# Kant NEG/AT:NEG

## NEG

### 1NC – Kant NC

#### The standard is consistency with libertarian property rights.

#### Our innate right to external freedom justifies a libertarian conception of property rights – the state has a perfect duty to protect against violations of property.

Otteson ‘09 [(James R., professor of philosophy and economics at Yeshiva University) “Kantian Individualism and Political Libertarianism,” The Independent Review, v. 13, n. 3, Winter, [2009](https://link.springer.com/article/10.1007/s10790-015-9506-9)]

It is difficult to imagine a stronger defense of the “sacred” dignity of individual agency. Kantian individuality is premised on its rational nature and its entailed inherent dignity, and the rest of his moral philosophy arguably is built on this vision.1 Kant relies on a similarly robust conception of individuality in work other than his explicitly moral philosophy. The 1784 essay “An Answer to the Question: ‘What Is Enlightenment?’” (Kant 1991), for example, emphasizes in strong terms the threat that paternalism poses to one’s will. Kant argues that “enlightenment” (Aufklärung) involves a transition from moral and intellectual immaturity, wherein one depends on others to make one’s moral and intellectual decisions, to maturity, wherein one makes such decisions for oneself. One cannot effect this transition if one remains under another’s tutelage, and, as a corollary, one compromises another’s enlightenment if one undertakes to make such decisions for the other person—which, as Kant argues, is the case under a paternalistic government. Kant also writes in his 1786 essay “What Is Orientation in Thinking?” that “To think for oneself means to look within oneself (i.e. in one’s own reason) for the supreme touchstone of truth; and the maxim of thinking for oneself at all times is enlightenment” (1991, 249, italics and bold in the original). These passages are consistent with the position he takes in Grounding that a person who depends on others is acting heteronomously, not autonomously, and is to that extent not exercising a free moral will. These passages also help to clarify Kant’s notion of personhood and rational agency by indicating some of their practical implications. For example, on the basis of his argument, one would expect him to argue for setting severe limits on the authority that any group of people, including the state, may exercise over others: because individual freedom is necessary both to achieve enlightenment and to exercise one’s moral agency, Kant should argue that no group may impinge on that freedom without thereby acting immorally. Kant expressly draws this conclusion in his 1793 essay “On the Common Saying: ‘This May Be True in Theory, but It Does Not Apply in Practice’”: Right is the restriction of each individual’s freedom so that it harmonises with the freedom of everyone else (in so far as this is possible within the terms of a general law). And public right is the distinctive quality of the external laws which make this constant harmony possible. Since every restriction of freedom through the arbitrary will of another party is termed coercion, it follows that a civil constitution is a relationship among free men who are subject to coercive laws, while they retain their freedom within the general union with their fellows. (1991, 73, emphasis in original) Kant insists on the protection of a sphere of liberty for each individual to self-legislate under universalizable laws of rationality, consistent with the formulation of the categorical imperative requiring the treatment of others “always at the same time as an end and never simply as a means” (1981, 36). This formulation of the categorical imperative might even logically entail the position Kant articulates about “right,” “public right,” and “freedom.” Persons do not lose their personhood when they join a civil community, so they cannot rationally endorse a state that will be destructive of that personhood; on the contrary, according to Kant, a person enters civil society rationally willing that the society will protect both his own agency and that of others. Robert B. Pippen rightly says that for Kant “political duties are a subset of moral duties” (1985, 107–42), but the argument here puts it slightly differently: political rights, or “dignities,” derive from moral rights, which for Kant are determined by one’s moral agency. Thus, the only “coercive laws” to which individuals may rationally allow themselves to be subject in civil society are those that require respect for each others’ moral agency (and provide for the punishment of infractions thereof) (see Pippen 1985, 121). When Kant comes to state his own moral justification for the state in the 1797 Metaphysics of Morals, this claim is exactly the one he makes: the state is necessary for securing the conditions of “Right”—in other words, the conditions under which persons can exercise their autonomous agency (see 1991, 132–35). Consistent with this interpretation, Kant elsewhere endorses free trade and open markets on grounds that make his concern for “harmony” in the preceding passage reminiscent of Adam Smithian invisible-hand arguments. In his 1784 essay “Idea for a Universal History with a Cosmopolitan Purpose,” Kant writes: “Individual men and even entire nations little imagine that, while they are pursuing their own ends, each in his own way and often in opposition to others, they are unwittingly guided in their advance along a course intended by nature. They are unconsciously promoting an end which, even if they knew what it was, would scarcely arouse their interest” (1991, 41). This statement is similar to Smith’s statement of the invisible-hand argument.2 Kant proceeds to endorse some of the same laissez-faire economic policies that Smith advocated—for example, in his discussion in his 1786 work “Conjectures on the Beginning of Human History” of the benefits of “mutual exchange” and in his claim that “there can be no wealth-producing activity without freedom” (1991, 230–31, emphasis in original), as well as in his claim in the 1795 Perpetual Peace that “the spirit of commerce” is motivated by people’s “mutual self-interest” and thus “cannot exist side by side with war” (1991, 114, emphasis in original).3 Finally, although Kant argues that we cannot know exactly what direction human progress will take, he believes we can nevertheless be confident that mankind is progressing.4 Thus, in “Universal History” he writes: The highest purpose of nature—i.e. the development of all natural capacities—can be fulfilled for mankind only in society, and nature intends that man should accomplish this, and indeed all his appointed ends, by his own efforts. This purpose can be fulfilled only in a society which has not only the greatest freedom, and therefore a continual antagonism among its members, but also the most precise specification and preservation of the limits of this freedom in order that it can co-exist with the freedom of others. The highest task which nature has set for mankind must therefore be that of establishing a society in which freedom under external laws would be combined to the greatest possible extent with irresistible force, in other words of establishing a perfectly just civil constitution. (1991, 45–46, emphasis in original) Kant’s argument in this essay runs as follows: human progress is possible, but only in conditions of a civil society whose design allows this progress; because the progress is possible only as individuals become enlightened, and individual enlightenment is in turn possible only when individuals are free from improper coercion and paternalism, human progress is therefore possible only under a state that defends individual freedom. Kant believes that individuals have the best chance to be happy under a limited civil government, and he therefore argues that even such a laudable goal as increasing human happiness is not a justifiable role of the state: “But the whole concept of an external right is derived entirely from the concept of freedom in the mutual external relationships of human beings, and has nothing to do with the end which all men have by nature (i.e. the aim of achieving happiness) or with the recognized means of attaining this end. And thus the latter end must on no account interfere as a determinant with the laws governing external right” (“Theory and Practice,” 1991, 73, emphasis in original). The Kantian state is hence limited on the principled grounds of respecting agency; the fact that this limitation in his view provides the conditions enabling enlightenment, progress, and ultimately happiness is a great but ancillary benefit. Thus, the positions Kant takes on nonpolitical issues would seem to suggest a libertarian political position. And Kant explicitly avows such a state. In “Universal History,” he writes: Furthermore, civil freedom can no longer be so easily infringed without disadvantage to all trades and industries, and especially to commerce, in the event of which the state’s power in its external relations will also decline. . . . If the citizen is deterred from seeking his personal welfare in any way he chooses which is consistent with the freedom of others, the vitality of business in general and hence also the strength of the whole are held in check. For this reason, restrictions placed upon personal activities are increasingly relaxed, and general freedom of religion is granted. And thus, although folly and caprice creep in at times, enlightenment gradually arises. (1991, 50–51, emphasis in original) In “Theory and Practice,” Kant writes that “the public welfare which demands first consideration lies precisely in that legal constitution which guarantees everyone his freedom within the law, so that each remains free to seek his happiness in whatever way he thinks best, so long as he does not violate the lawful freedom and rights of his fellow subjects at large” and that “[n]o-one can compel me to be happy in accordance with his conception of the welfare of others, for each may seek his happiness in whatever way he sees fit, so long as he does not infringe upon the freedom of others to pursue a similar end which can be reconciled with the freedom of everyone else within a workable general law” (1991, 80, emphasis in original, and 74). In a crucial passage in Metaphysics of Morals, Kant writes that the “Universal Principle of Right” is “‘[e]very action which by itself or by its maxim enables the freedom of each individual’s will to co-exist with the freedom of everyone else in accordance with a universal law is right.’” He concludes, “Thus the universal law of right is as follows: let your external actions be such that the free application of your will can co-exist with the freedom of everyone in accordance with a universal law” (1991, 133, emphasis in original).5 This stipulation becomes for Kant the grounding justification for the existence of a state, its raison d’être, and the reason we leave the state of nature is to secure this sphere of maximum freedom compatible with the same freedom of all others. Because this freedom must be complete, in the sense of being as full as possible given the existence of other persons who demand similar freedom, it entails that the state may—indeed, must—secure this condition of freedom, but undertake to do nothing else because any other state activities would compromise the very autonomy the state seeks to defend. Kant’s position thus outlines and implies a political philosophy that is broadly libertarian; that is, it endorses a state constructed with the sole aim of protecting its citizens against invasions of their liberty. For Kant, individuals create a state to protect their moral agency, and in doing so they consent to coercion only insofar as it is required to prevent themselves or others from impinging on their own or others’ agency. In his argument, individuals cannot rationally consent to a state that instructs them in morals, coerces virtuous behavior, commands them to trade or not, directs their pursuit of happiness, or forcibly requires them to provide for their own or others’ pursuits of happiness. And except in cases of punishment for wrongdoing,6 this severe limitation on the scope of the state’s authority must always be respected: “The rights of man must be held sacred, however great a sacrifice the ruling power may have to make. There can be no half measures here; it is no use devising hybrid solutions such as a pragmatically conditioned right halfway between right and utility. For all politics must bend the knee before right, although politics may hope in return to arrive, however slowly, at a stage of lasting brilliance” (Perpetual Peace, 1991, 125). The implication is that a Kantian state protects against invasions of freedom and does nothing else; in the absence of invasions or threats of invasions, it is inactive.

#### Our contention is that the right to housing violates property rights.

#### First, the right to housing violates landowners’ right to exclude tenants, set the price of rent, and develop on their own land. It also constitutes unjust taxation since housing projects are not a collective good.

Miller JD 21

(Brian M. Miller, professor @ university of maryland, “A Common-Law Remedy for the Eviction Epidemic,” Missouri Law Review, Summer 2021, https://scholarship.law.missouri.edu/cgi/viewcontent.cgi?article=4511&amp;context=mlr) wesel

2. The Modern Right-to-Housing Movement There is a new revolution that aims even higher than the contract revolution. The right to housing movement seeks to have housing recognized as a fundamental and enforceable right.113 This movement, already gaining traction in parts of Europe and in the United Kingdom,114 could have a variety of expressions and applications. But, some iterations of the right would entail an expansion of “positive” rights of tenants at the expense of some “negative” rights of landlords.115 This subsection briefly explains the primary features and goals of this modern movement, some theoretical justifications for it, and how it could, if successful, undermine some of the traditional notions of property rights afforded to landlords in the United States. This movement identifies housing as a basic human right and seeks for governments to recognize it accordingly.116 It primarily addresses the problems of homelessness, eviction, and housing insecurity through the language of entitlement instead of charity,117 tackling the housing crisis not by relying on the generous (or even market-driven) actions of those with resources,118 but by giving enforceable rights to those deprived of adequate housing.119 Thus, a central goal of the movement is to provide a way for individuals to sue in court when they do not have an opportunity to occupy adequate housing.120 One form of the right is enforceable against the government itself.121 Several European nations have recognized such an iteration, but the substance varies.122 In France, for example, the right has been thought of as mostly aspirational.123 Occasionally a person may bring a successful suit, but usually the government may comply with the obligations of the right to housing simply by taking some affirmative steps to increase the availability of affordable housing.124 Others have viewed the right as stronger, with courts willing to find a violation when a government has not provided housing to a particular claimant who satisfies preconditions.125 Courts may order damages to be paid by the government to someone whose right to housing has been violated.126 But courts might hesitate to issue an injunction requiring the government to provide a claimant with a specific form of housing, perhaps recognizing the complex and expensive realities of providing housing when land and units are limited.127 In some countries, though, a commitment to a right to housing is expressed through regulation of the private housing market.128 Rent control is typical.129 So is a prohibition on evictions under certain circumstances.130 France and Poland, for example, generally prohibit evictions during winter months when the consequences are particularly harsh.131 And courts in some countries will even prevent evictions on a case-by-case basis when homelessness or other severe consequences are likely to result.132 Where does this right come from theoretically? One possibility is that the right to housing comes from the right to self-preservation.133 If evidence shows that homelessness significantly increases the chances of sickness or death (whether because of a heightened risk of infection, exposure to the elements, vulnerability to criminal activity, or in some other way),134 then perhaps minimally adequate housing is necessary for long-term survival. Another possibility is that the right to housing is derived from a right to liberty or the pursuit of happiness.135 Studies show that homelessness causes job loss, income reduction, and mental health issues like depression.136 Thus, to be without a home may mean a limited ability to pursue goals—career, personal, or otherwise.137 If the freedom to pursue such goals is central to a system of rights, then perhaps housing should be central too. Whether or not these theoretical foundations are effective to justify a right to housing, recognizing such a right in any meaningful sense may have stark consequences to traditional property rights.138 As many commentators have noted, to recognize a right generally means to recognize a corresponding duty.139 If the right is a “positive” right instead of a “negative” right, the corresponding duty is even more demanding.140 In other words, if people have a positive right to housing, then someone or something has a duty to provide housing to those with that right.141 But housing does not fall from the sky ready to be used and adequate to satisfy needs. Housing units must be developed first. Existing units must be made available to those in need. If market forces and charity does not give everyone the opportunity to live in a satisfactory home, but the duty to provide housing to all must be satisfied, government intervention of some kind is likely necessary. Two main methods of government intervention may address the duty to provide housing. Both of them threaten traditional notions of absolute property rights, but in different ways. The first method is the classic tax and spend approach. Government may levy additional tax dollars to fund the public construction of housing units.142 Or it could use the funds to incentivize private property owners and developers to develop or rent out affordable housing units.143 This tax and spend method implicates property rights in an indirect way. It forces citizens to hand over their “property” as cash and to contribute to a project which the owners of the “property” do not directly benefit from and likely have not consented to. Most commentators have not considered tax and spend approaches to be particularly problematic, even though they may functionally infringe on property rights, because these methods are a necessity: the operation of government requires taxation.144 So, this familiar method of addressing the right to housing would not mark a dramatic shift in the law. Recognizing a right to housing in this realm would likely just mean that governments have a vaguely defined duty to create more affordable housing.145 The second method of fulfilling a duty to provide housing is different. It requires private owners of residential property to make their space available to people in need of housing. The City of Barcelona, for example, sent a message to landlords: fill your spaces with tenants or we will rent out your properties for you at affordable rates.146 Some cities in the United States have taken a less extreme approach by outlawing or limiting short term rentals like Airbnb and VRBO.147 Such measures encourage people who own residential units in which they do not live to either sell the units or rent them out long term to locals.148 The appeal of this category of government action is that it takes advantage of abundant housing stock that already exists and simply encourages (or forces) the owners to put that stock to its best use.149 The drawback, of course, is that it represents an obvious infringement on traditional property rights, i.e., the right to use and the right to exclude.150 Forcing landowners to rent out their units when they did not intend to do so, or to people they did not intend to welcome, limits both of those rights. Eviction moratoriums or prohibitions work in a similar way. Even states and cities in the United States have gone down this road, such as during the COVID-19 pandemic.151 Limitations on evictions beyond those self-imposed by lease agreement limit the property owner’s right to exclude.152 At their core, all of these methods of securing a right to housing appear hostile to property rights and at odds with the United States legal system that favors negative rights and resists positive rights.153 The traditional right to property is a negative right because it states that owners of property have a general right to do (or not do) whatever they want with their property as long as it does not infringe on a negative right promised to others.154 In that way, a system of various negative rights can exist “peacefully.”155 At least in theory, such a system means that people may do what they want with themselves and their things if they do not bother others.156 If, however, a positive right is introduced, then a good of some form must be constructed and given to the entitlement holder, and everyone else may be obligated to help.157 Positive rights are not unheard of in the United Sates legal system, but they are rare and limited in scope.158 A nearly unconditional and fundamental positive right would certainly shake things up in the landlord-tenant context. And if that positive right is to some form of property, then the property rights of others will necessarily be limited.159 That is likely why the right to housing has not been recognized in a meaningful sense in the United States.160 Thus, this article next seeks both to advocate and to mediate. Recognizing both the value of traditional property rights and the interest of secure housing for the less-well-off, it proposes a partial solution rooted in the common law that provides some security to the most at-risk renters and does not eviscerate the expectation interests of landlords.

#### Second, the right to housing compels unhoused people into housing, thereby violating one’s right to be unhoused.

Tobias 21

(Manuela Tobias, 12-3-2021, https://calmatters.org/housing/2021/12/california-homeless-housing-podcast/) wesel

IN SUMMARY In the new episode of “Gimme Shelter: The California Housing Crisis Podcast.” CalMatters’ Manuela Tobias and the Los Angeles Times’ Liam Dillon interview Sacramento Mayor Darrell Steinberg on his “right to housing” proposal to reduce homelessness. The law says that every student is entitled to a free public education. What if it said the same about housing? That’s what Darrell Steinberg, the mayor of Sacramento, believes to be the key to addressing California’s homelessness. He [recently proposed an ordinance](https://www.latimes.com/homeless-housing/story/2021-11-19/sacramentos-mayor-wants-a-right-to-housing-some-in-his-city-are-skeptical) that would require the city to provide at least two housing or shelter options to people living on the streets. If those options weren’t available, the person could sue the city. But if the homeless individual turned down the available options, they would be compelled to come inside, albeit using social workers, not police.

### AT: AC Contention

#### The right to housing, at best, is an imperfect duty – aff authors agree

Herman PhD Harvard 14

(Barbara Herman, prof philosophy and law @ UCLA, oct 15 2014, “Thinking About Imperfect Duties,” NYU Law, https://www.law.nyu.edu/sites/default/files/upload\_documents/ImperfectDutiesNYU.pdf) wesel

The right to housing could not in the first instance be a right of individual against individual. In a Kantian system of duties, it would belong to the part of public right that secures for all the conditions necessary to maintain each as a member of society (MM6:327). The state does this for the wealthy through the legal regulation and protection of property. It acts for those 41 One of the many dehumanizing features of imprisonment is denial of expressive control of space. Even temporary tent cities are often distinguished by expressive display. ImpDuties(NYU5)~15-Oct-14 43 unable to secure housing on their own through provision of what they lack via taxation, public works (that is, using different means). In recognizing and acting to meet the right to housing, the state respects the values of independence and equality. The duty is imperfect for the reasons we have canvassed: there is no determinate way to act for it; in acting, the state expresses its moral relation to its citizens (that it is no more than a representation of their unified will); and it is essential to the duty that it be exercised with discretion. 42 Although the duty is imperfect, it makes sense to talk of a right: it marks a moral concern not to be outweighed by general welfare.

#### Failing to provide aid does not violate the categorical imperative

Patrick Barron 14, 2-21-2014, "Mises, Kant, and Welfare Spending," Mises Institute, https://mises.org/library/mises-kant-and-welfare-spending, accessed 8-9-2023 | harker nb |

bracketed for inclusive language\*

Perhaps there is a higher rationale for allowing the state to violate our natural rights by confiscating our property coercively for the supposed betterment of others. For this rationale we turn to two philosophers — Immanuel Kant and T. Patrick Burke. We’ll start with Kant. Our conception of true justice has found no better expression than that by Immanuel Kant in his explanation of the “categorical imperative.” A categorical imperative tells us what to do unconditionally in all places at all times and to all men. It does not derive its power from any authority other than pure reason. Kant distinguishes this categorical imperative from a hypothetical imperative, such as “need.” Although a hypothetical imperative may be valid, such as “poor people would live better if they received welfare payments,” it can never be objective. It gives a reason only to those who are affected, in this case poor people. Giving welfare to poor people cannot be an unconditional action, applying to all people in all places at all times.

In his introductory book on Kant, Roger Scruton explains that there are five variant forms of the categorical imperative. The first two are the most important for our purposes here. The first variant is the Golden Rule, Matthew 7:12: “So in everything, do to others what you would have them do to you, for this sums up the Law and the Prophets.” Abraham Lincoln stated the Golden Rule when he said, “As I would not be a slave, so I would not be a master.” It is based upon reason alone. The second variant is that all [people] be treated as ends and not as means. Rational beings are ends in themselves and never merely means to some other end or as a means to achieve the ends of some men and not others. By this natural law even if everyone in a community except one man voted that all should donate to a charity, the categorical imperative would deny that it is just for the community to coerce this one man. The community of men would be using this one man as a means and not as an end, a rational being with human dignity.

Professor T. Patrick Burke adds an important addendum to the unjust nature of state coercion for the purpose of charitable giving. He persuasively makes the case that the act of refusing to help someone in need is not unjust, for that needy person is left in the same position as before. The act of refusing to help does not add to that person's plight. If we become bound by some higher concept of justice to help all who come to us in need, then we become slaves to all of mankind, a violation of the categorical imperative in that we would be used as means and not as ends.

### 1NC – Additional FW Warrant

#### **Our humanity, which consists in our autonomous rationality, endows us with the capacity to decide what is valuable. It is this feature that belies our dignity and renders us each an inviolable, unconditional source of value. That we are each unconditional sources of value bounds us to respect each other’s humanity. This requires that we only act on those maxims that can be willed as universal law.**

**Bagnoli 04** [(Carla Bagnoli, Carla Bagnoli is a Professor of Theoretical Philosophy at the University of Modena and Reggio Emilia, and a Visiting Fellow at All Souls College, University of Oxford. She has written extensively on moral dilemmas, moral authority, and responsibility, and is the editor of Constructivism in Ethics (Cambridge UP, 2013) and Morality and the Emotions (Oxford UP, 2011). Her Ethical Constructivism is forthcoming with Cambridge University Press.) "Humanitarian Intervention as a Perfect Duty: A Kantian Argument," ResearchGate, January 2004, https://www.researchgate.net/publication/265188932\_Humanitarian\_Intervention\_as\_a\_Perfect\_Duty\_A\_Kantian\_Argument] TDI

What is humanity, then? According to Kant, humanity is what characterizes us as persons; it consists in the capacity to decide what is valuable and what is not. This decision is not a mere whim, but the very capacity for rationally setting ends of one’s own.4 A person is a special locus of value in that it is also the origin of value. Kant calls “dignity” the peculiar kind of value that persons embody insofar as they are themselves sources of value. Originating value is a law-like activity: it requires that we are capable of setting ends by conceiving maxims that can be willed as universal laws. This also requires that we are capable of self-legislation and therefore of prescribing obligations for ourselves. This activity of self-legislation is tantamount to the autonomous exercise of rationality. Hence, humanity is tantamount to autonomous rationality, and it is the feature that makes persons inviolable.5 We cannot view persons as indistinguishable units of value insofar as persons embody a peculiar kind of value, dignity. The recognition that somebody is a person makes a claim on us: it demands that we respect such a person as an autonomous source of value.

## AFF

### 1AR – House k2 Freedom

#### Kant states that the right to housing is critical for autonomy, reason-responsiveness, and normative agency – necessary for humans to be ends and not means for an end.

**Dawkins 20** [Casey Dawkins, “Housing and Society”, Volume 47, 2020 “The right to housing in an ownership society” https://www.tandfonline.com/doi/citedby/10.1080/08882746.2020.1722055?scroll=top&needAccess=true&role=tab]//SC

The human right to housing is grounded in a nonrelational conception of human status, or the idea that human beings are intrinsically valuable and certain qualities or conditions which contribute to this value, or without which human life would have no value, provide the grounds for principles of justice. To the extent that all human beings are bearers of intrinsic value, the scope of justice according to this ground is all of humanity, independently of human beings’ participation in any shared social practice. Human beings’ intrinsic value is often expressed in terms of the idea of human dignity, which has been understood in several different ways. Immanuel Kant’s view of morality was based on the idea that human beings are worthy of being treated as ends rather than as a means for some other end. While most conceptions of justice accept this fundamental premise, this idea alone does not tell us why human beings should be treated as ends. For Kant, morality is the law of reason, and human beings are beings with a unique capacity for moral agency, which is the source for human beings’ intrinsic value. For Dworkin (2008), human beings’ dignity derives from their intrinsic value and from the fact that each person has a special responsibility for how his or her life goes. Waldron (2009) defines dignity in terms of social status and rank, with equal dignity implying that all human beings should be elevated to a similarly high rank. Nussbaum’s (2000) understanding of dignity combines the idea of an equally elevated rank with the Kantian understanding of dignity. The first challenge facing those appealing to human status to ground principles of housing justice is that human dignity, however it is conceived, is an overly abstract concept that says little about the content of human rights. What constitutes a dignified life, and what role does housing play in delivering such a life? At a minimum, a life must be lived, which implies that human rights should minimally secure the basic conditions required to sustain human life. Unlike other resources required to sustain life, such as HOUSING AND SOCIETY 87 food and water, housing is not a resource that is consumed and converted to energy for the purpose of maintaining bodily functions. Housing “produces” bodily health indirectly through the provision of comfort, but it is hard to argue that everyone has a right to a climate-controlled home kept to a temperature of 68 degrees Fahrenheit. The most defensible way of understanding housing’s relationship to human health is its role in providing minimal security, or a private realm of spatial protection against external threats to bodily integrity. If housing is mold-infested, decorated with lead-based paint, or allows for the penetration of toxic chemicals, housing has failed to perform its most basic function of securing the human body from harmful environmental threats. Housing also enables the cultivation and exercise of normative agency, which refers to the qualities of a moral agent, including the capacity to offer and respond to reasons (reason-responsiveness) and the capacity to chart out one’s own course in life (autonomy). To be a moral agent, human beings must have the moral capacity to recognize and acknowledge their own intrinsic worth while **simultaneously acknowledging others’ intrinsic worth. Human beings must also be able to formulate, evaluate, and act on a conception of what the good life entails.** Housing enables normative agency directly by providing a private realm for reflection and deliberation which enables individuals to form a conception of the good life and freely pursue valued projects, unimpeded by the threat of environmental harm or the social obligation to obtain **permission from others for actions performed within the home**. To fully exercise normative agency, human beings must have a reasonable expectation that the home that they occupy will be available for an extended period of time. Housing also enables normative agency indirectly through the security that it provides. Human beings are unable to exercise their full moral capacities if all their time and energy is spent trying to fend off environmental threats. As Franklin Roosevelt proclaimed, “necessitous men are not free men” (Sunstein, 2004, p. 12). Even if we reduce human dignity to more concrete concepts such as security and normative agency, any universal conception of dignity faces a second challenge: it risks appealing to a controversial conception of human nature that not everyone would endorse. Some object to Kant’s conception of human dignity, for example, because morality is not exhausted by universal obligations. Human beings have social commitments that generate particularistic moral obligations that are not always consistent with a universal moral law. Likewise, some object to Dworkin’s (2008) elevation of responsibility as a component of human dignity, because it provides a convenient excuse for relinquishing the obligation to assist those who are in a state of deprivation due to choices for which they should be held morally responsible (Anderson, 1999). Others may object to a conception of human dignity that assigns moral importance to personal autonomy, because it presumes an “atomistic” conception of human nature defined in terms of social separation rather than association (Sandel, 1998b). A third related challenge is that the moral significance of the connection between housing and human dignity is mediated by contingent facts such as environmental conditions, national legal and political institutions, local market conditions, and the sociohistorical significance of housing. The security that housing provides is mediated by the severity of environmental threats. Housing provides protection against extreme weather conditions (e.g., rain, extreme cold, extreme heat, or natural hazards), but in most places on the earth that human beings inhabit, this need can be satisfied by a temporary shelter. In Mongolia, for example, rural communities live thriving nomadic lives inhabiting temporary 88 C. DAWKINS yurts that are disassembled and moved from place to place in response to changing weather conditions. The bodily need to be secure also varies temporally and spatially. Inhabitants of temperate climates can live in comfort with minimal shelter, whereas those living in the Siberian wilderness during the coldest winter months would quickly die from exposure without secure access to a climate-controlled shelter. Although the need to be protected from external weather conditions may be a universal need, the risk to human life associated with not having that need satisfied varies across space and time, and human beings’ sensitivity to environmental conditions varies from person to person. A house is a sufficient but not a necessary condition for being secure. The exercise of normative agency is mediated by social contingencies. Although normative agency may be a universal capacity of human beings, the exercise of that capacity requires the existence of socially and historically contingent practices. According to Raz (1986, p. 205), “If having an autonomous life is an ultimate value, then having a sufficient range of acceptable options is of intrinsic value, for it is constitutive of an autonomous life that it is lived in circumstances where acceptable alternatives are present.” He goes on to argue that the extent of acceptable options for living an autonomous life is, in turn, determined by the social forms and practices prevailing in a given society. “One cannot have an option to be a barrister, a surgeon, or a psychiatrist in a society where those professions, and the institutions their existence presupposes, do not exist” (Raz, 1986, p. 205). Similarly, one’s ability to pursue a conception of the good life that includes a way of living in a home of a particular type is conditioned by the availability and market for that housing type. So far, we have examined how environmental and social contingencies mediate the realization of human dignity. A related objection is that the concept of human dignity is itself inherently social in nature and cannot be understood without reference to what a dignified life means within a given society. Adam Smith provides an example that helps to convey this point. He makes a distinction between goods that are luxuries and those that are necessaries, defining the latter in terms of what is “indispensably necessary for the support of life” and “whatever the custom of the country renders it indecent for creditable people, even of the lowest order, to be without.” Citing the example of a linen shirt, he notes that while a linen shirt is not normally understood as a necessary, in the greater part of Europe during his time, a “credible day-laborer would be ashamed to appear in public without a linen shirt” (Smith, 1827, p. 368). Anne Phillips makes a similar point: In a society where access to common culture has come to depend on watching the same programmes on TV, having a television set becomes a necessity rather than a luxury. In a society where car ownership has become widespread, it can be hard for those without cars to get access to basic amenities: shopping centers are often located in areas difficult to reach by public transport; indeed public transport may collapse when richer members of the community no longer use it (Phillips, 1999, pp. 62–63). While this argument does not necessarily imply that housing or any other good which has become recognized as a necessary ingredient of participation in “common culture” should be distributed to everyone by right, it illustrates the point that to the extent that dignity is understood as an equally elevated human status, the threshold level at which a life is considered dignified, and the necessary ingredients for living that life, cannot be understood apart from how the social bases of human dignity are understood within the HOUSING AND SOCIETY 89 context of a given culture. While the concept of human dignity may ground a universal right to live a dignified life in whatever society a person happens to live, the content of that right is determined by prevailing social norms. Griffin (2008) attempts to circumvent the problems that arise from the contingent nature of human dignity by claiming that “practicalities” provide a separate ground for human rights that determines the content of rights and duties, but it is not clear that practicalities themselves can serve as grounds. While practicalities may be understood as external constraints that affect the feasibility of certain actions required to satisfy human rights, practicalities play no direct role in grounding the obligation to satisfy the need in the first place, particularly if human rights are understood as inalienable rights. In the U.S., the most significant barrier to adequate shelter is its cost, which in turn derives from the fact that shelter is allocated on the basis of exchange values and transactions legitimized by private property law. Pace Griffin, it would be odd to argue that the institution of private property creates the need to be protected from the cold and thus provides a ground for alleviating that need. Biological needs arise independently of markets, but markets may make it more difficult to satisfy that need. Nussbaum’s (2000) “capabilities approach” is one attempt to address the challenges discussed so far. Her conception of human dignity is derived not from a controversial conception of human nature but from a political conception that is the outcome of a crosscultural dialogue among peoples that is designed to achieve an overlapping consensus on the basic capabilities that are required to lead a life of human dignity in all cultures. Nussbaum argues that a cross-cultural dialogue would arrive at a list of ten central human capabilities that should be protected as basic human rights. She does not include “housing” or “shelter” as a distinct capability, but she mentions shelter as a component of the central capability of “bodily health,” which she defines as (2000, p. 78) “being able to have good health, including reproductive health; to be adequately nourished; to have adequate shelter.” 3 Although she does not elaborate on this possibility, housing also enables the realization of several other central capabilities on her list, including bodily integrity (through the provision of privacy), affiliation, play, and material control over one’s environment (which she explicitly defines in terms of being able to hold property). While an improvement over other conceptions that ground human rights in transcendental ideals that have no connection to prevailing social practices, her approach also has several limitations as a ground for a human right to housing. Nussbaum understands housing’s value instrumentally, with housing serving as a means to the realization of bodily health (and possibly other capabilities). According to Nelson (2008, pp. 96–97): Shelter, for example, is not a ‘functioning,’ and so ‘being able to have shelter’ is not a ‘capability’ as Nussbaum defines it. Simply employing a participle does not remove the difficulty. If shelter is to have any place on this list, it must serve as a condition for the acquisition of various capabilities. Nussbaum might have said, for instance, that one cannot learn effectively without shelter and that, as a result, an entitlement to shelter follows from the entitlement to learning. But this would be to treat shelter as a wholly instrumental good, rather than as a central human “functioning,” and would therefore contradict one of the organizing principles of the list. Thus, as formulated, shelter is either not a central capability at all or it must be understood as having purely instrumental value as a means of achieving higher-order functionings. A purely instrumental understanding of housing ignores housing’s constitutive value as a component 90 C. DAWKINS of the good life itself. Individuals and families desire homes styled in a particular manner not because housing so-configured would more effectively enhance personal well-being, but because the good itself is often defined in terms of a concrete ideal of how one aspires to live. The home occupied and its socio-spatial context also plays a role in shaping the personal and social identity of the occupant, and plans and projects are often defined in terms of a home that one aspires to occupy in the future (Dawkins, 2017). Housing’s constitutive value is simultaneously private and relational – private, because housing’s most important function derives from the sheltered zone of spatial autonomy that housing provides, and relational, because the home provides a platform for voluntarily engaging in associations and activities outside of the home. If housing is constitutive of one’s conception of the good life, it is more than merely an instrumental catalyst to human functioning. Another limitation of Nussbaum’s approach, which also pertains to most other conceptions of human rights, is that the obligation to protect minimum capabilities to function grounds sufficientarian, rather than egalitarian, distributive arrangements. Securing individuals from external threats in ways that enable the exercise of normative agency does not require equality of housing conditions, as long as everyone is adequately housed. According to Nussbaum, “an adequate house or other shelter seems to be inherent in the idea of human dignity,” but “it is not at all clear that an equal house is required by the very idea of human dignity or even of equal human dignity; for indeed a mansion may not be better than a modest house. House size, above a certain threshold, does not seem intrinsically related to equal dignity” (Nussbaum, 2006, p. 293). Not only does Nussbaum’s approach point to a sufficientarian conception of housing justice, the threshold level of housing considered adequate across all societies is likely much lower than a sufficientarian conception of justice grounded in the norms of a society where housing is a necessary ingredient of living a dignified life. Since her conception of what would be required to lead a dignified life derives from a cross-cultural consensus, restricting housing justice to the minimal housing conditions recognized by all societies dilutes the threshold below that which would be recognized in societies such as the U.S. where housing distributes many of the rights and benefits of citizenship. There are several reasons that housing justice should also place emphasis on housing equality, even if everyone is adequately housed. Unlike other commodities, housing is a positional good. The well-being that individuals receive from the consumption of positional goods is evaluated in a relative sense, such that one’s perceived ranking in the distribution of consumption is at least as important as the absolute amount of the good consumed. The positionality of housing provides an explanation for the “keeping up with the Joneses” phenomenon, to the extent that an individual’s assessment of her own housing quality is evaluated relative to the quality of neighboring homes (Frank, 2007). The positionality of housing does not necessarily imply that everyone should live in identical homes, but it does imply that housing equality has value even if everyone is adequately housed. Within the United States, extreme housing inequality is also associated with unjust social relations and an unacceptable concentration of political and economic power. Majority-white high-income communities often “hoard” local opportunities and resources through exclusionary public policies and private gated communities, excluding low-income individuals and racial and ethnic minorities from the enjoyment of local opportunities (Tilly, 1999). Given that housing is often bundled with other local public goods and amenities, housing inequality may produce unacceptable inequalities in certain public goods guaranteed to all citizens. HOUSING AND SOCIETY 91 The challenges discussed so far are more easily addressed by a conception of housing justice that is grounded on a conception of citizenship, or the idea that shared membership in a nation-state entails certain relational obligations among citizens and between citizens and the nation-state. Whereas human status is an intrinsic quality of human beings that does not derive from human associations, citizenship is a relational ground of justice that is based on a shared understanding of what citizens owe to one another and what the government owes to its citizens. Civil institutions such as private property laws, the judicial system, and government fiscal policies are an expression of the shared obligations of citizenship that are based on, and in turn define, what it means to live a dignified life in a society governed by those institutions. Different political theories view the shared obligations of citizenship in different ways. Liberals value personal autonomy, freedom of choice, and a limited role for government in the lives of citizens, whereas civic republicans embrace a politically active citizenry, freedom understood as self-governance, and a role for the state in cultivating the civic virtues of its citizens (Sandel, 1998a). The conception of citizenship that I defend is most closely related to T. H. Marshall’s (1950) conception of social citizenship, where all citizens are provided “the whole range [of rights] from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilized being according to the standards prevailing in the society.” The Supreme Court nicely expressed this conception of citizenship in Goldberg v. Kelly (1970), an important case supporting social rights to welfare assistance (Sunstein, 2004, pp. 161–162): From its founding the Nation’s basic commitment has been to foster the dignity and wellbeing of all persons within its borders. We have come to recognize that forces not within the control of the poor contribute to their poverty . . . Welfare, by meeting the basic demands of subsistence, can help bring within the reach of the poor the same opportunities that are available to others to participate meaningfully in the life of the community. [Public] assistance, then, is not mere charity, but a means to promote the ‘general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity.’ The ground of citizenship is more capable of accounting for the moral significance of contingent facts that influence the distribution of housing, while providing a justification for policies designed to reduce housing inequality, even if everyone is adequately housed. Most of the contingent facts that shape the distribution of housing arise from local environmental factors, local market conditions, and national laws and institutions. Geographic differences in commuting costs and natural amenities further imply that housing markets are highly localized and segmented. Rarely does a single housing market extend beyond national boundaries. National legal and political institutions, particularly the institution of private property, interact with culture to shape the social meaning of housing and the level of housing consumption deemed appropriate for living a dignified, as suggested by Smith’s example of the linen shirt. As Walzer (1983, p. 7) argues, “distributions are patterned in accordance with shared conceptions of what the goods are and what they are for.” He argues that goods are first conceived and created before they are distributed, so to understand the appropriate principles governing a good’s distribution, we must first understand why the good being distributed was conceived in the first place, within the historical context of a good’s purpose in a particular society. In the United States, housing has its own distinctive social meaning and also distributes access to other important rights and benefits of citizenship. 92 C. DAWKINS The ground of citizenship also provides a stronger justification for measures designed to reduce the inequality of housing. Realizing global housing equality in a world where housing is primarily distributed through national institutions and markets is simply not feasible. Moreover, housing inequality within nations is arguably at least as, if not more, concerning from the standpoint of housing justice than global housing inequality, particularly given that within the U.S., housing inequality is associated with unjust social relations and an unacceptable concentration of local political and economic power. One limitation of the citizenship ground of justice is that it seems to imply that citizens have no special obligations to house non-citizens living within the U.S. and abroad. Hannah Arendt provides a useful way of approaching this quandary. According to Arendt (1973), the most basic human right is what she describes as “right to have rights,” or the right to live in a community subject to the rule of law which recognizes rights that protect each person’s status as a free and equal citizen. Since human rights ultimately depend on nation-states for their enforcement, the rights that individuals have by virtue of their human status are meaningless unless individuals are first members of a community that protects their rights as citizens. For Arendt, this point was not merely theoretical, as she lived as a stateless refugee for eighteen years before becoming a citizen of the United States.

#### The plan ends zoning laws which constitute unjust constraints on one’s right to external freedom

Sarah Williams Holtman, 99 — [Sarah Williams Holtman, “Kant, Ideal Theory, and the Justice of Exclusionary Zoning,” October-1999, https://www.jstor.org/stable/pdf/10.1086/233203.pdf?refreqid=excelsior%3A6de001bc5f14cc57cf3d12c814bc5def&ab\_segments=&origin=&initiator=&acceptTC=1, accessed 8-9-2023] a.loui

A full discussion of Kant’s account of private property and its relationship to justice is beyond the scope of this article. Suffice it to say, for now, that in interpreting Kant we must take seriously not only the broader accounts of justice and citizenship on which the discussion of property seems to rest, but two further matters. First, in Kant’s society, as in our own, rights in private property have been recognized as crucial to realizing freedom, equality, and independence. Kant well may emphasize property precisely because it serves freedom, equality, and independence in important respects, not because it somehow is prior to them. Second, as Allen Rosen points out, Kant’s own conception of property is far broader than we typically intend. For example, the property required for political franchise includes, significantly, ‘‘any skill, trade, fine art or science.’’ 48 For Kant, there is much reason to suppose, property serves independence, not the reverse. If so, then the claim that the principle of independence warrants limits on private property is not contrary to Kant’s theory of justice, but most appropriate to it.49 iv) The principle.—Taking limitations on scope and concerns for the realization of independence together, we can formulate the principle of independence appropriate for our imperfect circumstances. In doing so, we also must acknowledge that, all other things equal, the dignity of every rational agent suggests that any requirement of justice must be implemented as fully and as speedily as possible. To move more hesitantly without good cause is to fail to take seriously our equal obligations to each as a being of incomparable worth; it is to pay mere lip service to justice. Principle of Independence: Where limits on fundamental interests are sufficiently severe that they impinge significantly on the realization of independence, the state must take steps to restore independence as fully and as quickly as possible, consistent with the equal and adequate freedom and ultimate independence of each. 2. Implications for Exclusionary Zoning We used the exclusionary zoning problem to help identify areas of difficulty for Kant’s theory of justice, but we also would like to know, at least in a general way, what the augmented theory has to say about the problem. It is important to note here, if it is not evident already, just how general intermediate principles will be. Meant to bridge the gap between ideal theory and problems of justice arising in particular societies at particular times, these principles will not tell us precisely what to do about our intractable problems of justice. Rather, they will identify the concerns that are relevant in addressing these problems and tell us something about the relationship among these concerns. As such, they are principles best suited to assist in developing a constitution or other fundamental guiding norms that legislators will follow more explicitly in developing and enacting laws. Nevertheless, these principles can offer guidance in a preliminary analysis of particular problems. Indeed where legislators or judges are uncertain what the constitution requires with respect to a problem, they must return to these more basic principles (in keeping with the principle of consistency). In this case, our question is whether exclusionary zoning ordinances are unjust. The answer is that the system of laws of which they are a part certainly fails to satisfy one of the requirements of justice and that, at the least, exclusionary ordinances themselves often may represent a barrier to the realization of justice.50 According to the principle of independence, government must take steps to remedy significant impingements on independence that result from limitations on fundamental interests. Exclusionary zoning ordinances, so far from remedying impingements, actually contribute to them. They compound the effects of limitations on wealth, education, and the like by insuring that those who suffer them are excluded from communities offering the very benefits that would provide remedy. That interference with independence often is significant is clear from the frequent inability of these people and their children to provide for their own most basic needs or develop personal projects. That the interests invaded are fundamental is equally clear, for in our society no one can hope to develop and carry out short-term projects, much less more extensive life plans, without adequate wealth, education, self-respect, and more.51 Exclusionary zoning ordinances have these effects, however, as part of a system of laws that at present provides few other remedies for these privations and their effects than the opportunity to live in certain privileged communities.52 Indeed were there other means of obtaining these benefits within the system, exclusionary zoning ordinances would not be exclusionary at all. Thus, the principle of independence allows us to identify the legal system as unjust, to the extent that it thwarts one of justice’s demands. Exclusionary zoning ordinances operating within such a system are likely instances of injustice because they often may function as unjustified barriers to justice. What more Kantian theory can tell us we will explore in the next section.

#### The right to housing is a necessary condition of our right to external freedom – without housing agents are unable to meaningfully set and pursue their own ends.

Herman 21 (Barbara Herman is the Griffin Professor of Philosophy and Professor of Law at the University of California, Los Angeles Department of Philosophy. A well-known interpreter of Kant's ethics, Herman works on moral philosophy, the history of ethics, and social and political philosophy. Barbara Herman, https://academic.oup.com/book/39080/chapter-abstract/338462456?redirectedFrom=fulltext)//my

It is within the framework of a second stage question that I want to look at the moral idea for a right to housing: that is, the right to a secure and stable dwelling, with water and sanitation, access to resources, etc., now widely regarded as one of the basic human rights.¹² It is a right to have and control a material resource, so it is a property right, though not necessarily an ownership right.¹³ As currently understood, the right goes well beyond protection of existing housing (where it might limit the scope of evictions or removals via eminent domain): its satisfaction conditions arguably require the creation of the very objects claimed as a matter of right. International rights documents describe the right to housing as essential for other rights, such as employment and education, as well as for the exercise of the liberties of speech and association.¹⁴ It is at once an anchor of citizenship and a condition for having a personal life. It is a place for rest, the site of family relations (in some places, for friendship as well); it is a location or orientation in the social world, a possible site of work, and a space for personal expression.¹⁵ So more than having a place to live, a roof over one’s head. The needs this right meets are not an aspect of natural ethology, not like the hive to a bee or the den to a bear; it is an artifact of a social world in which the absence of modern sanitation and electricity is a form of social disability, not just a disadvantage. The Kantian approach can tell us quite a bit about the deliberative import of a right to housing, and, by implication, about the way property rights can carry moral value out into the wider space of activities and relationships. Even if the right to housing cannot be realized outside a political scheme, or not in dire economic conditions, like the right to education it transcends any historically particular political organization or economy. It is in that sense what I earlier called a provisional human right (see section 6.4). In the moral habitat scheme, it functions almost like an a priori conceptual claim: where there is a scheme of  for persons, this must be one of them. So something in the account of fundamental value must lead to it. The moral content, or deliberative import, of the right to housing is not in the same register as what it is individuals lack when they lack shelter. One question to be answered is in the space of public right, perhaps about whether “we” are obligated to build or supply housing (or just ensure fair access to what is there), about the possible use of rent control to stabilize tenancy, about zoning or other regulations to ensure the construction of affordable housing, and so forth. A second is a question about the kind of control persons should have over this resource. The first leads to practical political questions: how to meet the burden if housing is a basic right; the second is about what is involved in the idea of housing, is it or does it involve a right to a home? If it does, which I will assume and explain as we go on, it will add a dimension to the moral shape of a human life. And that

and privacy show this to be absurd. But is the moral content that justifies what most of us think about this anything more than an assertion of the bare right to exclude?

#### A lack of housing makes it impossible to freely set and pursue one’s own ends

**King 3** King,e Peter (Peter King is a writer and thinker, mainly but not exclusively, on housing. He is the author of 22 books and numerous articles and book chapters. He worked for 25 years at De Montfort University teaching and researching on housing, politics and public policy. His main concern was to apply philosophical concepts to housing. Peter has also written on conservatism and antimodernism and, since retiring in 2018, has written a book of aphorisms entitled 'On Modern Manners'.), 9-1-2003, "Housing as a Freedom Right.: EBSCOhost," No Publication, <https://web.p.ebscohost.com/ehost/pdfviewer/pdfviewer?vid=0&sid=e6deeb54-bd31-4b45-8617-bad3aabc77cf%40redis> 666-669

His discussion is also important for a further reason. It shows that the right to housing **might actually be one of** the most significant rights, if not the most significant. This is because it acts as the bedrock for all others, in that all rights must be situated. Waldron’s argument can be said to rest on an intuitive or common sense notion about what human beings need in order to function. His particular argument concentrates on what might be called elemental functions, such as sleeping, washing and urinating. If one is not able to undertake these basic functions then one is not, properly **stated,** able to live at all. However, this intuitionist position does not, of itself, justify housing to a particular standard. Waldron’s position might lead one to see fulfilment in terms of a park bench and a public toilet. Yet Waldron’s list does not exhaust those functions that need to be situated. Therefore, a more compendious list of functions can be grafted onto Waldron’s argument in order to justify the right to housing. The paper will therefore proceed in two stages. First, using Waldron’s argument on homelessness, the notion of the right to a place to be will be developed. This provides the basic argument in support of situated rights, and forms the basis for arguing that housing can be a fundamental right upon which other activities depend. Having done this, a more complete list of necessary human functions drawn up by Nussbaum (1999) will then be considered, which incorporates Waldron’s list as well as those that equate to a civilised standard of provision. In his essay Waldron explores the nature of homelessness, defined in its literal sense of rooflessness, not as used in British housing law, and public and private property ownership. He goes on to look at the issue of freedom, to show that Housing as a Freedom Right 667 certain basic functions, such as sleeping, washing, urinating, etc., can and must be seen as rights. He argues that we cannot undertake any sort of a life unless we can carry out these basic human functions. Yet these rights might not be exercisable in situations where property rules are rigidly enforced. Property rules determine where one has a right to be. They define rights of use and exclusion. Thus they grant the owner the power to exclude those with whom they do not wish to share the property. This situation applies whether the property is owned privately or by some public body. This means that some agents have property rights that they can legitimately exercise over their property. This may involve excluding all others from that property. However, all actions are situated in that they must be done somewhere. One must sleep somewhere, wash somewhere, urinate somewhere, and so on. Thus one is not free to perform an action unless there is somewhere where one is free to perform it. Waldron limits his discussion of actions to those absolutely necessary for human survival. However, his list is not an exhaustive one. Indeed, all actions, be they urinating, love-making, reading a book or discussing philosophy, are situated. As will be seen when Nussbaum’s fuller list of functionings is discussed, it is the situated nature of what might be called higher order functions that lead to a full right to housing. Homelessness is defined by Waldron as the very condition where one is “excluded from all the places governed by private property rules” (1993b, p. 313, author’s emphasis). The homeless are entitled only to be in public places. They have no right to be on private property unless given permission by the owner. They must therefore rely on public places to undertake their situated functions. But this is possible, however, only so long as the public authorities that own this property tolerate them. Just as private owners can exercise their right to exclude, so can public bodies. Waldron rightly points out that there is an increasing regulation and policing of public property that prevents the homeless from exercising their basic functions in public. Waldron gives the example of removing seating from subways in US cities to prevent them from being used by the homeless. This form of ‘zero tolerance’ of vagrancy can also be seen in the attitudes of politicians and public agencies in the UK. The homeless are seen as having no right to be on the streets, there being enough hostel spaces for them. In addition, begging is seen as aggressive and intimidatory behaviour. Waldron argues that “a person not free to be in any place is not free to do anything” (p. 316). One important consequence of this argument is to show that freedom rights do indeed clash. Property rights, as commonly defined in terms of exclusivity of use and disposal, are clearly freedom rights. Private individuals and public corporations who prevent the homeless from accessing their property are thus acting entirely legally and within their rights. Yet there are certain rights we must have, homeless or not, if we are to carry out our basic functions. These too are freedom rights, in that we must be free to be in a place before we can undertake these basic functions. But the situated nature of this freedom means that certain rights can only be fulfilled when the property rights of some are overruled. Likewise, side-constraints prohibiting interference to property rights may well mean that the basic rights of others are infringed because they do not have the freedom to be. The homeless might be so constrained that they are literally unable to do anything without infringing the rights of others. What is significant here is that Waldron is not casting the rights of the homeless as a socio-economic claim. They are not described as claims for housing which, being a finite resource, would involve competition between rival claims. Instead Waldron presents the case for the homeless in terms of a right to personal freedom. Therefore the ‘right to be’ is portrayed as having the same fundamental character as property rights. Thus, to generalise from Waldron’s argument, in order for us to undertake certain functions, we must have a place to be: there must be at least at one place where we have the right to be. This is based on the common sense notion that human life is simply not possible unless these functions can be undertaken. These must be seen as rights, as legitimate claims on others, and therefore it follows that we need a place in order to undertake them. Thus the right to be in at least one place follows from the right to undertake certain basic functions. But as has already been suggested, what Waldron is not specifying is any sense of place as good quality housing. A place to be can be a public toilet or a subway. Thus, it might be argued, he is not really discussing housing at all and therefore something of a spurious case has been made here. One might be able to suggest that housing is indeed implied in Waldron’s discussion, if only because he is discussing those people who lack a home. There is thus a common sense association between Waldron’s discussion of place and housing. Of course, a place to be need not be the same as housing but, all things being equal, it would be perverse to argue otherwise. For Waldron, the whole aim of linking homelessness and freedom is to show that “homelessness is in fact a matter of the utmost concern in relation to some of the most fundamental and abstract principles of liberal value” (Waldron, 1993b, p. 309). These values imply some sense of a civilised life and carry with it some sense of a quality of life. This is therefore suggestive of something more than a park bench and a public toilet. It could also be argued that, in justifying his argument, Waldron quite naturally based this upon concrete actions such as sleeping and urinating, which are basic and universal. This, of course, gives weight to his argument, but this does not mean that he could not have used other functions that relate to comfort and a civilised standard. However, Waldron did not draw on a more substantial list of functions. Indeed, he is specific in discussing only the most elemental functions. It might be argued, therefore, that his argument could only be taken to relate to a basic place to be. Likewise, one might make a common sense association between place and housing, but Waldron did not do so and it might be assumed from this that it was because no such link exists. Therefore one needs something more substantial to go beyond Waldron’s argument. Fortunately such an argument is available in the more formally constructed discussion on central human functional capabilities of Nussbaum (1999). What Nussbaum has identified is an extensive list of universal functional capabilities that are necessary for human flourishing. She suggests that “a life that lacks any one of these capabilities, no matter what else it has, will fall short of being a good human life” (1999, p. 42). Briefly stated, these capabilities are defined as life, bodily health and integrity, senses, imagination and thought, emotions, practical reason, affiliation, other species, play, and control over one’s environment. This then is an extensive list that seeks to cover the basic elements discussed by Waldron, but also higher order activities relating to affective behaviour, education, a concern for nature, play and education. She considers that the list is “emphatically, a list of separate components” (p. 42), in that one cannot compensate for a lack of one by more of another. Having said this, there are linkages between the capabilities so that they build to create a full basis for flourishing. Housing is referred to as a means of guaranteeing bodily health and integrity. Good quality housing is necessary to ensure good health. In a note to this capability she argues, citing the South African constitution, that the need for bodily health and integrity is increasingly being used as a means to justify housing rights. Nussbaum also sees the “control over one’s environment” as a core functional capability, and goes on to suggest that, in a material (as opposed to political) sense of environment, this would mean being “able to hold property” (p. 42). More generally, according to Nussbaum, we can use these capabilities to establish universal rights from which bodies such as the United Nations or the International Court of Human Rights can determine the legitimacy of the actions of governments and other agencies.

#### Kant’s principle of positive rights means we need to guarantee a right to housing

**Clara 14** [University, Santa Clara. “Rights.” Markkula Center for Applied Ethics, 8 Aug. 2014, [www.scu.edu/ethics/ethics-resources/ethical-decision-making/rights/](http://www.scu.edu/ethics/ethics-resources/ethical-decision-making/rights/).] TLAS SB

One of the most important and influential interpretations of moral rights is based on the work of Immanuel Kant, an eighteenth century philosopher. Kant maintained that each of us has a worth or a dignity that must be respected. This dignity makes it wrong for others to abuse us or to use us against our will. Kant expressed this idea in a moral principle: humanity must always be treated as an end, not merely as a means. To treat a person as a mere means is to use a person to advance one's own interest. But to treat a person as an end is to respect that person's dignity by allowing each the freedom to choose for himself or herself. Kant's principle is often used to justify both a fundamental moral right, the right to freely choose for oneself, and also rights related to this fundamental right. These related rights can be grouped into two broad categories—negative and positive rights. Negative rights, such as the right to privacy, the right not to be killed, or the right to do what one wants with one's property, are rights that protect some form of human freedom or liberty, . These rights are called negative rights because such rights are a claim by one person that imposes a "negative" duty on all others—the duty not to interfere with a person's activities in a certain area. The right to privacy, for example, imposes on us the duty not to intrude into the private activities of a person. Kant's principle is also often used to justify positive or, as they are often called, welfare rights. Where negative rights are "negative" in the sense that they claim for each person a zone of non-interference from others, positive rights are "positive" in the sense that they claim for each person the positive assistance of others in fulfilling basic constituents of human well-being like health and education. In moral and political philosophy, these basic human needs are often referred to as "welfare" concerns (thus this use of the term "welfare" is similar to but not identical with the common American usage of "welfare" to refer to government payments to the poor). Many people argue that a fundamental right to freedom is worthless if people aren't able to exercise that freedom. A right to freedom, then, implies that every human being also has a fundamental right to what is necessary to secure a minimum level of well being. Positive rights, therefore, are rights that provide something that people need to secure their well being, such as a right to an education, the right to food, the right to medical care, the right to housing, or the right to a job. Positive rights impose a positive duty on us—the duty actively to help a person to have or to do something. A young person's right to an education, for example, imposes on us a duty to provide that young person with an education. Respecting a positive right, then requires more than merely not acting; positive rights impose on us the duty to help sustain the welfare of those who are in need of help.

### 1AR – Perfect Duty

#### It is a perfect duty of the state to provide housing for its citizens

Ernest J. Weinrib 03, Ernest J. Weinrib is a legal academic who works on jurisprudence and legal philosophy, particularly the theory of private law. He teaches at the University of Toronto Faculty of Law, 4-1-2003, " Poverty and Property in Kant's System of Rights," Notre Dame Law Review, https://scholarship.law.nd.edu/ndlr/vol78/iss3/5/, accessed 8-9-2023 | harker nb

Kant's remarks on the state's right to tax in order to fulfill a public duty to the poor indicate that he does not share these one-sided views ofjustice. As a philosopher working within the tradition of natu- ral right-indeed, as perhaps its greatest expositor-Kant gives a de- tailed non-distributive account of the principal features of private law, especially of property and contract. Developing corrective justice in terms of his own metaphysics of morals, Kant portrays private law as a system of rights whose most general categories give juridical expres- sion to the coexistence of one person's action with another's freedom under a universal law. Yet despite his affirmation that private law entitlements, understood non-distributively, are the necessary compo- nents of a free society, Kant nonetheless holds that there is a public obligation (and not merely a liberty) to support the poor. He thus seems to regard this aspect of distributive justice as compatible with corrective justice, with the state being duty-bound to actualize both. Neither of the temptations that characterize certain contemporary ap- proaches to law attracts him.

However, the question that arises is whether Kant is entitled to the view about the alleviation of poverty that he professes. Kant's view of property is at least as extreme as the most extreme of today's libertarians." How on his view can the state function both as the guarantor of purely non-distributive property rights and as the public authority that levies taxes in order to fulfill a public duty to support the poor? This question is all the more serious because Kant is a systematic phi- losopher for whom obligation signifies necessity, so that the duty to support the poor that he posits must somehow arise out of, and not merely be consistent with, his non-distributive account of rights. Fur- thermore, for Kant, rights are the juridical vindications of freedom that the state coercively protects against infringement; coercion for the benefit of anyone, including the poor, seems inadmissible within the Kantian framework. Kant offers almost nothing resembling an ar- gument in support of the duty he announces. Nor does he explain how this duty is to be integrated into his austere system of rights.

In the crucial passage, appearing in his section on public right in The Metaphysics of Morals, Kant describes the state's right to tax in order to fulfill its duty to the poor in these terms:

To the supreme commander there belongs indirectly,that is,insofar as he has taken over the duty of the people, the right to impose taxes on the people for its own preservation, such as taxes to support organizations providing for the poor, foundling homes, and church organizations,usually called charitable or pious institutions.9

Because for Kant a right is always connected to the authorization to use coercion, l Kant goes on to specify that the state's support of the poor should be achieved by coercive public taxation and not merely by voluntary contributions. He explains the basis of the right to tax as follows:

The general will of the people has united itself into a society that is to maintain itself perpetually; and for this end it has submitted itself to the internal authority of the state in order to maintain those members of the society who are unable to maintain themselves. For reasons of state the government is therefore authorized to constrain the wealthy to provide the means of sustenance for those who are unable to provide for even their most necessary natural needs. The wealthy have acquired an obligation to the commonwealth, since they owe their existence to an act of submitting to its protection and care, which they need in order to live; on this obligation the state now bases its right to contribute what is theirs to maintaining their fellow citizens.

No reader of Kant's legal philosophy can fail to be struck by the apparent oddity of these paragraphs. Kant's legal philosophy is an elucidation of concept of Right, that is, of "the sum of conditions under which the choice of one can be united with the choice of an- other in accordance with a universal law of freedom." 12 In introduc- ing the concept of Right, Kant notes that "it does not signify the relation of one's choice to the mere wish (hence also to the mere need) of others, as in actions of beneficence." 13 The consequence of this abstraction from "mere need" is a complex of proprietary, contractual, and domestic rights that place others under correlative nega- tive duties of non-interference, "for anyone can be free as long as I do not impair his freedom by my external action, even though I am quite indifferent to his freedom.' 1 4 Yet when outlining the rights of govern- ment in the quoted paragraphs, Kant introduces-seemingly out of the blue-a positive duty, which government takes over from the people, to support those "unable to provide for even their most necessary natural needs."'15 AsJeffrie Murphy remarks, "it is very difficult to see 16

Kant's legal philosophy is so parsimonious and its architecture so austere that little leeway is available in dealing with a perplexity of this sort. Kant's adamantine boundary between right and ethics-the for- mer dealing with externally coercible duties, the latter with in- coercible duties done for their own sake-prevents recourse to appealing ideas found in Kant's writings on ethics. For example, be- cause Kant does not formulate the duty to support the poor as the reflex of any correlative right that the poor have, one might be tempted to regard that duty as somehow connected to the personal duty, postulated by Kant elsewhere, 17 to come to another's aid. How- ever, the duty to aid is an ethical rather than a juridical one; it there- fore cannot be associated with the coercive taxation authorized for support of the poor. Kant's own description of the concept of Right, with its contrast between rightful actions and actions of beneficence, confirms that state support of the poor does not fall under the duty to aid. 18

Some commentators have seen Kant's requirement of support for the poor as an expression not of benevolence but of political prudence.1 9 The alleviation of poverty facilitates the state's survival by promoting the state's strength and stability against internal disorder and external attack. Kant elsewhere indeed seems to authorize the state to legislate on this basis for the happiness and prosperity of its citizens.20 However, the acknowledged instrumentalism of such legis- lation2 fits awkwardly into Kant's exposition in the paragraphs quoted above. In these paragraphs the relief of poverty is viewed not as something from which the state might contingently benefit, but as a duty of the people that the state assumes. Like all duties Kant de- scribes, this duty.presumably reflects a normative necessity rather than a prudential option.22

#### The right to housing is a necessary condition of freedom – the state has an obligation to provide housing

Sarah Grace Simionas 23, 2023, "Kantian Self-Government and the Role of Deliberation: Taking Seriously Our Mastery of Ourselves," Claremont Colleges, https://scholarship.claremont.edu/cgi/viewcontent.cgi?article=4319&context=cmc\_theses, accessed 8-9-2023 | harker nb

As seen when the individuals in Ripstein’s public roads example are landlocked from traveling to one another, public law is needed to authorize private property’s use and ability to be exclusive, as well as ensure that a system of private property does not inhibit others’ equal claims to mastery over themselves. The public road guarantees that others do not need to resort to encroaching on your private property to pursue their ends. Its establishment through public law guarantees your right to exclude them off your property, thus securing your mastery, too.

Because of this, the public right to the road and the laws governing it are preconditions needed for private rights to be enjoyed by interacting individuals.

Public roads are just one example of a condition that the state must secure in order to protect individuals’ ability to be their own master. The public road can also be thought of as an analogy for a robust set of public conditions necessary for an individual to be master of their own life. The example of public roads specifically deals with our ability to be in control of our movement, but the analogy would translate to, for instance, a basic public access to food and water. If one is to be their own master, they need access to basic sustenance. If an individual has to take food and water from another person to survive, they compromise the mastery of the individual they are stealing from by compromising their exclusive right to their private property. This action would also be inconsistent with the dependent person’s rightful honor to not be subject to the will of another (Ripstein 26). Since, “citizens lack the rightful power to bind themselves to such a situation... enforceable private property is only rightful under a law that precludes this possibility” (Ripstein 26). This argument explains Kant’s commitment to protection from poverty, and can be extended to public conditions such as healthcare, housing, and education that individuals need access to to be able to support themselves. It is only after these basic public conditions are secured that private rights can be acted on in a way that is consistent with individuals’ equal freedom.

Ripstein’s explanation of Kant’s political philosophy has therefore shown the necessity of state authority and public law. The state reconciles our individual mastery with our equality through the public conditions it secures and public laws it enacts that enable individuals to secure their private rights. The condition where individuals are able to experience private rights is called the rightful condition. Ripstein best summarizes what this entails for the state:

The state is under a positive obligation to take steps to secure, maintain, and improve a rightful condition. This positive obligation in turn generates a right on the part of the officials to make and implement judgements about how to best do this. They cannot make arrangements for the people that those people could not make for themselves (26).

This idea of the state assigning laws consistent with what its people can assign for themselves constrains the role of the state in two ways. First, it defines the role of the state to the “specification of properly public purposes,” both limiting the scope of the state’s work but also empowering it to determine how those purposes should best be pursued. Ripstein notes, “how exactly [public purposes] are best pursued— whether, for example, the best way of providing for the poor includes job training or public health insurance against debilitating illnesses– is a question for a principle of politics to decide,” (27). Second, the power to give laws to themselves is restricted by what is required by their individual innate rights. Just because a certain strategy would be more efficient at securing public purposes, if it does not align with each person’s individual rights, citizens cannot assign that for themselves. Ripstein gives the example that a “hereditary bureaucracy could be more efficient than a system that left careers open to talent” in protecting individuals from poverty, but a state in the rightful condition cannot enact that because it compromises individuals’ innate rights to be masters of themselves (27). Given these constraints, Ripstein concludes that “the principle of public right thus does not seek to generate a specific answer to every question of politics, only to show that having public bodies reach decisions which could have been different is consistent with each person’s right to be his or her master” (27).

### 1AR – AT Contention 1

#### The right to housing functions apriori to other rights – right to exclusion misses the point

**Herman 21** [(Barba, Professor Barbara Herman has appointments in both the law and philosophy departments at UCLA. She is the Griffin Professor of Philosophy at the UCLA Department of Philosophy and is teaching in the new Law and Philosophy Specialization at the law school. She teaches and writes on moral philosophy, Kant's ethics, and the history of ethics, as well as social and political philosophy.)” The Moral Habitat”, January 21 2021, <https://media.speechdrop.net/uploads/4z6pLp/94/Barbara%20Herman%20-%20The%20Moral%20Habitat-Oxford%20University%20Press%20USA%20-%20OSO%20(2021).pdf>] TLAS SB

It is within the framework of a second stage question that I want to look at the moral idea for a right to housing: that is, the right to a secure and stable dwelling, with water and sanitation, access to resources, etc., now widely regarded as one of the basic human rights.12 It is a right to have and control a material resource, so it is a property right, though not necessarily an ownership right.13 As currently understood, the right goes well beyond protection of existing housing (where it might limit the scope of evictions or removals via eminent domain): its satisfaction conditions arguably require the creation of the very objects claimed as a matter of right. International rights documents describe the right to housing as essential for other rights, such as employment and education, as well as for the exercise of the liberties of speech and association.14 It is at once an anchor of citizenship and a condition for having a personal life. It is a place for rest, the site of family relations (in some places, for friendship as well); it is a location or orientation in the social world, a possible site of work, and a space for personal expression.15 So more than having a place to live, a roof over one’s head. The needs this right meets are not an aspect of natural ethology, not like the hive to a bee or the den to a bear; it is an artifact of asocial world in which the absence of modern sanitation and electricity is a form of social disability, not just a disadvantage. The Kantian approach can tell us quite a bit about the deliberative import of a right to housing, and, by implication, about the way property rights can carry moral value out into the wider space of activities and relationships. Even if the right to housing cannot be realized outside a political scheme, or not in dire economic conditions, like the right to education it transcends any historically particular political organization or economy. It is in that sense what I earlier called a provisional human right (see section 6.4). In the moral habitat scheme, it functions almost like an a priori conceptual claim: where there is a scheme of right for persons, this must be one of them. So something in the account of fundamental value must lead to it. The moral content, or deliberative import, of the right to housing is not in the same register as what it is individuals lack when they lack shelter. One question to be answered is in the space of public right, perhaps about whether “we” are obligated to build or supply housing (or just ensure fair access to what is there), about the possible use of rent control to stabilize tenancy, about zoning or other regulations to ensure the construction of affordable housing, and so forth. A second is a question about the kind of control persons should have over this resource. The first leads to practical political questions: how to meet the burden if housing is a basic right; the second is about what is involved in the idea of housing, is it or does itinvolve a right to a home? If it does, which I will assume and explain as we go on, it will add a dimension to the moral shape of a human life. And that will, in turn, affect the response we should make to persons in need of the resource we could provide.16 In adding to the idea of housing that it should be a home, we move from structures and services to conditions for active living. Guaranteeing some place to be each night only secures shelter. Not everyone wants to have a home. The point of the amplified right is to shift the default condition.And what is a home? A home need not be a separate dwelling for each person or group of affiliated persons. It is a place where a person or family stably resides and can lead a reasonable, independent life (and so it must have access to work and schools, medical care, etc., as well as sanitation, running water, cooking fuel). Some forms of collective housing tread a fine line here. Refugee camps, for example, can provide elements of housing, but cannot meet the standards the right imposes and only tragically count for some as a home.17 If a person has a right not just to housing but housing that is or can be a home, then it is not a service or a mere possession for use, like a piano or car. The value that supports the right to a home is deeper, in a different register. Some have taken this to mean that if one has a home, one can defend it with a level of force that one couldn’t use to protect one’s piano: an extension of a supposed right of self-defense. A view of the home as like the carapace of the person, without which they are vulnerable, dependent, at the mercy of strangers. It’s not a good argument, but it’s not wrong to appeal to an idea of deeper value to explain the moral force of maintaining the integrity of a home. What is wrong here is starting with the right to exclude as defining what the right to housing is. It begs the question, confusing the object with the moral content of the right. The object is to give individuals power or control over some space for living; however, what the content is—the nature and limits of the power—depends on further features of the moral social world. In some places, extending hospitality by taking in any stranger in need is one way the value of having a home is expressed. Elsewhere, the value is taken to lie precisely in being able to exclude others from one’s private space without further justification (whether or not it is a nice or a kind or a decent thing to do). Neither convention indicates definitively what the right to housing is about. Both may mark the kinds of value the right can reflect. That is, either or both are candidate articulations of the right. This may seem paradoxical—that there is a right without fixed content, even with possibly incompatible kinds of candidate content. The air of paradox dissipates once one sees that what is fixed is the role of the right in the system of public right. The idea that it’s a fundamental right need not rule out contingency at the level of content, and this because content reflects hybrid value and hybrid value can direct different ways of managing a moral need. It is what we might expect as multiple values intersect in a complex social world. Of course not every well-intended argument for form or social configuration that is attempted is going to reach a morally possible outcome. The grasp of hybrid value might be wrong or incomplete, or the articulation of the right’s second stage content deliberatively at odds with other central values in the system.

### 1AR – AT Contention 2

#### No offense – taxation is permissible if it is necessary to protect against rights violations

Surprenant 15 (Chris W. Surprenant is an associate professor of philosophy at the University of New Orleans, where he directs the Alexis de Tocqueville Project in Law, Liberty, and Morality. He is the author of Kant and the Cultivation of Virtue (Routledge 2014), co-​editor of Kant and Education: Interpretations and Commentary (Routledge 2012), and has published numerous journal articles in moral and political philosophy. https://www.libertarianism.org/columns/kant-justified-taxation)//my

Immanuel Kant said taxation was justified when it increased human autonomy by providing for people’s basic survival needs or for the protection of property rights. Most of Kant’s comments on taxation can be found in a small section of his Metaphysics of Morals, pages 323 through 328 in volume six of the Akademie edition of Kant’s complete works. He begins this discussion with the relationship between land, private property, and the state, writing: “Since the land is the ultimate condition that alone makes it possible to have external things as one’s own, and the first right that can be acquired is to possession and use of such [external] things, [as a result] all such rights must be derived from the sovereign as lord of the land” (MM 6:323). Kant makes three points in this passage: First, having access to some physical space is a necessary condition to possessing something external to me. One way to think about possessing something is that it is yours even when you’re not using it. But that requires you to be able to put it down in such a way or in such a location that others don’t recognize you as having relinquished your claim to the item or discarded it. Second, the first right individuals have relates to their possession and use of private property. Earlier in the Metaphysics of Morals Kant claimed that “Any action is right if it can coexist with everyone’s freedom in accordance with a universal law” (MM 6:230). And so Kant sees the recognition of private property as being consistent with respecting the freedom of everyone, even when people possess an unequal amount of property. Third, Kant identifies “that relation of human beings among one another that contains the conditions under which everyone is able to enjoy his rights, and the formal condition under which this is possible in accordance with the idea of a will giving laws for everyone” as the condition of “coexistent freedom” (MM 6:305–6). Since coexistent freedom requires the existence of a sovereign authority to act as an arbiter of competing rights claims, private property rights are derived from the sovereign as the recognized authority over or within a particular geographic space. Kant’s position on taxation follows from this account of property rights being derived from the sovereign as the original proprietor of the land under his jurisdiction. He writes: “On this originally acquired ownership of land rests, again, the right of the supreme commander, as supreme proprietor (lord of the land), to tax private owners of land, that is, to require payment of taxes on land, excise taxes and import duties, or to require the performance of services (such as providing troops for military service)” (MM 6:325). So, for Kant, the sovereign is justified in taxing private landowners to provide for the preservation of the state, either by paying for necessary services (e.g., military defense), helping individuals who are worse off due to no fault of their own (e.g., orphans), or supporting organizations that help these individuals and the community (e.g., the church). But why should the tax be levied against private landowners? Why single out just the wealthy (i.e., landowners) to pay taxes, and not tax all of the citizens equally or proportionally based on their income, wealth, or consumption? Kant’s answer to this question is practical: “The wealthy have acquired an obligation to the commonwealth, since they owe their existence to an act of submitting to its protection and care, which they need in order to live” (MM 6:326). The poor would be under a similar obligation, but they are poor. They have nothing to contribute, and having the means to do something is a necessary precondition for being obligated to do it. At this point, Kant moves away from this theoretical discussion of taxation and to a practical discussion of how best to take care of the poor and destitute, as well as how much public funding these individuals should receive. His solution is that “the poor should be provided for…by legal levies,” but only given so much as to sustain them. His reasoning? “[T]his arrangement does not make poverty a means of acquisition for the lazy…and so does not become an unjust burdening of the people by government” (ibid.). For Kant, therefore, Robin Hood taxation is justified only to the extent that the state is taking the minimum amount necessary in order to sustain the poor. That Kant would take this practical position on taxation is not surprising given his discussion of autonomy and the role of the state in securing an external condition that makes autonomous action possible. Autonomy is connected with an individual’s ability to participate in the process of rational deliberation, but an individual’s external circumstances, circumstances which are often beyond his control, play a significant role in determining whether it is possible for him to be autonomous in practice. One function of Kant’s political philosophy is to examine how these external conditions can be established such that all individuals have the opportunity to be free. For Kant, human freedom is a function of living in civil society. He argues in his “Universal History” essay, for example, that reason itself is a capacity that must be developed within civil society (UH 8:21-22). Beyond this somewhat controversial psychological claim about the positive role of civil society in the development of reason and the free Willkür (i.e., freedom of choice), he also presents a far less controversial claim about civil society’s negative role in its development. Consider life for someone living in Thomas Hobbes’s state of nature, a condition in which individuals are in constant fear of sudden and violent death. It seems unlikely that an individual whose survival is threatened constantly would be able to act from reason and not from basic instincts. What makes it impossible for an individual to be autonomous in Hobbes’s state of nature is that his life, health, liberty, and possessions are not secure. If state authority is justified because it helps to secure the external conditions that make autonomy possible, then we can see why some degree of taxing the rich in order to support the poor is legitimate. What is at issue is not fairness, but the freedom of the individuals who are destitute. Without state support to provide the basic necessities, these individuals would constantly fear lacking the means just to survive. For Kant, no one can be autonomous when living in this condition. Looking back, coercion was justified when it hindered a hindrance to freedom. While taxation is a form of coercion, it is justified coercion when the funds are used to remove individuals from an external condition that hinders their ability to be free by providing them with basic necessities. But providing anything beyond these basic necessities allow poverty to become “a means of acquisition for the lazy,” and an “unjust burdening of the people by government.”