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Kantian Review (2022), **27**, 635–650
doi:10.1017/S1369415422000322

KANTIAN REVIEW CAMBRIDGE UNIVERSITY PRESS

ARTICLE

Framing Mills' Black Radical Kantianism: Kant and Du Bois

Frank M. Kirkland

Hunter College CUNY Graduate Center, New York City, NY, USA
Email: fkirklan@hunter.cuny.edu

Abstract

This article has two purposes. The first speaks to the compatibilist quality of Charles Mills' Black Radical Kantianism (BRK), its strengths and weaknesses and the pertinence of W. E. B Du Bois to it. BRK turns from Mills' previous critique of Kantianism as representative of a *rassenstaatlich* political liberalism, underwritten and tainted by the racial/domination contract, to his current defence of a compatibilist Kantianism as representative of a *rechtsstaatlich* political liberalism supported by a non-ideal racially corrective critique of both that contract and the kind of political liberalism affiliated with it. The second focuses on what I introduce as the 'Radicalization of Kant in Black' (RKB). RKB is *not* a compatibilist project. Rather it re-examines issues first posed by 'slave- and black-encoded' blacks coming to act and struggle with the primacy of practical reason under the historically normative authority of freedom and the abolition of enslavement. What are the ramifications of each for Kant-/Kantian-radicalization?

Keywords: Black Radical Kantianism; Radicalization of Kant in Black

To Charles

1. Introduction

The idea of a 'Black Radical Kantianism' (BRK) (Mills 2018) is largely unfamiliar to Kant scholars. BRK endorses a compatibilism between Kantianism and both a tradition of resistance and activism against racial enslavement and racial exclusion/domination, on one side, and an *Ideologiekritik* aligned with that activism, on the other, usually called the 'Black Radical Tradition' (BRT) (Robinson 1983). BRK's compatibilism is definitely *not* the 'elbow room' for both free agency and natural causality to operate.

BRK's compatibilism is Mills' radicalization of Kantianism, standing on reconstructions not just of Kant, but of Marx and Du Bois among others (Mills 2018). Thus, one purpose of this article is to focus on this compatibilist quality of BRK, its strengths and weaknesses and the pertinence of Du Bois to it. BRK turns from Mills' previous critique of Kant as representative of a *rassenstaatlich* political liberalism, underwritten and tainted by a racial/domination contract, to his final defence of a compatibilist Kantianism as representative of a *rechtsstaatlich* political liberalism, supported by a

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https://doi.org/10.1017/S1369415422000322 Published online by Cambridge University Press

non-ideal racially corrective critique of both that contract and the kind of political liberalism affiliated with it. It aims to resolve the racialized problems that come with the social contract to which Kantianism is attached.

But there is another side I wish to cover, albeit briefly – what I call the 'Radicalization of Kant in Black' (RKB). RKB is set to examine issues first posed by 'slave- and black-encoded' blacks coming to act and know in peace and to struggle with the primacy of practical reason under *both* the historically normative authority of freedom *and* the historically normative abolition of enslavement. Unlike BRK, RKB is *not* a compatibilist project. It would *not* be part of BRK. It arises with the historically normative abolition of enslavement. For example, it would be analogous with what Hannah Arendt called the 'awakening [of] Kant from his political slumber' (Arendt 1982: 17), but precipitated by the Saint Domingue Revolution (SDR), not by the French Revolution (FR).

RKB would address, for example, problems with the absence of Kant's call to the by-standing public in the 'Conflict of the Faculties', to regard the SDR too as an event worthy of unbridled enthusiasm for the moral progress of humankind (CF, §6, 7: 85–7; in Kant 2005). Instead, until recently, the SDR has been regarded as an event imbued with uncontrolled terror and barbarism. But outside of these examples, RKB directly challenges as mistaken both BRK's assessment of Kantian moral personhood and its presumption that the importance of the former to the Kantian liberal *Rechtsstaat* is simply in need of a non-ideal corrective critique of the racial problems endemic to it.

Briefly, RKB would pursue this challenge not simply by subordinating under the moral law the tyrannical passions and interests attached to enslavement, but by both ideally affirming the normative abolition of racial enslavement while expanding freedom's authority and reason's primacy. These are positions Kant never took. RKB, however, would claim they are entitled on grounds radicalizing Kant, without non-ideal provisions, to be taken.

2. BRK on personhood and sub-personhood

Recently, Kantian conceptions of a person have been the point of departure for showing their allegiance to racial exclusion and domination rather than, as is more usual, part of a critique thereof. This allegiance would rest on Kant's strong adherence to a racial classification/ranking system, based on racially essentialist views, which allegedly encompasses, despite the expression of preference for autonomy, a racially exclusive and perennially compliant 'sub-personhood'. Normally, readings of Kant's conception of a person rely on attributing to Kant a critique of race matters, just by virtue of his adherence to an abstractly conceived non-racial and impartial personhood incompatible with and outside of racial essentialism or any racially conditioned end.

Under his conception of the 'racial contract', Mills holds that Kant is committed to such a racial classification system identifying non-whites as 'sub-persons', whites as 'persons', thereby racially undermining the supposed impartiality and rectitude extended to moral personhood. But his turn to BRK modifies that position. BRK would *not* endorse a notion of moral personhood established under abstract non-racialized, ideal stipulation, wherein equality of persons could be ideally postulated in spite of the racial classification/ranking system in place. Rather it would endorse a notion of

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moral personhood compatible with conditionally race-specific non-ideal requirements, not with the racialized classification system, wherein equality of persons could be brought into effect. Mills' 'original insight' then would be reflected in his argument for a compatibilism of Kantian moral personhood, so conceived, with both a morally worthy activism against the racial/domination contract and a justly wrought equality to be achieved under race-specific non-ideal guidance.

Although disagreement would still resonate among Kant scholars, there would be nothing inconsequential about Mills' BRK. Its contribution would rest on the incorporation of race matters into Kantian considerations of moral personhood and equality. And therein, at least minimally, would lie the radicalization of Kant in Mills' BRK, since a Kantian moral project has normally been presented as standing in its considerations on the separation from or neutralization of race matters. Kant-styled moral projects have undergone many radicalizations. They have involved loosening the restrictiveness of what duty demands to widening the domain of moral worthiness, including certain types of self-interested action, to relaxing the rigorism assigned to the connection between an action's moral worth and an agent's intention. A radicalization of Kant-styled moral projects, made compatible with BRT, would be with Mills' BRK a radicalization at the maximal level analogous with, say, the Marburg Neo-Kantian attunement of Marxian socialism with Kant's 'kingdom of ends'.

Still, Kant's emblematic conception of a person may be problematic for Mills. Even under BRK, Kant's conception of a person goes hand in hand with that of a 'sub-person' (Mills 2018: 8, 15–19). What is a 'sub-person'? According to Mills, a 'sub-person' or *Untermensch* is the 'naturalized' outcome of following, as a *modus vivendi*, an 'actual norm prescribing the non-white racial exclusion from personhood' (Mills 1997: 122). More concisely, a person is 'biologically destined never to penetrate the normative rights ceiling established for [her/him] below white persons' (p. 17). A 'sub-person', then, would be a racially non-white subservient being, perennially enveloped and suppressed by nature, internalized *not* to lead and grasp a life normatively. Moral personhood would be 'color-coded', would be of a piece with the racial/domination contract, and consequently claims to full personhood would not escape examination by human sciences detailing the 'actual historical record' of racialized dominant and subservient structures of behaviour in a polity. Such examinations would be stipulated in advance and have a hold on any moral theory, including Kant's.

3. RKB and Kant's notion of personhood

Admittedly this characterization of 'sub-personhood' would be difficult for most to attribute to Kant, since his moral philosophy and conception of 'personhood' are typically regarded as anti-naturalistic. But many believe that his conspicuous allegiance to the classification system of race-science justifies the attribution and thus the need for a Kantian radicalization such as BRK. What I am going to suggest about Kant's alleged commitment to 'sub-personhood', however, takes a different path than Mills', by radicalizing Kant through RKB.

What BRK takes to be a 'sub-person' is nominally and adjectivally designated as a racially non-white uncouth and subservient underling. Although Kant is held to embrace, in some sense, that depiction, he would not designate someone so depicted as being a 'sub-person'. Rather he would nominally and adjectivally designate

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someone so depicted as metaphysically, not practically, subject to 'pathological necessitation'. To be so necessitated would be for one's life to be devoid of any way to conceive of it normatively, or to be unavailable for doing anything freely, but only available immediately to impulses compelling action.

The contrast between personhood and sub-personhood for Mills is nominal and adjectival, usually expressive of two kinds of racial populations, one of them 'essentially and deservedly' superior and dominant, the other 'essentially and deservedly' inferior and subservient. But Mills' contrast is not what Kant explicitly employs. Kant's focus is rather on adverbial difference, both expressed in terms of ways in which personhood is manifest, without attention necessarily paid to difference in racial kinds or populations.

The first way is that a person is indexed non-empirically as 'autonomous', as endowed with first-order authority and a normative posture cognizant of her capability to unconditionally subordinate empirically prudential motives and inclinations to her rationally motivated and internally self-legislating accountability for the sake of the moral law. A person so indexed would *not* be raceless but would be available unconditionally to imputing rationally to oneself morally worthy actions and their repertoires whose policies are exclusively dedicated to the moral law. The first way would be ubiquitous racially.

The second way is that a person can be indexed empirically as 'heteronomous', remaining sensibly affected while exercising free choice without metaphysically being subject to 'pathological necessitation'. Indexed empirically, a person takes on a normative posture cognizant that she can conditionally subordinate her rationally motivated and self-legislating accountability to the moral law for the sake of her own empirically prudential motives and circumstances. A person so indexed would also not be raceless. S/he may indeed even be race-*defined* as rationally heeding actions either benefiting her racially prudential interests over others or attending to actions she suffers stemming from the racially prudential interests of others over hers. This second way supports the race-specific distinction among 'classes' of 'persons' to be employed in RKB as opposed to BRK.

For Mills' BRK, persons and sub-persons represent distinct kinds of beings, understood nominally and adjectivally, and their 'ontic difference' is the source for the normative orientation of one and the absence thereof of the other. For both Kant and RKB, in contrast, there is the divergence in normative orientations just suggested, underscored adverbially, i.e. autonomously/heteronomously, for the practical endeavours among persons alone since a sub-person would be devoid of any normative orientation. Sub-persons could not be sorted out in the empirical indexing of persons. So, if there are 'Kantian *Untermenschen*', metaphysically necessitated non-white subservient underlings, they would have to be found in a way other than the contrast with Kantian moral personhood. A racially non-white minion would not be a 'sub-person' under Kant or other notables.[1] Another approach to the question of 'compatibilism' raised by BRK, and some kind of radicalization of Kant, would be necessary.

4. Vacating and occupying the 'civic condition' of a liberal *Rechtsstaat*

Occupying the 'civic condition' is, for Kant, a duty of right or justice equivalent to the duty to vacate the 'state of nature'. It is the conceptual requirement binding citizens

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to act in such a way that it constrains the possible freedom of action another would otherwise have. This requirement entails putting citizens under rightful obligation stemming from the sovereignty of the liberal *Rechtsstaat*. It does not entail putting yourself under obligation stemming from the internal self-legislation or rationally motivated moral accountability of your own person. If they do not entail each other, do they necessarily coincide with each other, since both are matters of practical reason?

Broadly speaking, from Kant's point of view, there are some who would claim that they do coincide and some who would claim they do not. Playfully speaking, call the former 'Kant-integrationists' and the latter 'Kant-segregationists'.[2] Mills' BRK reads Kant along the 'integrationist' line. Kant would then be held to the view that duty of right and justice of the *Rechtsstaat*'s 'civic condition' coincides with or follows from the categorical imperative itself. Mills criticizes him for that view but does not rely on the 'segregationist' line. Rather he relies on BRK's critique of both racialized 'sub-personhood' and the *Rechtsstaat*'s defence of what he calls a 'color-coded' moral personhood. But, via an examination of 'civil independence', the 'segregationist' line may provide a better approach to BRK's compatibilism and radicalization of Kant.

Relations of equality are primarily reflected in the intelligible distinction and interactions between citizens in terms of 'mine and thine' (Doctrine of Right, §§8–9, 6: 255–7; in the *Metaphysics of Morals* in Kant 1996). As normatively entitled postures citizens gain and take in civic interaction, they extend beyond what can be empirically demarcated and held, equally distinguishing things, deeds, ends and views as rightfully those of each. Those entitlements are freedom in its 'external' manifestations, which places citizens under an obligation forming the basis of the *Rechtsstaat*'s authority (§8, 6: 255–6; §§43–4, 6: 311–12). Without the 'civic condition', citizens would have no intelligibly mutual assurance to leave unappropriated anything belonging to others unless everyone offers assurance of acting in accord with the same principle intelligibly distinguishing what is 'mine' from what is 'yours'. This stipulation for Kant establishes *de jure* equality under law, as we now say.

But this stipulation is tainted by a criterion Kant employs to demarcate those who cannot be 'active citizens', who thus cannot be put fully under rightful obligation. That criterion is what Kant calls (civil) 'independence', the attributes 'not to be bound to another citizen', 'not to be dependent on arrangements made by others for one's preservation in existence' (or a 'master') and 'not to be represented by anyone but the polity where rights are concerned' (DR, §46. 6: 313–14). This criterion, not personhood, would be bracing, I believe, to the kind of Kantian-radicalization Mills would find necessary for BRK, because Kant himself appears not to give full-throated attention to three racialized problems this criterion elicits.

First, independence excludes both those regarded as naturally dependent, innately incapable of acquiring 'independence' or not having it attributed to them as a matter of course, and those as conventionally dependent, customarily incapable of being economically self-sustaining. All told, for Kant, typically enslaved non-whites, women, children and the indigent. Curiously, it can be inclusive of those who no longer remain indigent and become economically self-sustaining over time, namely, typically white men. It is this point which represents for Kant a passage from 'passive' (second-class) to 'active' (first-class) citizenship typically for those dependent conventionally, but not typically for those naturally so. The passive–active distinction

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Kant makes with 'independence' is not just a distinction between two ways of being citizens. As we shall see, it represents a 'two-way path' between a starting and an end point for members of a group described as 'independent' to periodically vacate the civic condition and constantly reoccupy it. Enslaved blacks and 'free' women then (1) cannot be citizens or obligated to the 'civic condition'; (2) cannot engage in civic interaction with 'active' or 'passive' citizens; and (3) cannot take that peculiar 'two-directional pathway' 'independence' enables.[3]

Second, point (3) highlights a further problem with the criterion of 'independence' that Kant fails to flesh out. Kant conveys the belief that 'civil independence' is a matter established solely within the 'civic condition'. Occupying the 'civic condition' is required to obtain 'conclusively' the right to acquire and accumulate status and wealth (DR, §15, 6: 264–5). The rightful obligation to procure and amass in the 'civic condition' enables the rightful entitlement to acquire and accumulate assets and affluence, different and separate from embezzlement, fraud or theft.

But the 'original acquisition' of material and possessions and the 'original accumulation' thereof can be outside of the scope of what the *Rechtsstaat* establishes 'conclusively' as 'mine' and 'thine'.[4] Kant calls this 'original acquisition' (and accumulation) 'provisional' (DR, §§15–16, 6: 264–7). Making them conclusive, obtaining rightful entitlement to, rather than having tangible custody of, what is procured and amassed, *only* comes with being obligated to the 'civic condition'. Those designated as naturally unable to be obligated to the 'civic condition' could acquire and accumulate things only provisionally. But they never could do so intelligibly as conclusively 'mine'. Those designated as conventionally able to be so obligated also could provisionally acquire and accumulate goods while episodically vacating that 'condition'. But, once they reoccupied that 'condition', the goods they provisionally acquired and accumulated would be acquired and accumulated intelligibly as conclusively 'mine' and conclusively 'not yours'.

Third, 'civil independence' enables a permissible 'one-way path' from passive to active citizenship. This permissible 'one-way path' is not on par with the obligatory 'one-way path' from vacating the 'state of nature' to occupying the 'civic condition'. The former represents the transition from second- to first-class citizenship for a sole group within the *Rechtsstaat*; the latter does not offer any passage to women and racially non-white groups. Furthermore, 'independence' apparently cloaks a 'two-way path' solely for the transition from provisional to conclusive acquisition, enabling a constant vacating and reoccupying of both the 'civic condition' and the 'state of nature', for both actual and would-be first-class citizens within one racial group.

'Independence' appears to alter the understanding of the obligatory one-way path. The acquisition and accumulation of status and wealth outside of occupying the 'civic condition' is a provisional acquisition and accumulation not subject to what the *Rechtsstaat* establishes conclusively as 'mine' and 'thine' for the sake of equality and rightful recognition. The provisional custody of what is acquired and accumulated extends indeterminately to anyone in the 'state of nature'. But it also extends to those designated as 'conventionally dependent', who have periodically vacated the 'civic condition' to acquire and accumulate provisionally in order to frequently reoccupy the 'civic condition' for the sake of entitling what is procured and amassed as conclusively 'mine' and not 'thine'.[5] The *Rechtsstaat* then cannot clearly establish that

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what it conclusively entitles has a provenance inside or outside the obligatory 'civic condition' or whether that point even really matters for those persons empirically indexed and sorted out through 'independence'. How does this play for a 'Kant-integrationist' or '-segregationist'?

A 'Kant-integrationist' (Höffe 2002) would argue that the authority of the *Rechtsstaat* rests on an unconditional normative requirement that must intrinsically serve the following desideratum: that *all* persons are predisposed to their dedication to the moral law as sufficient to determine their will. For them, that requirement would set moral parameters for a legally non-racial and non-gendered incorporation of both those to whom the *Rechtsstaat* is obligated in the 'civic condition' and those whom the *Rechtsstaat* entitles to procure and amass goods as conclusively 'mine', preventing anyone from intelligibly appropriating or confiscating what would be distinguished as conclusively not 'yours'.

A 'Kant-segregationist' (Wood 1999), however, would argue that the authority in question can be sequestered from that requirement. Potentially then that unconditional requirement would not be the desideratum of the authority of the *Rechtsstaat*. If so, racial and gendered exclusion of and dominance over those whom the *Rechtsstaat* does not obligate to the 'civic condition' would be legally possible. Consequently, each and every black and woman could not procure and amass goods as conclusively 'mine'. But indigent or solvent 'independent' white male citizens would be enabled to intelligibly appropriate or confiscate what could not be established as conclusively 'yours'. They would intelligibly appropriate what blacks and women procure only 'provisionally' in order to distinguish it 'conclusively' as not 'mine'.

The prudential interest of blacks in being rightfully obligated to the *Rechtsstaat*'s 'civic condition' would be frustrated and lost. That outcome led the antebellum Frederick Douglass to argue strenuously against enslaved blacks surrendering that interest (Douglass 1969: 320). The unconditional requirement whose end is Kant's desideratum actually shapes up to be empty or chimerical. This is the state of affairs that would provide the opening for BRK. *De jure* racial exclusion and domination would be in force, since being in the rightful condition appears, in two aspects, to set parameters preventing racially, not incorporating non-racially, those whom the *Rechtsstaat* would obligate to the 'civic condition'.

First, *de jure* racial exclusion involves the *Rechtsstaat*, through the criterion of 'independence', preventing and prohibiting enslaved blacks and women from the rightful obligation to both enter the 'civic condition' by vacating the 'state of nature'. This first aspect would be unfailing under Kantian auspices, but it would also be incomplete.

Second, *de jure* racial domination would entail the *Rechtsstaat*, wittingly or unwittingly, allowing whites to re-enter the 'state of nature', to act as denizens thereof by vacating the 'civic condition', but without loss of being citizens, safeguarded by Kant's criterion of 'independence', if and when (a) enslaved blacks were to gain the obligation to enter it and (b) whites sought to procure conclusively in the 'civic condition' what was obtained provisionally in the 'state of nature'. This second aspect would be a matter Kant never entertained.

Both aspects would be the features comprising a *Rechtsstaat* sufficient for Mills to describe it as entangled in the 'racial contract', as a racially supremacist state, a *Rassenstaat*. Kant himself never explicitly considered that 'independence' would

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conceal how far and deep the extent of the *Rassenstaat* is at work in a *Rechtsstaat*. Although the reach and depth of the *Rassenstaat* would not be reliant on Kant's conception of personhood,[6] Kant's design of the *Rechtsstaat* would not be impermeable to *rassenstaatlich* motivations and features which impact 'obligation to the civic condition', leaving behind doubts concerning the character of its authority. Yet BRK and RKB each would come at this point in different ways.

5. BRK and Du Bois' proposals

Kant's *Rechtsstaat* in his Doctrine of Right provided a normative framework for putting its citizens under obligation to its 'civic condition'. Yet, through his notion of 'independence', it could do so with a racially disconcerting intransigence rather than a non-racially concerted inclusiveness. If the intransigence were not in place, blacks, as citizens and *de jure* free, would be rightfully obligated to the *Rechtsstaat* and, in the American case, vacate plantation life (as the 'state of nature') and occupy the 'civic condition'.

Historically this is the state of affairs of America's liberal *Rechtsstaat* in the aftermath of the Civil War, a period called 'Reconstruction'. But, despite that liberal *Rechtsstaat*'s abolition of racial enslavement in favour of non-racial inclusion and commitment to non-white entry into the 'civic condition', it still failed to warrant and fully enforce that abolition, inclusion and commitment. It forfeited the entitlement that, as citizens, the deeds, goods, ends and views of blacks would be met intelligibly under 'mine and thine' relations amongst whites. That forfeiture would signal for Mills the re-emergence of the *Rassenstaat*. BRK realizes that the emergence and maintenance of a *Rassenstaat* are matters needing to be rectified, but under non-ideal conditions, to feasibly bring about a *Rechtsstaat*. Under these circumstances, how does Kant still remain, even in part, normatively redemptive for Mills?

Generally, historians and social scientists, rarely philosophers, have been prolific on 'Reconstruction'. But recently a few philosophical texts on Du Bois' evaluation of 'Reconstruction' have emerged which could align with BRK (Balfour 2011; Basevich 2021; Gooding-Williams 2010). Philosophically, Du Bois can be called a master in the 'hermeneutics of suspicion', alongside the trio of Marx, Nietzsche and Freud. He engaged in *Ideologiekritik*, critical of the long-standing ideology surrounding 'Reconstruction' and its failure. Du Bois' importance for Mills' BRK would turn on his acuity in correcting false, racist beliefs operative in a *Rassenstaat* and pursuing and realizing the ideals of freedom and equality represented in the *Rechtsstaat*'s 'civic condition'. But how should Du Bois' *Ideologiekritik* be construed?

Would Du Bois' *Ideologiekritik*, as Mills would suggest, be (a) a critique of ideal theory (IT) as deceptive in proposing resolutions to race problems; (b) a critique of IT's wholesale indifference to race matters; or (c) a critique of IT's wholesale ignorance of the manners in which race matters are to be addressed (Mills 2005: 165–84)? Contrary to Mills, Du Bois' *Ideologiekritik* would not be directed against IT.[7] It would be directed against ideology as an institutionally or discursively authorized representation denying that problems and stratifications in society are produced by society. For Du Bois, this denial would be threefold: (1) denying that racial problems and divisions are matters or outcomes of society, thereby irrelevant to sociopolitical concerns; (2) denying that history is important to grasping them, thereby irrelevant to the

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historical record; and (3) denying the importance of knowledge to resolving racial problems emergent in social practice, thereby making irrelevant 'epistemic and moral ignorance' festering around racial matters.

But Mills' BRK finds it pertinent to criticizing IT as ideological to criticize as chimerical Kant's unconditional normative requirement of obligation to the 'civic condition'. This goes along with BRK criticizing as ideological the authority of the *Rechtsstaat*'s obligation itself as ineffectual. Those targets of BRK's critique fail as a way of condemning *rassenstaatlich* ends. Two chapters in Du Bois' *Black Reconstruction in America* (Du Bois 2007), 'Looking Backward' and 'Looking Forward', are good examples to see how Mills would use Du Bois' *Ideologiekritik* to serve BRK. There Du Bois speaks of the aspirational goal for the liberal state emergent from 'Reconstruction'. He does not call for emergence of a *Rechtsstaat per se* but for a goal the *Rechtsstaat* is to realize, calling it 'abolition-democracy' (A-D).[8]

A-D is democracy's expansion, an expansion of the *Rechtsstaat*'s 'form of governance', not its 'form of sovereignty', as both a normatively salient prerequisite and a normatively developmental outcome from the abolition of the *Rechtsstaat*'s compliance with enslavement. Its objective is twofold: the abolition of both (a) 'the "formal and real subsumption of labour under capital" (Marx 1992: 943–1065) in favour of a recurrent subsumption of capital under labour and (b) a liberal *Rechtsstaat* wherein race-, gender- and class-based inequities would thrive in favour of a liberal *Rechtsstaat* wherein multi-racial, multi-gendered (*not* non-racial and non-gendered) and class-based equities would reign' (Kirkland 2016).

'Looking Backward' is reflective of a cognitively retrospective stance after slavery's abolition, factually reporting on how the prior goal of a racially white supremacist state (*Rassenstaat*) could still serve the obligation to the liberal state's 'civic condition', i.e. 'beginning again where plantation owners left off in 1860, merely substituting for the individual ownership of slaves a new state serfdom of black folk' (Du Bois 2007: 104). The retrospective stance reveals 'Reconstruction' as a purposively long-living failure.

'Looking Forward' is reflective of a cognitively prospective stance after slavery's abolition, factually reporting on how two conflicting conceptions of America's future, one of which was A-D, the other 'the amassing of wealth and power by industry for private profit', revealing 'the uncomprehending resistance of the South and the pressure of black folk' (Du Bois 2007: 149), served the aforementioned obligation and so making the two conflicting notions uneasy but temporary bedfellows. The prospective stance reveals 'Reconstruction' as a short-lived success that soon failed. For both stances, 'Reconstruction' fails as a matter of historical fact.

For BRK, regardless of whether Kant's unconditional normative requirement is at work (Kant-integrationists) or not (Kant-segregationists), nothing in Kant's duty of right inhibits what 'looking backward' factually reports – the *Rechtsstaat* professing the importance of upholding citizens' obligation to the 'civic condition' while 'colluding' with a *rassenstaatlich* countersigning against the inclusion of those whom that 'condition' could bind and against the restraint that 'condition' posed on those already bound. Furthermore, nothing in Kant's duty of right promotes what 'looking forward' factually reports – the non-ideal inclusion of what the *Rechtsstaat*'s sovereignty professes. Du Bois revealed that inclusion as historically redeemable in obligating blacks as citizens to the *Rechtsstaat*'s 'civic condition'. Unless ideological,

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nothing contradictory or false would impact the sovereignty of the *Rechtsstaat*'s placement of its citizens under obligation to the 'civic condition' with a form of governance, 'abolition-democracy', non-ideally articulating who counts as to be bound as citizens.

BRK seeks to change the eligibility to enter the 'civic condition' through a non-ideal correction of the obligation to those it binds. Mills would rely on Du Bois' 'prospective stance', cognitively moving from the obligation to the *Rechtsstaat* he would identify as *rassenstaatlich* to the obligation redeemed by A-D. Relying on Du Bois' non-ideal corrections, the historical fact of 'Reconstruction's' failure would set the stage for BRK to stress *both* the calamity attached to retrospectively discussing a sense of justice with a racist end in the Kantian *Rechtsstaat and* the importance of the opportunity embraced in prospectively conferring onto it, through A-D, a sense of justice with an anti-racist end.

6. BRK, Black Radical Rawlsian Kantianism and non-ideal theory

Mills' BRK sustains the following points. First, its radicalization of Kantianism requires a compatibilism with race matters. Its compatibilism must come with a critique of the ideology ensuing from Kant's notion of 'independence'. Such a critique enables BRK to identify the social and political location wherein racial exclusion and domination originate and persist in Kant's *Rechtsstaat*, and to mobilize Du Bois' non-ideal anti-racist and multi-racial provisions to rectify 'obligation to the civic condition'. For Mills' BRK, such mobilization would represent a 'social-ontological' (Mills 2018: 18) alteration of that obligation, from that which must be presupposed to that which must be realized.

Second, BRK requires an *Ideologiekritik*, but compatibly with Kantianism. As stated previously, Du Bois' *Ideologiekritik* is not directed at IT (ideal theory). Thus, the non-ideal action-guidance that would come with his A-D must be, for Mills' BRK, critical of the emptiness of Kant's commitment to the unconditionally normative requirement of all human life as an end in itself. BRK treats that requirement as a matter of IT's failure to authorize the correction, in the face of *rassenstaatlich* ends, to the obligation to the 'civic condition'. But neither IT nor NIT (non-ideal theory) governs Kant's thought, unlike transcendental idealism (TI) especially for practical reason.

In brief, TI is not the same as IT or NIT. For Kant, IT would treat the unconditional requirement of the moral law as an unknowable antecedent cause, thus making it impossible for the moral law to be distinctly employed in a person's capacity to reason practically, i.e. with either autonomy or heteronomy. Rather than treat the moral law as an unknowable antecedent cause, NIT would treat the moral law as dependent on what is conceived generally as producing pleasure or avoiding pain, thus making the moral law empirically conditioned as either heuristic or chimerical. In contrast to both, TI would show the moral law's normative force and practical necessity as its unconditioned requirement endemic to practical reason without (a) entangling that requirement's intelligibility with the theoretically unavoidable allure of what is an antecedent first cause or (b) embroiling it in 'frictionless spinning'.

Third, BRK is critical of the absence of Kant's commitment to NIT for his moral project, an absence denied by some (Huseyinzadegan 2019; Korsgaard 1996; Louden 2000). But BRK supports a commitment to the action-guidance of NIT for Kantian

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political philosophy as represented by John Rawls. Mills calls it 'Black Radical Rawlsian Kantianism' or BRRK (Mills 2018: 26). But it comes with Mills' critique of Rawls' commitment to a particular manner in which NIT is to be employed for action-guidance.

Rawls has an altogether different take on both IT and NIT than Kant. He is the originator of NIT but only as a supplement to IT. IT for Rawls operates under the presumption that a rationally moral account of a just society requires firm observance from all of the rules considered to be impeccably fair and just socially. In short, it constructs under the supposition that a 'well-ordered society' would be rationally and freely upheld by everyone in accordance with and for the sake of an ideal conception of justice.

NIT, however, operates under 'special circumstances' wherein the ideal of justice is less conceivable insofar as the capacity to lead one's life and govern one's affairs rationally in a 'well-ordered society' cannot be assumed (Rawls 1971: §39, 248–9). It operates under the presumption that a moral account of a just society or an obligation to its 'civic condition' requires historical guidelines for the feasibility of a fair and just society *in the absence of both* what is impeccably fair and just and what should be firmly observed. In short, NIT sets priorities for justice to be plausibly viable rather than ideals of justice to be firmly assumed and upheld.

For Mills, BRRK expresses both a non-ideal critique of the *Rechtsstaat*'s *rassenstaatlich* aims and a defence of the plausibility of anti-racist corrections to them, both which take precedence over rather than serve as a supplement to IT or its unconditional requirement. IT lends itself to ignoring or disfiguring facts solely for what it upholds on the level of pure theory, thereby turning ideological. BRRK regards ideal accounts as unable to be realistically theory- or action-guiding, and so incapable of having any impact on a moral approach to a theory of justice (Mills 1997: 77) and of nullifying the adherence of white supremacy and racial exploitation thereto (pp. 96, 110–11).

Thus, for BRK and BRRK, NIT serves as a critique of the ideology borne in IT (Mills 2005: 170–2, 182). BRK and BRRK would involve non-ideal accounts like Du Bois', whose purpose for Mills feasibly establishes priorities for justice rather than strictly embracing principles thereof as in Kant and Rawls. While they counter the racial domination contract, they both give the lie to the sufficiency of ideal accounts of justice while giving credibility to non-ideal schemes for a racially corrective sense of justice.[9]

But, say, Du Bois were not supplying non-ideal cognitive schemes regarding (a) 'Reconstruction's' failure of preventing a *Rechtsstaat* from becoming a *Rassenstaat* and (b) the plausibility of making a racially corrective *Rechtsstaat* or racially 'well-ordered society' feasible? Instead, say, Du Bois were outlining two different normative orientations or directions for 'Reconstruction', each serving as the ground of obligation *to* guiding the *Rechtsstaat* in 'Reconstruction'? What bearing does this postulate have on radicalizing Kant via RKB, not via BRK?

7. RKB and Du Bois' inflection toward 'Kantian' grounds of obligation

RKB is consistent with, not sceptical of, Kant's conception of moral personhood. It does not conflate, as does BRK, normative requirements framed in terms of

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Kant's idealism with a framing by way of IT. For both BRK and RKB, a 'Kantian' focus on being racially black was in the service of being encoded as enslaved and precluded blacks from the *rechtsstaatlich* obligation to the 'civic condition'. Being encoded as enslaved did not nullify blacks' 'heteronomy', i.e. their capability to prudentially exercise free will. Instead, it deprived them of political freedom, equality and independence. But that deprivation, together with the terror brought against their 'heteronomy', impeded foremost the development of satisfying their interests and autonomously taking hold of themselves.

Kant was *never* 'wakened' to this point. His argument focusing on how and why 'autonomy' emerged in contrast to 'heteronomy' *never* converged with his argument concerning *both* the impediment to non-white obligatory occupancy into the 'civic condition' *and* the prohibition of non-white discretionary vacancy from the 'state of nature', thereby making 'mine/thine' relations impossible for them. Du Bois was, say, 'woke' to this, but in a way different from what Mills' BRK would claim.

BRK fails to recognize that the *Rechtsstaat*'s obligatory mandate to its 'civic condition', or even to a 'well-ordered society', is not changed by the introduction of non-ideal provisions in considerations of personhood and polity. It fails to see that Du Bois' stances are bound to the practical necessity of the same obligation. The prospective stance affirms that obligation as binding all citizens to the end that it ought to redeem. The retrospective stance affirms the same obligation as still binding all citizens to the *rassenstaatlich* end. Hence there would be nothing in Du Bois' cognitive stances that non-ideally impacts the practical necessity wrought by the obligation to the 'civic condition' or to a 'well-ordered society' regardless of what the stance redeems.

RKB poses a different scenario, giving Du Bois' positions an inflection in line with a certain radicalization of Kant. It reads Du Bois as providing a normative shift in the grounds of obligation to the authority of the *Rechtsstaat*'s 'civic condition'. Du Bois' 'looking backward' and 'looking forward' deliver normatively different grounds to be obligated to the 'civic condition', interwoven with historical time (before and after slavery's abolition). They are not simply cognitive stances, disclosing events and contesting the ideology surrounding them, contributing to 'Reconstruction's' failure and concomitant distortion. They are rather normative grounds of obligation historically constricting or amplifying, but not practically necessitating, the authority of the *Rechtsstaat*'s obligatory mandate even under 'Reconstruction'. Such grounds would be neither unconditional nor reliant on non-ideal accounts for their recognition.

Du Bois exemplifies Andrew Johnson as shifting from 'looking forward' to 'looking back', a shift Du Bois calls a 'transubstantiation' (Du Bois 2007: 195–266): 'Andrew Johnson started looking forward, towards the land and the suppressed laborers in the South; and then realizing that one-half this laboring class was black, he turned his face towards reaction. He accepted the Black Codes . . . ' (2007: 193).[10]

This 'transubstantiation' prescribed in the 'retrospective' orientation occurs in a form of life whose citizens are obligated to the 'civic condition' on a ground formerly supportive of a racially preferential attitude thereto, and of which they were wilfully indifferent or morally ignorant.[11] As a 'transubstantiation', such a retrospective orientation would be a conversion from and to a form of life, compliant with both the preceding ground supportive of racial retrenchment and the utility aligned with vitiating the normative abolition of enslavement, despite obligation to the 'civic condition'.

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In contrast, Du Bois exemplifies Abraham Lincoln as shifting from 'looking backward' to 'looking forward'. '[A]t first Lincoln looked back toward some stable place in the relation of blacks and whites in the South. … He was willing to accept almost any overture on the part of the South except that he would not return the Negroes to slavery … never would accept Black Codes. He began by looking backward and then turned with this forward-looking word' (Du Bois 2007: 192).

The prospective orientation too would be a conversion from and to a form of life, namely, where citizens are obligated to the 'civic condition' on a ground newly supportive of augmenting a multi-racial disposition thereto and of which they are wilfully responsive and morally discerning. As a 'transubstantiation', a prospective orientation would foster the supervening ground supportive of, and utility aligned with, endorsing the normative abolition of enslavement and eliminating racial retrenchment conjoined to the aforementioned obligation.

Kant never fathomed a *Rechtsstaat* exposed to conversions from and to a form of life. A radicalization of Kant of such a sort could and, in large measure, immediately did occur after Kant's life. RKB follows that track, which long precedes and differs from the Kant-radicalization Mills' BRK tenders. At least five things would be necessary.

1) RKB affirms, unlike BRK, the philosophical protocol claiming that the obligation to the 'civic condition' is practically necessary.
2) Unlike BRK, it objects to the protocol claiming that non-ideal provisions rectify either the illusions emergent with an unconditionally ideal requirement or the apparent insufficiency of its grounds.
3) The grounds supporting that obligation may be ideal, but they are *not* unconditional; rather they are historically either normatively efficacious or not.
4) As historical, the grounds of obligation remain ideal, but their efficacy can expire with no guarantee for their hold on us other than (a) the social coercion compelling their maintenance openly or clandestinely or (b) the calibre of new grounds whose efficacy to innovate is freely expressed by and rationally motivating to us.
5) RKB's Kant-radicalization does not involve making Kant's obligatory 'civic condition' compatible or Rawls' 'well-ordered society' feasible with non-ideal provisions correcting for racial injustices. Rather it involves envisioning normative grounds to support what counts or not as a multi-racial society bound to the 'civic condition' as both necessarily historical and ongoing, since such grounds are open to contestation, corruption, expiration and thus, as Kant indicates, may or may not be strong enough to 'prevail' or 'hold the field' (*der stärkere Verpflichtungsgrund behält den Platz*). (Introduction to MM, §III, 6: 224; in Kant 1996).

These points (save #5) would be outside of Kant's philosophical horizon concerning obligation to the 'civic condition'. They could fall within Rawls' philosophical purview, but only as a 'special circumstance', incidental, not essential, too contingent, to the idea of a 'well-ordered society'. But they would also be outside of Mills' as well, since

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BRK would have no place for a normative ideal, even conceptually entwined with historical time in a form of life, oriented to an expansion of the *Rechtsstaat*'s governance via principled revision of inefficacious grounds of obligation, not to revision of the obligation to the 'civic condition' itself.

BRK's and BRRK's commitment to NIT is *not* the same as RKB's commitment to the normative via the 'negative'.[12] Further explanation thereof is not possible at this time. But RKB would attend to the fact that norms of freedom and equality continuously require 'holding the field' – establishing in ongoing fashion social and political conditions under which the life to be led and pursued as a person of colour, born of and bound to struggle, ethically, historically, materialistically, socially, is recognized as the life a person of colour, 'obligated to the civic condition', has herself been able to shape in a form of life always to be established.

Acknowledgements. I would like to thank Inder Marwah, Elvira Basevich and an anonymous reader for their comments on and criticisms to earlier drafts of this article.

Notes

1 What, for example, David Walker and Frederick Douglass find cringeworthy is enslaved blacks acting as sycophantic lackeys, not compelled as 'sub-persons'.

2 'Kant-integrationists' tend to argue that the idea of putting others under rightful obligation is integral to Kant's moral point of view. 'Kant-segregationists' tend to claim that duties of right and moral duties are firmly separate from each other.

3 Kant uses the criterion of 'civil independence' to distinguish 'active' from 'passive' citizens in order to establish on economically self-reliant and male-gendered grounds what kind of citizen is eligible to vote. Racial grounds are not explicitly mentioned. But the reach of the criterion's distinction from active/passive citizens to those who are and those who cannot be citizens can be covered and justified via Kant-radicalization.

4 Kant would be subject to Marx's critique against the ideology of 'original accumulation'. See Marx 1992: 873–940.

5 No Kantian would find this 'two-way path' acceptable, since the 'one-way path', from vacating the 'state of nature' to occupying the 'civic condition', is obligatory. The 'two-way path' would set the stage for settler colonialism. Its permissibility is *not* foreclosed by the obligatory 'one-way path'. It permits the procuring and amassing of status and wealth provisionally (in the 'state of nature') for the purpose of making that status and wealth conclusively 'mine', not 'yours', under the 'civic condition'. Kant could foreclose such an action on cosmopolitan, but not on socially contractarian, grounds. Furthermore this 'two-way path' is not so much established by what Kant does or does not say, but by what Mills has claimed. The 'state of nature' for Mills is not hypothetical, but historically actual, thereby making the 'two-way path', at least, viable and visible.

6 A person's 'civil independence' is reliant on either the obligatory 'one-way path' or the prudential 'two-way path'. An 'independent' person subordinating the moral law under racially prudential interests could participate in both scenarios above. An 'independent' person subordinating racially prudential interests under the moral law could participate only in the first.

7 In a nutshell, IT is for Mills that whose account of, say, race matters is oriented around an exemplary representation of such matters, an exemplar, say, 'race-neutrality', distant from the actual qualities that comprise, happen to, or deviate from them. The exemplar 'race-neutrality', however, would serve as a simulacrum, descriptively occluding and normatively curbing the conception of what race matters are. This would be the ideology of IT. On the other hand, Du Bois is not concerned with what IT's exemplary representation of race matters simulates, but with what actual accounts of race matters disavow. Those accounts' disavowal would be the ideology Du Bois seeks to criticize.

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8 See Du Bois 2007: 151. Abolition-democracy 'was the liberal movement among laborers and small capitalists, who united in the American Assumption, but saw the danger of slavery to both capital and labor. It began its moral fight against slavery in the 1830's and 1840's and, gradually transformed by economic elements, concluded it during the war. The object and only real object of the Civil War in its eyes was the abolition of slavery, and it was convinced that this could be thoroughly accomplished only if the emancipated Negroes became free citizens and voters.'
9 See the 'debate' between Mills and Tommie Shelby on the viability of racially corrective justice under ideal or non-ideal measures in the *Critical Philosophy of Race*: Mills 2013 and Shelby 2013.
10 Being racially black was later in the service of being encoded as black, which would throttle blacks' heteronomy, dampen their autonomy, in depriving them of the efficacy of their political freedom, equality and independence.
11 This attitude has been called 'whiteness'. 'Whiteness' is adopted by 'racially preferred citizens' who, on racially prudential grounds, deny they are rightfully obligated to both recognize the deeds, ends, views of non-whites in the 'civic condition' and remain in the 'civic condition' if non-whites become so obligated.
12 Briefly, in this 'Hegelian' form of Kant-radicalization, grounds are not set solely in terms of their accord with the moral law's unconditional end or their reliance on the convergence of the obligatory 'civic condition' with that end. Rather they are set in terms of the appraisals of individuals, recognized as social subjects bound rationally to institutions, taking them as efficacious normatively (not conventionally) and open to a kind of historical circumspection concerning their 'holding the field'.

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Cite this article: Kirkland, F.M. (2022). Framing Mills’ Black Radical Kantianism: Kant and Du Bois. *Kantian Review* **27**, 635–650. https://doi.org/10.1017/S1369415422000322

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