

The Relation between Right and Morality in Kant's Philosophy: Doctrine of Dependence

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Abstract: Undoubtedly, Kant was interested in philosophy of law, even before proposing his critical philosophy. But, he delivered his fully-fledged philosophy of right in *The Metaphysics of Morals*. Regarding the review and analysis of the book, probably the most complicated issue discussed by Kant specialists is the relation between right and morality. The structure of the book, some of its ambiguous passages as well as Kant's prior positions about philosophy of morals in *Critique of Practical Reason* and *Groundwork of the Metaphysics of Morals* have mystified the real idea of Kant as for this relation. According to the belief that the "strict right" implicates the (moral) ought or not, one can categorize Kant specialists into two main groups: 'defendants of dependence' and 'believers on independence'. The former is more popular and more conforming to the structure of *The Metaphysics of Morals*. In order to justify this doctrine, Höffe has proposed the general categorical imperative and Guyer and Kersting have written on freedom, while Pauer-Studer has discussed the kingdom of ends formula as the general foundation of Kant's moral philosophy which should include both domains of ethics and law. Moreover, Sorin Baiasu has sought to refute Willaschek's critiques, as the most powerful one on the doctrine of dependence, by distinguishing between subjective and objective validity of legal norms. Despite all these efforts, it does not seem that the doctrine is fully successful. The essay is designed to make the Persian speaking community familiar with these efforts.

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Introduction:

Kant's metaphysical definition of right has played pivotal role in Philosophy of Right. Different schools have been influenced by his idea of right in various ways. Some famous philosophers, such as Hegel and Marx, have shaped their critiques of the abstract right in reaction to Kant's philosophy. Some others, such as Rawls, have accepted the essence of his rationalist approach and have recast it in a new and innovative theory. Ironically, even some anti-metaphysical positivists, such as Kelsen, have been labeled as new Kantian thinkers. In the heart of Kant's doctrine of right is his innovation to redefine the relation of right and morality. But, despite its deep influence, there are some obscure and paradoxical positions in the theory, which has led to the emergence of different interpretations. The dependence doctrine, which regards Kant's universal principle of right as an

expression of categorical imperative in spatial context, is the predominant and more compatible theory with contextual evidence of *Metaphysics of Morals*. But both complexity of Kant's position and the strong reasoning of rival interpretation, independence doctrine, persuade us to reexamine it to evaluate its success in deliverance of a coherent interpretation of Kant's doctrine of right. This study attempts to introduce this interpretation of Kant's theory of right, its strengths and weaknesses to Persian-speaking community.

Methodology: In order to analyze the attempts of the advocates of dependence doctrine, the essay has concentrated on works of five main figures of the doctrine, i.e., Höffe, Kersting, Guyer, Pauer-Studer and Baiasu. It tries to answer two main questions: how these thinkers try to harmonize the textual paradoxes of Kant's works,

and how they react to their rivals. Therefore, this study is descriptive-analytical.

Findings: The advocates of dependence doctrine attempt to justify the connection between morality (categorical imperative) and right by means of finding the same foundation for doctrine of virtue and doctrine of right. In so doing, Höffe resorts to universal categorical imperative, Kersting and Guyer to freedom, and Pauer-Studer to kingdom of ends. Furthermore, Baiasu has answered some of the most complicated critiques of Willaschek to the dependence doctrine by means of distinguishing between subjective and objective validity of legal rules.

Discussion and Conclusion:

It seems that none of these efforts is satisfactory. The root of this failure lies in particular in the interpretation of *Metaphysics of Morals* in paragraphs 214 and 218, which are inconsistent with other

parts of the doctrine of right. This can be traced back to transitory position of doctrine of right in *Metaphysics of Morals*. The starting point of the book is the traditional moral theory of Kant. But, it moves in the direction of a new non-prescriptive theory of right, which reflects itself in the concept of “strict right” (See Willaschek, 1997). Kant did not live long enough to grasp the depth of the contradiction to deliver a more coherent theory. If so, the dependence doctrine could better explain the inclusive moral theory of Kant. On the other hand, the independence doctrine could better show the new orientation of Kant’s moral theory, especially regarding the concept of (strict) right.

References:

- Abdollahnejad, Mohammad Reza (2014), Rafighi, Somayeh, “The Role of Anthropology in Kant’s Moral Philosophy”, *Philosophical Meditations*, Vol.4, No.13, pp. 52-33

- Höffe, Otfried (1392 SH), *Ghanoone Akhlaghi dar Daroone Man*, translated by Reza Mosayebi, Tehran: Ney
- Korsgaard, Christine M. (1379 SH), "Aristotle and Kant on the source of value", translated by Mohsen Javadi, in *Arghanoon*, Vol. 4, No 13, pp. 95-120
- Mehraram, Parham (2021), "Separation of Law and Morality in Hans Kelsen's Theory of Obligation", *Philosophical mediations*, Vol. 11, Issue: 26, pp.339-372
- Wood, Allen (1396 SH), *Kant*, translated by Aghil Fuladi, Tehran: Negahe Moaser
- Baiasu, Sorin (2016), "Ethical and Politico-juridical Norms in the Tugendlehre", in *Studi kantiani*, Pisa, Rome: Fabrizio Serra, pp. 59-77
- Baiasu, Sorin (2016), "Right's Complex Relation to Ethics in Kant: The Limits of Independentism", in *Kant-Studien*, Band 107, Heft 1, pp. 2-34
- Ebbinghaus, Julius (1968), *Gesammelte Aufsätze, Vorträge und Reden*, Darmstadt: Wissenschaftliche Buchgemeinschaft
- Guyer, Paul (2002), "Kant's Deductions of the Principles of Right, in Kant's *Metaphysics of Morals*", in *Interpretive Essays*, ed. by Mark Timmons, Oxford: Oxford University Press, pp. 23-65
- Guyer, Paul (2016), "The Twofold Morality of Recht: Once More Unto the Breach", in *Kant-Studien*, Vol. 107, Issue. 1, pp. 34-63
- Höffe, Otfried (1986), "Kant's Principle of Justice as Categorical Imperative of Law", in *Kant's Practical Philosophy Reconsidered: Papers presented at the Seventh Jerusalem Philosophical Encounter*, edited by Yirmiyahu Yovel, Berlin: Kluwer Academic Publishers, pp. 149-168
- Höffe, Otfried (2010), "Der kategorische Rechtsimperativ. Einleitung in die Rechtslehre", in *ders. (Hg.), Immanuel Kant: Metaphysische Anfangsgründe der Rechtslehre*, Berlin: De Gruyter, pp. 41-62
- Kant, Immanuel (1785), *Groundwork of the Metaphysics of Morals*, translated and edited by Mary Gregor, Cambridge: Cambridge University Press, 1998
- Kant, Immanuel (1786), Rezension von Gottlieb Hufeland, Versuch über den Grundsatz des Naturrechts", Leipzig: Verlag Der Dürsschen Buchhandlung
- Kant, Immanuel (1984), *Naturrecht Feyerabend*, hg. von Delfosse/Hinske/Bordoni, Kant Index, Band 30: Stellenindex und Konkordanz zum "Naturrecht Feyerabend", Stuttgart/Bad Cannstatt: Walter de Gruyter, 2010
- Kersting, Wolfgang (1984), *Wolfgang: Wohlgeordnete Freiheit: Immanuel Kants Rechts- und Sozialphilosophie*,

- Frankfurt: Walter de Gruyter, 2. Auflage, 1993
- Korsgaard, Christine M. (1989) "Kants Analysis of Obligation: The Argument of "Foundation I", *The Monist*, Vol. 72, No. 3, pp. 311-340.
 - Pauer-Studer, Herlinde (2016), 'A Community of Rational Beings'. Kant's Realm of Ends and the Distinction between Internal and External Freedom", in *Kant-Studien*, vol. 107, pp. 125-159
 - Potter, Nelson Thomas Jr. (1994), "Kant on Obligation and Motivation in Law and Ethics", in *Jarbuch für Recht und Ethik*, Vol. 2, Berlin: Duncker & Humblot GmbH, pp. 95-110.
 - Ripstein, Arthur (2009), *Force and Freedom: Kant's Legal and Political Philosophy*, Massachuset: Harvard University Press
 - Scholz, G (1972), *Das Problem des Rechts in Kants Moralphilosophie*", Köln (dissertation)
 - Willaschek, Marcus (1997), "Why the "Doctrine of Right" does not belong in the Metaphysics of Morals", *Jahrbuch für Recht und Ethik / Annual Review of Law and Ethics*, Vol. 5, pp. 205-227
 - Willaschek, Marcus (2002), "Which Imperatives for Right? On the Prescriptivity of Juridical Laws in Kant's Metaphysics of Morals", in *Kant's Metaphysics of Morals. Interpretative Essays*, ed. by M. Timmons, Oxford: Clarendon Press, pp. 65-87.
 - Willaschek, Marcus (2009), "Right and Coercion. Can Kant's Conception of Right be Derived from his Moral Theory?", in *International Journal of Philosophical Studies*, Vol. 17, pp. 49-70
 - Willaschek, Marcus (2012), "The Non-Derivability of Kantian Right from the Categorical Imperative: A Response to Nance", in *International Journal of Philosophical Studies*, Vol. 20, No. 4, pp. 557-564
 - Wood, Allan (2002), "The Final Form of Kant's Practical Philosophy", in *Kant's Metaphysics of Morals: Interpretative Essays*, Timmons, Mark (ed.), Oxford: Oxford University Press, pp. 1-22.