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978-0-521-84308-9 — Kant: Lectures and Drafts on Political Philosophy

Edited and translated by Frederick Rauscher , Translated by Kenneth R. Westphal

Excerpt

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Reflections on the philosophy of right

Editor's introduction

Kant typically entered his classroom armed with very few notes. One student recounted that “In many classes he did not even once use a notebook, instead he had a few things marked in the margins of his textbooks to serve as an outline.”¹ Kant was known for an engaging teaching style, one that aimed at getting students to think for themselves. He was required in most classes to use a textbook as the basis for his lectures, but he usually used the textbook as a sounding board and even when presenting the author’s views evaluated them from his own perspective. In his lectures on ethics he was said to move his students to tears with his exhortations to duty. We don’t know whether students shed any tears in Kant’s course on Natural Right, but we do know that he wrote his notes for this course in a textbook. His personal note-filled copy of the second volume of Gottfried Achenwall’s *Jus Naturae* survived into the twentieth century and served as the core for the section of the Academy edition for Kant’s Reflections on the Philosophy of Right. It was lost after the Second World War. Kant wrote in the margins of this text but did not go the lengths that he did for other textbooks which he had bound with interleaved blank pages so that he would have a full blank space opposite every page of text. The number of pages of Reflections gleaned from Kant’s copy of Achenwall is further reduced by the fact that Kant’s copy of the other half of Achenwall’s text, which Kant must have owned given the extensive use of that volume in the Feyerabend course transcript, has been unaccounted for since Kant’s death.²

The basic history of the production of the Academy edition of the Reflections is explained in the General introduction to this volume of translations. Erich Adickes, the editor of part three of the Academy edition dedicated to Kant’s handwritten but unpublished writings left after his death, had created an elaborate system for dividing the writings into distinct Reflections and dating each (14:xxxv–xliii). For his full identification of the time periods for all of Kant’s Reflections he used the twenty-four letter Greek alphabet; unfortunately he had identified thirty-three distinct time periods and had to resort to using the same letter more than once using superscripted numbers in order to label all the time periods,

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some thus appear as sub-periods in his system. For the Reflections on Metaphysics, Ethics, and Philosophy of Right he presented the material itself in rough chronological order by arranging the Reflections in chapters corresponding to the twenty-four lettered time periods. Within each chapter the notes are arranged topically and no further division into the sub-periods is given. Each Reflection is presented with a full list of the possible time periods (or sub-periods) into which it could fall. Adickes rarely felt confident enough in his dating system, based on imprecise factors such as relative page position and ink color as it was, to assign only one time period to a Reflection. Usually he offered a series of possible time periods, using parentheses and question marks to indicate levels of likelihood. He used the most plausible, and when tied the earliest, time period to assign the Reflections to the chapters.

He quite plausibly dated the earliest Reflections found in Kant's copy of Achenwall not to the publication date of the book (1763) but to Kant's first course offerings using it (1766–68) (14:xxxvii). He assigned all the Reflections on the Philosophy of Right to nine different chapters corresponding to time periods in reference to the initial starting dates (given here without using Adickes's Greek lettering system):³

- (a) around 1766–68
- (b) 1769
- (c) around 1772 but certainly between (b) and (d)
- (d) certainly later than (c) but before (e)
- (e) around 1773–75
- (f) approximately 1775–1777
- (g) around 1776–78
- (h) 1780–89
- (i) 1790–1804

The latter two time periods are subdivided into shorter sub-periods when assigning dates to particular Reflections but they are not given separate chapters or sub-chapters. In each chapter the notes are arranged in accordance with their location in Achenwall's text using Achenwall's headings for books, sections, and titles. Adickes assigns the rare case of a loose sheet to a topic "general" at the start of each chapter; others in the "general" category are Kant's notes in the very earliest or very last pages of the book.

In arranging the Reflections translated below I simply present them in numerical order. Doing so retains, in the broadest division, the separate volumes from which they stem, so that, e.g., relevant Reflections from Kant's reflections on Anthropology, Logic, Ethics, and Philosophy of Right are presented together. Within each of those broad subjects the numerical system then roughly tracks chronological order using the nine periods listed above corresponding to the chapters; in the material

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in the phase 1780–89, where the sub-periods do not constitute chapter parts but are simply given with each Reflection, one must find the particular sub-period in the identifying information for each Reflection. I do not present the headings for Achenwall's divisions. For each individual Reflection I use the Reflection number (in all of these cases using four digits), followed by the years of likely composition (in which I join together time periods of the same likelihood), followed by the location (for Reflections) or identification name (for loose sheets, labeled using the German *loses Blatt*). I do not include information that Adickes provided identifying relation to earlier German editions of some of the material. Most of these Reflections are drawn from Kant's notes in his edition of Achenwall's book *Jus Naturae*. The location indicator "J. x" means that that Reflection is on page x of Achenwall. "Pr." indicates Baumgarten's text on practical philosophy. "M" indicates Baumgarten's text on metaphysics, part of which Kant used in his Anthropology course. Section numbers indicate sections of the corresponding text. These texts are reprinted in the Academy edition, enabling one to see precisely the topic that (likely) prompted Kant to write the Reflection.

A concordance that correlates the Reflections to the Achenwall text and the Feyerabend lecture is provided at the end of this book. This concordance in the first column reprints the table of contents from Achenwall, showing section numbers for the entire work and "J" pagination for the second volume to which the Reflections correspond. One can use this to find the topics of particular Reflections as used by Adickes. The second column reprints the headings used in the Feyerabend course lecture transcript; some are inaccurately headed or numbered and in several cases Feyerabend skips entire sections of Achenwall. The Academy edition pagination corresponding to each of these sections of the lecture is given. One can use this to find particular sections of the course that correspond to particular Reflections and vice versa. The third column arranges the Reflections on the Philosophy of Right in accordance with the topics in the previous columns as assigned in the Academy edition; the fourth column similarly arranges the Reflections from other sources to these topics as assigned by me. In both cases the actual content of the Reflection might also cover other topics to a lesser extent because the boundaries between topics are not always exact. The Reflection numbers themselves are printed in a way to identify their rough chronology so that one can see the approximate temporal emphasis on different topics.

Some of Kant's notes are simply reminders or summaries of others' positions clearly intended as a guide for his lectures. These reflections are not translated here. Others are paragraph-length evaluations of issues that might not have even arisen in the course lecture, as with R8055 discussing the French Revolution, which occurred after the last

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confirmed offering of Kant's course on Natural Right; these types of Reflections might be preparatory for Kant's planned publications. The majority of the notes, however, relate directly to the topics in Achenwall's book and provide Kant's own criticism of Achenwall or simply his own alternative views on the matter.

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I. FRAGMENTS FROM NOTES ON
ANTHROPOLOGY

At the end of Kant's lectures on anthropology he turned to the topic "The Character of the Species." While most of this material covers issues about history and human nature, a few reflections provide some insight into Kant's political philosophy because he considers human beings destined to live in a society with others under a civil constitution as a condition for the moral perfection of the individual and the species. Kant wrote these notes in his copy of Alexander Baumgarten's *Metaphysica*, a textbook he used for his lectures on metaphysics as well as on anthropology, using the empirical psychology portions in the latter course. None of the content of Baumgarten's book directly matches Kant's topic "The Character of the Species," although some does discuss human beings understood as rational beings. Kant's notes for this topic appear in various places in the book, including the margins of the index. Here the page of Baumgarten's book on which each note was written is indicated by "M"; a page number with an apostrophe indicates that the note was written on a blank page opposite the numbered page. The text of the Baumgarten volume is reprinted in two pieces in the Academy edition. The selections from Baumgarten's text in volume 15 containing Kant's reflections on anthropology (15:5–54) ironically do not include any of the pages on which Kant wrote the notes presented here. Those pages are instead included in the material in volume 17 on metaphysics (17:5–226).

1399. 1772–73. M 301.

15:610

The vicar of God on earth is always the ~~community~~ universal human being (*maximus homo* {greatest human being}). Only the state is absolute lord; the *souverain* is its representative, and since, because of his attunement with the will of the state he is not and must not be answerable to any human beings, he must be answerable to the one absolute lord of the whole of nature. A *souverain* must thus, in his function as the highest representative, instruct and be inspired by a religious disposition.

1401. 1772–75. M 306'.

15:611

Every individual shuns death; but the commonwealth, which wants to preserve itself, has reasons for wishing the death of individuals. Everyone wants to be rich, but the commonwealth wants the poor. Everyone wants to be content, but the *publicus* {public as a whole} demands inequality of the estates. Everyone wants great talent, but the *publicus* requires little. Indeed, the *publicus* wishes for there to be no evil inclinations, but they make the existence of a *publicus* possible in the first place. Thus a particular evil becomes a good in the whole. If one would

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want to further pursue this wish so that we would ascribe completely different laws of generation, completely different inclinations and spiritual powers to human beings, this wish would be absurd, for one would give up one's own person and put another in its place.

15:626 **1432.** 1776–78. M 321.

In unlimited government freedom of the press in that which refers to the general arrangement can be allowed (as in good military subordination). They are representations that cannot restrict power at all. To regard this as insurrection is a figment of the mind.

That in England no one kills another in order to defend one's honor.⁴ This ill is strongest in Prussia, perhaps because charlatanism is greater here at this point. To speak of one's honor is even to be compared with damning someone and is externally more evil.

15:626 **1434.** 1776–78. M 322.

There is a particular inclination in human beings for uniting in a society, not always for the unity of their dispositions but to create a united will whose power is stronger, and from a love of system, i.e. of a whole in accordance with laws. But when the society becomes large there is also a propensity to division and to sects, leading to even smaller ones which

15:627 *socius* {the members} can better relate to and in which unity would be more intimate. In this situation the motivating ground is, then, not so much power but more the order and interconnection.

Thus the division of great states, *esprit de corps*.

15:628 **1438.** 1776–78? (1773–75?). M 325'.

The history of the state must be written so that one sees what use the world has had of a^a government. The revolutions of Switzerland, Holland, England are the most important in recent times.⁵ Russia's transformation contributes nothing to the well-being of the world except in a distant way. History must itself contain the plan for the improvement of the world, and indeed not from the parts to the whole but vice versa. What is the use of philosophy if it does not direct the means of instruction of humanity to its true interest? Protect citizens from one another not only through laws but also through human-made institutions where everyone is safe from everyone else through laws. Be subordinated in no other way but according to the law. No advantage except when one has right on one's side. Easy access to administration of justice. Insight into legislation and wisdom in directing the administration.

History can still separately [be written] as biography or for public ends.

^a *einer*. alternate reading: *einerlei*, for "one type of government"

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1443. 1776–78. M 325. 15:630

For the plan of a universal history: 1. The nature of the civil- and the state-constitution; the idea, even if it never becomes fully actual, and indeed the idea of right, not of happiness.

1444. 1776–78. M 325. 15:630

In the history of England in the present time, its subjection of America leads cosmopolitan reflection on England back to the past. The English want the Americans to become subjects of subjects and the English want to pass the burden off to others.⁶

Good government is not crucial, but good form of government.

1449. 1776–78. M 407. 15:633

Despotism is coercion that deprives the subjects of all of their choice^a and judgment. A despot who makes his subjects happy does this merely according to his own taste without taking in the advice of the others.

1464. 1783–88. *Loses Blatt* G 8. 15:644

[*second page*] The great difficulty in the problem of establishing a civil constitution is: that the human being is an animal that demands rights and yet does not willingly concede his right to anyone else, who thus has need of a master who in turn can always only be a human being. From such crooked timber no Mercury⁷ can be cut.^b

1465. 1783–89. *Loses Blatt* Ha 39. 15:644

[*second page*]

In the eyes of a reflective man the worldly business of people loses its importance by and by, for the world is still too unripe for great progress. Freedom in religion and civil relations are still the only thing of interest; for otherwise a state can do nothing for the betterment of the world but only for itself.

1468. 1785–89. *Loses Blatt* Ha 10. 15:647

Continuation of the history of the human species

On what rests the generation of all this perfection in which the philosophical chiliast believes and furthers in accordance with his abilities?

On the perfection of the civil constitution (which would be able to maintain itself perpetually). In this alone are all talents developed,

^a *Wahl*

^b *Aus so krummem Holze laßt sich kein Mercur schnitzen*

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the greatest unity to common ends through outer laws and the greatest durability of this condition through the best personal disposition.

Freedom, law, and power.^a

The citizen must stand under laws that he himself has given (freedom, equality), and these laws must receive reinforcement and durability through irresistible power.

[*added 1790s*: The human being is an animal that requires instruction and discipline. 2. that in the species progresses to his vocation. 3. requires a lord in society]

1. Law and freedom without power: anarchy
 2. Law and power without freedom: despotism
 - a. Freedom without law and power is the condition of savages
 - b. Power without freedom and law: barbaric regime.
- _____ [*Kant's line*]

What are the inclinations that serve nature for producing civil society? Jealousy, mistrust, violence,^b which necessitate human beings to subject themselves to laws and to give up savage freedom. The development of all good natural predispositions comes this way.

[*added 1790s*: One can consider the history of every people as a striving of nature toward establishment of a perfect civil constitution. The history of states as attempts toward the right of peoples.]

[*second page*]

Civil society, externally as state, is until now still in the state of savage nature: freedom and power without law.

15:648 Even here nature is effective in pushing for a union of peoples. Only through universal peace (cemetery) can the core^c of the civil constitution achieve its perfection.

[*remainder of Reflection omitted*]

^a *Gewalt* ^b *Gewaltthätigkeiten*
^c *das innere*

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II. FRAGMENTS FROM NOTES ON LOGIC

A few Reflections pertaining to political philosophy are found among Kant's notes in his copy of the text he used in his Logic course, George Friedrich Meier's *Auszug aus der Vernunftlehre*, although no corresponding discussion is found in Meier's text and only a brief example is given in Kant's lectures. These Reflections, 3345–3358 (16:789–98), do in part bear some connection to questions of method. The Reflections translated here discuss contract theory and property acquisition, topics that correspond to material in the missing first volume of Achenwall's *Jus Naturae* and thus topics for which we have no other Reflections by Kant. One additional Reflection from this group on positive law and concepts of right, R3345, has already been included in *Notes and Fragments* (pp. 412–13). The page of Meier's book on which each note was written is indicated by "L". The text of the Meier volume is reprinted in the Academy edition 16:3–872, interspersed with all of Kant's reflections on logic.

3346. 1772? 1773–78?? L 115.

16:792

The law is either necessary (*stricte*) or contingent, the latter is called a statute and has the general welfare as its aim. The law (*legis stricte tales* {narrow laws as such}) must not be derived from principles of the unity of a system but of the will.

3350. 1776–89. L 115.

16:793

To every right there is a corresponding obligation of another not to hinder that right in practice. But because all human beings have a right (like the owner) to acquire *per occupationem* or *translationem* {through taking control or transfer}, so corresponding to the right there is for the owner an obligation to mark out his property openly and precisely,^a but there is not an obligation on the part of another to investigate this differentiation or the *titulus* {title} of possession of a third.

16:794

The *dominus* {owner} thus has no right against the *primus laedentem* {primary wrongdoer} [in a case of a non-owner selling property]; the others *juste* {justly} disregard the *titulus possessionis* {title to possession} of the latter. Either it is the fault of the *dominus* {owner} or bad luck for him if after an interrupted possession the thing is transferred in a rightful manner.

It is to be proven that everyone in the *permutatio juriurum* {exchange of right} has a natural right to ignore the *titulus possessionis* of another, and more so that he is not competent to research it before he makes it his

^a *Sein Eigentum kenntlich und sicher zu unterscheiden*