



AUTHOR MEETS CRITIC

Jordan Pascoe’s *Kant’s Theory of Labour*: A Kantian Engagement

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Abstract

This article critiques Jordan Pascoe’s *Kant’s Theory of Labour* (CUP 2022). After outlining some of its many distinctive contributions, I consider Pascoe’s ideas on women, marriage, method, and the challenges involved in engaging with (classical) texts that express various ‘isms’. In addition to giving readers an introduction to many of the exciting ideas presented in the book, my aim is to stimulate further discussion of the kind all excellent books strive to create.

Keywords: Kant; status relations; intersectionality; marriage

Three decades ago, in 1993, Jordan Pascoe reminds us at the beginning of her *Kant’s Theory of Labour*, Barbara Herman published her groundbreaking article ‘Could it be Worth Thinking about Kant on Sex and Marriage?’¹ In the three decades since its publication, feminist Kantian scholarship, as well as the philosophy of ‘the isms’, to borrow Anna J. Cooper’s phrase,² have undergone revolutionary changes. So too has scholarship on Kant’s legal and political philosophy through engagement with Kant’s historically neglected Doctrine of Right. Jordan Pascoe has been critical to these developments: she was a contributor to a 2017 special issue of *Kantian Review* on ‘Kant and Marx’; she was heavily involved in the advisory, scholarly work leading up to the 2022 special issue of *KR* on ‘Radicalizing Kant’; she has published several articles on Kant and feminist philosophy and the philosophy of sex and love; and she is a prominent figure in the scholarship on the Doctrine of Right in general and the philosophy of the isms in particular. Through a unified reading of his thoughts on labour, *Kant’s Theory of Labour* brings together these strands of her work in an original, philosophically deeply interesting, intersectional, and critical materialist re-envisioning of Kant’s practical philosophy.

Before attending to specific features of the book, let me mention some general ones that are particularly striking to me. To start, *Kant’s Theory of Labour* provides the most comprehensive overview of and engagement with relevant, contemporary literature on Kant’s Doctrine of Right, feminist philosophy, Marxist philosophy, and the philosophy of race that I know of. Importantly too, Pascoe never yields to the temptation to name-drop or to write to please the powerful few. Instead, she acknowledges, incorporates,

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and engages the intellectual contributions of younger and less renowned Kant scholars who are currently doing most of the exciting work in the philosophy of the isms.

Admirable too is how *Kant's Theory of Labour* takes a concept not typically associated with Kant – labour – and uses it to rethink his philosophy vis-à-vis topics that Kant himself undeniably failed to do well with – including women, domestic work, sex workers, racialized groups, and enslaved people – in order to develop ‘an intersectional analysis of Kant’ (p. 1). Pascoe is correct, I think, that labour relations often hover, unacknowledged, in the background of Kant’s thinking, a fact that reveals itself when he comments on or navigates specific issues that involve, for instance, slavery, servants, women’s role in the home, etc. Pascoe, by contrast, identifies the spectral patterns of labour in Kant’s thinking so that we can wield a more robust version of all his philosophical writings and analyse these particular issues with greater care. It is a move that also helps us dispatch ingrained ways of thinking about Kant’s philosophy and think anew, creatively, and critically about Kant’s handling of historically complicated topics with unruly and thorny interconnections. What comes very clearly into view is the many ways in which dependent labour relations appear throughout Kant’s writings and, at the very least, how we Kantians today need to think carefully about how we can do better than Kant with regard to empowering those whose social identities put them on the bottom in Kimberlé Crenshaw’s intersectional basement. Importantly too, Pascoe does not assume that all oppression can be solved by better understanding labour alone. Contra, for instance, Lockean or Marxist analyses, Pascoe emphasises the limits of a labour analysis by, for instance, building on arguments from ‘the Black radical tradition’ to show where ‘labour slides beyond exploitation and into subjection, objectification, and fungibility’ (p. 3).

Kant's Theory of Labour is a philosophically advanced text, and at only 55 pages, it is also relatively dense. Those unfamiliar with Kant’s writings, the relevant secondary literature in Kant’s studies, and the philosophy of the isms (topics and literature), will probably find it challenging to follow all the moves, to discern what Pascoe is and is not arguing. Also, philosophers outside of the US context will typically not have the historical knowledge to engage with Pascoe’s analysis of US emancipation and reconstruction. In the space allotted, my focus is on Pascoe’s conception of the complete Kantian theory of the state, passive and active citizens, and Kant’s account of women, hoping that these engagements yield fruitful starting points for continued conversations.

Regarding Kant’s theory of the state, first, Pascoe argues that we must not only write up ‘Kant’s systematic account of justice’ (his idea of the republic) and then add on, more haphazardly, his non-systematic discussions of ‘domination and oppression’. In my view, though Kant would disagree with Pascoe’s anti-racist, anti-sexist, etc. approach to doing this, Kant does agree with her that his idea of the republic is not a complete theory of the state. Kant variously explains that he did not complete his account of public right (MM, 6: 209); that the metaphysics of morals needs to be completed by an account of ‘moral anthropology’ (MM, 6: 217); and that we need a ‘principle of politics’ (‘Supposed Right to Lie’, 8: 429). Obviously, exactly how to complete his theory of the state is up for debate (more on this below), but I think it is fair to say that Kant left this task for us to complete (probably a good thing given his inability to handle emotional and conceptual challenges involved in understanding the isms). As we set out to do this, though, I wonder if Pascoe thinks that the analysis in *Kant's Theory of Labour* is sufficient for the task. My view is that we need not only a

general, systematic theory of domination and oppression but one that makes Kant's ideal account of rightful relations suitable for human beings living in particular historical societies and which not only tracks bad aspects of the isms but also human life more fully. We need such a theory to have ideal as well as non-ideal features of human nature tracking our tendencies to do good and bad things and to address particular issues and societies with their distinctive histories. I worry that *Kant's Theory of Labour* together with the philosophical resources offered by current intersectional, critical materialist theories and Black radical philosophy cannot complete Kant's theory of the state so understood.

Second – and still regarding the question of how to construct a more complete Kantian theory of the state – in her discussion of holding Kant 'accountable' for his failures regarding many of the isms, Pascoe articulates her resistance to

the training we are given as philosophers to identify *with* canonical figures like Kant, to locate ourselves in the text, and to offer slight adjustments that put ourselves – whether one is a woman, is Black, is Indigenous – at the center of the text, as if the relevant mechanisms for 'working one's way up' applied to us. . . . Rather I want to think against and press on this training by refusing to acquiesce to the desire to find my own liberation in Kant's theory of freedom, attending instead to the structure and limits of Kantian independence. (pp. 4–5)

So, to hold Kant properly accountable, one must resist the temptation to read Kant's writings on freedom as self-empowering, which for all but White straight men require them not to use Kant's theory of freedom to locate their own liberation, because Kant's vexed social theory was deeply embedded in his account of rightful freedom.

I agree that anyone who lives with inherited, oppressed identities cannot *straightforwardly* use Kant's writings on freedom to empower themselves (and, of course, those who do not, certainly should not do so either). However, saying that one cannot use Kant's writings on freedom as a source of one's own liberation strikes me as too strong. In addition, I believe several good ways are emerging for how to hold Kant accountable and overcome his limitations – with Pascoe's being one of them – and some proponents of the other good ways resourcefully do use Kant's theory of freedom to empower themselves and others (regardless of Kant's streams of consciousness or intentions).³ Moreover, although I agree that it is unwise and wrong to teach Kant as if he did not partake in the oppression of many vulnerable groups, he does offer arguably the best systematic ideal theory of freedom there is. I do not think anyone should feel obligated not to take these resources and use them to fight oppression, their own and that of others. Alternatively, if we do not use the ideal resources in Kant's theory of freedom, how does Pascoe envision that we – Kantians – theorise hope and how we might move forward in better ways? As Pascoe and I agree, as soon as women and people of colour appeared in the Kantian academic world, they started the work of developing Kantian theories that do better on issues involving women and race. It seems fair to say that many of them did let Kant's universal theory of freedom empower them personally, but they did not do it naively or without attention to his serious failings. I also do not know of any historical figure with a philosophical mind – including non-canonical figures – who do not express various isms in their writings, so there does not seem to be the option to only read the good

ones. I do think Kant did terribly badly – especially his homophobic and racist writings – but I also believe we all need some forgiveness and graciousness in response to what we write, because we all have the effects of long, systemic isms functioning associatively in our feelings, thoughts, and responses – and, so, in our writings. Speaking only for myself, I do hope those who come after me and care about me both hold me accountable for my failings and forgive me when possible, and that if I did anything well, they use it for all its worth to empower themselves and fight oppression.

Third, *Kant's Theory of Labour* convincingly shows how deeply conflicted Kant often was on topics relating to slavery, servitude, sex, and domestic rights. The road to Kant's discovery of the third 'status' category of rights – which covers legal relations between spouses, parents and children, and households and their servants – was therefore long, bumpy, and often involved serious pathological dehumanisation of vulnerable social groups that screams of contradictions when we hold it to Kant's standards of human dignity, human rights, and the principles of freedom. I am not yet entirely convinced by Pascoe, however, that it was only Kant's work on labour that led him to better views on race and slavery or if it was this work conjoined with the principles of each person's right to freedom and dignity (or both) that slowly pushed him in these better directions. I need to let her account sit with me for a while – including as I reread Kant and think more – to see if a more confident view might appear. Still, unless Pascoe can convince me otherwise, her current (labour) account cannot explain some important matters. For example, Pascoe's Kant cannot give a full critique of the legal right to marry. Hence, her current account cannot show why Kant was wrong to limit marriage to heterosexual unions between one man and one woman or why access to marriage for interracial or same-sex couples was and is so important to us (in terms of rights, as human beings, etc.). Moreover, it is not clear to me how we can use *Kant's Theory of Labour* to explain why it is important to recognise that people who live in polyamorous relationships also have a right to marry or how we can re-envision this institution to make it less vulnerable to (direct and indirect) abuse and bad dependencies and instead supportive of its ideal function. I worry that Pascoe's Kant cannot critique these aspects of the right to marry – just as intersectional, critical materialist theories struggle to give good accounts of them. Hence, unless I am missing something important, these philosophical resources cannot give us what we need for a full critique of this legal institution; they appear to say that anyone wanting to get married is deeply self-deceived or wrong about what rights there are or what a good life (for them) is, that a better future would not include a right to marry for anyone, since there is no such right.

This brings me to a fourth point regarding the challenges of constructing a more complete Kantian theory of the state (and justice). In my view, there are several possible ways to develop a non-ideal theory such that it both overcomes Kant's own limitations and integrates ideal elements in addressing the philosophy of sex and love, feminist philosophy, and intersectional theories. In my view, there are at least four distinct ways (emerging) in the English-speaking Kant world: the intersectional, critical materialist way, of which Pascoe's *Kant's Theory of Labour* is groundbreaking by its focus on labour; Barbara Herman's arguments from example in *The Moral Habitat*; the Rawls-inspired ways pioneered by Paul Guyer and Sarah Holtman⁴; and my way in *Sex, Love, and Gender*, which tries to match Kant's systematic ideal moral theory with systematic non-ideal theory. Each of these approaches has distinctive advantages; can

incorporate social theory into the Kantian project, including complexities of intersectionality; and can (and do) criticise Kant, the canon, and the canonical ways of teaching Kant. In my view, it is wrong, let alone too early, to argue that only one of these ways is a good way to hold Kant (and the inherited Kantian tradition?) accountable and to move toward a better future. I think it is important that we pursue all of them – and support and engage new ones as they arrive – to the best of our abilities, trusting that our philosophical tradition becomes better as a result. Also, I think, how each of us deals with the complexity of holding Kant accountable is a contingent, not universal matter; indeed, finding one's own way is part of the challenge when writing on the isms. Thinking there is only one way may, even if unintentionally, risk building a type of dogmatism or bad politics into the project of radicalising Kant that limits and undermines it – a type of dogmatism that I consider opposed to Pascoe's way as a scholar in general and to the spirit of *Kant's Theory of Labour* more specifically.

I now zoom in on some specific aspects of Pascoe's theory of the state, which we can disagree about without detracting from the many important insights of Pascoe's labour account. To set the stage, let me first summarise some related, general features of Pascoe's re-reading of Kant. To start, Pascoe reads 'Kant's theory of labour [as] map[ing] strategies for embedding ongoing relations of racialized dependent labour after the abolition of slavery' (p. 5), just as Kant's category of status relations served the function for Kant of mapping strategies for keeping women and servants in conditions of dependent labour regardless of whether particular women or servants could break free. She correspondingly argues that there never are reciprocal rights between spouses and that this is important for Kant because this is how he can uncompromisingly exclude 'wives, children, and servants from the public sphere' (p. 16). Finally, Pascoe argues that Kant could give up on slavery because the servant category could do the work of ensuring perpetual dependency for the social groups falling into this category. She argues that 'Kant's rejection of slavery distinguishes rightful servitude from wrongful slavery without eradicating patterned reproductive and dependent labour: instead, Kant's arguments embed this labour and its attendant hierarchies in his account of the rightful state' (p. 33). Hence, importantly, even if individuals can break loose from this dependency logic, social groups cannot – and Kant's vision of the state is that these dependent groups will remain in perpetuity as they are necessary to, for example, his vision of good domestic relations. Hence, those who are rich enough to outsource some of the domestic work will simply rely on other dependent social groups to take up these jobs.

Again, we clearly *can* read Kant in this way, and I think that Pascoe is right that we must find ways to break institutional logics that threaten to perpetuate dependency relations in labour markets. However, as with all readings of Kant, this interpretative approach involves emphasising some features and setting aside others. And some of the things that Pascoe sets aside strike me as more unfortunate.⁵ For example, although Pascoe does note that Kant was puzzled about the question of whether marriage gives one access to one's spouse's body, her text does not take note of the fact that he ends up rejecting this idea. Giving anyone a right to sexually access one's body without attending to one's consent at the moment is beyond what one has a right to do. Rather, marrying involves giving spouses reciprocal rights to each other's sexual organs in the sense that, after marrying, one commits adultery if one has sex

with anyone external to the marital relation. Marriage, then, excludes the rest of the world as possible sexual partners for the spouses; before or outside of marriage, doing so is legally irrelevant (as such), whereas after, it is legally relevant (adultery). Moreover, although Kant thinks it is unwomanly for and bad when women enter the public sphere, as Pascoe explains, she does not also attend to the fact that he does not say it should be illegal, that husbands have a right to stop them from or punish them for appearing there, or that it should be illegal for women to become public leaders (such as monarchs). Some of these views are more and some are less radical for his time; they are all noteworthy, in my view, not only because they yield a new, distinctive take on some of these issues, but because Pascoe wants to draw our attention to the complexity of Kant's views, and because he does not always end up where Pascoe's analysis in *Kant's Theory of Labour* anticipates (when it is silent on a specific topic).

Reading Kant's texts through the lens of labour is tremendously productive, as mentioned above, as it enables us to take a step back and notice unacknowledged, important, and significant patterns of thought in Kant's writings. I am not entirely sure, however, if doing so *only* helps us with regard to issues of intersectional thinking about sex, gender, and race. For example, it seems plausible to argue that what we see clearly in the many passages from Kant Pascoe quotes in her book are the pathologies that can occur when a brilliant mind who deeply identifies with and genuinely wants to do the right thing engages in dehumanisation of vulnerable groups. If we apply Lucy Allais's insight in 'Kant's Racism'⁶ that our minds are fundamentally incoherent when we rationalise wrongdoing, Pascoe's text helps us see important patterns of thought that took place when Kant either went about making his position appear coherent (when it was not) or improving his thinking (such as in his thinking on race). We also see how difficult it was for him to improve, as revealed, for example, in how long it took and how he was unable to acknowledge and feel the moral and emotional horror and sadness that should have accompanied a realisation that he had actively participated in the dehumanisation of many groups and entire peoples, indeed, likely even one of his own. I furthermore think that Pascoe provides us with an extremely interesting analysis of how the transition from slavery to new forms of systemic oppression involving the Black population in the US is consistent with transforming a slave account (which is inconsistent with both Kant's and the US Constitution's principles of freedom) into an account that seemingly justifies terrible private dependency relations for social groups. I also wonder, though, which again brings me back to the first point above, if Pascoe does not need more philosophical resources to identify why all this was psychologically tempting to Kant, for the US, and for all of us insofar as we inherit any privileges – and, relatedly, how we can fight such dehumanising temptations, whichever ism they track – as individuals, as social groups, as cultures, and as we try to build better cultural, legal, and political institutions.

Moving on to the topic of Kant's theory of passive vs. active citizens, Pascoe knows, I do not agree with her analysis. Hence, I want to push back a little on her objection to my claim that Kant means what he says when he says that everyone – including women, children, and servants – must be able to work their way from a passive to an active position. In my view, what Kant says in this section of the Doctrine of Right is that no one has the right to make laws that make it illegal for women, children, and servants to work their way into an active condition. He argues that no active citizen has the right to vote for laws 'contrary to the natural laws of freedom and of the

equality of everyone in the people corresponding to this freedom, namely that anyone can work [their] way up from this passive condition to an active one' (MM, 6: 315). For women, this means that they have the right to rise up and demand rights of political participation (voting), to participate in public debate, or to get the education needed to become scholars and hold public office. When they do strive to do this, such as when citizens engage in women's rights movements, they are not committing a crime in a minimally just state. Similarly, Kant argues that democracy is not a necessary feature of a republic (a 'true civil constitution') (Anth, 7: 331), but people have a right to – and will, with time – push for increased self-governance through public reason, and doing so cannot be criminalised. Relatedly, I do not read Kant as being as confident in his judgement about women as Pascoe does; already in his early writings on the topic, from the essay on 'The Beautiful and the Sublime' onward, he hesitates and expresses worries about his thinking on this topic. His theories of human nature, history, and culture capture why he thinks we are inheriting the traditions we do in these regards, including why he thinks it unlikely that women will become politically active, scholars, and hold public office that require public reason in Rawls's sense of the word, but he is not sure.⁷ Of course Kant's judgements and thoughts were bad – indeed, many of the best Kant scholars, prime ministers, or politicians we have seen in the last few decades are women – but I do not read him as ever arguing that anyone has the right to make it illegal for women to challenge the (academic, legal, political, etc.) traditions that hold them back. As Kant says more generally, we have not yet seen a condition of freedom on planet Earth, and he constructs a theory that makes sure that the contingent does not set the parameters for the universal, which is why he argues that it cannot be illegal for anyone to work their way into an active condition. Arguing this is consistent with arguing that we need more than this in our philosophical accounts. Finally, on this point, I am not sure, but given the creatures we are and how difficult it is for us to give up the isms, including problems of backlash, it may be wiser simply to argue that under non-totalitarian or non-fascist (so, more 'normally' bad) conditions, until the political movements come, politics is not ready or able to handle the changes in question.

A few more comments on Kant on women too. Pascoe argues that Kant's account of women is raced; it refers to white women only. I wonder, however, if the more precise description here is that Kant's account of women sometimes is raced and other times it is ethnic or cultural in nature. The reason is that not all white women fit Kant's ideal of women. For example, women coming from my part of the world – northern Europe – at Kant's time would certainly not qualify; we were barbaric. More generally, I suspect Kant thinks that only women who lived in (parts of) the countries where the Enlightenment happened were sufficiently 'civilized'. I believe the general question Kant was after is something like: how could the Enlightenment happen in this particular location on the planet, and once it did, how did gender conceptions crystallise? So many things went horribly wrong, as Pascoe and I deeply agree, in how Kant went about answering this question, but I do not think he thought *all* white women qualified as (ideally) civilised.⁸ In this context, I am also not sure about the usefulness of exporting the term *white women* as it is theorised in the US philosophical context; I worry that the US's powerful standing in the world makes it tempting to regard analyses internal to it as universally applicable in the world as such. For example, an analysis of whiteness will not help us analyse the problem of the

Norwegian state's oppression of Norway's Indigenous Sami people (as both ethnic groups involved are white) and it will not help us analyse the Japanese state's oppression of its ethnic Korean population (as both groups are not white). In addition, although Kant certainly did think about the transatlantic slave trade, given the place and way of his life, his development and analysis of the servant category might also have been deeply attuned to the fact that in many places in the world, the servant category was historically tracking societies and families living with severely limited material means – such as farming and fishing communities that lived in harsh climates – that could not be handled except if some families took in family members of other, severely struggling families.

I hope the above engagement shows how much I enjoyed working my way through Pascoe's book. It is a first of its kind (an intersectional, critical materialist labour approach), it is an absorbing, tremendously stimulating and challenging philosophical text for everyone who works in the areas of the philosophy of the isms, and it is original in its engagement with the Kantian position that demonstrates one general way, and many specific ways, to move Kantian philosophy of the isms forward. Hence, regardless of the extent to which one agrees with all its interpretative and philosophical moves, *Kant's Theory of the State* plainly enriches not only the Kantian philosophical practice but also our shared philosophical practice. Thank you, Pascoe, for making the Kant scholarship better, including more philosophically exciting!

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Notes

- 1 Herman's 'Could it be Worth Thinking about Kant on Sex and Marriage?' appeared in Louise M. Antony and Charlotte Witt (eds), *A Mind of One's Own: Feminist Essays on Reason and Objectivity* (Boulder CO: Westview Press, 1993), pp. 53-72.
- 2 Anna J. Cooper, 'Has America a Race Problem? If So, How Can It Best Be Solved?' (1892). In Charles Lemert and Esme Bhan (eds), *The Voice of Anna Julia Cooper* (Lanham MD: Rowman & Littlefield, 1998), p. 131.
- 3 For an overview of the entrance of women Kantians into Kant studies and many ways in which they empowered themselves and others coming after them through their work, see the Introduction to Part II of my *Sex, Love, and Gender: A Kantian Theory* (Oxford: Oxford University Press, 2020).
- 4 See, for example, Paul Guyer's *Kant on Freedom, Law, and Happiness* (Cambridge: Cambridge University Press, 2000) and Sarah W. Holtman's *Kant on Civil Society and Welfare* (Cambridge: Cambridge University Press, 2018).
- 5 For more on all the topics in this paragraph, see my *Sex, Love, and Gender*.
- 6 Lucy Allais, 'Kant's Racism' (2016) *Philosophical Papers*, 45(1-2): 1-36.
- 7 Again, for more on all of this, see my *Sex, Love, and Gender*.
- 8 Kant thinks that many peoples are civilized – and, so, you could see civilized versions in many places and not only in Europe – but that the Enlightenment's civilization was a moral improvement historically because it was founded on principles of freedom. I do not think Pascoe and I disagree on this point.

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