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Dueling for Equality: Masculine Honor and the Modern Politics of Dignity

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ABSTRACT:

This paper argues that aristocratic values and social practices were deployed in the transition to modernity, where equal dignity replaced positional honor as the ground on which an individual's political status rests. The paper focuses on dueling, one of the most important practices for the maintenance of aristocratic honor, at the moments of transition, primarily in the 18th and 19th centuries. I argue that the practice has resources for an egalitarian refashioning. This is because it is a system for the distribution of respect and because it involves social equals. At the same time, it is necessarily masculine, which limits the degree to which it can realize equality. The paper argues that the egalitarian refashioning emerged in part out of 18th-century thinkers' own reinterpretation of the practice. The focal theorist in the paper is Immanuel Kant, whose discussion allow us to weave together theoretical discussions of honor with the social practices of dueling.

KEYWORDS: equality, honor, dignity, aristocracy, Kant

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INTRODUCTION: THE MASTER'S TOOLS WILL TAKE DOWN THE MASTER'S HOUSE

One history of Western politics has it that under modernity, equal *dignity* has replaced positional *honor* as the ground on which individuals' political status rests.¹ Now, the story goes, the dignity which I have by virtue of nothing more than my humanity gives me both standing as a citizen *vis-à-vis* the state and a claim to respect from others. Earlier, my political status would have depended, first, on who I was (more respect for the well-born, less for the lower orders) and also on how well I acquitted myself *as* that sort of person. In rough outline, the story is correct, but there are important complications to it. One of the most important of them is that aristocratic social practices and values themselves get used to ground and shape modernity. This paper explores one such mechanism and what consequences that mechanism had.

Dueling was one of the key practices in a culture of honor throughout the Western world: it was a means by which claims of honor were made, maintained and understood. It emerged out of medieval "trial by combat" in the 16th century and was, despite some regional variation, a common phenomenon in Europe and North America until the 19th century.² Although dueling has been obsolete long enough to strike many of us a patently irrational, it took a long time to fade away; its story is one of slow decline, with odd bumps along the way. The contours of its fading capture an important aspect in the transition to modernity, namely how the aristocratic conception of masculine honor can be deployed in a politics of equal dignity, and how that deployment affects the conceptions of equal dignity. Two things about dueling make this possible. First, that what the practice distributes is respect and, second, that dueling is necessarily an "extra-legal" practice, that is, one that is outside the direct regulation of the state. The combination of these two things allows for people to make claims to equality as individuals. That is the main argument of this paper. But

because the honor in dueling is *masculine* honor, which presupposes a subordinate feminine honor which the masculine defends, it gives content to equal dignity in a way that forecloses, at least contingently, claims of gender equality. These are not independent of one another: many people in the transitional moments want to preserve while reinterpreting some of the aristocratic values, in part because they worry about the ways some conceptions of equal dignity threaten what from their perspective is an ordered and meaningful universe.

This paper illuminates one important mechanism in the shift from premodern, aristocratic value system to a modern one, focusing on the role of dueling in that transition. Social theorists, I argue, played a role in that transition; I focus here on Immanuel Kant, whose treatment of dueling helps us understand it as an intelligible practice in its own right but which also offers a reinterpretation that makes the practice compatible with the modern value of equal dignity. This is because Kant's conception of a person requires that for someone to have dignity in social life, he must respond to challenges to that dignity, and the relationship of social equality dueling involves provides a model for this theory.

I proceed as follows: I begin by describing dueling during the long transition between the decline of aristocracy and modernity. I then zero in on what I call the moral economy of dueling, doing this in largely through Kant's eyes. Kant believes that some aristocratic values embedded in social hierarchies are worth retaining because the values help ground the values we associate with modernity. But he also believes that modernity itself threatens the coherence of aristocratic values. His solution to the paradox between these tendencies helps us understand what I call the "path-dependencies" of dueling in the service of equality: it remains necessarily masculine.

WHAT IS DUELING?

Dueling, Francis Bacon suggested in 1614, was "a desperate evil." He listed the reasons: "it troubleth peace, it disfurnisheth war, it bringeth calamity upon private men, peril upon the State,

and contempt upon the law.”³ A few decades later, Cardinal Richelieu echoed Bacon. Dueling was, he wrote in his *Political Testament*, “pernicious evil” (*dangereux mal*) and a “disastrous madness” (*une frénésie qui... cause tant de mal*).⁴ For many contemporaries and even more historians, Bacon and Richelieu were right. Bacon was cited with approval well into the 18th century, and he seems to confirm our own Enlightened view of dueling as an irrational throwback.⁵ Here is Sabine, an American commentator, in 1855:

Duelling, as everybody knows, is a relic of the Dark Ages. Among the ignorant and superstitious people with whom it originated, and even under the institutions of chivalry, there may have been some excuse for it. But in the present state of civilization it cannot be justified; and this is the common remark.⁶

But he is not merely reflecting on an antediluvian practice; he is lamenting its staying power:

Yet it is still prevalent to an alarming extent, and simply because warworn veterans who are covered with scars, and judges in robes, and clergymen in surplices, and statesmen who lead legislative bodies or preside in cabinet councils, continue to afford it either example or countenance.⁷

Sabine is troubled because something putatively irrational appeals to social elites who certainly should know better: “judges in robes,” “warworn veterans,” “statesmen.” Similarly, at the beginning of the 19th century, the German bourgeoisie famously begins to duel.⁸ We might have expected the very opposite: the bourgeoisie is the sociological avant-garde of the Enlightenment: it most immediately benefits from talent and wealth replacing birth as marks of status, and its ascendancy ought to extinguish aristocratic legacies, not spread them.⁹ As late as 1910, none other than Max Weber was ready to challenge a man to a duel in defense of Mrs. Weber’s honor.¹⁰ The challenge never got issued, and what dueling there was in 19th-century Germany was anyway largely non-lethal, but new enthusiasm for it remains a puzzle. Equally puzzling is the ambivalence modern

theorists, especially in the 18th century, had toward it: for example, Montesquieu, Rousseau, and Kant are far more measured about dueling than Bacon and Richelieu.

A few words about the practice in general. In a way, dueling was a source of social and political ambivalence almost from its emergence. Perhaps surprisingly, it is an early-modern phenomenon. It grew out of its medieval precursors, trial by combat and chivalric dueling, in the 16th century. In France, the last legally authorized duel occurred in 1547 under Henry II, and in 1550, he issued the first edict against dueling.¹¹ If its purpose was to curtail dueling, it failed miserably: the practice only gained in currency after that.¹² Specifically, it became dueling over “points of honor.” The following are its key features.¹³

Dueling is a form of proof. Trial by combat was the earliest Western precursor to dueling. The idea was simple: victory in an officially sanctioned fight simply was a legal vindication. This was true of both criminal and civil cases, “criminal being waged for purgation of an imputed crime, civil when for deciding of controversie touching private wrongs or interests.”¹⁴ Because God was taken to have her fingers in these matters, fighting ability could be a proof of rightness because it was a proof of providential choice: “Heaven always gave victory to the right cause.”¹⁵ The idea that one simply proves oneself, that is, one’s honor, remained a key feature of modern dueling.¹⁶

*“Points of honor” are personal matters, even when they involve collectives like the kin or estate.*¹⁷

Although there was cultural and historical variation on these points, the core components were the same: “the Lie given, Fame impeached, Body wronged, or Curtesie taxed,” as the earliest English historian of the duel lists them.¹⁸ The accusation of dishonesty was one of the most frequent grounds for dueling.¹⁹ A blow, which is a violation of one’s physical integrity, was also a grave insult.²⁰ Generally, claims of cowardice were important, especially among soldiers (I will return to this). Equally common grounds were threats to the man’s kin, both in the abstract sense of sullyng the family name and in the concrete sense of insults to family members. Among these, insults

impugning the sexual integrity and, in general, feminine honor of those women a man was supposed to protect were particularly important.²¹ Finally, the question of precedence and, in general, challenges to a man's status as an aristocrat, were significant reasons for dueling.²²

Dueling is necessarily extra-legal. Whether the state officially sanctions, merely tolerates, or tries to end dueling, the practice gets its cultural sanction from aristocratic privilege: the cultural ethos of aristocracy is that aristocrats are people who get to settle some particular disputes extra-legally. When duels are no longer parts of official procedure, tensions between the monarch and the aristocracy arise. This idea puts some pressure on Max Weber's conception of the state as the institution with a monopoly over violence: dueling shows that the state is not just delegating its coercive power here, but giving away some of its *control* of violence.

While extra-legal, *dueling is highly ritualized.* Challenges were generally formal, as were the negotiations over weapons, time, place, and the like. The negotiations were commonly done by the duelists' seconds, the use of whom was a shared feature of the practice. The most common weapon for early-modern and modern duels was the sword; the pistol became important in many places with the development of firearms.

I now dig deeper into the practice and in particular into its new potential for egalitarian refashioning. The goal is to see how, as Rousseau put it, it came to pass that "[p]oint of honor changed principles."²³

THE MORAL ECONOMY OF DUELING

In 1794, the new Civil Code of the Prussian States specified that a dueler who kills his opponent be tried for murder or manslaughter and sentenced to death.²⁴ Like similar statutes elsewhere, this was controversial. We have some reason to think that Kant was, perhaps surprisingly, a critic of the statute.²⁵

Kant discusses dueling, briefly, in two late works: first, in the political Part I of the *Metaphysics of Morals* (the so-called *Rechtslehre*), and a few times in the *Anthropology from a Pragmatic Point of View*. In the *Rechtslehre*, Kant discusses two kinds of homicide which deserve the death penalty but which the state has no legitimate power to impose: a mother murdering her illegitimate child and a soldier killing another soldier in a duel (RL, VI: 336).²⁶ This is because legislation “cannot remove the disgrace of an illegitimate birth any more than it can wipe away the stain of suspicion of cowardice from a subordinate officer who fails to respond to a humiliating affront with a force of his own rising above fear of death” (ibid.) In the former case, Kant explicitly says the action turns on the woman’s “honor of one’s sex (*Geschlechtsehre*),” in the latter, on military honor. Both reflect “indeed true honor, which is incumbent as duty on each of these two classes of people” (ibid.).

Before pursuing what Kant means by “true honor,” I flag the importance of gender in the distinction. Arguably, *both* cases turn on “honor of one’s sex” or, as we might prefer to translate Kant’s ambiguous term, on *gender honor*: as we saw above, one key feature in dueling is that exemplifies manly virtue in defense of women’s honor. I return to this later when I discuss the limits to the egalitarian refashioning of dueling. First, I explore the relationship between true honor and the manly honor demonstrated in a duel.

In Kant’s political theory, the purpose of the state is to create conditions in which it is possible for humans to attain their full moral autonomy.²⁷ To put it in Kant’s language, the state is to create the conditions of “external freedom,” which are the precondition for full “internal freedom.” Under perfect conditions of external freedom, laws, on the one hand, and morality, on the other, would converge because people would have no morally valid reasons to act immorally, or, conversely, their sociologically bound *interests* would always converge with the right moral *reasons*. Such perfect conditions did not exist in the Prussia of the late 18th century, and the political question for Kant’s theory is to identify dynamics that would bring such a convergence closer.

Elisabeth Ellis has recently argued that a theory of provisional right is one centerpiece of Kant's political theory. Roughly, practices and institutions which are consistent with a transformation to a perfect republican order are provisionally legitimate; those which are inconsistent with such a transformation are illegitimate.²⁸ In a way, this principle is a historical-political version of the categorical imperative. For example, Kant thinks that a hereditary aristocracy is provisionally legitimate even though the principle of inherited merit is incoherent and theoretically indefensible. "Since we cannot admit that any human being would throw away his freedom, it is impossible for the general will of the people to assent to such a groundless prerogative [of hereditary title]," he says (RL, VI:329). But the state has "a provisional right to let these titled positions of dignity [*Würde dem Titel*] continue until even in public opinion the division into sovereign, nobility and commoners has been replaced by the only natural division into sovereign and people." Later, he says that a "nobility is a temporary fraternity [or a faction, *Zunft*] authorized by the state, which must go along with the circumstances of time and not infringe upon the universal right of human beings which has been suspended for so long" (RL, VI:370).²⁹

But why, we might ask, should a "titled position of dignity" be respected even provisionally if they do not make sense? Part of the answer is that respecting them *does* make sense if people, though "public opinion," believe it does. And people may be, at least to some extent, right. Here, Kant's discussion of the dueling soldiers will illustrate why. The point is not that the dueling soldiers are aristocrats; they might be, but by the late 18th century, they likely were not. Rather, it is because the reasons that make it illegitimate for the state to punish them reflects the reasons titled positions of dignity may instantiate real dignity.

The overall argument is this: The dueling soldiers may have acted on legitimate moral incentives and chosen the appropriate action to demonstrate it. When someone successfully challenges your claim to dignity, you must somehow demonstrate that you do indeed have it. Not

to do so would mean forfeiting it. *You* must do the demonstrating because you have to show you are a respect-worthy person. So it does not really matter whether the person who challenges my claim to dignity is mistaken; it is my response to the challenge that proves it. The response cannot be easy, which connects the issue to real honor. So the analytic value of dueling is twofold. First, it is a system which already has connected a person's *worth*, that is, his dignity, to *autonomous activity* through the *character* concept of honor. Kant does not change that fundamental set of relations in his reinterpretation of the dueling ethos. But he does broaden the meanings of those concepts and how those relationships are properly expressed: after his reinterpretation it becomes easier for social inferiors to issue *successful* challenges to social superiors, for bourgeois to challenge aristocrats, for non-commissioned officers to challenge commissioned officers. Second, dueling is useful because its ethos involves a relationship of fundamental equality: the eligibility to demand or give satisfaction to honor challenges (*Satisfaktionsfähigkeit*) requires a relationship of equality between the duelists. In slightly different words, it implies a kind of respect for the other.

This analysis deliberately blurs what might seem like psychological and moral registers and which, the textbook reading of Kant's moral theory insists, ought to be kept strictly apart. Kant is not confused about the fact–value distinction, but trying to solve a problem the fact–value gap creates: he explains the relationship, first, between an individual's *moral reasons* and *sociologically bound interests*, and, second, between those two and the *causal powers* and the *legitimacy* of political institutions.

Recall the idea that dueling is a form of proof or, as we might say, with anachronistic language, a signaling practice. What it signals in the first instance is a specific status; what makes that status legitimate are the honorable character attributes on which it is based.

Autonomy and Extra-legality

In the first instance, the honorable dueler has to act autonomously. By “autonomy,” I do not yet mean a full-fledged Kantian moral autonomy, although there is a connection, but simply the idea that an autonomous man acts for himself. (This is not a requirement for feminine honor; indeed the proper expression of feminine honor is obedient dependence on one’s father or husband.)³⁰ Recall the passage I quoted above: law cannot “wipe away the stain of suspicion of cowardice from a subordinate officer who fails to respond to a humiliating affront *with a force of his own* rising above fear of death” (RL, VI:336, emphasis added). An accusation of cowardice is a claim that you lack the most important trait your position as an officer requires and implies. The only possible response to such a claim is to disprove it with a demonstration: I must show that I am indeed willing to face death. Were I to sue you for libel I would already have failed: it would demonstrate the truth of *your* claim. A British commentator had said the same thing somewhat earlier: “Courage is one great Ingredient of good Souldiery: And it might seem to Impeach their Courage should the attempt their Vindication by those formal Steps [of law].”³¹ Dueling does not have to be *illegal*, but it does have to be extra-legal in that it is up to me to do the demonstrating required.

So law should not punish where it cannot help, that is, where a stronger social custom overrides its regulatory force. Hobbes already thought that given the mixed standards of law and attitudes about men’s conduct if “thereupon he accept duel, considering all men lawfully endeavour to obtain the good opinion of them that have the sovereign power, he ought not in reason to be rigorously punished; seeing part of the fault be discharged on the punished.”³² In his *Letter to D’Alembert on the Theatre*, Rousseau thinks French attempts to end dueling by banning it are ill-conceived.³³ Legal proscription involves “a shocking opposition between honor and the law; for even the law cannot oblige anyone to dishonor himself.”³⁴ Honor is about *individuals’* necessarily

extra-legal incentives, and an external authority cannot as a matter of conceptual logic “impose itself” into conflicts involving honor.

For example, consider the defense Captain Macnamara gave at the 1803 trial where he was charged for murder, having killed his opponent Colonel Montgomery in a duel in London:

Gentlemen, I am a captain in the British navy. My character you can only hear from others; but to maintain my character and station, I must be respected. When called upon to lead others into honorable danger, I must not be supposed to be a man who had sought safety by submitting to what custom has taught others to consider a disgrace. I am not presuming to urge anything against the laws of God or of this land. I know that, in the eye of religion and reason, obedience to the law, though against the general feelings of the world, is the first duty, and ought to be the rule of action. But in putting a construction upon my motives, so as to ascertain the quality of my actions, you will make allowances for my situation. It is impossible to define in terms the proper feelings of a gentleman; but their existence have supported this happy country many ages, and she might perish if they were lost.³⁵

There may be some irony in Macnamara and Montgomery’s duel having been over their dogs, but Macnamara argued that it “was not the deceased’s defending his own dog, nor his threatening to destroy mine, that led me to the fatal catastrophe; it was the defiance which most unhappily accompanied what was said.”³⁶ The argument, perhaps buoyed by the character references from three of Macnamara’s admirals, including Lord Nelson, got him acquitted. Character references and the Macnamara’s argument may in fact go together: he is an honorable man in general because he understands the nature and respects the value of custom. This custom, as Macnamara points out, goes to the heart of what it means to be a gentleman.

Even such a committed opponent of dueling as Sir William Blackstone understands this logic about why the particular custom trumps law. He considers a duel an aggravating circumstance in a homicide, an instance of “express malice,” but nevertheless laments that

Yet it requires such a degree of passive valor, to combat the dread of even undeserved contempt, arising from false notions of honor too generally received in Europe, that the strongest prohibitions and penalties of the law will never be entirely effectual to eradicate this unhappy custom, till a method be found out of compelling the original aggressor to make some other satisfaction to the affronted party, which the world shall esteem equally reputable, as that which is now given at the hazard of the life and fortune, as well of the person insulted, as of him who hath given the insult.³⁷

What makes such a custom an “unhappy” one is exactly that it leads people into lethal encounters over words about one’s dog, but it is nevertheless intelligible. Moreover, it is intelligible in a way that has it trump law: the social meaning of the custom is deeper than the rationality of law.

None other than the creator of modern police force, Sir Robert Peel, “distrusted the efficacy of legislative changes.”³⁸ As late as 1880, Austrian politician Otto Hausner, reviewing European laws against dueling and the frequency of the practice, wonders whether “there can be any clearer evidence against the usefulness of these laws than the fact that in Holland and Norway, where duels are not punished, there are far fewer duels than in France, where it is classified as a manslaughter.”³⁹

Law fails because public opinion prevails. What Rousseau hopes for as a solution to the problem of dueling is to bring about a change in *l’opinion publique*.⁴⁰ What that change would require would be a separation of a man’s respect-worthiness from his autonomous defense of his honor. To understand the possibility of the change, we first need to understand what makes such autonomous defense legitimate and, from Kant’s perspective, even valuable.

Honor as a Legitimate Incentive: Moral Courage and Equality

Kantian morality appreciates our penchant for avoiding shame; in fact, avoiding shame is required by morality because shame threatens the self-respect we owe to ourselves (see, e.g., DV, VI: 420, 434–437; LE, XXVII: 349). This is directly related to courage. As we saw, courage is the key component in military honor. But military courage expressed by one's willingness to risk one's life is only one contingent realization of courage.

A more general courage is connected to real honor, our maintaining the dignity we have by virtue of our humanity. At first, this seems paradoxical: Why would I need to *maintain* something that I have by virtue of my humanity, simply by being a *homo sapiens*? There is no paradox: First, "humanity" is not a thin biological concept, but points to our being "subject[s] of morally practical reason," i.e., beings that can reason autonomously and act on that basis (DV, VI: 434). It is "the capacity to set oneself an end — any end whatsoever" (DV, VI: 392). Second, just like you can disrespect me by denying my humanity, I may disrespect myself. One *can* forfeit one's dignity, Kant thinks, but one *may* not (DV, VI: 435). Morality enjoins me to live in a way that does not amount to self-disrespect. Although Kant explicitly says that a person's dignity as a person (as opposed to as a physical animal) is independent of time and place ("Someone who, a hundred years from now, falsely repeats something evil about me injures me right now," he says [RL, VI: 295]), it is also clear the meanings of honor and dishonor, *and so of dignity*, are time-bound.⁴¹ The duty of self-respect can be recognized in ordinary moral dicta: "Be no man's lackey. — Do not let others tread with impunity on your rights..." (DV, VI: 436). To have courage, then, is to be able to live according to those dicta even when someone tries to make you his lackey or treads upon your rights.⁴² So in a world in which refusal to respond to challenges to my honor would mean forfeiting my dignity as a person, morality requires that I respond. Dueling can stem from legitimate moral motives. But that

is not all: the practice of dueling, that is, responding to challenges *and even issuing them*, also models a worthy social relationship, Kant thinks: equality.

The idea of modeling is important. Whatever our ideals about metaphysically grounded reasons for regarding all humans as universally and necessarily equal might be, the sociological fact is that social relations are realized only contingently in practice. If we want to see our ideals realized, we need to look for practices which emulate them; we also need to understand which practices model social relations that are inconsistent with the ideals.

This kind of search is part of what is going in Kant's discussion of dueling in the *Anthropology*. There, an analysis of military dueling is sandwiched into a general treatment of courage, including "moral courage." Moral courage is displayed, for example, in a person's willingness to pursue steadfastly a worthy goal even when it *is being ridiculed* by others (A, VII: 257). This is not a trivial kind of courage: even "many people who prove their bravery in the battlefield or in a duel" might lack it (*ibid.*). Why? Because, as Kant spells out in the *Doctrine of Virtue*, ridicule is a type of malice, and it models an unworthy social relationship: ridicule is holding up another person's "real faults, or supposed faults as if they were real" in order to "deprive him of the respect he deserves" (DV, VI: 467). The paralyzing thing about ridicule is that in so disrespecting a person, it invites a defensive response while denying the possibility of one. Dueling, in contrast, by its very logic acknowledges the possibility of a vindication of the challenged honor. A challenge is, in other words, a form of respect.

We might interpret the emergence of dueling among the German bourgeoisie, and so the "democratization" of dueling in general, against the backdrop of this aspect of Kantian analysis: In a world in which the abstract rhetoric of equal dignity requires some way of making it practically intelligible, dueling is one available means, for two reasons. First, it is a practice with which a man proves his honor. In Kant's analysis, we now have the relationship between honor, respect-

worthiness and general human dignity much closer than before. Kant has shown that the physical courage of a dueler is a contingent realization of the broader worth of the autonomous person, *not* of the intrinsic worth of an aristocrat *qua* aristocrat. Second, the relationship in dueling presupposes equality between the duelers. This means that if a person successfully challenges a social superior to a duel, then, for that specific moment at least, the social superior ceases to be one and becomes an equal. In other words, to succeed in a challenge to a duel just *is* to enjoy respect as an equal.

These two dimensions have to go together for dueling to become a possible means for the politics of equal dignity. This is a conceptual point in the service of a historical fact: the democratization or social leveling of dueling emerged; it did not always exist. There may always have been some challenges by inferiors, but they were sufficiently few not to register as a social phenomenon. The first dimension that decouples honor from aristocrats *qua* aristocrats has to be understood well enough so that aristocrats cannot just refuse inferior challenges as contemptible category errors. At the same time, dueling must still be understood to exemplify honor so that social superiors cannot just abandon the practice, like they might abandon something as *déclassé* because it is tainted by parvenu enthusiasm. And because the honor involved in duel is courage in the face of possibly lethal violence, a refusal can be risky. A social superior may try to insist on the formal hierarchies (“You, commoner, are beneath my notice as a challenger”), but that refusal may leave a nagging doubt that it stems from fear and not from confident superiority. In other words, this ambiguity has to be palpable enough for inferiors to force their superiors into these acknowledgements of equality. What I have suggested is that analyses like Kant’s make that possible. And we have evidence of social inferiors exploiting this fundamental ambiguity as late as mid-19th century. Even after many German student dueling societies officially refused to have duels with Jewish dueling clubs, the Jewish clubs managed to issue challenges by claiming the gentiles just lacked the guts to fight.⁴³

All of this might make dueling look a bit too promising. That is problematic for historical and conceptual reasons: Dueling is not a broadly recognized part of modern egalitarian and democratic politics; it does disappear. And there is something paradoxical in the very idea that a social practice that exists to buttress a social order can smoothly be used to undermine that social order. With promise come complications, and it is to those complications I now turn.

“False Honor” and Other Paradoxes

We get a sense of the difficulties about the modernized dueling by considering the most famous duel in American history, that between Alexander Hamilton and Aaron Burr. On the one hand, it is a good illustration of some of the mechanisms Kant describes, at least on Joanne Freeman’s recent interpretation. She argues that, despite his great opposition to dueling, Hamilton had to fight Burr exactly because aristocratic honor had become a contingent marker for some other worthy characteristic: it was a criterion of an early-Republic politician’s professional integrity and competence. She quotes Hamilton’s own apologia for the duel: “The ability to be in future useful, whether in resisting mischief or effecting good, in those crises of our public affairs, which seem likely to happen, would probably be inseparable from a conformity with public prejudice in this particular.”⁴⁴ In other words, had he not fought, he would have undermined his professional legitimacy.

On the other hand, the outcome was ironic. That Hamilton died said nothing about who was a better politician or a man of higher integrity. Even though dueling signals, in general, both parties’ honor, it is very costly, and the cost importantly divorced from who is in the right. In the early Middle Ages, where actual fighting ability was the primary ground for political competence, and where there was a dearth of other decision-making principles, trial by combat may have served as a reasonable procedural mechanism. But by the time of Hamilton and Burr’s duel, this clearly was no longer the case.

In fact, there is a deep irony in all modern dueling as soon as victory is not seen as a sign of God's favor. Montesquieu had already observed this in the early 18th century. "This method of decision was, of course, badly conceived," the fictional Persian traveler Usbek notes in Montesquieu's *Persian Letters*, "for it did not follow, just because one man was more skillful or stronger than another, that he had more right on his side."⁴⁵ In other words, death seems an arbitrary result. Your dying and my living says nothing about you and me as individuals, except that I am a slightly better (or luckier) swordsman or shot.

A tendency toward decreased lethality suggests that the deaths did strike potential duelers as an unnecessary and certainly increasingly unpleasant cost. Increasingly, too, it was enough to go through the motions. Consider this affair, recounted by the late 19th-century historian Ben Truman:

In 1829, in England, the Earl of Winchelsea was challenged by the Duke of Wellington, and the distinguished gentlemen met with pistols. The Duke fired first without injuring the Earl, who discharged his weapon in the air, and subsequently acknowledged, through his second, that he had made expressions against the Duke which were not warranted by facts, which he greatly regretted, and for which he would amply apologize.⁴⁶

And when the rifling of barrels in the 19th century made pistols more accurate than before, dueling further lost some of its appeal.⁴⁷ By the time dueling with swords became a fad among German university students, a scarring nick on the face was generally the most serious bodily harm.⁴⁸

But to go through the motions and not risk life makes a mockery of the practice. The one thing that still had connected dueling to honor was a man's willingness to face death. If it was now probable that you would not get killed, or if it was possible to calculate your risk, then it was unclear you deserved any respect for your courage.

At first glance, this might seem like grist for the mill of a familiar modern anti-aristocratic sentiment (“Those aristocrats surround themselves with elaborate rituals which allow them to pretend that their position is legitimate”). But it is also importantly an *anti-modern* argument. Consider the following parallels. In his digression on dueling in *The Letter to D’Alembert*, Rousseau inserts the following sarcastic footnote about potential duelers considering the various risks before engaging in a duel: “In this age of enlightenment, everyone knows how to calculate to the penny the worth of his honor and his life.”⁴⁹ And in *Persian Letters* no. 59, Montesquieu’s character Rica describes a conversation among several people on whether things are better or worse than they were in the recent past. One person on the things-are-better-now side mentions the prohibition on dueling, “with an air of satisfaction.” Rica continues:

“A judicious remark,” someone whispered to me; “that man is delighted with the edict, and he observes it so well that six months ago he accepted a hundred blows with a stick, rather than violate it.”⁵⁰

In other words, the man supports the prohibition because he is a coward who prefers to risk the occasional beating to acting honorably: accepting challenges and risking his life. The dueling opponent’s motives are no different from the calculating duelers: both lack the courage to say, Here I stand, consequences be damned.

Despite the tendency toward fewer deaths, dueling remained, of course, potentially quite dangerous. This made it particularly rife for abuse, for engagements out of non-honorable or even dishonorable motives.

We can understand the way non-honorable motives work by returning to Kant’s discussion of military dueling. The problem is that the “*military* has made dueling an affair of honor,” he says in the *Anthropology* (A, VII: 259, my emphasis). Given the direct connection between dueling and courage in the face of death, it is easy to see why this would be in the military’s interest. There is a

kind of symbiosis with the state and the honor culture of dueling in the officer corps.⁵¹ The problem is that the state's willingness to turn a blind eye on the practice becomes terrible "because there are worthless people who play with their lives just to be somebody while those who endanger themselves for the sake of the state are ignored" (A, VII: 259). In other words, the state allows a perversion of the practice into something where distinguishing between legitimate incentives (honor) and illegitimate ones (ambition, self-conceit) becomes impossible.

Kant does not specify why this is a particular problem in the historical moment in which he writes, but we can make two conjectures. First, as the text suggests, two moral motives are perversely tangled in military dueling: an officer's honor depends on his courage to risk for his life *for the state*, but to demonstrate that courage when challenged requires risking it for his *personal* status and, moreover, risking the life of another defender of the state. Second, Kant knows that sanctioned modes of honorable action, even valor in battle, can stem from a host of incentives. The combination of *de jure* prohibition and *de facto* sanction is particularly one to attract unsavory types interested in notoriety: the mixed signals add the pursuit of the forbidden fruit into the mix as a motive. This situation is the state's doing, which is why it is in no position to sentence the dueling soldier to death. At the same time, the officer who kills his fellow is condemnable: right and wrong motives are even conceptually inextricable from one another.

Things get worse yet. Straightforwardly dishonorable motives can become particularly appealing when duelers generally observe the norm that you only go through the motions but do not actually try to kill your opponent: if I am set on murdering you, I can relatively safely challenge you to a duel, assuming you will shoot in the air (as Hamilton is believed to have done in his duel with Burr) while I will actually shoot at you (as Burr is believed to have done).⁵² Here, cowardly calculus meets a sinister one, and although contemporaries adjusted their judgments of Hamilton (honorable) and Burr (dishonorable) accordingly, the tragedy was that the duel was unavoidable. It

remains an excellent example of the troubling conflation of good and bad motives, on the one hand, and the causal forces that shape people's sociologically bound interests.

One question is whether these tendencies are new developments in the 18th century or whether they are an integral social consequence of dueling in general. The modern marxist historian V. G. Kiernan claims that dishonorable motives are part and parcel of aristocratic dueling in general: "swarms of idle gentry" with nothing better to do would find the risk of dueling simply exciting.⁵³ But in more conservative views, it is specifically the "democratization," "republicanization" or "vulgarization" (more or less the same thing to many contemporaries) of dueling that leads to its abuse by people with insufficient understanding of the demands of honor.⁵⁴ Widespread dueling in the American South in the antebellum period is often cited as the extreme example of this perversion: there, critics observe, the practice had become completely separated from anything we might call real honor and had, instead, become empty, superficial thrill-seeking bravado.⁵⁵

The conservative argument is likely right at least in this sense: as long as dueling is part of a broader system of aristocratic honor, or what Peter Berger calls static hierarchy, it is somewhat more probable that incentives and interests would cohere than they would in society in transition.⁵⁶ After all, one of the grounds of honor in aristocratic dueling is, as we saw above, a man's defense of his status *as an aristocrat*. We can think of dueling as a collective defense of a social status. As Georg Simmel observed, there can be an important connection between an individual sense of honor and the way that honor helps maintain group solidarity.⁵⁷ In Germany, for example, *Standesehre*, honor of one's social estate, was an important motive for dueling:

Its definition also denoted group solidarity over and against the lower orders, for in every 'affair,' or *Ehrenhandel*, the participants were representing not only their own interests but those of their class. The duel drew a strict line of division between 'men of honor'

(*Ehrenmänner*) and the rest of society, which enjoyed none of the psychic, social, or legal entitlements of honorable status.⁵⁸

The duelers were, in Kiernan's words, "making a joint obeisance" to their social group by participating in a duel.⁵⁹ We might say, then, that mistake in the "republicanized" dueling for equality was to conflate the autonomous activity which dueling requires with the *value of* individual autonomy as a source of a person's honor. And inasmuch this becomes true, such individuals are likely to suffer from the condition Tocqueville claimed was endemic in democratic societies: on the one hand, individuals are feeble and need associations; on the other, they have a particularly difficult time in forming those associations because they lack any immediately obvious grounds on which to unite, unlike aristocrats.⁶⁰

But even aristocrats' group identification is problematic. Kant, recall, thinks aristocrats are a kind of faction or a fraternity, and where dueling bolsters a *Standesehre* and not an individual's dignity as a person *simpliciter*, it is not consistent with Kant's interpretation of what is honorable about it. The challenge to Kant and other moderns, then, is to find some ground on which to "defactionalize" the honor involved in dueling while retaining its social content in a way that it remains intelligible to contemporaries. In other words, once the kind of physical courage dueling involves has been decoupled from aristocratic status, there has to be some other way of defending its value. The answer Kant's discussion affords us may be theoretically compelling, but it comes with problematic baggage: it is to stress the manliness of the activity.

PATH-DEPENDENCIES: MASCULINE HONOR, MASCULINE EQUALITY

Remember that the case of the dueling soldiers in the *Rechtslehre* has its feminine counterpart: a mother who murders her illegitimate child deserves the death penalty, but the state has no right to impose it. I have discussed the details of this example elsewhere; here I want to focus on Kant's point that each case involves gender honor.⁶¹

For Kant and many of his contemporaries, feminine honor was, first, importantly reputational. In unpublished reflections on anthropology, Kant notes that although true honor is more valuable than life, *reputation* for honor should not trump life *except for soldiers and women* (R, XV: 481, my emphasis). In a later note, he puts it even more starkly: “The woman’s honor: what the world says. (...) Her honor: what people say; not what they think” (R, XV: 565, 566). The content of that honor had to do with specifically with chastity. Describing contemporary views, which associated feminine honor with a reputation of sexual integrity, Frevert explains how it figured in practices of dueling:

A woman who forfeited this integrity by giving her body to a man who had no ‘right’ to it (or by being forced to do so) also forfeited her honour. It was only logical that women whose physical honour had been forfeited in such a manner could not restore it by their own physical efforts. Honour which had been ‘besmirched’ by a man could only be ‘rehabilitated’ by a man; either, in the case of unmarried women, by way of marriage, or, in the case of married women, by way of a duel between husband and adulterer.⁶²

This is partly why the knowledge that a woman has had sex out of wedlock is a source of shame. And, in another note, Kant observes that although a husband may delegate the management of a household to his wife, “the honor and peace” of the home are his business (R, XV: 581). The Civil Code of the Prussian states notes in its statutes regarding aristocracy that aristocrats deserve their honor for the protection they provide; after Kant’s decoupling of honor from aristocratic status, a man’s general obligation to provide protection can serve as the ground on which physical courage remains valuable.⁶³ We might, then, say that one important component of masculine honor *presupposes* that there are women in need of protection. And if that is the case, we can follow later feminist analyses and say the relationship between the two conceptions of honor is a *necessary* one: masculine and feminine honor are necessarily relational and hierarchical.⁶⁴

Although there are some reported instances of women's dueling in Western history, many of them are apocryphal, and often passed on as examples of the utterly freakish and the absurd.⁶⁵ A 17th-century account of "The Female Duell, or the Maidens Combate," attributed to Thomas Toll, is an example of the perceived absurdity of women's dueling.⁶⁶ The pamphlet describes the (almost certainly fictional) events around two women's love of one man. The moral of the story is that no sane man would wish to marry any woman capable of handling weapons: she would not be a woman properly understood.

After all, developing the courage to risk one's life in a duel is what it means to be a man, as an angry German defender of dueling, writing under the pseudonym Leo argued in 1787.⁶⁷ To give up those qualities, he further argued, is to become feminized: if the military were to prohibit dueling, officers would "little by little degenerate into sissies [*Weichlingen*]."⁶⁸

Leo writes in the conservative *Deutsches Museum*, but Kant and many other enlightener-republicans share the view that women have an honor appropriate to them, one which turns on their natural attributes and which presupposes a superior sex in charge of their protection.⁶⁹ This generates a way to defactionalize claims of honor from the aristocrats while still retaining content for the concept: the man who is able to defend a woman's honor and demonstrate this ability by his willingness and ability to engage in a duel is indeed, on this reading, worthy of respect. But this means that if *Satisfaktionsfähigkeit* is a proxy for a person's being worthy of respect, women cannot be worthy of (that kind of) respect. And insofar as *Satisfaktionsfähigkeit* gets employed in the politics of modern equal dignity, women necessarily remain excluded.

Few examples illustrate this better than a delightfully ironic case involving Max Weber and his wife Marianne.⁷⁰ In 1910, the 46-year-old, well-respected professor was thrown into "white-glowing rage" after an article attacked his wife. Weber was ready to fight a duel with the author, a young docent at the University of Heidelberg, as an honorable "husband standing behind his wife." In the

event, the pen eventually proved, if not mightier, at least more strategic than the sword: the Webers engaged the author in print and in private letters. But all throughout, Weber stated his willingness to duel in defense of his wife's "good name." And the irony? The attack on Marianne Weber came because she had organized a feminist conference. Weber seemed unable to appreciate the irony, as little as Kant was able to realize that his attempt to defactionalize dueling from the aristocratic monopoly still helped maintain a fraternity, albeit a broader one: that of all men.

CONCLUSION

I have argued that dueling has potential for modern politics of equal dignity, although the potential is limited. Why does the practice nevertheless fade away? I conclude this paper with a few brief observations.

Historians of dueling argue that after the First World War, it becomes virtually impossible to insist on a duel as a way of maintaining a man's honor. This is in part because the carnage of a total war has a powerful effect on *l'opinion publique*: the blood-thirsty saber-rattling of duelers is not just quaint, but looks thoroughly distasteful after Paschendaele and Verdun. But it is also quaint: the old trappings of military honor as successful officers' most important characteristics have been replaced by the skills that the erstwhile dueler Max Weber famously theorized about: efficiency, professionalism, instrumental rationality. Joseph Conrad's novella "The Duel," about two Napoleonic officers' decades-long set of duels, gets at this nicely:

They were officers of cavalry, and their connection with the high-spirited but fanciful animal which carries men into battle seems particularly appropriate. It would be difficult to imagine for heroes of this legend two officers of infantry of the line, for example, whose fantasy is tamed by much walking exercise, and whose valour necessarily must be of a more plodding kind. As to gunners or engineers, whose heads are kept cool on a diet of mathematics, it is simply unthinkable.⁷¹

It is not that the Napoleonic wars begin the causal process which WWI ends. Modern warfare and other more benign trends clearly do contribute to the demise of dueling during the 19th century: The fast-paced modern city makes it impossible for you to challenge everybody you bump into on a crowded sidewalk to a duel in a first place.⁷² In general, aristocratic status decreases in social importance while socio-economic status gains. Accurate pistols raise the stakes of dueling. As I have suggested above, by the 19th century, the prospect of your actually getting killed in a duel no longer seemed like such a great idea. But as I also have suggested, that is not just a consequence of technological change: it is a change in the ethos. And the tendency toward the non-lethality of dueling ultimately involves a contradiction even the changed ethos cannot obviate: if it does not involve the risk of great bodily harm, then it is not a practice with which one's willingness to risk it can be demonstrated.

So although we may agree with Montesquieu that the practice of dueling is, in fact, "badly conceived," it is important not to draw the stronger conclusion that it is somehow objectively or necessarily irrational. Montesquieu or Kant do not think so. Dueling cannot be irrational on the theory that people rationally (universally? naturally?) prefer life to death. Maybe they do, *ceteris paribus*, but here the proof is in the *ceteris paribus*: it is about the conditions on which life is *life*, that is, worth living. Remember the Kantian point: "humanity" and "personhood" are not thin biological categories. Even in modernity, as we are well aware, we can *both* prefer life to death and sometimes be willing to die. Furthermore, it is important to realize that the very meaningfulness of dueling requires an appreciation of life: I merit my claim to honor because I *so* value it I am willing to die defending it. With honor gone, everything is gone, as the 17th-century German writer Christoph Lehmann put it.⁷³ This more nuanced understanding also helps us understand some moderns' ambivalence about the practice. That, in turn, helps us see how it can coherently play a part in the

shift to the kind of politics we consider modern, and why that politics necessarily remains outside the state and at same time connected to it.

Should we share Kant's ambivalence about the changed ethos? Should we share his solution to the paradox? It seems to me we can answer "yes" to the former question without endorsing his gender-based answer to the second. Norbert Elias has famously argued that modernity is a story of "civilizing process" away from personal violence.⁷⁴ But he has also argued that some of the virtues associated with that personal violence can find a social and political space in other practices. Modern sports offer one such space: they involve courageous perseverance in the face of physical adversity.⁷⁵ To be sure, those virtues, too, were for a long time seen as necessarily masculine. But we now know better: there is nothing inherently masculine about physical courage, however much modern sports emerged to celebrate manliness.⁷⁶ The same goes for moral courage and, in general, for arguments about only one gender being able to protect the other. And so we might say that Kant's attempt to keep his universe of honor ordered along gender lines is unwarranted. Refashioned dueling and the politics of gender equality can both be historical way stations in the politics of equal dignity. Some conservatives portray this as an "emasculating process."⁷⁷ One modern response ought to be: Indeed. Good for us.

NOTES

¹ See, e.g., Charles Taylor, *Multiculturalism and the Politics of Recognition* (Princeton: Princeton University Press, 1992); *Sources of the Self: The Making of the Modern Identity* (Cambridge, Mass.: Harvard University Press, 1989). especially chs. 10–11, and Peter Berger, "On the Obsolescence of the Concept of Honour," in *Liberalism and Its Critics*, ed. Michael Sandel (New York: New York University Press, 1984). See also the discussion in Sharon Krause, *Liberalism with Honor* (Cambridge, Mass.: Harvard University Press, 2002), ch. 1, which I echo, although our emphases ultimately differ.

² Contemporary and later commentators have felt comfortable describing dueling as a general Euro-American phenomenon, even when they acknowledge regional, cultural and temporal variations. See, e.g., Otto Hausner, *Ueber den Zweikampf: Geschichte, Gesetzgebung und Lösung* (Wien: Verlag der 'Alma Mater', 1880) and Lorenzo Sabine, *Notes on Duels and Duelling* (Boston: Crosby, Nichols, and Company, 1855).

³ Francis Bacon, "The Charge touching duels," in *Francis Bacon: The Major Works*, ed. Brian Vickers (Oxford: Oxford University Press, 2002), 305.

⁴ Armand Jean du Plessis Richelieu, duc de, *The Political Testament of Cardinal Richelieu*, trans. Henry Bertram Hill (Madison, Wisc.: University of Wisconsin Press, 1961).22–23 for the English; Armand Jean du Plessis Richelieu, duc de, *Testament politique*, Françoise Hildesheimer ed. (Paris: Société de l'histoire de France, 1995), 154-55 for the original.

⁵ E.g., John Bennett, *A discourse against the fatal practice of duelling; occasioned by a late melancholy event, and preached at St. Mary's Church, in Manchester, on Sunday the 23d of March, 1783* (Manchester: C.

Wheeler, 1783), 18; for a general point, see Markku Peltonen, *The Duel in Early Modern England: Civility, Politeness and Honour* (Cambridge: Cambridge University Press, 2003), 88.

⁶ Sabine, *Notes on Duels and Duelling*, 41. See also Alfred d' Albert, *Physiologie du duel* (Bruxelles: Meline, Cans et C^{ie}, 1853), 169.

⁷ Sabine, *Notes on Duels and Duelling*, 41.

⁸ Ute Frevert, "Bürgerlichkeit und Ehre: Zur Geschichte des Duells in England und Deutschland," in *Bürgertum im 19. Jahrhundert: Deutschland im europäischen Vergleich*, ed. Jürgen Kocka and Ute Frevert (München: Deutsche Taschenbuch Verlag, 1988); "Bourgeois honour: middle-class duellists in Germany from the late eighteenth to the early twentieth century," in *The German Bourgeoisie*, ed. David Blackbourn and Richard J. Evans (London: Routledge, 1991); *Men of Honour: A Social and Cultural History of the Duel*, trans. Anthony Williams (Oxford: Polity Press, 1995); Kevin McAleer, *Dueling: The Cult of Honor in Fin-de-siècle Germany* (Princeton: Princeton University Press, 1994); Werner Mosse, "Nobility and Bourgeoisie in Nineteenth Century Europe: A Comparative View," in *Bourgeois Society in Nineteenth-Century Europe*, ed. Jürgen Kocka and Allen Mitchell (Oxford: Berg, 1993), 90-91.

⁹ On the German bourgeois critique of aristocracy, see Klaus Epstein, *The Genesis of German Conservatism* (Princeton: Princeton University Press, 1966), 186–88. On the "feudalization" of the German bourgeoisie, see McAleer, *Dueling*, 197; for a critique, see, e.g., Mosse, "Nobility and Bourgeoisie."

¹⁰ Frevert, "Bürgerlichkeit und Ehre," 102; *Men of Honour*, 4, 182. See also V. G. Kiernan, *The Duel in European History: Honour and the Reign of Aristocracy* (Oxford: Oxford University Press, 1988), 281. For Weber's own views, see particularly Max Weber, "National Character and the Junkers," in *From Max Weber: Essays in Sociology*, ed. H. H. Gerth and C. Wright Mills (New York: Oxford University

Press, 1958); also Max Weber, "Economic Policy and the National Interest in Imperial Germany," in *Selections in Translation*, ed. W. G. Runciman (Cambridge: Cambridge University Press, 1978) as well as Marianne Weber's account in her Marianne Weber, *Max Weber: Ein Lebensbild* (Heidelberg: Verlag Lambert Schneider, 1950), 473, 78, also quoted by Frevert. I return to this particular case later.

¹¹ Académie des sciences morales et politiques, ed., *Catalogue des Actes de Henri II, Collection des ordonnances des rois de France* (Paris: Imprimerie nationale, 1979), vols. I and IV; Sabine, *Notes on Duels and Duelling*, , 6; François Billacois, *The Duel: Its Rise and Fall in Early Modern France*, trans. Trista Selous (New Haven: Yale University Press, 1990), 95; Martin Monestier, *Duels: Les combat singuliers des origines à nos jours* (Paris: Editions Sand, 1991), 106.

¹² Robert Baldick, *The Duel: A History of Duelling* (London: Chapman & Hall, 1965), 49; Monestier, *Duels*, 106-107.

¹³ The brief synthetic history in the following paragraphs relies heavily on George Neilson, *Trial by Combat* (Glasgow: William Hodge & Co., 1890); Baldick, *The Duel*; Kiernan, *The Duel in European History*; McAleer, *Duelling*; Frevert, *Men of Honour*; Billacois, *The Duel*; Sabine, *Notes on Duels and Duelling*; Hausner, *Ueber den Zweikampf*; Peltonen, *The Duel in Early Modern England*; Monestier, *Duels*; Ben C. Truman, *The Field of Honor: Being A Complete and Comprehensive History of Duelling in All Countries* (New York: Fords, Howard, & Hulbert, 1884); Augustin E. F. Grisier, *Les Armes et le duel* (Paris: Garnier Frères, 1847); Richard Hey, *A Dissertation on Duelling* (Cambridge: Cambridge University, 1784).

¹⁴ John Selden, *The Duello or single combat from antiquitie deriued into this kingdome of England, with seuerall kindes, and ceremonious formes thereof from good authority described* (London: Printed by George Eld for I. Helme, and are to be sold at his shop in Saint Dunstans Church-yard, in Fleet-

streete, 1610), 24, spelling and punctuation largely modernized. See also Baldick, *The Duel*; Billacois, *The Duel*, ch. 3; Neilson, *Trial by Combat*; Monestier, *Duels*, 33–48.

¹⁵ Truman, *The Field of Honor*, 20, quoting the 16th-century French statesman Duc Maximilien de Sully.

¹⁶ An intermediary state of *chivalric dueling* made duels a ritual for display of a knight's Christian probity: "This was a meeting in single combat between two knights, generally on horseback and always with great public ceremonial, to settle the difference of law, possession of honour." Baldick, *The Duel*, 22.

¹⁷ Neilson, *Trial by Combat*, 293.

¹⁸ Selden, *The Duello*, 14.

¹⁹ Kiernan, *The Duel in European History*, 48. See also Gordon S. Wood, *The Radicalism of the American Revolution* (New York: Alfred A. Knopf, 1992), 41.

²⁰ Kiernan, *The Duel in European History*.

²¹ Billacois, *The Duel*, 76ff.

²² Billacois, *The Duel*, 78.

²³ Jean-Jacques Rousseau, "Letter to M. d'Alembert on the Theatre," in *Politics and the Arts* (Ithaca: Cornell University Press, 1968), 71.

²⁴ *Allgemeines Landrecht für die Preußischen Staaten von 1794*, ed. Hans Hattenhauer, (Frankfurt am Main: Alfred Metzner Verlag, 1970), part II, heading 20 §671, p. 693. See also Frevert, *Men of Honour*, 28.

²⁵ On the controversy, see Epstein, *The Genesis of German Conservatism*, 372–87. For evidence of Kant's familiarity with the Civil Code controversy, see J. G. C. C. Kiesewetter's June 14, 1791, letter to Kant in *Correspondence*, XI: 264–266 (377–378 of the translation). Reinhart Koselleck reads Kant's

Rechtslehre as a general repudiation the Common Law; see *Preußen zwischen Reform und Revolution: Allgemeines Landrecht, Verwaltung and soziale Bewegung* (Stuttgart: Ernst Klett, 1967), 153–54.

²⁶ I will refer to Kant with in-text parenthetical references. Abbreviations to his works are as follows: *Anthropology from a Pragmatic Point of View* (*Anthropologie in pragmatischer Hinsicht*): A; *Rechtslehre* (Part I of the *Metaphysics of Morals*): RL; *Doctrine of Virtue* (part II of the *Metaphysics of Morals*): DV; *Lectures on Ethics*: LE; Correspondence: C; *Reflexionen zur Anthropologie*: R. The volume and page numbers refer to the standard Akademie Ausgabe of Kant's works [Immanuel Kant, *Gesammelte Schriften*, 29 vols. (Berlin: Preußische Akademie der Wissenschaften, 1902-)]. For the *Anthropology* and *Reflexionen zur Anthropologie*, I have used the electronic *Kants Gesammelte Schriften* (InteLex, 2005); available from <http://pastmasters2000.nlx.com/>; the translations used are *Practical Philosophy*, ed. Paul Guyer and Allen W. Wood, trans. Mary Gregor, *The Cambridge Edition of the Works of Immanuel Kant* (Cambridge: Cambridge University Press, 1996). for RL and DV, *Lectures on Ethics*, ed. Paul Guyer and Allen W. Wood, trans. Peter Heath, *The Cambridge Edition of the Works of Immanuel Kant* (Cambridge: Cambridge University Press, 1997). for LE, and *Correspondence*, ed. Paul Guyer and Allen W. Wood, trans. Arnulf Zweig, *The Cambridge Edition of the Works of Immanuel Kant* (Cambridge: Cambridge University Press, 1999) for C.

²⁷ This is most fully developed in the *Rechtslehre*, but it also occurs in various forms in “The Idea for a Universal History with a Cosmopolitan Purpose,” “What is Enlightenment?” “Conjectural Beginning of Human History,” *Perpetual Peace*, and *The Conflict of the Faculties*. See Mika LaVaque-Manty, *Arguments and Fists: Political Agency and Justification in Liberal Theory* (New York: Routledge, 2002); Elisabeth Ellis, *Kant's Politics: A Provisional Theory for an Uncertain World* (New Haven: Yale University Press, 2005).

²⁸ Ellis, *Kant's Politics*, passim.

²⁹ See Koselleck, *Preußen zwischen Reform und Revolution*, 80.

³⁰ Kant elaborates women's dependence at §46 of RL, VI:313–5; "That May Be True in Theory, But Is It True in Practice?" VIII:294–7; and A VII:192. I discuss this at greater length in "Kant's Children," *Social Theory and Practice* 32:3 (July 2006). For review of other contemporary views on how feminine honor was properly expressed, see the entry "Familie" in Otto Brunner, Werner Conze, and Reinhart Koselleck, eds., *Geschichtliche Grundbegriffe: Historisches Lexikon zur politisch-sozialen Sprache in Deutschland* (Stuttgart: Ernst Klett, 1972) as well as Habermas, *Frauen und Männer des Bürgertums*.

³¹ Edmund Chishull, *Against duelling. A sermon preach'd before the Queen in the Royal Chapel at Windsor-Castle, on November the 23d, 1712* (London: J. Round, 1712), 12. See also Captain Macnamara's defense, quoted above on p. 00.

³² Thomas Hobbes, *Leviathan*, Edwin Curley, ed. (Indianapolis: Hackett, 1994).ch. XXVII, ¶35, p. 201.

³³ Rousseau, "Letter to M. d'Alembert on the Theatre," 67–75.

³⁴ Rousseau, "Letter to M. d'Alembert on the Theatre," 68.

³⁵ Sabine, *Notes on Duels and Duelling*. Baldick also quotes the passage in *The Duel* (97), as does Truman, *The Field of Honor* (206).

³⁶ Sabine, *Notes on Duels and Duelling*.

³⁷ Sir William Blackstone, *Commentaries on the Laws of England*, ed. William Carey Jones, vol. II (Baton Rouge, LA: Claitor's Publishing Division, 1976), 2403–4.

³⁸ Sabine, *Notes on Duels and Duelling*, 10. But for Peel's ambivalence, see Thomas Hay Sweet Escott, *Social Transformations of the Victorian Age* (London: Seeley and Co., 1897), 291.

³⁹ Hausner, *Ueber den Zweikampf*, 19.

⁴⁰ Rousseau, "Letter to M. d'Alembert on the Theatre"; Sabine, *Notes on Duels and Duelling*, 41–47 and Escott, *Social Transformations of the Victorian Age*, 290–293, make this point. On pro-dueling public opinion in 18th-century France, see Monestier, *Duels*, 205–207.

⁴¹ See also DV, VI: 468, where Kant says that “even rank and dignity” are contingent relations which “depend in part on arbitrary arrangements.”

⁴² Consider here Kant’s famous distinction between two ways of valuing people: they can have dignity as persons, and *price* as people “in the system of nature” (G, IV:434; DV, VI:434). My discussion suggests that the distinction is less about the changeability of the value than about its fungibility: you can lose your dignity, but you cannot give it *to* someone, or get it from someone. That, of course, is exactly consistent with *individualized* points of honor, the prevailing conception of dueling.

⁴³ Frevert, *Men of Honour*, 113.

⁴⁴ Joanne B. Freeman, *Affairs of Honor: National Politics in the New Republic* (New Haven: Yale University Press, 2001), 166.

⁴⁵ Charles Louis de Secondat Montesquieu, Baron, *Persian Letters*, trans. George Healy (Indianapolis: Hackett, 1999), letter 90. I also use Charles Louis de Secondat Montesquieu, Baron, *Persian Letters*, trans. C.J. Betts (London: Penguin Books, 1973).

⁴⁶ Truman, *The Field of Honor*, 190. The “expressions” Winchelsea had made against Wellington had to do with their dispute over the Roman Catholic Relief Bill; Winchelsea had accused Wellington of trying to introduce “Popery into every department of the state.” See Baldick, *The Duel*, 104 and Sabine, *Notes on Duels and Duelling*, 306. On parliamentary attempts to reduce insults from turning into duels, see Don Herzog, *Poisoning the Minds of the Lower Orders* (Princeton: Princeton University Press, 1998), 143–4.

⁴⁷ Kiernan, *The Duel in European History*, 143.

⁴⁸ That the scar was actually mark of a social status of course means that to speak of 'harm' is partly misleading.

⁴⁹ Rousseau, "Letter to M. d'Alembert on the Theatre," 71n.

⁵⁰ Montesquieu, *Persian Letters*, letter 59. I am using the Healy translation here. Betts's is both inexact and grammatically awkward. The end of the passage reads in French "...il l'observe si bien, qu'il y a six mois il reçut cent coups de bâton pour ne le pas violer."

⁵¹ Frevert, *Men of Honour*, 26; but see Billacois, *The Duel*, 73. See also Kiernan, *The Duel in European History*, 113.

⁵² At the same time, as the contemporary and retrospective reaction to that famous duel suggests, public opinion may already have shifted to the extent that people generally saw Hamilton as having behaved honorably in both agreeing to the duel but then shooting in the air. There is still no agreed-on consensus on whether Hamilton fired in the air by mistake or deliberately. Burr's behavior about the entire challenge was also grounds for many contemporaries to regard him as the dishonorable party. For a discussion of this, see Freeman, *Affairs of Honor*. For two more contemporary accounts, see Sabine, *Notes on Duels and Duelling*; Truman, *The Field of Honor*, .

⁵³ Kiernan, *The Duel in European History*, 49; see also McAleer, *Dueling*, 9.

⁵⁴ Even Weber expresses this. Weber, "National Character and the Junkers"; see also Wolfgang J. Mommsen, *Max Weber and German Politics 1890-1920*, trans. Michael S. Steinberg (Chicago: University of Chicago Press, 1984), 100. On the general conservative attitudes about bourgeois and "parvenu" pretensions to aristocratic privileges, see Epstein, *The Genesis of German Conservatism*, 188–201.

⁵⁵ Baldick, *The Duel*, 125; Wilmuth S. Rutledge, "Dueling in Antebellum Mississippi," *Journal of Mississippi History*, no. 3 (1964), 185–186. See also Freeman, *Affairs of Honor*, 168–169, Krause, *Liberalism with Honor*, 120–131, and Wood, *The Radicalism of the American Revolution*, 345.

⁵⁶ Berger, "On the Obsolescence of the Concept of Honour," 157.

⁵⁷ Georg Simmel, "The Web of Group Affiliations," in *Conflict & The Web of Group Affiliations* (New York: Free Press, 1955), 163.

⁵⁸ McAleer, *Dueling*, 3.

⁵⁹ Kiernan, *The Duel in European History*, 15.

⁶⁰ Alexis de Tocqueville, *Democracy in America*, ed. Phillips Bradley, trans. Henry Reeve–Francis Bowen, Two vols. (New York: Random House, 1990), vol. II, bk. ii, ch. 5.

⁶¹ *Arguments and Fists*, 72–74.

⁶² Frevert, *Men of Honour*, 183.

⁶³ *Allgemeines Landrecht für die Preußischen Staaten*, part II, heading 9 §1.

⁶⁴ See, e.g., Sally Haslanger, "On Being Objective and Being Objectified," in *A Mind of One's Own: Feminist Essays on Reason & Objectivity*, ed. Louise M. Antony and Charlotte Witt (Boulder: Westview Press, 1993); Carole Pateman, *The Sexual Contract* (Stanford: Stanford University Press, 1988); Catherine MacKinnon, *Toward a Feminist Theory of the State* (Cambridge, Mass.: Harvard University Press, 1989); Sherry B. Ortner, *Making Gender: The Politics and Erotics of Culture* (Boston: Beacon Press, 1996); Sally Haslanger, "Gender and Race: (What) Are They? (What) Do We Want Them To Be?" *Noûs* 34, no. 1 (2000).

⁶⁵ On women's dueling, see Baldick, *The Duel*, ch. 11.

⁶⁶ See Thomas Toll, *The Female Duell, or the Maidens Combate* (London: Printed for John Clarke at the Harp and Bible in West Smith-field, 1672).

⁶⁷ Leo, "Ueber Zweikämpfe und ihre Schädlichkeit," *Deutsches Museum* 2 (1787): 20, 22. See also Frevert, *Men of Honour*, 27.

⁶⁸ Leo, "Ueber Zweikämpfe und ihre Schädlichkeit," 20, 22.

⁶⁹ See, again, Kant's discussion of women's dependence at §46 of RL, VI:313–5; "That May Be True in Theory, But Is It True in Practice?" VIII:294–7; and A VII:192.

⁷⁰ Marianne Weber relates the story in Weber, *Max Weber*, 472–82, from which this paragraph draws its information. Ute Frevert discusses it in *Men of Honour*, 182.

⁷¹ Joseph Conrad, "The Duel," in *The Complete Short Fiction of Joseph Conrad: Tales* (Hopewell, NJ: The Ecco Press, 1992).

⁷² Franco Moretti, "Homo palpitans: Balzac's novels and Urban Personality," in *Signs Taken for Wonders: Essays in the Sociology of Literary Forms* (London: Verso, 1983). But recall Dostoyevsky's brilliant discussion about dueling and the hierarchies of sidewalk honor in Fyodor Dostoyevsky, *Notes from the Underground / The Double*, trans. Jessie Coulson (Harmondsworth: Penguin Books, 1972), 52–58.

⁷³ Cited in Brunner, Conze, and Koselleck, *Geschichtliche Grundbegriffe*, vol. II, 20.

⁷⁴ See Norbert Elias, *The Civilizing Process* (Oxford: Blackwell, 1994) for the general argument.

⁷⁵ See Elias, "The Genesis of Sport as a Sociological Problem," in *Quest for Excitement: Sport and Leisure in the Civilizing Process*, ed. Norbert Elias and Eric Dunning (Oxford: Basil Blackwell, 1986). See also the work by Elias's collaborator Eric Dunning, especially in Dunning and Kenneth Sheard, *Barbarians, Gentlemen and Players: A Sociological Study of the Development of Rugby Football* (New York: New York University Press, 1979).

⁷⁶ See, e.g., Allen Guttman, *A Whole New Ball Game: An Interpretation of American Sports* (Chapel Hill: University of North Carolina Press, 1988), ch. 10; Stephanie L. Twin, ed., *Out of the Bleachers* (New York: McGraw-Hill, 1979).

⁷⁷ I have in mind arguments like Leo's above, as well as the more famous arguments from Burke to Harvey Mansfield.

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