

The ‘principle of equality governing the actions and counter-actions’ in Kant’s Practical Philosophy

El ‘principio de igualdad que gobierna las acciones y reacciones’ en la filosofía práctica de Kant

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Abstract

Kant’s “principle of equality governing the actions and counter-actions” (8:26) belongs not only to the *Metaphysical Foundations of Natural Sciences* (1786), but also to his practical philosophy. Kant’s *Idea for a Universal History with a Cosmopolitan Purpose* (1784) and *On the Common Saying: That may be Correct in Theory, but it is of no Use in Practice* (1793) may contribute to the understanding of the “principle of equality governing the actions and counter-actions” in the latter writing, and vice-versa. Referring to all three, this paper tries to show that, in the context of his concept of right, Kant understands the principle of the equality of action and reaction in two different senses, which he combines: a *dynamic* one and a *legal* one.

Key words

Equality of action and counter-action; Nature; Rights; Natural Sciences

Resumen

El “principio de igualdad que gobierna acciones y reacciones” (AA 08: 26) pertenece no solo a *Principios metafísicos de la ciencia de la naturaleza* (1786), sino también a su filosofía práctica. *Idea de una historia universal en clave cosmopolita* (1784) y *Acerca del dicho común: algo puede*

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ser válido en teoría, pero no es válido para la práctica (1793) de Kant pueden contribuir a la comprensión del “principio de igualdad que gobierna acciones y reacciones” en el último escrito, y viceversa. Teniendo en cuenta los tres, este artículo intenta mostrar que, en el contexto de su concepto de derecho, Kant entiende el principio de la igualdad de acción y reacción en dos sentidos distintos combinados: uno *dinámico* y otro *legal*.

Palabras clave

Igualdad de acción y reacción; naturaleza; derechos; ciencias naturales

Kant’s “principle of equality governing the actions and counter-actions” (IaG, AA 08: 26) belongs not only to the *Metaphysical Foundations of Natural Sciences* (1786), but also to his practical philosophy. One finds a practical version of this principle in his *Idea for a Universal History with a Cosmopolitan Purpose* (1784), in *On the Common Saying: That may be Correct in Theory, but it is of no Use in Practice* (1793) and in his *Doctrine of Right* (1796). The two former shorter writings of his practical philosophy may contribute to the understanding of the “principle of equality governing the actions and counter-actions” in the latter longer writing, and vice-versa. Referring to all three, I would like to show that, in the context of his concept of right, Kant understands the principle of the equality of action and reaction in two different senses, which he combines: a *dynamic* one and a *legal* one.

In the *Doctrine of Right*, Kant defines the concept of right as “[...] the sum of the conditions under which the choice (*Willkür*) of one can be united with the choice of another *in accordance with a universal law of freedom.*” (RL, AA 06: 230) In the schematization that immediately follows the presentation of his concept of right, Kant offers two analogies which help considerably understanding what the “sum of the conditions” are in this formulation of his concept. One is a *physical* – and more precisely a dynamic – analogy, while the second is a *geometrical* one. Kant claims that the second one underlies the first.

1. The dynamic analogy

[*First analogy*] «The law of a reciprocal coercion necessarily in accord with the freedom of everyone under the principle of universal freedom is, as it were, the construction of that concept, that is, the presentation of it in pure intuition a priori, by analogy with presenting the possibility of bodies moving freely under the law of the equality of action and reaction». (RL, AA 06: 232)

This analogy is physical, because it combines elements of geometry that rely on space as a condition a priori of experience, as shown in the “Transcendental Aesthetics”, with a category, i.e., with a concept a priori, which is the category of reciprocal action.

[*Second analogy*] «A right line (*rectum*), one that is straight, is opposed to one that is curved on the one hand, and to one that is *oblique*, on the other hand. As opposed

to one that is curved, straightness is that position of a line toward another intersecting or touching it such that there can be only one line (the perpendicular), which does not incline more to one side than to the other and which divides the space on both sides equally. Analogous to this, the doctrine of right wants to be sure that what belongs to each has been determined (with mathematical exactitude)». (RL, AA 06:233)

Interestingly enough, at first sight, the geometrical analogy does not seem to coincide with the dynamic analogy. In fact, the geometrical representation of action and counter-action or power of resistance – if one puts aside any friction forces and any force of gravity – are segments located on the same line; action and counter-action are differentiated only by their opposite direction as well as by the length of the segments. In the dynamic analogy, there is no perpendicular line. Transcribed in legal concepts, the two analogies have different meanings.

The *physical* analogy takes as a starting point a certain distribution of “mine”, i.e., of the rights allocated to individual persons. This can be represented as one of the two end points of a line segment, on which the “possibility of body moving freely under the law of equality of action and reaction” (RL, AA 06: 222) is represented. One can interpret the analogy in at least two different ways. A *first* interpretation corresponds to the case of the “authorization to coerce who infringes upon” right (*Befugnis, den, der ihm Abbruch tut, zu zwingen*). In the *Doctrine of Right*, this case is mentioned in §D, that is, just before the two analogies. The legally wrong action violates this distribution, and its effect is represented by the second end point of the line segment. According to the §D of the *Doctrine of Right*, the reaction corrects the violation so that the *status quo ante* is restored and the cursor is brought back to the first end point.

Now, one should notice *two* aspects of the analogy.

The *first* one is that, in the *Metaphysical Foundation of Natural Sciences*, the “principle of equality governing the actions and counter-actions” does not mean that any time a body A hits another body B located at a position x_1 and moves it to the position x_2 , a reaction will follow this action and relocate the body B at the position x_1 . In fact, according to the *Metaphysical Foundation of Natural Sciences*, the final position after the reaction has occurred depends on the mass of the bodies. More precisely, the movement of the bodies after the choc stands in reverse proportion to the mass of the bodies (“in inverse ratio to their masses”, “*in umgekehrtem Verhältnis der Masse*”, MAN, AA 04: 545). Both aspects are absent from the dynamic analogy of the *Doctrine of Right*. Thus, one should adopt a *second* interpretation: According to the *Metaphysical Foundations of Natural Sciences*, each immobile distribution is constantly the result of opposite forces exercised by bodies of unequal masses. Now, whether there is a hit or impact or not, that is, whether the *first* or the *second* interpretation is valid, neither in the *Metaphysical Foundations of Natural Sciences* nor in the first analogy does Kant assume in the merely dynamic

principle of equality of action and reaction the existence of an equality of the persons and of their physical and intellectual capacities to act. On the contrary, like non-human bodies, human beings do not have an equal mass, i.e., strength. Such an inequality exists also in the civil state, as is shown by Kant’s characterization of the “federation of peoples” which he considers as the “law-governed external relationship” (IaG, AA 08: 24) between states in the *Idea*:

«[...] a federation of peoples in which every state, *even the smallest* [my emphasis, JCM], could expect to derive its security and rights *not from its own power* [my emphasis, JCM], but solely [...] from a united power and the law-governed decisions of a united will.» (IaG, AA 08: 24)

The *second* remarkable aspect of the physical analogy is that the human persons are presented as “bodies moving freely” (DR, AA 06: 232). This contrasts with the presentation of the way “unsocial sociability” exercises its action. In the state of nature, unsocial sociability inspires the “desire for honor, power or property” (IaG, AA 08: 21) (*Ehrsucht, Herrschsucht oder Habsucht*), and leads the human being to expect “resistance all around, just as he knows of himself that he is in turn inclined to offer resistance to others.” (IaG, AA 08: 21) However, unsocial sociability results in what the *Common Saying* calls the “will to subjugate one another or to diminish what belongs to another”, i.e., to destroy another. Now, when either subjugation or destruction occurs between two persons, there are no longer two “bodies moving freely” (DR, AA 06: 232) in their relationship to one another, and there is no longer any impact nor any touch. This situation is incompatible with the analogy of the ‘principle of equality governing the actions and counter-actions’. In fact, in the *Metaphysical Foundations of Natural Sciences*, Kant develops a concept in which each body has a force of extension, so that body B hit by body A is not inert, but resists body A:

«[In an impact,] it is clear that the resting body does not, merely as resting, acquire motion lost by the impacting body, but that, in the collision, it exerts actual forces on the latter in the opposite direction, so as to compress, as it were, a *spring* between the two, which requires just as much actual motion on its part (but in the opposite direction) as the moving body itself has need of for this purpose». (MAN, AA 04: 549)

In the concept of right, the force of the individuals is moved by freedom, but this freedom acts on other free individuals in the same way as any body acting freely. On the contrary, if the individual is subjugated, she no longer moves freely, but only as dependent on another body, on which she cannot not longer hit or impact. The same applies in the case of the destruction of other individuals, for instance in war. Now, both subjugation and war are opposed to the concept of right in the *Idea of a Universal History* because they contradict the free coexistence of individuals:

«All wars are accordingly so many attempts [...] to bring about new relations between states, and, by the destruction or at least the dismemberment of old entities, to create new ones». (IaG, AA 08: 24f.)

Also the “prerogative of the rank” contradicts the concept of right and the principle of equality between action and reaction, as Kant explains in the *Common Saying*:

«[A member of the commonwealth] may bequeath anything else, whatever is a thing (not pertaining to personality) and can be acquired as property and also alienated by him, and so in a series of generations produce a considerable inequality of financial circumstances among the members of a commonwealth (of hireling and hirer, landowners and agricultural laborers, and so forth); but he may not prevent their being authorized to raise themselves to like circumstances if their talent, their industry, and their luck make this possible for them. For otherwise he could coerce without others in turn being able to coerce him by their reaction, and would rise above the level of a fellow subject. Again, no one living in a rightful condition of a commonwealth can fall from this equality otherwise than by his own crime». (VATP, AA 08: 293)

If we summarize the two aforementioned points, the elements of the analogy are (1) that the concept of right guarantees the conservation of the bodies against mutual danger, and (2) that the danger that equality of action and reaction may lead to situations contrary to the return to the *status quo ante* after the impact because of the difference of forces between the individuals, is overcome by legal constraint exercised by a “universal law of freedom” into a restoration of the *status quo ante*, so that the only possible movements are free movements in the sense in which they are freely intended or accepted by all agents involved. The only way to reconcile the dynamic principle of the equality of action and reaction with the legal equality of action and reaction is the following: Through the constraint (*Zwang*) exercised by the state, the stronger individual diminishes his freedom of action to the extent needed for the weaker individual to enjoy the same freedom of action. In other words, the dynamic analogy has to be backed by an analogy expressing the legal equality of action and reaction. The latter is the geometrical analogy. Three years before the *Doctrine of Right*, the *Common Saying* expresses this in a more concise form:

«For all right consists merely in the limitation of the freedom of every other to the condition that it can coexist with my freedom in accordance with a universal law, and public right (within a commonwealth) is merely the condition of an actual legislation in conformity with this principle and joined with power, by virtue of which all those belonging to a people as subjects are in a rightful condition (*status iuridicus*) as such, namely a condition of equality of action and reaction of a choice limiting one another in conformity with a universal law of freedom (which is called the civil condition)». (VATP, 08: 293)

2. The geometrical analogy

Let us now inquire into the *geometrical* analogy. It does not take a certain distribution as a starting point. Instead, the geometrical analogy determines the distribution between two choices, that is, external freedoms: “[...] to be sure that what belongs to each has been determined (with mathematical exactitude).” (RL, AA 06: 233). The choice’s common realm of action is represented by one unique segment on which both choices may collide, which is expressed by Kant as the “position of two lines cutting or hitting another” (“die Lage zweier einander durchschneidender oder zusammenstoßenden Linien”, AA 06: 233; or to clarify the English translation: It is “that position of a line toward another intersecting or touching it”). One of the end points represents the full implementation of the choice of one individual against the choice of another, whereas the other end point represents the reverse situation. The mathematical analogy determines the distribution by a line perpendicular to the segment, cutting it into two equal segments. Two aspects of the geometrical analogy are noticeable.

First, the equality of the two resulting segments shows the legal equality of the choices despite them being different regarding physical and intellectual strength. This infringes the merely dynamic principle of equality between action and reaction. In other words, any time person A collides with person B, the concept of right will result in the restoration of the initial location, i.e., in distribution being restored, no matter how different the respective mass of persons A and B may be. *Second*, there is not only a point cutting the segment into two equal segments, but a full line, which is more than a unique point. This is confirmed by the fact that the perpendicular line divides not only the segment, but it “also [...] divides the space” (RL, AA 06: 233)

In order to explain the *first* remark, I suggest interpreting in a literal and strong way the fact that the perpendicular line intersects with the initial segments, in which it operates as a strict separation between two segments and between two spaces. And, in fact, law exercises the force needed for all individuals to be equality limited in their freedom in spite of their different respective strength, which implies that law exercises a coercion proportionate to the strength of the actual or potential perpetrator. In this regard, the law behaves in another way than a spring C being interposed between a spring A and a spring B, because such a spring does not modify the relationship of strength between the springs A and B, as is explained in the *Metaphysical Foundations of Natural Sciences* (see 4:549, footnote **). In other words, unlike the spring C, the legal order backed by its power of coercion exercises an “irresistible force”.

Now, what does the fact that the perpendicular line separates not only two lines, but also two spaces mean? Here, I suggest referring to the famous metaphor of the forest apparently used for explaining the just civil constitution in the *Idea of a Universal History*:

«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*. [...] there inclinations make it impossible for them to exist side by side for long in a state of wild freedom. But once enclosed within a precinct like that of civil union, the same inclinations have the most beneficial effect. In the same way, trees in a forest, by seeking to deprive each other of air and sunlight, compel each other to find these by upward growth, so that they grow beautiful and straight – whereas those who put branches at will, in freedom and isolation of others, grow stunted, bent and twisted». (IaG, 08: 22)

In this quotation, Kant opposes natural isolation, characterized by laziness, to a state of cooperation and competition, characterized by the development of one's capacities and talents. Both the just civil constitution and the forest provide the conditions for such a cooperation and competition. In such a closed environment as either a just civil society or a forest, the individual choices collide with one another like the trees in the forest collide with one another, so that the *dynamic* principle of equality of action and reaction applies.

However, in a forest, the weaker trees decay and eventually die. In fact, competition and collision between the stronger ones do not imply that all remain alive and interacting. Thus, the *legal* principle of equality of action and reaction is what differentiates the just civil constitution from the forest. Unlike in the case of the forest, in the just civil society there is not only a precinct enclosing the totality of all trees or citizens, but there is also a precinct limiting the sphere of each individual with an “irresistible force”, so that, unlike in the case of weak trees that decay and die, no citizen is subjugated or destroyed by fellow citizens.

This major difference said, the common aspects pointed out by the analogy remain: mutual limitation lead the trees or the citizens to “grow upward”. This means that the “desire for honor, power or property” cannot strive any longer for subjugating or destroying others, but instead it can only do two things: *First*, the individual can develop his or her capacities and talents. *Second*, he or she can interact with others through free contracts, which, because they are voluntary on all sides, are supposed to stand under both the *dynamic* and the legal principles of equality of action and reaction. Through developing their capacities and talents and through contracting with another, citizens increasingly occupy their space, as limited by the perpendicular line.

In the following, I would like to sketch the potential progress regarding the dynamic *and* legal equality between action and reaction, as opposed to a merely dynamic equality. This potential progress consists in developing an established civil constitution into a *fully* just civil constitution. By the potential progress of a civil constitution, I understand more precisely that not only freedom of contract is respected, but also that the legal order may remedy circumstances that modify the outcome of the fulfillment of the contract in a way that diverges from the one intended at the time at which the contract has been concluded. In other words, an improved rule of law can prevent contingency to collide with the legal equality between action and reaction. I see this potential progress in the concept of equity exposed in the *Doctrine of Right* that is absent from the *Idea of a Universal History* and from the *Common Saying*, but that, as an at first sight ambiguous right, immediately follows the dynamic and geometrical analogies in the *Doctrine of Right*. Before doing this, I would like to emphasize that the *Idea of a Universal History* handles civil constitution in reference to the issue of the historical process of the establishment of a just historical constitution, whereas the *Doctrine of Right* also (although not only) considers an ideal, and metaphysical framework, independent of any legal act. Kant’s concept of equity is in accord with his examination of this “ambiguous right”, eventually a “true” right, although a “right without coercion.” (RL, AA 06: 234).

Here is an example of equity given by Kant:

«[...] suppose that a domestic servant is paid his wages at the end of a year in money that has depreciated in the interval, so that he cannot buy with it what he could have bought with it when he concluded the contract. The servant cannot appeal to his right to be compensated when he gets the same amount of money, but it is of unequal value. He can appeal only on grounds of equity (a mute divinity who cannot be heard); for nothing was specified about this in the contract, and a judge cannot pronounce in accordance with indefinite conditions». (RL, AA 06: 235)

Unlike what most of the commentators assume, the reason why the judge cannot decide in accordance with equity is not because equity did not provide any exact criterion for deciding the case. In fact, statistical means make it quite possible to calculate the exact depreciation of money as compared to other goods, and such a calculation is actually often used in tort law for calculating compensations for damages. The only obstacle for applying equity is the absence of an adequate proviso in the contract, and – more generally – of any legal proviso, whether of contractual origin or of another origin like statute law. Now, why does Kant choose as an exact criterion for equity as a “right without coercion” “what [the servant] could have bought [with the amount of money set in the contract] when he concluded the contract”? This criterion (1) clearly refers to the purposive use of the amount of money, and (2) it does not determine this use, which the mention of the real purpose of the servant at the time of the conclusion of the contract would do, that is, that this criterion leaves the servant’s choice (*Willkür*) fully open. Unfortunately, Kant does not mention

whether the same criterion applies in the case of the appreciation of the money as compared to other goods – i.e., the case of deflation. The likely reason for not mentioning this is that deflation seldom happens, while inflation is the most frequent price evolution. Yet, in the case of deflation, the same criterion should apply. In my view, equity is represented by the aforementioned perpendicular. In fact, the perpendicular line that cuts the segment into two equal segments takes into consideration the open choice of both contracting parties, whereas deciding for not compensating inflation would incline the intersecting line more in one direction – that of the employer – than in the other.

One may object that Kant stipulates only the enforcement of the *real* contract, and *not of the equitable* contract that should have been put in writing instead of the *real* contract. Yet, Kant explicitly mentions in the first paragraph of the “Introduction to the *Doctrine of Right*” that the “doctrine of natural rights”, as opposed to positive law, “must supply the immutable principles for any giving of positive law.” (RL, AA 06: 229)

Admittedly, Kant assumes that, since the innate rights to freedom and equality imply the freedom of contract, the provisos adopted in free contracts are valid. A free action also leads to liability for its consequences. The validity of free contracts is expressed by the famous legal principle *volenti non fit iniuria*. Since the labor contract between a server and his or her employer, for instance, is a free contract, and does *not definitively* suppress the former’s freedom – unlike free enslavement, which Kant prohibits –, this contract is valid, and it is handled as such in the body of the *Doctrine of Right*. (cf. RL, AA 06: 282f.)

Thereby, Kant considers *neither* any possible depreciation of the amount of money regularly paid by the employer to the servant *nor* such empirical circumstances as poverty or weakness that may constrain the person to accept the contract even on unequal or unbalanced terms that do not fulfill the criterion for equity. This leads to the frequent critique against Kant that he accepts the existence of a status, such as that of a servant, of which he himself admits that it creates *dependence*, which apparently contradicts the innate right to freedom and the legal equality of action and reaction. If one considers only enforceable law, one can say that, if Kant did take into consideration the aforementioned circumstances that lead to unequal terms of free contracts, he would have defined legal provisos that are much more adequate for protecting each person’s choice (*Willkür*), since equity is predominantly favorable to the expectations of the weak who is endangered to become dependent or to die. Now, if one considers that the concepts of law and equity should guide positive legislation, one can see in equity a clear direction for a progress of the positive rule of law. And, in fact, Kant repeatedly stresses the requirement that reason makes positive law progress.

To conclude, the dynamic analogy of the *Doctrine of Right* must be distinguished from the merely dynamic analogy of the trees in the *Idea of a Universal History*. In fact,

only the former entails both the dynamic principle of the equality of action and reaction and the legal principle of equality of action and reaction, the latter being emphasized in the *Common Saying*. The dynamic analogy of the *Doctrine of Right* entails an equality between persons that is missing in the analogy of the forest in the *Idea of a Universal History*. This equality is backed by the geometrical analogy of the perpendicular and one can see in equity a potential progress in regard to this legal equality. In the comparison of these analogies and metaphors to another, one can see how Kant gradually combines and differentiates – although not with full clarity – different conceptual elements and the way these elements build upon another.

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