aspects should be delineated. Paula Satne tackles the question of punishment and forgiveness in Kant, elegantly bypassing Kant's second most notorious legal claim, his endorsement of capital punishment. Instead, she focuses on the category of punishment in general, describing that an individual, in principle, cannot administer punishment for the wrongs done to him. Transgressions of positive law can only be punished by the state (because unilateral use of force can never be in accordance with right), while transgression of moral law can only be punished by god (the one who hands out happiness in proportion with one's worthiness, which requires being able to see a person's internal motives). On the other hand, forgiveness is a strictly ethical concept, playing an important role in a person's moral development, but having no place in the juridical domain. Forgiving a transgression of positive law would constitute a breach of the universal principle of right, by putting one person's external freedom above another's, even if the victims are willing to forgive the perpetrator who shows true remorse.

Turning from vengeance to passion and lust, Jordan Pascoe tries to evaluate the potential contribution of Kant's claims about marriage to contemporary debates about the purpose and accessibility of marriage in general. Originally conceived by Kant as a juridical solution to an ethical problem (how to enable sexual relations without at the same time debasing persons by treating them as mere instruments of pleasure), marriage becomes a part of private right. It creates a special juridical domain, in which married persons share common ends and purposes, thus precluding them from treating each other as mere means for the gain of personal ends. At the same time, the existence of their common ends and purposes is acknowledged by the state, which is thus unable to distinguish between the partners, in turn giving them both equal standing before the law. Kant thus treats marriage in the same manner that he treats private property and contracts - he sees them as legal means that enable finite rational beings to satisfy their natural needs in a way consistent with the dictates of pure practical reason. Pascoe claims that such a view on marriage has some potential to contribute to the contemporary marriage equality movement, but is not useful in more radical attempts to transform the very concept of marriage in the name of promoting social, economic and gender equality.

In summary, the volume does achieve the goal of offering a peek into "what a political position grounded in the *Doctrine of Right* would look like in twenty-first-century terms" (2). The twelve articles, obviously, do not offer a comprehensive analysis of the whole *Doctrine of Right*, but nor were they supposed to. They do give the reader a taste of Kant's main legal and political preoccupations, and suggest some of the ways in which his arguments could be brought to bear on contemporary issues. Considering the nature of the source material, a twelve-article volume could hardly be tasked with more than that.