

Jupiter and the god of morality: the paradox of individual autonomy and national self-determination in Kant

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1. The paradox

No state shall forcibly interfere in the constitution and government of another state.¹

[M]an (and every rational being) is an end in itself, i.e. he is never to be used merely as means for someone (even for God) without at the same time being himself an end, and that humanity in our person must itself be holy to us, because man is subject to the moral law.²

The ethics and the political philosophy of Immanuel Kant yield a paradox. Individualism and the distinctive value of autonomy in Kant's ethics contrast with the inviolability of national sovereignty and self-determination he accords to the state in his political philosophy. The paradox arises because there is no logical necessity and, as history attests, certainly no practical guarantee, that a legally constituted and internationally recognized state will respect the rights and privileges its citizens deserve (in Kant's view, by virtue of their rationality and autonomy), such as independence from the government, freedom of speech, and equality before the law.

In the realm of international politics and security studies it is now widely recognized how seriously an absolute and unerring commitment to state sovereignty may compromise, or protect the compromisers of, civil, political, and human rights. The keystone of Kant's morality is the sacrosanct freedom of the individual, construed as a deep conception of autonomy, expressed most forcefully in the formula of humanity (second quote above.) Kantian ethics, emerging in the transformed concept and

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¹ *Perpetual peace*, p. 96. Parenthetical citations, other than to GW, refer to the same volume.

² *Groundwork of the metaphysics of morals*, p. 138.

discourse of human rights, have gained popularity on a global scale, and certainly within the political science literature on international relations.

By nearly all accounts, the spread of the idea of human rights, even when it may not be accompanied by wholly consistent state conduct, is a positive development. A minority oppose the modification or loosening of national boundaries and prerogatives. Kant gives us the crystallization and rigorous defense of each side of the debate. He advances an individualistic ethics, but equally forcefully expresses the necessity, within an international state system, of national self-determination and the observance of a realm of internal affairs, over which only the state has control, and in which the international community cannot directly intervene.

The paradox is further deepened by Kant's opposition to revolution or insurrection, even when it is democratic in origin, purely initiated by popular movements, without external interference. In an aversion to instability and the threat of civil disorder reminiscent of Hobbes, Kant eschews efforts to unseat even oppressive and unjust sovereigns; in most passages of Kant's political writings it appears to be his conviction that it is more virtuous and, more importantly, right, for citizens to suffer legal repression, rather than the instability of revolution. Revolutions are, in Kant's published works, presented as necessarily illegal. The conservative coloration of Kant's outlook is well known. At the same time, Kant sympathized with the instigators of the American and French Revolutions; admittedly the revolutionary leadership was itself an elite in both cases, consisting of landowners and bourgeoisie respectively.³ In his principled opposition to revolution and the overthrow of regimes, Kant was not unaware of the potential cruelties of the state; he knew the reasons why citizens might seek to rebel, even by violent means.

The dilemma or paradox arises when Kant's political and ethical writings are read together because these two commitments, the commitment to individual and, at the same time, national self-determination and autonomy cannot be satisfied. If in fact human sovereignty, autonomy, and freedom is paramount, what can ever justify sacrificing it for the sake of the international system of sovereign states?

³ On Kant's views concerning the revolutions of his time I have referred to Reiss's introduction to Reis and Nisbet (1970, 1991), pp. 3-4. *The Conflict of the Faculties* is Kant's most revolutionary work. Patrick Riley discusses *Conflict* in his (1983).

2. The human rights and national determination debates in the social, political and security realms

The political science literatures on nationalism and citizenship have incited scholarly investigation and skepticism concerning the view of states and their formation as a positive development. Institutions and issues that tend to undermine the stringent observance of state sovereignty include war crimes tribunals, the International Criminal Court, the increasing use of economic sanctions, political and economic unification exemplified by the European Union, and evolving forms of humanitarian and foreign aid. Since the end of the Cold War, and the beginning of a virtually unipolar world (that is, the emergence of the US as a potential global hegemon), the traditional conceptions of state sovereignty, jurisdiction and boundaries appears to be in flux, or even wholly anachronistic.

The nature of possible interference and intervention within states, and the possible threats to national self-determination have evolved with the acceleration of processes of globalization. Interventions have become at once more effective and more subtle. Nevertheless, the prospect of a world government in any shape or form, certainly in the shape of the United Nations, remains remote. For example, peacekeeping forces require the consent of the state in which they intervene, and the process of mobilizing troops is fraught with delay and limitations imposed by the diplomatic and political channels of decision-making under the aegis of the United Nations. On the whole, the main threats to sovereignty stem not from any overtly political institutions or from other states, but from private organizations. Without denying the contemporary reality of military intervention and war, the types of actions in the current international scene that more frequently (if less dramatically) undercut sovereignty include world financial institutions, transnational corporations and non-governmental organizations. Kant himself articulated the power of trade. Trade relations, and their inexorably widening scope, tend to diminish the possibility of war; economic incentives can be most effective tools of intervention and manipulation. A commonplace contemporary example is the ability of transnational corporations to extract benefits and concessions from their host state's government, by means of negotiation and the threat to divest. Kant observed that the

spirit of commerce sooner or later takes hold of every people, and it cannot exist side by side with war. And of all the powers (or means) at

the disposal of the power of the state, financial power can probably be relied on most...⁴

Kant's political views, despite the inherent limitations of the a priori deductive method he employed, are prescient: his ideas on the "democratic peace" and international ethics have been recognized, as well as, in *Perpetual peace* (1795), the analytical aspects of his theory of international politics. Kant's contributions to liberal thought are increasingly prominent in political philosophy;⁵ his political and ethical writings together may help to advance thinking on the conditions under which intervention in sovereign states can and cannot be justified. In addition, existing Kant scholarship tends to focus either on the political or on the ethical works, rather than juxtaposing the two, thereby eliding the particular paradox I argue Kant's thought poses. I will explain the elements of Kant's thought which yield the paradox and advance an interpretation which seeks to resolve and, in some measure, explain it.

3. Kant's ethics

What distinguishes rational from other beings is their ability to conceive and to give to themselves an end, a purpose, an aim. It is this ability that is the basis for the moral, not merely the cognitive or psychological, autonomy of persons. Kant codified the concept of autonomy in the various versions of the categorical imperative stated in GW. The formula that is probably the best known is the idea that persons must always be treated as ends in themselves, never only as a means to an end. Kantian autonomy implies that we must always recognize that our fellow human kind, like us, possess rationality and their own ends; they are the bearers of dignity because of their rational capacity, and the moral autonomy which springs from it. Kant presupposes that adults can be morally self-governing; they have sufficient understanding and motivation to act in accord with right. As explained by J.B. Schneewind, Kant's idea of autonomy has two components:

The first is that no authority external to ourselves is needed to constitute or inform us of the demands of morality. We can each know without being told what we ought to do because moral requirements are requirements we impose on ourselves. The second is that in self-government we can effectively control ourselves. The obligations we

⁴ *Perpetual peace*, p. 114.

⁵ On Kant's international ethics: Armstrong (1931), Friedrich (1948), Gallie (1978), Galston (1975). On Kant's analytic theory of international politics: Doyle (1993).

impose upon ourselves override all other calls for action, and frequently run counter to our desires. We nonetheless always have a sufficient motive to act as we ought.⁶

Failures to act as we ought are due to failures of our rationality and to the interference of subjective considerations. The fact that individuals possess autonomy implies that they have sufficient motivation to act in accord with right. In this respect Kant's moral psychology resembles the Platonic premise that "to know the good is to do the good." Or in Kant's case, "to know the right is to do the right."

A foray into Kantian metaphysics is beyond the scope of this paper. However, explaining the notion of the kingdom of ends, put forward in the GW should suffice for present purposes. In the kingdom of ends, every being is perfectly rational. As a result they know and perform every duty and dictate of the universal moral law without failure. Both the autonomy of individual moral agents is fully realized and, as a direct and inevitable consequence, the categorical imperative is universally followed. Kant claims that such a kingdom of ends would actually be realized by means of maxims conforming to the laws that the categorical imperative prescribes to all rational beings. The kingdom of ends is not intended as an impossible vision but rather one that can shape normative thinking, and indeed can shape and inform our vision of ethical life and society.

A world of rational beings is possible as a kingdom of ends, and this by virtue of the legislation proper to all persons as members. Therefore every rational being must so act as if he were by his maxims in every case a legislating member in the universal kingdom of ends.⁷

The categorical imperative is the supreme moral law in Kantian ethics. It applies universally and is taken to override contrary inclinations or subjective forces. It is expressed in various forms, including:

Act only on that maxim whereby thou canst at the same time will that it should become a universal law.⁸

Act as if the maxim of thy action were to become by thy will a Universal Law of Nature.⁹

⁶ Schneewind (1992), p. 309. I have also referred to Schneewind (1998): Chapters 2 and 3 concern Kant's moral philosophy, examining the ways in which it represents a revolution in moral thought.

⁷ GW, 67-68.

⁸ Op. cit., 49.

⁹ Loc. cit.

The essential method encapsulated in the categorical imperative, and of Kant's efforts to construct a systematic ethics based on reason, is the universalization of maxims, or principles of action, for the purpose of determining whether they are consistent with the moral law. The peace plan Kant advances in his political writings parallels the kingdom of ends in significant respects which I will explore. The key idea from the ethics that underlies the paradox is the moral inviolability of the individual and the individual's autonomy, which results from his or her status as a rational being.

4. Kant's political philosophy

The analogue to the individual in Kant's political philosophy is the state. The state, like the individual in the kingdom of ends, is situated in a legal international order of other states. The just and ethical character of the individual state derives from the rationality of its citizens and government, and the adherence of the latter to certain norms of conduct with other states. Wolfgang Kersting argues that

Kant's political philosophy is therefore principally the unfolding of the normative concept of the ideal state which elucidates the constitution of a community of free and equals based solely on rationally just interhuman relations.¹⁰

The state constitutes a moral person.¹¹ The ascription of moral personhood bears some explanation, as the correspondence of the individual and international moral realms is neither obvious nor beyond question. The state is represented by the government and embodied by the citizens.

For a state, unlike the ground on which it is based, is not a possession (*patrimonium*). It is a society of men, which no-one other than itself can command or dispose of. Like a tree, it has its own roots, and to graft it on to another state as if it were a shoot is to terminate its existence as a moral personality and to make it into a commodity. This contradicts the idea of the original contract, without which the rights of a people are unthinkable.¹²

In Kant's view, the state is both a society of men and a moral personality. And yet the state, unlike an individual, is not intentional. It does not possess the singleness of purpose, the continuity of memory or

¹⁰ Kersting (1983), p. 143.

¹¹ Perpetual peace, p. 165.

¹² Perpetual peace, p. 94.

consciousness that an individual does. The government and, *a fortiori*, the citizens, are made of many minds and bodies, interests and strategies, and this plurality need not be consistent; political outcomes can be, as a result, highly irrational, contrasting sharply from what any one leader or citizen plans or desires.¹³ These facts suggest an interpretation of the moral personality of the state not as an ontological proposition, a description of the reality of the state, but rather as a hypothetical construction employed for moral purposes. Although Kant may have ascribed historical reality to the idea of the social contract, in my view it is best interpreted as a wholly hypothetical exercise. Similarly, counting the state as a moral personality is, I believe, best understood as the idea that in order to reach normative judgments we suppose that the state possesses the moral status and personality of an individual, in the same way that a corporation can legally but also metaphorically embody and represent a group of individuals.

In Kant's view not just any state constitutes a moral person. In order to possess such status of moral personhood, a state must leave the state of nature and become a legal state. The requirements for legality include

a constitution based on the civil right of individuals within a nation (*ius civitatis*) (...) on the international right of states in their relationships with one another (*ius gentium*) (...) on cosmopolitan right, in so far as individuals and states coexisting in an external relationship of mutual influences, may be regarded as citizens of a universal state of mankind (*ius cosmopoliticum*).¹⁴

The state is located in historical time, just as Kant's political philosophy nests in his philosophy of history, and political philosophy closely related to the philosophy of right. Williams reads Kant's philosophy of history as depicting the progress of right.

Kant's political philosophy is deeply rooted in his metaphysics of right, and for this reason formed by the theory programmed of a pure normative rationalism which eschews all empirical and historical determination.¹⁵

¹³ As Hans Saner points out, "There is not a physical person but a moral person, a state, which is claiming freedom. With other states it lives in conditions of nature, but internally it remains a system of law." (1973, p. 252).

¹⁴ "This classification, with respect to the idea of a perpetual peace, is not arbitrary, but necessary. For if even one of the parties were able to influence the others physically and yet itself remained in a state of nature, there would be risk of war, which is precisely the aim of the above articles to prevent." (*Perpetual peace*, pp. 98-99)

¹⁵ Williams (1996). "Kant's political philosophy finds its architectonic place within the complex structure of his entire practical philosophy in the pure philosophy of right and in the philosophy of history – history read as the progress of right." (Kersting, 1983, p. 143)

Kant's political philosophy is certainly shaped by normative rationalism and the core concept of right. However, unlike his metaphysics, empirical realities figure significantly into his political works. Kant's explanation of why republicanism is superior to monarchy (which he did not definitively reject), and why republicanism is a key ingredient in the relations of peace among states, clearly depends upon the actions and interests of citizens (as opposed to subjects who are governed by a monarch), living in historical time.¹⁶ The important contrast between Kant's view of history and his political philosophy is that the former is concerned with explanation or interpretation while the latter is concerned with the calculation of action, weighing of possibility and deliberation of outcomes.¹⁷ In contrast with Machiavelli, who believed men have a 50-50 chance to alter history, Kant placed greater weight on historical forces, which he construed as wholly independent of human agency and effort. The weak position of humans in the natural order is a result of their dual nature as phenomenal and noumenal beings.¹⁸ The force ascribed to nature helps to explain Kant's rejection of revolution and his preference for an incremental and slow pace of change, as opposed to sudden, radical and revolutionary efforts.

Kantian teleology plays a prominent role in the evolution towards peace, and the perfect political constitution.¹⁹ Perpetual peace is guaranteed by no less an authority than the great artist of Nature herself." (*Perpetual peace*, p. 108) Its achievement by human effort alone is not only unnecessary but impossible (*Metaphysics of morals*, p. 173). Hence Kant rejects the forceful installation of republican regimes. Yirmiahu Yovel argues that Kant's moral and political philosophies are unified by the philosophy of history; the idea of the highest good in the *Critique of practical reason*, and, I would add, the kingdom of ends in the GW, should be seen in the widest possible sense, not merely as goals for personal morality but as the goal or end for the entire human race.²⁰

¹⁶ "[C]itizens (not mere subjects) in a republic would dissent from war, out of the legal motive of self-love. Therefore republicanism (internally) and eternal peace (externally) are interlocked, absolutely inseparable." (Riley, 1983, p. 168)

¹⁷ Williams (1996), p. 111.

¹⁸ Williams (1996), p. 113. Williams states that in Kant's view "for progress to come about in politics circumstance and instinct have apparently to prevail." (p. 115).

¹⁹ Idea for a universal history with a cosmopolitan purpose, p. 50.

²⁰ Yovel (1980), p. 105.

5. Kant's anti-revolutionary spirit

Kant strongly opposed efforts to overthrow legally constituted regimes, whether the impetus emanated from inside or outside the state. He favored gradualism over revolution,²¹ and change from within the existing legal and political system.

There can be no rightful resistance on the part of the people to the legislative head of state. For a state of right becomes possible only through submission to his universal legislative will. Thus there can be no right of *sedition* (*seditio*), and still less a right of *rebellion* (*rebellio*).²²

Resistance to the authorities, even if their exercise of power is repressive and unjust, is by definition unlawful, and would nullify the legal constitution. For such a right to resistance and rebellion to be legal, as for example the framers of the American Declaration of Independence argued it should be (on a natural law basis), Kant claimed that a public law sanctioning disobedience and resistance would be required, but that such a law would be self-contradictory.

[T]he contradiction is at once obvious if we ask who would act as judge in this dispute between the people and the sovereign (for in terms of right, they are still two distinct moral persons.) It then becomes clear that the people would set themselves as judges of their own causes.²³

And this conflicts with the legal order and would return the state to a state of nature, the worst possible outcome, in Kant's view. He thus eschews a natural law basis for rebellion, and effectively limits the autonomy of the citizens, subordinating it to the higher good of the state, which demands the autonomy of the rulers, although in a republican state they cede some of their autonomy to the citizenry, insofar as they act as the people's representatives. If the people do not act through the recognized channels, the condition of right is violated.

²¹ (*Perpetual peace*, p. 146). "any alteration to a defective political constitution, which may certainly be necessary at times, can thus be carried out only by the sovereign himself through reform, but not through revolution by the people" (*Perpetual peace*, p. 147). Other states may within the confines of right decide to help the toppled monarch.

²² "least of all a right to *lay hands on* the person of the monarch as an individual, or to take his life....least attempt to do so is high treason..." which can be punished with death (*Metaphysics of morals*, p. 144).

²³ (*Metaphysics of morals*, p. 145). In a note Kant says "It is possible to conceive of a monarch's *dethronement* as a *voluntary* abdication of the crown and a renunciation of his power by giving it back to the people, or as a forfeiture of power, without violation of the monarch's person, whereby he is simply relegated to the rank of a private citizen." He then suggests it may be possible to appeal to "a supposed *right of necessity* (*casus necessitates*). The execution of the monarch is worse than his murder as the rebels in the former case presume legal authority.

[N]o attempt should be made to put it into practice overnight by revolution, i.e. by forcibly overthrowing a defective constitution which has existed in the past; for there would then be an interval of time during which the condition of right would be nullified. If we try instead to give it reality by means of gradual reforms carried out in accordance with definite principle, we shall see that it is the only means of continually approaching the supreme political good – perpetual peace.²⁴

However, in at least one passage, Kant strikes an intermediate position, asserting the principle, “‘Obey the authority which has power over you’ (in everything which is not opposed to morality) is a categorical imperative.” This passage does not make clear what is meant by morality in this context.²⁵ Elsewhere Kant elaborates:

Force, which does not presuppose a judgment having the validity of law is against the law, consequently [the people] cannot rebel except in the cases which cannot at all come forward in a civil union, e.g. the enforcement of a religion, compulsion to unnatural crimes, assassination, etc.²⁶

Apparently on this (admittedly anomalous) view there are some special circumstances when rebellion can be justified. Riley endeavors to resolve this tension and to preserve the coherence within Kant’s political thought. He argues that it may be permitted for the people to take “authority from the ruler, depose him or reform his administration, but [they] cannot punish him.” On this view, removal of a particular ruler is not an assault on legality as such, and does not constitute revolution.²⁷ However, this interpretation lacks credibility given the expansive prohibitions on popular action which pervade Kant’s political texts.²⁸ I would suggest that Kant felt a certain ambivalence about revolution and sought a way, a way which was ultimately unconvincing, to reconcile individual instances of popular rebellion and resistance with his

²⁴ *Metaphysics of morals*, p. 175.

²⁵ The quote is part of a ‘Supplementary Explanation’ that Kant attached to the *Rechtslehre*, quoted by Riley (1983), pp. 106-107.

²⁶ Quoted in Riley (1983), p. 106. Riley cites Beck, “Kant and the Right of Revolution”, p. 173.

²⁷ *Loc. cit.*

²⁸ A more plausible interpretation is advanced by Williams (1983, p. 227): “Kant is in practice somewhat equivocal about the conditions under which it is right to resist a sovereign. On the face of it, he denies categorically that there can be such a right (...). But as a political strategy in the everyday world Kant is not entirely prepared to rule out the possibility of resistance to the ruler”. This preserves the theoretical commitment to sovereignty and its immunity from illegal efforts to undermine the regime, while recognizing the tension that results in Kant’s views when he is faced with the practical reality. Williams contends that Kant is committed to the view that the only way to progress is through the existing sovereign and “as his Marxist critics point out, Kant’s political courage deserts him” (*loc. cit.*).

theoretical commitment to the legal order at the expense of popular autonomy.

To explain the rejection of popular resistance as a component in the paradox, it is important to recognize that Kant's principled position was consistent with a state that used its citizens as a means to an end, e.g. to pay taxes, to fight in wars they did not accept or agree with. A repressive but legal state could violate civil rights, refuse to represent its citizens in a democratic fashion or to be held accountable to them. The state could violate every ethical injunction and do so with impunity. Even if a nominally republican, or even consistently democratic structure were in place, a state could violate human rights, (the conception of which is ascribed largely to Kant himself.)²⁹

6. *No external intervention*

The general principle underlying the prohibition of external interference in the affairs of a state is that "No one has a right to compel or coerce anyone whomsoever in the state...otherwise than by the public law and through the sovereign or ruler executing it."³⁰ But, as with Hobbes' *Leviathan*, there can be no sovereign or government that controls or has superior authority to the sovereign of the state. Although Kant sympathized with world government as an ideal, he believed it was one that must be abandoned, due to the attachment of states to their sovereignty. In *Perpetual peace*, Kant ascribes varying degrees of stringency to the duties of states in the international order.³¹ In *Perpetual peace*, the prohibition against interference, quoted in the beginning of this paper, is of the strictest kind, one that permits no subjective latitude. Kant rejects open intervention and his view seems to rule out even aiding internal opposition groups in order to encourage a civil uprising.

The norm of noninterference only holds when a state is civil. Under conditions of anarchy intervention is permitted. Kant gives the example of a state which, due to internal discord, splits into two parts, each claiming authority over the whole. "[I]t could not be reckoned as interference in another state's constitution if an external state were to lend support to one of them, because their condition is one of anarchy."³²

²⁹ Cf. the inadequacy of juridical equality and the rule of law as depicted by Franz Neumann.

³⁰ Quoted in Riley (1983), note 109, p. 134.

³¹ "when regarded objectively or in relation to the intentions of those in power, are *prohibitive laws* (*leges prohibitiveae*). Yet some of them are of the *strictest* sort (*leges strictae*), being valid irrespective of differing circumstances, and they require that the abuses they prohibit should be abolished *immediately*... Others...allow some subjective latitude..." (*Perpetual peace*, p. 97.)

³² *Perpetual peace*, p. 96.

However, if a state intervened under other circumstances, and the state is not actually divided and anarchic, interference “would be an active offence and would make the autonomy all other states insecure.”³³ Kant’s opposition to intervention rests on a domino theory, if you will: no state’s sovereignty will be secure until every state’s sovereignty is secure.

The need for sovereignty, for the exclusive control of a state over a set territory, and over its inhabitants follows from the limited quantity and resources that can sustain life.

Through the spherical shape of the planet they inhabit (*globus terraqueus*), nature has confined them all [people] within an area of definite limits. Accordingly the only conceivable way in which anyone can possess habitable land on earth is by possessing a part within a determinate whole in which everyone has an original right to share.³⁴

The value of exclusive control and necessity of private property spreads to all levels of human interactions: international, national, and local. Private property rights can be justified along the same lines, in a manner resembling Locke’s theory of property rights. Extending Kant’s argument, such an arrangement permits greater efficiency, productivity, and freedom. To refer to a more recent concept, state sovereignty and private property are needed to avoid “the tragedy of the commons” by which resources will be squandered if the rights to their use and exploitation are not granted to particular individuals.

He must accordingly enter into a state wherein that which is to be recognized as belonging to each person is allotted to him *by law* and guaranteed to him by an adequate power (which is not his own, but external to him.) In other words, he should at all costs enter into a state of civil society.³⁵

Similarly consequentialist reasoning undergirds the rejection of specific intervention, further supporting the sovereign state system. In addition, Kant uses publicity as a way to test the validity of actions or maxims, pursuant to the contractarian character of his political and ethical thought. Kant rejects the annexation of a smaller state by a larger

³³ Loc. cit.

³⁴ *Metaphysics of morals*, 172.

³⁵ (*Metaphysics of morals*, p. 165) “We might thus expect that civilized peoples, each united within itself as a state, would hasten to abandon so degrading a condition as soon as possible. But instead of doing so, each state sees its own majesty (for it would be absurd to speak of the majesty of a people) precisely in not having to submit to any external legal constraint, and the glory of its ruler consists in his power to order thousands of people to immolate themselves for a cause which does not really concern them, while he need not himself incur any danger whatsoever.” (*Loc. cit.*)

state, even if such a step is needed for the preservation of the larger state. The larger state could not make public its maxim to annex a smaller state in order to preserve its own integrity because smaller states would then unite against it, or larger more powerful states would seek to make their own claims on it. If made public, the plan to intervene would fail. “This is a sign that it is unjust. The magnitude of the injustice is irrelevant.”³⁶ The same reasoning appears in connection with the tactic of ‘divide and conquer.’ “Thus this maxim of political expediency, if acknowledged publicly, necessarily defeats its own purpose and is consequently unjust.”³⁷

7. The plan for peace

Kant’s definition of peace is robust. He contrasts it with the mere suspension of hostilities, during which time further preparations for war can be made. For this reason he rejects standing armies as inducements to war. He holds that “perpetual peace” is nearly a pleonasm, as peace itself virtually implies permanence, because it nullifies existing and possible future reasons for war.³⁸ Kant borrows this concept of peace from Leibniz; not “the peace of exhaustion and desperation under universal despotism, but a peace constantly renewed by the citizens of a universe of republics.”³⁹

Internal and external order are linked and resemble one another. “Only an international peace (roughly) comparable to the peace that ought to be enjoyed by individual men in a particular state can guarantee state law.”⁴⁰ Nevertheless the solutions Kant proposes in both contexts are similar. The international peace must be modeled on the relations of independent citizens in a civil society, like the kingdom of ends, but on an international scale.⁴¹ States must exit the state of nature, first individually, and then together, in the system of sovereign states. The state of nature is, as for Hobbes, a condition of war, the complete antithesis of peace.

³⁶ Perpetual peace, p. 128.

³⁷ Perpetual peace, p. 128.

³⁸ Perpetual peace, p. 93.

³⁹ Perpetual peace, p. 122.

⁴⁰ Doyle (1993), note 4, p. 115.

⁴¹ “The universally recognized independence of states must be the basis for world peace, as this establishes the only kind of international order which meets the requirement of the original social contrast that the citizens of a state must be regarded as the masters of their own destiny. For Kant a peaceful international order has to be modeled on the relations between independent citizens in a civil society.” Riley (1983), p. 250.

The situation in question is that in which one state, as a moral person, is considered as existing in a state of nature in relation to another state, hence in a condition of constant war.⁴²

However, in contrast with Hobbes, the state of nature does not imply that actual war inevitably occurs. Nor does it imply the active perpetration of injustice. If disputes arise, however, there can be no recourse to justice, only the decision of the strongest.

The state of nature need not necessarily be a *state of injustice (iniustus)* merely because those who live in it treat one another solely in terms of the amount of power that they possess. But it is a *state devoid of justice (status iustitia vacuus)*, for if a *dispute* over rights (*ius controversum*) occurs in it, there is no competent judge to pronounce legally valid decisions.

The obligation to exit the state of nature may be compared to Hobbes' notion, of duties which apply *in foro interno* as opposed to *in foro externo*. There can be no obligation to enter into the contract if other parties are not willing to, although there is a duty (*in foro interno*) to will and hope for the escape from the state of nature. However this duty only becomes active, one that binds the individual state or citizen, when others have also agreed to the contract, to giving up the freedom of the state of nature and embracing (more tightly defined but also exclusive) civil freedom. The distinction between the two types of duties follows from the rational perception of the classic prisoner's dilemma. If a state enters a contract with other states this presupposes that all involved parties have already left the state of nature and founded civil and legal orders within their own boundaries.

In order for the first and subsequent states to leave the state of nature, the society must first have done so, formed a state.

Thus the first decision the individual is obliged to make, if he does not wish to renounce all concepts of right, will be to adopt the principle that one must abandon the state of nature in which everyone follows his own desires, and unite with everyone else (with whom he cannot avoid having intercourse) in order to submit to external, public and lawful coercion.⁴³

A possible interpretation of the dynamic expansion of peace draws on the idea of deliberation and deliberative discourse. Kant

⁴² "international right is thus concerned partly with the right to make war, partly with the right of war itself, and partly with questions of right after a war, i.e. with the right of states to compel each other to abandon their warlike condition and to create a constitution which will establish an enduring peace." (*Metaphysics of morals*, p. 165)

⁴³ *Loc. cit.*

foresees an evolutionary process beginning with one large state of a peaceful disposition, which through example and rational debate, persuades other states to follow the same path. Slowly a number of peaceful republics might form a Federation which may itself slowly expand to encompass all states.⁴⁴

The process begins with the first domino falling into place. One state must be disposed towards peace. It will then provide “a focal point for federal association among other states.” As they join the federation, “the freedom of each state in accordance with the idea of international right” will be ensured “and the whole will gradually spread further and further by a series of alliances of this kind.”⁴⁵

Contractarianism is thus the building block for the peace. Agreement breeds agreement and freedom multiplies freedom. The freedom of the state and the citizen within the republican state are parallel. Freedom is the

warrant to obey no external laws except those to which I have been able to give my own consent. Similarly, external and rightful equality within a state is that relationship among the citizens whereby no-one can put anyone else under a legal obligation without submitting simultaneously to a law which requires that he can himself be put under the same kind of legal obligation by the other person.⁴⁶

Kant does not call for a world government or an international state, but rather a federation of sovereign states each having republican constitutions. A peace pact (*foedus pacificum*) makes possible the full realization of a legal state, at the national level, possible. The possibility of a fully lawful state at the national level is therefore dependent on a peaceful world order. The relation is dialectical, rather than linear. If the process depended upon a discrete and determinate starting point in historical time, it would introduce a regress or circularity problem. In the dialectical emergence of the peace pact, the degree of harmony at both domestic and international levels are mutually reinforcing. There is a “mutual need of republican constitutionalism and international federalism for each other, and the dependence of the constitution itself on peace through international lawfulness.”⁴⁷

⁴⁴ Williams (1983), p. 256.

⁴⁵ Quoted. by Williams (1983), p. 257.

⁴⁶ “And, as regards my own freedom, I am not under any obligation even to divine laws (which I can recognize by reason alone), except in so far as I have been able to give my own consent to them...” (*Perpetual peace*, p. 99)

⁴⁷ Riley (1983), p. 134.

A surrender of state sovereignty is not required for the execution of the pact. As an empirical matter, Kant believed solutions that required a complete surrender of sovereignty, were untenable. As a result he endorsed a free federation of corporate bodies voluntarily obeying international law, and not a world government.⁴⁸ Consequently, states do not have a strict duty to abandon their sovereignty; “the positive idea of a world republic must be replaced by the negative substitute of a union of nations which maintains itself, prevents wars and steadily expands.”⁴⁹ In fact, Riley’s interpretation here understates the role of sovereignty in the peace plan. Arguably the state has a duty to retain its sovereignty. To waive it would in itself endanger the pact. Under the interlocking federal system, according to Kant, a world republic can provide the greatest assurance of peace, although it also poses the threat of despotism.

In *Perpetual peace*, Kant makes unusual efforts to defend, if not the feasibility of the plan, then the duty to strive towards its realization, even if its achievement may be (although it is not known to be) impossible. Kant anticipates objections to his peace plan as Pollyanna. In the preface, he tells of a Dutch innkeeper who put the satirical inscription “The Perpetual Peace” over a picture of a graveyard. As is characteristic of his ethics generally he refuses to rely on individual virtue. The peace can be achieved, he argues, even by a nation of “devils as long as they possess understanding.”⁵⁰ On the practicability of the peace plan, Kant argues that the proposition that ‘there shall be no war’ cannot be refuted; this is sufficient for the possibility of perpetual peace, which is in itself required in order for there to be a duty to strive toward its realization. In this respect, Kant’s account closely resembles his approach to the resolution of the antinomy in the *Critique of pure practical reason*, and the reasons offered there for why humankind must strive for the Highest Good. The conclusion is that

we must simply act as if it [the perpetual peace] could really come about (which is perhaps impossible), and turn our efforts towards realizing it and towards establishing that constitution that seems most suitable for this purpose.⁵¹

⁴⁸ “If occasionally Kant seems a bit ambivalent about the desirability of state sovereignty – he says at one point that the idea of world government is valid in theory but that state vanity rejects it – most of the time he seems to say that a world organization must be worked out in terms of sovereignty, in terms of a free federation of corporate bodies voluntarily obeying international law, and not a world law for individuals.” Riley (1983), p. 116.

⁴⁹ *Op. cit.*, p. 117.

⁵⁰ *Perpetual peace*, p. 112.

⁵¹ *Metaphysics of morals*, p. 174.

8. Resolution of the paradox

In the earlier works I have referred to, the *Metaphysics of morals* and the *Idea for a universal history*, published respectively ten and eleven years before *Perpetual peace*, Kant's views do not give rise to the same conflict between individual and national autonomy. My task will be to show that these earlier commitments are consistent with Kant's later view in the *Perpetual peace*, although it appears that he himself did not take them to be.

Wolfgang Kersting claims, without citing evidence from Kant's works, that the Kantian prohibition of resistance does not imply the duty to obey a regime that practices terror or murders groups of the population. "A condition that is dominated by mass murders does not deserve the title of a condition of right." Kersting seeks to draw a distinction between a flawed but acceptable order and one in which abuses are so great that right demands action to change, from outside if necessary, existing conditions, even to the point of overthrowing regimes. "Unjust laws and a constitution with important rights lacking are one thing; terror, violence, and mass-murder, however, are something else." Although the distinction may be harder to make on the ground than Kersting recognizes, surely some non-arbitrary distinction could be drawn and there is a real qualitative difference in the types of regimes that are insufficiently respectful of citizens' rights and those which actively exploit and harm its own citizens. Kersting argues that Kant's opposition to revolution is consistent with civil disobedience. He proposes appending Rawls and Dworkin's theory of civil disobedience to the ethics of democracy, or republic in Kant's sense, to the philosophy of right.⁵² In my view, Kersting's is a tendentious interpretation. Civil disobedience is certainly a form of resistance and one that falls under the heading of resistance which is categorically denied by Kant. Additionally Kersting does not attempt to reconcile his position with Kant's commitments in both the earlier and later political writings. I do not believe that he could. As Kant unfolds the idea of right, it appears to be more concerned with legality than with the violation of individual rights, as the paradox I have laid out demonstrates.

I suggest that a better interpretation (although not one that Kant himself articulated) of the problematic conflict between the rights of the individual and the state is that a legally constituted state may nevertheless violate not only its own citizens' rights, but also pose a

⁵² Kersting (1992), p. 361.

threat to other states and to the citizens of other states. Consequently intervention, even to the point of overthrowing a regime, can be justified on the same grounds as Kant puts forward in *Perpetual peace* when one state is lawless, remaining in a state of nature. Intervention is permissible, due to the inherent threat posed by a lawless state.

But man (or an individual people) in a mere state of nature robs me of any such security and injures me by virtue of this very state in which he coexists with me. He may not have injured me actively (*facto*), but he does injure me by the very lawlessness of his state (*statu iniusto*), for he is a permanent threat to me...Thus the postulate on which all the following articles are based is that all men who can at all influence one another must adhere to some kind of civil constitution.⁵³

In contemporary practice this justification receives increasing recognition and acceptance. For example, poverty, environmental degradation, public health disasters (such as AIDS), the persecution of religious or other minorities, refugees and displaced persons, the root causes of massive emigration, are problems, or lead to problems which are not confined within the boundaries of the state. Such an interpretation also makes more plausible the *prima facie* implausible claim in the introduction to the *Metaphysics of morals* that there are no conflicting duties.⁵⁴ This image of rights rejects the interpretation that there may be two conflicting duties but only the stronger is the one which binds. Rather the 'weaker' imperative does not in fact constitute a duty, weak or otherwise. This interpretation resolves the question of which takes precedence, the violation of sovereignty or of individual citizens' autonomy, and thus offers an escape from the paradox.

In a hypothetical case where no spillover effects occurred, where a generally just and law governed state oppressed a small and insular minority, for example, would Kant, on this interpretation, accept inaction on the part of other states? Presumably the burden would fall first on the citizens of that same state. If the government did not respond to their protests, or if the comparatively free majority refrained from acting, would external intervention be appropriate? Kant does not discuss the types of intervention that can occur, and some actions by external actors may be characterized as noninvasive and respectful of national determination and sovereign prerogatives, such as diplomatic pressure or the publicizing of states' actions. Given the prominent role of publicity (in *Perpetual peace*) in the determination of whether a maxim accords

⁵³ *Perpetual peace*, p. 98.

⁵⁴ Editor's introduction in Reiss and Nisbet (1970, 1991), p. 131.

with right, such a response seems wholly consistent with the spirit of Kant's political writings and cosmopolitan contractarianism. The use of publicity is characteristic of human rights organizations who seek to leverage the weight of international public opinion, going over the heads of national governments to appeal to the citizenry, as it were, residing in and outside the state where the rights violations occur. Citizens of the world's republics may then bring pressure to bear on their representatives, in a legal and institutionalized manner that coincides with the incremental and lawful approach Kant endorses. However, more direct intervention by states in cases where there is no threat to the international order at large or to individual states within it cannot be justified on this interpretation.

The interpretation I advance also accords with the foundational value of right in Kant's ethical works. In order for a particular intervention in the affairs of a sovereign state to be justified, it must accord with right, and the universal laws of freedom which express right. As in GW, right is objective, while virtue is subjective, and of no interest to Kant. "It is not our intention to teach virtue, but only to state what is *right*, we may not and should not ourselves represent this law of right as a possible motive for actions."⁵⁵

Accordingly right has nothing to do with the *desires* or *wants* of rulers or citizens. Duties that are consistent with right respond to the free will of individuals. The distinction between *Wille* and *Willkür* is critical to grasping the operative idea of will here. The former is the ability to deliberate, to consider and decide on different reasons for action, while the latter is the capacity to choose actions or ends as one wishes. Only the *Wille* is involved in responding to right. Right speaks not the *Willkür* but to the *Wille* of each individual.

The concept of right, in so far as it is connected with a corresponding obligation (i.e. the moral concept of right)...does not concern the relationship between the will of one person and the *desires* of another (and hence only the latter's needs, as in acts of benevolence or hardhearted-ness); it concerns only the relationship between the will of the first and the *will* of the second.⁵⁶

⁵⁵ *Perpetual peace*, p. 134.

⁵⁶ "And thirdly, the will's material aspect, i.e. the end which each party intends to accomplish by means of the object of his will, is completely irrelevant in this mutual relationship (...). For we are interested only in the form of the relationship between the two wills, in so far as they are regarded as free, and in whether the action of one of the two parties can be reconciled with the freedom of the other in accordance with a universal law" (*Metaphysics of morals*, pp. 132-133).

Right contains universal laws of freedom, and requires the reconciliation of the lawful freedom of every moral agent's will. "Right is therefore the sum total of those conditions within which the will of one person can be reconciled with the will of another in accordance with a universal law of freedom."⁵⁷ The same rationale underlies the obligation of a society to become civil, to found a state, and for that state to enter into a compact with other states. Only by such commitments, the exchange of the freedom of the state of nature for the freedom of the civil society, state and international order, can right, and the laws of freedom subsumed under it, be realized.

Hence the political duties not only are consistent with, but must of necessity conform to the ethical duties, the obligation that states have to individuals, at least within their own boundaries. The kingdom of ends can in limited measure be achieved on earth, when there is peace between and within all states. "Peace is an ethical duty because it is only under conditions of peace that all persons can treat each other as ends."⁵⁸ Against the argument that the ruler of a state may send his subjects or citizens to war, to treat them like a natural resource or product of the country (an argument that Kant states rulers are aware of), Kant says:

For a citizen must always be regarded as a co-legislative member of the state (i.e. not just as a means, but also as an end in himself), and he must therefore give his free consent through his representatives not only to the waging of war in general, but also to every particular declaration of war.⁵⁹

The key passage that provides the justification for intervention, specifically in terms of right and the value of freedom, appears in *Metaphysics of morals*, under the heading "Right entails the authority to use coercion."

Any resistance which counteracts the hindrance of an effect helps to promote this effect and is consonant with it. Now everything that is contrary to right is a hindrance to freedom based on universal laws, while coercion is a hindrance or resistance to freedom. Consequently, if a certain use to which freedom is put is itself a hindrance to freedom in accordance with universal laws (i.e. if it is contrary to right), any coercion which is used against it will be a hindrance to a hindrance to freedom, and will thus be consonant with freedom in accordance with universal laws—that is, it will be right. It thus follows by the law of

⁵⁷ *Op. cit.*, 133.

⁵⁸ Universal history, p. 150.

⁵⁹ *Metaphysics of morals*, pp. 166-167.

contradiction that right entails the authority to apply coercion to anyone who infringes it.⁶⁰

To put it plainly, a state or individual which violates the freedom of another state or individual may be coerced. A justified act of coercion neutralizes the violation of freedom, restoring the laws of freedom and the rights of the individual or the state. A maxim, that is, a principle for action, which serves this purpose, and instances of that maxim applied, are right, because the universal law demands them.

Every action which by itself or by its maxim enables the freedom of each individual's will to co-exist with the freedom of everyone else in accordance with a universal law is right.⁶¹

9. Conclusion: Jupiter and the god of morality

The interpretation I have advanced hinges upon the nature of the threat that a lawless or repressive regime may pose not only to its own citizens but also to other states and to their citizens. When such a threat exists, I have argued, forcible intervention is consistent with Kant's political and ethical commitments. In order to define this kind of threat, I introduced a contemporary premise, one which did not in substantial measure obtain in Kant's time, and which Kant could not possibly have foreseen, namely the complex interrelationship of the internal affairs of one state and the affairs of other states.⁶² In the *Metaphysics of morals*, as I have argued, Kant provides the normative premise that, combined with the empirical premise I introduce, yields the conclusion that forcible interventions are justified under certain circumstances.

In the absence of such a threat, interventions that respect national sovereignty are, on Kant's view, permitted. Again the range of such interventions has expanded in recent history, but it is evident that even in Kant's time he accepted persuasive action, efforts to intercede and influence the conduct of an unjust but lawful state. I rejected Kersting's interpretation that more robust internal resistance in the form of civil disobedience is by itself consistent with the Kantian opposition to disobedience to the lawful authorities. The evidence that Kant approved

⁶⁰ *Metaphysics of morals*, p. 134.

⁶¹ *Metaphysics of morals*, p. 133.

⁶² Kersting (1983, p. 163): "Kant's imagination proves to be very limited, if we measure it by our historical experience. In view of the vileness of state terrorism which our century has produced and never tires of producing, Kant's anti-revolution and anti-resistance argument seems overoptimistic. But we cannot blame Kant for not having anticipated the political pathology of the twentieth century".

persuasive action respectful of sovereignty appears in *Perpetual peace*, with the premise that rational argument and appeals to other states, as well as negotiation and a willingness to enter into bilateral agreements, are acceptable measures. Indeed they are the first steps toward a perpetual peace. What Kant adds is a principled and systematic justification for intervention, telling us not only *when* it is justified but *why*. When it is justified it is justified because a state has acted against right.

How do we account for the categorical and absolute character of the duties enumerated in *Perpetual peace*, namely the national right to sovereignty within its boundaries and the corresponding duty of other states not to intervene? Both *Perpetual peace* and *Metaphysics of morals* are considered to be among Kant's popular writings, and this 'popular' character comes into relief when compared with the *Critique of pure reason*, for example. Unlike the *Metaphysics of morals*, which I have argued offers the resolution to the paradox I sketched, *Perpetual peace* is programmatic, written as a plan which could in principle be applied by the politicians and states of the day. From the prologue to the end of the work, Kant qualifies his judgments in a way suggesting that they are pitched to the practitioners of politics, and that he is aware of the ire his work may provoke, and he accordingly takes steps to preempt or guard himself against such a reaction.

The practical politician tends to look down with great complacency upon the political theorist as a mere academic. The theorist's ideas, the practitioner believes, cannot endanger the state, since the state must be founded upon principles of experience; it thus seems sage to let him fire off his whole broadside, and the *worldly-wise* statesmen need not turn a hair.⁶³

In addition, Kant goes to great lengths to defend morality as consistent with politics, in the appendices entitled "On the disagreement between morals and politics in relation to perpetual peace"⁶⁴ and "On the agreement between politics and morality according to the transcendental concept of public right."⁶⁵ As a result of these concerns with audience and Kant's authorial intentions, I suggest that in *Perpetual peace* Kant overstates the duties that follow from the twin rights of the individual and the state, and elides important qualifications on the norm of non-intervention.

⁶³ *Perpetual peace*, p. 93.

⁶⁴ *Perpetual peace*, p. 116.

⁶⁵ *Perpetual peace*, p. 125.

I submit that examining the paradox that emerges from Kant's ethical and political writings juxtaposes commitments often treated by Kantian scholars in isolation or, in the case of *Perpetual peace*, not at all. The interpretation I advance provides an instructive perspective on the contemporary debate concerning the conflict between individual human rights and national sovereignty. Kant illuminates the way in which a domestic regime, when it is accountable and responsive to its citizenry, can facilitate peaceful interactions between states. As Riley says, "Republicanism (or at least a republican manner of governing) might lead to fewer future immoralities, as well as to the realization of peace and of an improved legal context for good will."⁶⁶ The strength of Kant's treatment of politics on the whole is their consistency with his moral framework; I have suggested that in *PP* Kant de-emphasizes the more subtle and qualified views offered in the *Metaphysics of morals*. Despite the sometimes quietist opposition to insurrection and externally initiated rebellion, and the apparent conservatism of Kant's rejection of illegal measures and preference for incremental evolution, *Perpetual peace* is at base informed by and seeks to show the compatibility of morality and politics, and indeed the necessity of achieving morality in the political realm. Although the limitations on human reason and their dual occupancy of the noumenal and the phenomenal realms ensure that human effort and agency alone will be insufficient, Kant believes that despite deviations and setbacks politics and the relations between states will over time tend towards the achievement of a perpetual peace, in accord with Kant's teleological assumptions and his philosophy of history:

The god of morality does not yield to Jupiter, the custodian of violence, for even Jupiter is still subject to fate. In short, reason is not sufficiently enlightened to discover the whole series of predetermining causes which would allow it to predict accurately the happy or unhappy consequences of human activities...But reason at all times shows us clearly enough what we have to do in order to remain on the path of duty, as the rules of wisdom require, and thus shows us the way towards our ultimate goal.⁶⁷

⁶⁶ Riley (1983), p. 105.

⁶⁷ *Perpetual peace*, p. 116.

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Abstract: This article articulates, and seeks to resolve, a paradox yielded by juxtaposing the ethical and the political philosophy of Immanuel Kant. Individualism and autonomy in Kant's ethics contrast with the inviolable sovereignty he accords the state in his political philosophy. As history demonstrates there is no certainty that the state will observe the rights of its citizens. The proposed resolution of the paradox reads *Perpetual peace* (PP) through the *Metaphysics of morals* (MM). It places PP in the broader context of Kant's (inter-related) political and moral writings in order to oppose a quietistic, conservative reading of PP, while advancing a chastened interpretation of MM that is more fully consistent with Kant's understanding of republicanism and its teleological global evolution. The purpose of this intervention is to furnish a Kantian position on the current (and continuing) debate in international relations concerning the conflict between human rights and national self-determination.

Keywords: autonomy, self-determination, political and moral writings, human rights, republicanism

Resumo: Este artigo expõe e procura resolver um paradoxo resultante da justaposição da filosofia moral e da filosofia política de Immanuel Kant. O individualismo e a autonomia da ética kantiana contrastam com a soberania inviolável que ele concede ao Estado na sua filosofia política. Como mostra a história, não tem certeza que o Estado vai observar os direitos dos seus cidadãos. A solução do paradoxo aqui proposta é possível lendo *A paz perpétua* (PP) na perspectiva da *Metafísica dos costumes* (MM). Ela coloca PP no contexto mais amplo dos escritos políticos e morais de Kant para confrontar uma leitura quietista, conservadora desta obra com uma interpretação moderada de MM, a qual combina melhor com a concepção kantiana de republicanismo e da sua evolução teleológica global. O objetivo desta intervenção é fornecer uma posição kantiana no debate corrente sobre relações internacionais, com respeito ao conflito entre direitos humanos e auto-determinação nacional.

Palavras-chave: autonomia, auto-determinação, direitos humanos, republicanism

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