Kant's Indemonstrable Postulate of Right: A Response to Paul Guyer

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'Die Freiheit selbst [ist] nicht in meiner Gewalt'[1]

1. Introduction

The indispensability of the 'postulate of practical reason with regard to Right'[2] to Kant's property argument in the *Rechtslehre* is now widely recognized. However, most commentators continue to focus their attention on the relation between the postulate and the deduction of the concept of intelligible possession. The nature of this relation remains a matter of dispute in part because the precise position of the postulate within chapter one of the *Rechtslehre* remains undecided.[3] Given this, it is perhaps not surprising that the related question has been neglected, as to why Kant should characterize the postulate of Right as a postulate of practical reason. Yet the fact that he does so is of some significance – especially if one recalls the definition in the *Critique of Practical Reason* of postulates of practical reason as practically necessary but theoretically indemonstrable propositions. What is of interest about this definition is not just the fact that it designates postulates as practically necessary and as theoretically indemonstrable at the same time – even more intriguing is the intimated relation between practical necessity and theoretical indemonstrability. Kant does not think the postulates' theoretical indemonstrability morally insignificant. To the contrary, their moral significance for us appears to be a function, in part, of their theoretical indemonstrability.

If current interpreters of Kant's practical philosophy have tended to side-step the issue of the postulates' place within it, this is largely because of their propositions' transcendent implications –

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implications which are considered to be inappropriate for a modern, secular, practically orientated philosophical ethics.[4] However, some recent approaches have re-opened this issue, and have argued the systematic importance of the postulates of the existence of God and of the immortality of the soul to Kant's moral philosophy once the latter is considered in a manner that goes beyond practical concerns narrowly conceived.[5] Though these approaches emphasize the importance of appreciating the transcendent dimension within Kant's practical writings, they do not thereby invoke or endorse a supersensible notion of transcendence – they do not appeal to a non-natural world peopled by supreme Beings, or to a Platonic plateau filled with Ideas. To the contrary, these readings respect the fact that Kant's insistence upon the theoretical indemonstrability of the postulate of the existence of God, say, constitutes precisely a rejection of a notion of transcendence that equates it with the existence, or knowability, of a supersensible world. Transcendence in the Kantian sense must be understood as the acknowledgement of the moral necessity, for us, of certain theoretical ideas and propositions, knowledge of the objective contents of which is in principle unavailable to us. The transcendent dimension within Kant's practical thinking thus refers to our acknowledged unknowability of practically necessary theoretical propositions and Ideas.[6]

The present paper examines the status of the postulate of Right as a postulate of practical reason with reference to this notion of transcendence as acknowledged unknowability. I shall argue that the practical significance, for us, of the juridical postulate lies in our acknowledgement of the theoretical indemonstrability of its propositional content. The moral significance of such acknowledged unknowability lies in the insight it affords us into our very limited understanding of the ultimate grounds of our juridical obligations. This line of argument is motivated, in the first instance, by a recent article by Paul Guyer, which does, unusually, consider the status of the postulate of Right as a postulate of practical reason.[7] Guyer's general approach to Kant's political philosophy is marked by a concern to demonstrate its philosophical proximity to current political thinking, especially to Rawlsian liberalism. Guyer accordingly emphasizes what he takes to be the non-metaphysical character of Kant's political thinking; his substantive focus is on establishing Kant as the philosophical forerunner of contemporary

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liberalism, thereby demonstrating the supposed topicality of Kant's political philosophy for a variety of going liberal concerns.[8] By contrast, 'Kant's deductions of the principles of right' forefronts a number of systematic issues. One of them is the status of the postulate of Right as a postulate of practical reason. Guyer comes upon this issue almost accidentally and as a result of his disagreement with Markus Willaschek over the moral status of the universal principle of Right. According to Willaschek, Kant's characterization of the universal principle of Right as a 'postulate that is incapable of further proof'[9] shows that it cannot have been derived from the categorical imperative, for if it had been thus derived, Kant would not claim it to be non-provable. Since he does claim this, the universal principle of Right must be treated as a juridical principle that is conceived independently of the categorical imperative, constituting an 'original expression of rational autonomy'.[10] Guyer's immediate concern is to show that the universal principle of Right *is* derived from the categorical imperative and that it does constitute a morally grounded juridical principle. This concern engages him in an elaborate defence of the provability of the postulates of practical reason in the second *Critique*. Guyer's central claim against Willaschek is that Kant's postulates of practical reason are *not* incapable of proof – that they constitute, rather, a 'particular kind of proof'.[11] In a further step, Guyer applies the notion of practical provability gleaned from his analysis of the second *Critique* postulates to the postulate of Right: the idea is to show that this postulate, too, is capable at least of a practical proof.

I agree with Guyer that the postulate of Right is not posited arbitrarily or spontaneously, as Willaschek suggests: it is introduced by Kant in the course of a complicated argument designed to establish our a priori duty to enter into civil society with one another. Yet I am puzzled as to why Guyer thinks the postulate provable, or why he believes that it needs to be shown to be provable. Willaschek is right when he says that Kant regards the postulates of practical reason as incapable of proof – and indeed, the *Rechtslehre* repeatedly reminds its readers of the juridical postulate's non-provability. But Willaschek is wrong to suggest that the postulates' theoretical indemonstrability compromises their moral status, and Guyer is therefore also wrong to assume that the postulates' moral status depends on showing them to be, in some sense, provable.

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One might suspect the source of my disagreement with Guyer to be merely terminological. Guyer acknowledges that Kant deems the postulates of practical reason theoretically indemonstrable: Guyer only speaks of a special kind of proof – a practical proof – in relation to the postulates. While Kant considers the postulates of practical reason to be theoretically indemonstrable, he regards our appeal to them as justified on practical grounds. So by practical provability Guyer might mean nothing more than practical justifiability. To offer a justification of our practically necessary assent to a postulate's theoretical proposition is not to offer a theoretical proof of the truth of its propositional content. Perhaps, therefore, a practical proof is meant to amount to no more than a practical justification thus understood. A careful examination of Guyer's argument shows, however, that although he believes a practical proof of a postulate to fall short of a theoretical proof, he also thinks that practical provability takes him further than practical justifiability. Guyer does seem to want to offer a practical proof of the postulates' theoretical propositions, not merely a justification of our practically necessary assent to these propositions. The source of the disagreement between Guyer and myself is thus not merely terminological. While Guyer's notion of practical provability is weaker than that of theoretical provability, it is stronger than that of practical justifiability.

I believe Guyer's quest for practical provability in relation to Kant's practical postulates to be misguided. I also believe this quest to be connected with Guyer's more general concern to provide a non-metaphysical, non-transcendent reading of Kant's political philosophy. Yet when applied to the postulate of Right, Guyer's notion of practical provability encourages a misunderstanding of its systematic function in the context of Kant's property argument. It also encourages the wrong moral conclusions. For these reasons the dispute between Guyer and myself can be characterized as a dispute over the moral significance of the juridical postulate's theoretical indemonstrability. Guyer wants to show that in so far as the postulate of Right is capable of a practical proof, its theoretical indemonstrability is morally insignificant. Against this, I shall argue that an acknowledgement of the postulate's theoretical indemonstrability is morally significant for us in so far as it is precisely this acknowledgement which affords us insight into the unconditional (and hence unknowable) grounds of our juridical obligations towards one another.

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The remainder of the paper is structured as follows. The next section offers a brief introductory outline of the juridical postulate's place and function in part 1 of the *Rechtslehre* on 'Private Right'. Section 3 considers the question of the provability of Kant's postulates of practical reason in general. I distinguish between theoretical provability and practical provability, and between practical provability and practical justification. Section 4 argues that Guyer's analysis of the juridical postulate in terms of practical provability fails to offer an adequate reconstruction of its systematic function within Kant's property argument. I then go on to offer an alternative interpretation of the postulate's function, which is based on the notion of practical justifiability. Section 5 contrasts the normative implications, in relation to the postulate of Right, of Guyer's notion of practical provability with those of the notion of practical justifiability. I shall suggest that Guyer's non-metaphysical, non-transcendent approach is driven by an underlying quest for moral certainty regarding the grounds of our moral obligations, including our juridical obligations. But within a Kantian framework, the achievement of such moral certainty comes at a high price: it leaves us unable to account for the unconditional status of our moral obligations towards one another. Only a reading that acknowledges the transcendent dimension within Kant's political thinking – that acknowledges, in other words, the unknowability of the grounds of our juridical obligations – can account for the unconditional status of these obligations.

2. Introducing the Postulate of Practical Reason with Regard to Right

The principal concern of the *Rechtslehre* is often assumed to consist in a vindication of the universal principle of Right as that principle according to which, 'Any action is right if it can coexist with everyone's freedom in accordance with a universal law, or if on its maxim the power of choice of each can coexist with everyone's freedom in accordance with a universal law'.[12] However, I shall follow Bernd Ludwig's interpretation of the universal principle of Right as derived from the general version of the categorical imperative outlined in the *Groundwork* in conjunction with the concept of Right analysed in the Introduction to the

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Rechtslehre.[13] On this reading, the universal principle of Right articulates the categorical imperative as it applies to the domain of external freedom – freedom of choice and action in general. Since the *Critique of Practical Reason* has already vindicated the categorical imperative as a synthetic a priori principle of practical reason, a justification of the universal principle of Right cannot, on this reading, constitute the philosophical burden of the *Rechtslehre*. The principal argument is to be found not in the Introduction but in Part 1 of the text, which deals with 'acquired Right', that is, with the right to external objects of one's choice.

Kant distinguishes between two categories of Right: innate Right and acquired Right. Each person has an innate right to freedom, and has it merely in virtue of their humanity: the innate right to freedom thus covers a person's inner *suum*.[14] However, Kant denies that the category of acquired Right, which includes the right to possession of external objects of one's choice, can be derived from a person's innate right to freedom directly. This denial represents Kant's break with theories of natural property rights, a version of which he had himself endorsed in some of his earlier writings.[15] Kant's revised position in the *Rechtslehre* designates the concept of a property right as a moral concept, and therefore as a pure rational concept. As such, the concept of property rights specifies an 'intelligible'[16] relation between subjects with regard to external objects of their choice. In so far as property rights presuppose others' justified exclusion from use of external objects of a person's choice, a rightful claim to external possession presupposes others' acknowledgement of its rightfulness as the ground of its legitimacy. However, Kant's rejection of a natural or innate right to private property does not make him a consensus theorist on property rights. While a rightful claim to private property presupposes others' assent, others are required to assent to its rightfulness in accordance with a universally valid law. This is because the concept of external freedom itself implies a claim to external objects of one's choice.[17]

The relation between innate Right and acquired Right in the *Rechtslehre* is thus complex and unusual. Clearly, the innate right to freedom does not cover all aspects of a person's rightful exercise of their external freedom: it covers relations between subjects in their inter-subjective external dealings with one another, but not relations between subjects with regard to external objects of their

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respective choices. I shall now make a simplifying assumption. I shall assume that the universal principle of Right as it is stated in the introduction covers only persons' innate Right to freedom (their inner *suum*). It does not (yet) extend to relations of external mine and yours.[18] The extension of the universal principle of Right to the category of acquired Right then becomes the central problematic of part 1 of the *Rechtslehre*. According to Kant, the possibility of such an extension depends on the possibility of 'a synthetic *a priori* proposition of Right'.[19] Such a synthetic a priori proposition of Right, which includes what Kant calls the concept of intelligible possession, or of 'merely rightful possession',[20] is in need of a deduction. The task of chapter 1 of part 1 of the *Rechtslehre* is to supply such a deduction. It is in connection with the 'deduction of the concept of merely rightful possession' that Kant introduces the 'postulate of practical reason with regard to Right':

> It is possible for me to have any external object of my choice as mine, that is, a maxim by which, if it were to become a law, an object of my choice would in itself (objectively) have to belong to no one (*res nullius*) is contrary to Right.[21]

I shall not here examine the complicated relation between postulate and deduction.[22] Instead I shall focus only on the postulate of Right itself, which can be considered from two perspectives. First, one might examine the postulate in terms of its function in the context of Kant's property argument. Here one will find that the postulate functions as a justificatory proposition which, in declaring external possession to be possible, makes entrance into civil society obligatory. Kant says that the postulate of Right 'gives us an authorization that could not be got from mere concepts of Right as such' – the authorization, namely, to take into possession external objects of our choice.[23] But in so far as rightful possession is possible only under the presupposition of the concept of intelligible possession, which is itself possible only in the civil condition,[24] our authorized unilateral act of acquisition effectively obliges all others to join into civil society with us. The postulate is thus crucial not only to Kant's property argument but also to his account of political obligation in general.

However, it is also possible to consider the postulate of Right from a second perspective. One can consider it in terms of its status

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as a postulate of practical reason. Considered from that perspective, the postulate constitutes a practically necessary but theoretically indemonstrable proposition of practical reason. Kant says that 'there is no way of proving of itself' the postulate's proposition that external possession is possible.[25] He insists that 'the theoretical principles of external objects that are mine and yours get lost in the intelligible and represent no extension of knowledge'.[26] What is of interest in the present context is the conjunction of these two perspectives. Considered in conjunction they yield a characterization of the postulate of Right as a practically necessary justificatory proposition the grounds of which remain theoretically indemonstrable for us. This characterization of the postulate implies that our knowledge of the grounds of our juridical obligations towards one another is ultimately very limited: these grounds 'get lost in the intelligible'. We can acknowledge that we stand under obligations of Right towards one another, but we cannot ultimately know why this should be the case.

As already indicated above, Guyer's interpretation entails a denial of these conclusions. This is because Guyer substitutes an acknowledgement of the postulate's theoretical indemonstrability with a notion of its practical provability. The effect of this move is to render the postulate's theoretical indemonstrability practically insignificant. My aim in the remainder of this paper is to defend, against Guyer, the practical significance, for us, of the juridical postulate's theoretical indemonstrability. I shall contest Guyer's reading on systematic grounds (section 4) as well as on substantive grounds (section 5). However, before turning to an analysis of the postulate of Right itself, I shall set out, in the next section, the difference between practical provability, as conceived by Guyer, and practical justification, as I understand it, in relation to the postulates of practical reason in general.

3. Practical Proof or Practical Justification?

Kant's general conception of the postulates of practical reason is indebted to his view of mathematical postulates on the one hand and to his critique of rationalist metaphysics in the Transcendental Dialectic of the *Critique of Pure Reason* on the other hand. According to L. W. Beck, Kant regards a mathematical postulate as

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'an indemonstrable practical (i.e. technically practical) proposition giving a rule for the synthesis of an object in intuition, when the possibility of the object is known *a priori*'.[27] The postulate supplies the rule for a mathematical proof but remains indemonstrable itself. The notion of indemonstrability recurs in relation to the postulates of practical reason, where it refers, however, to a postulate's theoretical proposition. The *Critique of Practical Reason* defines a postulate of practical reason as 'a theoretical proposition which is not as such demonstrable, but which is an inseparable corollary of an *a priori* unconditionally valid practical law'.[28] More specifically, a postulate is a theoretical proposition, the truth content of which is neither provable nor refutable as such. From a theoretical perspective, postulates constitute infinite or problematic judgements for us: we are incapable, in principle, of judging their propositional contents to be either true or false.[29] However, since there is nothing contradictory about the logical form of these propositions, Kant thinks our appeal to them permissible within the domain of practical reason.[30]

Technically, postulates of practical reason help resolve a conflict or antinomy of practical reason. In the second *Critique*, they resolve the conflict between the moral ends of pure practical reason, which we acknowledge, and the limitation of our human sensibility, which constrain us with regard to our possible achievement of these ends.[31] Morally, the postulates' necessity is foreshadowed in Kant's references to the ideas of pure reason in the Transcendental Dialectic. While Kant there concludes that we are not entitled to claim objective knowledge of the existence of God or of the immortality of the soul, he acknowledges that the ideas of God and of immortality are practically indispensable to finite rational beings like us.[32] In the *Critique of Practical Reason* these ideas are articulated in the form of two postulates which supply the necessary theoretical presuppositions to the practical possibility of the idea of the highest good. As practically necessary theoretical propositions they represent not 'theoretical dogmas but presuppositions of necessarily practical import'. They 'do not extend speculative knowledge', although they do 'give objective reality to the Ideas of speculative reason'.[33] The postulates are thus 'corollaries of a need of reason',[34] which articulate an 'objectively insufficient' but 'subjectively sufficient' reasoned faith (*Vernunftglaube*) in the possible existence of the postulated objects. Considered from a

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theoretical perspective, the postulates are 'secrets',[35] because cognitively inaccessible to us. Yet from a practical perspective, their theoretical indemonstrability in no way detracts from the practical necessity of our subjective assent to them.

In these descriptions of the postulates of practical reason the emphasis on the feature of their theoretical indemonstrability is immediately tempered by assurances that the fact of their practical necessity makes up, in some sense, for their lack of theoretical provability. Kant's view seems to be that the practical necessity of assenting to the postulates' theoretical propositions in itself amounts to a justification of sorts of their validity for us. Though theoretically indemonstrable, the postulates are practically justifiable on the grounds of our practically necessary appeal to them. Kant's distinction between *Wissen* and *Glauben* provides an indication of what he takes to be the difference between theoretical proof and practical justification. According to Allen Wood,

> Kant defines 'knowledge' (*Wissen*) as the holding of a proposition that is sufficient both objectively and subjectively, whereas 'faith' or 'belief' (*Glaube*) is sufficient only subjectively, not objectively. But faith as much as knowledge is justified by reasons that 'hold for everyone'; in this respect it is distinguished from mere 'opinion' (*Meinung*), which is insufficient subjectively as well as objectively.[36]

In so far as a postulate is a *Vernunftglaube,* it is distinct from both knowledge and opinion. Although the subjectively valid reasons proffered in behalf of a postulate fall short of theoretical cognition, a postulate is not held idiosyncratically or capriciously but is based on a 'need of reason' which is valid for everyone. To say that a *Vernunftglaube* is 'subjectively valid' is thus not to say that holding it is a matter of individual caprice: it is to say that the reasons for such a belief, while not sufficient for a claim to knowledge, have practical warrant – they justify our assent to the postulates on practical grounds.

The objective of a practical justification differs, however, from that of a theoretical proof. This is best illustrated with reference to the postulate of the existence of God, in the case of which 'objectively sufficient reasons' would require an 'intellectual intuition' of God's existence.[37] Since we are incapable, in principle, of this kind of intuition, a theoretical proof of the postulate of the existence of God is unavailable to us. By contrast, a practical justification of the

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postulate of the existence of God appeals to subjectively sufficient, that is, practical reasons. These do not pertain to the truth of a postulate's theoretical proposition but to subjects' practical relation to that proposition. Hence a practical justification of the postulate of the existence of God shows only that we have sufficient practical reason, arising from a need of reason, for assenting to the proposition of God's existence. On this account, to assent, on practical grounds, to a postulate's theoretical proposition is not to raise any cognitive claims regarding its objective content. To believe, on practical grounds, in the existence of God is not to claim knowledge of God's existence. To the contrary, for Kant, the justifiability of practical faith in the existence of God presupposes an acknowledgement of the indemonstrability of the actuality of His existence. If a practically justified faith in the existence of God is to avoid slipping back into dogmatic assertion, it must not be conflated with knowledge of the actuality of God's existence.[38] Only an explicit recognition of the unanswerability, in principle, of the question of the actuality of God's existence ensures avoidance of this confusion. In this sense, practically justified assent to the postulate of the existence of God presupposes an acknowledgement of the proposition's theoretical indemonstrability. Strictly speaking, we should affirm only our justified faith in the possibility of God's existence, or our justified belief in the idea of His existence.

Guyer's account of practical provability can be distinguished from the notion of practical justifiability just sketched in that Guyer does raise certain cognitive claims in relation to the postulates' propositional contents. Guyer says of the postulates of practical reason that they are 'a matter for practical rather than theoretical cognition. Kant does not intend to imply that the principles admit of no proof at all, but rather to say something about the kind of proof of which they do admit'.[39] In calling postulates a matter for *practical* cognition Guyer invokes 'a kind of proof' that is weaker than a theoretical proof; however, his calling it a matter of *cognition* indicates that he is after something stronger than practical justification. This impression is confirmed by Guyer's subsequent definition of a postulate of practical reason as an 'existential proposition [that is] theoretical in form but connected with a moral law or command'.[40] More specifically, a postulate is 'a theoretical proposition asserting the existence of an object or state of affairs that is a condition of the possibility of the binding

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force of a moral command'.[41] Both times Guyer's formulations emphasize the objective (existential) content of the postulates' theoretical propositions; indeed, when he moves to consider the postulate of the existence of God, a practical proof of the *actuality* of God's *existence* turns out to be his principal concern. The postulate of the existence of God, Guyer says, arises in connection with the command to effect the practical realization of the Highest Good. What Guyer refers to as the 'real possibility' of the Highest Good depends upon the 'actual existence' of God as its ultimate condition.[42] Given that it is the object of a moral command, the practical realization of the Highest Good must be a real possibility. But if the actuality of God's existence is the ultimate condition of the real possibility of the Highest Good, the practical realization of which is itself the object of a binding moral command, we are entitled to infer the actuality of God's existence from our moral obligation to realize the Highest Good. We are entitled to 'affirm on moral grounds the theoretical proposition asserting the existence of God'.[43]

On this account, we infer the truth of the postulate's theoretical proposition – the actuality of God's existence – from the practical evidence we have in support of His existence. This is clearly different from a practical justification of the postulate of the existence of God. A practical justification does not seek to establish the truth of a postulate's propositional content. It does not, therefore, treat the command to effect the practical realization of the Highest Good as practical evidence from which to infer the actuality of God's existence. A practical justification holds only that, in so far as we are under a moral obligation to bring about the Highest Good, and in so far as the real possibility of the Highest Good does depend on the existence of God, we have sufficient practical reasons for assenting to the postulate's proposition of God's existence. But these reasons do not pertain to the truth of the postulate's propositional content. They pertain to the practical necessity of our assenting to that proposition.

I am not sure how cogent Guyer's account of practical provability in fact is in relation to the second *Critique* postulates. It is not clear to me that practical cognition of the actuality of God's existence can be distinguished from theoretical cognition of His existence. If we are entitled to claim knowledge of the actuality of God's existence in the domain of practical reason, I am not sure

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how we could simultaneously be obliged to deny such knowledge in the domain of theoretical reason. Nor is it clear to me how Guyer's account of the practical provability of the actuality of God's existence is supposed to fit in with his descriptions elsewhere of the postulates of practical reason as 'naturally occurring psychological illusions' and as 'products of human psychology that can be used by the moral will as naturally occurring means to the realisation of a morally necessary end'.[44] However, neither the cogency of Guyer's notion of practical provability nor its consistency with his general conception of the practical postulates are at issue here. At issue is only the difference between practical provability and practical justification in relation to the postulates' theoretical indemonstrability. Here we can conclude that whilst practical justification is conceptually distinct from theoretical provability, practical provability is modelled on theoretical provability. Furthermore, while the objective of a practical justification is to provide warrant for subjects' practically grounded assent to a postulate's theoretical proposition, the objective of a practical proof aims to provide evidence of the truth of a postulate's propositional content. Finally, while practical justifiability considers subjects' acknowledgement of a postulate's theoretical indemonstrability indispensable to their proper assessment of its practical significance for them, practical provability seeks to replace the non-available theoretical proof with the available practical proof. The next section considers these respective conceptions of practical provability and of practical justifiability in relation to the postulate of Right.

4. The Postulate of Right: Practical Proof or Practical Justification?

4.a. A practical proof of the postulate

Surprisingly, Guyer's forcefully stated defence of postulates' practical provability in the first half of his paper appears to have little, if any, bearing upon his subsequent analysis of the postulate of Right. This is not to say that practical provability plays no role in that analysis; however, it seems to take on a rather different meaning. This shift in the meaning of practical provability may be a consequence of Guyer's reading of the postulate of Right as

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containing a practical, not a theoretical proposition. His reading of it as a practical proposition is a consequence, in turn, of a misinterpretation of the relation between the juridical postulate and the universal principle of Right. In the first half of the present section I examine Guyer's practical proof of the postulate and shall say what I think is wrong with it. In the second half I turn to an analysis of the postulate in terms of the notion of practical justifiability.

To begin with, recall the postulate itself:

> It is possible for me to have any external object of my choice as mine, that is, a maxim by which, if it were to become a law, an object of my choice would *in itself* (objectively) have to *belong to no one* (*res nullius*) is contrary to Right.[45]

For present purposes it suffices to read the postulate as asserting that it is possible for me to have any external object of my choice as mine and that any law to the contrary would itself be contrary to Right. The question is a) what conception of external mine is being proposed here? and b) which is that law that would be 'contrary to Right' relative to external mine/yours relations? To answer the first part of the question we must return to the distinction between empirical possession and intelligible possession; the answer to the second part requires a further look at the universal principle of Right. Recall the above simplifying assumption, according to which the universal principle of Right extends, as it stands, only to persons' inner *suum:* it regulates the innate right to freedom of each. This innate right includes persons' bodily integrity but not a right to external possessions. As it stands, therefore, the universal principle of Right can recognize what Kant calls 'empirical possession' – the physical holding of an object.[46] On the conception of empirical possession, I can call an external object mine so long as I am physically attached to it, such as when I hold an apple in my hand, for example. Here my innate right to physical integrity extends to the apple: were someone to wrest the apple from my hand, they would be acting contrary to Right since their action would constitute an attack on my bodily integrity.[47] Strictly speaking, however, the universal principle of Right as it stands cannot extend to genuine relations of external mine and yours. It cannot cover a type of possession whereby the object could be said to be mine even when it is not physically attached to me. Such a conception of an object that is genuinely mine externally – mine apart from

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any physical attachment to myself – is possible only on a conception of intelligible possession. Here the connection between myself and the object of my choice would be non-physical, hence intelligible: it would be 'possession of an object without holding it'.[48]

It is clear that in so far as Kant thinks of rightful possession as presupposing the conception of intelligible possession, he conceives of property rights as specifying relations between subjects with regard to external objects of (someone's) choice. To possess an object without holding it is to be recognized as its rightful owner by others even when the object is 'apart from one'. Property rights cannot, therefore, simply constitute an extension of a person's innate right to freedom. Since the universal principle of Right as it stands covers only relations of innate Right, it cannot countenance property rights in the proper sense of the term, that is, as rights in objects apart from one. This is why the universal principle of Right requires an 'a priori extension'.[49] This extension is supplied by the postulate of Right. When the postulate asserts that it is possible for me to have any external object of my choice as mine, it must be taken to be presupposing the conception of intelligible possession. But in presupposing the conception of intelligible possession, the postulate is simultaneously proclaiming the universal principle of Right as it stands as deficient in relation to the question of external mine and yours.

Crucially, Guyer's analysis of the juridical postulate fails to acknowledge its problematic relation to the universal principle of Right. Guyer recognizes the distinction between innate Right and acquired Right: he emphasizes that while the former is analytic, the latter is based on a synthetic a priori proposition of Right. Despite this, Guyer fails to see that the universal principle of Right cannot as it stands endorse the category of acquired Right. Far from viewing the postulate as an extension of the universal principle of Right, Guyer believes that 'the so-called postulate of acquired Right must itself be derivable from the [universal] principle of Right'.[50]

Guyer observes, correctly, that the universal principle of Right constitutes the general law of external freedom. He points out, again correctly, that a person's use of their external freedom implies their claim to exclusive use of external objects of their choice. If exclusive use were not possible 'freedom would be

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depriving itself of the use of its choice with regard to an object of choice'.[51] From these two observations Guyer concludes that in so far as the universal principle of Right endorses the exercise of one's freedom so long as it is consistent with everyone else's freedom, and in so far as the exercise of one's freedom implies a claim to exclusive use of external objects of one's choice, a claim to external possession must be compatible with the equal exercise of their freedom by everyone else. The claim to external possessions must be consistent, in other words, with the universal principle of Right. This is corroborated by the juridical postulate's assertion that external possession is possible. Guyer views the postulate's assertion that external possession is possible as simply an entailment of the claim that under the universal principle of Right such possession must be possible. However, if the assertion that external possession is possible does indeed follow from the claim that it must be possible, it is difficult to see what precisely is left to be proven. Guyer's strategy of argumentation becomes very murky at this point. However, we can perhaps understand him as saying that the proof of the validity or truth of the postulate's assertion that external possession is possible consists in a demonstration of how or under what conditions this is possible. Guyer says that the proof of the postulate takes the form of 'an extended demonstration that the conditions for the possibility of rightful acquisition of property can be satisfied in our relations to physical objects and to each other in space and time'.[52] This proof of the practical realizability of external possession comprises of three elements: a demonstration of the 'moral possibility' of property rights, a demonstration of their 'theoretical possibility', and a demonstration of their 'practical necessity'.[53] I shall quickly run through each of these three steps.

Demonstration of the 'moral possibility' of property departs from the observation that the concept of property rights specifies a relation between subjects with regard to objects. From this Guyer infers that the moral possibility of property rights depends on the possibility of intersubjective assent. 'Since a property right restricts the freedom of others who might also have been able to use the object in question, such a right can be rightfully acquired only under conditions in which all could freely and rationally agree to the individual acquisition of the right.'[54] So here the moral possibility of external possession is said to depend on the possibility of free and rational

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assent by each. The possibility of such assent is represented, Guyer claims, in Kant's 'idea of a general united will'.[55] In accordance with this idea individuals can agree on the mutual securement of one another's claims to external possession. Kant's references to the idea of a general united will in accordance with which individuals can reach actual agreement regarding property rights thus constitutes *'proof' of the moral possibility of such rights.*

Proof of the 'theoretical possibility' of property rights 'appeals to the spatio-temporal features of our existence'.[56] Here Guyer has recourse to two possible modes of acquisition identified in chapter two of the *Rechtslehre:* 'original acquisition', which Guyer glosses as 'first appropriation of a property', and 'derivative acquisition', which results from 'a rightful transfer of the property from one owner to the other'.[57] While the latter is legitimate because based on mutual consent, the legitimation of original acquisition is more problematic. Even though it is 'not *derived* from what is another's',[58] the legitimacy of this type of acquisition, too, depends on others' possible assent. To get around this difficulty Guyer invokes Kant's 'idea of original possession in common',[59] which 'enables us to conceive of [original acquisition] as a transfer of an original rightful possession of the undivided commons to a rightful possession of a divided portion of the whole'.[60] So we can think of original acquisition in terms of a collective agreement to divide what was originally held in common. Nothing about the spatio-temporal conditions of our existence prevents us from proceeding in this manner: and this, it seems, constitutes sufficient proof of the theoretical possibility of external possession.

The first two aspects of the proof are intended to show that external possession is 'morally possible' in so far as everyone can freely agree to its institution under the idea of a general united will, and that it is 'theoretically possible' in so far as existing empirical conditions do not militate against the implementation of such a scheme. The third step shows that rightful external possession is 'morally necessary'. External possession is morally necessary, Guyer says, because 'the psychological and physical conditions of our existence are such that we inevitably will attempt to claim property rights in circumstances where that will bring us into conflict with others. [Given this] we have a duty to claim such rights with an eye to the civil condition and in turn to bring about that civil condition.'[61]

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A general difficulty with Guyer's approach lies in the fact that his 'extended demonstration' dilutes the systematic function of the postulate within the property argument. Guyer delivers not so much a proof of the postulate as a general reconstruction of Kant's property argument, which conflates aspects of Kant's theory of possession with elements from his theory of acquisition – components of the account of acquired Right which Kant himself keeps distinct. A related difficulty lies in Guyer's persistent tendency to empiricize Kant's argument – this is especially noticeable in relation to the second and third elements of his proof, which make the validity of the postulate's proposition dependent on spatio-temporal and psychological conditions. Finally, Guyer's excessive reliance on Kant's preliminary notes in favour of the published text itself is disconcerting not least because the postulate, as the 'theoretical novum' of the published text, is not discussed in the unpublished notes.[62] Remarkably, Guyer's proof strategy has no recourse at all to the postulate's proposition.

However, the principal difficulty with Guyer's strategy lies in the fact that his analysis of the relation between the universal principle of Right and unilateral claims to property renders redundant any appeal to a postulate. Recall the technical function of a postulate of practical reason mentioned in section 2 above. A postulate is meant to resolve a conflict of practical reason with itself by reconciling two otherwise contradictory propositions of practical reason. From this perspective, the problem with Guyer's account is that there simply is no conflict between innate Right and acquired Right; nor does Guyer mention the conflict between the claim to external possession on the one hand and the constraints of the universal principle of Right on the other hand. For Guyer, the postulate of Right is derivable from the universal principle of Right, but in that case the postulate takes us no further, in justificatory terms, than the universal principle of Right. Far from making possible the a priori extension of the universal principle of Right, the validity of the postulate becomes a function of its fit with that principle. Yet if the postulate is derivable from the universal principle of Right, it is not at all clear why the proposition in question should be characterized as a postulate of practical reason at all: as a theoretical proposition, which asserts what is (or must be taken to be) the case in order for something else to be morally possible. Of course, once the juridical postulate fails to be treated as a

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practically necessary theoretical proposition, it is difficult to see in what sense the proof just sketched constitutes an instance of Guyer's general notion of practical provability at all.

I want to demonstrate this latter difficulty in Guyer's approach with reference to the first and most important element of his proof, according to which the 'moral possibility' of the postulate's proposition depends on the free and rational agreement of all to a system of property rights under the idea of a general united will. The question is this: does the validity of the postulate's proposition that external possession is possible depend on the possibility of the idea of the general united will? Or is the validity of the postulate a necessary presupposition of the possibility of the idea of a general united will? On Guyer's earlier account of practical provability we should come away with the latter conclusion. However, the actual proof he delivers of the postulate's practical possibility entails the former conclusion. To see this, recall Guyer's characterization of a postulate of practical reason as 'a theoretical proposition asserting the existence of an object or state of affairs that is a condition of the possibility of the binding force of a moral command'.[63] According to Guyer's initial account of practical provability a practical proof infers the truth of a postulate's theoretical proposition from practical evidence advanced in support of its truth, where the practical evidence in question is the moral necessity of acting in accordance with a moral command. On this account the juridical postulate should be read as affirming a theoretical proposition, which constitutes the condition of the binding force of a moral command, where the binding force of that command functions as practical evidence for the truth of its necessary theoretical presupposition. Assuming that the moral command in question is entrance into civil society (the idea of a general united will), we should infer the truth of the juridical postulate's theoretical proposition, 'external possession is possible', from the fact that it constitutes the condition of the possibility of the idea of a general united will (entrance into civil society). Only if the postulate's theoretical proposition is true is the idea of a general united will practically realizable. Since, as the object of a moral command, this idea must be practically realizable the postulate's theoretical proposition must be true. This is not the argument Guyer in fact delivers: to the contrary, Guyer argues the other way around when he says that the 'moral possibility' of the postulate is conditional

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upon the possibility of free and rational agreement to its proposition under the idea of a general united will. According to this argument, the postulate does not constitute the condition of the practical realizability of the general united will. Instead the validity of the postulate's proposition that external possession is possible is said to be conditional upon the possibility of the idea of the general united will.

At this point one may object that, whatever the merits of Guyer's initial account of practical provability, it is hardly surprising that it fails to apply to the postulate of Right. This is because it is difficult to see in what sense that postulate can plausibly be construed as a theoretical proposition at all. For one thing, the juridical postulate's provenance does not lie in the ideas of pure reason discussed in the Transcendental Dialectic: it does not refer to or invoke any non-sensible object or state of affairs. Instead, it refers to subjects' possible acquisition of external objects, to maxims and to a law of practical reason. The juridical postulate's propositional content thus appears to be of a practical rather than a theoretical nature.[64] All this may indeed appear to be the case. On the other hand, the form of the postulate's proposition is assertoric, not imperatival: 'it is possible', not 'it must/ought to be possible'. Moreover, having stated the postulate's proposition that external possession is possible, Kant goes on to say that the 'theoretical principles' of mine/thine relations 'lose themselves in intelligible grounds'.[65] More specifically, 'we cannot show how intelligible possession is possible, and so how it is possible for something external to be mine or yours, but must infer it from the postulate of practical reason'.[66] The remarks suggest that some indemonstrable theoretical principles do underlie the postulate's proposition that external possession is possible. Rather than pass over Kant's admonishments about their theoretical indemonstrability without mention, we should ask what these theoretical principles might be. Once we do raise this question, the uniqueness of the postulate's justificatory function in relation to Kant's property argument will come into better focus. This is what I shall try to show in the following.

4.b. A practical justification of the postulate

As we have seen, Kant rejects the view according to which a rightful claim to external possession can be derived from the innate right to freedom of each. Property rights specify a relation between

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subjects with regard to external objects of possible choice; they thus presuppose the conception of intelligible possession. Since the conception of intelligible possession specifies an intelligible relation between persons, the right to external possession cannot be derived from the innate right of each. This implies that, according to the innate right of each, external possession is not possible. According to the innate right of each, all subjects have a right to empirical possession of all objects and none has a right to exclusive possession of any object. It follows that the unilateral acquisition and exclusive use of an object of choice would be contrary to the universal principle of Right as it stands (as it stands, the universal principle of Right covers, on my simplifying assumption, only relations of innate right). At the same time Kant accepts that a person's claim to external possessions is a corollary of their right to external freedom of choice and action: to exercise this right just *is* to lay claim to external objects of one's choice. If external possession were not possible, freedom would 'be depriving itself of the use of its choice with regard to an object of choice'.[67] The result is an antinomy of Right. On the one hand, exclusive possession of external cannot be rightful, as it would entail a unilateral curtailment of everyone else's innate right to freedom. On the other hand, exclusive possession of external objects must be rightful since without it external freedom is not possible.[68] It is this conflict of Right, which the postulate resolves by affirming that:

> It is possible for me to have any external object of my choice as mine, that is, a maxim by which, if it were to become a law, an object of choice would *in itself* (objectively) have to *belong to no one* (*res nullius*) is contrary to Right. [69]

On the face of it, this solution consists in an arbitrary assertion of the rightfulness of unilateral acquisition. Yet Kant claims that the postulate provides an a priori extension of the universal principle of Right. This implies that although external possession is not (yet) in accordance with the universal principle of Right as it stands, it is possible for this to become the case. In other words, the postulate introduces the possibility of rightful possession – possession in accordance with the universal principles of Right – by extending that principle to relations between subjects with regard to external objects. The postulate, Kant says,

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> can be called a permissive principle (*lex permissiva*) of practical reason, which gives us an authorisation that could not be got from mere concepts of Right as such, namely to put all others under an obligation, which they would not otherwise have, to refrain from using certain objects of our choice because we have been the first to take them into our possession. Reason wills that this hold as a principle, and it does this as *practical* reason, which extends itself *a priori* by this postulate of reason.[70]

According to this passage, I am authorized to put others under an obligation to refrain from using objects of my choice simply because 'I have been the first to take them into possession'. This authorization 'could not be got from mere concepts of Right'. The postulate's authorization thus appears to exceed the bounds of the universal principle of Right. This seems itself problematic. The universal principle of Right constitutes the external version of the categorical imperative: the categorical imperative is the supreme principle of morality. On what grounds could I possibly be authorized to violate a prohibition of the universal principle of Right as the external version of the supreme principle of morality?

Here Reinhard Brandt's influential analysis of the postulate as a permissive law (*lex permissiva*) proves illuminating. According to Brandt, the categorical imperative recognizes two kinds of imperatives in relation to action: morally required acts and morally prohibited acts. As a permissive law, the juridical postulate fits into neither class. How, then, is one to understand the relation between the postulate and the universal principle of Right? Brandt proposes to treat the *lex permissiva* of the *Rechtslehre* as a kind of *Ausnahmegesetz* – as an extraordinary law which mediates between a general prohibition and a general prescription. The postulate mediates between the prohibition against taking external objects of one's choice into one's exclusive possession – a prohibition grounded in the innate right of each – and the requirement to acknowledge the claims of each to exclusive possession of external objects of their choice – a requirement grounded in the concept of external freedom itself. The postulate extraordinarily authorizes the commission of an action that is morally prohibited (the unilateral restriction of the innate right to freedom of each) in order to make possible an action that is itself morally required (the acknowledgement of the rightfulness of external possession). However, this authorization is itself conditional upon subjects'

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entrance into the civil condition as the only condition within which property rights, as specifying an intelligible relation between subjects with regard to objects, are strictly speaking rightful.[71]

I have analysed and elaborated Brandt's interpretation of the postulate's justificatory function in relation to the problem of property rights in some detail elsewhere.[72] Here a summary exposition will have to suffice. Let us say that the postulate extraordinarily and provisionally authorizes my unilaterial acquisition of an external object of my choice. This act constitutes an incursion into the innate freedom of all others, who are now excluded from use of that object. Yet without such an act of unilateral acquisition freedom of choice and action itself would not be possible. Although the act of unilateral acquisition does constitute an incursion into the innate right to freedom of each, rightful external possession must be possible if external freedom of choice and action is to be possible. But rightful external possession specifies a relation between subjects with regard to external objects: rightful possession presupposes the conception of intelligible possession. Yet the conception of intelligible possession is possible only in the civil condition. If, therefore, rightful possession presupposes the conception of intelligible possession, and if intelligible possession is possible only in the civil condition, then my act of unilateral acquisition authorized by the postulate can count as rightful only in so far as it can be taken as the expression of my intention to enter with all others into the civil condition. But it must be taken as the expression of that intention, since the act could not otherwise count as rightful. If it could not count as rightful, I could not be authorized to put others under an obligation to refrain from using the objects of his choice. But where my act of unilateral acquisition does proceed in accordance with the postulate's authorization of it – where it does express the intention to enter with all others into the civil condition – all others are also required to assent to that intention. According to the postulate, therefore, external possession is possible because entrance into the civil condition is obligatory. The postulate wills subjects' entrance into the civil condition by provisionally authorizing an act of unilateral acquisition which, to qualify as rightful, must be interpreted as the expression of the intention to enter into the civil condition as that condition alone within which external possession can be rightful.

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Although Brandt's interpretation has recently come under attack by a number of interpreters according to whom Kant's use of the concept of a permissive law remains much closer to that of traditional natural law theory than Brandt allows, his account remains in my view one of the most systematic and compelling reconstructions of Kant's justificatory strategy.[73] However, my principal concern in the present context is to argue that if one does accept the postulate's justificatory function as an extraordinary, permissive law, one must take seriously the indemonstrability of the source of its authorization. For although the postulate resolves the conflict of practical reason in relation to Right by provisionally authorising an act of unilateral acquisition which in turn generates the obligation to enter into the civil condition with all others, Kant insists that 'there is no way of proving of itself the possibility of [merely rightful] possession or of having any insight into it. No one need be surprised that theoretical principles about external objects that are mine or yours get lost in the intelligible and represent no extension of knowledge'.[74] At this juncture we return to Guyer's difficulty in construing the postulate as a theoretical proposition. The difficulty lies in understanding what could possibly be meant by 'the theoretical principles' of external mine and yours. As I said, in contrast to the postulates of the existence of God and of the immortality of the soul the postulate of Right refers to no non-sensible object or idea of pure reason the existence of which it asserts on practical grounds. The juridical postulate is not, or does not appear to be, the expression of a knowledge-transcending *Vernunftglaube* (practical faith). Instead, it affirms the possibility of a particular juridical relation between subjects in space and time. Given this, the surprise is not so much that the theoretical principles of external mine and yours 'get lost in the intelligible' as that there should be any such theoretical principles at all.

The meaning of Kant's references to the postulate's indemonstrability may become clearer once the focus turns to the source of its authorization. Kant says that the postulate gives us an authorization, and he adds that it is reason itself, which wills the postulate. It thus appears to be reason itself, which constitutes the source of the authorization issued by the postulate. But what does it mean to say that 'reason' authorizes the acquisition of external objects of one's choice? In order to clarify what this may mean it will help to consider what it cannot mean. I said above that the postulate

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authorizes my unilateral acquisition of an external object of my choice as the expression of my intention to join with all others into the civil condition. This does not mean that I have any choice with regard to my intentions in this matter. It is not contingent that I raise a claim to external possession. Nor is it contingent that I commit an act of unilateral acquisition. I must raise the claim and must commit the act in virtue of my standing as a free agent: if I did not raise the claim/commit the act, external freedom itself would be impossible. Nor is it contingent that I have the intention to enter into the civil condition with all others: I must (be taken to) have that intention given that my act of unilateral acquisition expresses a claim to rightful possession, and given that rightful possession is possible only in the civil condition. Throughout, the postulate's authorization expresses the fact of moral compulsion. I could not choose not to commit the act and not to have the intention. But if I could not choose not to have that intention, I cannot be the authorizing source of that intention. Hence I am not the author of my obligation to enter civil society.

Who or what, then, is the authorizing authority? The authorizing authority is the idea of freedom. Kant says that no one need be surprised that the theoretical principles about external objects that are mine or yours get lost in the intelligible because 'no theoretical deduction can be given for the possibility of the concept of freedom on which they are based'.[75] The theoretical principles of external mine and yours are based on the idea of freedom. But the idea of freedom is itself a theoretically incomprehensible postulate of practical reason. Hence to say that my standing as free agent is itself the source of the postulate's authorization is not to say that I am the source of that authorization after all. I am not the source of my freedom: its source lies beyond the limits of my possible comprehension. Consider, in this respect, the postulate's extension of my juridical perspective: I raise a claim to external possession and find myself obligated to join into civil society with all others. This is more than I had bargained for when initially raising my claim. Yet, in obliging me to enter into the civil condition with all others, the postulate effects a qualitative change in relations among subjects, who now bear civic responsibilities towards one another.[76] It is reason, not the subjects themselves, which wills their entrance into civil society. Reason wills this as practical reason, that is, in accordance with the idea of freedom. Yet although we

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can acknowledge that we do, as beings who cannot but think of themselves as free, stand under obligations of Right towards one another, we have no insight at all into the theoretical grounds of our obligations. In so far as it derives from the idea of freedom itself, the fact of our juridical obligations towards one another is, as such, a theoretically incomprehensible 'fact of reason'.

5. The moral significance of the postulate's theoretical indemonstrability

Section 3 distinguished between practical provability and practical justification in relation to the postulates of practical reason in general. I suggested that while the latter seeks to offer practical warrant for subjects' practically necessary assent to a postulate's theoretical proposition, the former aims to provide practical evidence for the truth of its propositional content. Section 4 applied the distinction to the postulate of Right. In the second half of that section, I argued that a case can be made for the postulate's practical justifiability, which acknowledges the moral significance of its theoretical indemonstrability. I also argued, in the first half of section 4, that Guyer himself slips from claims about the practical provability of postulates' theoretical propositions to a practical proof of what he construes, in effect, as a practical proposition of Right. This slippage does not mean that there is no connection between Guyer's two divergent accounts of practical provability. In both cases, Guyer's principal concern is to reduce the threat he perceives the postulates' theoretical indemonstrability to pose to our sense of moral certainty regarding the grounds of our obligations. It is, I believe, this perceived threat which initially motivates Guyer's forceful response to Willaschek's denial of the juridical postulate's provability. It is also this quest for moral certainty which leads him to overlook the discontinuity between the two accounts of practical provability he provides. Thus, whatever the differences between the two proof strategies he offers, their shared concern is the elimination of the perceived potential of the postulates' theoretical indemonstrability to undermine our moral confidence. In this final section I want to suggest that the juridical postulate's theoretical indemonstrability poses no threat to our understanding of our standing as moral subjects. To the contrary, it

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may deepen that understanding. To this purpose, I want briefly to elaborate on the connection between the postulate of Right and the postulate of freedom.

Given its function as the ground of the possibility of the moral law Kant assigns the idea of freedom a special status compared to the other postulates of practical reason. Nonetheless, when he does speak of freedom as a postulate of practical reason, he emphasizes its theoretical indemonstrability. He also insists upon the practical significance of our acknowledgement of its theoretical indemonstrability. On the one hand, we can have as little theoretical insight into reason's capacity to 'frame its own order of ideas'[77] as we have into the possibility of reason's independence from the causality of nature. On the other hand, although 'we do not comprehend the practical unconditioned necessity of the supreme law of freedom, we do comprehend its incomprehensibility'.[78] When we do, we think of ourselves, in our 'practical intentions' (*in praktischer Absicht*), as participant members of an intelligible order of things. We then understand it to be our practical task to 'give to the world of the senses the form of an intelligible world'.[79]

Despite the moral significance which Kant himself obviously attaches to our practical comprehension of the theoretical incomprehensibility of our freedom as a postulate of pure practical reason, recent interpretations of Kant's moral philosophy have tended to treat this aspect of the Kantian idea of freedom as practically irrelevant. The emphasis has been on avoiding the noumenal dimension of Kant's practical philosophy by interpreting the idea of freedom, so far as possible, in strictly immanent, practical terms.[80] This now dominant interpretation of Kantian practical freedom has been sharply criticized by Jean Grondin for ignoring what he refers to as the 'contemplative character' of Kant's practical philosophy.[81] Grondin points to our experience of the subliminal character of the moral law, which Kant refers to in the famous *Beschluss* of the second *Critique*.[82] Our very insight into the incomprehensibility of the grounds of the possibility of the moral law, invokes in us a feeling of *Achtung* for the law, and that feeling, as one which follows upon the insight into the law's incomprehensible 'majesty', supplies the proper incentive to moral action. Yet *Achtung* for the moral law as the proper incentive for action in accordance with it would not be possible in the absence of our insight into the law's noumenal dimension. Indeed, and returning to the *Rechtslehre*, what is most striking about Guyer's

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reading of it is the impoverished account of the ends of Right he offers.

Although what Guyer refers to as his 'teleological' account of Kantian freedom differs from currently dominant, Rawlsian constructivist interpretations, he shares with the latter a concern to eclipse Kant's references to a noumenal dimension from it. Thus, according to Guyer, freedom constitutes 'the supreme value of morality' towards the empirical realization of which every rational being necessarily strives.[83] The 'intrinsic value of freedom' is said to be closely connected with its 'instrumental value' as a means to the attainment of human happiness. On the one hand, freedom is instrumentally valuable in 'putting us in control over the source of our happiness'. In enabling us to choose and to pursue our own goals and projects, freedom provides a 'more secure and certain foundation of our happiness than mere nature'.[84] On the other hand, there is also the 'special intrinsic happiness that we get from the idea of freedom itself'. This happiness is the 'pleasure we take in the thought that we are the *authors* of our happiness'.[85] Hence, 'the source of our special and deepest satisfaction in the exercise of our freedom is not our escape from the sensible world but the very fact of our unification of our desires and conduct *in* the sensible world, or our transformation of the sensible world *into* a rational world'.[86]

For Guyer, freedom is of supreme moral value in so far as it is both the condition for the maximal realization of worldly happiness and the source of the special contentment that comes from viewing oneself as the author of one's own fate. This conception of Kantian freedom as the condition of the realization of human happiness helps explain Guyer's reading of the juridical postulate in the *Rechtslehre*. For Guyer, Kant's property argument is an integral aspect of the practical realization of freedom understood as the achievement of maximal possible happiness for purposively rational beings. Since control over external objects of one's choice is a condition of individuals' pursuing their freely chosen and rationally purposive activities, it is 'rational for all affected parties to adopt a system of property rights'.[87] The attribution to individuals of a rationally necessary interest in establishing a system of property rights resolves the ambiguity noted earlier in relation to Guyer's treatment of the idea of the general united will. The postulate's moral validity was there said to be a function of

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individuals' possible endorsement of it under the idea of a general united will. While this move made the postulate's validity conditional upon the possibility of the idea of a general united will, it left the modality of that idea – its rational necessity – unexplained. Guyer's account of freedom resolves that puzzle. It now turns out that free and purposive beings have a necessary rational interest in acting in accordance with the idea of a general united will because they have a necessary rational interest in establishing a system of property rights as a condition of realizing their freedom and the happiness its realization affords them. For Guyer, therefore, '[Kant's] analysis of property makes the preservation of the liberty to acquire property the *fundamental* reason for the creation and maintenance of government.'[88] Yet, although it delivers a practical proof of sorts of the ultimate grounds of our juridical duties towards one another – these grounds lie in the quest for happiness – Guyer's reading yields a curiously restricted conception of Kant's philosophy of Right. This is so not just because in making the protection of property rights the fundamental reason for entrance into the civil condition Guyer ignores Kant's own claims regarding the ends of civil society:

> The concepts of the Right of a state and of a Right of nations lead inevitably to the Idea of a *Right for all nations* (*ius gentium*) or *cosmopolitan Right* (*ius cosmopoliticus*). So if the principle of outer freedom limited by law is lacking in any one of these three possible forms of rightful condition, the framework of all others is unavoidably undermined and must finally collapse.[89]

In the present context this quote is of interest primarily in so far as it indicates the unconditional nature of Kant's conception of our juridical duties towards one another: the end of Right is the gradual establishment of thoroughgoing, that is global, relations of Right among subjects. The establishment of such thoroughgoing relations of Right is, in other words, an end in itself. The restrictive character of Guyer's reading, by contrast, consists in its tendency to instrumentalize the concept of Right. We are said to have an interest in establishing relations of Right with one another because of some other interest of ours (happiness through freedom) we further in so doing. This reading precisely fails to capture the force of Kant's claim that entrance into the civil condition is an a priori obligation willed by reason and for the sake of reason. Admittedly,

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to say that entrance into the civil condition is willed by reason for the sake of reason is to issue a claim that is deeply opaque: it is not a claim which we can easily make sense of. But this does not warrant the conclusion that the claim is valid only so long as we can interpret it in a way that does make sense to us. We may not be able to make sense of it precisely because this sort of claim eschews instrumentalization: the claim may be constitutively opaque for finite rational beings like us. In other words, it may be the case that for a claim like this to be fully comprehensible to us, we are constrained to give it an instrumental explication. If this is so – if we are able to render the grounds of the concept of Right fully comprehensible to ourselves only at the cost of instrumentalizing it – any attempt to render it fully comprehensible will threaten to deprive Kant's political philosophy of its most arresting proposition: its view of the practical realization of relations of Right as an end in itself. If, for finite rational beings like us, any fully transparent proposition of practical reason unavoidably takes the form of an instrumental explication, such beings can preserve the unconditional character of morality only by acknowledging that some propositions of practical reason are not fully transparent to them – are constitutively opaque to them. At the same time it is their comprehension of that opacity – their comprehension of its incomprehensibility – which constitutes subjects' most powerful incentive to action in accordance with the moral law.

It is the advantage of the alternative interpretation of the juridical postulate here proposed that in preserving this insight into the constitutive opacity, for us, of the ultimate grounds of morality, it makes possible an appreciation of the unconditional character of the universal principle of Right. Recall the reflective effect of the postulate upon us: we raise a claim to external possession and find ourselves obligated to join into civil society. We had not anticipated this result. Yet in eliciting our recognition of the fact that we owe one another obligations of Right merely in virtue of our standing as free agents, the postulate deepens our juridical moral perspective. As beings who cannot but think of themselves as free, at least from a practical perspective, we must acknowledge our membership in an intelligible order of things. The establishment of thoroughgoing relations of Right as an end in itself then articulates, in practical terms, our capacity, in virtue of our freedom, 'to give the world of the senses, as sensuous nature (which concerns rational beings), the form of an intelligible world'.[90]

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Nothing in my interpretation renders the instrumental conception of Right impermissible: it only puts it into its proper perspective. In so far as finite rational beings' comprehension of the grounds of the concept of Right is unavoidably limited to an instrumental explication of these grounds, they may be able to effect the practical realization of relations of Right only by means of the instrumental conception: only by securing, through its actual institutionalization, the right to external possession of each. It may be that, for Kant, the gradual establishment of thoroughgoing relations of Right can only take the form, among finite rational beings, of a globally instituted system of property rights. But the means to the establishment of relations of Right must not be conflated with the ends of Right. Instituting relations of Right is not a means to securing property rights. Rather, establishing property rights among finite rational subjects is a means to establishing thoroughgoing relations of Right between them. Only an interpretation of the postulate of Right which takes seriously Kant's reminders regarding its theoretical indemonstrability, and our practical comprehension of its indemonstrability can preserve this insight by Kant of Right as an end in itself.[91]

This paper was written in 2003 in response to Paul Guyer's 'Kant's deduction in the principles of Right', in Mark Timmons (ed.), *Kant's Metaphysics of Morals: Interpretative Essays* (Oxford: Oxford University Press, 2002), pp. 23–64. After this paper was accepted for *Kantian Review* in 2004, Guyer's paper was republished in his *Kant's System of Nature and Freedom* (Oxford: Clarendon Press, 2005). References are given throughout to the 2002 version.

Notes

1 Kant, Refl. Nr 71717=XIX 263, quoted in Reiner Wimmer, *Kants Kritische Religionsphilsophie* (Berlin: de Gruyter, 1990), p.1.

2 *Rechtslehre* (*RL*) 6: 246. The following translations of Kant's works have been used: *The Metaphysics of Morals* (Part I, *The Metaphysical First Principles of Right* (here referred to as *Rechtslehre*)), trans. Mary Gregor (Cambridge: Cambridge University Press, 1991); *The Critique of Pure Reason* (*CPR*), trans. Norman Kemp Smith (London: Macmillan, 1933, second impression (1993 reprint); *Groundwork of the Metaphysics of Morals* (*GW*), trans. H. J. Paton (New York:

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Harper Torchbooks, 1964); *The Critique of Practical Reason* (*CprR*), trans. Lewis White Beck (New York: Macmillan, 1956, 1993, reprint); *Towards Perpetual Peace* (*PP*), in *Kant's Political Writings*, trans. H. B. Nisbet (Cambridge: Cambridge University Press, 1970). Volume and page references are to the Prussian Academy edition of Kant's collected works.

3 The 'spoilt' condition of the originally published edition of the *Rechtslehre* has been the subject of intense discussion. In 1929 Gerhard Buchda suggested the elimination of section 4–8 from §6 from the text, as their subject matter was irrelevant to the announced task of §6 of providing a deduction of the concept of intelligible possession. See Gerhard Buchda, *Das Privatrecht Kants. Ein Beitrag zur Geschichte und zum System des Naturrechts* (Diss. Jena, 1929). More recently, Bernd Ludwig has proposed more substantial revisions of the originally published text, including, most controversially, shifting the 'postulate of practical reason with regard to Right' from its original location in §2 to §6. See Immanuel Kant, *Metaphysische Anfangsgründe zur Rechtslehre*, ed. Bernd Ludwig (Hamburg: Felix Meiner Verlag, 1986). For Ludwig's defence of these revisions, see Bernd Ludwig, *Kants Rechtslehre* (Hamburg: Felix Meiner Verlag, 1988). For a sharp criticism of Ludwig's proposal, see Burkhard Tuschling, 'Das rechtliche Postulat der praktischen Vernunft: seine Stellung und Bedeutung in Kant's *Rechtslehre*', in H. Oberer and G. Seel (eds), *Kant. Analysen – Probleme – Kritik* (Königshausen und Neumann, 1988), pp. 273–90. More generally, scholarly work on the postulate of Right is more advanced in Germany than it is in the English-speaking world. Apart from Ludwig's work, the most influential single recent publication on the postulate is Reinhard Brandt's 'Das Erlaubnisgesetz, oder: Vernunft und Geschichte in Kants *Rechtslehre*', in Brandt (ed.), *Rechtsphilosophie der Aufklärung* (Berlin: de Gruyter, 1982), pp. 233–85. See also Wolfgang Kersting, *Wohlgeordnete Freiheit* (Frankfurt: Suhrkamp Verlag 1993) (original hardback edition published with de Gruyter, 1984) pp. 241–50. Amongst Anglo-American Kant scholars, the postulate is most extensively discussed by Leslie Mulholland in his *Kant's System of Rights* (New York: University of Cornell, 1991), pp. 243–57. See also my own analysis and reconstruction of the postulate of Right in Katrin Flikschuh, *Kant and Modern Political Philosophy* (Cambridge: Cambridge University Press, 2000), pp. 113–43.

4 I am thinking of the influential interpretations offered of Kant's practical philosophy by former students of John Rawls, such as, for example, Christine Korsgaard, *Creating the Kingdom of Ends* (Cambridge: Cambridge University Press, 1996); Barbara Herman, *The Practice of Moral Judgement* (Cambridge, MA: Harvard

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University Press, 1993); Thomas Hill, *Respect, Pluralism, and Justice: Kantian Perspectives* (Oxford: Oxford University Press, 2000).

5 See Jacqueline Mariña, 'Making sense of Kant's highest good', *Kant-Studien,* 91 (2000), 329–55; also R. Z. Friedman, 'The importance and function of Kant's highest good', *Journal of the History of Philosophy,* 22 (1984), 325–42. Both authors emphasize what John Silber has called the 'transcendent conception' of the Highest Good, though both attribute a meaning to this term which differs from Silber's use of it in 'Kant's conception of the highest good as immanent and transcendent', *The Philosophical Review,* 68 (1959), 460–92. For an influential reading that is unsympathetic both towards the postulates and towards the concept of transcendence more generally see L. W. Beck, *A Commentary on Kant's Critique of Practical Reason* (Chicago: University of Chicago Press, 1960), pp. 242–81.

6 My use of transcendence as 'acknowledged unknowability' is indebted to T. L. S. Sprigge's interpretation of speculative metaphysics in those terms. See his, 'Has speculative metaphysics a future?', *The Monist,* 81 (1998), 513–33.

7 Paul Guyer, 'Kant's deductions of the principles of Right', in Mark Timmons (ed.), *Kant's Metaphysics of Morals. Interpretative Essays* (New York: Oxford University Press, 2002), pp. 23–64.

8 See, for example, Guyer's papers on 'Kantian foundations for liberalism' and 'Life, liberty, and property: Rawls and Kant', in Guyer, *Kant on Freedom, Law, and Happiness* (Cambridge: Cambridge University Press), 2000.

9 *RL,* 6: 219.

10 Markus Willascheck, 'Why the Doctrine of Right does not belong in the Metaphysics of Morals', *Jahrbuch für Recht und Ethik* 5 (1997), 205–27 (223).

11 Guyer, 'Kant's deductions', 33.

12 *RL,* 6: 230.

13 Ludwig, *Analytischer Kommentar,* 92–101. See also Bernd Ludwig, 'Whence public right? The role of theoretical and practical reasoning in Kant's Doctrine of Right', in Timmons (ed.), *Kant's Metaphysics of Morals,* pp. 159–84. For an alternative argument regarding the relationship between the universal principle of Right and the categorical imperative, see Otfried Höffe, 'Kant's Principle of Justice as categorical imperative of law', in Y. Yovel (ed.), *Kant's Practical Philosophy Reconsidered* (Amsterdam: Kluwer Academic Publishers, 1989), pp. 149–67. See also Wolfgang Kersting, who speaks of a 'dual legislation' ('doppelte Gesetzgebung') in relation to the domains of law and ethics respectively in *Wohlgeordnete Freiheit,* 175–81.

14 Cf. *RL* 6: 238: 'There is only one innate right: freedom (independence

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from being constrained by another's choice) insofar as it can coexist with the freedom of every other in accordance with a universal law, is the only original right belonging to every man by virtue of his humanity.'

15 Cf. Reinhard Brandt, *Eigentumstheorien von Grotius bis Kant* (Stuttgart: Frommann-Holzboog Verlag, 1974), 167–76. At *RL*, 6: 268, 269 Kant comments that 'the first working, enclosing, or, in general, transforming of a piece of piece of land can furnish no title of acquisition to it'. The view that it does, 'which is so old and still so widespread' is due to the 'tacit prevalent deception of personifying things and of thinking of a right to things as being directly a right against them, as if someone could, by the work he expends upon them, put things under an obligation to serve him and no one else'. As Brandt points out, in 'Comments on the observations on the beautiful and the sublime', Kant himself defended a view according to which the right to external possessions can be derived from a person's power of control over their own body, including the work produced by that body.

16 *RL*, 6: 245, 246.

17 *RL*, 6: 246 'If it were not within my rightful power to make use of [an external object of my choice], then freedom would be depriving itself of the use of its choice with regard to an object of choice.'

18 This assumption is justified in so far as the moral authority of the universal principle of Right as it is stated in the introduction extends no further than that of the categorical imperative from which it is derived. Since the categorical imperative of the second *Critique* covers moral relations between subjects but not between subjects with regard to external objects, an additional justificatory argument is required, which extends the universal principle of Right to rightful property relations. This additional argument is supplied, as we shall see, by the postulate of Right.

19 *RL*, 6: 249.

20 *RL*, 6: 249.

21 *RL*, 6: 246.

22 See n. 3 for relevant references.

23 *RL*, 6: 247.

24 *RL*, 6: 255: 'It is possible to have something external as one's own only in a rightful condition, under an authority giving laws publicly, that is, in a civil condition.' Kant's claim should not be taken to mean that property rights are a matter of positive law, but should be interpreted in the light of Kant's view that rightful possession presupposes the conception of intelligible possession. The latter specifies a lawful relation between subjects with regard to objects, which can be realized only through entrance into civil society.

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25 *RL*, 6: 247.
26 *RL*, 6: 252.
27 L. W. Beck, *A Commentary*, p. 251.
28 *CprR*, 5: 123.
29 *CPR*, A 72/ B97.
30 According to Mary Zeldin, since a postulate 'does not express what ought to be, but what is or must be, it is a theoretical, not a practical proposition; but, because it is based on a given *moral* law, it is related to the employment of practical reason'. See Zeldin, 'Principles of reason, degrees of judgement, and Kant's argument for the existence of God', *The Monist*, 54 (1979), 285–301, (294).
31 Michael Albrecht, *Kants Antinomie der Praktischen Vernunft* (Hildesheim: Georg Olms Verlag, 1978). For Albrecht the postulates resolve the antinomy of practical reason, which arises from reason's search for the highest condition of everything that is conditioned. This interpretation of the postulates' systematic function differs from that of Allen Wood, for whom the postulates are required to solve the *absurdum practicum* argument. See Wood, *Kant's Moral Religion* (Ithaca, N.Y.: Cornell University Press, 1970).
32 *CPR*, A 642–668/B 671–697. In fact, the discussion in the first *Critique* largely confines itself to discussing the legitimate because regulative employment of ideas of reason in theoretical inquiries. However, the *Critique of Practical Reason* offers an analogous defence of their employment in the practical domain. See *CprR*, 5: 135–46.
33 *CprR*, 5: 132.
34 *WOT*, A317/318.
35 *Religion*, B206/207.
36 Allen Wood, 'Rational theology, moral faith, and religion' in Paul Guyer (ed.), *The Cambridge Companion to Kant* (Cambridge: Cambridge University Press, 1992), pp. 394–416 (401). Compare *CPR*, A 820–31/B 848–58.
37 Zeldin, 'Reason and judgement', 285: 'All knowledge, Kant argues, must be based on the forms of possible experience or deduced from premises known to be true: in the case of the existence of God, however, the former is impossible because God transcends experience, and the latter is impossible because the premises themselves, to be known to be true, would have to be grounded in possible experience, while, by the very nature of the question, possible experience has been excluded.'
38 *CPR*, A825/B853.
39 Guyer, 'Kant's deductions', p. 33.
40 Ibid., p. 36.
41 Ibid., p. 37.

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42 Although we have the necessary moral motivation to bring about the Highest Good, we lack 'the power to create the ideal conditions for its realisation'. Hence we cannot ourselves ensure the conduciveness of the sensible world to the practical realization of the Highest Good. Only God can do this. See Paul Guyer, 'From a practical point of view: Kant's conception of a postulate of pure practical reason', in Guyer, *Kant on Law, Freedom, and Happiness* (Cambridge: Cambridge University Press, 2000), pp. 333–72, at 345.

43 Guyer, 'Kant's deductions', p. 39. This reading seems to me to risk compromising Kant's philosophy of practical hope.

44 Guyer, 'Practical point of view', p. 336.

45 *RL*, 6: 246.

46 *RL*, 6: 246.

47 The example is Kant's own. Cf. *RL*, 6: 248.

48 *RL*, 6: 246.

49 *RL*, 6: 247.

50 Guyer, 'Kant's deductions', p. 60.

51 *RL*, 6: 246.

52 Guyer, 'Kant's deductions', p. 54.

53 Ibid.

54 Ibid., pp. 58–9.

55 *RL*, 6: 256.

56 Guyer, 'Kant's deductions, p. 61.

57 Ibid.

58 *RL*, 6: 258, emphasis added.

59 *RL*, 6: 262.

60 Guyer, 'Kant's deductions', pp. 60–1.

61 Ibid., p. 63.

62 Bernd Ludwig, 'Der Platz des rechtlichen Postulats der praktischen Vernunft innerhalb der Paragraphen 1–6 der Kantischen Rechtslehre', in Brandt (ed.), *Rechtsphilosophie der Aufklärung*, pp. 218–232, at 218.

63 Guyer, 'Kant's deductions', p. 37.

64 Wolfgang Kersting advances this objection against interpreting the postulate of Right as a postulate of pure practical reason. See *Wohlgeordnete Freiheit*, 247, n. 32. I respond to this objection in 'Ist das rechtliche Postulat ein Postulat der reinen praktischen Vernunft? Zum Endzweck der Rechtslehre Kants', *Jahrbuch für Recht und Ethik*, 12 (2004), 299–330.

65 *RL*, 6: 252.

66 *RL*, 6: 254–5.

67 *RL* 6: 246.

68 In §7, at *RL* 6: 255, Kant sketches such an antinomy of Right, when he says that 'rightfully practical reason is forced into a critique of itself in

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the concept of something external that is mine or yours, and this by an antinomy of propositions concerning the possibility of such a concept ... The thesis says: *it is possible* to have something external as mine, even though I am not in possession of it. The antithesis says: *it is not possible* to have something external as mine unless I am in possession of it. Solution: both propositions are true, the first if I understand, by the word possession, empirical possession (*possessio phaenomenon*), the second if I understand by it purely intelligible possession (*possessio noumenon*).' If Kant's statement of the antinomy of Right has received little attention in the literature, this may be because he does not actually mention it until after the deduction of the concept of merely intelligible possession – the key to the 'solution' – in §6. The statement of the antinomy in §7 thus has a 'retrospective' flavour to it. Nonetheless, the preliminary notes to the *Rechtslehre* show that the antinomy of Right preoccupied Kant for a considerable length of time, remaining unresolved until the introduction of the postulate of Right in the published text itself. For a detailed analysis of Kant's earlier notes on the antinomy, see Wolfgang Kersting, 'Freiheit und intelligibler Besitz: Kants Lehre vom Synthetischen Rechtssatz a priori', *Zeitschrift für Philosophie*, 6 (1981), 31–51.

69 *RL*, 6: 246.

70 *RL*, 6: 247.

71 Brandt, 'Das Erlaubnisgesetz', p. 244: 'Der systematische Ort des naturrechtlichen Erlaubnisgesetzes ergibt sich in einer Vermittlung von Gebot und Verbot: Es wird etwas "an sich" Verbotenes provisorisch erlaubt und damit geboten, den Rechtsanspruch der Verhinderung nicht wirksam werden zu lassen.' Brandt makes much of Kant's distinction between 'provisional Right' and 'peremptory Right' – a distinction also invoked in *Perpetual Peace* in connection with a discussion of the legal category of permissive laws as used in natural law theory. According to Kant it is sometimes permissible for a sovereign to refrain from implementing requisite legal reforms and to abide by existing positive laws that are strictly speaking unjust (contrary to natural law). Postponement of legal reform may be justified under conditions of political instability, or when the expected risks outweigh the benefits of implementing reforms at that point in time. Existing unjust positive laws then count as 'provisionally just' so long as it is the sovereign's firm intention to implement the necessary reforms at the earliest possible opportunity. This notion of the 'provisional' authorization of a law that is unjust but permissible clearly informs Brandt's analysis of the *lex permissiva* in the *Rechtslehre*, where the necessary commission of an injustice is justified with reference to the required inauguration of relations of peremptory Right made possible through that act of necessary injustice.

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72 Cf. *Kant and Modern Political Philosophy,* chapters 5 and 6.

73 See, for example, Joachim Hruschka, 'The permissive law of Practical Reason in Kant's Metaphysics of Morals', *Law and Philosophy,* 23 (2004), 45–72. See also Franz Hespe, 'Wohl dem, der im Besitze ist. Zur Eigentumsbegründung in Kants Rechtslehre' in D. Hüning, G. Stiening, U. Vogel (eds), *Societas Rationis. Festschrift für Burkhard Tuschling zum 65. Geburtstag* (Berlin: Duncker & Humblot Verlag, 2002).

74 *RL,* 6: 252.

75 *RL,* 6: 252.

76 I develop this line of thought in more detail in 'Ist das rechtliche Postulat ein Postulat der reinen praktischen Vernunft?', see n. 64.

77 *CPR,* A548/B576.

78 *GW,* 4: 463.

79 *CprR,* 5: 44.

80 See, for example, Christine Korsgaard, 'Morality as freedom', in Korsgaard, *Kingdom of Ends,* pp. 158–87. See also Andrews Reath, 'Legislating for a realm of ends: the social dimension of autonomy', in A. Reath. B. Herman and C. Korsgaard (eds), *Reclaiming the History of Ethics. Essays for John Rawls* (Cambridge: Cambridge University Press, 1997), pp. 214–40.

81 Jean Grondin, 'Zur Phänomenologie des moralischen "Gesetzes". Das kontemplative Motiv der Erhebung in Kants praktischer Metaphysik', *Kant-Studien,* 91 (2000), 385–94.

82 *CprR,* 5: 162.

83 Paul Guyer, 'Freedom as the inner value of the world', in Guyer, *Freedom, Law, Happiness,* pp. 96–128.

84 Ibid., p. 110.

85 Ibid., p.111.

86 Ibid., p. 113.

87 Paul Guyer, 'Kantian liberalism', in Guyer, *Freedom, Law, Happiness,* p. 239.

88 Paul Guyer, 'Life, liberty, and property', in Guyer, *Freedom, Law, Happiness,* p. 266, emphasis added.

89 *RL,* 6: 311. There is nothing in the *Rechtslehre* that approximates Guyer's account of the ends of Right. As Ludwig emphasizes, the text makes 'no reference to human desires, needs, or interests ... no reference to any rational pursuit of life or the constitution of a person as a source of individuality ... no reference to human nature in the sense of being prone to war' – and no reference, we may add, to the pursuit of human happiness. Cf. Ludwig, 'Whence public right?', in M. Timmons (ed.), *The Metaphysics of Morals,* pp. 159–83, at 171.

90 *CprR,* 5: 44.

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