

To cite text:

Govedarica, Jelena. 2025. "The Problem of Infanticide in *The Metaphysics of Morals*" *Philosophy and Society* 0 (0):

Jelena Govedarica

THE PROBLEM OF INFANTICIDE IN THE METAPHYSICS OF MORALS

ABSTRACT

In his discussion of the state's right to punish in *The Metaphysics of Morals*, Kant appears to claim that an unmarried woman who kills her newborn in order to preserve the "honor of her sex" finds herself in a state of nature. Consequently, the state cannot punish her in the same manner as it punishes other murderers. Nevertheless, at the end of the paragraph, he concludes that infanticide, like any other form of murder, must be punished by death, even if public opinion considers this punishment unjust so long as the legislation remains "barbaric and undeveloped." In this paper, I claim that Kant at no point advocates a punishment lighter than the death penalty. I further argue that the implications of the metaphor of the state of nature, as well as the analogy between infanticide and the right of necessity, render Kant's argument internally contradictory. For this reason, the problematic parts of the text should be read as views Kant attributes to Beccaria, rather than endorses himself. Thus, the entire paragraph is best understood as a continuation of Kant's explicit polemic with Beccaria concerning the legitimacy of the death penalty.

KEYWORDS

women, gender differences, honor of one's sex, premarital intercourse, state of nature, right of necessity, law of retribution, death penalty, Beccaria, legislative reforms

Introduction

In this paper, I explore a passage from Kant's *Doctrine of Right*, in which he seems to doubt whether the law of retribution can determine a just penalty in cases of dueling and infanticide.¹ I cite the relevant parts of the passage in full:

There are, however, two crimes deserving of death, with regard to which it still remains doubtful whether *legislation* is also authorized to impose the death penalty. The feeling of honor leads to both, in one case *the honor of one's sex*, in the other *military honor*, and indeed true honor, which is incumbent as duty

1 The realization of this research was financially supported by the Ministry of Science, Technological Development and Innovation of the Republic of Serbia as part of the financing of scientific research work at the University of Belgrade – Faculty of Philosophy (contract number 451-03-47/2023-01/200163).

on each of these two classes of people. The one crime is a mother's *murder of her child (infanticidium maternale)*; the other is *murdering a follow soldier (com-militonicidium)* in a *duel*. – Legislation cannot remove the disgrace of an illegitimate birth [...] it seems that in these two cases people find themselves in the state of nature, and that these acts of *killing (homicidium)*, which would then not have to be called murder (*homicidium dolosum*), are certainly punishable but cannot be punished with death by the supreme power. A child that comes into the world apart from marriage is born outside the law (for the law is marriage) and therefore outside the protection of the law. It has, as it were, stolen into the commonwealth (like contraband merchandise), so that the commonwealth can ignore its existence (since it was not right that it should have come to exist in this way), and can therefore also ignore its annihilation; and no decree can remove the mother's shame when it becomes known that she gave birth without being married. [...] – What, now, is to be laid down as right in both cases (coming under criminal justice)? – Here penal justice finds itself very much in a quandary. Either it must declare by law that the concept of honor (which is here no illusion) counts for nothing and so punish with death, or else it must remove from the crime the capital punishment appropriate to it, and so be either cruel or indulgent. The knot can be undone in the following way: the categorical imperative of penal justice remains (unlawful killing of another must be punished by death); but the legislation itself (and consequently also the civil constitution), as long as it remains barbarous and undeveloped, is responsible for the discrepancy between the incentives of honor in the people (subjectively) and the measures that are (objectively) suitable for its purposes. So the public justice arising from the state becomes an *injustice* from the perspective of the justice arising from the people. (MM, 6:336–7)²

According to the fundamental principles of Kant's theory of legal punishment, infanticide, like any other form of murder, must be punished by death, in accordance with the law of retribution (*ius talionis*). However, as we will see in the following chapters, some commentators believe that in the infanticide passage,³ as I shall call it, Kant appears to question the justice of such punishment by drawing attention to the specific circumstances of the act: the mother's motive (preservation of the "honor of her sex"), grave legal and social repercussions of premarital intercourse, and the fact that the child was born out of marriage – that is, outside the law. On this view, since the mother brought the child into the state in a manner not recognized by law, the child is considered to possess no legal rights, as full protection is extended only to children born within marriage. Within this framework, infanticide is seen as a killing that takes place in a state of nature and therefore does not constitute *homicidium dolosum*.

2 Kant's works are cited according to the English translation of *Kants Gesammelte Schriften*, Royal Prussian (later German) Academy of Sciences (Berlin: Reimer, subsequently Walter de Gruyter, 1902–): *The Cambridge Edition of The Works of Immanuel Kant*. Abbreviations used: MM = *The Metaphysics of Morals*; LA = *Lectures on Anthropology*; TPP = "Toward perpetual peace"; TP = "On the common saying: That may be correct in theory, but it is of no use in practice".

3 In this paper, I will focus exclusively on an unmarried mother's killing of her child and will not discuss the distinct issue of "military honor."

Consequently, the state lacks the legal authority to impose the death penalty for infanticide, as the act does not qualify as deliberate homicide under the law.

Although Kant indeed presents such considerations, I argue that they do not reflect his own position but rather correspond to ideas advanced by Cesare Beccaria in his book *On Crimes and Punishments*.⁴ The passage in question should thus be understood as an implicit continuation of Kant's polemic with Beccaria, taken up in the section immediately preceding the discussion of infanticide, which concerns the moral justification of the death penalty. Kant affirms the legitimacy of the retributive principle and, in doing so, at least indirectly acknowledges that children born out of marriage possess some form of legal standing. Moreover, he criticizes forms of punishment for infanticide that had been practiced for decades as "barbaric,"⁵ attributing them to an "undeveloped" legal system in need of reform. The framework for such reform is outlined in the metaphysical principles of the *Doctrine of Right*, where Kant articulates transcendental principles of legislation and the ideal form of government toward which legally imperfect societies ought to strive. Kant maintains that, following legal reform, the harsh capital punishment he regards as objectively justified would also come to be seen by the people as subjectively just.

In the first chapter, I outline the historical context that explains why Kant's discussion of infanticide at the end of the section on criminal law is unsurprising. Drawing on the harsh punishments imposed on women accused of fornication and infanticide, I illustrate Kant's assertion that the legislation of his time required reform. The second chapter examines Kant's views on the social role of gender differences and explores some of the reasons behind the prohibition of premarital intercourse. This digression helps clarify why the "honor of the sex" may function as a determining factor in choices concerning such relations, even serving as a motive for infanticide. In the third chapter, I analyze the metaphor of the state of nature and its implications, while challenging the interpretation offered by some scholars who liken an unmarried mother's infanticide to taking an innocent life under a right of necessity. I argue that this analogy is untenable, as it renders Kant's reasoning in the infanticide passage internally contradictory, thus necessitating an alternative interpretation. Finally, the fourth chapter situates the passage on infanticide within Kant's ongoing polemic with Beccaria. It further explores the legal reforms Kant envisions as necessary for the death penalty in cases of infanticide to be regarded by the public as both subjectively justified (aligned with the popular sense of honor), and objectively justified (consistent with just legal principles).

4 An analysis of Beccaria's views lies beyond the scope of this article. However, a fuller argument supporting my claim, with specific references to *On Crimes and Punishments*, will be provided in a later section.

5 Most contemporary readers also regard the death penalty as excessively severe and illegitimate, which may make Kant's characterization of certain other forms of punishment as "barbaric" appear somewhat hypocritical. Since this paper does not question the legitimacy of the death penalty, the sole criterion for determining the legitimacy of any punishment is the one Kant himself emphasizes: the law of retribution.

Historical Context of the Infanticide Debate

To contemporary readers of Kant's legal philosophy, the brief discussion of dueling and infanticide at the close of the section on criminal law in *The Metaphysics of Morals* may appear extraneous. For Kant's contemporaries, however, these cases raised pressing and widely debated issues. In eighteenth-century Europe, infanticide was regarded as not only a serious crime but also a complex legal and moral problem, entangled with questions of sexual morality, social honor, and the legal status of illegitimate children. In some regions, the incidence of infanticide was substantial enough to constitute a crisis of social policy. The theme of infanticide also featured prominently in the literary and philosophical discourse of the time, often serving as a symbolic site for exploring the tension between moral guilt and legal culpability. A notable example appears in Johann Wolfgang von Goethe's *Faust*, where the character Margarete (Gretchen), seduced and abandoned, kills her newborn child and is subsequently imprisoned and condemned to death. Goethe's portrayal of Gretchen dramatizes the despair and social isolation experienced by unmarried mothers, as well as the harsh punitive response of the legal system. This depiction reflects and critiques the moral and legal attitudes prevalent in Kant's time.⁶

While it would be an overstatement to claim that infanticide was the central impetus behind criminal law reform in the period, it figured among the more debated offenses. According to Hull, the influential legal theorist Gustav Radbruch regarded infanticide as the pivotal offense that spurred the reform of eighteenth-century criminal law (Hull 1996: 111). Kant's discussion can thus be understood as an intervention in a broader contemporary debate on the legal and moral treatment of infanticide, which coincided with the sweeping legislative reforms in Prussia that culminated in the General State Laws for the Prussian States (*Allgemeines Landrecht für die Preußischen Staaten*), enacted in 1794. While not solely focused on the issue of infanticide, the code addressed it within a broader effort to rationalize and systematize criminal law in accordance with Enlightenment principles.

The case of infanticide is closely intertwined with the broader eighteenth-century debate concerning the criminalization of fornication, adultery, and related offenses classified under efforts to preserve what was deemed public morality and the stability of social order. At that time, criminal law in many parts of Europe, including Prussia, required that unmarried pregnant women report their condition to local authorities, who would then initiate legal proceedings by charging them with fornication. If a woman failed to report her pregnancy, the obligation shifted to parents, landlords, or employers to notify the authorities (cf. Michalik 2006: 53). The social stigma attached to fornication was severe and often lifelong, entailing a permanent loss of public honor and dignity. Legal sanctions for the offense ranged from corporal punishment,

⁶ On the cultural and legal context of infanticide in German literature and law, see Evans (1996: 193–239). For more on the themes of seduction, pregnancy, infanticide, and the accusation against Gretchen in *Faust*, see Scenes 13–16 and 23–25; cf. Goethe (1987).

to monetary fines, imprisonment, and public humiliation (Hull 1996: 79–80). Since the women most often targeted belonged to lower social strata, financial penalties imposed could plunge them into deeper poverty, exacerbating their already precarious material conditions (Timmermann 2022: 3). Kant referred to the profound impact of shame and humiliation as the loss of the “honor of the sex,” a condition that, among other devastating consequences, effectively prevented these women from obtaining respectable employment. Upon public revelation of their illicit pregnancies, such women faced ecclesiastical sanctions including excommunication and were compelled to perform public acts of repentance: kneeling before the altar and openly confessing their sins, in order to be readmitted into the church community (Timmermann 2022: 22). They were also frequently paraded through town in designated vehicles to make their disgrace publicly known. Children born outside of marriage were often abandoned in foundling homes, where deplorable living conditions and inadequate care led to high infant mortality rates, with many dying within their first year.⁷ Together, these legal, social, and religious sanctions underscore the severity with which premarital pregnancy was condemned, both as a moral transgression and a threat to the social order.

If an unmarried woman failed to report her pregnancy and it was nonetheless discovered, or if she claimed the child was stillborn, she was often suspected of infanticide and subjected to interrogation under torture until she confessed.⁸ This practice, widespread across early modern Europe, reflected a judicial system that prioritized confession as the highest form of proof. Until the mid-eighteenth century, in certain German territories, the death penalty for infanticide was occasionally carried out using methods inherited from Roman criminal law. The condemned woman would be sewn into a sack along with a dog, a cat, or a snake (depending on local custom) and drowned.⁹ This brutal form of execution was eventually abolished and replaced by more standardized methods of capital punishment such as beheading or hanging. Yet the symbolic violence did not end with execution itself. To heighten the deterrent effect, the woman’s body, or in some cases her severed head, would be publicly displayed. Furthermore, her remains were denied burial in consecrated ground, marking her exclusion not only from civil society but also from the moral community of the faithful. These ritualized forms of punishment were intended to reinforce

7 It is estimated that in France during the 1780s, approximately 40,000 children were abandoned each year. Around 90 percent of those placed in foundling homes died within their first year of life due to extreme neglect. For more on the tragic fate of newborns and young children forced to work under horrific conditions, see Uleman (2000: 179n19).

8 The death of a newborn in the case of unmarried women always aroused suspicion of infanticide, and the burden of proof that this was not the case rested on the mother (not the court). On the other hand, the death of a newborn of married women was rarely further investigated, as it was believed that they had no motive to commit infanticide; cf. Michalik (2006: 51).

9 In earlier times, punishments for infanticide also included impalement, burying the woman alive, and burning at the stake; see Uleman (2000: 179n18).

both the sanctity of life and the gravity of transgressing prevailing norms of female sexual behavior (cf. Timmerman 2022: 23; Cohen 1989).

The severity of the infanticide problem in eighteenth-century Prussia is underscored by the fact that nearly 50 percent of all executions during this period resulted from convictions for this crime (Michalik 2006: 52; Pascoe, 2012). In response to this alarming trend, Frederick the Great initiated an extensive legislative reform aimed, on the one hand, at decriminalizing fornication (initially for pregnant women and later more broadly)¹⁰ and, on the other, at improving the legal and social conditions of unmarried mothers and their children. In a 1777 letter to Voltaire, Frederick lamented that the majority of state executions targeted unmarried women convicted of infanticide, identifying this as a grave social and political issue. Since population size was viewed as a key indicator of state power and military or economic strength, women capable of bearing children were seen as vital state resources. Voltaire himself expressed outrage at what he saw as the unjust execution of an eighteen-year-old girl accused of infanticide, lamenting the loss of a young life that still had the potential to “produce citizens for the state” (Pascoe 2012). Frederick echoed this sentiment, stressing the importance of halting these “terrible Medeas” who had suffocated “the next generation,” thereby robbing the state of two subjects at once: the murdered child and, in the event of capital punishment, the mother (Michalik 2006: 54).

The intense public interest in addressing the issue of infanticide is evident in the 1780 competition for the best essay proposing effective solutions to this pressing social problem. With around 385 submissions, nearly ten times the usual number for such contests, this overwhelming response reflected both widespread concern and the urgency with which society sought practical reforms. The competition not only highlighted anxieties surrounding infanticide but also helped shape contemporary debates on criminal justice and social welfare. Although by the time Kant published *The Metaphysics of Morals* in 1797 the dire circumstances of unmarried pregnant women had somewhat improved thanks to Frederick the Great’s reforms, his discussion can be seen as a “late contribution to an ongoing debate” (cf. Timmermann 2022: 4).

Gender Differences and Premarital Intercourse

At the core of the legal and social aspects of the problem of infanticide lies a broader anthropological conception of womanhood and gender roles. This conception prescribes the virtues, duties, and acceptable behaviors expected of women, commonly referred to as “female morality.” It denotes a set of conventional norms that define desirable, permissible, and forbidden conduct. Although these norms were conventional rather than strictly ethical, they defined the boundaries within which a woman could act freely, without fear of

¹⁰ The punishment for adultery committed by married women was abolished, and their husbands could only seek a divorce on this basis.

intrusion, public scrutiny, or moral condemnation. Violations of these norms provoked predominantly social, and occasionally legal, sanctions that further curtailed women's already limited freedom.¹¹ To fully understand Kant's position on infanticide, it is necessary to sketch the meaning of his notion of "the honor of the sex" and examine the reasons behind the prohibition of premarital intercourse. In this chapter, I will outline Kant's view of gender dynamics and explain why women were expected to exercise extreme caution regarding the public perception of their chastity.

During his lectures on anthropology, Kant frequently discussed the differences between men and women, as documented in students' notes.¹² In the chapter entitled "On the Difference of the Two Sexes" (LA 25: 697–722) from these notes,¹³ Kant argues that the distinctions between the sexes are a product of civilization, manifested, among other things, in the cultivation of specialized social roles for men and women. Reflecting on various aspects of sexual difference and the dynamics between the sexes, he concludes that nature's ultimate purpose in creating these differences is the "perfect unity" of the male and female sex. This unity manifests in two fundamental aims: first, the procreation and preservation of the species, fulfilled instinctively; and second, the establishment of a "social state of affairs", which he saw as "an aim with regard to humanity" itself (cf. LA 25: 701). This latter purpose is supported by civil order and legal institutions and is further advanced when the social distinctions between the sexes are cultivated freely, without coercion, a task Kant believes only women are capable of accomplishing. Considering how the natural predispositions of men and women might be shaped through education, Kant stresses that "the principle of honor is with them [women] the most important; with them everything can be built on this principle." (LA 25: 705)

The specific roles assigned to men and women also shape the way they choose their spouses: "[t]he man must seek the woman, and not the woman the man. The man therefore had to be [the one doing the] courting, but the woman be [the one] refusing." (LA 25: 708) Since the woman "choose[s] thereby that she turns down [the suitors]," that is, she selects only in a negative sense,

11 Here, freedom refers to the absence of customary or legal obstacles to performing an action, rather than the concept of freedom as understood by Kant. Transcendental freedom is not relevant in this context, as the discussion does not concern ethical norms.

12 Kant wrote about the characteristics of the female sex in *Observations on the Feeling of the Beautiful and Sublime* and discussed them in his lectures on ethics and anthropology. Supporting evidence for this comes not only from students' notes but also from his later work, *Anthropology from a Pragmatic Point of View*. However, student notes cannot be considered entirely reliable sources for determining exactly what Kant said, which presents challenges for interpreters of his ideas, particularly in cases such as his views on race; cf. Govedarica (2025: 85–87); Govedarica and Smajević Roljić (2024a: 74–75); Govedarica and Smajević Roljić (2024b: 56–57). Beyond these reflections, Kant also addressed the legal status of women in *The Metaphysics of Morals* and other political and legal writings, but this legal dimension is not the focus here.

13 I refer to the lecture notes from 1775–1776, commonly known as *Anthropologie Friedländer*.

Kant claims that a woman can achieve her aims only if she consistently strives to be “demure and decent in society, and to appear completely cold toward the other sex.” (LA 25: 710) In this way, she attracts suitors. Kant believes that “drive and instinct” (sexual impulse) are equally strong in both sexes, yet the woman must never show this; instead, she must “artfully affect” coldness and indifference so that the man perceives a greater challenge and, consequently, experiences stronger motivation to win her over and awaken her interest and desire. On this feminine skill of “affecting,” Kant remarks:

This art of concealment and refusal is however very necessary, for if the feminine sex would express its inclination and instinct toward the masculine, then it would lose much in the eyes of the masculine sex, and then the man may not court them, but because they would have an instinct just like this, they would have to submit to the man; then they would be forced by their inclination to surrender to the man. (LA 25: 710)

Kant thus maintains that a woman must feign indifference, prompting a man to strive for her favor. As he writes in the same passage, the man “even demands this refusal and coldness of the woman.” If he did not have to struggle to gain her affection and could satisfy his desires with little effort, he would not offer her marriage. Therefore, if a woman were to express her “natural inclinations,” mutual (extramarital) satisfaction of desire would always be possible. However, Kant claims that in such a case the woman would suffer a great loss: she would be unable to secure the legal, material, and other forms of security and protection that only a man can provide. She would also forfeit the possibility of exercising power over him, by means of her skill in “affecting”, and of pursuing her own aims through his will.

In *The Metaphysics of Morals*, Kant writes that the natural purpose of marriage is the procreation of children, and that without “consummation” (sexual intercourse), the marriage is not valid. If consummation has occurred, the marriage is considered valid, regardless of whether the couple has children, because marriage is “the union of two persons of different sexes for lifelong possession of each other’s sexual attributes” (MM 6:277). In a good marriage, Kant claims, men are indifferent to other women, while women always wish to attract and retain the attention and affection of other men. Beyond their “nature,” which is inherently marked by “innocent” coquetry, this tendency stems from their complete dependency: if her husband dies, a woman will seek another man who can provide her with protection and security (cf. LA 25:712). In marriage, the man demands fidelity and devotion from the woman:

This has its basis in nature. The man wants to be assured that the children which he will have in marriage, for whom he is to look after, are his children. The woman is, however, always assured, since she cannot, after all, have any other children than those to whom she gives birth.¹⁴ Accordingly, the man is very particular

14 Kant here builds upon a well-known Roman legal maxim expressing the irrebuttable presumption of motherhood: *mater semper certa est*, meaning “the mother is always

about the woman's modesty before marriage, since he thinks this way: if a person dares before marriage, thus at a time when she is in danger of not getting a man, to have sexual relations, then she will do it all the more when she already has a man and is secure from the danger, and where all the consequences of her relations can remain concealed. It is always a highly daring matter for women to have sexual relations without the condition of marriage, for if such does not remain concealed, then she is in danger of not being provided for. (LA 25: 714)

I believe that Kant does not regard premarital intercourse as *morally impermissible*. There is no ethical duty to abstain from sexual relations before marriage, since such a duty, if genuinely moral, would apply universally to all rational beings, not exclusively to women.¹⁵ Rather, Kant describes extra-marital intercourse as “highly daring” because of the considerable risk of exposure – while morally indifferent in itself, such conduct carries significant existential risks. Accordingly, the prohibition against premarital intercourse should be understood as a conventional (and in some contexts juridical) norm grounded in pragmatic considerations. Its rationale, as I see it, lies not in a primitive moralization of chastity as a specifically feminine virtue, but in the potential consequences such behavior might entail. If discovered, it could jeopardize a woman's prospects for marriage or result in pregnancy, both of which could gravely undermine her legal and material security. Beyond possible legal sanctions, public knowledge of such conduct could severely impact a woman's social standing and restrict her freedom in a society that affords little protection outside the institution of marriage.

Legal security as a precondition for the protection of freedom (“independence from being constrained by another's choice”, MM 6:237), is attainable for a woman only through marriage. Outside of marriage, she remains under the legal, material, and social care of another: initially her father, or in some cases another male relative or curator. If she does not marry, she remains permanently dependent on someone who neither shares her ends nor is obliged to adopt them as his own. According to Kant, it is through marriage that a woman “becomes free,” while the man, in contrast, “loses his freedom” (LA 25:714). Because of this asymmetry, Kant claims that a man “would be a fool” to marry a woman whose “honor” might be called into question. If he is to relinquish his freedom, he must be reasonably assured that the children born in the marriage are his. Thus, women must preserve the “honor of her sex,” as any known or suspected premarital sexual activity significantly reduces their chances of marrying.

certain,” since in Roman law no counter-evidence was permitted against the woman who gave birth. In modern legal systems, however, this principle has been significantly challenged in light of developments in reproductive medicine.

15 Only a portion of Kant's interpreters would agree with this stance, while those who think along the lines of Mills; cf. Mills (2005) argue that Kant's moral philosophy applies exclusively to white men. As a result, the same ethical principles governing men would not necessarily extend to women, leading to the possible claim that women (but not men) have a duty to abstain from sex before marriage.

At the same time, the “honor of the sex” is fragile, dependent on reputation and shaped by “what people say” about a woman (LA 25:720). Kant therefore stresses that a woman must be acutely aware of how she is perceived:

To ignore others’ judgment is not seemly for the woman. Even if a woman were only in a Platonic relation with a man and people would judge badly, then it would not be fitting if she were indifferent about it; with the woman, the appearance is something important, [but] the man is not concerned with the appearance. Therefore the woman seeks her honor in the appearance, because they are also the ones who are chosen; hence they must avoid all bad appearance, because they would thereby throw away their [good] fortune, since they would not be chosen. (LA 25: 720–721)

Kant concludes this section with a particularly controversial claim:

[...] the whole of morality must thus be presented [to women] from the point of view of honor and propriety, because the principle of honor is the only one of which they are eminently capable. (LA 25: 722)

Without engaging in a discussion of this provocative claim, it is clear that the preservation of the “honor of the sex” served as a socially constructed standard of feminine virtue and a practical means of achieving freedom through marriage. Since women, both within and outside of marriage, were passive citizens without legal autonomy (cf. MM 6:314–315), the freedom they gained through marriage may seem modest at best. Yet the alternative to marriage was even more restrictive: a woman without a husband lacked not only legal protection and material security, but also a recognized social standing and the modest freedoms that marriage afforded within the norms of her time. She also relinquished any claim to authority over the one domain where men held no direct control: the household and the upbringing of children.

To conclude this section, let me briefly outline Kant’s views on sex within marriage, which reinforce my belief that his primary concern regarding the legality of sexual relations is to protect women and provide them with security against violence, mistreatment, or deception. Kant argues that sexual desire inherently objectifies another person, treating them as a mere means rather than an end in themselves. In sexual acts, this objectification reduces the female body to an instrument of male gratification. To counter this, marriage establishes a framework in which sexual relations can be just, as each partner acquires a right to the other’s body, though not to the other’s will. This mutual surrender ensures that both spouses commit to adopting each other’s ends (cf. MM 6:278).¹⁶ If the husband must take his wife’s ends as his own, he cannot claim access to her body without her consent. In contrast, extramarital sexual relations leave the woman without this protection, as her partner is not obligated to adopt her ends or respect her as a moral equal. As a result, she is left without

¹⁶ Kant’s views on marriage remain a subject of scholarly interest; for example: Willson (1998), Herman (2001), Varden (2017), Papadaki (2010), and Pascoe (2023).

any assurance that her needs, desires, or goals will be acknowledged. Kant thus presents marriage as the essential framework for fostering mutual respect and commitment, as well as establishing the rightful context for sexual relations.

The State of Nature and the Right of Necessity

As seen in the passage on infanticide, Kant draws upon the metaphor of the state of nature to illustrate the tension between civil law and social norms, particularly in relation to the mother's motives and actions in cases of child-birth outside marriage, as well as the ambiguous legal status of the child born under such circumstances. Some scholars (cf. Uleman 2000; Pascoe 2019; Varden 2020: 233–234) interpret this metaphor as a critique of punishment based solely on the retributive principle. Kant appears to suggest that a child born outside of marriage has been smuggled into the state and thus possesses no legal rights. If “the commonwealth can ignore its existence (since it was not right that it should have come to exist in this way), and can therefore also ignore its annihilation,” then the mother who commits infanticide would, it seems, not be subject to any legal sanction. However, this line of argument leads to troubling and extreme conclusions. As Murphy observes, a child born out of marriage not only lacks rights at birth but has no means of ever acquiring them – “contraband merchandise” cannot be legalized. Why, then, would it be permissible to kill the newborn but not the same person once grown? More provocatively, why would only the mother be permitted to kill the child, and not any other individual? Does this entail that anyone who finds themselves on the territory of a state without the right to be there may be killed without legal consequence? (cf. Murphy 2012: 277–278.)

There are several reasons why these implications are incompatible with Kant's moral (both legal and ethical) framework, but two strike me as particularly significant. First, such an interpretation contradicts the positions he advances in *Perpetual Peace* and *The Metaphysics of Morals* regarding cosmopolitan right. In those writings, Kant insists that the basic rights of every person, regardless of whether they are a citizen of the state in which they find themselves, must be respected. Moreover, the state must show hospitality rather than violence, especially toward those who find themselves within its borders against their will (cf. TPP 8: 357; MM, 6: 357–359). Accordingly, a child born into a state without its consent must nonetheless receive fundamental legal protection, and the killing of a newborn, like that of any other human being, must be met with capital punishment for the perpetrator. Second, in the passage on infanticide, Kant never argues that the mother should be entirely exempt from legal responsibility. Instead, he seems to question whether the classification of this killing should be reconsidered and whether its punishment should be less severe. Thus, although Kant mentions the metaphor of the state of nature, he does not advocate for the decriminalization of infanticide.

In addition to interpreting Kant's metaphor of the state of nature as having implications for the rights of the mother and newborn, some authors argue

that infanticide can be seen as analogous to the killing of an innocent person under the right of necessity (cf. Pascoe 2019: 18; Uleman 2000: 186-187). Kant describes this “alleged right” as a supposed “authorization to take the life of another who is doing nothing to harm me, when I am in danger of losing my own life.” (MM, 6: 235) He then presents the well-known example of a shipwrecked man who, in a desperate attempt to save his own life, pushes another man off a plank he is holding onto in order to survive. Although this “deed of saving one’s life by violence” constitutes a crime, as killing an innocent person, even to preserve one’s own life, is always wrong, the act remains *unpunishable*:

[T]he punishment threatened by the law could not be greater than the loss of his own life. A penal law of this sort could not have the effect intended, since a threat of an ill that is still *uncertain* (death by a judicial verdict) cannot outweigh the fear of an ill that is *certain* (drowning). (MM, 6: 236)

Based on Kant’s conception of the “honor of the sex,” as well as the penalties for fornication and infanticide, premarital pregnancy evidently posed a serious threat to a woman’s life. Confronted with bleak prospects, an unmarried woman viewed her newborn as a threat to her ability to independently set and pursue ends. In other words, the birth of a child out of marriage endangered the woman’s innate right. Since the mother is defending her freedom at all costs, those who argue for the analogy with Kant’s concept of the right of necessity assert that the killing she commits can be interpreted as “saving one’s life by violence.”

I believe this interpretation overlooks important distinctions in Kant’s moral and legal framework. Firstly, Kant calls the right of necessity an “alleged right” because it cannot be a positive right – no law can authorize a person to take the life of an innocent individual in a state of necessity. Such a right would compromise the legal protection afforded to individuals, as anyone could claim the authority to kill another if they deemed it necessary to preserve their own life. The right of necessity cannot be an innate right either. While the preservation of one’s external freedom may justify self-defense against an aggressor, it does not extend to taking the life of someone who poses no threat whatsoever. Moreover, the right of necessity is never morally justifiable:

[I]f it is said of someone who, in order to preserve his own life, pushes another survivor of a shipwreck from his plank, that he has a *right to do so* by his (physical) necessity, that is quite false. For to preserve my life is only a conditional duty (if it can be done without a crime); but not to take the life of another who is committing no offense against me and does not even *lead* me into the danger of losing my life is an unconditional duty. TP, 8: 301

Secondly, the overall situation of an unmarried mother who commits infanticide differs fundamentally from that of a shipwrecked sailor who kills an innocent person under the supposed right of necessity, rendering any analogy between them morally and juridically misguided. In discussing the right of necessity, Kant emphasizes that no law can legitimize an act that is always

unjust (such as killing an innocent person) because all laws must align with morality. He also argues that punishment for such an act cannot serve as an effective deterrent in a situation of necessity, as a person facing extreme danger is unlikely to be dissuaded by legal consequences. This inability to deter ultimately deprives such a law of its practical force. As already noted, in the case of infanticide Kant never advocated for complete impunity or for the futility of criminal laws that prohibit it, nor did he claim that the threat of the death penalty could not serve as a deterrent for unmarried mothers. Although both cases involve the killing of a person who has done the perpetrator no harm, in the shipwreck scenario, both individuals face mortal danger through no fault or choice of their own, and the motive for killing is self-preservation. By contrast, most cases of infanticide arise from consensual premarital intercourse, and the motive for killing is the preservation of honor. Thus, unlike cases where survival instinct overrides moral constraints, most instances of infanticide involve a deliberate decision that necessarily entails responsibility and accountability. Most importantly, while no law can eliminate the danger faced by the shipwrecked man or prevent a killing under the right of necessity, legal measures could substantially improve the life prospects of an unmarried mother and her child, thereby reducing the likelihood of infanticide. Thus, drawing an analogy between these situations misrepresents the normative framework of Kant's treatment of necessity and accountability.

A third important reason to reject comparisons between infanticide and the right of necessity, as well as to avoid assigning interpretative weight to the metaphor of the state of nature, is that such readings imply that Kant's position in this passage is contradictory.¹⁷ Since it is unlikely that Kant would advance a fundamentally inconsistent argument, the next chapter will offer a more coherent interpretation of this passage.

Discussion with Beccaria and Legislative Reform

Given that the first part of the chapter "On the Right to Punish and to Grant Clemency" in Kant's *Metaphysics of Morals* is immediately preceded by a discussion with Beccaria on the moral justification of the death penalty, the cases of infanticide and dueling may form part of that broader debate. This interpretation is supported by the stylistic features of the passage itself, where Kant separates individual arguments using dashes in the text (cf. Timmermann 2022: 13–14). The opponent whose views he presents advocates for a more lenient punishment or even impunity in the case of infanticide, whereas Kant consistently applies the general principles of the right to punish to these particular cases, maintaining that infanticide must be punished by death. Such

¹⁷ Murphy offers a sharp critique of the reasoning in this passage: "Some of Kant's arguments on these two issues [killing in a duel and infanticide] strike me as instances of unexampled feebleness and in no sense worthy of perhaps the greatest philosopher of the eighteenth century." Murphy (2012: 276).

structuring reflects a broader pattern: throughout his writings, Kant engages in an implicit polemic with his intellectual predecessors, responding to prevailing theoretical frameworks without always specifying whose views he contests. This feature is not always readily apparent, making it difficult to trace his interlocutors. In this case, however, no conjecture is necessary, as he explicitly rejects Beccaria's opposition to the death penalty in the portion of the text before the infanticide passage, dismissing his views as "overly compassionate feelings of an affected humanity" (MM, 6:335).

Beccaria's discussion of honor and infanticide in *On Crimes and Punishments* further reinforces this interpretation. In the chapter on honor, he argues that its defense "represents an instantaneous return to the state of nature and a temporary withdrawal of oneself from the laws which do not sufficiently protect the citizens in such matter" (Beccaria 1995: 27).¹⁸ In the chapter "Crimes Difficult to Prove", Beccaria describes infanticide as the result of an

[...] unavoidable conflict in which woman is placed if she has given in to weakness or violence. How could one who finds herself caught between disgrace and the death of a being unable to feel what harms it, not prefer the latter to the certain misery to which her and her unhappy fruit would be exposed? (Beccaria 1995: 81)

Commentators who see Kant as implicitly engaging with Beccaria's views in the infanticide passage disagree on whether he critiques or endorses them. Uleman contends that Kant "evokes" Beccaria's stance and broadly agrees with it, suggesting that the passage underscores the tension between legal and social norms. On this interpretation, the unwed mother and the duelist find themselves in a state of nature, which warrants a lighter punishment than for other cases of murder, since the law alone cannot counteract or negate the loss of honor. Though social conventions and criminal law are in conflict, both impose legitimate demands on agents that cannot simply be set aside (cf. Uleman 2000: 176-177).

On the other hand, Timmermann argues that Kant criticizes Beccaria and that the portion of the infanticide passage in which Kant refers to the newborn as "contraband merchandise" does not actually reflect his own view (cf. Timmermann 2022: 13). According to this reading, the relationship between the mother, the newborn, and society cannot be compared to the state of nature, and the state cannot disregard the life of a child born out of marriage. The mother is indeed in a particular situation because the preservation of honor is a legitimate moral motive, but this can also be said of many other people who commit crimes in an effort to protect, at all costs, values that we have an imperfect (or conditional) duty to uphold. Therefore, the mother should not be punished differently from any other person who has committed murder.

¹⁸ Speaking of dueling, Beccaria argues that the surviving duelist must be exempt from punishment for the crime of murder, because he, "through no fault of his own, was compelled to defend what the current laws do not guarantee, his good name, and had to show his fellow citizens that he fears only the laws and not the men". Beccaria (1995: 28).

Analyzing the infanticide passage in light of the thesis that Kant presents a debate with an imagined defender of the unmarried mother, Timmermann identifies several inconsistencies, two of which are particularly significant. First, if the controversial claims regarding the state of nature and the notion of the newborn as “contraband merchandise” genuinely reflected Kant’s position, he would not have postponed the resolution of the issue to the end of the passage, nor concluded by affirming that the legal punishment for infanticide must be death. Instead, he would have endorsed a more lenient penalty. Second, Kant states that such killings occurred in a state of nature and are therefore not cases of *homicidium dolosum*. He also asserts that the illegitimate child was born outside the law and has no right to the protection the state affords its citizens. But if the mother killed the child in a state of nature because her innate right was endangered, then her act was justified and the state would have no authority to punish her (cf. Timmermann 2022: 14).

If Kant is in fact criticizing Beccaria’s understanding of honor and the justification for committing murder to preserve it, and I take this to be the case, then he does not attempt to present a fully coherent argument in the infanticide passage. On the contrary, the argument is necessarily contradictory, as it brings together two opposing positions. From the standpoint of Kant’s theory, the demand for a more lenient punishment for infanticide exemplifies what he refers to as the “compassionate sentimentality of affected humanity,” since it concerns the killing of an innocent human being who has caused no harm – a crime for which the legally prescribed penalty is death. Given that one of the educational functions of civil society and the law is to regulate drives, passions, and affects, when actions motivated by them threaten the freedom of others, a call for leniency in such cases would be entirely counterproductive. A reduced penalty for such acts would undermine one of the fundamental aims of criminal law: deterring future offenses by ensuring the credible threat of punishment.

Support for the argument that Kant did not exempt anyone from duties toward abandoned children, least of all the state, can be found elsewhere in *The Metaphysics of Morals*, where he explicitly affirms the state’s right to allocate resources for their care through tax laws:

As for maintaining those children abandoned because of poverty or shame, or indeed murdered because of this, the state has a right to charge the people with the duty of not knowingly letting them die, even though they are an unwelcome addition to the population. Whether this should be done by taxing elderly unmarried people [*Hagestolz*] of both sexes generally (by which I mean *wealthy* unmarried people), since they are in part to blame for there being abandoned children, in order to establish foundling homes, or whether it can be done rightly in another way (it would be hard to find another means for preventing this) is a problem which has not yet been solved in such a way that the solution offends against neither rights nor morality. (MM, 6: 326–327)

Timmermann explains that the term *Hagestolz* carries an additional meaning, referring to a person unlikely ever to marry due to advanced age. He notes

that this term was an official legal designation in several German states, particularly in taxation laws. Until the seventeenth century, the property of these individuals passed to local authorities upon their death, and by the eighteenth century, they were required to contribute financially to poor relief funds (cf. Timmermann 2022: 16–17). With these clarifications in mind, Kant's demand to tax unmarried people of a certain age to support abandoned children was not unprecedented. More importantly, this context calls into question the claim that children born outside of marriage have no rights. Kant's assertion that the state may rightfully impose an obligation of care for these children suggests that society as a whole bears responsibility for their welfare. While an individual who is not the child's parent may have no direct legal duty toward them, Kant nonetheless suggests that every person has a moral obligation not to remain indifferent to their fate.

In the final part of the infanticide passage, Kant articulates his stance on the legal punishment for this crime. He asserts unequivocally that the appropriate sanction must be the death penalty, as it is the only punishment that objectively aligns with the fundamental purpose of criminal law: a person must be punished for committing a crime, and that punishment must be determined according to the principle of retribution. This standard holds regardless of whether individuals subjectively perceive it as unjust. Put differently, while motives such as the defense of honor may subjectively justify killing (in cases of dueling or infanticide) such an act can never objectively serve as a legitimate means of preserving honor. The role of the state is to uphold public justice, even when certain legal penalties may seem unjust to the people. However, although legal authorities cannot shape laws solely based on popular conceptions of justice, it becomes a serious concern when laws are broadly regarded as unjust. Respect for the law should foster the moral progress of citizens, but this function is undermined when the law itself is regarded as unjust. In such cases, people may still comply to avoid legal sanctions, yet obedience driven solely by the threat of punishment amounts to coercion and does nothing to shape public convictions.

Given the widespread sympathy and dominant social sentiment toward women who had committed infanticide, particularly those who had been led to expect a marriage that never materialized, the punishment for infanticide was widely seen as excessively harsh and unjust. Timmermann draws attention to a passage from Kant's essay fragments in which he discusses the concept of honor. Kant identifies the prevailing societal conception as a central part of the problem: preserving one's honor is often considered more important than preserving one's life. Building on this, Timmermann argues that legislative reform should focus on reshaping public perceptions of female honor and chastity. He suggests that this belief can only be altered through legal reform aimed at severing the link between a woman's honor and her chastity (Timmermann 2022: 21).

However, considering Kant's anthropological reflections on gender dynamics and his belief that a woman should be especially concerned with how others

perceive her conduct, I find it unlikely that he would argue that female honor has no connection to refraining from premarital intercourse. Kant's statement in the infanticide passage reinforces this reading, affirming that the honor of the sex is "no illusion". A more plausible interpretation is that he regarded the legal penalties and social sanctions imposed for fornication and female infanticide over the decades as barbaric. Reform, therefore, must address both the punishment for such offenses and the financial and existential conditions of these women. If the death penalty were carried out in a manner that allowed the person to preserve their dignity, then, as Kant seems to believe, public opinion would also shift. It would become evident that the murder of a newborn is no different from the murder of any other human being and therefore warrants the same punishment.¹⁹ The demand for consistency in sentencing within criminal law implies that a woman who commits infanticide must not be punished more severely than any other murderer. She must not be humiliated or tortured, nor may her body be used for any purpose after death.²⁰ This principle reflects Kant's broader critique of instrumentalizing persons, which also underlies his account of legal punishment.²¹

Legislative reform should seek to improve the circumstances of unmarried pregnant women to prevent them from resorting to infanticide out of desperation. First and foremost, it must decriminalize pregnancy outside of marriage. As we have seen, women in Kant's Prussia faced both social ostracism and legal penalties for bearing a child outside of marriage (see also: Wiesner 1986). Decriminalization would remove a major source of coercive pressure and moral

19 On this point, Kant observes: "If, however, he has committed murder he must *die*. Here there is no substitute that will satisfy justice. There is no *similarity* between life, however wretched it may be, and death, hence no likeness between the crime and the retribution unless death is judicially carried out upon the wrongdoer, although it must still be *freed from any mistreatment that could make the humanity in the person suffering it into something abominable*." (MM, 6: 333; italics added at the end of the passage.)

20 At the time Kant wrote *The Metaphysics of Morals*, such punishments had largely been abolished in Prussia, though not in all parts of Germany. Even if they were no longer widely enforced, these penalties had not been forgotten and continued to shape public opinion regarding the harsh treatment of unmarried mothers. A particularly troubling issue was that men were not punished, despite being equally responsible for the woman's pregnancy. While infanticide may no longer have been widespread by the late 18th century, there remain compelling reasons to insist on the abolition of "barbaric" punishments. Cruel and degrading legal sanctions are, regrettably, still enforced in certain parts of the world – particularly in jurisdictions where strict interpretations of religious law prevail. Moreover, extralegal "punishment" for adultery or other expressions of female sexual autonomy remains a serious global concern, as such practices frequently result in femicide.

21 Kant says: "*Punishment by a court* [...] can never be inflicted merely as a means to promote some other good for the criminal himself or for civil society. It must always be inflicted upon him only *because he has committed a crime*. For a human being can never be treated merely as a means to the purposes of another or be put among the objects of rights to things: his innate personality protects him from this, even though he can be condemned to lose his civil personality" MM, 6: 331.

panic, especially for women without familial or social support. Second, as already noted, Kant advocated expanding support for foundling homes to improve the welfare of abandoned children. He argued that the state must take an active role in caring for children whose parents are unwilling or unable to raise them. While institutional care in Kant's time was often rudimentary and sometimes brutal, Enlightenment thinkers increasingly called for reforms to improve such conditions. Third, in light of Kant's remark in the infanticide passage that "[l]egislation cannot remove the disgrace of an illegitimate birth," which presupposes that this disgrace is publicly known, it is plausible that he might have supported certain contemporary proposals aimed not at concealing pregnancies, but at sparing women social stigma and possible punitive consequences of public exposure. These proposals included expanding institutions where unmarried women could give birth anonymously and surrender their newborns. While such hospitals did not typically allow women to conceal their pregnancies in advance, they nonetheless offered a means of protecting their dignity by mitigating the consequences of illegitimacy.²² Although Kant does not explicitly endorse this approach, it would be consistent with his concern for human dignity and his belief that legal systems should avoid subjecting citizens to unnecessary public shame. Fourth, one reform proposed in the aforementioned essay competition on infanticide suggested legally requiring the father to marry the mother (a measure that raises its own ethical concerns). If he was already married or otherwise unavailable, the child could still be granted the right to bear his name (Timmermann, 2022: 24). In many legal systems of the time, children born outside of marriage were not only socially excluded but also legally disadvantaged: they could not inherit property, bear their father's name, or be recognized as legitimate heirs. Granting these children legal recognition and imposing paternal responsibility would help protect their rights while also reducing the dishonor and marginalization often imposed on the mother.

Gradually, such legislative measures could help reshape public perceptions of honor and the appropriate response to infanticide. Kant's emphasis on education, moral development, and the formative role of legal institutions suggests that structural changes not only influence governance but also transform prevailing cultural attitudes over time. By ensuring concrete protections for unmarried women and their children, legislation would help foster a broader cultural shift—one that recognizes infanticide as a brutal and unjustifiable act of murder, rather than a tragic but excusable response to shame and desperation.

22 In light of the fact that the contribution of unmarried mothers to the state's natural population growth was recognized as a valuable national resource, the state could regard these institutions as a form of compensation and support, helping women preserve some degree of "honor of the sex" in the eyes of their fellow citizens and avoid being driven to desperate acts; cf. Michalik (2006: 54).

Conclusion

The primary aim of this paper was to interpret Kant's position in *The Metaphysics of Morals* on the moral justification of the death penalty in cases of infanticide. I argued that Kant critically engages with Beccaria's claim that killings motivated by considerations of honor invite a degree of clemency, and that he rejects the view that infanticide should be classified as a killing in the state of nature. In my reading, Kant does not question the legitimacy of the death penalty for infanticide, nor does he propose a more lenient form of punishment. I also challenged several interpretations that liken infanticide either to the right of necessity or to a killing in the state of nature, both of which, I believe, are incompatible with Kant's legal and moral framework and ultimately render his reasoning in the infanticide passage internally contradictory.

Additionally, I maintained that legislative reform can and should, at least to some extent, preserve the "honor of the sex" by mitigating the social and legal stigma associated with nonmarital birth. This stigma was reinforced by excessively cruel sanctions for fornication and infanticide, which stemmed from "barbaric and underdeveloped" laws and customs in need of civilization. Although some reforms had begun during Kant's time, these punitive measures had already deeply shaped societal attitudes, engendering sympathy for unmarried mothers who killed their newborns. To address this, I outlined several legal reforms aimed at ensuring that Kant's defense of the death penalty in cases of infanticide is publicly understood as both objectively and subjectively justified.

A complementary, though equally significant, aim of this paper was to initiate an analysis of Kant's views on women, gender differences, sexual relations, and marriage. I sought to show that Kant was more attuned to women's legal and social vulnerabilities than is typically recognized, and less concerned (if at all) with moralizing or defending deeply traditional gender norms. This is not to suggest that Kant was an advocate for women's rights in the modern sense. However, it does point to the need for scholars, particularly within our regional philosophical community, to engage more thoroughly and sensitively with the underexplored resources in Kant's philosophy for a more nuanced interpretation of his views on gender difference and the status of women.²³ These issues are intimately connected to the legal and social institutions through which moral norms are embodied, contested, and reformed, as well as to the broader conditions that shape the cultivation of character and the moral progress of humanity.

23 I would like to thank the anonymous reviewer for their insightful comments concerning Kant's account of female character, his conception of marriage, his introduction of a novel legal category – "the rights to persons akin to rights to things", and the implications of women's subordinate civil status. These are important and thought-provoking issues that merit sustained engagement. The reviewer also rightly highlights a growing strand of feminist scholarship that critically reinterprets Kant's moral and legal philosophy, particularly his emphasis on objectification, as a resource for feminist theory; cf. Herman (2001), Langton (2009: 223). However, a fuller discussion of these topics lies beyond the scope of the present article and will be undertaken on another occasion.

References

- Beccaria, Cesare. 1995. *'On Crimes and Punishments' and Other Writings*. Cambridge: Cambridge University Press.
- Cohen, Esther. 1989. "Symbols Of Culpability And The Universal Language Of Justice: The Ritual Of Public Executions In Late Medieval Europe". *History of European Ideas* 11: 407-416.
- Evans, Richard. 1996. *Rituals of Retribution: Capital Punishment in Germany 1600-1987*. Oxford: Oxford University Press.
- Goethe, Johann Wolfgang von. 1987. *Faust: Part One*. Oxford: Oxford University Press.
- Govedarica, Jelena, and Milica Smajević Roljić. 2024a. "A Critical Assessment of the Kleingeld – Bernasconi Debate On Kant's Racism". *Con-Textos Kantianos* 20: 73-86.
- _____. 2024b. "A Non-Racist Reading of Kant's Thoughts on Race". *Rivista di Estetica* 87: 50-66.
- Govedarica, Jelena. 2025. "Kantova teorija rase i njeni kritičari". *Theoria* 68(2): 71-93.
- Herman, Barbara. 2001. "Could It Be Worth Thinking About Kant on Sex and Marriage." In: Antony, Louise M., and Charlotte E. Witt, eds. *A Mind of One's Own: Feminist Essays on Reason and Objectivity*. London: Routledge: pp.: 53-73.
- Hull, Isabel. 1996. *Sexuality, State, and Civil Society in Germany, 1700-1815*. Ithaca: Cornell University Press.
- Kant, Immanuel. 2012. *Lectures on Anthropology*. Cambridge: Cambridge University Press.
- _____. 1996. "On the Common Saying: That May Be Correct in Theory, but It Is of No Use in Practice." In: Kant, Immanuel. *Practical Philosophy*. Cambridge: Cambridge University Press: pp.: 273-311.
- _____. 1996. "The Metaphysics of Morals." In: Kant, Immanuel. *Practical Philosophy*. Cambridge: Cambridge University Press: pp.: 353-605.
- _____. 1996. "Toward Perpetual Peace." In: Kant, Immanuel. *Practical Philosophy*. Cambridge: Cambridge University Press: pp.: 311-353.
- Langton, Rae. 2009. *Sexual Solipsism: Philosophical Essays on Pornography and Objectification*. New York: Oxford University Press.
- Michalik, Kerstin. 2006. "The Development of the Discourse on Infanticide in the Late Eighteenth Century and the New Legal Standardization of the Offense in the Nineteenth Century." In: Gleixner, Ulrike, and Marion W. Gray, eds. *Gender in Transition: Discourse and Practice in German-Speaking Europe, 1750-1830*. Ann Arbor, MI: University of Michigan Press: pp.: 51-75.
- Mills, Charles. 2005. "Kant's *Untermenschen*". In: Valls, Andrew, ed. *Race and Racism in Modern Philosophy*. New York: Cornell University Press: pp.: 169-193.
- Murphy, Jeffrie G. 2012. *Punishment and the moral emotions*. Oxford: Oxford University Press.
- Papadaki, Lina. 2010. "Kantian Marriage and Beyond: Why It Is Worth Thinking about Kant on Marriage". *Hypatia* 25 (2): 276-294.
- Pascoe, Jordan. 2012. "Infanticide, the Death Penalty, and the Principle of Equality in Kant's Doctrine of Right". URL: <https://jordanpascoe.files.wordpress.com/2012/02/pascoeinfanticide.pdf> (last accessed: April 7, 2025).
- _____. 2019. "On Finding Yourself in a State of Nature: A Kantian Account of Abortion and Voluntary Motherhood". *Feminist Philosophy Quarterly* 5(3): 1-28.
- _____. 2023. "Beyond Consent: On Setting and Sharing Sexual Ends". *Philosophies* 8 (21): 1-16.

- Timmermann, Jens. 2024. "The Quandary of Infanticide in Kant's 'Doctrine of Right'". *Archiv für Geschichte der Philosophie* 106(2): 267–294.
- Uleman, Jennifer K. 2000. "On Kant, Infanticide, and Finding Oneself in a State of Nature". *Zeitschrift für Philosophische Forschung* 54 (2):173–195.
- Varden, Helga. 2020. *Sex, Love, and Gender: A Kantian Theory*. Oxford: Oxford University Press.
- _____. 2017. "Kant and Women". *Pacific Philosophical Quarterly* 98 (4): 653–694.
- Wiesner, Merry. 2000. *Women and Gender in Early Modern Europe*. Cambridge: Cambridge University Press.
- Willson, Holly. 1998. "Kant's Evolutionary Theory of Marriage." In: Kneller, Jane, and Sidney Axinn, eds. *Autonomy and Community*. Albany, NY: SUNY Press: pp.: 283–307.

Jelena Govedarica

Problem čedomorstva u *Metafizici morala*

Apstrakt

U okviru rasprave o pravu kažnjavanja u *Metafizici morala* Kant naizgled tvrdi da se neudata žena koja ubije svoje novorođenče da bi očuvala „čast roda“ nalazi u prirodnom stanju, zbog čega je država ne može kazniti na isti način na koji kažnjava ostale ubice. Na kraju pasusa, pak, on zaključuje da se čedomorstvo, kao i svako drugo ubistvo, mora kazniti smrću počinioca, bez obzira na to što će u očima javnosti ova kazna biti nepravедna sve dok je zakonodavstvo još „varvarsko i nerazvijeno“. U tekstu tvrdim da Kant ni u jednom trenutku nije zagovarao kaznu blažu od smrtnе, a da implikacije metafore prirodnog stanja i analogije između čedomorstva i prava nužde njegovu argumentaciju čine kontradiktornom. Zbog toga sporne delove pasusa treba tumačiti kao stavove koje je Kant pripisivao Bekariji, a čitav pasus kao nastavak polemike koju je eksplicitno sa njim vodio po pitanju legitimnosti smrtnе kazne.

Ključne reči: žene, razlike među polovima, čast roda, seksualni odnosi pre braka, prirodno stanje, pravo nužde, pravo odmazde, smrtnа kazna, Bekarija, reforma zakonodavstva

