Needs and External Freedom in Kant’s *Doctrine of Right*

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- I -

Of all the claims in the *Doctrine of Right* that clash with the modern liberal sensibility, none perhaps is so central to Kant’s approach as the suggestion that right (*Recht*) is concerned only with relations between the choices of rational agents, and not at all with “the relation of one’s choice to the mere wish (hence also to the mere need) of [another]”.¹ In part, the claim seems unassailable: all are likely to agree that wishes have no significant role to play in political philosophy. But to say that *needs* have no role to play is another matter. One would think, on the contrary, that understanding what needs people have, and distinguishing between genuine needs and mere wishes, are absolutely central tasks of political philosophy. After all, it seems undeniable that my need for food to survive has a completely different kind of political import than my wish for a sailboat.

Of course, I am relying on intuitive considerations here, which is not exactly how Kant tends to approach philosophical questions. So perhaps it shouldn’t surprise us if he ends up in a different place. Besides, Kant doesn’t claim that needs don’t matter, full stop. As Thomas Pogge explains: “It may well be desirable that persons’ actions should harmonize with their own and others’ wishes, needs, and ends. But this, for Kant, is a concern of ethics—not of *Recht*, which deals with, and only with, the preconditions for mutually secure domains of external freedom.”² In other words, needs *do* matter on

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Kant’s view, but only for the morality of interpersonal relations, which concerns what individuals ought to do. By contrast, the morality of political relations, which on Kant’s view concerns what individuals can be forced to do, is exclusively concerned with preserving external freedom, and consequently has no room for claims of need. To be exact, however, even this last point isn’t quite correct. Even from a strictly political standpoint, Kant doesn’t rule out the possibility that the state might be required to provide assistance for the needy. As we will see below, what he rules out is the idea that needs are direct sources of political justification.

One might wonder whether Kant is correct in thinking that political philosophy is exclusively concerned with external freedom, or whether he is really committed to such an austere conception, but such is not my concern here.\(^3\) I want to ask a more circumscribed question, namely, to what extent focusing exclusively on external freedom (as I assume Kant does) must lead one to conclude that needs have no role to play in political philosophy. I will argue that, although claims of need cannot ground obligations of private right on a Kantian view, it does not follow that they cannot play a role in matters of public right. I will further argue, against recent interpretations of Kant’s position put forward by Paul Guyer and Arthur Ripstein, that Kant does not have to view claims of need as parasitic on the presence of a system of property rights, and that he can make room for an independent obligation of public right to provide for the basic needs of rational agents.

\(^3\) For an argument in support of Kant’s focus on external freedom, see my “Kant on the Right to Freedom: A Defense,” *Ethics* 120 (2010): 791-819.
Kant does not deny that the state might be required, or at least permitted, to engage in some redistribution of wealth. As he puts it, “For reasons of state the government is […] authorized to constrain the wealthy to provide the means of sustenance to those who are unable to provide for even their most necessary natural needs.” The question is whether such redistributive measures are ultimately justified by their role in allowing individuals to meet their needs. The text suggests that Kant has a more complex story in mind. In the passage from which I just quoted, he invokes the idea that society has “to maintain itself perpetually” to explain why the poor should be attended to. This suggests that the basic normative consideration is not the needs of individuals as such, but rather the necessity of preserving a rightful condition, or something along those lines. He also mentions the fact that the rich “owe their existence to an act of submitting to [the] care and protection [of the commonwealth]” to explain why they can legitimately be taxed, which again suggests that claims of need do not suffice to justify measures of redistributive taxation.

Two prominent recent discussions of Kant’s political philosophy confirm this reading. In “Kantian Foundations for Liberalism,” Paul Guyer argues that the Kantian justification for redistributive taxation is grounded in the conditions under which it would be rational for individuals to agree to a system of property rights. He writes:

Kant’s analysis of property […] leads to the conclusion that an opportunity to maintain one’s own existence at least equivalent to that which would have been enjoyed in an original

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4 RL, AA 06: 326.
5 Ibid.
6 Ibid. Arthur Ripstein suggests that the idea that the rich owe their existence to the commonwealth simply means that individuals’ wealth “consists entirely in their entitlement to exclude others from their goods, which in turn is consistent with equal freedom only when consistent with formal conditions of the general will.” (Arthur Ripstein, Force and Freedom: Kant’s Legal and Political Philosophy [Cambridge, MA: Harvard University Press, 2009], p. 283.)
common possession of the earth is a necessary condition of the rationality of free agreement to any system of property and thus a necessary condition of the rightfulness of property itself.\(^7\)

On this view, the state is justified in engaging in redistributive taxation because it puts in place a system of property rights. Imposing such a system can’t be legitimate unless all can rationally agree to it, the reasoning goes, and this requires that no one be made worse off (in terms of opportunity to maintain her existence) than she would be if the earth was owned in common. Two points are worth noting about this line of argument. First, it does not entail that the state has an obligation to meet the basic needs of individuals as such—only that it must ensure that individuals have sufficient opportunity to maintain their existence.\(^8\) That is a different sort of idea, although one that presumably requires the state to ensure that a person’s basic needs are met in the early stages of life. Second, and most crucially for our purposes, the proposed justification kicks in only once society has put in place a system of property rights; needs do not give rise to obligations of right in the state of nature.

In *Force and Freedom*, Arthur Ripstein defends a reading that goes in a similar direction, but with an important nuance. Like Guyer, he takes Kant’s position on redistributive taxation to be grounded in the conditions under which putting in place a system of property rights would be legitimate. Unlike Guyer, however, he does not take Kant to be relying on considerations of rational advantage. Rather, he takes Kant’s argument to rest on the duty of *rightful honor*, which states (roughly) that you cannot validly grant another person a right to treat you as a mere means.\(^9\) The thought is the


\(^8\) See ibid., p. 254.

\(^9\) More precisely, Ripstein describes rightful honor as a duty that “creates the boundary within which
following. As Ripstein sees it, the state’s authority to enforce property rights—and indeed, any power the state might claim—“must be traced to its claim to speak and act for all.” That is, the state’s authority can come only from the fact that it represents the united will of its citizens. Now, a system of property without a provision to help the needy would leave some individuals “completely subject to the choice of those in more fortunate circumstance.” Under such conditions, the poor could not participate in a united will, since doing so would be incompatible with their rightful honor.

Consequently, there could be no united will to enforce property rights, and hence no legitimate enforcement of these rights. The upshot, as Ripstein puts it, is that “the only way that property rights can be made enforceable is if the system that makes them so contains a provision for protecting against private dependence.” In short, no assistance for the needy, no enforceable property rights—which, on Kant’s view, means no property rights at all.

- III -

That a system of property rights can be legitimate only if it includes some provision to help the poor seems highly plausible. But is that the only role that considerations of need can play in the Kantian political framework? To answer that question, we must first ask why Kant is so reticent to grant needs a more direct role in political justification. Perhaps he thinks that allowing A’s needs to ground enforceable freedom can be exercised, and thereby governs the arrangements that a person can enter into as a matter of right. So your entitlement to make your own voluntary arrangements with others is limited to arrangements that are consistent with the Universal Principle of Right. As a result, you cannot give another person a right to treat you as a mere means by binding you in ways in which you cannot bind them.” (Force and Freedom, p. 18) Ripstein contrasts his position with Guyer’s at pp. 279 n. 19 and 286. For Kant’s (far less explicit) discussion of rightful honor, see RL, AA 06: 236.

11 Ibid., p. 274.
12 Ibid., p. 278.
claims against B would violate B’s right to freedom, much in the way that B’s right to freedom would be violated if force could be used against him whenever A chose or, worse yet, simply wished that it be done. But if that is Kant’s worry, then he overlooks a fundamental difference between needs on the one hand, and desires or wishes on the other, namely, that a person’s needs—or at least an important subset thereof—are independent of her choices. This matters because Kant understands external freedom specifically as the “independence from being constrained by another’s choice”. And it is not obvious that being forced to contribute to the satisfaction of others’ basic needs amounts to being constrained by their choices, since they have not chosen to have the needs they have.

To get a firmer grip on this point, it may be useful to remind ourselves of the ideal that underlies Kant’s political philosophy. As Ripstein articulates it, this states that, “as a matter of right, each person is entitled to be his or her own master, not in the sense of enjoying some form of special self-relation, but in the contrastive sense of not being subordinated to the choice of any other particular person.” The central question of Kant’s political philosophy is thus not the one familiar from his moral philosophy—whether my actions are truly mine, rather than caused by alien forces within me (my desires, say). The question is whether I ultimately get to decide what I am to do, or whether somebody else gets to decide for me. What we need to ask, then, is whether being forced to contribute to the satisfaction of your needs prevents me from being my own master.

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13 A person’s choices will often determine whether she has the means to satisfy her needs, but they do not determine what her basic needs are. Thus, although a person’s claim to help may be diminished if her needs go unfulfilled as a result of her own bad choices, the original claim is grounded in an aspect of her nature that is independent of her choices. Note that, for simplicity’s sake, I leave aside in what follows cases in which a person is in need as a result of her bad choices. Such cases raise difficult questions, but these are in no way specific to the view I am putting forward.

14 RL, AA 06: 237; emphasis added.

15 Ripstein, Force and Freedom, p. 4.
own master—whether it means that you get to decide for me. I do not think that it does.

Insofar as your needs are independent of your choices, there is no sense in which you get to decide for me when your claims of need are enforced against me. There is merely something about you that makes it the case that I can be forced to do certain things. That does not, as such, undermine my right to be my own master.

Even if all this is correct, one may still wonder how claims of need could ever warrant the use of force on Kant’s view. The use of force restricts external freedom, after all, and it is one of Kant’s fundamental tenets that external freedom can be restricted only for the sake of external freedom itself. But what that point entails for our discussion depends on what kind of claim of need we have in mind. Consider basic rational needs—needs that have to be satisfied in order for a rational agent to function as such.\(^{16}\) What these needs are will depend on the agent’s specific nature; for human beings, they will include such things as the need for education during childhood, and for adequate food and shelter throughout life. Now, the suggestion I want to make is that the fulfillment of an agent’s basic rational needs is essential to her freedom. The thought is straightforward: if those needs are not met, then the agent cannot function as a rational agent; hence, she will be unable to set and pursue ends for themselves; hence, she will not be free.

One might object that the sense in which such an agent is not free differs from what Kant has in mind when he discusses the justification of coercion. Recall how he

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\(^{16}\) Note that the passage I quoted at the outset may be consistent with the point I go on to make in the text, if the contrast Kant has in mind when he speaks of “mere need” is with something like what I call here basic rational need (which may be close to what Kant means when he speaks of “most necessary natural needs” in the passage I quoted at the beginning of Section II). I must put these interpretative issues to one side here.
makes much of the idea of “a hindering of a hindrance to freedom”.\textsuperscript{17} The thought is that, if your action would hinder my freedom, then using force to prevent you from carrying it out hinders that hindrance; it is therefore compatible with freedom, and hence justified. Now, unfulfilled basic rational needs don’t involve one agent’s being subject to the choices of another in the way this suggests; they only involve one agent’s doing poorly, or falling apart, quite possibly through nobody’s fault. One may therefore doubt that this constitutes a hindrance to freedom in the sense Kant intended.\textsuperscript{18} There is something to that line of thought, but I don’t think it suffices to rule out that needs could play a greater role in Kant’s political philosophy than has generally been allowed. Let me explain.

It is true that being in need does not amount to having one’s freedom hindered by someone in particular. And, as Ripstein repeatedly insists, it does follow from this that Kant cannot recognize a duty of private right to help those in need.\textsuperscript{19} A person whose basic rational needs are not met does not have a private claim against any given individual (by contrast, say, with the person whose car is damaged by a careless driver). But we can grant that point and still think that claims of need have an importance for political philosophy that isn’t parasitic on the existence of a system of property rights. We can think that, given the relation between basic rational needs and an agent’s ability to set and pursue ends, external freedom is hindered by the absence of public provision for basic needs, whether or not a system of property rights is in place. That is, we can think that the absence of adequate public measures to ensure that basic rational needs are

\textsuperscript{17} RL, AA 06: 231.
\textsuperscript{18} On this point, see Ripstein, \textit{Force and Freedom}, p. 280.
\textsuperscript{19} See for instance ibid., pp. 275-76.
met is an unjustified restriction on external freedom, much in the way that the absence of a system of property or contract rights is on Kant’s view.\(^{20}\)

If this is correct, then there is a Kantian justification for redistributive taxation that stems directly from the fact that certain conditions have to be met for human beings to function as rational agents. It should be obvious that a similar case cannot be made for wishes. Indeed, putting in place a system of public provision for wishes would be entirely illegitimate on a Kantian view. A person’s freedom does not depend on the fulfillment of her wishes; moreover, such a system would be flatly incompatible with the right to be one’s own master, which must entail, if it means anything at all, that I do not have to act according to your wishes. By contrast, if basic rational needs can play a direct role in political justification, it is precisely because their satisfaction is essential for external freedom, and because they are suitably independent of a person’s choices.

- IV -

Let me end by mentioning two advantages that the picture I have put forward presents over indirect justifications of redistributive taxation such as those advocated by Guyer and Ripstein. A first advantage is that my approach accounts for what appears obvious, namely, that claims of need can have a political import that is quite independent of any system of property. Consider for instance needs related to a person’s health. If I am in poor health, then I have a claim of right to help that doesn’t seem to depend on the

\(^{20}\) In discussion, Franz Hespe objected to the analogy I invoke here, on the ground that my needs can be left unmet without anyone’s hindering my freedom, whereas if my property rights are violated, there is necessarily someone hindering my freedom. I take Kant’s argument for property rights to be more complex than this suggests. Crucially, it includes the claim that the absence of a system of property rights—the absence of a legitimate way of forcibly excluding others from objects—would be incompatible with external freedom. It is that part of Kant’s argument that parallels the claim I make in the text about basic rational needs. For a closer discussion of Kant’s argument for property rights, see my “Kant on Property Rights and the State,” *Kantian Review* 15 (2010): 57-87.
presence of a system of property rights.\textsuperscript{21} Put differently, it seems plausible to say that claims of right grounded in one’s basic health needs would hold in a state of nature, prior to the establishment of any system of property. Such claims could admittedly not be enforced in a state of nature, but as I understand Kant he views the state of nature as a condition in which there is no agent with the authority to enforce \textit{any} claim of right, so it is trivial that claims of need couldn’t be enforced in such a condition.\textsuperscript{22} In any case, a better way to look at the matter is to say that, if such claims are indeed valid in a state of nature, then individuals living side by side have an obligation to put in place an agent that can forcibly ensure that basic rational needs are met—in the same way that they have an obligation to put in place an agent that can enforce property and contract rights.\textsuperscript{23} These different claims are equally part of the obligation to leave the state of nature that is central to Kant’s view of state legitimacy.

The picture I have defended has the further advantage of avoiding what seems to me a problematic implication of Guyer’s and Ripstein’s positions. Following what they say, a hypothetical society that had a centralized form of government through which

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\item \textsuperscript{21} Compare the indirect manner in which Ripstein tackles the question of health care when he writes that, “if illness and medical expenses regularly lead citizens to fall into conditions of dependency, a state can act proactively to provide publicly funded universal health care.” (\textit{Force and Freedom}, p. 285)
\item \textsuperscript{22} On this understanding of the status of rights in the state of nature, see my “Kant on Property Rights and the State.”
\item \textsuperscript{23} In discussion, Japa Pallikkathayil pointed out that my argument may have more sweeping implications than I let on. In particular, it is not obvious why the point should be restricted to individuals living side by side (as Kant’s argument for property rights clearly is). Rather, the implication seems to be that the mere fact that someone, somewhere has an unmet basic rational need means that we must attempt to enter into a civil condition with her and satisfy that need. This shows the argument from basic rational needs to be quite a different beast than the argument from property rights, and an odd fit in the Kantian framework. This is a difficult question, but I suspect that part of the answer is that a state can take it upon itself to meet basic rational needs only if it has the authority to enforce property rights, since gathering resources to provide for needs will require enforcing property rights. Since the justification for enforcing property rights applies only to individuals living side by side, it follows that the requirement to put in place a state will also be restricted to such individuals. This does not eliminate all sweeping implications, however. My argument does entail that, once a state is put in place, and once it has the means to meet basic rational needs, it is required to do so, not just for its citizens, but as far as possible for all rational agents. That implication may seem to take us far beyond Kant’s text, but I do not find it implausible.
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basic rational needs were provided for, but no formal system of property rights (say, because conditions of relative abundance meant that disputes about property almost never arose) would be further from the Kantian ideal than if it had no system to provide for needs. That seems implausible. Such a society would be further from the Kantian ideal than if it had a formal system of property rights, since property rights are required by external freedom. But I would think that, whatever the society’s failings in that respect, when its members choose to pool their efforts to ensure that no one’s basic rational needs go unmet, they take a substantial step toward making sure that all individuals are able to set and pursue ends for themselves without being subject to others’ choices—a step toward, not away from, the ideal of external freedom that lies at the heart of Kant’s political philosophy.