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On Martha Nussbaum's Reading of Kant:  
Aristotelean Teleology Meets Kantian Archaeology

The following is an email that was sent to Herman Waetjen, Emeritus Professor of the San Francisco Theological Seminary and Berkeley's GTU. During a recent visit with him in San Anselmo, Herman shared with me passages from Martha Nussbaum's *Frontiers of Justice* that offer her reading of Kant on reason, morality, and humanity's responsibilities to nature, other species, and the physically and mentally challenged. Herman had written a paper on "The Theology of Animals" for the Spring 2016 meeting of the Pacific Coast Theological Society meeting. His paper is available on-line at the PCTS webpage. This email provides my response to what I take to be a serious but, unfortunately, all too frequent "mis-reading" of Kant. To be sure, every reading of a text is an interpretation, but that fact is no license to generate any whimsical reading that serves one's purposes in the moment. As Paul Ricoeur proposed: A good reading is congruent with the text and generates a plenitude of rich meaning. A poor reading is narrow and far-fetched. In my judgment, Martha Nussbaum's reading of Kant is incredibly narrow and far-fetched, even if there are powerful voices in the academy today who share her reading.

Dear Herman,

I just got my hands on Nussbaum's *Frontiers of Justice* and have read the relevant section on "Kantian Personhood and Mental Impairment." I hope that that is the section from which we were reading ...

I would summarize her reading of Kant/Rawls as:

- 1) What distinguishes humanity as "persons" from animals is "two powers" (130) that she later, confusingly, calls "moral powers" (134): "reason" and "morality."
- 2) Reason is what places humanity in a kingdom of "ends" (131).
- 3) "... human dignity and our moral capacity, dignity's source, are radically separate from the natural world" (131). In the realm of nature "things ... have a price ... Insofar as we enter the realm of ends ... we have dignity and transcend price."
- 4) Morality means to possess a "conception of the good" (134).
- 5) She claims that Kant views these "two powers" to remove humanity from the animal kingdom because they make us "self-sufficient rather than needy," "purely active rather than also passive" (132).
- 6) Humanity's "... rationality is independent of our vulnerable animality; and ... suggests that animality and nonhuman animals lack intelligence ..." (133).
- 7) To the extent that we define ourselves with respect to these "two powers," we deny our own animality, which "leads us to slight aspects of our own lives that have worth" (132).

- 8) As a consequence, Kant prohibits us from acknowledging any status of “equality” for those beings not in possession of these “two powers” (133).
- 9) Persons who are physically and mentally challenged “... fail to qualify for freedom in Rawls’s sense, because freedom, in his theory, also has a Kantian flavor, and involves being a ‘self-authenticating source of valid claims’ (PL 32)” (135)
- 10) The physically and mentally challenged “do not qualify from citizenship ... because they do not conform to the rather idealized picture of moral rationality that is used to define the citizen in the Well-Ordered Society” (135).

There is more, but this is sufficient to demonstrate that, although she may have read Rawls, she hasn’t understood Kant.

Here is a response to each point:

- 1) The human is an animal! Nussbaum buys into the popular, reductionist, misanthropic thesis that insists that humanity is reducible to nature and that any capacities that we might have that distinguish us from other species only means that they somehow give humanity a free reign to do whatever it wishes with other species and nature. What distinguishes us in degree (!) *from other animals* is not simply that our “natural” instincts are lousy but the *degree to which we must* add things to our physical perceptions, which makes the kind of understanding we apparently possess possible. Other species understand, but they do not acquire (to anywhere near the degree that we do) the kind of symbol systems that make it possible for us to deny our senses (the sun is not moving). This ability *to add to phenomena* in understanding is the condition for our ability to initiate, *consciously*, (complex) sequences of events that nature cannot accomplish on its own. Other species can change nature, but they do so either by instinct or by an extremely rudimentary level of symbols. (See discussion of freedom in #s 3, 4, 6, & 9 below.) See, as well, "Biocentric Anthropocentrism: Hierarchies of Life" in Otfried Höffe, *Die Macht der Moral im 21. Jahrhundert. Annäherungen an eine zeitgemäße Ethik* (Munich: C.H. Beck, 2014): 38-53, and “Can Animals Think: A Review of the Literature” in Otfried Höffe, *Die Macht der Moral im 21. Jahrhundert. Annäherungen an eine zeitgemäße Ethik* (Munich: C.H. Beck, 2014): 54-63.  
 What is confusing about Nussbaum’s collapsing of reason and morality into “two powers of morality” is that it fails to profile the differences between theoretical and practical reason – much less addresses the moral significance of aesthetic judgment.
- 2) Reason, according to Kant, is not “thinking according to ends” (i.e., it is not the goal-oriented agency of instrumental reason). That is Aristotle, and here Nussbaum’s Aristotelianism has taken the upper hand.
  - a) Reason is all that must be *added to phenomena* that is not given with the phenomena in order to understand and act. To a degree, other animals possess reason because they, too, must *add concepts and make judgments* with respect to phenomena (again, more by instinct than intent, but they do so even to a degree by intent). Reason, according to Kant, it not reducible to instrumental reason – by far!
  - b) Goal orientedness (“ends”) is what Aristotle suggests characterizes humanity. It is articulated in the opening line of the *Nicomachean Ethics*. However, a lesson underscored by Otfried Höffe is that Kant turns the spy glass around 180° (see “14. From an Ethic of

Teleological Aspiration to an Ethic of the Will" in *Can Virtue Make Us Happy? The Art of Living and Morality*). Rather than look at goals/"ends" and consequences (Aristotle), we learn what it means to be(come) human by identifying the conditions and capacities that make it possible, in the first place, for us to establish goals and achieve consequences (Kant). Aristotle is teleological; Kant is archaeological. Succinctly, Kant is NOT A CONSEQUENTIALIST either in terms of his ethics or in terms of his "kingdom of ends!" We have control over the principles that we self-legislate (but do not create) for ourselves. We do not have control over consequences.

- c) What Kant means by the "Kingdom of Ends" has to do with "dignity" (see #3).
- 3) Human dignity *is not grounded* in our ability to establish rational ends or to aim for the "morally good." Human dignity is grounded in that about humanity that is irreplaceable and inalienable. That ground is our capacity consciously to initiate sequences of events that nature cannot accomplish on its own. Indicative of Kant's shift from instrumental ends to conditions of possibility: FREEDOM IS A CAUSALITY, NOT AN END! The establishment of an end that leads us to do things that nature cannot do by itself *presupposes a creative causality* that is complementary with *but not reducible to* natural causality.
- It is because this capacity is irreplaceable (no one can exercise it for anyone else) and inalienable (as long as we're alive it cannot be taken away) that Kant distinguishes between "worth" and "dignity." All humans regardless of physical and mental limitations possess this causal capacity! Something has "worth" if it can be substituted for something else. Something has "dignity" if it is irreplaceable and inalienable.
- a) There is no condition of "economic productivity" (128) that must be met before one has "dignity!"
  - b) This by no means has the consequence that we can treat nature or the physically and mentally impaired as "brutish and 'dumb'" (133). We have a moral responsibility to nature and all species because we are the species that can destroy them. We have a moral accountability to the physically and mentally impaired because of their "dignity."
  - c) In fact, we have a responsibility for "worth" because we are capable of destroying it in ways that nature on its own cannot. It would also be important to distinguish between "worth" and "profit," something that I am unaware Kant did. However, on the basis of his discussion of the moral valence of humanity's *autonomous freedom above nature* (though never independent of nature, as far as we experience), one could claim that "worth" and "profit" are not the same. Nonetheless, both require elements beyond nature for them to occur, and we find the distinctions among "dignity," "worth," and "profit" nowhere else in nature (to the degree that we find it in humanity).
- 4) We are not moral beings because we possess "a conception of the good," which we could question whether or not we possess! We are moral beings *to the degree that we are capable of consciously initiating a sequence of events that nature cannot accomplish on its own*. It is only because of this condition of possibility/capacity (this is not a capability that we have to acquire or develop!) that we can (and do) hold ourselves morally accountable/responsible for what we do. Succinctly, it is not because we have some conception of a Platonic Good to which we aim as an end/goal that makes us a moral species. We are also not a moral species because we act morally. We are a moral species because we possess the condition of possibility/capacity to be moral. Whether or not we live morally is another issue. It can be summarized by "We are not

moral beings because we *must be*. We are moral beings because we *can be*." Given that we appear to be the only species on this planet (although Kant leaves open that there might be species elsewhere in the universe with these conditions of possibility/capacities) capable of morality, why would we choose to be less than what we are capable of being?

- a) There are two kinds of necessities that govern human understanding an action: hypothetical and categorical imperatives. Hypothetical imperatives are demanded by the external circumstances of one's situation. "If" I want to build a house, it is necessary that I conform to the physical laws of nature that govern external events. I cannot hang the roof first ... Additionally, "if" I want to be a physician, it is necessary that I acquire the proper credentials in order to practice that profession. These hypothetical imperatives are very different from categorical imperatives. The latter are not derived directly from one's external circumstances but come entirely from within because they are possible only because one possesses the causality of *autonomous freedom* above (!) nature. Unlike external rules, the rules that govern autonomous freedom must be identified and applied from within by the individual to govern her/his decisions and actions. We have control over these principles. We don't have control over hypothetical imperatives.
  - b) Civic law and Moral Law: Civic laws that are generated by a society to govern external behavior are relative to each society. For example, some societies drive on the left-hand side of the road, other's on the right-hand side. These hypothetical imperatives of civic law are relative. However, everyone knows that s/he can do everything correctly according to the civic law and do very horrible things. Human beings hire lawyers not infrequently to defend the legality of their injustices. This recognition presupposes that humanity possesses a capacity that it is capable of ignoring: the capacity to subordinate the civic law to the moral law.
  - c) It is not that Kant ignores consequences! The hope is that one's decisions and actions will have good consequences, but it is not because we know in advance what the good is that we are moral beings. We are moral beings because we can be responsible for our capacities, not simply because the consequences of our actions are moral. Although he thoroughly rejects even *happiness* as the goal of morality, Kant doesn't reject that happiness can be a consequence of our moral effort. However, happiness is by no means universal, and it is governed by capricious self-interest. In other words, happiness doesn't begin to satisfy the criteria for the exercising of moral principles simply because they are right and not because they satisfy our self-interest. In short, neither "the Good" nor "happiness" is the key to dignity and morality.
- 5) There is nowhere in Kant's writings, of which I am aware, where he speaks of humanity's self-sufficiency or pure activity rather than passivity. We are dependent beings by nature! To a degree we can rise above our dependency, but we never escape it. It would never occur to us to search for *a priori* synthetic elements of transcendental consciousness, which we must *add to the phenomena*, were we not to have experienced a world of appearances first and foremost. How could we identify necessities were there not to be something that requires them? Appearances require imperceptible necessities for us to experience as we do! To be sure, Nussbaum acknowledges that Kant speaks of "the animal side of human life, as belonging to the deterministic realm of nature" (131). However, again (see #3) it is not because we are in a realm

of ends/goals of moral rationality that exclusively makes it possible for us to “rise above that realm” (131).

- 6) Pardon my uncharitableness here. It comes from deep frustration: The notion that humanity’s rationality is independent of our vulnerable animality, according to Kant, is a fantasy construction based upon Nussbaum’s definition of reason as instrumental (goal oriented) and her complete mis-understanding/distortion of Kant’s notion of freedom. I have spoken to the theme of rationality as instrumental reason governed by “ends” under “2” above. Humanity is free, as I’ve sketched under #3 to the degree that we can initiate consciously (!) sequences of events that nature cannot accomplish on its own. It borders on the incredulous when Nussbaum suggests that Kant’s notion of freedom “involves being a ‘self-authenticating source of valid claims’ (PL 32)” (135). Nussbaum is substituting “freedom-from” for “freedom-to.” However, she is making an even more grave mistake: Her “freedom-from” is freedom from social institutions whereas Kant’s “freedom-from” is the degree to which humanity exercises a non-physical causality *above nature*. Yet, more important than this latter “freedom-from” is Kant’s emphasis on “freedom-to,” that is, the freedom to cause things to happen that nature on its own could never accomplish. Again, only because we possess this kind of *autonomous* freedom are we able to hold ourselves morally responsible for what we do!
- 7) I’ve spoken to this ridiculous suggestion under #3 a).
- 8) “Equality” for Kant is grounded in conditions of possibility and capacities, not capabilities and accomplishments. This is clear in his commitment to democratic principles and the separation of powers as well as his discussion of cosmopolitanism.
- 9) Here Nussbaum clearly is ignorant of Kant’s philosophy. One does not “qualify” for freedom because freedom is not defined by “ends” or the “morally good.” It is defined by conditions and capacities. One *has* freedom; one doesn’t *qualify for* freedom.
- 10) Kant nowhere speaks of a “Well-Ordered” society in the sense of rational and moral ends. A society is “ordered” to the degree that it is governed by “laws,” and there are two kinds of laws: external laws and internal laws. External laws are heteronomous because they are imposed upon us from without and are either physical or civil. Internal laws are autonomous because they can only be self-legislated from within and are moral.

Obviously, Herman, there is much much more that must be said here, but I hope that this gives at least an initially cogent sense of how distorted Nussbaum’s reading of Kant is. It may be a good reading of Rawls, but I have my difficulties placing Rawls in the Kantian camp. Oh my, how arrogant can I get?

As always,

Doug