

Lord Kames: Selected Writings

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Edited and Introduced by Andreas Rahmatian, Imprint Academic, 2017

Andreas Rahmatian offers a neatly presented and insightful text that provides the reader an accessible and user-friendly compilation of the writings of Lord Kames (1696-1782). Kames was a judge, jurist and philosopher who diverted substantial enquiry to a wide variety of fields and was mentor to some of the most famous Scottish Enlightenment figures, such as David Hume, Adam Smith, Thomas Reid, and John Millar. Smith himself claiming that ‘we must every one of us acknowledge Kames for our Master’.¹ Yet, as Rahmatian highlights, Kames’ works are much less known today than those of his *protégés*: a slight that this edited collection of Kames’ writings seeks to redress, and does.

In the introduction, Rahmatian highlights the extent to which Kames was received by his contemporaries, both at home and abroad, noting that his work was well known in France and Germany, and even exerted considerable influence on Kant, Mendelssohn and Moses. Additionally, Kames’ theories on legal history, legal sociology, property theory, and the philosophical concept of equity in the law influenced the founders of the United States of America. As was common during the times of Kames writing, his work spans multiple disciplines including; law, moral philosophy, aesthetics, legal history and theory, sociology, anthropology, agriculture, economics, and even physics. Rahmatian notes in the introduction how Kames felt that his approach of combining these fields allowed him to construct an understanding of law, not as a distinct set of rules but as ‘an inextricably linked part of history, philosophy, anthropology, sociology, and even aesthetics.’² Kames himself was an avowed critic of overspecialisation and instead favoured his own multi-pronged enquiry of knowledge. Such an approach brings a holistic richness to his works and provides a less abstract thesis on the nature of law and legality but, as Rahmatian acknowledges, makes categorising and approaching Kames’ writing challenging for the modern reader. Rahmatian further muses that the ‘contemporary neglect’ of Kames’ work is partly attributable to this lack of specialization, with philosophers viewing him as too legal, and lawyers viewing him as out-dated, and the general reader finding his works inapproachable.³ This edition therefore provides an abridged

¹ I. S. Ross, *Lord Kames and the Scotland of his Day*, (Oxford: Oxford University Press, 1972), p.97.

² p.2.

³ *ibid.*

and re-structured version of Kames' original writings, grouping works together by subject, which are presented here in five chapters entitled; 'Aesthetics and Rhetoric', 'Philosophical History', 'Moral Philosophy and Legal Philosophy', 'Property and Equity', and 'Enlightened Improvement of Society'.

Rahmatian's approach of reorganising Kames' works thematically is a successful one which offers a much abbreviated and heavily edited version of Kames' original writings. Rahmatian acknowledges that Kames' writing is lengthy and in places repetitive,⁴ so he has opted to group together material from various sources in order to present a coherent summary of Kames' thoughts. At times this text works almost as an encyclopaedia of Kames' thought, which will serve as a useful additional text to those interested in general philosophy, as well as students of jurisprudence. At less than 250 pages, this edition is accessible and eminently readable.

The first chapter presents Kames' work on aesthetics and rhetoric. Kames' thoughts on aesthetics are clearly set out in a few pages under the headings of external and internal sense; perception, sensation and conception; emotions and passions; and intrinsic and relative beauty. The chapter then turns to theories on rhetoric which are grouped under; external signs of emotions and passions, sentiments, tropes and figures, and standards of taste. This chapter will appeal to readers and scholars of general philosophy and sets out Kames' moral philosophy, which outlines how moral beauty arises from moral sense. This idea of moral beauty, according to Kames, is what enables man to distinguish right from wrong and so is the foundation for punishment of moral wrongs. He argues that justice is a primary virtue but that benevolence is not. The introduction provides a short but helpful commentary on Kames' thoughts on aesthetics, which Rahmatian notes were 'fiercely attacked' by Voltaire in France.⁵

The second chapter outlines Kames' thoughts on philosophical history and it is here that Kames' contribution to the Enlightenment is most clearly evidenced. This is the longest chapter and it draws on a wide variety of Kames' essays. Even for those unfamiliar with enlightenment philosophy, there is a clear sense of Kames' strive for reason and empiricism, and it is interesting to read his thoughts which clearly challenged the assumed wisdom of the day on

⁴ p.12.

⁵ p.5.

the Christian teachings on the origins of man.⁶ However, as Rahmatian notes in the introduction, the modern reader will likely find some of Kames' writings on the notion of race unpalatable.

The third chapter discusses moral philosophy and legal philosophy and it is here that Kames' work offers a deep well for jurisprudence and criminal law enthusiasts. This chapter offers sections on; reasoning, moral sense duty and justice, liberty and necessity, causation, application of moral philosophy in the law, and legal history and legal science. On reading Kames' thoughts on liberty, it is difficult not to think that some of these ideas must surely have influenced John Stuart Mill, although while Mill would go on to focus on outlining the basis of liberalism, Kames is more interested in exploring free will. Here the reader benefits from Kames' non-bounded and holistic approach, which fuses a jurisprudential analysis of law with wider reflections on the nature of guilt, culpability and free will. Kames' thoughts on criminal culpability might be of most interest to contemporary law students, although the chapter would serve as an additional resource in either undergraduate criminal law or jurisprudence, and is equally accessible to the generalist reader. As a reader of legal philosophy, this reviewer found this chapter the most salient and felt that Kames' more holistic approach to law and criminality was of particular interest.

The fourth chapter outlines Kames' thought on property and equity. This is a short chapter and draws mainly on Kames' essays *Historical Law-Tracts*⁷ and *Principles of Equity*.⁸ This particular chapter is short and concise, but while Kames' ideas on property appear rooted in the same enlightenment philosophy that would underline modern liberal capitalism, his work here is indeed particularly legal in nature. While the chapter is short, it is clear that Kames' ideas on property have particular significance for law. It is apparent that Kames was ahead of his time from his arguments for abolishing feudalism and in particular, the entail. His vision of property rights is that they are absolute and he is disquieted about how feudalism distorts this.

⁶ Kames is moved by logic to conclude that, at p.101, 'God created many pairs of the human race, differing from each other externally and internally; that he fitted these pairs for different climates, and placed each pair in its proper climate. However, he then notes that, 'this opinion, however plausible, we are not permitted to adopt; being taught a different lesson by revelation, namely, that God created but a single pair of the human species.'

⁷ H. Home, Lord Kames, *Historical Law-Tracts*, 4th edition, (Edinburgh: Cadell, Bell and Bradfoot, Creech: 1792).

⁸ H. Home, Lord Kames, *Principles of Equity*, Volumes 1 and 2, 3rd edition, (Edinburgh: J.Bell, W.Creech, T. Cadell: 1778).

The final chapter is entitled ‘Enlightened Improvement of Society’. Here Kames’ role as an enlightenment scholar is clear to see. His work discusses the nature of commerce and the transition from barter to currency. He outlines the relationship between labour and monetary reward. However, unlike Marx, Kames’ approach is not to blame capitalism, but instead to recognise that greater value could be produced from smarter labour practices. Ideas that would later be developed by Smith have roots here in Kames’ theories.

In summary, it is clear to see that Rahmatian’s expertise has been brought to bear on Kames’ work and it shows to good effect. He offers the reader a helpful, streamlined compendium of Kames’ thoughts. The book itself is a user-friendly text with occasional but appropriate commentary in the footnotes to guide the reader. It provides a welcome introduction to Kames’ original work to those new to Kames, and will serve as a useful thematic compendium to those more familiar with his works. This book offers a welcome addition to the Library of Scottish philosophy for as Kames himself notes: ‘how imperfect must the knowledge be of that man who confines his reading to the present times? If he follows the same method in studying its laws, have we reason to hope that his knowledge of them will be more perfect?’⁹

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⁹ p.173.