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Kant's Liberalism: A Reply to Rolf George

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In his thoughtful paper, "The Liberal Tradition, Kant, and the Pox", Rolf George joins the venerable argument about whether Kant should be accounted friend or foe of liberals. But this is not just a rehearsal of the debate over the compatibility of the Old Jacobin's defense of civil liberties and government by consent with his notoriously unpleasant doctrines of the absolute duty to obey the law or his ruthlessly retributive view of punishment. George advances the debate by suggesting that elements of Kant's moral theory are deeply incompatible with liberalism. And this is particularly striking when liberals like John Rawls, Ronald Dworkin and Robert Nozick are quick to invoke Kant's name in defense of their own views. The attraction of Kant for these modern (and American) liberals is clear, for they hold individualistic moral theories and they reject utilitarianism. But, if George is right, there are aspects of Kant's thought which make him an unsuitable mascot.

George argues that even in very minor matters, such as the question of whether it is permissible to inoculate oneself against smallpox, Kant's rigid formalism makes heavy demands. Merely desiring to inoculate oneself is a violation of duty (though this depends on a dubious Malthusian argument which is as much cant as Kant). When combined with the thesis that the smallest violation of the moral law annihilates civic personality in the offender, this supports the conclusion that most people fall in the class of *vilia* who are not full legislating members of the realm of ends. But then the republic remains an unreachable ideal and autocratic rule becomes a favoured second-best needed to break man's wilfulness. Thus Kant cannot be a liberal, if that means one who favours little state interference on the pursuit of individual good, who sees

political morality as "little more than procedures with which to regulate our life together", and whose vision of life is a secular one which celebrates not only self-expression but the pursuit of self-interest, the clash of wills, and a desire to dominate nature.

I do not wish to take issue with George's reading of Kant (though I am a little hesitant to let much turn on his remarks about the pox, and unpersuaded that Kant's considered view was that *any* violation of the moral law wholly deprives one of civic personality). My complaint is rather with his understanding of the liberal tradition, and his failure to distinguish Kant's moral theory from his political one.

Any argument about what liberalism is is itself a political argument. George's view is one heavily influenced by modern *laissez-faire* writers; it is the liberalism of Smith, Hayek and Nozick. As such, it is more distant from the views of, e.g., Montesquieu and Tocqueville, or even important strands in Locke and Mill. This is not, I take it, an irrelevant point of nomenclature, for George's thesis is not that Kant held some unattractive views, but that he held views which put his liberal credentials in doubt. What is required to substantiate that thesis? As a matter of present ideology, Kant is recognized as a friend by many liberals. But that is not in dispute. And remember that some philosophers are part of the liberal tradition even though they cannot themselves be accounted liberal (e.g., Hobbes). However, even if we insist that all members of the liberal tradition must satisfy tests more stringent than those of being accepted by other liberals or providing arguments on which the tradition draws, I think we can defend Kant while at the same time explaining the unpleasant features of his thought.

There are many themes in eighteenth-century political thought which cannot be arranged along a unidimensional liberal-nonliberal spectrum. Consider, for instance, the emergence of democratic ideas. It was a very long time indeed before liberals made friends with democracy; the question of the relation between the two was not even well-posed before Tocqueville. Strands of monarchical or even "autocratic" thought are thus often present even alongside a professed commitment to political liberty. Or again, we find echoes of civic republicanism in various writers, a hankering after the moral order of Rome or Sparta (at least as idealized and idolized by writers like Rousseau). Republicanism is characterized by talk of virtue and the thought that government should contribute to the moral improvement of citizens. Now, if we collapse these three dimensions—the liberal, the democratic, and the republican—into one, it may seem that Kant does not score terribly high on it. His defense of freedom of the press looks good, but his insistence on subservience to law looks bad. The antipaternalist remarks sit well, but not the notion that the law must break man's will. And so forth. But there is no reason to collapse these dimensions into one, for they respond to different, perhaps incommensurable, political values: freedom,

virtue, and self-rule. What looks like a weak commitment to freedom may then be understood as the demands of virtue; scepticism about the possibilities of self-rule may be realism about the preconditions of freedom. To think that a liberal—let alone an eighteenth century one—must inhabit a conceptual world organized by doctrines made popular by some nineteenth-century writers and their modern heirs is both an anachronism and a moral mistake. If Kant is not liberal in this sense, then I should regard that, not as a bad thing, but as a good thing. And if we are to pare away at the liberal tradition until we have excised all who show traces of metaphysical doctrines of freedom, or republican ideals, if we are to leave out all the non-democrats, then we shall certainly lose Montesquieu, Tocqueville, and Rousseau, and possibly Locke and Mill as well. Without a powerful political argument for performing such radical surgery on the tradition, we are entitled to insist on an inclusive rather than restrictive notion of liberalism, one which can encompass not only Smith and Spencer, but also Durkheim and T. H. Green. And that will leave plenty of room for Kant.

But there is an outstanding philosophical issue. Is Kant's formalism, his insistence on duty for duty's sake, an inherently illiberal doctrine? It is an unsympathetic and ungenerous one; but we should not confuse liberalism and liberality. Liberalism is a political doctrine about the nature and value of freedom, one especially concerned with the limits of legitimate state action. But notice that Kant's remarks about the pox do not recommend that the government should *prohibit* inoculation on the ground that it should save people from moral error. Kant's morality was indeed subservient to the stern commands of duty; but his political theory elaborated a framework of rights within which the moral life should be lived.

Can a morality of duty be combined in this way with a politics of rights? George says that duty regulates only action, not interaction, and follows Constant's objection to Kant's thesis that one should betray the innocent rather than violate the absolute prohibition on lying. One cannot, the objection goes, have a duty without there being some corresponding right, and the wrong-doer has no right to be told where the innocent person is hiding. Thus, "the Kantian moral philosophy ... singularly fails to bring into focus the reciprocity of rights and duties, and interaction in general". But this argument fails because its crucial premise is false. It is not true that one has a duty to do X only if there is someone who has a right that X be done. Suppose someone thought that we have a duty not to destroy the great redwood trees. He would not thereby be committed to the view that the trees (or anyone else) have a right that we not destroy them. Note that I am not arguing that the case for believing in such a duty would not be stronger if there was someone, e.g., future generations, who had the right. I only contend that it is

neither a conceptual nor moral mistake to think that some duties are not grounded in the rights of others. Indeed, on Kant's moral theory there is a reciprocity of rights and duties, but it goes the other way around. The right of the innocent person not to be harmed is on the Kantian view a consequence of the fact that the offender has a duty not to harm him. In situations like the one described there may be a conflict of duty (benevolence vs. honesty) but that is not unique to Kantianism.

Can liberalism speak the language of duty? Should it not instead speak the language of rights? Understood as a doctrine of political restraint whose primary aim is to limit what governments may do to their citizens, liberalism may seem to make rights primary at the political level. The duties of rulers are indeed often grounded in the rights of citizens. (It would be very odd to think, for example, that the foundation of our right to freedom of expression is the fact that our rulers have an independently justified duty not to interfere. The ground of their duty is our right.) But that is quite compatible with the rest of moral theory being duty-based, or being based on considerations other than those of rights or duties. We must not forget that Rousseau, Mill and T. H. Green are also part of the liberal tradition and that for many other liberals notions of virtue and the common good were more important than individual rights. The stern voice of duty does indeed make Kant's moral theory unpleasant. But Kant's conception of the polity as a union of free, equal and independent beings, bound only to those principles which could command their unanimous assent, is at least partly independent of this. He never suggests that the role of government is to force people to do their duty; that would be incompatible with their autonomy. The categorical imperative may be a useless device for explaining conflicts of duty, but that has nothing to do with any supposed difference between action and transaction or the correlativity of rights and duties. I conclude that Kant was indeed a liberal, of sorts. But he was no democrat, and he picked up, perhaps from Rousseau, some traces of republicanism. On one important point, however, I am in complete agreement with George. Kant's liberalism is not very secular. His republic remains a regulative ideal, just as his idea of government by consent is purely fictive: one is bound to any political arrangement to which it is not impossible that one would have consented if asked. The thinness of these notions should perhaps give pause to those modern liberals who appeal to his authority. We should remind them that Kant was not the only liberal. George might wish to call their attention to Spencer and Smith; I would prefer they look to Rousseau and Mill.