

Kant's World-State Ideal and its Provisional Surrogates

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AFTER THE fall of the Iron Curtain, as contemporary cosmopolitanism emerged, so rose the interest in Kant's cosmopolitan theory. First seen as an extension of International Relations Theory, it has until this day developed as a sizable amount of specialist literature that forms a buffer zone between Kantian studies—and the more general study of history of the Enlightenment and Modernity—and political theory. The general hermeneutical aim of this trend has been—quite obviously—exactly to provide a historically valid and globally translatable foundation for the recent cosmopolitan trend. At a deeper level, however, views began to diverge between Kant's generally democratic and political interpretation, represented through an international relations oriented construal of his cosmopolitanism, and his more philosophical and moral one, signaled by human rights-oriented readings.

At an early moment of this debate—and for that matter, of the very trend described as the cosmopolitan turn—Daniele Archibugi inquires into Kant's theory of cosmopolitan law, tracing a brief history of its interpretations and proposing his own (Archibugi 1995). Importantly, he considers it a part of Kant's theory of international relations, and distinguishes it from Kant's cosmopolitanism generally, which is, of course, a much more multifaceted issue, relating to morality, history and politics in equal degrees. However, since he does emphasize the general moral character of Kant's philosophy, moreover, he treats cosmopolitan law—in a final account—as a dimension of law in its own right, I take his interpretation to belong to the latter of the two camps mentioned in the above paragraph.

Reinscribing Kant's peace project into its historical and political context, Archibugi finds it less novel in its general motifs than generally assumed, but nonetheless innovatively ingenuous in both its intent and solutions. Namely, it is argued that against a domestic genesis of the political in a Rousseauian (and Rawlsian) style, it is Kant's intention to establish right as such—or the rights of the individual—“over and above those [rights] effectively recognized within each state.” Also, since this cannot be done via any form of even implicit endorsement of a right to revolution—Kant's “normatively positivis-

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tic” (Waldron 1996: 1563) stance on this issue is notoriously well-known—Archibugi suggests (Archibugi 1995: 438) that this is one of the reasons for treating cosmopolitan law independently within a tripartite instead of a bipartite of Kant’s framework of law, namely, as an alternative ground for correcting the errors of the political structure known as the state.

For our present purposes, three questions are of great import. First, does the distinction between cosmopolitanism and cosmopolitan law—as a complement of right (as known before Kant), with no deep connection to Kant’s more general cosmopolitanism—do justice to Kant? More exactly, if one wishes to avoid the more general theoretical question of a philosophy of history, can one construe cosmopolitanism (alternatively) as cosmopolitan law? The findings of this article will be positive, but limited by the idea of provisionality: cosmopolitanism can be construed as binding, albeit provisional, universal legislation.

Second, if we hypothesize cosmopolitan law without respect to history, what stance should we attribute to Kant—that of a world-state-proponent or otherwise? Here we shall see Kant considering a spectrum of options between the ideal of a world state and the real possibility of a mere voluntary pacific league, but still maintaining emphasis on the institutional character of this league—pointing towards a more robust world statehood.

Third, if we construe law as provisional and cosmopolitan law therewith, can we still find space for provisionality in a classical interpretation such as Archibugi’s—or in others? We can—in fact it is only through provisionality that the Kantian themes of the public sphere and of world legislation can be seen as complementary.

Before turning to these questions, however, let us consider the trail left aside by Archibugi, namely, that of Kant’s general cosmopolitanism and its reference to history, as a locus of the very problems stated explicitly at the level of cosmopolitan law.

The Problem of History

AS TERRY Pinkard—among others—suggests (Pinkard 2009, 227), the problems underlying Kant’s conception of cosmopolitanism—such as the problem of a moral progress of humankind finally leading to a “cosmopolitan constitution,” or a moral whole, an ideal that underlies his whole conception of philosophical critique as public and *engagée* endeavor, see his philosophy in a cosmopolitan sense—originate in his strict separation of the noumenal and a phenomenal world, and lead to a provisional qualification of right, as argued below. This is the Habermasian problem (see below) that is claimed to be unsolvable, within Kant, in the Frankfurt School thinker’s interpretation—a view refuted, in turn, by Kleingeld (Kleingeld 1999: 74).

However, both in Pinkard’s as well as in Pippin’s influential work (Pippin 2006) (also Pinkard 2009: 225), this contradiction leads out of a Kantian understanding of history as a conglomerate of the noumenal and the phenomenal, and into something like a proto-Fichtean or even proto-Hegelian philosophy of history, one that historicizes the very

dichotomy of noumenon and phenomenon. Habermas himself is understood by Pinkard to leave aside the named distinction, far from solving it.

Still, there is room for digression concerning the unresolvable nature of the Kantian contradiction. To understand the dynamic of the noumenal and the phenomenal in the context of right, we need to investigate the most primary structures on which all juridical concepts are modeled, namely, those inherent in the idea of property—as it is conceptually grounded: through the idea of possession.

In Pippin's understanding (Pippin 2006: 427-431), possession can be noumenal, phenomenal or provisional. Phenomenal possession corresponds to the duty to appropriate things and defend them, noumenal possession to the duty not to wrong others, and provisional possession to the duty to do whatever is necessary to make the first two rationally possible. However, since in this setup, where the third, rational duty comes to legitimize the first two in a logic apparently opposed to the real, temporal line of events, one must rather stop and weigh the value of this tripartite as it is.

As we shall see with Elisabeth Ellis—to whose ideas our attention has been emphatically drawn by the late Gary Banham (Banham 2012: 59)—the issue of provisionality is of utmost importance if one wishes to see Kant's theory of right—especially that of cosmopolitan right—as a self-standing theory (Ellis 2005). In order to understand this nuance, however, one must situate it between the phenomenal and noumenal realms, see the problem signaled but unsolved by Habermas. Phenomenal possession (standing for, more generally, rights as they appear in given institutions, and, at the largest scale, states) is always normatively insufficient: however we negotiate our maxims in their external perspective, they will always involve phenomena, hence they will be subject to contingency, change and temporality, and hence, to subjective perspectives. Noumenal possession, on the other hand—a perfect, rational projection of the thinking, self-conscious subject to the world of phenomena—will always remain ideal, and the imperative not to wrong others will always remain unfulfilled. This is the reason why a third dimension is needed, one that unifies the first two, namely, the obligation to find a rule that makes possible the first two simultaneously. This is what I will call, with Ellis, the perspective of provisionality. The core idea of provisionality is that phenomenal possession is only legitimate if it formulated with reference to a future state of noumenal possession, hence making it a provisional instance of the latter instead of a contingent instance of the former.

History, in Kant's view, stands on the side of phenomena in this setup. Men find themselves in a state of nature, out of which they emancipate according to Nature's hidden plan—and this secrecy is the very firewall against all idealistic theories of history, including a possible Kantian inversion of phenomena and noumena. Talk of history is always “as if.” As we shall see, this is applicable to states as well, regardless of the double normativity issue (states as carriers of legitimacy from the inside to the outside—where they stand in a state of nature). Consequently, if one wishes to address the issue of inter-state relations, one needs to recreate the tripartite mentioned by Pippin at this level, too: states are in a state of nature, with physical possession of phenomena (power), but need a reference to an ideal state (Kant's world-state ideal) if one is to talk about right concerning them at all (noumena, cosmopolitanism). However, since none of these perspectives are

sufficient, the third principle comes into play, states preserving their phenomenal possession, making reference to universal (cosmopolitan, noumenal) norms, but with an involvement into the very process that can unify the two (cosmopolitan right). This may explain the perceived minimalism of Kant's cosmopolitan law (as mere hospitality).

This is not to say that this perspective is lacking in reference to a Kantian conception of history. As Pinkard mentioned, such a conception remains a challenge, and all the more given the idealistic (and, in Kantian terms, wrong) alternatives his presumed followers have offered. Still, it is confusing to treat the issue in terms of a philosophy of history, for a number of reasons.

First, provisionality means a triple normativity (see above), but of which none concerns Nature as it is—namely, its hidden plan—remaining, thus, at the level of a theory of right, and not of a whole critical philosophy (comprising history). Hence, it is not, at least not directly, the philosophy of history's task to conceive of right as provisional, but only to conceive of its desired outcome—of cosmopolitanism; and how history is viewed in this respect does not impact directly on, but comes after and is relatively independent of the talk on provisionality.

Second, avoiding a talk on history seems the only way to avoid the Habermasian inversion of phenomena and noumena—of historicizing the very temporality involved in right itself.

Third, the issue of philosophy's involvement in history, and of the whole issue of publicity—the cornerstone of the Habermasian inversion—as a problem in its own right need not yet come into play directly at this level. Right must be rationally validated prior to the oblique action of a public philosophical culture and critique.

In order to place the issue of right into the context of cosmopolitanism, we need to examine Kant's construal of it at this level—as cosmopolitan institutions.

Kant's Views on the World State

INTERPRETATIONS OF Kant's position on the issue of cosmopolitan institutions—namely, whether a world state or a loose league is required in order to ensure a future cosmopolitan condition—differ both in their options as well as in their arguments. However, arguing with Kant, they can, most generally, take two courses. The first is to argue with Kant that, after all, the state is the guarantor of rights, hence this idea should be extrapolated to the global level, into some variety of world state. The second, to take his caveats about such a world state seriously, namely, his empirical remarks that it would be dangerous, could lead to global despotism, would be impossible to govern etc., and develop a theory of the loose federation of states in such a way that it accounts for more than just a mere multilateral peace treaty.

The trouble with this pair of lines of argument is that they both seem to painstakingly avoid the very principles Kant draws upon in his theory of the cosmopolitan condition: on the one hand, republicanism, or the idea that men can be free if being both subject and object of the law—or self-legislators. This goes counter to the limitation of states as local, limited phenomena. On the other hand, it seems unrealistic on the very

Kantian terms we are used to, namely, in terms of his primarily moral cosmopolitanism, to demand a world state that would take progress, publicity, hospitality, and generally, all morally motivated, primary political phenomena out of the discussion—by already providing all that could ever be attained by them.

These troubles can be more readily grasped, following Pauline Kleingeld, if put into the context of Kant's own change of perspective (Kleingeld 2012: 44-50). Before writing *Perpetual Peace*, he does not mention the loose, voluntary league at all, but he does mention a strong federation in the previous *Idea for a Universal History*. The strong federation is the analogon for states to what the state itself is for individuals. After *Perpetual Peace*, in the *Metaphysics of Morals*, he declares that perpetual peace can be established only "in a universal union of states" or "state of peoples." In *Perpetual Peace*, he does criticize the universal monarchy—or Cloutsean universal republic—that may come about through coercive means.

Just to specify, Anacharsis Cloots was a Prussian baron of Dutch origin who became an important figure of the French Revolution; a member of the National Assembly, strongly critical of Saint-Pierre's top-down cosmopolitan union, instead proposed a Universal Republic that would emerge from the French state through conquest and the forced liberation of peoples. Being criticized by Robespierre and even de Sade, his views still remained notorious as a logical—although one-sided—consequence of the Enlightenment's political universalism.

Choosing a different path, Kant even asserts that the existing international state of nature would be preferable to a Cloutsean global state. Also, he considers the possibility of a single (non-coercively created) global state as against a state of states. However, in *Perpetual Peace* he only advocates the voluntary league of states, in a seemingly quite inconsistent way.

In his monograph on Kant's cosmopolitanism, Otfried Höffe explains how this contradiction should be read (Höffe 2006: 195-203). Although a—albeit minimal—world state would be required, among other things, for the very functioning of the sovereign-state system (guaranteeing the very sovereignty states wish to retain, at the price of renouncing some part of this sovereignty)—Kant opts for a federation of states in the sense of an ultra-minimal world state without any renunciation of sovereignty—or the well-known voluntary league of states.

One reason is prudential, namely, voluntarism precludes the misuse of power—maintained sovereignty means maintained independence from power. However, this happens by renouncing all power given to the league—hence renouncing all secure legal protection that could be enforced by that power, as in the case of usual legal setups where impartiality of law is guaranteed by ceding decision and execution to a third party. Thus, remaining at the level of a mere agreement that lacks enforceability, or a quasi-legal solution without security, it only establishes right in a provisional sense and at a transitional stage. More on provisionality below—here we notice Höffe's negative use of the term.

The other reason cited by Höffe is conceptual, namely, it consists of the idea that a world state *qua* a (full-fledged) state of states would mean a contradiction for Kant: if states are the entities wherein peoples are subjected to a single lawgiver, a state of states would preempt the subsidiary entities and create a single lawgiving—hence a single

people. This Kantian stance is emphasized as being contrary to a straightforwardly globalist view, one that relativizes the historical legitimacy of states, conferring them a mere transitory, derivative significance as carriers of right, but not original juridical entities. And, as Höffe explains, since this is not a temporalized contradiction, but a conceptual one, there may be no dialectic to solve it—such as a theory of history speculating the role of individual states towards some higher end.

Höffe opts for a minimal state of states interpretation of the league of states, insofar as this international state would not dissolve peoples into one, that is, would not replace states as primary lawgivers, but would remain a secondary iteration of the idea “state” (Höffe 2006: 196-197). The apparent contradiction here is that the two ideas of state cancel each other out, that is, that they must claim sovereignty to either of their sides. In contrast, Höffe suggests, there can be envisaged a large spectrum of possibilities between the Westphalian and the one-state model.

However, Kant does not seriously take into account the federal world state as a mean solution, but insists on the voluntary league/federation or, in Höffe’s wording, an ultra-minimal world state. As such, this conception still carries the apparent contradiction, if the league is meant to carry any legal strength, it is however attenuated by its minimalist claims—which have proven to carry its conceptual difficulty at the same time.

The League of States as an Idea of Reason

POLEMICALLY RECALLING the Kantian imperative of right—often referred to by proponents of a world-state interpretation of Kant’s proposal, such as Thomas Pogge, namely, the imperative that individuals renounce their state of nature—Höffe argues that either this is itself contradictory, and relations of right should remain at the level of contracts (provisionality) instead of states, or the duty of the creation of a state-like world federation is as imperative as the duty of individuals to form a state. Hence Kant either needs to opt for both—statism and world-statism of some sort—or renounce both, and become a utopian (possibly an anarchist) of freedom from rule, such as Burke and Schlegel, or later Proudhon, Marx and the Frankfurt school (sic!), the latter three advocating apolitical utopias in Höffe’s view. Obviously, he suggests the first—anarchy of any kind is rejected by Kant, as savagery.

Hence, Kant maintains that the positive idea of right can only be realized in some kind of world republic. The negative surrogate of a voluntary league remains a surrogate insofar as the very idea of unconditional peace is—conceptually—not part of it. The full solution is the one that deserves the dignity of a moral concept—being “in accordance with reason”—and its pragmatic caveats do not amount to inconsistency.

Pauline Kleingeld, in contrast, understands these developments to be due to Kant’s shift in perspective not in view of the contents of the respective structures, but to *how* they should be pursued (Kleingeld 2012: 50-58). She considers the passage:

As concerns the relations among states, according to reason there can be no other way for them to emerge from the lawless condition, which contains only war, then for them to relinquish, just as do individual human beings, their wild (lawless) freedom, and to accustom themselves to public, binding laws, and to thereby form a (continually expanding) *state of peoples* (*civitas gentium*), which would ultimately comprise all of the peoples of the earth. But they do not want this at all, according to their conception of the right of peoples (thus rejecting *in hypothesis* what is right *in thesis*); therefore, instead of the positive idea of a *world republic* (if not everything is to be lost) only the *negative* surrogate of a lasting and continually expanding *league* [*Bund*] that averts war can halt the stream of law-shunning and hostile inclination, but with a constant threat of its breaking out [...] (PP 8:357).

As can be inferred from the text, it is not the question whether the state of peoples is desirable—it is. The trouble is rather that peoples do not *wish* to join in. As Kleingeld explains, this very fact, rather than the goal itself is what deserves our attention (Kleingeld 2012: 51). Namely, the way in which the global federation is formed implicitly affects its nature. As against Cloots's universal republic, it is imperative that peoples join in voluntarily—which leaves open its later development to approximate the state of peoples.

The reason for a voluntary emergence of the federation is that Kant's republicanism has matured since his previous addressing of the problem: now he sees that the internal autonomy of states legitimates their external sovereignty. Höffe, in turn, sees the other side of this coin, asserting that internal order does not amount to external sovereignty unless it becomes orderly on that level, too—a more imaginative construal of Flikschuh's classical dilemma (Flikschuh 2000: 113-143). However, both point to the necessity of a state of peoples.

Kleingeld also notes that the state of peoples figures here as an idea of reason. This should solve, in principle, the question whether Kant proposed such an institution: he did, but as we shall see from the discussion of provisional right, only through its negative surrogate, which is the conceptually weaker, voluntary league of peoples.

This brings us to our main question, namely, how empirical facts—such as a state wanting or refusing to enter the federation—can influence discussions of principle. We must remember that with individuals required to exit the state of nature and enter lawful relationships with each other, this was not the case. Rather, because of the theoretical threat—even presuming their good will—to others, they could be required, indeed forced, to form a state with their peers, or leave their vicinity. Now, in turn, the international state of nature is tolerable until a further development comes about.

Passage to Provisional Right

AS AGAINST Cloots's consistent, but conceptually rigid universal republicanism, Kleingeld emphasizes the historical nature of Kant's thought at this point (Kleingeld 2012: 67-70). She does mention that international right is meant to be provisional at the level of *Perpetual Peace*, but she shifts the idea towards a historical self-understanding of Kant's critique: according to this, Kant's idea of a plurality of states is not in itself necessary, but it is historically grounded and it does, as such, constitute a part of his teleological argument. Namely, he argues on naturalistic grounds that non-republican states will evolve into republican ones, and, given the mechanism of nature, peace is to come about and create a starting point to a growing federation. Moreover, since this natural teleology is plausible, human agency has grounds and, therewith, a moral obligation to contribute its part to it. The means and tool of such a contribution is publicity, or in the more philosophical sense, critique.

As Habermas put it—and as we have already sketched above—Kant now arrives at the dilemma of practical reason depending on historical conditions. Hence, in an improbable manner, the noumenal and the phenomenal, cosmos and critique become inversed, and the philosophy of history itself acts as a means towards the accomplishment of history. Such a philosophy of history comports an ideal that cannot be formulated without contradiction in Kant—so Habermas (Habermas 1991: 102-116).

However, if we are attentive, with Kleingeld, to Kant's more exact formulation of the issue, we might conclude otherwise. Namely, in the *Metaphysics of Morals*, he states that perpetual peace is an *unattainable* ideal. Nonetheless, he still thinks it is worth pursuing. This move clearly takes the discussion of voluntary human involvement in history out of the sphere of the noumenal, and puts it back into phenomenal temporality—one that is always a matter of interpretation—or more exactly, of epistemic dialogue—in Kant. Hence, there need be no contradiction.

One might ask, then, whether a discussion in the spirit of a philosophy of history is helpful at all, or should we merely treat the issue in temporal terms as we know them. Leaving the answer aside, let us say this much: a middle concept such as a different, non-noumenal causation—such as practical necessity as E. Ellis understands it, the moral source of causation that supervenes the natural one—does deserve a place here. Otherwise, Kant would remain in an ever ambivalent play between natural necessity and human agency—leading to ever repeating dialectical confusions.

When clarifying the contradiction inherent in the concept of a state of states, a structure that offers itself as a possible form of the ideal world state, Otfried Höffe suggests that a dialectic deduced from that contradiction is at least conceivable. Namely, since peace as the highest political good is an idea of reason (in the *Doctrine of Right*), there could ensue a dialectic of pure practical reason with respect to right and law. However, such dialectic is not even hinted at by Kant.

Now since the contradiction inheres in the concept of an international state (see above), however, a world state that comprises states is at the same time the structure in which—in one interpretation or another—the full conceptual solution of the problem of right is articulated, it is only natural to ask whether this contradiction has been maintained

on the conceptual level and has led to the contradiction signaled by Habermas and seen as unsolvable, only to be dissolved by Kleingeld by hermeneutical means and developed further by Ellis by proposing a politics of provisionality, relying on a temporal understanding of moral action.

Provisional Right

IN ORDER to accommodate such a temporalized view of moral causation, E. Ellis develops an encompassing and quite provocative interpretation of Kant's politics based on a concept borrowed from the *Doctrine of Right*, namely, provisional right.

First, let us mention that this is extremely slippery ground. The *Doctrine of Right* is a controversial work, the argument unclear at many points, needing extremely long background reconstruction in order to be clarified. However, Ellis's extrapolation of the concept of provisional right unto matters of international law does seem legitimate insofar as Kant does do the same in this text, and he does mention provisionality in *Perpetual Peace*, even if he still leaves the theory undeveloped.

Also, before explaining Ellis's notion of provisionality, let us mention that many interpreters, Kleingeld, Archibugi, Höffe among them, touch upon the issue, without halting and giving explicit consideration to a comparatively extensive interpretive endeavor. However, they all notice the state of affairs that international right—and from the perspective of enforceability, cosmopolitan right—is and remains at a provisional level in Kant. It is their search for a more clear-cut cosmopolitan doctrine that leads them to ignore the possibilities involved here, mostly the one that provisionality could show a third way to the one state—plurality of states contradiction.

Exemplarily, Höffe treats provisionality as mere contractuality, meaning that a voluntary league functions as a peace contract, which can simply be broken, relapsing to a state of nature. Still, he does give it some force, saying that contracts are better than a state of war—however it is unclear how: think of the recent example of the Russian invasion of Ukrainian Crimea (going against a contract-based international law that is not enforceable). Still, Höffe himself talks of right—of right without guarantee.

Also, the more full-fledged cosmopolitan models advocated by other interpreters invite some form of extended international and/or cosmopolitan law to fill the gap of the non-enforceability left by provisional right. In Höffe's example, both the ideal world federation and the surrogate minimal federation (league) are seen as state-like to some extent, hence there emerges some minimal degree of enforceability within them—that is, also within real-life, more-than-contractual, actually possible world institutions.

I take these interpretive options to be signs of a rather happy cosmopolitanism that takes the will towards moral progress for granted—a notion that is legitimate and illegitimate at times. As an exercise that may even provide some way out of Kant's inherent contradiction, I propose considering Ellis's doctrine in more detail.

The concept is introduced in the context of property right (Ellis 2005: 112-154). Notice the temporal terms employed, italics by Ellis:

Possession in anticipation of and preparation for the civil condition, which can be based only on a law of common will, possession which therefore accords with the *possibility* of such a condition, is *provisionally rightful* possession, whereas possession found in an *actual* civil condition would be *conclusive* possession. [...] In summary, the way to have something external as one's own *in a state of nature* is physical possession which has in its favor the rightful *presumption* that it will be made into rightful possession through being united with the will of all in a public lawgiving, and in anticipation of this holds *comparatively* as rightful possession (DoR, 6:256-57).

Ellis's claim is that provisionality holds for all existing—non-ideal—human arrangements. Thus, she finds an important interpretive tool for many of Kant's seemingly obscure arguments, but more importantly, a systematic principle that sheds genuinely new light on Kant's politics.

To show this, one must pass to the context of international right. Here, provisionality means that, whereas states find themselves in a state of nature in relation to each other, this does not necessarily mean they are simply anarchic—since, even in the state of nature there is right, namely, provisional right. More exactly, in contrast with individuals who may or may not have legitimate claims of right before a civil constitution, states always have such claims with some level of legitimacy once they exist. Hence, since these claims will always be *comparatively right*, depending on the *idea* under which they are formulated, discussion about them will not concern their intrinsic correctness, but their degree of adaptability to the temporal horizon they rest upon: namely, the approximation of the ultimate republican constitution.

Following this line of argument, employing provisionality as against conclusiveness in the context of international law and cosmopolitanism will show international policy as relevant in the *norms* of its process, not in its particular claims of justice, and will focus attention on the *preconditions* of just processes of decision making instead of seeking a conclusive theory.

As Ellis underlines (Ellis 2005: 96-98), it is neither the ideal theory of a singular just state, nor the merely provisional understanding of right—in a relativistic sense—that makes up the core of Kant's argument, but the two seen as complementary. International right as we know it, with its emphasis on sovereignty is, according to Ellis, only provisionally legitimate. Namely, it retains the right to go to war, as an *etalon* of sovereignty, thus providing only a provisional form of self-determination in the Kantian sense. Even so, it is to be maintained, since it preserves the *possibility* of progress toward more perfect governance.

Publicity

IN THE Appendix, Kant makes the point for publicity—in Ellis’ understanding, as a negative substitute for an ideal international institution. As she later explains, in the ideal republic of republics, there would be no need for an external judge of right—this is only necessary provisionally (Ellis 2005: 164-165). That is why Kant never mentions the public sphere as a part of the ideal republic.

As Ellis recounts, the role played by the public sphere is in PP not only played by the philosopher, but by the very Kant writing the text. And it is exactly this philosopher who, by way of critique, discriminates between strict and permissive moral laws—ones that must be applied through abolishing policies and ones that may be delayed in application, in order not to “counteract their very purpose.”

Philosophers perform not only an exemplary, but a guiding role, since even “royal peoples” need their advice. This is due to the fact that they by their very nature they elude power, which is not the case in the case of monarchs or even self-governing peoples (!)—obviously for monarchs, and because of being, besides its object, also the subject of power, in the case of self-determining peoples.

As Archibugi explains, cosmopolitanism for philosophers and the learned community was more a reality and a sign of a social group than a desideratum in Kant’s time; the impact this understanding had on reality—through publicity—was implicit (Archibugi 1995: 441-442). Also, the thrust towards a cosmopolitan state of affairs is encompassed by Kant into the naturalistic argument. There, he argues that not the world state, but a lawful federation of states is the outcome of the distress that forces man to ally. Also, Kant entrusts philosophers to be the judges and critics of international institutions. However, as Archibugi argues, these—and the federation itself—are not coercive institutions, on the contrary, morally authoritative ones, that stand for the cosmopolitan constitution.

This, I take, is Archibugi’s version of provisionality in the cosmopolitan dimension. His interpretation of Kant’s cosmopolitan law as referring to international relations is enriched by the emphasis on the moral character of the former, hence providing an interesting addition to its reconstruction. All the more, since provisionality moves exactly in this terrain, that of not-yet-objectified but still normatively strong claims; it is interesting to see (cf. below) how these claims tend to turn to legal doctrine, yet they notoriously do not succeed.

As we have seen above, provisional right pairs with the public sphere as the criterion for judging political institutions and the mechanism to change them. Moreover, the distinction between right as it is—provisionally, in the actual form of power and its institutions—is separated from the public sphere only provisionally. In the long run, however, public speech becomes an effective force that does influence politics. Hence, publicity as such becomes active, hence performative, only ironically posing as inactive and harmless.

As against the argument from nature’s goodwill, Kant describes naturally occurring pacification as counter to right. Hence, freely willed human agency is advised. As Archibugi

recounts, shortly after Kant there existed a precious few initiatives to introduce cosmopolitan law as a legal category. However, these didn't give rise to further doctrines.

The Global State as a Complement to Publicity

IN HIS proposal of a more robust version of the institutional form of cosmopolitanism, Otfried Höffe opts for a republic of states with a minimal world state form, or a minimal world state, as against an ultra-minimal world state—one that is explicitly opted for by Kant.

With no intention of discussing the tenability of his interpretation of Kant's intention at this point, it might be enlightening to understand the way his alternative reading complements the provisionality thesis touched upon by many—himself among them—and theorized by Ellis.

First, let us clarify that Höffe does mean that a further step towards the unattainable ideal of a world state is, itself, attainable, namely, a renouncing of some sovereignty on behalf of states, in favor of a world legal order, or in his words, a sanctioned legal order, making the intentions of states accessible to juridical legality. His arguments are, on the one hand, that the ultra-minimal world state—the voluntary league—however unenforceable and provisional, is a sensible intermediate goal towards attaining the above, instead of aiming at a full-fledged world state that threatens to take the place of states themselves.

In turn, the ultra-minimal world state, or a voluntary league—understood as an institution with some binding force, but even at a merely verbal level, as a provisional right-endorsement legitimizing equally provisional right claims, but still an institution—is seen to bring some important addition to a mere multi-lateral ceasefire or simply the lack of hostilities on grounds of the formulation of even a claim to rightfulness. The reason for this, argues the German commentator, is that wherever there is no external pressure, malevolence becomes unconcealed—whereas in cases of external constraint it might not.

This is an interesting development in the interpretation of Kantian cosmopolitan theory, since it finds a middle ground—actually, a useful complementarity—between publicity and institutionality. First, let us explain its motivation.

As Höffe explains, malevolence stemming from plain human nature is quite obvious—if not so at the level of individuals, who always-already find themselves within social-legal constraints, then among states who do not. For Kant, this is a sign of savagery—as explained above—but it is not, *nota bene*, a sign of moral corruption (Höffe 2006: 202). Rather, it means a lack of moral qualifications as such, or, in Kantian terms, a mere propensity to evil (similar to inertia in physics), not a predisposition (possibly qualifying as a moral issue, namely, something subjectively egotistic that needs to be domesticated through a universally rational will). In such a situation, even a mere verbal form that honors the exigency of right is an external constraint that brings moral and possibly legal reasoning into the context, impeding malevolence to become explicit and as

such, cynical. In this sense, public legal discourse could be seen as the grounds for “a sanctioned legal order.”

It is noteworthy that Höffe uses Kant’s wordings from the text of the essay on peace, thus bringing this otherwise general legal reasoning into the cosmopolitan context. In order to emphasize the difference between positive international/cosmopolitan law or international statehood that can be grounded on this aspect of public discourse and the emancipating and moralizing effects of culture—also acting through publicity—Höffe emphasizes, with Kant, the idea expressed in the nation of devils argument (Höffe 2006: 203). It is not moral maturation, but maintained natural egoism and even their very evil propensity that leads the nation of devils—in this case, the community of states—towards an ever growing legalization of their affairs. By analogy with individuals, the world republic carries the responsibility to protect individual states and safeguard their self-determination. However, the guarantee of sovereignty may only emerge through renouncing part of this sovereignty itself: through deliberating under the condition of one common rule. In Höffe’s wording: right culminates in world right and the public safeguarding of rights culminates in the tasks of a subsidiary and federal world republic.

Antagonism versus Agonism

IN DRAWING such a complementarity between unconditionally (globally) public discourse and cosmopolitan right within an evolutionary theory of cosmopolitan institutions, we maintain the idea—together with all our commentators—of a provisionality of right. Even though a subject of immanent and implicit criticism, such a provisional understanding of what cosmopolitan right and institutions could and should be seems most realistic—especially if seen through the prism of our day’s world events. This means that no form of global democracy is implied as either an ideal condition or a possible outcome of this kind of cosmopolitan doctrine: it is rights, not peculiar political organizations that are pursued. Or, in other words, the quest needs to remain political in the strictest, ontological sense, and must not be confused with the politics of institutions that are already built on an assured peace, an apolitical utopia in Höffe’s language.

Renouncing sovereignty in cases of antagonism between states, as envisaged by Höffe, should be understood, along these lines, as something that must remain voluntary. It is not possible here to continue the otherwise important inquiry in this direction, but, following Kant’s advice, it seems neither necessary nor possible to talk about a definitive founding of a specific form of world state. Rather, world institutions must remain provisional in a way that domestic institutions are not—at least, until the point of revolution—otherwise they would infringe upon sovereignty in the sense of cementing states into a meta-institution from which they have no escape. Thus, it is not war that must remain an option for states, but the sovereign deliberation for or against the membership of the peace federation.

Agonism, in contrast, clearly emerges once antagonism is not an option. A metaphorical nation of nations of devils, in its turn, does not give up antagonism, in the sense Höffe understands Kant, but internalizes it into right itself. It is rational self-interest that dictates the (provisional) renunciation to a part of sovereignty, not the ideal of democracy and the culturally embedded belief in democratic deliberation.

As an example, let us hint to the possibility of war in a post-nuclear age. It is indeed agonism that emerges among nuclear powers, insofar as they cannot afford a war among themselves, given the legacy of mutually assured destruction. However, non-nuclear powers—such as the former nuclear power Ukraine—do not share in this club. They must either remain in a state of nature, which again is not the case against nuclear powers, such as Russia, or seek adherence to a pacific league, out of self-interest, but maintain the option of exit in case of a change of interests. It is hard to see how any such league might exist otherwise than through commonly shared and enforced juridical norms.



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Abbreviations of Kant’s works (references follow the Academy Edition):

PP: *Towards Perpetual Peace: A Philosophical Sketch* (1795).

DoR: *The Doctrine of Right (part of The Metaphysics of Morals)* (1797).

Abstract

Kant's World-State Ideal and its Provisional Surrogates

The paper discusses the place and meaning of Kant's cosmopolitanism, more specifically, of his theory of cosmopolitan right and of a world state, while maintaining a dialogue with modern interpretations concerning these, ones that aim at developing their own theories of cosmopolitanism in a Kantian spirit. The world state is seen as an unattainable ideal, whereas provisionality, an idea borrowed from the Doctrine of Right, is reconstructed as the best model of the status of transnational institutions as seen by Kant. Furthermore, an alternative to permanent provisionality (i.e., a chance for progress) is suggested in the idea of an ultra-minimal world-state as a place of public legal discourse that grounds a sanctioned legal order, thus approximating an ontologically strict idea of (cosmopolitan) politics.

Keywords

cosmopolitan law, world-state, transnational institutions, provisional right, publicity