

The Moral Limits of State Action in Kant's *Metaphysics of Morals*

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IN *GROUNDING FOR THE METAPHYSICS OF MORALS*, Kant identifies and establishes the Categorical Imperative, the law to which all maxims of action must conform if they would be moral. In *The Metaphysics of Morals* Kant moves on to practically apply the principles that underlie moral action, principles that ground moral laws such as the Categorical Imperative. "All lawgiving can...be distinguished with respect to the incentive" or the connection between the subject and the law, Kant says (*Metaphysics* 20). Moral law may make the incentive for action the fact that the action is a duty, in which case the law is an ethical law; if the incentive is something other than duty, the law is "juridical." The latter will be the topic of this paper. Juridical laws, Kant goes on to explain, are those that command externally, or those that can be made into public law (*Metaphysics* 17, 20–21). Thus, the actions and lawmaking of the state are governed by moral law, as are individual actions. To further specify my topic, then, I will explore how Kant applies moral principles to state actions and how he determines what actions the state is morally permitted to take against individuals.

A key concept at the heart of this discussion is that of "freedom" as Kant uses the word. Whether or not certain actions infringe upon the freedom of individuals will determine whether they are morally permissible. Allen D. Rosen argues in his book *Kant's Theory of Justice* that Kant allows the state a wide range of positive action, including taxing the wealthy in order to care for the needy. Such action is justified by a state duty of

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beneficence, derived from the purpose of its existence. Yet such action can be taken, in Rosen's view, without ever infringing on individual freedom. I will argue that Rosen misinterprets passages of Kant and thus arrives at his (false) conclusions. The state has no duty of beneficence. It exists in order to protect individual rights and guarantee justice. These ends can be met only if the united will rationally determines the action that the state can take.

Kant and Freedom

Kant's concept of freedom is the focal point for the discussion of moral law within the state. He will claim that freedom is the basis for the possibility of the Categorical Imperative (*Metaphysics* 14–15). Therefore, every maxim that aspires to become moral law must conform to the principles of freedom first before it can be willed universally. The principles of freedom apply equally to every person, thus providing the basis for universal moral law. The Categorical Imperative reflects this universality; no maxim can be moral law until it can be willed universally, until it is assured that the maxim can coexist with the freedom of everybody. What are the principles of freedom that Kant holds so sacred? They are twofold: (1) Equality—no one can be coerced to do more than any other (*Metaphysics* 29–30). In other words, the same moral laws apply for all people; nobody is exempt from morality, nor is anyone held to a higher standard. (2) This principle could be called liberty (Kant gives it no name). The essence of this principle is that any action that does not infringe upon the rights (the will or property) of others is consistent with freedom, although it may not be morally required (*Metaphysics* 30). Some actions are “merely *permitted*, since there is no law limiting one's freedom with regard to it and so too no duty” (*Metaphysics* 15).

Every person is equally free for every person is rational (*Grounding* 49–50). Our rationality frees us from having our actions determined by external or emotional impulses (*Metaphysics* 13). Kant calls this a negative concept of freedom, contrasting it with a positive concept. We are free in the positive sense when everybody subjects his or her maxims of action to the Categorical Imperative. Moral action ensures that every person is treated with respect, in other words, that every one's rights are respected. Thus, moral action contributes to a state where every person is free from unjust coercion (*Metaphysics* 13–14). So, positive freedom, the sense that

applies directly to moral law, necessitates conformity to the Categorical Imperative. If the state hopes to create a civil society where individuals can be free, the state itself must first subject its maxims to the principles of freedom.

In the following discussions, all reference to freedom will refer to the two principles just outlined. These must be accounted for in every case determining the morality of actions. At times I also use the term “right” or “principles of right.” Right is essentially equivalent to freedom, but slightly broader. Freedom, Kant explains, is our only natural right (*Metaphysics* 29–30). Yet a person may also have a right to property. Any action affecting property that creates disputes about ownership can be settled by applying the principles of freedom.

Rosen and State Beneficence

The main argument that Rosen wishes to make is that the state has a duty of beneficence that corresponds to the individual duty of beneficence. In this way the state is a moral being. From this it follows that the state necessarily must take positive action, in the form of taxation, to assist those in need. Since the state’s positive actions are grounded in an ethical duty (a categorical imperative) they cannot, by definition, violate the freedom of the citizens.

Rosen argues that it is irrational to conceive of a civil state in which the people do not desire that the state be able to assist any needy individual (200–01). He draws upon Kant’s argument in *Grounding for the Metaphysics of Morals* that a rational individual cannot rationally will a maxim of non-beneficence (Rosen 198–202; cf. *Grounding* 423). This argument concludes that individuals must rationally have an ethical duty to assist others in need, for no one can rationally will to live completely independently of the assistance of others. It is simply not reasonable to believe that any person can go throughout life and never have need of the help that another can offer. If we were to will a universal law of non-beneficence, when moments of need arose we would have contradicted our rational desire for help. Therefore, concludes Kant, beneficence must be rationally willed a moral duty.

What Rosen wants to say is that when the united will creates the state, it gives the legislator the authority to take measures to help needy citizens. In his own words, “We ask whether an entire people could

rationally agree to a positive law that stipulated that the state should do nothing to provide for the needs of citizens or even ensure their survival if they were unable to do so themselves. The argument in the *Groundwork* suggests that the answer is no” (200). Rosen is not saying that the state must preserve each citizen because the preservation of individuals is necessary for the preservation of the united will (state). Rather, to rationally justify a state duty of beneficence one must correlate the nature of the united will with what individuals rationally will. The united will is the collective individual wills of the citizens, or what each and every citizen wills. It is not dependent on the survival of every citizen, but only on whether every citizen wills the same maxims to become universal law. So if every citizen rationally wills maxim X, that maxim makes up part of the united will. Any non-universal maxim does not comprise part of the united will. Each individual rationally wills his or her own preservation—desires state help in time of need—and thus the united will includes the law that every citizen be preserved by the state when the citizen cannot provide for himself or herself.

Yet, for his purposes, Rosen must do more than just show that it is rationally conceivable that the state be created with a duty of beneficence. What he must show is that Kant viewed such a duty as necessary for fulfilling the state’s purposes. If the state does not exist to take positive action for the welfare of citizens then the rationality argument is certainly less relevant, if not unfounded. He must also demonstrate that a state duty of beneficence is consistent with the principles of freedom. Supposing that the purpose of the state permits such positive action, still, the measures that the state implements must always respect the freedom of individual citizens. The good of some cannot be promoted at the expense of the freedom of others. Such action violates the most basic of Kant’s moral principles (*Metaphysics* 15).

Why must the purpose of the state necessitate a duty of beneficence? In other words, what necessary role would the state be unable to fill without a duty of beneficence? Obviously it would be unable to care for the poor itself; but is this Kant’s purpose for the state, to ensure the temporal needs of the people? To answer this question, Rosen draws from Kant’s essay “Perpetual Peace” (181–86; “Perpetual” 310–11). The passage that Rosen cites seems to make explicit the end towards which the state’s actions should be directed. Kant appears to create a political Categorical Imperative that guides legislators’ maxims so that their actions accord with the state’s purpose. The imperative serves to harmonize ethics with politics, in Rosen’s view.

Kant says that the “proper task of politics is to promote [the citizens’ happiness]” (“Perpetual” 311). The public laws that the state enacts must fulfill two duties in order to satisfy this end. Public laws must serve some sort of ethical duty, what Kant calls “philanthropy” and Rosen equates with beneficence (“Perpetual” 310; Rosen 183). The ethical duty, though, is subordinate to the duty to uphold individual rights (“Perpetual” 310). Subsequently, any public law that cannot serve some charitable purpose without violating individual rights cannot fulfill the purpose of the state.

Rosen interprets this portion of “Perpetual Peace” to mean that the state has a definite duty to provide for the temporal welfare of the citizens. Promoting happiness involves positive action, always within the bounds of freedom. The answer to the question of the necessity of a state duty of beneficence is this: an ethical duty not only allows for the state to benefit the citizens, but it serves to focus the actions of the state as well. Since public law must fulfill an ethical duty, the state’s actions are confined or concentrated on the welfare of the people. Frivolous or non-beneficial laws are avoided if they do not directly satisfy the duty of beneficence. The end of the happiness of the people is kept at the forefront of the state’s decision making. The ethical duty that most clearly satisfies the imperative to promote happiness is beneficence, a claim that is supported further by a second passage, this one in *The Metaphysics of Morals*.

Whereas the previous passage clarifies Rosen’s view of Kant’s purpose for politics, the end for which it should strive, this passage spells out the state’s rights in working for that end. The passage from “Doctrine of Right” begins as follows: “To the supreme commander there belongs... insofar as he has taken over the duty of the people, the right to impose taxes on the people for its own preservation, such as taxes to support organizations providing for... charitable or pious institutions” (*Metaphysics* 100–01).

Clearly, Kant recognizes a state right to tax for the purpose of assisting the needy. This right exists as a result of a duty possessed by the supreme commander (legislator, sovereign). Once again, Rosen identifies this duty as a duty of beneficence. It is not so much “taken over” as it is equivalent to the ethical duty each individual possesses, Rosen explains. It appears then, that the state as an independent entity is a rational/moral individual on par with individual people within the state. It has the same obligations and duties as any person, and has them for achieving the same ends: preservation or happiness. The apparent difference between the state duty

of beneficence and the duty of an individual person lies in the means that can lawfully be used to bring about that end. The state is given the license to coercively tax the wealthy for the benefit of the needy. Individuals must fulfill their duty non-coercively. Rather, the two legitimate (rightful) uses of coercion that Kant explains do not include coercion as a mean of fulfilling an individual's ethical duty (*Metaphysics* 24–26).

Why is it that the state can use coercion to fulfill its ethical duties when this clearly seems to violate the freedom of those who are coerced. Rosen explains that positive/coercive action by the state in the form of taxation for charitable causes does not violate individual freedom (204). The popular will elected the legislator (to whom the right to tax belongs) and consequently also tacitly approved a suspension of personal freedom. That is, election of the official entails approval of the official's policy of coercive taxation. Therefore, he concludes, the people are not subjected to unjust laws, but voluntarily restrict their own freedom.

In summary, Rosen interprets Kant so as to establish three points regarding the state and the permissibility of state actions. (1) The united will creates the state for the purpose of guaranteeing the temporal welfare of the individual citizens. (2) State duties include a duty of beneficence. Public laws and state actions must reflect this duty by serving some charitable end while always honoring the freedom and rights of individuals. The purpose of the state is directly linked to the duties that the state possesses in such a way that its duties are necessary for meeting its end. And (3), the state's duty of beneficence permits it to coercively tax the wealthy in order to provide for the needy, and such action does not violate the principles of freedom.

Alternative Interpretation

Although the passages that Rosen cites can reasonably be interpreted to reach these conclusions, he neglects many other, more explicit passages that lead to a very different set of conclusions. Regarding the purpose and origin of the state, Kant explains quite clearly that it arises as a way of securing individual rights, not to provide a source of welfare. This claim leads us to question whether a duty of beneficence is consistent with its purpose or even necessary for the existence of the state. The evidence that Rosen provides to support such a duty may be misinterpreted. In fact, his justification for coercive state action is quite un-Kantian. I will attempt to

provide an alternative interpretation of the limits of state action by examining the possible consequences of a state duty of beneficence. I argue that Rosen's understanding of such a duty is actually inconsistent with Kant's concept of freedom.

Purpose of the State

The civil state exists in order to secure individual rights, not to provide for the welfare of the people or ensure their happiness, as Rosen claims. It may be that happiness is attained by securing rights, but this is not how Rosen views happiness. His argument is that the state is to promote the happiness of the people by providing for their temporal needs, that is, fulfilling its duty of beneficence. But the context of "Perpetual Peace" does not suggest a specific duty like beneficence, but rather affirms, more simply, that the state should not oppose the interests of the people.

In the section of "Perpetual Peace" cited by Rosen, Kant is trying to reconcile politics with morality broken into its divisions of ethics and right ("Perpetual" 306–10). In what sounds like a historical account, Kant suggests that politics typically disregards the rights of people, justifying its action by claiming a duty of beneficence. In other words, a state duty of beneficence may allow the state to assist people, but at the expense of their rights. "Politics readily agrees with morality in its first branch (as ethics) in order to surrender the rights of men to their superiors. But with morality in the second branch (as a science of right), to which it must bend its knee, politics finds it advisable not to have any dealings, and rather denies it all reality, preferring to reduce all duties to mere benevolence" ("Perpetual" 310). The people become dependent upon the state and cease to see the violations of their rights by the state. This is not meant to imply that the state should not assist people. Instead, it should assist them to some degree because it would be wrong to harm or oppose them. Yet at the same time, the principles of freedom must be respected. So, instead of giving the state a specific duty, one that prescribes certain actions, Kant is merely saying that it is the duty of the state to ensure that the laws it enacts meet two conditions: (1) laws must be for the benefit of the people; and (2) laws must not violate individual rights. If both conditions are met, happiness is certainly promoted.

It is perplexing, though, that Kant says forthrightly that the end of politics is to make individuals happy if this is not to be understood literally.

We find additional support for the claim that the purpose of the state cannot be the temporal welfare (happiness) of the people in the first paragraphs of the *Metaphysics* (9). If morality taught principles of happiness it would be an entirely subjective (and relative) pursuit. The maxims of action that lead to one person's happiness certainly do not apply to everybody. Additionally, we learn how to be happy through experience, trial and error. We learn and err and formulate guidelines that generally lead us to maximize our pleasure. But moral law functions very differently for Kant. Moral laws are universal in their applicability, unconditional in their commanding, and a priori in their origin. How does this comparison relate to the question of the purpose of the state?

Moral laws apply equally to individuals and to the state. That is, the state can be considered moral or immoral; the state can obey or neglect its moral duties. Therefore, the moral laws that apply to political states are not subjective, nor can they be judged good, or just (in any sense) based on how they benefit citizens in purely subjective pursuits. This claim rests on the common sense premise that freedom and rationality apply equally well to all people. That is, no state can violate citizens' freedom claiming that the principles of freedom do not inherently apply to them.

A final argument for why Rosen misinterprets the purpose of the state in his analysis of "Perpetual Peace" is that Kant contrasts a civil state with a state of nature in terms of rights. Speaking of civil states Kant says, "A state is a union of a multitude of human beings under laws of right" (*Metaphysics* 90). Likewise, "a civil constitution is just the rightful condition, by which what belongs to each is only secured, but not actually settled and determined" (*Metaphysics* 45). In a state of nature, though people may live civilly, rights to external objects are never secured. That is, if a dispute over rights arose there would be no means by which it could be civilly settled. There is no law that serves to judge the actions of people.

When Kant says that the civil state is not the condition where what belongs to us (what we have a right to) is "actually settled and determined" he answers a possible objection to the point just made. He has claimed that the civil state exists to secure rights, not to satisfy material needs. Kant defends this claim saying the state does not have a responsibility to determine what objects we have a right to, nor do we have any natural right to any object (*Metaphysics* 47). A natural right to an object would obligate others—including the state—to provide us with that object. Instead we acquire a right to an object through control of the object for

practical use, always obeying the laws of freedom (*Metaphysics* 47). If we do not have a natural right to any object, the state cannot have any ethical duty to provide us with any object. The fact that the object may be necessary for our survival does not change this fact, however cruel that may appear.

The state exists, therefore, to enact laws that make up a just or rightful society. That is, public laws in accordance with moral laws define the limits of rightful behavior, for individuals and for the state. The state's duty is, therefore, to ensure that the rights of individuals are protected, which involves administering punishment for violations of those rights (*Metaphysics* 104–07). The priority of rights in a civil state is once again made clear in the following passage which appears immediately prior to Kant's discussion of the actions that the state is justified in taking.

A state's well-being consists in [the three branches of government: legislative, executive, judicial] being united. By the well-being of a state must not be understood the welfare of its citizens and their happiness. . . . By the well-being of a state is understood, instead, that condition in which its constitution conforms most fully to principles of right; it is that condition which reason, by a categorical imperative, makes it obligatory for us to strive after. (*Metaphysics* 94–95)

The United Will and State Action

I have established that in Kant's view the civil state exists to protect individual rights, not to provide welfare to the needy. But does this view eliminate any possibility of state-provided assistance to the needy? Is the state morally obligated to remain totally impartial to citizens' needs? If not, then what actions is the state morally justified in taking? By justified I mean, what actions will give absolute priority to rights while still serving some beneficial end. The answer is yes, the state is both morally and rationally justified in taking positive action in benefit of the needy, granted a specific condition is met first. I will show how Kant allows for this by criticizing Rosen's defense of a state duty of beneficence against a particular objection.

Rosen defends a state duty of beneficence by arguing against the objection that such a duty inevitably violates the freedom of those who are taxed (203–04). In making his defense, he assumes that in a Kantian

state, the legislative officials are elected by popular vote, by a majority. We are familiar with such a system of election and thus know that elected officials govern through popular consent. When we elect a legislative official, we also elect, in a sense, the policies endorsed by the official. Thus, the policies of popularly elected officials reflect the will of the majority. These premises lead Rosen to the conclusion that freedom is not violated by a duty of beneficence that allows the state to freely tax the wealthy. Instead, the people voluntarily surrender a portion of their freedom when they elect legislative officials (204).

This argument, as applied to Kant, is clearly unsound. In Kant's writings he never makes reference to the popular will, and certainly moral law does not derive from majority election. Instead, as Kant states, "The legislative authority can belong only to the united will of the people" (*Metaphysics* 91). So, what does this mean—the legislative authority "belongs" to the united will?

The most reasonable interpretation is that the legislator's actions reflect the united will. Juridical lawgiving is the duty of the legislator or sovereign authority (*Metaphysics* 94). The laws that are enacted by the legislator demarcate the limits of juridical or legal duties, which are equivalent to moral imperatives. So what is the link between the (united or individual) will and moral imperatives? Our subjective, often immoral, maxims of action are the generalities we follow when we make choices. In order that our choices (our maxims of action) be moral we must apply practical reason. Our faculty of reason allows us to determine whether our maxims can coexist with universal freedom. If they do, we will that such a maxim become practical (moral) law. Practical laws, such as public laws within a state, are principles that define duties in terms of actions and proceed from the will (*Metaphysics* 17–18). Therefore, the transition between subjective maxims and objective laws is made by the principles of freedom. The command of a public law is universal; that is, the duty applies to every citizen equally because every person wills freedom. In this sense, the public laws enacted by the legislator are reflections of every citizen willing certain actions to become categorical imperatives.

There is another, clearer, sense in which the legislative authority "belongs" to the united will. Every citizen is equally free (has equal rights). Yet positive freedom is possible only by subjecting our maxims of action to the Categorical Imperative. In Kant's words, "The positive concept of freedom is...not possible except by the subjection of the maxim of every

action to the condition of its qualifying as universal law” (*Metaphysics* 13). What this means is that if a maxim of action—a public law, for instance—can be universally willed as law it will not violate any one citizen’s freedom. Moral laws are based on the possibility of universal positive freedom. If a maxim cannot be categorically made into law it cannot totally obey freedom. We only need ask whether all citizens can rationally will the maxim of coercive taxation by the state. Clearly the poor would not rationally will this maxim, and certainly not if their money went to benefit the wealthy. Therefore, coercive taxation cannot be a universal moral law; it violates freedom.

Positive state action on behalf of the needy is possible with the consent of the united will. “Only the concurring and united will of all, insofar as each decides the same thing for all and all for each, and so only the general united will of the people, can be legislative” (*Metaphysics* 91). Two points of significance arise from this passage. First, the legislative authority is not a separate entity from the will of the people, although the people’s will may be expressed through a representative. But the legislator does not act as a monarch might, for instance, detached from the interests and opinion of the people. Moral legislative decisions—decisions that respect universal freedom and individual rights—are made only through the people, not without or in spite of their will.

Secondly, by and large, the state allows people to act for themselves and to pursue their own ends. The state, as has been shown, exists to ensure that the rights of the citizens are protected, and when violations occur, the state acts as judge to restore justice. Yet, when the need for positive state action arises, only the united will of the people can decide whether such action can be taken. Positive actions, like taxation, do not always have freedom as their end. For positive social action to be taken, the united will must first express its consent. The conclusion here is that when Kant says that the state has a right to tax the wealthy for the benefit of the poor, this is a logical possibility, not a free license. Requiring the united consent of the people promotes the happiness and well-being of all the people while fulfilling the state’s greater priority of protecting individual rights. This view seems logical (and ethical) yet somewhat impractical since our democratic society functions contrary to the kind of state Kant is trying to create. Most democratic states function to some degree according to the will of the majority, not purely rational principles. In this way, Kant is advocating neither a minimalist state nor a socialist state.

Kant's view of morally permissible actions by the state conforms to the Categorical Imperative—any action that is to be moral must be able to be willed as universal law. What I have attempted to show is that the principles of freedom underlie the Categorical Imperative and help to restrict state actions to protecting individual rights. Rosen argues that coercive taxation of the wealthy to assist the needy is a moral duty of the state, and therefore poses no threat to freedom. But my criticism of his arguments has shown that he misinterprets key passages of Kant dealing with freedom, and incorrectly gives the state such a duty. Kant views the state functioning through the united will, that is, what every citizen rationally wills. The limit of moral state action extends not to positive action sanctioned by the popular vote, but must conform to the united voice of the people.

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