

Living Honestly and Killing Honorably. *Ehre* and *Ehrbarkeit* in the *Metaphysics of Morals*

[*Vivendo Honestamente e Matando Honrosamente. Ehre e Ehrbarkeit na Metafísica dos Costumes*]

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Abstract

This paper aims to call attention to some interpretative questions concerning a semantic constellation running through the entire *Metaphysics of Morals*. This semantic constellation has to do with the German root *ehr-* and refers to such concepts as *ehrlich*, *Ehre*, *Ehrbarkeit*, and *Ehrlichkeit*, which – although they have different meanings – share a connection to the central idea of the coincidence of honesty and honor, as shown by the Latin terms Kant often uses in the same context (*honestas*, *honeste*, etc.). It discusses how Kant uses the concepts of honesty and honor. It tries to answer the question of whether, according to Kant, it is acceptable to die for honor's sake by analyzing some passages from the *Metaphysics of Morals*. Based on this analysis, it finally presents some conclusions on the concepts of dignity and agency and on their reciprocal relationship.

Keywords: Kant; *Metaphysics of Morals*; Honor; Honesty; Dignity; Agency.

Resumo

Este artigo tem como objetivo chamar a atenção para algumas questões interpretativas que surgem em relação a uma constelação semântica que perpassa toda a *Metafísica dos Costumes*. Essa constelação semântica está relacionada à raiz alemã *ehr-* e refere-se a conceitos como *ehrlich*, *Ehre*, *Ehrbarkeit* e *Ehrlichkeit*, que – embora tenham significados diferentes – compartilham uma conexão com a ideia central da coincidência entre honestidade e honra, como demonstrado pelos termos latinos que Kant frequentemente usa no mesmo contexto (*honestas*, *honeste*, etc.). Discute o modo em que Kant utiliza os conceitos de honestidade e honra. Tenta responder à questão se, na visão de Kant, é lícito morrer por honra, analisando algumas passagens da *Metafísica dos Costumes*. Com base nessa análise, apresenta, finalmente, algumas conclusões sobre os conceitos de dignidade e agência e sua relação recíproca..

Palavras-chave: Kant; *Metafísica dos Costumes*; honra; honestidade; dignidade; agência.

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FALSTAFF: *What is honour? A word.*

What is in that word "honour"?

What is that "honour"? Air.

(*W. Shakespeare, Henry IV, Part I, Act V, Scene 1*)

This paper aims to call attention to some interpretative questions that arise in connection to a semantic constellation running through the entire *Metaphysics of Morals*, that is, through both its parts: the “Doctrine of Right” and “Doctrine of Virtue”. This semantic constellation has to do with the German root *ehr-* and refers to such concepts as *ehrlich*, *Ehre*, *Ehrbarkeit*, and *Ehrlichkeit*, which – although they have different meanings – share a connection to the central idea of the coincidence of honesty and honor, as shown by the Latin terms Kant often uses in the same context (*honestas*, *honeste*, etc.). In Kant’s time *honor* and *honestas*, *Ehre* and *Ehrbarkeit* were no secondary concepts in the moral discourse (and in society, as we shall see), and he uses them according to a long tradition that stems from Cicero², on the one side, and on the usage of this semantic constellation in the German language, on the other.³ In both cases, the concepts of honor and honesty are connected to individuals who act in conformity with specific moral codes shared by their society. We shall see that Kant accepts with some restraint this view and relates both concepts to conformity to metaphysical moral principles such as those exposed in the *Metaphysics of Morals*.

1. Honesty in the Metaphysics of Morals

I shall first consider the concept of honesty. In the *Doctrine of Right* it is introduced as *rechtliche Ehrbarkeit* (*honestas iuridica*) in a prominent passage of the “Division of the Doctrine

² Cicero’s *De officiis* was highly influential for the formation of the moral vocabulary of modernity and inspired Kant both directly in the translation of Christian Garve and indirectly through other authors (like Thomasius). Garve, who in 1783 published the translation and commentary of *De officiis* that was known to Kant, translates *honestus* mostly with *moralisch gut* and *vita honesta* with *tugendhaftes Leben* (Cicero, 1783). More recent German translations use *Sittlichkeit* for *honestas* and, according to the context, *sittlich gut*, *sittlich wertvoll*, *sittlich geboten* and *anständig* for *honestum*. Meanwhile, they translate *vita honesta* (*De officiis* III 5-6) both with *sittlich gutes Leben* (see, for instance, Raphael Kühner in Cicero, 1873, p. 184) and with *ehrenhaftes Leben* (see, for instance, Harald Merklin in Cicero 1991, p. 245). No German translation however uses *Ehrbarkeit* for *honestas*. On the other side, the English translator Margaret Atkins stresses the strict connection of the concept of *honestas* with notions of honor (*honor*) and reputation, so that *honestas* can be said to have a public nature. For Cicero, the good man was “in principle *honorable* and would actually be honored by other good men” (Atkins, 1991, p. xlv). For this reason, Atkins translates *honestus* with “honorable” and *honestas* with “honorableness”. This is tantamount to establishing an almost full coincidence between honesty and honor. But this perhaps goes too far, since, when referring to the notion of honor in the strict sense, Cicero uses beyond the word *honor* the expression *vir bonus* (“honorable man” or *Ehrenmann*, as the German translators render it) or adjectives such as *nobilis*. Exceptions can be considered the use of the adjective *honestus* when referring to *ars* in order to indicate an honorable profession in *De officiis* I 151 (Cicero, 1991, p. 58) and of the verb *honestare* in *De officiis* II 21 meaning “to promote someone’s honor” (Cicero, 1991, p. 70). In the case of *De officiis* II 27, when Cicero says of Sulla that a “dishonorable victory succeeded an honorable cause” [*secuta est honestam causam non honesta victoria*] (Cicero, 1991, p.72 f.), the lack of honorableness follows from the moral unacceptability, and accordingly honor from morality.

³ Among the ancient Germans, the word *Ehre* (in ancient High German: *ēra*) indicated the respect enjoyed by free men and/or their families and clan. It did not depend on richness or birth, but rather on military courage and loyalty. While for the following centuries honor was connected primarily to aristocracy and to the chivalric code, eventually becoming a central concept of the baroque *Hofgesellschaft*, it maintained also a moral meaning. This is expressed particularly through the word *Ehrbarkeit* (that will assume a central role in Kant) and is clearly present in its use by Luther as well as in the common use of the adjective *ehrbar* as synonymous with the Latin adjective *honestus*. Particularly in pietistic circles (such as the one in which Kant was raised), the concept of *Ehrbarkeit* was strictly connected to the individual’s behavior toward God, other individuals, and oneself. In the moral works by Thomasius, which were vital in Kant’s academic education, it related to Latin notions such as *honestum*, *justum*, and *decorum*: in order to maintain honor, man has above all to fulfill duties to himself by remaining honest. This distinguishes true honor from false and vain honor, which is attached to external things such as richness and birth. (Zunkel, 1975, p. 24 f.). We shall see that Kant maintains the idea that honor is connected to honesty and, therefore, to our way of acting, to agency. On this point see Zunkel, 1975 and the brothers Grimm German Dictionary (DWB).

of Right” (06: 236 f.), namely in connection with the first pseudo-Ulpianian principle “*honeste vive*” (which grounds a quite puzzling “internal” duty of right; see Pinzani, 2005). Interestingly, Mary Gregor translates the term with “rightful honor” (Kant, 1996, p. 392), although “legal honesty” could be more appropriate. It consists “in asserting one’s worth as a human being in relation to others” and corresponds to the “duty expressed by the saying: ‘Do not make yourself a mere means for others but be at the same time and end for them’,” which is an “obligation from the right of humanity in our own person”.

There are at least two possible readings of this duty, and they are not mutually exclusive. On the contrary, they represent two different ways of “asserting one’s worth as a human being in relation to others”. The first concerns the prohibition of selling oneself into slavery. This might sound outmoded or archaic, but it was a topic widely discussed by political and ethical writers in Kant’s time and earlier in modernity – from Grotius to Rousseau. Kant formulates explicitly the prohibition of self-slavery twice in the *Doctrine of Right*: in § 30 (06: 283) and in General Remark D (06: 330). In this sense, the principle “*honeste vive*” corresponds to what we may call ‘the internally mine and yours’ as opposed to the “externally mine and yours” that Kant analyses in the following section on “Private Right” (06: 245 ff.). In other words, this principle expresses a duty we have toward ourselves and relates to the idea of self-ownership. We shall see below how slavery is connected also to the concept of honor.

At the same time – so on the second reading – this duty has to do with an internal condition for the existence of Right⁴ generally, since only free individuals can enter a juridical relationship with others. While speaking of the “only one innate right”, namely external freedom, Kant mentions a “human being’s quality of being *his own master (sui iuris)*, as well as being a human being *beyond reproach (iusti)*” (06: 237 f.), with a formulation that alludes once more to the relation between “*honeste vive*” and not being submitted to the arbitrary will of others. An individual who is his own master respects the right of humanity in his person and does not make himself a mere means for others, thereby opening the possibility for the creation of legal relations with other individuals on the basis of legal equality. As one can notice from the position of the “*honeste vive*” in relation to the other two pseudo-Ulpianian principles, particularly to the third (“*suum cuique tribue*”, which, in Kant’s reading, first refers to the creation of civil society), the obligation of legal honesty can be satisfied also on a pre-judicial level, namely, by affirming one’s worth as a possible legal partner. While the State, once created, will care for the protection of the “external mine and yours” and of external freedom, it remains a duty of the individual to care for his own worth and for his ‘internal mine’.⁵

This reading will be reinforced if we look at a passage of the *Doctrine of Virtue* in which Kant speaks of the *honestas interna*, which represents the ethical counterpart of *honestas iuridica*. Kant defines this virtue, which he calls “*Ehrliche*”, “love of honor” (!), in negative terms, that is, in the form of a strict prohibition – of a negative perfect duty. This corresponds to the “prohibition against depriving himself of the prerogative of a moral being, that of acting in accordance with principles, that is, inner freedom, and so making himself a plaything of the mere inclinations and hence a thing” (06: 420). As in the case of *honestas iuridica*, *honestas interna* refers primarily to the safeguarding of one’s freedom (in this case of internal freedom, since we are in the realm of ethics, not in the realm of Right and external freedom).

According to these two definitions, honesty has to do with maintaining one’s freedom (external or internal) and is strictly connected to honor, since it is defined as “love of honor”. There is, therefore, a direct connection between *Ehrbarkeit* and *Ehre*, honesty and honor. But, in the next section, we shall see that this connection is not always univocal.

⁴ I capitalize Right when referring to the main object of the *Rechtslehre* or “objective right”, as one says in German, as opposed to right as “subjective right” or claim.

⁵ Once again, I allow myself to refer to Pinzani, 2005.

2. Honor in the *Doctrine of Right*

Ehre (honor) appears in five different loci within the *Doctrine of Right*. In four cases it is mentioned directly and in one only indirectly. In none of them does Kant offer a clear definition of the concept, though it is possible to understand its meaning in at least three of these loci.

It first appears in the Introduction to the *Metaphysics of Morals*, in which Kant mentions several natural drives: food, sex, rest, movement, and honor (06: 215). While food, sex, rest, and movement do not need to be defined, the same cannot be said of honor, which is a concept whose content is not so obvious, and whose natural character may be called into question. Here, however, Kant is following a tradition of listing human drives or passions that starts from Augustine through Dante and Machiavelli to Hobbes.⁶ Furthermore, it is not the first time that our philosopher mentions the drive for honor in his works. In the fourth proposition of the *Idea for a Universal History* (1784) Kant lists “desire of honor [*Ehrsucht*], power or property” as important social motives that drive man “to seek status among his fellows, whom he cannot bear yet cannot bear to leave” (08: 21, here quoted from Kant, 1991, p. 44). In the coeval *Lectures on Anthropology* collected by Christoph Mrongovius (1784/85), Kant introduces a similar triad of “passions,” namely “vainglory [*Ehrsucht*], mania for dominance, and greed” (25: 1356, here quoted from Kant, 2012, p. 456), through which humans strive to influence the opinions, fears and interests of other human beings. Kant remarks that “vainglory is not love of honor [*Ehrliche*].” The latter is

based on an immediate worth, [...] arises out of modesty and is frank,” while the “vainglory is violent, hypocritical” and is based on arrogance, “for it requires others to estimate their worth as less than our own, that is, requires them to be base. [...] Vainglory thus insults and is most hated and resisted. It only wants to get outward respect (25: 1356f.; Kant, 2012, p. 457).

Finally, in the *Religionsschrift* (1793), Kant mentions a slightly different version of this triad, substituting envy [*Neid*] for vainglory [*Ehrsucht*] (06: 94). Therefore, the appearance of *Ehre* in the “Introduction” to the *Metaphysics of Morals* with no further definition can be seen as a reference to something that was commonplace in the philosophical tradition and to other loci in Kant’s oeuvre.

In the second locus, the word does not appear directly. I am referring to § 35 of the *Doctrine of Right*, in which Kant speaks of leaving a good reputation after one’s death (cf. Mertens, 2019). It is a remarkable passage because Kant says that a good reputation is “an innate external belonging” (“*ein angeborenes äußeres [...] Mein und Dein*”), whose peculiar nature is “that I can and must abstract from whether he ceases to be entirely at his death or whether he survives as a person” (06: 295). This is insofar a puzzling definition, as Kant himself claims that in order to be an external mine something must be an object [*Gegenstand*] that is “distinct from me”. Such external objects can be of only three kinds: “1) a (corporeal) *thing* external to me; 2) another’s *choice* to perform a specific deed (*praestatio*); 3) another’s *status* in relation to me” (06: 247). A good reputation, however, does not belong to any of these three kinds of objects. Furthermore, Kant claims in § 10 that “something external is originally mine which is mine without any act that establishes a right to it,” only to remark two lines later: “Nothing external is originally mine, but it can indeed be *acquired* originally, that is, without being derived from what is another’s” (06: 258; Kant, 1996, p. 411). So, apparently nothing, including a good reputation, could be

⁶ Augustine had spoken of three main sins: desire for money and property, desire for power and desire for sexual pleasure (cf. König, 1992, p. 27 f.); Dante encounters, at the beginning of his journey through the afterworld, three beasts symbolizing luxury, envy and greed (Alighieri, 1979, p. 8 ff.); while Machiavelli slightly modified this unholy trinity of negative drives, identifying them with avarice, ambition and an Augustinian desire for “stealing women” (Machiavelli, 1976). In *Leviathan* XIII Hobbes mentions notably three main drives of human action: competition, diffidence and glory (Hobbes, 1996, p. 87 f.), attributing to the latter a preeminent role, since it is the basis for that war of opinions which always threatens peace even after the State has been established.

defined as “an innate external” mine.

But how can Kant contradict himself so blatantly? Or does he really contradict himself at all? The answer lies in an adverb: the good name acquired “by an irreproachable life” is a “(negatively) good name” (06: 295; Kant, 1996, p. 442, my emphasis). This means that it is a good name only insofar as it is not besmirched by wrong and unmoral deed – which means in turn that it was originally unblemished. This corresponds to Kant’s claim that our one innate right, freedom, implies the quality of “being a human being beyond reproach” (06: 238; Kant, 1996, p. 394). Therefore, we all are born with an untarnished good name (which therefore constitutes an innate belonging) and we may keep it immaculate by living irreproachably. The connection between honor and honesty becomes evident here: by living honestly, I can maintain my innate honor. And by doing so, I acquire the right to see my honor vindicated against slander even after my death, since property is not tied to place and time, as Kant repeatedly points out (06: 245, 247, 249, 254, 296 Fn). This reading may not solve the difficulty of the idea of an innate *external* mine⁷, but at least it makes sense of an innate rightful mine, whose existence imposes on others the duty to respect it and creates a corresponding right on my side.

The last three circumstances in which *Ehre* appears are to be found in General Remark E, where the philosopher is discussing crime and criminal law in general, more particularly the death penalty. The first mention of honor in this context is a minor one. If a person offends someone’s love of honor, the corresponding punishment might include some form of public humiliation such as being forced to kiss the hand of the offended even when “he is of a lower class” (06: 332). Honor is here evidently used as a synonym for honorability, much in the sense of the good reputation discussed in § 35. In this sense, it is something that might be owned also by persons “of a lower class.” This is not the case with honor as defined in the fourth locus, in which it is attributed only to persons of a superior moral nature. The locus is connected to the discussion of Balmerino’s case and deserves special attention because it poses relevant questions, both from an exegetical and a theoretical perspective.

In 1745, Arthur Elphinstone, 4th Lord Balmerino, and other Scottish noblemen rebelled against the crown by backing Charles Edward Stuart (“Bonnie Prince Charlie”) in his attempt to claim the throne. For this act of rebellion, they were sentenced to death. Kant imagines a case in which the judge would leave the plotters “free to make the choice between death and convict labor.” Kant is sure that “the man of honor would choose death and the scoundrel forced labor.” His explanation is the following: “This comes along with the nature of the human mind; for the man of honor is acquainted with something that he values even more highly than human life, namely *honor*, while the scoundrel considers it better to live in shame than not to live at all” (06: 333 f.; Kant, 1996, p. 474f.). Apparently, according to this example, there are two kinds of men, at least among plotters: men of honor and scoundrels. Two sets of important questions arise here. First: how are the former to be distinguished from the latter? What transforms an individual into a man of honor? How is honor defined in this context? Second: may we value honor more than life, as the man of honor is supposed to do? Is this preference in accordance with the moral law that requires us to respect humanity in our person and forbids us to take our own life? The first questions have interpretative importance since they refer to something internal to Kant’s theory. The second have a wider philosophical relevance that goes beyond the mere Kantian exegesis. In the next two sections, we answer both questions.

3. Who is a Man of Honor?

We begin with the first questions. It is not very clear how Kant comes to distinguish between men of honor and scoundrels in Balmerino’s rebellion. While discussing this case, he

⁷ Mertens (2019, p. 518f.) suggests a plausible answer to this question.

states an important premise, supposing that some of the rebels “believed that by their uprising they were only performing a duty they owed to the House of Stuart, while others were out for their private interests” (06: 333; Kant, 1996, p. 474). We might think that the men of honor were the former, while the latter were the scoundrels: while the scoundrels were up to no good, the men of honor were acting in good faith or *bona fide* (a Latin term that Kant translates always with “*ehrlich*”⁸, connecting it therefore with *Ehre* and/or *Ehrbarkeit*).⁹

According to Kant, “the man of honor is undeniably less deserving of punishment” than the scoundrel (06: 334; Kant, 1996, p. 475). That does not mean he does not deserve capital punishment, but just that this is the only kind of punishment proportionate to his sensibility (since an honorable death is more important to him than an abject life as a slave) – convict labor would represent an exceedingly severe punishment for him. So, one could be sentenced to death and maintain one’s honor, *if one was already a man of honor*, that is, if one’s criminal actions were undertaken in good faith or *bona fide* (in Kant’s translation: *ehrlich*). This, however, in no way represents a mitigating circumstance and does not save one from punishment, because – as we all know – Kant is adamant that a man who has committed murder must die (06: 333; Kant, 1996, p. 474).¹⁰ He is very strict on this, to the point of practically excluding the possibility of grace (06: 337; Kant, 1996, p. 477).¹¹ Therefore, that Balmerino and some of his accomplices were “men of honor” because they acted in good faith does not represent a justification for their deeds, nor can it be used to advocate an exemption from the death penalty. Accordingly, the rebels *ought* to be put to death even if they remain men of honor.

Does this affect their *honestas iuridica*, their rightful honesty? Since they have committed a crime, they surely lose the right to be held “beyond reproach” (06: 238), even if they were acting *bona fide*. As we will see below, criminals lose not only their honesty and their external freedom (and in some cases, their lives) but also their personality and dignity. The connection between honor and honesty seems, therefore, to be lost, in the case of Balmerino and his accomplices: they might remain men of honor, but they can no longer be seen as honest men.

4. Can We Renounce Life for Honor’s Sake?

To turn to the second questions: is it legitimate for a man of honor to prefer death to convict labor and, therefore, to a life “in shame”? Does honor justify sacrificing one’s life? Should we not strive to preserve our life on every occasion? Do we not have a perfect duty to ourselves regarding self-preservation?

While discussing this duty in the *Doctrine of Virtue*, Kant seems to allow for exceptions. In the corresponding casuistic questions (06: 423f.; Kant, 1996, p. 548) he mentions some cases, in which it is *apparently* permissible to kill oneself. However, it is difficult to state whether he really

8 Kant uses several times the adjective *ehrlich* in connection to ownership or to the person of the owner (for instance 06: 292, 300 ff., 364). In all these cases the term translates explicitly the Latin expression “*bona fide*”.

9 It is very unlikely that Kant uses the expression “*ehrlicher Mann*” (“man of honor”) as synonymous with “*Edelmann*” (“aristocrat”), as was common in his time. In all his political writings Kant is coherent in rejecting hereditary (blood) aristocracy as a form of unjustified, irrational privilege.

10 On Kant’s view of the death penalty see Ataner 2006 and Merle 2009, 44-71.

11 The sovereign may grant clemency only in the case of a wrong done to himself, not in the case of crimes against a subject. Murder is therefore excluded from the crimes for which clemency is possible, since the sovereign who could grant it as the victim of this crime would be dead.

In a much quoted, quite infamous passage, he writes: “Even if a civil society were to be dissolved by the consent of all its members (e.g., if a people inhabiting an island decided to separate and disperse throughout the world), the last murderer remaining in prison would first have to be executed, so that each has done to him what his deeds deserve and blood guilt does not cling to the people for not having insisted upon this punishment” (06: 333). This old Testamentary wording may surprise the reader, but it fits to the conception of punishment as retribution or retaliation (*ius talionis*) that Kant defended (06: 332).

believes that the strict prohibition of suicide can be violated in any case at all. First, he does not affirm anything positive about this point: he just formulates casuistic questions and does not provide any answers. Second, the cases mentioned differ greatly from one another. In some cases, death is certain anyway and the choice for suicide appears therefore quite unproblematic: this is the case of Seneca (who killed himself in anticipation of “the unjust death sentence” handed down by Nero) and of the hydrophobic man (since no remedy for or vaccination against rabies was available at that time). In other cases, death is not certain, but can be seen as a way of avoiding greater harm to others: this is the case of Curtius (who sacrifices himself to save his country), of Frederick the Great (the “great king” who carried a fast-acting poison with him to spare any harm to his state if he were captured in battle) and, once again, of the hydrophobic man (who does not want to harm others). In one case, death is just a possible outcome of an action (vaccination), whose aim is exactly to protect one’s life and to reduce the risk of death (in this case the infection through deadly pathogenic agents like smallpox); therefore, it is not a proper case of suicide.

The case of Balmerino’s putative choice for death over convict labor does not fit completely in any of these possibilities.¹² While Curtius, Frederick, and the hydrophobic man chose death in order not to harm others, Balmerino did so in order to maintain his honor and not live in shame. How can this egoistic motivation be put on the same level as the altruistic motives of the other examples?

Two answers are possible to this question. The first appeals to Kant’s recognition of the central relevance of honor in his society and can be backed by the fifth locus of the *Doctrine of Right* in which Kant mentions honor. The second refers once again to the problematic connection between honor and honesty. We shall consider both answers in the following sections by analyzing the fifth appearance of honor in the *Doctrine of Right*.

5. Killing for Honor’s Sake

In the same General Remark E in which Kant discusses Balmerino’s case, we find the fifth locus, in which honor plays a role. In it, Kant mentions “two crimes deserving of death, with regard to which”, however, “it still remains doubtful whether legislation is also authorized to impose the death penalty” (06: 335 f.; Kant, 1996, p. 476). *Nota bene*: what is presented as doubtful here is whether Right has the authority (*Befugnis*) to impose capital punishment, not whether it might be effective in threatening the criminal with the death penalty, as is the case with *Notrecht*, with that “right of necessity” which does not even belong to Right strictly (06: 235 f.).¹³ Furthermore, it is not clear whether Kant himself considers this to be a doubtful case, for he

¹² Of course, he was sentenced to death like Seneca, but justly and through a rightful sentence, contrarily to the Roman philosopher. But this is not relevant here.

¹³ In that case, Kant uses Carneades’ classical example of two survivors of a shipwreck who try to save themselves by grasping a plank on which there is space only for one of them. According to Kant, it is impossible to legally forbid one of them to push the other into the water since, if he doesn’t do this, he will die. The threat of a penalty, even of the most severe possible (i.e., the death penalty, which is what should restrain him from killing someone under normal circumstances) would have no effect at all, so this case cannot possibly be regulated by Right since the latter would have no power at all over the individual whose actions it should punish. This is why, in Kant’s vision, it is a very special case that does not even belong properly in the *Doctrine of Right*: the involved persons find themselves in a situation of life or death, in which Right is impotent; it is as if Right were suspended and they had fallen back into the state of nature, in which there is no law restraining them and no worse punishment other than violent death by the hand of others. That does not mean, however, that I am not doing anything wrong by pushing someone off the plank to save myself. The fact that I cannot be restrained by any legal threat from doing so does not imply that what I am doing is not an *Unrecht*, a wrongful act. It is not by chance that Kant speaks here of an “alleged right” (Kant, 1996, p. 391). He distinguishes between the objective and the subjective dimension of the claim that I am authorized to kill someone to save my own life. The subjective dimension refers to the fact that no legal threat can stop me, since the most powerful one, that is, the promise of the death penalty, threatens me precisely with what I shall meet anyway if I yield to it: I will drown if I do not kill the other. Furthermore, while the death penalty is uncertain (who

uses the ambiguous formulation “it remains doubtful” (in German: “noch zweifelhaft bleibt”). This expression can just represent a statement on a matter of fact (someone has questioned the authority of the state) that does not necessarily correspond to Kant’s own opinion (he might think that the state absolutely has this authority). Alternatively, it can constitute a way of introducing the analysis of the following crimes, meaning more or less: “we still have to consider two cases that are *prima facie* doubtful”. The impression that Kant himself does not have any doubts about the real criminal nature of the two cases might be reinforced by his use of the verb *verleiten*, whose distinctly negative, condemning touch gets lost in Mary Gregor’s English version – which uses the morally neutral verb “to lead”. But an even stronger argument in favor of Kant’s lack of doubts is the open condemnation of killing for honor’s sake that he formulates at the end of the paragraph.

Let us consider the first crime, which is quite shocking and often provokes uneasiness among Kantian scholars. Kant claims that a woman killing her child *apparently* [*so scheint es*] does not deserve the death penalty and is not to be considered a murderer at all if the baby resulted from an illegitimate relationship: this would be a mere act of killing [*Tötung*], not a murder [*Mord*] (06: 336).¹⁴ The justification for this is that the child who is born outside the protection of marriage is *eo ipso* outside the law and, therefore, has no legal protection (he is not a citizen, not even a passive one). Kant speaks here of the baby as if he were a thing: “It has, as it were, stolen into the commonwealth (like contraband merchandise), so that the commonwealth can ignore its existence (since it was not right that it should have come to exist in this way), and can therefore ignore its annihilation” (06: 336; Kant, 1996, p. 477).

If this was really Kant’s position, then it would mean that nobody had a right to life for the mere fact of being born, for existing as a member of the species. Children born within the context of a legal marriage are protected by the Law and their parents are not allowed to kill them (or sell them or handle them as things – cf. 06: 280 ff.), contrary to what happens with children born outside of marriage. That is, children receive full legal protection only when they are born inside a *legally* defined and sanctioned situation (i.e., marriage). Kant does not say, however, that it is legitimate to kill a baby born outside a legal marriage, but only that the *mother* may do so without becoming a murderer in the eyes of the Law. He does not even claim that the community has the right to ignore the killing, he just observes that it can do this (the use of the verb “*kann*” instead of “*darf*” should be noted here). Apparently, Kant is just registering a fact: people do not consider this act a proper murder and prefer to ignore it. But how is this possible? How can the killing of a baby born outside a legal marriage not be considered murder? Kant answers this question by recurring to the notion of honor. According to the socially dominant view, a woman who suffers the loss of her honor has the right to eliminate the cause of the loss. By killing the illegitimate child, the mother eliminates the cause of her disgrace (*Schande*).

will denounce me if I am the only survivor?), death by drowning is certain. Therefore, subjectively I see myself as authorized to kill the other. It is *me* who authorizes *myself*. The objective dimension refers to Right [*Recht*] itself, and Right cannot accept me killing an innocent to save my own life. Therefore, there is no right such as the right of necessity (Merle, 2021).

¹⁴ On the relevance of this topic in 18th century Germany see Kord, 2009, p. 121 ff. According to her, “seduction and, during the second half of the century, infanticide can fairly be called the most popular themes in eighteenth-century German literature authored by men” (Kord, 2009, p. 121). While in the literature of previous centuries, seduction brought about mostly humorous situations and served as material for comedies, in the 18th century a significant “conceptual shift” occurred: the inexperienced girl’s consent to premarital sex, “which was, until the eighteenth century, easily repaired through marriage, metamorphoses, in the eighteenth century, into a loss of ‘honour’ and attending sense of shame that inevitably results in death” (Kord, 2009, p. 122). As the author points out, “the topic of infanticide attracted the attention of philosophers and legal reformers as well as literary authors”, many of whom, interestingly, “were also or had been students of law” (Ibid.). There is, however, a strange anachronism in Kant’s depiction of infanticide. While he acknowledges doubts concerning the state’s authority to punish infanticidal mothers, the legal reality of his time was that all legal orders foresaw the death penalty for this crime. It is not by chance, that all the heroines of the mentioned fictional works met this tragic fate (e.g., Evchen in Heinrich Leopold Wagner’s *Die Kindermörderin*, Marie in Johann Michael Reinhold Lenz’s *Zerbin* and, most famously, Gretchen in Goethe’s *Faust*).

This is a very interesting case, since the child, contrarily to the criminal (whose case we shall consider below), has done nothing to forfeit his dignity or humanity: it is rather the mother who acted against custom by conceiving outside marriage. Yet, the child has done nothing to preserve his dignity either, since he cannot act as a moral agent. He seems to inhabit a sort of moral limbo: he is already a member of the species, but he is not yet a person with humanity or dignity. One could even doubt whether he can be considered fully alive given Kant's definition of life in the Preface to the second *Critique*: "Life is the faculty of a being to act in accordance with laws of the faculty of desire" (05: 9, footnote; Kant, 1996, p. 144). Does a newborn baby have such a faculty? He does, but only potentially. The illegitimate baby is only *potentially* a living being and only *potentially* a moral agent. But *actually*, he represents a loss of honor for the mother – that was what society in Kant's times thought, anyway – and honor must be taken seriously by the Law, at least for the time being.

Kant surprises us here with a quasi-Hegelian remark: In another, more civilized and less "barbarian" time, having an illegitimate child would no longer be a reason for disgrace, so killing him would be considered plain murder. But, until that time, the categorical imperative of penal justice (06: 336) must yield to the mores, morality must yield to costumes. For the same reason, Kant claims that there is another case in which killing someone cannot be considered murder: a duel, which represents the second exception to the rule of *ius talionis* that characterizes Kant's interpretation of criminal law. If my honor has been unduly violated, I may kill the offender in a duel.¹⁵ Again, this may be considered a barbarian and uncivilized thing to do, but as long as we assign such preeminence to honor, we have to accept that people kill for honor's sake and that Right has no authority to demand death for this kind of killing. If penal justice punished these actions with death, that would be tantamount to declaring that the concept of honor ("which is *here* no illusion", as Kant remarks – italics mine) "counts for nothing" (06: 336; 1996, 477). According to Kant, the only way out of this "quandary" is that the concept of honor is transformed in such a way that what counts at present as an offense to it can then be considered less important and, therefore, is no longer a justification for "unlawful killing."

The question about the legitimacy of choosing death in honor over living in shame finds here its first answer: "Here" (i.e., in this society and in this specific historical time) honor is no illusion and may count for something. Therefore, it is justifiable to kill and to die for honor's sake, and one questions even the state's authority to intervene with the death penalty against honor killers. But, for Kant, this situation is historically contingent and does not deserve to be preserved, for it is an expression of a time, whose legislation is still "barbarous and underdeveloped" (06: 337; Kant, 1996, p. 477). Therefore, the first answer, according to which it is only because society gives an undeserved relevance to honor that we consider it acceptable for Balmerino to choose death, is not completely satisfactory (and somehow trivial). The second answer is not as directly connected to Kant's treatment of honor as the first one, but it is far more interesting since it helps us to grasp better not only the connection between honor and honesty, but also the link between honesty, dignity, and freedom. To start discussing it, we should first consider how honor is treated in the *Doctrine of Virtue*.

6. Honor in the *Doctrine of Virtue*

Compared to the cases discussed in the *Doctrine of Right*, the references to honor in the *Doctrine of Virtue* are quite harmless. The first connects love of honor to internal honesty (*honestas interna*) and to internal freedom, as we have already seen. The second occurs in § 42 and § 43, in which Kant speaks of the vices of arrogance and defamation. Arrogance is defined as a kind of ambition [*Ehrbegierde*, i.e. literally: desire of honor], "in which we demand that others

¹⁵ On duels in general and on Kant's view on dueling see Stell, 1979.

think little of themselves in comparison with us”. It is to be distinguished from “pride proper [...], which is love of honor [*Ehrliebe*]” (06: 465; Kant, 1996, p. 581).¹⁶ The arrogant seeks honor (he is *ehrsüchtig*, an addict to honor), but at the same time, he treats with contempt the very people from whom he expects recognition. This attitude is not only unjust but is also foolish, more precisely: it shows *Torheit* and *Narrheit*.¹⁷ In the case of defamation, the vice consists in “the intentional *spreading (propalatio)* of something that detracts from another’s honor” (06: 466; Kant, 1996, p. 582).

In the case of defamation, honor obviously corresponds to the good reputation that was the object of the abovementioned § 35 of the *Doctrine of Right* (06: 295; Kant, 1996, p. 441f.). In the case of ambition [*Ehrbegierde*], it is seen as something we must strive for, and which depends on other people’s recognition. Pride proper is defined there as “a concern to yield nothing of one’s human dignity in comparison with others” (06: 465; Kant, 1996, p. 581), while at the same time respecting the honor of these others (when this respect is not shown, one is behaving arrogantly). Once again, honor is connected to dignity, and this is understood as something belonging to the individual as a human being (“human dignity”). However, individuals may lose not only their honor and (rightful) honesty but precisely their human dignity and even their personality, becoming a thing.

7. Losing One’s Dignity and Personality

In General Remark D, Kant states that “no human being in a state can be without any dignity, since he at least has the dignity of a citizen.”¹⁸ The exception is someone who has lost it by his own crime” (06: 329; Kant, 1996, p. 471). The criminal loses his dignity as a citizen, and therefore presumably his honor. However, it seems that he also loses his dignity as a human being, because, as Kant claims, “though he is kept alive, he is made a mere tool of another’s choice [*Willkür*] (either of the state or of another citizen)”. This means that, apparently, he may be considered as a mere means and no longer as an end in himself; he can be reduced to slavery and as such ‘given’ by the state to a private citizen, who evidently may use him as a tool for work – as still happens in some countries, in which inmates are forced to work for the state (like in China) or for private companies (like in some U.S. states) without receiving a wage. The passage continues in the following terms:

Whoever is another’s tool (which he can become only by a verdict and right) [which excludes the possibility of self-slavery: one can be condemned to slavery, but may not make himself a slave] is a *bondsman [Leibeigener]* (*servus in sensu stricto*) and is the *property (dominium)* of another, who is accordingly not merely his *master (herus)* but also his *owner (dominus)* and can therefore alienate him as a thing, use him as he pleases (only not for shameful purposes) and *dispose of his powers*, though not of his life and members.

As Kant puts it quite bluntly, “he ceases to be a person”, not simply to be a citizen (06: 330; Kant, 1996, p. 471f.). He is no longer his own master (therefore he is no longer an honorable man) and has become a thing, the property of another, a mere tool in his owner’s hands. Can we say that he still has dignity as a human being? What about the right of humanity in his person? Does the categorical imperative still apply to him? Apparently, it does, but only with regard to the prohibition to use him for shameful purposes – which however could be seen more as an obligation of the owner toward himself, that is, as a perfect duty to oneself, as

¹⁶ Cf. the abovementioned passage from the *Lectures on Anthropology* collected by Mrongovius.

¹⁷ The English translator calls our attention to the distinction Kant made in *Anthropology from a Pragmatic Point of View* (7: 210) between being “foolish” [*Tor*] and “a conceited ass” [*Narr*].

¹⁸ On the different meanings of “dignity” in Kant and its relation to Right see Von der Pfordten, 2009 and Sensen, 2011.

expressed in § 7 of the *Doctrine of Virtue* (06: 424 ff.; Kant, 1996, p. 548ff.) – and with regard to the integrity of life and limbs. In any other regard, he is just a thing, and his owner may use him (or better: it) as he pleases.

This is not the only instance in which an individual becomes dependent on another. Kant observes here that “no one can bind himself to this kind of dependence” (once again we observe his criticism of the idea of voluntary self-slavery) and that those who put themselves under obligation to another person by contract become their subjects, not their bondsmen (06: 330; Kant, 1996, p. 472). However, according to a passage in which Kant considers this question, namely § 30, it seems that by this contract they almost completely lose their external freedom. In this case, he speaks about servants who are hired by the head of a household, who “are included in what *belongs* to [him] and, as far as the form (the way of his being in *possession*) is concerned, they are his by a right that is like a right to *a thing*” (06: 283; Kant, 1996, p. 431, my emphasis). In § 29 (06: 282; Kant, 1996, p. 430), while referring to the relation of the father to his children, Kant had discussed “a right to a person *akin to a right to a thing*” (*ein auf dingliche Art persönliches Recht*), which allows parents to take control of their children and to impound them as things “like domestic animals that have gone astray”. The idea of fugitive animals seems to have inspired Kant also when he writes that, if servants run away from their master, “he can bring them back in his control by his unilateral choice”, that is, without asking permission from a tribunal. He can run after them, seize them and bring them back as if they were runaway horses.

Nevertheless, children and servants maintain their dignity and cannot be seen fully as things. The parents and the master may not dispose of them as they please. The right the father viz. master holds over them is still “a right to a *person*”, even if it is “akin to a right to a thing”. This is a completely different case from that of “the right of ownership with regard to someone who has forfeited his personality by a crime” (06: 283; Kant, 1996, p. 431). As becomes clear from Kant’s wording, the criminal forfeits his personality [*Persönlichkeit*], not merely his dignity as a citizen. What is at stake, in this case, is more than simply honor or legal honesty: it is personality itself. How can we conciliate this view with the one Kant expressed in his ethical works, in which human beings have a distinct dignity as autonomous moral lawgivers? Does the criminal lose also *this* dignity? Does he cease to be an autonomous member of the Kingdom of Ends?

Metaphysics of Morals does not appear to hold an answer to this question. One reason for this might be that in works such as the *Groundwork* or the second *Critique* individuals are seen primarily as rational beings, as *homines noumena* moved by reason and autonomous authors of the moral law, more than as *homines phenomena* moved by passions and renitent subjects of the moral law. In both parts of the *Metaphysics of Morals*, on the contrary, Kant refers to man as *homo phenomenon*, as someone who is trying to satisfy his needs and desires (in the *Doctrine of Right*) and to organize his life according to the moral law (in the *Doctrine of Virtue*). While the first issue involves dealing with the needs and desires of others, so that the main task is to coordinate one’s free choice [*Willkür*] with the free choice of others (according to Kant’s definition of Right), the second issue leads to a perpetual struggle to control one’s motives and passions, that is, to develop virtues that help to make the moral law into the habitual maxim of one’s behavior. In both cases, honesty has to do with affirming one’s worth as an agent: a legal and a moral one. (*Honestas iuridica* and *honestas interna* respectively refer to these kinds of agency.) According to Kant’s own systematic and architectonic division in the “Introduction to the *Metaphysics of Morals*,” the two aspects should remain separate, but – as we saw – the loss of legal honesty, and therefore of legal personality, may lead to the loss of internal honesty, and therefore of personality in general.

We should make here a distinction, which Kant does not make explicitly, but that he seems to make implicitly. One can be a human being, a *Mensch*, in two different senses: first, as a member of the species; second, as someone who has dignity because of his humanity, of

his *Menschheit*, which is to be understood as the capacity to be externally free (Pinzani, 2018, p. 222). Now, a human being cannot cease to be a member of the species, but he can forfeit his humanity and therefore his dignity. Contrarily to membership of the species, humanity is something we must keep through our deeds. It depends on what we do, that is, on the kind of person we become through our actions. If we do the wrong thing, we may lose it and, by losing it, we may lose our external freedom and its corresponding “authorizations,” including the right to be our own masters and to be beyond reproach (06: 238; Kant, 1996, p. 393f.). It is true that our “innate personality” prohibits us becoming “mere tool(s) of another’s choice”, but if we are found “punishable” for a crime, then this prohibition is no longer valid (06: 331; Kant, 1996, p. 473).

Far from being the object of an absolute, untouchable right grounded in innate dignity, life has to do with our capacity to be legal and moral agents. One could say that dignity and life are something that you should *deserve*. They depend on our acting; therefore, dignity is itself based on agency, exactly as life has value only for being the necessary condition for acting. We can lose our dignity (and our life) because of certain actions, even if we remain rational beings; or, better yet, precisely because we are rational beings able to be held responsible for our actions. According to Kant, we do not have rights as human beings, but rather as rational agents who assume full responsibility for their actions and who must bear the consequences. Agency becomes, therefore, literally a matter of life or death, since under certain circumstances, by acting against the Law, one can forfeit his right to the legal protection of one’s life by the State or can even lose his right to be considered a worthy human being, becoming instead a thing that can be possessed and disposed of at its master’s pleasure. This is a quite disturbing conclusion for our traditional vision of Kant’s practical philosophy. Yet, it opens up an interesting discussion on the right to life and on the right to kill that may extend much further than mere Kantian exegesis.

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