

AUTONOMY AND HETERONOMY IN ETHICS AND RIGHT ACCORDING TO KANT

AUTONOMIA E HETERONOMIA NO DIREITO SEGUNDO KANT

*Aylton Barbieri Durão*¹

Abstract:

Kant distinguishes ethics from right since ethics demands that action happens objectively and subjectively determined by duty, while right demands only that action objectively happens according to duty, although it subjectively allows the subject to be pathologically moved by inclinations. Autonomy demands two things simultaneously: objectively, the duty must result from practical reason; but, subjectively, the motive of the action must be respected for duty. The juridical duty comes from external legislation, it fulfills the objective condition because it stems from the determination of the form of external relation between the choices by the will, but it does not have to fulfill the subjective condition, because it is indifferent regarding the motive for the choice to carry out the action, provided the action be externally in conformity with duty. Nevertheless, as the internal legislation also refers to juridical duty, it is possible to subjectively follow the juridical law out of respect, but provided that the juridical duty be converted into an indirect ethical duty.

Keywords: freedom; will; choice; duty; virtue.

Resumo:

Kant distingue a ética do direito, pois a ética exige que a ação aconteça objetiva e subjetivamente determinada pelo dever, enquanto o direito exige apenas que a ação aconteça objetivamente conforme o dever, embora subjetivamente permita que o sujeito seja movido patologicamente pelas inclinações. A autonomia exige duas coisas simultaneamente: objetivamente, o dever deve resultar da razão prática; mas, subjetivamente, o motivo da ação deve ser respeitado por dever. O dever jurídico advém de legislação externa, cumpre a condição objetiva porque decorre da determinação da forma de relação externa entre as escolhas pela vontade, mas não deve cumprir a condição subjetiva, pois é indiferente quanto ao motivo para a escolha de realizar a ação, desde que a ação esteja externamente em conformidade com o dever. No entanto, como a legislação interna também se refere ao dever jurídico, é possível seguir subjetivamente a lei jurídica por respeito, mas desde que o dever jurídico se converta em dever ético indireto.

Palavras-chave: liberdade; vontade; arbítrio; dever; virtude.

¹ Doutor em Filosofia pela Universidad de Valladolid/España, reconhecido na UFRJ. Professor associado do Departamento de filosofia da UFSC. Membro permanente do Programa de Pós-Graduação em Filosofia da UFSC. Email: barbieri@cfh.ufsc.br; Lattes: <http://lattes.cnpq.br/6958840944336762>; Orcid: <https://orcid.org/0000-0002-8264-0620>

Introduction

Practical freedom is constitutive for the practical reason because man is given the faculty of desire that, by means of its representations, may be the cause of the objects of such representations. The faculty of desire, when it uses concepts to produce the objects of representation, is divided into choice (*Willkür*), and will (*Wille*) (MSRL, AA 06: 213.14-26.). The faculty of choice is the faculty of desire when the fundament for the determination of the action is found in itself and not in the object. Will is the faculty to desire considered as the fundament to determine the choice for action (Allison, 2009, p. 129). The will is not determined by any superior faculty and it is the fundament for the determination of choice to action (MSRL, AA 06: 213. 20-26).

Human choice, contrary to animal choice (*arbitrium brutum*), which is totally determined by inclinations, is a free choice (*arbitrium liberum*), because it may be determined by the will, but may also be affected by the inclinations originated by sensibility (MSRL, AA 06: 213. 27-35).

The will is the faculty of desire which produces moral laws and, when it determines the choice for action, is the practical reason itself; the choice is the faculty of desire which produces the subjective maxims that orientate action. The will refers exclusively to the production of moral laws and to the legislation that determines the choice to action, which implies that it is not subject to coercion. Consequently, freedom is a concept that cannot be attributed to the will, but only to choice (MSRL, AA 06: 226. 10-11).

Practical freedom is identified with that of freedom of choice: the negative meaning of practical freedom consists in the independence of choice of all matter of law of the desired object, while the positive meaning is the legislation of pure reason and is identified with the concept of autonomy of will, as it is the only principle of all moral laws, of corresponding duties, as well as it represents the formal condition of maxims of choice that coincide with the moral law (KpV, AA 05: 33. 15-21). The negative concept of freedom of choice consists in the independence of its affectation by sensitive impulses or of all the matter of law originated by the desired object, while the positive resides on the faculty of pure reason of being practical by itself, or on the determination of maxims of choice by the mere universal legislating form (MSRL, AA 06: 213f. 35-1). This only occurs when the will, as the practical reason applied to choice, and consequently as the faculty of principles, conditions the maxims of choice by means of universal and supreme laws. Therefore, practical freedom means the determination of choice by the moral law regardless of sensitive impulses (Allison, 2009, p. 210).

Rational beings in general automatically satisfy the moral law; but, since the human choice is an *arbitrium liberum*, it has, at the same time, an intelligible character (*noumenon*), which may be determined by the moral law originated by the will, and a sensitive character (*phenomenon*), when it is affected by the inclinations originated by sensibility. If the human choice had only the intelligible character, it would immediately respect the moral law; however, if it had solely the sensitive character, it would be an *arbitrium brutum* entirely determined by inclinations and by the casualty of nature. Since it lies between the intelligible world and the sensitive world, the will, being the legislating faculty that produces the moral law, has to coerce human choice so that it obeys the moral law; for that reason, moral law appears, for us, as a duty that has to be imposed against the impulses of sensibility, as much as the formula of moral law has to be a categorical

imperative that unconditionally obliges the maxims of action (MSRL, AA 06: 226. 10-11 14). So, Kant defines the duty as coercion of free choice by the law (MSTL, AA 06: 379. 15-16). That way, due to the peculiarity of human choice, it may be concluded that the practical reason is the faculty of coercion of the choice by duty, that the practical freedom consists in the coercion of human choice by duty and, that free choice is choice submitted to the coercion of duty.

The will is the legislating faculty because it produces the moral law that determines choice; so, the will generates legislation for human choice. Nevertheless, the will is divided into two parts because it may be *your* own will (that is, the subject's own will) or the general will (which may also be the will of others). The laws of ethics come from the subject's own will, while juridical laws come from general will (which may also be the will of others) (MSTL, AA 06: 389. 3-6); and the duties of ethics demand an internal legislation, while the duties of right demand an external legislation. Hence, in relating these two observations, one may conclude that there are two forms of legislation: internal legislation, in which the subject's own will constitutes the laws of ethics, and external legislation, in which the general will produce the juridical laws, which have to determine differently the choice for action. That is why the difference between ethics and right is rooted in the distinction between internal and external legislation (MSRL, AA 06: 219. 2-6).

Nonetheless, since legislation consists of the determination of choice by the moral law produced by the will, and since that is the definition of practical freedom, so, the division of the concept of legislation into internal, according to which the subject's own will produces the laws of ethics, and external, through which general will produce juridical laws, also demands the division of practical freedom, into freedom in the internal use of choice and freedom in the external use of choice, or simply internal freedom and external freedom (Caranti, 2017, p. 26-7). That is why Kant states that the concepts of internal freedom and external freedom (juridical freedom) constitute the bases to distinguish the doctrine of virtue from the doctrine of right, as they allow one to differentiate duties into duties of internal freedom and duties of external freedom, and that only the duties of internal freedom are ethics since internal freedom is the condition of ethical duties (duties of virtue) (MSTL, AA 06: 406. 29-33). On the other hand, declares that external right in general comes entirely from the concept of freedom in men's external relations (TP, AA 08: 289. 29-30), as well as that the freedom to which juridical duties refer is the external freedom (MSRL, AA 06: 214. 19-22).

There is an additional differentiation in the legislation: law, which objectively converts action into duty, which represents a merely theoretical knowledge for practical reason in the determination of choice, and a motive that subjectively determines the choice for the realization of action through the representation of law, making duty the motive (MSRL, AA 06: 218. 11-18). Consequently, the distinction between ethical and juridical legislation demands the distinction between internal and external legislation both from an objective perspective, the duty's, and from a subjective perspective, which refers to the subject's motivation for action. And, since legislation presents an objective and a subjective aspect, internal freedom, and external freedom also have an objective and a subjective aspect.

The ethical legislation.

Objectively, internal freedom represents the determination of the choice matter by the will, producing an object for free choice, which is an end that orientates choice for action, while external freedom consists in the determination of the form of relation of choices among themselves, which promotes the concordance among the choices through a universal law (MSTL, AA 06: 380-381. 19-03).

Kant defines end (matter of choice in opposition to form) as an object of free choice whose representation determines it to produce an object in the action. Every human action occurs according to an end, which may come from two sources: (1) from the sensitive inclinations; (2) from practical reason, which constitute ends that are also duties, because they have to neutralize the influence of the sensitive inclinations through a moral end given *a priori* (MSTL, AA 06: 380-381. 22-03).

Kant proves the possibility of ends that are also duties through three consecutive steps: (1) he shows that the ends, that are also duties, are compatible with internal freedom, because the concept itself of determination of choice for an end denies all possibilities that it may be forced by somebody else's choice, since somebody may force me to carry out actions that are an end to the other, but that would not be an end to me, but a means to realize an end to the other person, since only I, through my (internal) freedom, can propose myself to have an end. If my choice could be determined to have an end that was not mine, that would imply a contradiction, since it would be an act of (internal) freedom that was not free. On the other hand, having an end that is also a duty agrees with (internal) freedom, because this end results from my own (internal) freedom and forces me to determine my own choice for action (MSTL, AA 06: 381. 31-35).

(2) he deduces the objective validity of the ends that are also duties. An end that is also a duty can only exist because the subject proposes it for himself as an object of choice and consists in a determination of choice by practical reason; therefore, it is an act of his (internal) freedom and not an effect of nature, finally being opposed to the ends originated by the sensitive impulses. Furthermore, the determination of choice for an end that is also a duty represents an unconditioned act of practical reason, a categorical imperative that unites the concept of duty with the end of action, and also the condition of possibility for free actions. Hence, there have to be ends that are also duties because, as every human action presupposes an end, and if there were only empirical ends, all the determination of choice by practical reason, free actions (in the practical-positive sense), the categorical imperative (since empirical ends are always conditioned), as well as the metaphysic of morals itself would be nullified (MSTL, AA 06: 385. 14-18).

(3) Kant shows which ones are the ends that are also duties: my own perfection and the happiness of others through the mere procedure of denying the possibility of interchanging them. Happiness itself cannot be a duty because duty demands the idea of obligation that can only be realized against the person's will; however, to propose happiness as an end is a natural inclination of men and does not constitute a duty because it implies a contradiction to say that the man may be forced to realize something that he deeply desires. Moreover, the perfection of others cannot be an end that is also a duty because it is a contradiction that I propose to the other a duty that only he can propose to himself as a duty (MSTL, AA 06: 385-386. 32-14).

For the choice of human beings, which is an *arbitrium liberum*, obedience to the moral law has to be imposed against the impulses of sensibility. So, all duties, presuppose constraint, and the formula of the moral law is a categorical imperative. Such constraint of duty may be of two kinds: self-constraint for the duties that come from internal legislation, or external constraint for the duties of external legislation. Self-constraint consists of an act of internal freedom through which the subject imposes for himself the law of duty, against the impulses that come from inclinations (MSTL, AA 06: 379-380. 15-06).

Due to the characteristic of human choice, the supply of the moral law always finds resistance to sensitive obstacles and demands a great effort from the man in order to obey the duty. That is why obeying the duty implies fighting against an adversary of moral law that exists in us, which represents a virtue. That is the negative definition of virtue, while the positive definition is the strength of a man's maxim in the supply of his duty. Virtue allows the man to overcome the obstacles to the obedience of duty, created by the man himself, as he is seduced by sensitive inclinations, which demand the self-constraint according to the principle of internal freedom, through the representation of duty in conformity with its formal law (MSTL, AA 06: 394. 15-23).

Hence, virtue accompanies every human action whose choice is determined by the will to obey the moral law by duty regardless of the origin of duty in internal freedom or external freedom; therefore, there is one and the same virtue, understood as the moral intention in us. That is so, even though juridical duties come from external freedom and only consider the form of choice, the concordance of the choices through a universal law, which implies the possibility of being coercively imposed by the choice of others when they are fulfilled out of respect for the moral law, they are, then, realized with virtue. So, not all duties fulfilled according to virtue are duties of virtue, since only those that directly precede internal freedom, and since internal freedom offers, entirely *a priori*, a matter for free choice, an end that is also a duty. Therefore, there is only one virtue, but many duties of virtue, which are the duties linked to my own perfection or to the happiness of others (MSTL, AA 06: 395. 9-14).

Consequently, duties of virtue are the duties that come from internal freedom, which implies that they determine the matter of human choice, the end of the action, provided this end is also a duty; however, the ends that are also duties are my own perfection, or humanity in my own self, and the happiness of others, or humanity in the person of the other. So, humanity in general (either in my own self or in the person of others) is a man's end which is also a duty (Williams, 1983, p. 36).

Besides, as all human actions have an end, and are orientated by a maxim while being a subjective principle of the actions coming from choice, such ends need to orientate the maxims themselves. Since the ends may be empirical, as they come from sensitive impulses, or ends that are also duties, when they come from internal freedom, it is necessary that internal freedom may determine choice (the matter or end of choice), which is the faculty that produces the maxims in such a way that the maxims of actions integrate into themselves the ends that are also duties (MSTL, AA 06: 389. 18-26).

That allows Kant to come to two conclusions: (1) ethical duties are duties of virtue or duties of internal freedom, so, they provide laws for the maxims of actions; that is to say that internal freedom, as it may determine the choice for an end that is also a duty, may also determine the maxim, which is the subjective

principle of action; so, in ethics, the subject has to obey the duty of virtue out of respect for duty itself, and, as duty is related with moral law, the subject also has to obey the moral law out of respect for the law. Nonetheless, as ethics establishes laws for the maxims of action, it may determine that there be respect for the law, but not the exact proportion the subject must have regarding respect for the law, because the law may be respected with more or less virtue, since the subject is both freer and more coerced by the moral law; that is why duties of virtue are duties of ample obligation or imperfect duties (MSTL, AA 06: 395. 4-17).

(2) given that the maxims of actions incorporate the ends that are also duties as subjective principles of action, that are maxims of ends and it is possible to find an objective principle that analyses if the maxims of the ends are able to become universal laws, the supreme principle of the doctrine of virtue: "Act in such a way that a maxim of ends is for each one a universal law." However, the ends that are also duties are my own perfection and the happiness of others, humanity in my own self, and humanity in the person of others; that is why Kant interprets this principle states that the maxims of action, those capable of becoming universal laws, must have, as an end, that men treat humanity in general always as an end, never as a means.

The supreme principle of morality is a categorical imperative, not only due to its form but especially because it is a formula to verify if the maxims of action may be converted into universal laws, therefore, in objective principles and not only subjective principles for action. This categorical imperative may be deduced based on practical reason: every human action has an end; however, if that end could not be determined *a priori* as an end that is also a duty and converted into a universal law, all ends would be only empirical and there would not be a pure practical reason (MSTL, AA 06: 395. 15-32); besides it allows us to deduct all duties of virtue that show which ends are also duties.

Nevertheless, one should not mix up the duties coming from internal freedom with internal duties, neither the duties coming from external freedom with external duties, since the duties of internal or external freedom are defined by the determination of the matter or by the form of choice, respectively, while internal or external duties are explained by the subject's action. The action is internal when the obligation that commands to carry out the action is directed to the subject himself, producing an internal duty, while is external when it is directed to others, producing an external duty. It is possible, therefore, that among the duties of internal freedom there are both internal and external duties. All duties of my own perfection are internal duties of internal freedom, or also duties in themselves, because they force the subject to treat humanity in himself as an end and never as a means. On the one hand, the duties of the happiness of others are external duties of internal freedom, or duties towards others, because they force the subject to treat humanity in the person of others as an end and never as a means. For example, duties of benevolence are duties of internal freedom because it is a duty (a matter of choice) to treat humanity in the person of others as an end of action and never as a means to reach my own ends; on the other hand, it is an external duty because realizing the happiness of others constitutes a duty in relation to other people, as it forces an external action aiming at treating humanity in the person of the other as an end, never as a means.

That is why, according to the subjective aspect, internal freedom demands that the subject be his own boss and that he has self-control (MSTL, AA 06: 407. 19-25). Being one's own boss presupposes moral apathy, which cannot be mixed

up with indifference in relation to the moral law, but it represents a tranquil mind resulting from a reflected, firm decision to obey the moral law; to have self-control means to control affections and passions that come from sensibility and that darken the serenity acquired with moral apathy. Affections assault the will like tempests; however, they quickly vanish, while passions consist in permanent inclinations and they more strongly oppose the virtue than the affections do, and they adjust better with vice; wrath is an example of affections, and hatred is an of passions.

The juridical legislation

The mere comparison between the duties of virtue and the juridical duties of private law (private property) and public law (the republican constitution, the right of the peoples, cosmopolitan, and criminal law), is enough to show that they are totally different in terms of content and not only because of the agent's motivation (Guyer, 2015, p. 244).

Moreover, based on the exposition of the duties of virtue as duties of my own perfection and duties of the happiness of others, it is possible to show that they are materially and not only formally distinct from juridical duties. The reasons are: (1) juridical duties cannot be duties of perfection itself because they are always internal duties or duties for the self, which force me to consider humanity in my own self as an end in itself for my actions, while juridical duties are duties concerning exclusively the other person, since they involve external actions related to the other person's choice; and (2) they can also be duties of the happiness of others because these are external duties concerning other people (even though they are duties of virtue) which force me to consider humanity in the person of the other as an end for the actions; nevertheless, Kant firmly denies that the State, according to the practical reason point of view, may evidently intend to carry out the happiness of its subjects, as the happiness of others, as an end for its action because such intromission of the State in its subjects' happiness constitutes paternalism and, hence, the State has to limit its actuation to the guarantee of its subjects' freedom, the subjects having the possibility to choose the way in which they desire to be happy.

Naturally, it is possible to show a such distinction of content between duties of virtue and juridical duties also due to conceptual reasons. Contrary to the duties of virtue, which come from internal freedom and consist in the determination of the matter (end) of choice for the action through the will, juridical duties (rights) come from external freedom, which results from the determination, by the will, of the form of choice for action.

Kant explains the concept of external freedom, initially, in *ZeF*, in a note related to the principles based on which the republican constitution is established (freedom, dependence, and equality). In that context, he defines the concept of external freedom as a synonym of juridical freedom, in opposition to the concept of negative freedom as the faculty for one to do everything one wants, provided that nobody is prejudiced. Even though Kant considers that external freedom is normally interpreted as negative freedom or as freedom of choice, he states that it cannot be understood that way because this kind of thinking leads to a tautology that does not elucidate anything, because the meaning of the word "faculty" consists in the possibility of realizing an action that does not prejudice anybody. That allows one to translate the negative definition of external freedom into the

following: external freedom is the possibility to realize actions whenever they do not prejudice anybody, the subject being allowed to do whatever he wants to be provided he does not cause damage to anybody. Consequently, the only acceptable definition for external freedom agrees with practical, and also positive, freedom since it may be formulated as the faculty of not obeying any exterior law, except for that to which I can give my consent (ZeF. AA 08: 350). Later on, he does not speak explicitly about external freedom, but solely about juridical freedom, which he equally defines as not obeying any law, except for that to which I can give my consent (MSRL, AA 06: 314. 7-8).

According to the objective aspect, external freedom expresses the determination of the form of choice because (1) choices may be reciprocally influenced by their external actions and such interactions may have a sensitive configuration; nevertheless, in that case, would be no practical reason in the external action of a choice; consequently, it is necessary that the will determines the form of choice so that the external action of the choice may keep an external relation with the other choices based on practical reason, external freedom, whose product is the juridical duty itself (MSRL, AA 06: 230. 7-11).

(2) The external action of choice may be directed to another choice or only to the desire of others. The choice has the capacity to realize the external action, while desire can only wish that the action be realized (MSRL, AA 06: 230. 11-15).

(3) Every human action has an intention, so, internal freedom has to originate an end that is also a duty (duty of virtue), which forces the human choice to treat humanity in general as the end of the action. Nonetheless, juridical duties are products of external freedom, which determines the form of the relation among choices; therefore, juridical duty only regulates the reciprocal external action of the choices, regardless of the subject's intentions. Hence, a subject obeys the juridical duty when his external action is adequate to that prescribed by law, regardless of his motivation to follow it (MSRL, AA 06: 230. 15-23).

Based on that perspective, the external form determined according to the external freedom of one's particular choice relates to the external form of the particular choice of others, also determined according to external freedom, and on and on, resulting in conciliation between choices, which allows Kant to enunciate the universal principle of right in the form of a categorical imperative: "Act externally in such a manner that the free exercise of thy will may be able to coexist with the freedom of all others, according to a universal law." Such universal law is the juridical duty itself because a duty always corresponds to a practical law, while a right is also always expressed by a law (MSRL, AA 06: 231. 10-12).

Since the juridical duty is the determination of the form of external relation between the choices before the will, the doctrine of right only presents laws for the form of external action; that implies that, for the doctrine of right, the motivation of the choice for action is irrelevant, provided that the external action be according to the duty; that juridical duties are perfect duties or duties of strict obligation, because, differently from the duties of virtue that are laws for the maxims of the actions and allow a space for the major or minor exercise of freedom, the juridical duty does not allow room for external action, which has to be carried out according to duty (MSTL, AA 06: 390. 4-17); that juridical duties also be external duties because they only refer to the external action of the choice. However, that does not mean that all external duties are juridical duties, because the duties of the happiness of others are external, since they imply the external action of the choice,

but constitute duties of virtue, demanding the determination of the matter of choice by an end of practical reason.

Every obedience to the moral law for creatures like us, whose choice is affected by sensitive inclinations but is determined by the moral law, constitutes a duty because the moral law must be imposed against the impulses of sensibility and, therefore, implies constraint. For the duties of virtue, produced by internal freedom, the constraint may only be self-constraint, but the juridical duties, as they do not consider the choice's intentions, they may be pathologically imposed by external constraint, since what interests is solely the external conciliation of the choices themselves (MSTL, AA 06: 379ff).

Consequently, the doctrine of right implies the faculty to coerce, but only as this external constraint is compatible with the conciliation of choices by means of external freedom, because every infraction to the juridical law represents a negation of the external freedom of choice; therefore, external constraint, which is according to the law, consists in a negation of the negation of external freedom, which is the same as the affirmation of external freedom. That is why external constraint is a way to force the choice, which commits the infraction related to the right of others, to adapt to external freedom, that is, to submit to the law of its own consent. Nonetheless, external constraint only forces the choice's external action to, objectively, submit to the law of its own consent, regardless the choice's intention because the right is indifferent concerning the matter of choice and refers exclusively to the form of the external relation between the choices (MSRL, AA 06: 231. 24-34).

This makes it possible to explain another distinction between right and ethics: the concept of duty implies the concept of law; in the case of ethics, the law that allows the deduction of the duties of virtues is the categorical imperative, therefore, the law comes from "your own will," while in the case of the right the law comes from the people's united will (Kersting, 2007, p. 76); but, as the people's united will (Williams, 1983, p. 300) may well be the will of others, the choice of others, so, the rights may be followed only based on the external constraint, provided that this constraint is carried out in the name of the people's united will (MSTL, AA 06: 389, 3-6).

Based on the definition of external constraint as an external (but not internal) submission to the law of its own consent, it is possible to formulate the concept of strict right as a possibility of a universal reciprocal constraint, as this agrees with a universal law of freedom. That is why the strict right cannot be divided into two moments, on the one side, the right, and on the other side, the external constraint, because the constraint is not a strange element that is added *a posteriori* to the juridical duty. Since, for the right, the choice motivation for the action is indifferent and it only takes into consideration that the external relation between the choices comes from the law's consent, the right may be thought through a universal relation of reciprocal constraint among all the choices, provided that this constraint is also understood as the product of practical reason, capable to generate the objective consent among the choices, regardless of being independent from the motivation for the action of the subjects themselves. Hence, strict right contains nothing of ethics, simply because it has no consideration at all for the actions' intentions, whenever it agrees with external freedom (MSRL, AA 06: 232. 11-17).

Nonetheless, if the strict right may be thought of as the universal reciprocal constraint, it may be said that the problem of the rule of law has a solution, even to

a people of demons, provided that these have understanding, because the conflict among them has to allow their external relation be according to the juridical duty (right) and neutralizes their wicked intentions. Therefore, the right may also be produced by rational egotism of wicked subjects, because providence's hand is in charge of guaranteeing an increase of legality in human actions which constitute the basis for humanity's moral progress, "as if" it were a result of practical reason (ZeF, AA 08: 366. 17-29).

That is why the right that practical reason produces in the external use of choice entirely agrees with the right that the antagonism of unsociable sociability proposes because, based on distinct perspectives, they end up converging conceptually. Beginning from top to bottom, practical reason, through external freedom, determines the form of choice in such a way that it may objectively conciliate with the choice of all others as a result of its consent, but not necessarily of the choice's effective consent, because all choices implied in the action may be motivated by rational egotism. Beginning from bottom to top, the antagonism of the unsociable sociability among self-interested subjects leads to external laws in conformity with men's rational right (Williams, 1983, p. 8).

So, according to the objective legislation, all duties come from freedom, from the determination of the choice by the will, which is practical reason itself; but duties of ethics are differentiated from the duties of right in terms of content because duties of virtue come from internal freedom, which consists in the determination, by practical reason, of the choice matter, while juridical duties are originated by external freedom, as practical reason determines the form of external relation among the choices; therefore, both ethics and right fulfill the objective criterion of autonomy because the foundation of their duties is found in practical reason (Caranti, 2017, p. 26).

Nonetheless clarifying of the objective legislation is not enough to explain autonomy of right, because autonomy does not demand only that duty comes objectively from practical reason, but also that the subject subjectively obeys duty because of the idea of duty, motivated by a moral feeling of respect for duty, even regardless of the duty's matter, that is, the content of moral law itself, but considering solely its formal character of duty, simply because they are imperatives that categorically force us by its mere way of being. Evidently, ethics supplies both the objective and the subjective criteria of autonomy because, according to the objective legislation, duties of virtue come from the determination of the matter of choice by the will, and, according to the subjective legislation, as duties of virtue are ends that determine the subject's maxim of action, he has to obey this end, which internally orientates his action, which is a duty, for duty; right, however, only fulfills the objective criterion of autonomy because, according to the objective legislation, the will determines the form of external relation among the choices, regardless of the subjects' subjective motivation for the obedience of the law; that is why it cannot be demanded of the subjects, in the role of addressees of the right, more than the conformity of their external behavior to the law, as well as the citizens, in the role of authors of the law, that the laws result from their consent without their being subjectively motivated to give such consent.

Conclusion

As autonomy demands the objective and subjective conditions, one cannot attribute autonomy to the doctrine of right; although, it is necessary to variegate

the meaning of heteronomy of right to avoid to equal the right with the forms of empirical knowledge and to exclude it from the realm of practical reason, which is contrary to Kant's intentions, which situates the right as the part of the moral; besides, it would imply the comparison between juridical duties and the impulses of sensibility, and deny them the character of duties, even though Kant demonstrates that, according to the objective legislation, juridical duties come from practical reason, and only according to the subjective legislation they must be obeyed for pathological motives (Bernd, 2002, p. 170).

Nevertheless, even though one cannot attribute autonomy to the right, Kant explains that it is possible to obey the juridical duty with autonomy, because external legislation refers solely to juridical laws, but internal legislation refers both to laws of ethics and juridical laws, and illustrates such observation through an analogy concerning space and time. All the objects of the external sense are in space, which constitutes the *a priori* intuition that organizes external sensations and all the objects of the internal sense are in time, as *a priori* intuition to the representations of conscience itself; that is why, as the objects of the external sense become representations for the conscience, they also submit to the pure form of time; therefore, time is the form of the objects in both internal and external senses (MSRL, AA 06: 214. 13-30).

This same relation occurs in practical philosophy because all duties, be them of external or internal freedom, are products of pure practical reason and they also have to be internal fundamentals in the determination of choice (MSRL, AA 06: 214. 26-30). That means that, even though according to the objective legislation, juridical duties come from external freedom, while duties of virtue come from internal freedom, from the subjective legislation, duties of virtue have to be obeyed according to internal freedom, because they are ends that orientate the maxims of choice and determine the subject's motivation, while juridical duties may be obeyed by external freedom, as the citizens approve laws that are of reciprocal consent of all and the subjects obey the laws that allow for the conciliation of everyone's choice, even though they are not motivated by the law that result from such consent, there is nothing that stops them from acting subjectively also motivated by internal freedom, which refers both to duties of virtue and juridical duties.

Hence, internal freedom may relate both to the duties from internal and external freedom; however, they do so in a distinct way. Internal freedom is the objective determination of the matter of choice that constitutes duties of virtue and the subjective determination of the end of the action; nevertheless, it represents only the subjective determination of choice to offer an internal fundament to juridical duties, which, objectively, result from the determination of the form of choice by the will, or the external freedom. That allows the choice to add internal motivation to juridical duty and to follow it for the idea of duty or respect for the law.

Consequently, the duties of virtue come from the objective and subjective determination of choice by the will according to internal freedom, while juridical duties come from objective determination according to external freedom, but may receive the subjective determination from both internal freedom, in case they are obeyed according to duty, and internal freedom, in case they are obeyed because of the idea of duty. That is why Kant argues that duties in general, just for being duties, belong to ethics, but duties of virtue are direct ethical duties, while juridical duties may be indirect ethical duties, as they are followed by internal motivation

(MSRL, AA 06: 221. 1-3). So, juridical duties may be followed with virtue when the subject, besides simply adapting his external behavior with the law, does so because of the idea of duty or out of respect for the law, without the juridical duties being converted into duties of virtue (Allison, 2009, p. 162).

The possibility to subjectively obey, according to internal freedom, both the duties obtained objectively from internal freedom and the duties from external freedom allows to show that the juridical duties come objectively from external freedom, as all citizens only approve those laws to which they may give their consent; but they subjectively may obey the laws out of pathological motives, provided that the action is externally in conformity with the duty, or obey the law because of the idea of duty.

Consequently, the right and the State cannot demand from the citizen more than the conformity of his behavior with the law and have to permit his private choice to choose the motives for obeying the law; however, it is possible for the citizen to behave with civism and to obey the law out of duty (Willaschek, 2002, p. 74).

Based on the analysis of the legislation, it is possible to explain the relation of the right with the concept of autonomy. Autonomy demands two things simultaneously: objectively, the duty must result from practical reason itself; but, subjectively, the motive of the action must be respected for duty. The juridical duty comes from external legislation, it satisfies the objective condition because it stems from the determination of the form of external relation between the choices by the will, but initially, precisely for that reason, it does not have to satisfy the subjective condition, because it is indifferent regarding the motive for the choice to carry out the action, provided the action be externally in conformity with duty. Nevertheless, as the internal legislation also refers to juridical duty, it is possible to subjectively follow the juridical law out of respect, but provided that the juridical duty be converted into an indirect ethical duty (Ripstein, 2009, p. 358). Hence, the juridical duty, transformed into an indirect ethical duty, may be followed with autonomy. According to the philosophy of history and religion, the continued approximation of humanity to the juridical civil community associated with the ethical civil community implies that all juridical duty shall be civically obeyed by the citizens.

However, the juridical duty can only be followed by civism as it is converted into an indirect ethical duty (Kersting, 2007, p. 77), which implies that this duty does not belong to right anymore, because in the domain of right, it is only demanded that the first condition of autonomy be fulfilled, but not the second; therefore, the *MSRL*, understood in an isolated way, is heteronomous. Nevertheless, Kant never understood right separated from the whole of practical philosophy. His constant insistence in showing both the unity of practical philosophy in *MGS* and in *KpV*, as well as the linking between ethics and right in *MS*, indicate that autonomy is to be thought based on the totality of the metaphysics of morals, of which right is just one part (Bernd, 2002, p. 170).

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