

THE MATERIAL CONDITIONS OF FREEDOM

Though many believe we have a right to be free of conditions of extreme poverty wherein we lack basic resources required for subsistence, articulating the source and nature of such a right has presented a lasting and confounding challenge. Many different accounts of the source of such a right have been given. Some, for example, base a duty to support the poor on a concern for their welfare. Others argue that respecting the freedom of the poor involves ensuring that they have the capabilities to live good human lives. In giving any such account of a right to subsistence, scholars and advocates face considerable difficulty in convincingly arguing for a solid foundation for such a right. A charitable obligation to improve the welfare of others, for example, would seem to give rise to an ethical duty to help those in need, but not a right to demand this help. Persistent issues of this sort provide ample ground for skeptics to question whether there can be any real right to subsistence.

Here I offer a novel Kantian account of a duty to provide citizens, when possible, with what I will refer to as the material conditions of freedom: the basic resources required for unimpaired human agency. This duty is possessed by the state, understood as representing the general united will of all citizens of a given society. At first glance, Immanuel Kant's philosophy might be thought to be an unlikely source of a robust duty of right to provide for the poor. Kant's theory of right is centered on the innate right to freedom, and coercive action taken by the state is only justified when it is required to protect

freedom.^{1,2} Since improving the welfare of citizens can never be a legitimate ground for state action, Kant's theory is inconsistent with any right to subsistence based on a concern for the welfare of the poor.^{3,4} However, while welfare concerns cannot ground a Kantian duty to support the poor, I argue that the right to freedom can: choosing a system of ownership and exchange that generates extreme poverty when that poverty could be avoided violates the freedom of the very poor.

As I will argue, certain basic material resources are required for human agency. Further, societies choose to put in place or keep in place particular regimes of ownership and exchange and are responsible for the material consequences of this choice. Here, material consequences are understood as the relationships these regimes generate between individuals and material objects. If a regime of ownership and exchange generates extreme poverty, we are responsible for this material consequence of our choice. Since extreme poverty is understood here as a condition where the impoverished lack access to the basic resources required for agency, I conclude that putting in place a regime of ownership and exchange that generates extreme poverty violates the freedom of the very poor and cannot be permitted.

¹ In this paper, I provide citations to Kant's work referencing the volume and page number of the standard German work. I will refer to Kant's different works as follows:

LE = *Lectures on Ethics*, translated by Peter Heath, edited by Peter Heath and J. B. Schneewind. Cambridge: Cambridge University Press (1997). These are students' notes from Kant's courses in ethics.

MM = *The Metaphysics of Morals*, translated and edited by Mary Gregor, in *Practical Philosophy*, Cambridge: Cambridge University Press (1996).

TP = *On the Common Saying: That May be Correct in Theory, but it is of No Use in Practice*, translated and edited by Mary Gregor, in *Practical Philosophy*, Cambridge: Cambridge University Press (1996).

² MM 6:230-31.

³ MM 6:318. See also TP 8:282-283.

⁴ Notably, F.A. Hayek interprets Kant as holding that "juridical laws [must] abstract altogether from our ends, they are essentially negative and limiting principles which merely restrict our exercise of freedom," which in turn inspires Hayek's criticism of the welfare state. F. A. Hayek, *Law, Legislation and Liberty. ii. The Mirage of Social Justice*. Chicago: Chicago University Press (1976), 43.

This Kantian account offers a significant contribution to the discourse of subsistence rights. It provides a strong foundation for the right to basic resources: the right to freedom. In this way, this account is able to reconcile freedom with such a right, undermining the rhetoric of those who claim that respecting freedom precludes rights to basic resources. Furthermore, this account provides a concrete specification of who bears the duty corresponding to this right: if through our government, we, the citizens of a state, put in place a property and exchange system which generates extreme poverty when it could be avoided, in doing so we wrong those who are impoverished. This account also explains why extreme poverty is more than just an unfortunate and regrettable circumstance befalling the poor. We institute and maintain the economic and property systems that create extreme poverty, and when we do, we wrong the poor.

It is important to emphasize at the outset that the account offered here is a novel Kantian account. Kant himself provides an argument that the state is authorized to tax the wealthy to provide support for the poor and briefly comments at various other points on the injustice of poverty.⁵ My aim is not to reconstruct or interpret Kant's own views, a task many Kantians have previously undertaken.⁶ In addition, my account is compatible with alternative Kantian arguments for socioeconomic rights that have been developed and could be

⁵ Kant argues, in brief and somewhat obscure fashion, that the state is authorized to tax to support the poor. He asserts that since the general will has bound itself to a state to "maintain itself perpetually," the general will has given the state authority to "maintain those members of society who are unable to maintain themselves." MM 6:326. Kant then argues that the state has the right to constrain the wealthy to "provide the means of sustenance to those who are unable to provide for even their most necessary natural needs." MM 6:326. Taxation of the wealthy for this purpose is legitimate, since the wealthy "owe their existence" to the protection and care of the commonwealth. MM 6:326. For other brief comments on the injustice of poverty, see MM 6:454 and LE 27:432.

⁶ As Jeffrie Murphy notes, "it is very difficult to see what Kant is up to" in making his main argument for the state's authorization to tax to support the poor, and debate has persisted concerning its nature and proper interpretation. Jeffrie Murphy, *Kant: The Philosophy of Right*. London: Macmillan, 1970, 145. Some Kantians have provided enhanced interpretations of Kant's own argument. See, for example, Murphy, *Kant: The Philosophy of Right* 146; Mary Gregor, "Kant on Welfare Legislation," *Logos* 6 (1985): 49-59; and most recently, Arthur Ripstein, *Force and Freedom*. Cambridge: Harvard University Press (2009), 267-299.

developed in the future.⁷ My aim here is not to develop a full Kantian account of socioeconomic justice. Instead, it is only to provide one important piece of such an account.

I. KANT'S THEORY OF RIGHT

The foundation of Kant's theory of right is the one innate right to freedom: "[f]reedom (independence 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."⁸ I follow Arthur Ripstein in understanding the innate right to freedom as protecting "purposiveness—your capacity to choose the ends you will use your means to pursue."⁹ Our humanity consists in the ability to decide for ourselves what to do, and our right to freedom is the right that this ability be protected—that others be prohibited from exercising their choice in the external world in ways that conflict with our purposiveness.

The fundamental principle of Kant's theory of right, the universal principle of right, commands that the innate right to freedom be protected: "Any action is *right* if it can coexist with everyone's freedom in accordance with a universal law, or if on its maxim the freedom

⁷ See, for example, Allen Wood's fecund Fichte-inspired Kantian account. Allen Wood, *Kantian Ethics*. Cambridge: Cambridge University Press (2008), 193-205. See also, Alexander Kaufman, *Welfare in the Kantian State*. Oxford: Oxford University Press (1999); Sarah Williams Holtman, "Kantian Justice and Poverty Relief," *Kant-Studien* 95 (2004): 86-106; and Helga Varden, "Kant and Dependency Relations: Kant on the State's Right to Redistribute Resources to Protect the Rights of Dependents," *Dialogue* 45 (2006): 257-284, 274-275.

Notably, some have tried to justify welfare legislation by articulating a state duty of beneficence. See Onora O'Neill, *Faces of Hunger: An Essay on Poverty, Justice and Development*. London: Allen & Unwin 1986; Onora O'Neill, "The Great Maxims of Justice and Charity," in *Constructions of Reason*. Cambridge: Cambridge University Press 1989, 219-233; and Allen D. Rosen, "Justice and Social Welfare," in *Kant's Theory of Justice*. Ithaca: Cornell University Press (1993), 173-208.

Such beneficence-based considerations, however, cannot ground a duty of right. Ethical duties, like the duty of beneficence, cannot be coercively enforced. MM 6: 219. In order for an ethical duty to be fulfilled, the motive for the ethical action must be duty itself. Such a motive must be supplied internally and cannot be provided by coercion. As Kant writes, "[e]thical lawgiving (even if the duties might be external) is that which *cannot* be external; juridical lawgiving is that which can also be external." MM 6:220.

⁸ MM 6:237.

⁹ Ripstein, *Force and Freedom*, 34.

of choice of each can coexist with everyone's freedom in accordance with a universal law."¹⁰ Any action that does not violate the freedom of others is right and should be legally permitted.¹¹ All and only those actions that violate the freedom of others must be prohibited by the state.

In the first instance, the innate right to freedom protects the capacity to set ends itself—it protects agency. While the innate right to freedom does protect your body and your right to control your body, it first and foremost protects your capacity to set ends for yourself—your deliberative capacities and ability to decide for yourself what you will do.¹² Beyond protecting the mere capacity to set ends, the innate right to freedom protects the exercise of this capacity: so long as your actions do not violate the freedom of others, you can choose to do whatever you want to do. You can set your own ends and pursue them as you will. As Kant says, the innate right to freedom contains the right to be one's own master—to direct one's own will.¹³

Some actions destroy the capacity for self-determination and thereby violate the innate right to freedom. If I murder someone, I eliminate her capacity for self-determination. Many actions will inhibit the capacity for self-determination, thereby violating the innate right to freedom. If I drug someone, I can inhibit her ability to rationally decide for herself what she will do. So, both actions that destroy this capacity for choice and actions that inhibit this capacity for choice will violate the innate right to freedom. Beyond these cases of directly destroying or inhibiting agency, one can violate the innate right to freedom by either

¹⁰ MM 6:230.

¹¹ Of course, many actions will be right in this juridical sense and still be morally wrong. Their legal permissibility does not entail moral permissibility.

¹² As Leslie Mulholland puts it, the innate right to freedom involves an innate right to "personal freedom," which is "not a merely formal right, but a right to possess, and thus use, one's body and other faculties." Leslie A. Mulholland, *Kant's System of Rights*. New York: Columbia University Press (1990), 214. These "other faculties" are our mental faculties, including the ability to reason.

¹³ MM 6:238.

damaging another's physical and mental capacities or attempting to usurp control of them—one can, for example, injure or coerce another.¹⁴

In order for actions to violate the innate right to freedom, they must be freely chosen.¹⁵ The innate right to freedom governs relationships between agents' capacities to choose, and prohibits us from acting in ways that restrict others' freedom. Acts and happenings that are not the result of choice will not violate freedom, even if they do restrict agency. For example, if a tornado were to pick me up and whack someone on the head with me, the agency of the victim whose head was whacked would be restricted but her freedom would not be. Importantly, this is not to say that all actions that restrict the range of *options* available to an agent will violate that agent's innate right to freedom. Mere limitations as such are not violations of freedom.¹⁶

This Kantian idea of freedom is importantly different from classical liberal ideas of freedom as “negative liberty,” where one is free whenever one can do whatever one wants without interference from others, and one is unfree whenever one's actions are interfered with.¹⁷ With a Kantian conception, the right to freedom is not a right to direct my will however I please; instead, it is a right to direct my own will in the world *consistently with others' rights to do the same*. I am not free to direct the wills of others, and interference with my doing so does not constitute unfreedom. This Kantian idea of freedom is also importantly different

¹⁴ This distinction parallels Ripstein's distinction between usurpation and destruction of one's powers as the two ways of violating innate right. Ripstein, *Force and Freedom*, 43.

¹⁵ This is consistent with imputing to agents actions that are done with varying degrees of agency, including reckless actions, negligent actions, etc.

¹⁶ For more discussion of this issue, see Ripstein's effort to distinguish between actions that restrict an agent's choice and those that merely change the context in which she acts. Ripstein, *Force and Freedom*, esp. 48-51.

¹⁷ This conception of “negative liberty” was definitively characterized by Isaiah Berlin. As Berlin puts it, “I am normally said to be free to the degree to which no man or body of men interferes with my activity. Political liberty in this sense is simply the area within which a man can act unobstructed by others. If I am prevented by others from doing what I could otherwise do, I am to that degree unfree.” Isaiah Berlin, “Two Concepts of Liberty,” reprinted in *Liberty*, edited by Henry Hardy. Oxford: Oxford University Press (2002), 169.

from certain positive conceptions of freedom such as Amartya Sen's conception of well-being freedom, which is understood as "the freedom to achieve well-being."¹⁸ Kantian freedom involves a right to self-direction rather than a right to a certain quality of life. Kantian freedom is also somewhat different from conceptions of freedom as non-domination, although the conceptions are similar. While views of freedom as non-domination emphasize the "absence of mastery by others,"¹⁹ the Kantian idea of freedom emphasizes the right to be one's own master,²⁰ from which the right to be free from mastery by others derives.

Kant's focus on freedom might lead one to suspect that this system would justify a libertarian, night-watchman form of government. Since citizens' actions can only be restricted insofar as they conflict with freedom, no other ground can justify coercion. This liberal focus is reaffirmed by Kant's emphatic rejection of principles of welfare and happiness as grounds for law.²¹ Furthermore, he makes it clear that desires and even needs can provide no basis for law, at least in themselves; according to Kant, the concept of right "does not signify a relation of one's choice to the mere wish (hence also to the mere need) of the other, as in actions of beneficence or callousness, but only a relation to the other's *choice*."²² The state may only exercise its coercive authority and interfere with its citizens in

¹⁸ Amartya Sen, "Well-being, Agency and Freedom: The Dewey Lectures 1984," *Journal of Philosophy*, 82: 4 (1985), 169–221, 201.

¹⁹ Philip Pettit, *Republicanism: A Theory of Freedom and Government* (Oxford, 1997), 22. This idea of freedom as non-domination has also been developed explored by other proponents of republicanism. See Quentin Skinner, "The Republican Idea of Political Liberty," in Gisela Bock et. al. (eds.) *Machiavelli and Republicanism* (Oxford, 1990). See also Frederick Neuhouser's Rousseauian idea of freedom as non-domination developed in Frederick Neuhouser, *Rousseau's Critique of Inequality: Reconstructing the Second Discourse*. Cambridge: Cambridge University Press (2014).

²⁰ The innate right to freedom involves "a human being's quality of being *his own master (sui iurus)*." MM 6:238.

²¹ Kant asserts that "the well-being of a state must not be understood as the *welfare* of its citizens and their *happiness*; for happiness can perhaps come to them more easily and as they would like it to in a state of nature...or even under a despotic government." MM 6:318. See also TP 8:282-283.

²² MM 6:230.

order to secure the freedom of those citizens. An aim directly toward improving the lives of its citizens can never provide the state with a sufficient basis for law. Such a view seems necessarily opposed to any state duty to support the poor where such a duty is thought of as a duty to enhance the welfare of the poor.

A Kantian duty to provide the poor with access to the basic means of subsistence, then, cannot be based on the welfare of the poor. Since the role of the government is to secure citizens' freedom, if there is to be such a duty, it must be based on freedom. If it is, then taxation to fulfill this duty will be legitimate: since property rights must be consistent with freedom, private property rights must be contingent on the state's right to tax when freedom requires it.²³

In what follows, I will argue for such a freedom-based Kantian duty to secure for each citizen access to the material conditions of freedom. Again, the material conditions of freedom are those basic resources that are required for unimpaired human agency. Extreme poverty, understood as the lack of these basic resources, thus inhibits the purposiveness of the poor. This is straightforward, as the effects of extreme poverty are easy to observe. As mortal, embodied beings our survival and the adequate functioning of our agency depend on the continuing use and consumption of external material resources. Without sufficient access to food, water, air, shelter, and other basic resources,²⁴ we will either die or our ability to

²³ Kant asserts that taxation is legitimate when done to secure freedom. He makes this claim when arguing for a duty to support the poor, asserting that the sovereign has "the right to impose taxes on the people for its own preservation." MM 6:325-6. He also asserts such a right to tax when he argues that citizens must comply with the state's levy of a war tax on the state's judgment that this tax is indispensable. TP 8:297n.

²⁴ This list of basic needs is similar to that given by Abraham Maslow with his influential theory of a hierarchy of needs. He identifies these and other basic needs as physiological needs—those resources needed for our survival. See Abraham H. Maslow, *Toward a Psychology of Being, 3rd Edition*, New York: John Wiley & Sons (1968).

reason will be impaired.²⁵ If a person or group is responsible for another's extreme lack of material resources, then, they will violate that other's innate right to freedom. I argue that our societal decision to set up and maintain systems of ownership and exchange makes us responsible for conditions of extreme poverty generated by these systems when these conditions could be avoided. I conclude that since this decision undermines the purposiveness of those who lack the material conditions of freedom, it violates their innate right to freedom.

It is worth noting that I do not argue here that conditions of material deprivation can result in the establishment of relations of dependence or coercion that are inconsistent with right. Such arguments rely on considerations that go beyond the literal destruction and impairment of agency,²⁶ and so are beyond the scope of this paper. Still, these arguments are compatible with, and an important complement to, the arguments advanced here.

II. CHOOSING POVERTY

In this section, I argue that in deciding through our government to structure our property and economic systems in a way that generates conditions of extreme poverty, we violate the freedom of the very poor. First, I will give an account of how extreme poverty results from the decision to establish or maintain a property and economic system that

²⁵ This account presupposes that there is some baseline of normal reasoning, either for individuals or for humans in general, below which an individual's ability to reason can be considered impaired. I make no specific argument here as to what exactly this baseline is; it suffices for my argument that some such baseline is taken to exist. The existence of such a baseline prevents it from being the case that the government would have a perpetual duty to improve the conditions of human agency so that its citizens' ability to reason would be continually improved.

²⁶ In the case of coercion, though economic deprivation may put a great deal of psychological pressure on the poor to enter into certain agreements, psychological pressure alone does not constitute wrongful coercion. For instance, one may be in an extremely high-pressure situation where one has only one reasonable choice, such as when one has a serious illness with only one treatment. The pressure imposed by this situation does not make entering into legally valid agreements impossible. See Wertheimer, *Coercion* 63. While wage agreements entered into by the poor may be unacceptably coercive, the establishment of this claim requires further argument—if society is not independently obligated to alleviate conditions of poverty, then it is difficult to see why poverty would not just be seen as a morally unproblematic background condition.

creates it. Second, I will argue that this decision violates the freedom of the very poor, as it results in conditions that undermine their agency, as explained above. In order for a property and economic system to be consistent with citizens' freedom, that system must secure access to the basic resources for all citizens. So, citizens have a right to have access to these basic resources when it is possible for the government to provide access to them. I conclude by giving an account of the duty corresponding to this right: all citizens of a given society, who through the state create and maintain together the system of ownership and exchange, have a duty to structure the system of ownership and exchange so that it does not generate conditions where citizens lack access to basic resources.

Before proceeding, I emphasize that my argument here is meant to apply only to situations where sufficient material resources are available such that a society could choose to eliminate conditions of extreme poverty within their state. If adequate material resources are not available to eliminate poverty and the government cannot feasibly change this condition, then we have no choice but to select a regime of ownership that fails to provide access to the material conditions of agency. For example, if famine is so widespread that a given state lacks the resources to end this famine, the state simply cannot choose to end it. Such a regime would not violate the innate right to freedom of citizens living in poverty, as only choices can violate freedom.

i. Selecting a Regime of Ownership and Exchange

Each society must have a regime of ownership and exchange: a body of laws that specifies who owns what and how owners may transfer that which they own to others. Such a regime will specify the forms of relationships between individuals and external objects that others can be bound to respect. In addition, such a regime will specify which actions of

society as a whole or interactions between individuals or groups will rightfully result in the establishment of property rights—it will specify how property can be acquired.

The state, understood as embodying the general will of all citizens, must take itself to have the authority to institute and maintain a regime of ownership and exchange. Establishing laws that govern the use of objects in the entire state can only be done by the state collectively, embodying the general will of the people. Within the Kantian framework, all citizens are innately equal in virtue of the innate right to freedom. Ensuring that no citizen can bind others to more than they can in turn bind her precludes individuals unilaterally imposing obligations on others.²⁷ Furthermore, if we are to govern the use of objects, we must take ourselves to have the right to do so.²⁸ Since this legislation must be done by the state collectively, we must take ourselves to have collective control of all external objects that the state legislates with regard to. So, when we choose regimes of ownership and exchange, we are collectively responsible for this choice.

That we must take ourselves to have the authority to institute and maintain a regime of ownership and exchange does not entail, though, that society has an unlimited authority to put in place whatever regime of ownership and exchange it chooses. Instead, the choice must be compatible with external freedom.²⁹

²⁷ According to Kant, one person cannot impose obligations unilaterally on others. Instead, we can only be bound by an omnilateral will—the combined will of all: “For a unilateral will (and a bilateral but still *particular* will is still unilateral) cannot put everyone under an obligation that is in itself contingent; this requires a will that is *omnilateral*, that is united not contingently but a priori and therefore necessarily, and because of this is the only will that is lawgiving.” MM 6:263.

²⁸ Kant’s discussion of the sovereign as the supreme proprietor of the land provides a good model for understanding why this is so. MM 6:323-5. On this view, if we are to establish property rights that specify how land can rightfully be acquired and owned, then we must take ourselves to have the collective authority to control the use of the land we are legislating with regard to—we must take ourselves to collectively own that land, as having the right to control the use of an object is just to own that object.

²⁹ Some might argue that freedom requires a regime of laissez-faire capitalism and private ownership that would be incompatible with robust socioeconomic rights. As I argue elsewhere, though, although Kant himself may have emphasized private ownership, the innate structure of property

In specifying how we can establish rights to objects, the regime of ownership and exchange structures our relationships with one another with the result that certain material consequences follow from an agent's actions or her possession of certain characteristics.³⁰ In other words, the legal system of ownership and exchange generates rights to material goods (or denies rights to material goods) in response to members of that system performing (or failing to perform) certain actions or being in certain conditions. For example, a regime that allocates objects collectively might allocate certain goods to people who are deemed to be importantly contributing to the common good, and a capitalist regime might specify that people will gain rights to objects when they can offer others resources sufficient to convince those others to sell them those objects. A hybrid regime might operate on some combination of principles; for example, a regime might allow market transfer to govern the assignment of rights to objects contingent on the basic needs of citizens being met.

When we select a regime of ownership and exchange that results in extreme poverty, this extreme poverty is a material consequence that our property and economic system

rights does not necessitate private ownership of the form involved in a laissez-faire capitalist system of exchange. S.M. Love, *Communal Ownership and Kant's Theory of Right*, unpublished manuscript. One might think that under a market that is "unfree" or a property regime that is not exclusively private, projects that do not violate the rights of others would be precluded—that freedom would be arbitrarily and so wrongfully restricted. But allocating objects collectively does not in itself restrict the range of projects that can be pursued. Objects can be subjected to the same uses under such a system as they could under a "free" system; only the way one goes about securing the right to make use of an object will differ. An alternative system of ownership and exchange, then, can be compatible with Kantian freedom.

Many Kantians make similar arguments. See David James, "Independence and Property in Kant's *Rechtslehre*," *British Journal for the History of Philosophy*, 24:2 (2016) 302-322; Christine Korsgaard, "Taking the Law into Our Own Hands: Kant on the Right to Revolution," in *The Constitution of Agency: Essays on Practical Reason and Moral Psychology*. Oxford: Oxford University Press (2009), 238 fn 7; Louis-Philippe Hodgson, "Kant on Property Rights and the State," *Kantian Review* 15-1 (2010), 57-87, 62; Howard Williams, *Kant's Political Philosophy*. Oxford: Oxford University Press (1983), 193-4, and Mulholland, *Kant's System of Rights*, 294.

³⁰ In a similar vein, Liam Murphy and Thomas Nagel emphasize the conventionality of property rights, arguing that "individual citizens don't own anything except through laws that are enacted and enforced by the state." Liam Murphy and Thomas Nagel, *The Myth of Ownership: Taxes and Justice*. Oxford: Oxford University Press (2002), 176.

generates in response to people engaging in particular actions or patterns of behavior or people possessing certain characteristics. The system of ownership and exchange might generate these consequences in a seemingly autonomous manner. In such cases, this apparent self-regulation obscures societal responsibility for these consequences flowing from the choice to institute and maintain the property and economic system that generates them.

Societal responsibility for extreme poverty is most apparent if a regime of ownership and exchange is in place where society assigns such material consequences directly. Consider a straightforward case: a regime where all resources are allocated via collective decision-making where certain people are allocated no resources in virtue of their possessing a particular characteristic. Since all resources are under collective control, such people will have no way to access resources and will not survive.

More frequently, society's responsibility for extreme poverty is less visible. For example, we might institute a regime of ownership and exchange where it is possible but not necessary that certain people will lack access to basic resources. In such a case, we identify or allow another mechanism, such as the market, to identify particular characteristics and patterns of behavior, where people who have these characteristics or behave in these ways lack access to basic resources. While there need not be people who possess these characteristics or engage in these behaviors, if there are, they will lack access to basic resources.

In such cases, it is easy to ignore the original societal choice to institute the regime of ownership and exchange and to focus instead on the choices of individuals within the system that resulted in the system denying them access to basic resources. I will return to this issue below. For now, we must remind ourselves in these cases that we chose the system that generates extreme poverty, and we are responsible for the consequences it creates.

Furthermore, the choice to have an economic and property system that generates these conditions does not occur only when we establish a regime of ownership and exchange. Instead, this choice continually recurs as we continually enforce and maintain that regime. It is readily apparent in the United States, for example, that our system of ownership and exchange often blatantly results in extreme poverty. When we choose to keep this system in place, we choose to keep in place the consequences it generates, including extreme poverty.

ii. Extreme poverty as a violation of the innate right to freedom

I have argued that through our establishment and enforcement of a regime of ownership and exchange, we structure a system that generates particular material consequences in response to particular actions and conditions. Extreme poverty, understood as a lack of access to basic resources, is a material consequence that is generated by this system. The basic resources that individuals in extreme poverty lack access to are required for agency: if individuals lack access to sufficient basic resources, their ability to reason and deliberate will be impaired or destroyed. The choice to create and maintain a system that puts people in extreme poverty is a choice that violates their freedom: with this system, we create these conditions of extreme poverty.

While our property and economic system may not have been created with the primary goal of denying individuals access to basic resources, this is nonetheless what the system does, and we know it. While some might wish to dispute whether society could be accurately described as choosing to put people in poverty, this need not be the case in order for society's choice to be wrongful. At the very least, society can be described as negligent or reckless in instituting and maintaining a system that generates these conditions of extreme poverty. Consider the distinction between murder, where the killer has the intention to kill,

and involuntary manslaughter, where the unintentional killing results from recklessness or negligence: causing another's death can be wrongful without being committed with the explicit intention of murdering that person. Similarly, destroying or impairing the agency of the very poor can be wrongful without the action causing this damage being done with the direct intention of causing that damage. When we uphold our system of ownership and exchange, we create conditions of extreme poverty, undermining the agency of the very poor and thus violating their innate right to freedom.

So, citizens have a right to have access to the material conditions of freedom—they have a right to be free of conditions of extreme poverty when this poverty can be avoided. Society, through the state which represents the general united will of all citizens, has a corresponding duty to provide citizens with the access to the material conditions of freedom when it is possible to do so.

In order for the selection of a regime of ownership and exchange to be consistent with the innate right to freedom, then, that regime must provide access to these material conditions of freedom when possible. It is not immediately obvious, though, what constitutes providing access to these resources. For individuals who cannot work, the only way to provide them with access to these resources is to provide them directly. For those who can work, though, one might think that ensuring that each individual has an opportunity to earn a living wage constitutes sufficient access to the basic resources. Others might argue that all individuals, even those who can work, must be provided with the basic resources directly.

Such debates are largely beyond the scope of my argument here. For the sake of argument, I hold that at a minimum those who can work must be provided with the

opportunity to do so or be provided with the basic resources directly.³¹ Still, it is important to note that individuals must always have access to the basic resources, and so an adequate opportunity to work must always be present and must not be contingent on the possession of particular characteristics. An adequate opportunity to work must be more than the mere possibility that one could gain employment if she were able to change in certain ways or if circumstances were to become more favorable. Furthermore, our obligation to secure work is not diminished when an individual would have had the opportunity to work now had she done things differently in the past. If an individual does not currently have the opportunity to work, then she does not have access to the basic resources. To deny her access to the basic resources violates her innate right to freedom.

iii. Clarifying the Nature of the Duty

Since we as a society are responsible for instituting and maintaining a property and economic system that generates extreme poverty, it is we as a society who wrong the extremely poor when we do so. The state, representing the general united will of all citizens, has a duty not to put in place or maintain a system that creates these conditions. If a system that generates extreme poverty is in place, then the state and all citizens of the state have the obligation, when possible, either to replace that system or to change it so that it no longer generates extreme poverty.³² If a system generates extreme poverty when it could avoid doing so, then that system is unjust and must be changed.³³ Those who make the laws must

³¹ Certainly, good philosophical arguments can be made for a universal basic income, though such arguments are beyond the scope of this piece. For an enlightening vision of a “postwork” society, see Kathi Weeks, *The Problem with Work: Feminism, Marxism, Antiwork Politics, and Postwork Imaginaries*. Durham: Duke University Press (2010).

³² I do not mean to claim here that states must ensure that all individuals actually have all of the basic resources they need for unimpaired agency. It may be rightful, for example, for individuals with access to the basic resources to refuse those resources.

³³ Imagine, by way of analogy, a situation where a state has a massively unjust criminal justice system (which, in the United States, does not require much imagination). The citizens of that state would

change the laws, and we bear general societal responsibility for making this happen. This general duty of all citizens does not devolve into a duty of charity that falls upon individual citizens, although a duty of beneficence exists independently within a Kantian system.³⁴ This duty is a general societal duty, and it can only be fulfilled through the changing of the legal structures that generate conditions of extreme poverty.

This account, then, gives a clear picture of who bears the duty, in the first instance, to eradicate avoidable poverty within a given state, a task that has been notoriously difficult to complete in discussions of subsistence rights. Kant himself runs into this difficulty, as he characterizes extreme poverty as a “general injustice,” which results not from any particular wrong by an assignable individual (from no particular injustice), but through the general conditions of society.³⁵ ³⁶ On Kant’s picture, the impoverished person is wronged by general societal conditions, despite those conditions seeming to result from, as Allen Wood puts it, “a series of economic transactions, none of which in particular involves a violation of anyone’s right.”³⁷ My Kantian view transforms this general injustice from a wrong that can be assigned to no one to a wrong that is properly attributed to the state representing the general united will of all citizens. In explaining that we wrong the impoverished in establishing and maintaining the legal regimes that create poverty, this view resolves the mystery of how a poor individual can be wronged even if all of the actors in a given society

bear the general responsibility of changing that system, and so the lawmakers and voters of that state would have the duty to change it.

³⁴ MM 6:220.

³⁵ As Kant asserts, “one can participate in the general injustice even if one does no injustice according to the civil laws and institutions. Now if one shows beneficence to a wretch, then one has not given him anything gratuitously, but has given him only what one had earlier helped to take from him through the general injustice.” LE 27:416. See also MM 6:454.

³⁶ See Allen Wood’s discussion of poverty as a general injustice. Wood, *The Free Development of Each*, 83-89.

³⁷ Wood, *The Free Development of Each*, 85.

are complying with that state's positive laws. The state has a duty to respect the innate right to freedom—the human rights—of its citizens.

Another important feature of this account is that it does *not* attribute responsibility for poverty within a state to that state when that poverty cannot be avoided, as citizens are not wronged when the poverty they face is not the result of choice. This sort of explanation is much more difficult to give on an account where an individual has a basic right to be free from extreme poverty. A view that holds that an individual is wronged simply by being in a condition of poverty will seem to run afoul of ought implies can in those instances where this poverty cannot be avoided, or else have no one at all to assign that wrong to.

Finally, despite its emphasis on the responsibility of citizens of a state for conditions of poverty within that state, this view still leaves room for global responsibility or responsibility of those who are better off in the Global North for conditions of poverty in the Global South. On this account, responsibility for conditions of extreme poverty flows from membership in law and policy-making institutions. Just as citizens are responsible for the conditions of extreme poverty made possible in their state by their systems of ownership and exchange, so members of global institutions become responsible for the conditions of poverty that result from their policies and the structures they put in place, even if that poverty occurs in a different state.³⁸

³⁸ Something, then, like Thomas Pogge's institutional account of responsibility for poverty in the Global South might be a natural extension of the state-focused Kantian view developed here. Thomas Pogge, *World Poverty and Human Rights*, 2nd ed., Cambridge: Polity Press (2008). But again, Kant's theory of right has more to offer here. On Pogge's view, states have no obligation to enter into new global institutions. Pogge argues that his "minimal standard of justice does not require us to create an institutional order with people whose human rights are unfulfilled." Thomas Pogge, "Severe Poverty as a Violation of Negative Duties," *Ethics and International Affairs* 19: 55-83, 60.

In contrast, according to Kant, there is an unconditional obligation to form a world republic. As Kant argues, without a world government, states exist in a state of nature with one another—in "a lawless state of savagery." Immanuel Kant, "Idea for a Universal History with a Cosmopolitan Purpose," in *Political Writings*, H. B. Nisbet (trans.), Hans Reiss (ed.), 2nd ed., Cambridge: Cambridge University Press (1970), 41–53, 47. By existing together in a state of nature, we do each other and

III. OBJECTIONS

I have argued that in putting in place a regime of ownership and exchange that generates conditions of extreme poverty within our state, we violate the innate right to freedom of those who are impoverished. This conclusion might seem to be in tension with some basic ideas it is easy to take for granted in societies like the United States. Here, I will first respond to the objection that this argument fails to account for the responsibility of the poor in bringing about their own poverty through the choices they make. I will then respond to the objection that my argument leads to unacceptable conclusions, as it is inconsistent with taking risks like those we take when we permit citizens to drive.

i. The Choices of the Poor

One might argue that the argument offered here fails to account for the responsibility of the very poor in bringing about their poverty through their own actions. According to this argument, if the poor had done certain things differently (for example, if they had worked harder, worked smarter, or become better qualified), they could have avoided being poor. The poor are not forbidden from working; they are unqualified for employment because of the choices that they have made. If they had acted differently, they could have possessed characteristics adequate to secure employment. So, since their condition is the result of their choice, they are responsible for the material deprivation that results from their unemployment. As such, according to this objection, it would be inappropriate to hold society responsible for their lack of basic resources.

ourselves wrong in the “highest degree,” as in doing so we “remain in a condition that is not rightful,” as rights are not settled and not secured. MM 6:307-308. So, we ought to leave this “state of nature among nations” and enter into a federation of states. MM 6:350. Such an obligation to enter into a global federation gives the Global North an obligation to establish institutional relationships that would hold them accountable to the Global South for the poverty their policies create there.

Rhetoric of this sort has a long history in the United States and is still prevalent.³⁹ This objection, though, is fundamentally flawed: it takes the background conditions in which these actions take place for granted. Even if the poor are responsible for the actions that they perform within an economic system, this responsibility does not entail responsibility for the material consequences that we as a society have assigned to follow from those actions. As argued above, when we establish and enforce a regime of ownership and exchange, we assign the material consequences to follow from actions, conditions, and patterns of behavior. Since it is this choice that creates these conditions of extreme deprivation, it is we who are collectively responsible for these conditions.

It is often implicit in the view that the poor are responsible for their poverty that poverty will naturally result from either certain choices that individuals make or simply from misfortune. And since on this view poverty is a natural effect of these causes, we as a society cannot be held responsible for it. If, in a freak accident, lightning strikes a tree and it falls on someone, society cannot be held responsible for the natural destruction of this person's agency. Similarly, on this view, society cannot be held responsible for the impairment or destruction of an individual's agency due to conditions of extreme poverty, as this poverty is simply a natural consequence of that individual's actions, personal characteristics, and misfortune.

According to this argument, the capitalist system is the natural way for society to be organized, as within this system individuals get what they work for and so deserve what they

³⁹ This rhetoric has also led to an ineffective focus on reforming the behavior of the poor rather than reforming societal institutions as a strategy for poverty reduction. Alice O'Connor traces the history of this rhetoric and its impact in her enlightening work: Alice O'Connor, *Poverty Knowledge: Social Science, Social Policy, and the Poor in Twentieth Century U.S. History*, Princeton: Princeton University Press (2001).

get.⁴⁰ So, poverty is understood as a natural consequence of certain conditions and actions.⁴¹ According to this view, just as in a state of nature minimal attempts to obtain food for oneself will likely be rewarded with starvation, so too do such consequences naturally follow within a capitalist system.

Contrary to this view, our relationship to the material resources governed by our state is necessarily one that we as a society construct. We are not in a state of nature and have no obligation to preserve any dynamic, such as the survival of the fittest, that might be thought to exist there. Again, we establish and enforce the system of ownership and exchange that assigns the material consequences for actions, conditions, and patterns of behavior. If extreme poverty results, this is a result of our choice rather than any natural dynamic. We create the system, and we are responsible for the consequences it generates.

Consider, by way of analogy, the criminal justice system. Our criminal laws specify that certain actions are crimes and specify punishments for those crimes, while the workings of the criminal justice system mete out punishments in particular cases. While individuals are responsible for the crimes that they commit, it is we who are responsible for punishing them. An individual's punishment does not naturally follow from her commission of a crime—instead, it follows as a matter of law and through the workings of the criminal justice system. So, for any crime, we can always question whether the punishment given and the system that dispenses it are just.

⁴⁰ As Murphy and Nagel point out, “the unreflective ideas that we have unqualified moral entitlement to what we earn in the market and that higher market returns are in some sense deserved as a reward arise naturally within the everyday outlook of participants in a capitalist economy.” Murphy and Nagel, *The Myth of Ownership*, 36.

⁴¹ As Wood puts it, “[t]hose who are comfortable, resigned, afraid of change, afraid of freedom, are persuaded by the formalism of ‘the free market’ that the wealth people have is always something they have earned, and that whatever hardships or impoverishment people incur they must deserve.” Wood, *The Free Development of Each*, 312.

Analogously, our system of ownership and exchange is also a body of law that generates consequences for certain actions. While individuals are responsible for their actions, they are not responsible for material consequences that this system generates in response to those actions. For any action, we can question whether the material consequences that follow from it and the system that generates those consequences are just. And in the case of conditions of extreme poverty where individuals are denied access to the basic resources required for agency, these material consequences are not just, as they destroy or impair the agency of the extremely poor.⁴²

Even in the cases of natural disasters and disabilities, the material consequences faced by individuals after such natural occurrences are still consequences that we as a society put in place through our regime of ownership and exchange. In the case of a natural disaster, the disaster itself is of course natural. But so long as society has the resources to prevent the impoverishment of those whose possessions are destroyed by this disaster, no impoverishment need result from it. If it does, it is because we have put in place a system that denies access to basic resources in these circumstances. In the case of disabled citizens, even if their disabilities would make procuring basic resources difficult in a society like today's United States, poverty is not a natural consequence of this disability.⁴³ We construct citizens' relationships with material goods, and given sufficient resources, we can choose whether or not to put in place a property and economic system that secures all citizens'

⁴² Just as some hold that punishment can be morally deserved, some might argue that the denial of access to basic resources can be morally deserved. Much further argument would be required to establish such a claim. As I have argued throughout this work, securing access to the basic resources when it is possible to do so is universally required by the innate right to freedom.

⁴³ See Elizabeth Barnes' illuminating account of disability, where she argues that "[h]aving a disability is something that makes you different, but not something that by itself makes you worse off because of that difference." Elizabeth Barnes, *The Minority Body: A Theory of Disability*, Oxford: Oxford University Press (2016), 78.

access to basic resources. If we choose not to provide the disabled with basic resources, their lack results from our choice, not nature.

ii. Taking Risks

One might object to my argument here on the grounds that my reasoning leads to unacceptable conclusions. According to this objection, we establish a system of ownership and exchange that creates a risk of poverty to obtain desirable effects that follow from this system. We risk the impairment and destruction of our agency for the sake of these effects. Taking risks to achieve benefits is something we do all the time. For example, we have a traffic system where individuals are allowed to drive automobiles, an activity that risks the destruction and impairment of agency of drivers and non-drivers alike. If we cannot risk extreme poverty, it seems that we cannot risk driving either, which is intuitively unacceptable.

Superficially, these cases appear similar. In both cases, we as a society choose to risk certain individual and societal negative consequences for the sake of individual and societal positive benefits. In the case of driving, we gain convenience and efficiency; in the case of extreme poverty, one might think that we gain the potential for great individual wealth or greater societal economic productivity. Let us assume for the sake of argument that there is no important disanalogy in the importance of the benefits in question. Similarly, the difference between the cases is not the severity or importance of the risk in question: in both cases, the most severe consequences are at risk—death and injury.

Instead, the key difference lies in the nature of the systems in question. In the driving case, a system is put in place to control a natural risk. As embodied beings who are subject to physical injury, when we move around in the world there is always the chance that we will collide in ways that will result in injury or death. These consequences naturally follow from

our actions—if we collide, our injuries follow directly from our collision. Our laws governing our ambulation in the world specify the level of risk we as a society are willing to take in order to get around.⁴⁴

In the case of risking extreme poverty, however, the risk in question is artificial: it is an avoidable risk that we are responsible for creating. While death and impairment do naturally result from the lack of basic resources, the lack of basic resources itself does not naturally result from any action, characteristic, or pattern of behavior. Again, when we establish and enforce such a system, we make it the case that particular material consequences follow from particular actions and conditions. So long as conditions of extreme poverty are avoidable, when we institute and enforce a system that makes these conditions possible we create the risk that this possibility will obtain.

Again, if we accept the naturalization of capitalism, the risk of extreme poverty can appear to be a natural risk. On this view, if you do not work hard or effectively enough, you will naturally lack access to the resources required for agency. Contrary to this rhetoric, though, material consequences do not follow naturally from our actions and conditions. Instead, these material consequences must be instituted by society.⁴⁵ When an individual is in a condition of extreme poverty, it is the enforcement of property laws and not a natural lack of resources that is responsible for her condition. When we deny such individuals available

⁴⁴ As technology becomes more sophisticated (for example, as self-driving cars become a reality) one might think that this natural risk becomes eliminable. If this is so, permitting driving might become more problematic.

⁴⁵ The case of instituting a system of ownership and exchange is less like the driving case and more like a case of creating a contract where your agency will be destroyed if you fail to live up to one of the terms of the contract. Such a contract is clearly unenforceable within a Kantian system—no one has a right to kill you against your will even if you had previously tried to give that person the authority to do so: the duty of rightful honor precludes you from making yourself a mere means in this way. MM 6:326. Even if we were all to agree that we wanted to take a chance on a capitalist system with a risk of extreme poverty, the system that resulted would still be unjust—we cannot be forced to starve to death even if we have previously agreed that we would.

public resources and when we prosecute subsistence crimes we make it the case that they are at risk of death or impaired agency. If we do not secure for each citizen genuine access to the basic resources, we create the risk that they will fall into conditions of extreme poverty. And when they do fall into such conditions that they cannot work their way out of, our enforcement of our economic system keeps them there.

IV. CONCLUSION

Here, I have argued that the state has a duty to secure the material conditions of freedom for all citizens. Where this is possible, to choose to do otherwise violates the innate right to freedom of the extremely poor. The broad structure of this Kantian argument is simple: lack of access to basic resources restricts the agency of those who lack them, and we as a society are responsible, through our institution and maintenance of our property and economic system, for the existence of these conditions of extreme poverty. So, this failure to secure the material conditions of freedom violates the innate right to freedom of those who lack access to these basic resources. We as a society thus have a duty to do better: we must put in place a regime of ownership and exchange that secures access to the basic resources for all citizens.

Again, the argument I have offered here is not intended to be a full Kantian picture of socioeconomic rights. The Kantian framework has much more to offer in arguing for a right to education, a right to be free from extreme inequalities, and a right to the material resources required for citizenship, among many other possible socioeconomic rights. This duty to provide citizens with the material conditions of freedom, though, is an important piece of this broader Kantian picture of socioeconomic justice. And it is my hope that the arguments I have developed here demonstrate that this Kantian framework offers considerable resources in arguing for socioeconomic rights. In grounding these rights on the

innate right to freedom, the Kantian framework can help to explain how failing to provide citizens with these resources is not just a matter of being uncharitable or insufficiently concerned with the welfare of others. Failing to provide access to these resources violates the freedom of those who are denied them.