

1 Introduction

1.1 Competing Interpretations of Kant

The extent of civil society's obligations to provide for the welfare of citizens and others, to employ its laws and institutions to offer what I term *state-sponsored social welfare*, is notoriously controversial. At one end of the spectrum is a minimalism that relegates welfare-related matters, among them provision for basic needs including food, shelter and education, to the realm of charity. At the other are accounts embracing provision for basic needs, and more, as obligations of justice. (Articles 25 and 26 of the Universal Declaration of Human Rights [1950], for example, respectively recognize universal rights both to "a standard of living adequate for the health and well-being" of oneself and one's family and to education "directed to the full development of the human personality.")

Interpretations of Immanuel Kant's work on justice, welfare and the state reflect this range of views. The early twentieth-century work of Hermann Cohen and Karl Vorländer suggests, for example, that Kant's ethics grounds a critique of capitalism and, indeed, a form of socialism. Writing a century later, Allen Wood contends that "Kantian right would sooner result in a social democratic state than in [one] friendly to wealth and privilege" (Wood, 2014, p. 84). Interpreters including Mary Gregor, and more recently B. Sharon Byrd and Joachim Hruschka, by contrast, see Kant as a minimalist where state powers are concerned. As they understand it, the Kantian state's primary functions are enforcement of contracts and protection of citizens' rights of personal security and property from violation through force or fraud. On this view, positive state action in support of individual welfare is justified only to the extent required to serve these central aims under current conditions. Where welfare-related laws and institutions are justified at all, it typically will be with an eye to preserving the state itself.

As in the more general debate, there also are Kant scholars who adopt a middle ground. Agreeing that Kantian justice primarily addresses issues of force and fraud, they nevertheless reject the conclusion that this warrants a characterization of the Kantian state that excludes or severely curtails its welfare-related efforts. Allen Rosen, for instance, understands Kant's state as a proper vehicle for addressing widely shared individual needs through benevolence. Though his account rejects state benevolence, Arthur Ripstein both accepts a similarly limited interpretation of Kantian justice at its core and rejects the claim that this necessarily leads to a minimalism that eschews state-sponsored social welfare. Under circumstances including those in which most now live, he argues, adequate support for essentially purposive citizens (those

for whom force, fraud and the violation of valid contractual agreements are foundational threats) may include access to state-sponsored health care or similar benefits associated with the welfare state.

Due in part to worries that justice with too extensive a reach may make unreasonably burdensome demands, Onora O'Neill's Kantianism would provide space for welfare-related state actions based in virtue rather than justice. Yet she also emphasizes that many apparently benign societal practices in fact are problematically coercive. They thus require state intervention on behalf of those economically or otherwise burdened that aims, most fundamentally, to address force and fraud in the name of justice. Neither these middle-ground philosophers, nor those who posit a far more significant role for the Kantian state in social welfare, claim that Kant explicitly, or even implicitly, discusses the kinds of state programs they endorse. Reading his works more expansively than some will allow, each rather argues for Kant-based extensions applicable to issues and conditions Kant does not address and did not envision.

We might suspect that the explanation for such disparate interpretations lies in Kant's texts, which some characterize as at least sufficiently ambiguous to encourage such readings and perhaps so indeterminate that competing and wide-ranging interpretations in fact fit them equally well. Certainly Kant's *Metaphysics of Morals*, comprising both his most fully developed views on political philosophy (in Part I, the *Rechtslehre* or *Doctrine of Right*) and his account of moral virtue (in Part II, the *Tugendlehre* or *Doctrine of Virtue*), is notoriously difficult to read. This is especially true of his discussion of the nature and purpose of the just state in the *Rechtslehre*.

There is good reason to think, though, that the explanation for interpretive diversity does not lie principally in the *Rechtslehre*'s vexed language, or even in some special difficulty that plagues the passages on poverty relief and other welfare-related issues. As I suggest in the sections that follow, we can trace it instead to varying understandings of Kant's larger projects in moral and political philosophy. In particular, it reflects contrasting interpretations of his views on the purpose of the state, his characterization of citizenship and his understanding of the relationship between justice and virtue.

Toward that aim, this introductory section begins with a brief overview of the general concept of social welfare and of elements of Kant's practical philosophy potentially relevant in determining its place within the laws and policies of the just state Kant envisions. It further highlights central and relatively uncontroversial aspects of Kant's account of justice relevant to understanding and evaluating the discussions that follow. To the extent possible, we should start with a clear idea of the concept, of its potential connections with political

theory as Kant conceives it and of the texts likely relevant to any decisive argument.

Subsequent sections address the main interpretive divisions just described. Focusing in each case on several central proponents, these discussions detail and analyze not only the characterizations of state-sponsored social welfare on offer but also the interpretation of underlying Kantian moral and political theory thought to support each proponent's position. Thus Section 2 takes up the minimalist interpretation, concentrating on views that Mary Gregor first outlines and that Byrd and Hruschka later embrace and extend. It closes with a brief discussion of F. A. Hayek's Kant-influenced views. Section 3 considers accounts that likewise understand Kant's state as foremost concerned to prevent force and fraud, but that also offer grounds for expanding the reach of state-based Kantian welfare well beyond what minimalists would endorse. The focus here is on the particularly influential readings that Rosen, Ripstein and O'Neill offer.

Accounts rejecting the force-and-fraud model as too narrow to capture Kant's conception of the state, and thus of social welfare, are my focus in Section 4. Rather than seeing Kantian justice as most fundamentally committed to preventing specific ills, these emphasize substantive and process-oriented connections between justice as Kant sees it and interrelated notions of agency, reciprocity and the general will. The resulting characterizations of social welfare are at once more fully integrated with Kant's texts and more robust in the welfare supports they endorse than minimalist and middle-ground alternatives. While several examples (especially work by Allen Wood, Paul Guyer and Howard Williams) give a fuller sense of the landscape, central here is my own reading of Kant as what I term a *civic respect* theorist. Ultimately more true to Kant's aims and concerns than the force-and-fraud model, this civic respect interpretation takes Kant's characterization of citizenship as central to justice as he understands it. The view emphasizes, in particular, the perspective and institutional commitments Kant's model of citizenship entails and what is required, from this standpoint, if we are to respect one another both as fellow participants in projects of joint governance and as individual persons. This focus on citizenship, and on just governance as a project we undertake together, places Kant's conception of those who receive social welfare supports and those responsible for providing them at the forefront. In so doing, it directly engages those whose lives and relationships are most centrally at issue and positions us especially well to grasp what is required to realize justice as Kant understands it in the face of social welfare concerns. Focusing on domestic poverty relief and foreign aid to child victims of disaster, I close this section with examples of the civic respect approach at work both at home and abroad.

1.2 Kantian Starting Points

1.2.1 State-Sponsored Social Welfare: Overview of Issues

Before we consider Kant's views in any detail, an overview of the issues regularly in play in discussions of state-sponsored social welfare is in order.¹ Beyond questions concerning the extent of such supports are ones addressing their ground or justification, the needs or interests at which they aim, appropriate recipients and whether we gauge success by appeal to outcomes for individuals or groups. Answers to these questions, of course, are not completely separable. Moreover, the accounts we consider in later sections often do not address them all, at least not explicitly. It is nevertheless worth identifying questions like these at the start so that we have the range of relevant issues firmly in mind. This will help us appreciate not only where the views under discussion differ, but what ground they share and to what extent.

As we have seen, whether in the Kantian realm or more broadly, proponents offer varied bases for understanding states as bound by social welfare obligations or empowered to address social welfare concerns. Moral grounds commonly include obligations of justice, or of moral virtue or some combination of the two. Some authors instead see the state's social welfare activity as wholly or partly determined by more pragmatic questions. Perhaps, for example, the extent to which a state addresses social welfare issues should depend on what is necessary to ensure its own continued existence (e.g., by preventing mass exodus, revolution or a severe breakdown in respect for state laws and institutions).

Again, as our brief characterization of Kant-related views already suggests, those addressing questions of state-sponsored social welfare often are concerned not only with the extent of and grounds for state actions but, relatedly, with the needs or interests these should or could seek to address. Is the state's aim (founded in justice, virtue or practicality) to prevent anarchy or dissolution, to offer minimum protections against force and fraud and facilitate private cooperative agreements, to support individual development and success in realizing ends by providing for agency-related needs, to secure happiness, to fulfill obligations of beneficence or something else?

As for appropriate recipients, debates concern whether we best understand these to include all citizens, all who find themselves within state borders, also

¹ All citations to Kant's texts, including *The Groundwork of the Metaphysics of Morals* (G), *The Metaphysics of Morals* (MM), "On the Common Saying, That May Be Correct in Theory, But It Is of No Use in Practice" (TP) and *Towards Perpetual Peace* (TPP), use the volume and page number of the German Academy edition of *Kants gesammelte Schriften*, ed. the Royal Prussian Academy of Sciences (Walter de Gruyter, 1900–). Quotations are from Kant (1996) translated by Mary Gregor.

needy others who are neither citizens nor residents, or perhaps only those in any or all of these groups who meet certain further qualifications (e.g., that they are law-abiding or capable of producing something of value to the society as a whole). Regarding what I described as criteria for success, options familiarly (though not exclusively) include whether supports adequate to meet aims are reasonably available to each individual or, instead, whether some measure of group benefit is as great as possible given relevant circumstances, even if some enjoy nothing or in fact suffer losses.

1.2.2 Some Central Points of Kantian Agreement

1.2.2.1 Justice, Happiness and State Purpose

Despite the deep differences just highlighted, Kant's interpreters find consensus at some crucial junctures. In particular, there is wide agreement that the central purpose of the state, as Kant conceives it, is not to promote happiness, whether of citizens or others. The state instead functions foremost as a vehicle for securing justice (or right).² The demands of justice, moreover, are neither coextensive with nor reducible to what supports or secures such happiness. They are instead founded in a conception of individual freedom and properly given voice through fixed or stable standards applicable to each individual falling within their scope.

Passages in the *Rechtslehre* and elsewhere drive this point home:

[T]he concept of external right as such proceeds entirely from the concept of freedom in the external relation of people to one another and has nothing at all to do with the end that all of them naturally have (their aim of happiness) and with the prescribing of means for attaining it. (TP 8: 289)

With respect to [happiness] no universally valid principle for laws can be given. For both the circumstances of the times and the highly conflicting but always changing illusion in which someone places his happiness (though no one can prescribe to him in what he can place it) make any fixed principle impossible and [happiness] in itself unfit to be a principle of legislation. (TP 8: 298)

The concept of right, insofar as it is related to an obligation corresponding to it (i.e., the moral concept of right) . . . does not signify the relation of one's choice to the mere wish (also the mere need) of the other, as in actions of beneficence or callousness, but only a relation to the other's *choice*. (MM 6: 230)

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,

² I typically render the German *Recht* as "justice." This seems apt wherever Kant is characterizing standards to which domestic and international laws and institutions must conform in order to satisfy requirements of moral legitimacy.

6 *Elements in the Philosophy of Immanuel Kant*

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. (MM 6: 318)

Full interpretation of these passages requires a close look at surrounding theory (a project for later sections). Even cursory examination, though, warrants some uncontroversial conclusions. First, the special task of the Kantian state, indeed its moral obligation, is to address issues of justice and closely related questions of individual freedom through legislative functions (and executive and judicial ones as well). As a conceptual matter, moreover, justice first and foremost concerns the choices individuals make, and individuals' capacity to make them. Its foundational focus is not on needs or desires, nor is its aim to render individuals happy, satisfied or contented.

As Kant understands it here, promoting happiness demands a focus on what is required to produce a sentiment or feeling rather than on what is necessary to honor or support individual choice and action. Moreover, as Kant often observes in earlier work in moral philosophy, the sources of happiness or satisfaction vary from person to person and even from time to time with respect to the same person. In this, happiness also diverges from the concept of justice as Kant characterizes it. For the demands of justice do not vary with individual desire or sentiment. Finally, on Kant's view there is a difference between the welfare of a state and the satisfaction or happiness of its people. The state fares well when it succeeds in its defining task, in securing justice for the citizenry through the enactment of laws and their subsequent interpretation and execution. But to say that the state successfully accomplishes this task is not to say that it satisfies the desires of the individual members of its population, or even of a certain portion or percentage of these. Nor is it true that persons within the just state necessarily will enjoy a sense of satisfaction or comfort. Doing justice is conceptually different from making people happy in any of these senses, and empirically speaking there is no guarantee justice and happiness will go hand in hand. All of this means, of course, that in the discussions that follow we have to understand securing social welfare as something more than or distinct from simply securing individual happiness, at least insofar as we see it as an aim or obligation of the Kantian state.

It is also important to the task at hand, to acknowledge what the previously cited passages do not say or imply, at least not clearly. First, nothing here rules out the possibility that the demands of Kantian justice and supports for individual happiness or well-being are indeed importantly connected in some way. Still less do these passages support the conclusion that legislation ensuring access to basic goods (nourishment, shelter, education and medical care, for

example) cannot be matters of justice on Kant's account, or on a reasonable extension of it. For both happiness generally and foundational supports for individual welfare may be essential to meaningful use of liberty and property rights, civic participation and other matters typically numbered among central concerns of justice. In particular, they may be crucial to the sense of security, self-respect and hope for future success that help form the foundation for development, evaluation and implementation of one's choices. Finally, to the extent that these matters are essential to the meaningful realization of justice, they are essential to the welfare of the state as Kant conceives it and not merely to that of citizens and others residing within it. In short, though further textual analysis is certainly required, nothing in these well-known and frequently cited passages rules out happiness or well-being, even quite broadly conceived, as an appropriate or even necessary subject of state legislation on a Kantian model. Provided we can establish their connection to yet-to-be analyzed conceptions of justice and freedom, such matters may significantly shape laws and institutions in the Kantian state.³

1.2.2.2 Divisions in Kant's Practical Philosophy

Beyond the potentially complicated relationship between justice and happiness, we must also keep in mind the well-accepted view that the realms of justice and virtue are, for Kant, importantly distinct. As a general matter, many who question the state's role in addressing social welfare concerns instead characterize these as the province of moral virtue, and many adherents (minimalists and otherwise) accept this as the best understanding of Kant's theory as well. Further, the conceptual distinctions between justice and virtue on Kant's account may suggest that standards of virtue are structurally suited to addressing social welfare issues in a way that those of justice are not. This provides a further reason to mark the distinction now for more careful examination in what follows.

As mentioned, Kant divides his *Metaphysics of Morals* into two elements, one developing an account of justice and the other an account of moral virtue. As some passages divorce considerations of happiness from the realm of justice on conceptual grounds, others mark a sharp conceptual division between justice and virtue. Kant makes it a point, first, to distinguish the demands of justice and those of morality or "ethics" more generally (which include those of virtue). He does so by addressing, for each, the relevance of a person's reasons or motivations in acting:

³ For discussion of the historical setting in which Kant makes his remarks on individual happiness and welfare that is in harmony with these distinctions see Kaufman (1999), ch. 2.

[I]t cannot be required that this principle [of universal right] be itself in turn my maxim, that is, it cannot be required that *I make it the maxim* of my action; for anyone can be free so long as I do not impair his freedom by my *external action*, even though I am quite indifferent to his freedom or would like in my heart to infringe upon it. That I make it my maxim to act rightly is a demand that ethics makes on me. (MM 6: 231)

In other words, although in Kant's view the morality of an action famously depends not only on its conformity with moral principle but also on whether it is done "from duty" (i.e., *because* this is what morality demands), the same requirement does not apply to evaluations of justice. The justice of one's action, says Kant, depends only on its conformity with the principled demands of justice. A person's reasons for so acting are simply beside the point for such an evaluation. This distinguishes requirements of justice from those of moral virtue in particular, Kant emphasizes in the *Tugendlehre*, because of the relationship between justice and external coercion. Taken generally, on Kant's view moral requirements carry a demand for moral motivation with them. By contrast, the notion of "strict right" or justice, analyzed on its own without reference to moral connections, is not only consistent with but includes the possibility of external coercion as one ground or reason for compliance. Thus,

as right generally has as its object only what is external in actions, so strict right, namely that which is not mingled with anything ethical, requires only external grounds for determining choice; for only then is it pure and not mixed with any precepts of virtue. (MM 6: 232)

A second central difference between the demands of justice and those of moral virtue, in particular, brings into play interrelated considerations that we might best term *rigidity* and *context sensitivity*. A well-known *Tugendlehre* discussion remarks on this difference. Duties of virtue, Kant tells us, are "of wide obligation," and those of justice are "of narrow obligation" (MM 6: 390). Most evidently, this claim concerns the rigidity of relevant standards. Standards of virtue allow for a "playroom" or flexibility. For in this realm, "the law cannot specify precisely in what way one is to act and how much one is to do by the action for an end that is also a duty" (MM 6: 390).

Determining precisely what Kant means by this requires further analysis, of course. For present purposes, though, two things seem clear. First, standards of virtue acknowledge that there are some moral requirements one can fulfill without giving voice to moral principle on every occasion that presents the opportunity to do so. Thus, to take a common example, we can properly deem a person beneficent although she does not act on every available opportunity to

benefit others. Second, duties of virtue are also wide in the sense that they admit of different levels of action. To continue the example, they allow for varying degrees of beneficence or aid to others on those occasions where one provides it. Kant adds that some duties of virtue are narrower than others in these respects. Nevertheless, as a class they differ from those of justice. Standards of justice require that actions conform to them whenever applicable, and this conformity leaves little room if any for variation. Justice demands that we do or refrain from some action, and we must do what is required, full stop.

The remaining difference between these standards that we consider here at the start follows from this discussion of width. What permits variations in the realm of virtue, it seems, is something about the context at hand. The comparative flexibility of standards of virtue does not give one free rein to do as one pleases. Especially, one cannot make exceptions to moral demands. Wide duty instead gives us “permission to limit one maxim of duty by another (e.g., love of one’s neighbor by love of one’s parents)” (MM 6: 390). To this extent, duties of virtue are sensitive to the interplay between moral principle and worldly circumstances and happenings, for instance to the fact that today is my mother’s birthday or the day on which I typically stop by to have dinner with her. These standards acknowledge that I may properly take such conditions into account in determining how and when to fulfill at least some of my obligations. Standards of justice, Kant seems to indicate, are not similarly context sensitive.

These differences between justice and virtue are important background for our discussion, in part, because they offer us insight into the nature of justice and so into the role of the state as Kant sees it. At least as significant, differences between standards of justice and virtue may introduce doubts both as to whether the Kantian state has the authority to address matters of social welfare and whether, in any case, the laws and institutions at its disposal would be capable of doing so effectively. If we determine that issues of social welfare fit better under the rubric of Kantian virtue than that of justice, for example, questions arise about whether and to what extent they can be the proper province of the just state as Kant envisions it. And if we most appropriately and effectively address social welfare issues through noncoercive, flexible and context-sensitive standards, the laws of the just state might be a poor vehicle for achieving these aims.⁴

⁴ Section 4 addresses the flexibility and context-sensitivity properly belonging to Kantian justice. They are, I argue, the very sort that due attention to social welfare requires.

1.2.3 Basic Elements of Kant's Theory of Justice

The principal explanation for varying understandings of the relationship between justice and state-sponsored social welfare on Kant's view, I suggested earlier, lies in the widely varying interpretations of his theory of justice itself. The main sources of these differences – or controversies – become clear as we consider interpretive details. Beyond the broad topics of agreement just considered, though, there also are other fixed points. A grasp of these relatively uncontroversial elements of Kant's theoretic framework is essential for understanding and evaluating both the interpretations to come and the differences among them.

1.2.3.1 The Nature of Justice

Kant's *Rechtslehre* account of justice begins by distinguishing “positive Right,” the past or current laws of a particular state, from his own topic, those laws and actions that conform to universal standards of justice (MM 6: 229). The first, of course, is a matter for empirical inquiry. The second demands reason-based analysis focused not on what the current laws are, but on universal standards that can and should serve those who seek to develop, evaluate or reform such laws.

Mentioned briefly earlier, the conceptual analysis of universal (rather than positive) justice that Kant offers next is presumably central to this inquiry. Conceptually, recall, considerations of justice only arise in Kant's view where one person's choices and actions can affect another's, and all proper questions of justice concern this relationship. This helps to explain why neither motivations that give rise to an action, nor the likelihood that the action will bring another happiness or satisfaction, is justice-relevant. Questions of justice concern a choosing actor's ability to influence another's choices and the actions that give them voice. Expanding on our earlier discussion, then, we can understand that Kantian justice simply is “the sum of the conditions under which the choice of one can be united with the choice of another in accordance with a universal law of freedom” (MM 6: 230). The first (or universal) principle of justice, which Kant apparently intends as a kind of summation of this analysis, provides that:

Any action is right if it can coexist with everyone's freedom in accordance with a universal law, or if on its maxim the freedom of choice of each can coexist with everyone's freedom in accordance with a universal law. (MM 6: 230)

As we have seen, on Kant's view, a person whose action or condition satisfies this principle acts justly no matter her reasons or motivations in doing so.