Kant on the State
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Abstract:

Kant distinguishes between two kinds of freedom. Internal freedom, i.e. autonomy, consists in freedom from one's inclinations. Kant famously argues that internal freedom requires being governed by the Categorical Imperative. External freedom, i.e. independence, consists in freedom from other agents. Kant argues that our innate right to external freedom requires the establishment of the state. In this article, I begin by explaining this argument. I consider different ways of construing the problems in the state of nature to which the state is supposed to be the solution. I then explore what kind of state Kant takes right to require. How should we understand the requirement that a sovereign represent the united will of its people? I go on to consider how competing views about the kind of state required by right shape the practical import of Kant's arguments against a right to revolution. Finally, I observe that Kant's argument for the state seems to indicate the necessity of a world state. Kant, however, seems to resist this implication of his view, often emphasizing a voluntary league of nations instead. I examine Kant's arguments against a world state and consider whether a voluntary league of nations could satisfy the requirements of right that were established in his initial argument for the state.

Keywords: external freedom, independence, league of nations, state of nature, state, world state, right to revolution

Kant distinguishes between two kinds of freedom. Internal freedom consists in freedom from one's inclinations. Kant famously argues that internal freedom requires being governed by the Categorical Imperative. External freedom, i.e. independence, consists in freedom from other agents.[1] Kant argues that our innate right to external freedom requires the establishment of the state. In this article, I begin by explaining this argument. I consider different ways of construing the problems in the state of nature to which the state is supposed to be the solution. I then explore what kind of state Kant takes right to require. How should we understand the requirement that a sovereign

[1] For discussions of the relationship between Kant's moral and political philosophy, see Guyer (2002), Wood (2002: 4-10), Pippin (2006: 421-428), Ripstein (2009: 355-388), and Pallikkathayil (2010). For a helpful overview of themes emerging in this literature, see Ebels-Duggan (2012).

represent the united will of its people? I go on to consider how competing views about the kind of state required by right shape the practical import of Kant's arguments against a right to revolution. Finally, I observe that Kant's argument for the state seems to indicate the necessity of a world state. Kant, however, seems to resist this implication of his view, often emphasizing a voluntary league of nations instead. I examine Kant's arguments against a world state and consider whether a voluntary league of nations could satisfy the requirements of right that were established in his initial argument for the state.

1. Kant's Argument for the State

Kant begins the Doctrine of Right with the Universal Principle of Right:

> Any action is *right* if it can coexist with everyone's freedom in accordance with a universal law, or if on its maxim the freedom of choice of each can coexist with everyone's freedom in accordance with a universal law. (MM 6: 230)

The kind of freedom relevant to this principle is external freedom, which Kant glosses as 'independence from being constrained by another's choice' (MM 6: 237). Kant does not explicitly say much more about what independence from being constrained by another's choice involves. In his prominent reconstruction of Kant's political philosophy, Arthur Ripstein interprets Kant as holding that '[y]ou are independent if you are the one who decides what ends you will use your means to pursue, as opposed to having someone else decide for you' (Ripstein 2009: 33).[2] In other words, one is externally free when one's means are not controlled by others.

Kant argues that 'there is connected with right by the principle of contradiction an authorization to coerce someone who infringes upon it' (MM 6: 231). Hindering the freedom of someone who is infringing someone's freedom is merely hindering a hindrance to freedom and

[2] For an alternative interpretation of external freedom, see Ebels-Duggan (2011).

hence consistent with freedom under universal laws.[3] Since right may be coercively enforced, we should understand Kant's argument for the state as not merely an argument that we are morally required to establish a state (though we are),[4] but an argument that we may coerce people to enter a state with us.

Kant's argument for the state begins with the innate right to freedom, which articulates what the Universal Principle of Right requires for each individual:

> *Freedom* (independence from being constrained by another's choice), insofar as it can coexist with the freedom of every other in accordance with a universal law, is the only original right belonging to every man by virtue of his humanity. (MM 6: 237)

Kant indicates that wresting an apple from someone's hand or dragging him from his resting place would wrong that person with regard to what was internally his (MM 6: 247). This suggests that Kant takes one's body to be innately among one's means.[5] Kant also identifies three potential external objects of choice: external corporeal things, another's choice to perform a specific deed, and another's status in relationship to oneself (MM 6: 247). Innate right alone does not make any external object of choice one's own. If one puts down an apple, innate right does not prohibit others from picking it up.

Nonetheless, Kant argues that innate right requires the possibility of having external objects of choice as one's own. His Postulate of Practical Reason with Regard to Right holds:

> It is possible for me to have any external object of my choice as mine, that is, a maxim by which, if it were to become a law, an object of choice would *in itself* (objectively) have to *belong to no one* (*res nullius*) is contrary to rights. (MM 6: 250)

[3] For discussion of this argument, see Ripstein (2009: 52-56).
[4] Ethics commands that one satisfy one's duties of right (MM 6: 219-220).
[5] For discussion of the right to one's own body, see Ripstein (2009: 40-42); Hodgson (2010b: 811-812); Varden (2012); Pallikkathayil (2017).

Kant defends the Postulate by arguing that taking external objects to be potentially mine or yours is the only way to satisfy the demand that freedom be limited only by the requirement of consistency with universal laws.[6]

But the Postulate tells us only that it must be possible for external objects to belong to someone. It does not tell us how rights to such objects may be acquired. Kant holds that rights to external objects can be acquired only provisionally in the state of nature, i.e., in the absence of political institutions.[7] Kant goes on to argue that since it must be possible for external objects to belong to someone but they cannot be acquired conclusively in the state of nature, we must establish the state. Understanding Kant's argument for the state thus requires understanding why he takes attempts to acquire external objects to be problematic in the state of nature. He is less than fully perspicuous about why this is, though some passages are suggestive (especially MM 6: 255-256, 266, 312). Here I begin by laying out my preferred interpretation of the problems faced by attempts to acquire external objects in the state of nature. I will then note the ways in which this interpretation is controversial.

In order to identify the problems faced by attempts to acquire external objects in the state of nature, I find it helpful to work backwards, beginning from Kant's characterization of the state:

> Every state contains three *authorities* within it, that is, the general united will consists of three persons (*trias politica*): the *sovereign authority* (sovereignty) in the person of the legislator; the *executive authority* in the person of the ruler (in conformity to law); and the *judicial authority* (to award to each what is his in accordance with the law) in the person of the judge (*potestas legislatoria*, *rectoria et iudiciaria*). (MM 6: 313)

We may see each of these authorities as solving a problem faced by attempts to acquire external objects in the state of nature.

[6] For discussion of Kant's defense of the Postulate, see Ripstein (2009: 60-65); Byrd and Hruschka (2010: 94-106); Hodgson (2010a: 59-63).
[7] For discussion of the concept of provisional rights, see Hasan (2018).

Let us begin with the legislative authority. What problem does public lawgiving solve? Kant claims that, in the state of nature, matters of right are subject to disagreement: 'before a public lawful condition is established individual human beings, peoples and states can never be secure from violence from one another, since each has its own right to do *what seems right and good to it* and not to be dependent upon another's opinion about this' (MM 6: 312). Two distinctions Kant does not explicitly make may be helpful in understanding this problem. First, consider two potential levels of disagreement. We might disagree about the principles governing acquisition or we might disagree about the application of those principles to particular cases. Second, consider two potential kinds of disagreement. We might disagree about something with respect to which there is a fact of the matter about what right requires. Here one or both of us may simply be wrong. Alternatively, we might disagree about what to do when there is no fact of the matter about what right requires.

What level and kind of disagreement might public lawgiving resolve? Consider first the level of disagreement. Since laws are general, the disagreement to which public lawgiving responds must be disagreement about the principles that govern acquisition of external objects. Is this disagreement over something about which there is a fact of the matter? Here Kant is not completely clear. On the one hand, Kant claims:

> in terms of their form, laws concerning what is mine or yours in the state of nature contain the same thing that they prescribe in the civil condition, insofar as the civil condition is thought of by pure rational concepts alone. The difference is only that the civil condition provides the conditions under which these laws are put into effect (in keeping with distributive justice). (MM 6: 312)

This suggests that at least the form of principles of acquisition is settled by reason such that there is a fact of the matter about what form right requires that principles of acquisition have.

On the other hand, Kant identifies 'indeterminacy, with respect to quantity as well as quality, of the external object that can be acquired' (MM 6: 266) as a problem.[8] One might then think that the kind of disagreement to which public lawgiving responds is disagreement about a matter not settled by reason. This reading might be reconciled with the previous passage by reflecting on how principles of acquisition may stand in need of further specification. Kant, for example, says that acquiring an external object requires giving others a sign that this is what one is doing (MM 6: 258-259). But this principle does not by itself settle what constitutes giving such a sign. Hence, there may be a sense in which the form of principles of acquisition is given by reason and yet that these principles are indeterminate.[9] I thus take the problem to which the legislative authority is a solution to be aptly described as *the indeterminacy problem*. No one can have a unilateral right to resolve the indeterminacy problem because such a right would not be universalizable. Hence the need for public (omnilateral) lawgiving.

I take the judicial authority to solve a closely related problem concerning the potential for disagreement about how the law applies to particular cases, i.e. disagreement at the second of the two levels identified above. We might call this *the adjudication problem*. The only textual reason for taking indeterminacy and adjudication to be separate problems is the distinction Kant draws between the role of the legislator and the role of the judge. If we do not treat the problem of settling principles for acquisition and settling the application of those principles to cases as two separate

[8] Kant also describes the state as a condition in which what is to be recognized as belonging to each "is determined *by law*" (MM 6: 312). Although I read this passage as consonant with the suggestion that law resolves pre-political indeterminacy in the principles of acquisition, the passage might also be read as simply claiming that the state makes the very same principles that hold provisionally in the state of nature hold conclusively.

[9] Taking the relevant kind of disagreement to be responsive to indeterminacy also has the advantage of being, to my mind, the more charitable reading. If reason fully settled the principles of acquisition in the state of nature, it is unclear why disagreement about what reason requires would entitle anyone to act on mistaken views of that matter.

problems, it is unclear why the state needs separate legislative and judicial authorities. In any case, much like with the indeterminacy problem, the state resolves the problem of adjudication by replacing unilateral choice with the united will of the people in the person of the judge.

The executive authority solves a problem of assurance rather than a problem stemming from disagreement at either of the two levels identified above. Kant claims that I am "not under obligation to leave external objects belonging to others untouched unless everyone else provides me assurance that he will behave in accordance with the same principle" (MM 6: 256). Since the relevant kind of assurance must be reciprocal, this is not something that we can unilaterally provide one another. The state resolves this problem by providing "lawgiving accompanied with power" (MM 6: 256).[10]

This interpretation treats the inadequacy of unilateral willing as *an element of* each of the problems faced by anyone attempting to acquire an external object in the state of nature. An alternative interpretation treats unilateralism as itself *a distinct problem* in the state of nature (Ripstein 2009: 148-159). Here the problem is purportedly that a unilateral act cannot put others under obligation. This is a theme that appears in several passages.[11] The following passages are representative:

> For a unilateral will… cannot put everyone under an obligation that is in itself contingent; this requires a will that is *omnilateral*, that is united not contingently but a priori and therefore necessarily, and because of this is the only will that is lawgiving. (MM 6: 263).

> Now a unilateral will cannot serve as a coercive law for everyone with regard to possession that is external and therefore contingent, since that would infringe upon freedom in accordance with universal laws. (MM 6: 256)

[10] For an extended discussion of the assurance problem, see Ripstein (2009: 159-168) and Pallikkathayil (2017: 40-45).
[11] In addition to the passages quoted in the text, see MM 6: 259, 261, and 264.

Disagreement about the two ways of thinking about unilateralism reflects disagreement about whether these passages should be read as treating unilateralism as a basic problem or whether a unilateral will cannot impose obligations on others because it cannot successfully resolve the indeterminacy, adjudication, and assurance problems.[12]

Treating unilateralism as a distinct problem suggests a somewhat different way of understanding the object of legislative authority in the state. On this view, legislative authority may be understood as focused on authorizing acquisition (Ripstein 2009: 154-155). But since this authorization takes place through public lawgiving, it seems to me that the legislative authority must be understood as determining principles of acquisition on this view as well.

Despite these interpretative controversies, the broad outlines of Kant's argument for the state are clear. The innate right to freedom together with the Postulate of Practical Reason with Regard to Right requires the possibility of acquiring external objects of choice. But external objects cannot be acquired unilaterally consistently with the innate right to freedom. Hence the need for a state that replaces unilateral willing with omnilateral willing. And since we may coerce people to abide by the requirements of right, we may coerce people to enter such a state.

2. Conditions on Omnilateral Willing

We have considered why Kant holds that omnilateral willing is required to enable people to acquire external objects as their own. But what exactly is an omnilateral will? Kant writes:

> The act by which a people forms itself into a state is the *original contract*. Properly speaking, the original contract is only the idea of this act, in terms of which alone we can think of the legitimacy of a state. In accordance with the original contract, everyone (*omnes et singuli*) within a *people* gives up his external freedom in order to take it up again immediately as a member of a commonwealth, that is, of a people considered as a state (*universi*). (MM 6: 316)

[12] For a defense of the latter interpretation, see Pallikkathayil (2017: 45-46).

Since the original contract is an idea rather than a historical event, it is not immediately obvious how this idea relates to actual states, and Kant's own guidance about this matter is not entirely clear. In what follows, I canvas some potential conditions on omnilateral willing.

First, let us consider whether a certain kind of separation of powers might be needed to constitute an omnilateral will. Kant distinguishes between republican and despotic forms of governments. Unlike a despotic form of government, a republican form of government is one in which the legislative and executive powers are separate (PP 8: 352)[13]. Although the idea of the separation of powers is familiar in modern states, Kant's reasons for emphasizing this organizational form seem to have less to do with the contemporary idea of checks and balances and more to do with a conceptual concern about the same entity making and enforcing laws: '*Republicanism* is the political principle of separation of the executive power (the government) from the legislative power; despotism is that of the high-handed management of the state by laws the regent has himself given, inasmuch as he handles the public will as his private will' (PP 8: 352). Why should a lack of separation between the legislative and executive authorities problematize the distinction between public (omnilateral) willing and private (unilateral willing)? B. Sharon Byrd and Joachim Hruschka suggest this helpful interpretation:

> Since in a despotism the government is 'simultaneously lawgiving,' the despot (as executive) is not bound by the laws that he (as lawgiver) can change anytime. Without any separate lawgiver to bind him, the executive can make *ad hoc* arbitrary decisions. The subjects have no laws on which they may rely when challenging the executive. In other words, the *iustitia tutatrix*, protective justice, is gone and with her the very possibility of a juridical state. (Byrd and Hruschka 2010: 184)

[13] In the *Metaphysics of Morals*, Kant distinguishes between despotic and patriotic forms of government rather than between despotic and republican forms of government (MM 6: 317). But the characterization of despotism as failing to separate legislative and executive authority remains the same.

The suggestion here is that the despot is just another (very powerful) unilateral will. In order to move beyond unilateral willing, the executive must be bound by law, which is possibly only with the separation of legislative and executive authority. Rule by law thus emerges from the discussion of the separation of powers as a (perhaps partial) way of characterizing omnilateral willing.

Separation between legislative and executive authority may be necessary but not sufficient for rule by law and hence for omnilateral willing. Ripstein takes rule by law to be realized when public officials act for public purposes: 'All that is required for the legislative will to be omnilateral is for the distinction between public and private purposes to apply to it in the right way' (Ripstein 2009: 292). Officials act for public purposes when they 'act for the purpose of creating and sustaining a rightful condition' (Ripstein 2009: 292).

Although Ripstein takes officials acting for public purposes to suffice for omnilateral willing, it is worth considering whether rule by law is a complete characterization of that concept. In particular, one might think that omnilateral willing requires not just rule by law but also, in some sense, rule by *us*. Thus one might ask whether democratically structured legislative authority is necessary for omnilateral willing? Different aspects of Kant's account suggest different answers to this question. In what follows, I canvas some relevant themes.

First, consider Kant's references to the idea of representation. Kant claims that '[a]ny true republic is and can only be a *system representing* the people, in order to protect its rights in its name, by all the citizens united and acting through their delegates (deputies)' (MM 6: 341). Although this may sound quite a bit like a contemporary representative democracy, Christoph Hanisch argues that we should not assume that delegates represent the united citizenry in virtue of having been chosen by them (Hanisch 2016: 71-73). Delegates might represent them simply in virtue of legislating in accordance with the idea of an original contract. Indeed, Kant writes that the original contract is

> *only an idea* of reason, which, however, has its undoubted practical reality, namely to bind every legislator to give his laws in such a way that they *could* have arisen from

> the united will of a whole people and to regard each subject, insofar as he wants to be a citizen, as if has joined in voting for such a will. (CS 8: 297)

This passage emphasizes the hypothetical rather than the actual consent of the governed. This leaves open the possibility that the united will of the people may be represented by autocratic or aristocratic legislators provided that legislative authority in such states is appropriately separate from executive authority.

Next, consider Kant's explicit discussions of democracy. These discussions suggest a shift in his thinking about democracy. In *Perpetual Peace*, Kant claims that democracy is necessarily despotic:

> *democracy* in the strict sense of the word is necessarily a despotism because it establishes an executive power in which all decide for and, if need be, against one (who thus does not agree), so that all, who are nevertheless not all, decide; and this is a contradiction of the general will with itself and with freedom. (PP 8: 352)

Since despotism's defining feature is the lack of separation between legislative and executive authority, it seems that here Kant conceives of democracy as state in which all the people together both legislate and execute the laws. As per the previous argument, democracy so understood is inconsistent with rule by law and hence with omnilateral willing.

In contrast, in the *Metaphysics of Morals*, Kant seems to use the term democracy to pick out a form of legislative authority (MM 6: 339). Understood in this way, democracy is not necessarily despotic. But this observation alone falls short of a ringing endorsement of democracy. Instead, Kant concludes his discussion of forms of state with a mixed assessment of autocracy, in which legislative power is held by a single individual. He describes autocracy as both the best form of state in virtue of being the simplest but also as the most dangerous form of state 'in view of how conducive it is to despotism' (MM 6: 339). Moreover, although Kant seems more favorably disposed toward democracy in the *Metaphysics of Morals*, he also claims that autocratic, aristocratic, and democratic sovereigns are all unable to simply change their state's form of sovereignty (MM 6: 340).

This suggests that all three forms of sovereignty are potential ways of constituting an omnilateral will, though some 'cannot be well reconciled with the idea of an original contract' (MM 6: 340).

Nonetheless, there are two other elements of Kant's work that may suggest he takes something like representative democracy to be required by right. First, Kant seems to emphasize actual rather than hypothetical consent of the governed in his discussion of perpetual peace, i.e., a condition in which right is secure globally. He argues that a requirement for perpetual peace is that the constitution of every state be republican, and in this context he proceeds as if that means that the consent of citizens is required to go to war (PP 8: 350).

Second, Kant claims that 'the only qualification for being a citizen is being fit to vote' (MM 6: 314). Although this alone does not, strictly speaking, mean that citizens must have opportunities to vote, Kant goes on to claim that 'active citizens' have the right to vote (MM 6: 315). Kant contrasts active citizens, who have the quality of being independent, with passive citizens who lack this quality (MM 6: 314-315). But Kant claims that the kind of dependence passive citizens manifest is not in tension with their 'freedom and equality *as human beings*' (MM 6: 315). The kind of independence that is at issue in the distinction between active and passive citizens thus seems to differ from the kind of independence referenced in the innate right to freedom.[14]

Kant uses examples of individuals who are dependent in the relevant sense to illuminate the distinction between the kind of independence and dependence at issue in the distinction between active and passive citizens:

> an apprentice in the service of a merchant or artisan; a domestic servant (as distinguished from a civil servant); a minor (*naturaliter vel civiliter*); all women and, in general anyone whose preservation in existence (his being fed and protected) depends not on his management of his own business but on arrangements made by another (except the state). (MM 6: 314)

[14] Indeed as Davies (2021) points out, Kant uses different words for innate independence (Unabhängigkeit) and civil independence (Selbstständigkeit). I am indebted to Rafeeq Hasan for drawing Davies's piece to my attention.

It is not clear why Kant takes not depending on others for sustenance and protection to be required to be fit to vote. Moreover, it is doubtful whether all the individuals on this list are aptly described as dependent in this way. In any case, however, this series of examples reveals that if Kant is committed to democracy it is not to the kind of egalitarian democracy familiar from the contemporary context.

Hanisch argues that although Kant fails to include an egalitarian democratic procedural component in his conception of a legitimate state, the foundational commitments of his view should have led him to do so (Hansich 2016: 81-86). He focuses especially on the discussion of the 'authorizations' Kant takes to be involved in the innate right to freedom, including innate equality and being one's own master (MM 6: 237). He also calls attention to the duty of rightful honor that Kant describes as 'obligation from the right of humanity in our own person' (MM 6:236). The duty of rightful honor says 'Do not make yourself a mere means for others but be at the same time an end for them' (MM 6: 236). Hanisch argues that the authorizations contained within the innate right to freedom and the duty of rightful honor both necessitate egalitarian democratic procedures. This is a promising strategy for contemporary Kantians who want to defend the unique legitimacy of democratically structured legislative authority, though more may need to be done to support the interpretations of equality, being one's own master, and the duty of rightful honor on which Hanisch's argument relies since Kant himself does not take these concepts to necessitate universal suffrage.[15]

[15] Hanisch argues that at least one mistake Kant makes in his discussion of active and passive citizenship is presupposing that the property rights that structure our economic relationships can be conclusively established without egalitarian democratic procedures (Hanisch 2016: 86n.53). But this move seems to accept that economic independence is necessary for having the right to vote. And it is not clear why that should be. For further discussion of the role of economic independence in Kant's view, see Holtman (2004).

The aim of this section has been to consider what constitutes omnilateral willing. Kant seems to identify omnilateral willing with rule by law. We have seen two potential conditions for rule by law. The condition Kant most straightforwardly endorses is the separation of legislative and executive authority. He also seems to require that public officials act for the public purpose of establishing and maintaining a rightful condition. We have also considered the possibility that omnilateral willing requires not just rule by law but also some kind of active participation by the citizenry. It is less clear whether Kant endorses this later component of omnilateral willing. Although his explicit discussions of democracy suggest that democratically structured legislative authority is not required for omnilateral willing, he does seem to hold that some citizens must have the right to vote and he sometimes reasons as if actual rather than hypothetical consent of the governed is required. In any case, it is clear that Kant did not endorse universal suffrage, though perhaps the foundational commitments of his view support taking this to be a condition on omnilateral willing.

3. The Right to Revolution

How we understand what constitutes omnilateral willing will have a significant impact on the implications of Kant's rejection of a right to revolution. Here I outline the arguments with which Kant opposes such a right.[16] I then consider how these arguments interact with the different ways of conceiving of an omnilateral will described in the previous section.

Kant rejects three potential grounds for exercising a right to revolution. First, since the aim of the state is to provide conditions of right rather than to provide for the happiness of the people, unhappiness with the state's legislative decisions cannot justify revolution (CS 8: 297-299). Second,

[16] For a detailed discussion of Kant's arguments against a right to revolution and a helpful comparison with Locke's treatment of these issues, see Flikschuh (2008).

the historical origin of the state makes no difference to its legitimacy and hence cannot be the basis for resistance (MM 6: 318-319). Recall that the original contract is an idea of reason rather than a historical event. Thus, the origin of the state is irrelevant to whether or not an institution constitutes an omnilateral will.

Finally, Kant rejects 'great defects and gross faults' in a state's constitution as a basis for revolution (MM 6: 372). This is perhaps the most surprising of the potential grounds for revolution that Kant rejects. He cites a conceptual problem with a right to revolution in explaining his rejection of this potential ground of revolution. I will consider that argument momentarily. But another line of argument is also suggested in this passage. Kant claims that a perfectly rightful constitution is an idea of reason 'to which no object given in experience can be adequate' (MM 6: 371). Perhaps then the distance between any actual state and a perfectly rightful constitution shows that imperfection would be too capacious a ground for revolution. Developing this argument, however, would require considering more closely whether there are any important differences between kinds or degrees of imperfection that might be used to limit the cases in which imperfection could justify revolution.

Let us return to Kant's conceptual argument against a right to revolution. Kant argues against the conceptual coherence of a constitutionally recognized right of resistance. Such a constitutional provision would make it the case that 'the supreme commander in a state is not the supreme commander; instead it is the one who can resist him, and this is self-contradictory' (MM 6: 319). Since Kant holds that the state is the condition of all conclusive acquired rights, the impossibility of a legal right to revolution would seem to preclude the possibility of any such right.

One might resist this argument by pointing to the innate right to freedom, which we have even in the absence of the state. Why not conceive of the right to revolution as an aspect of innate right? Although Kant does not explicitly take up this question, he gives another conceptual argument against a right to revolution that shows why this position would be untenable. This

argument turns on the observation that the people cannot collectively have a right to revolution because the state is the condition of the people's unity:

> Even if an actual contract of the people with the ruler has been violated, the people cannot react at once *as a commonwealth* but only as a mob. For the previously existing constitution has been torn up by the people, while their organization into a new commonwealth has not yet taken place. (TP 8: 302)

Revolution can be nothing more than an act of unilateral wills. Innate right requires us to resolve disputes over rights through omnilateral willing. Hence a right to revolution cannot be contained within the innate right to freedom since revolution destroys the condition of omnilateral willing.

It is a presupposition of Kant's discussion of the right to revolution that we are considering potential resistance to an omnilateral will. Without an omnilateral will, there is no state against which to revolt. Here the significance of specifying the conditions of omnilateral willing is clear. What exactly rejecting the right to revolution rules out depends on what constitutes an ominlateral will. The less demanding the conditions on omnilateral willing are, the more extensive the conditions under which obedience is required will be.

Ripstein's interpretation helpfully demonstrates this point (2009: 325-352).[17] Recall that he takes a condition in which public officials act to secure a rightful condition to suffice for omnilateral willing. He takes this to obtain when a condition satisfies the postulate of public right, i.e. when a condition is such that 'what belongs to each can be secured to him against everyone else' (MM 6: 237). Ripstein argues that this means that many historical examples of states against which resistance seems appropriate are not cases in which an omnilateral will was present. Nazi Germany, for example, failed to secure what belongs to each against everyone else by denying some people the innate right to their own persons and forbidding them acquired rights. Resistance to the organized

[17] For critical discussion of Ripstein's treatment of revolution, see Ebels-Duggan (2011: 558-562) and Weinstock (2017).

violence of Nazi Germany was therefore not in tension with Kant's arguments against a right to revolution. No such right is needed to resist a condition without omnilateral willing. Notice, however, that since Ripstein's interpretation does not take democratically structured legislative authority to be necessary for omnilateral willing, this view still involves rejecting resistance to states in which one is denied the right to vote.

4. A League of Nations or a World State?

As we saw in Section 1, Kant holds that acquired rights are merely provisional in the absence of the state. This would seem to imply that acquired rights are merely provisional in the absence of a world state. After all, citizens of different states are not united through an omnilateral will and hence the indeterminacy, adjudication, and assurance problems remain between them. Thus even if the problem of acquiring external objects is solved 'through the original contract, such acquisition will remain only provisional unless this contract extends to the entire human race' (MM 6: 266). Although in passages like these Kant seems to recognize this implication of his argument, in other passages he seems resist it (MM 6: 350). He seems to argue against a world state and instead for the establishment of a voluntary 'league of nations' that would lack some of the distinctive features of a world state (PP 8: 257; MM 6: 350-351). Many interpreters, however, have noticed that Kant's arguments against a world state do not seem to rule out the possibility of a world state with a federalist structure that leaves member states sovereign with respect to internal matters. Interpreters disagree about whether this kind of world state is a possibility that Kant overlooked or in fact what he intended to endorse as required by right.[18] On this latter interpretation, the league of nations

[18] Among those who see Kant as missing this implication of his view are Carson (1988), Dodson (1993), and Höffe (1998). For the claim that Kant ultimately endorsed a world state as a requirement of right, see Kleingeld (2004) and (2008); Byrd and Hruschka (2008) and (2010: 188-214); Pogge (2009: 201). Capps and Rivers (2010) explicitly argue against this latter position.

would be a step on the way to an appropriately structured world state rather than an alternative to it. In what follows, I remain neutral about this interpretive controversy and instead focus on defending the claim that Kant should have endorsed this kind of world state whether or not he actually did. To do this, I begin by canvasing Kant's arguments against a world state and indicate why they do not rule out a world state with a federalist structure. I then describe the league of nations and indicate how such a league would differ from a state. I go on to argue that a league of nations would not resolve the problems in a global state of nature. Instead, only a world state could do so.

Let us begin by considering Kant's arguments against a world state. Sometimes, he seems simply to despair of the realistic possibility of a world state given the unwillingness of individual states to submit themselves to public coercive laws (PP 8: 357).[19] But he also suggests a more conceptual concern with a world state:

> [A state of nations] would be a contradiction, inasmuch as every state involves the relation of a *superior* (legislating) to an *inferior* (obeying, namely the people); but a number of nations within one state would constitute only one nation, and this contradicts the presupposition (since here we have to consider the right of *nations* in relation to one another insofar as they comprise different states and are not to be fused into a single state. (PP 8: 354)

A sovereign is supposed to have the final authority to settle matters of right within the state. If we envision a world state as claiming authority over the very same individuals and with respect to the very same matters of right, then domestic sovereigns would cease to be sovereigns at all. Kant claims that this would be in tension with the presupposition that we are considering the right of states as distinct and in relation to one another. I suggest this presupposition is important because we must

[19] It is unclear why the mere unwillingness of states to join together in a world state would undermine the necessity of such a condition from the point of view of right. But as Kleingeld points out, this passage does not actually deny the necessity of such a condition (2004: 307). Kleingeld draws attention to this nuance in arguing against the common reading of Kant as rejecting a global state in favor of a voluntary league of nations. On Kleingeld's reading, Kant should instead be interpreted as holding that the voluntary league of nations is a necessary first step on the way to a world state.

consider how a world divided into distinct states could transition to a world governed by a world state in manner that accords with right. And if we have in view only a world state that dissolves the previous individual states, such a transition looks to be impossible.[20]

First, consider the possibility of states contracting to enter together into a world state. Such a contract would involve the same contradiction Kant identifies in slave contracts:

> a contract by which one party would completely renounce its freedom for the other's advantage would be self-contradictory, that is null and void, since by it one party would cease to be a person and so would have no duty to keep the contract but would recognize only force. (MM 6: 283)

In the same way, a contract between states that would involve ceasing to continue to be states would be self-contradictory. As we saw in Section 2, Kant holds that it must be possible to think of any state as arising from an 'original contract' between its members (CS 8: 297). The self-contradictory nature of a contract between states to establish a world state in which individual states are dissolved renders such a world state incompatible with this requirement.

Second, consider the possibility that states might simply accept the authority of a world state without contracting with one another. As we saw in Section 2, Kant does not take a sovereign to have the power to rightfully change the constitution of its state. Autocracies, aristocracies, and democracies may reform but not transform themselves (MM 6: 340). This is because any transformation in constitution would have to involve the destruction of what unites the people.[21] Transformation into a world state would seem to face the same problem.

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[20] This point and the discussion that follows closely follow my treatment of this issue in Pallikkathayil (2013).

[21] Kant also puzzlingly asserts that 'even if a sovereign decided to transform itself into a democracy, it could still do the people a wrong, since the people itself could abhor such a constitution and find one of the other forms more to its advantage' (MM 6: 340). It is unclear, however, why a people's preferences or considerations of their advantage matter from the point of view of right.

Next, consider the possibility that individual citizens might reject the authority of their state in favor a world state. Kant's rejection of the right to revolution, as described in Section 3, renders this suggestion a non-starter.

Finally, consider the possibility that the world state might simply impose its rule. It could do this in accordance with right only if its rule could be thought of as the product of an original contract. As we saw in the first point above, in a world already divided into states, this is not possible. Kant draws attention to this impossibility when he considers the possibility of one state acquiring another. He claims that to annex one state to another 'is to do away with its existence as a moral person and to make a moral person into a thing, and so to contradict the idea of the original contract' (PP 8: 344).

Thus, in a world that is already divided into individual states, it may seem that there is no way to rightfully bring about a world state. As Kant puts it, states 'already have a rightful constitution internally and hence have outgrown the constraint of others to bring them under a more extended law-governed constitution in accordance with their concepts of right' (PP 8: 355-356).[22] As I have suggested, however, this argument does not rule out the possibility of a world state with a federalist structure preserving the sovereignty of individual states with respect to internal matters. As long as individual states are allowed to continue as distinct authorities governing the same people with the respect to the same matters as they always have, the objection to contracting

[22] Notice that these arguments do not tell against a world state in the absence of already existing individual states, though Kant also expresses concern that it would be too difficult to protect rights in a state extended over vast regions (MM 6: 350). A world state with a federalist structure would also seem to go some way to ameliorating this concern since it would leave protection of the rights of citizens of a member state vis-à-vis other citizens of the same member state in the hands of that member state.

into a world state is met. And since the original contract is an idea of reason rather than a historical event, even founding such a world state by force would be consistent with right.[23]

Kant follows his objections to a world state with the description of a voluntary league of nations:

> This league does not look to acquiring any power of a state but only to preserving and securing the *freedom* of a state itself and of other states in league with it, but without there being any need for them to subject themselves to public laws and coercion under them (as people in the state of nature must do). (PP 8: 356)

Kant also emphasizes that the organization should be understood as voluntary and one that can be dissolved at any time (MM 6: 351).

In the absence of public laws and coercion under them, it is unclear how the league could solve the problems of the state of nature. The historical example Kant cites as coming closest to realizing this kind of league has it acting as an arbiter of disputes (MM 6: 350). In this way, perhaps the league might be thought of as acting as a sort of court, but without public law to apply. Perhaps, though, the global state of nature does not involve all of the problems of the original state nature. If so, then it would be less mysterious why the league of nations lacks so many powers of the state. Ripstein suggests this line of argument (2009: 225-231). He argues that states do not have external objects of choice. A state's territory is analogous to its body rather than its property. Ripstein argues that, if this is right, then the problems in the state of nature associated with acquired right would not arise in a world divided into individual states. Instead, only problems associated with innate right would remain. Ripstein argues that the only problem posed by innate right is indeterminacy in the

[23] Here I disagree with Kleingeld's claim that forcing states into a world state would be inconsistent with their freedom (Kleingeld 2004: 309). Kleingeld argues that forcing states 'into a state of states would run counter to the basic idea of the polity as a self-determining and self-legislating unity' (Kleingeld 2004: 309). But this argument seems to me inconsistent with Kant's original claim that individual people may be forced out of the state of nature and into a state.

right to self-defense. And he suggests the kind of international court Kant associates with the league of nations is sufficient for resolving this problem.

Let us accept for the sake of argument the claim that Kant regards a state's territory as akin to its body.[24] Let us also accept for the sake of argument that the innate right to one's body does not raise the same problems in the state of nature that acquired rights do.[25] Even granting these two claims, there is still a good reason to reject this way of limiting the problems that the league of nations must resolve. Recall from Section 1 that external corporeal objects are not the only possible external objects of choice.[26] States seem to be able to enter into contractual relationships with one another and with citizens of other states, and hence it seems to be possible for states to have acquired rights to others' choices.[27] I see no reason to doubt the possibility of these kinds of contractual relationships.[28] Since states must act for public purposes, any such contract would have to be undertaken for the sake of a public purpose. But is easy to imagine such cases. A state might, for example, contract with another state or a foreign corporation to purchase supplies needed for

[24] Although, notice that Kant at least sometimes describes the land on which a state resides as a belonging (PP 8: 344).
[25] I argue against this claim in Pallikkathayil (2017).
[26] In what follows, I focus on the case of contract, i.e., acquired right to another's choice to perform a specific deed. The argument might also potentially draw on the possibility of status rights. Kant describes the people of a state as belonging to the sovereign (6: 324). Perhaps this suggests a status right against other states with respect to one's own people.
[27] I am indebted to Zachary Agate for this observation.
[28] Kant's reasons for claiming that states cannot own private property are made in the context of considering private ownership of land within one's own territory (MM 6: 324). First, he claims that private ownership of land would make the sovereign into a private person (MM 6: 324). Perhaps he has in mind a worry that such ownership would make the sovereign a potential party to disputes with its own citizens, thus preventing it from acting as the arbiter of such disputes. This relates closely to Kant's second argument against private ownership of land by the state. He argues that since the extent of any such private property would be at the state's discretion 'the state would run the risk of seeing all ownership of land in the hands of the government and all subjects as *serfs* (*glebae adscripti*), possessors only of what is the property of another, and therefore deprived of all freedom (*servi*)' (MM 6: 324). Both of these reason for rejecting private ownership of land are thus focused on having property rights against one's own citizens. These reasons do not tell against states having property rights or contractual rights against other states or individuals who are not citizens.

national defense. In such a case, the state would acquire a right to the choice of the other contracting party, or at least it would acquire a provisional right to that choice given the unresolved problems posed by acquired rights in a global state of nature.[29]

With this in mind, let us return to the question of whether the league of nations could resolve the problems in the global state of nature. On either construal of the problems in the state of nature canvased in Section 1, the problems giving rise to each of the three branches of government are present in the global state of nature. But the league of nations lacks both legislative and executive authority. Hence this organization is inadequate to the task of solving at least two of the problems in the global state of nature. And it is unclear whether the league can even succeed in resolving disputes in the manner of a court in the absence of executive authority enforcing its verdicts. Thus, the league of nations Kant proposes does not seem to satisfy the requirements of right. For this reason, Kant's view commits him to holding that a world state is required by right, whether or not he accepted that implication of his view. Since Kant's arguments against a world state do not rule out a world state with a federalist structure, this is an institutional form that could meet this demand of right.

5. Conclusion

Kant's argument for the state is in one way rather straightforward. Problems in the state of nature with acquiring rights to external objects through unilateral willing require the establishment of

[29] A presupposition of this line of argument is that the Postulate of Practical Reason with Regard to Right holds for states just as it holds for individuals. Since Ripstein treats states as having an innate right to their territories, this presupposition is consonant with what he has already granted. For an argument that states have a right to freedom analogous to the right to freedom individuals have, see Byrd (1995) and Hodgson (2012: 110-115). But even if we did not attribute to states rights to their territories or the potential to acquire rights to external objects of choice, the global state of nature would still be problematic. The acquired rights of individual people are not conclusive with respect to citizens of different states precisely because they are not united through an omnilateral will.

a state with an omnilateral will. But this basic argument can be understood in a number of different ways. I have considered four aspects of Kant's argument that are the subject of debate. The first concerned the problems in the state of nature for which the state is supposed to be the solution. Unilateralism may either be seen as a feature of each of three separate problems or as its own distinct problem. Second, I considered what constitutes the omnilateral will that is supposed to solve the problems in the state of nature. Omnilateral willing seems to consist, at least partially, in rule by law, which requires that a state have separate legislative and executive authorities and that public officials act for public purposes. Perhaps omnilateral willing also requires a democratically structured legislative authority. And although Kant rejects universal suffrage, perhaps a properly constituted legislative authority must include it. Thus, the kind of state Kant's argument requires may be understood in significantly different ways. This immediately suggests different ways of understanding the practical import of Kant's arguments against the right to revolution. These arguments may be understood as requiring obedience whenever rule by law obtains or instead only when fairly robust requirements on omnilateral willing are satisfied. Finally, I considered the implications of Kant's argument for the state for the requirements of right between states. Kant's argument for the state requires the establishment of a world state with a federalist structure, whether or not he recognized that implication of his view.

Biography

Japa Pallikkathayil is an Associate Professor of Philosophy at the University of Pittsburgh. She received her PhD from Harvard University and had a position at New York University before she moved to the University of Pittsburgh. She works on issues at the intersection of moral and political philosophy. Her work is presently focused on developing a contemporary Kantian view in political philosophy.

Terms to Index

acquired right; coercion; democracy; external freedom; independence; innate right; league of nations; omnilateral will/willing; Postulate of Practical Reason with Regard to Right, right to revolution; state of nature; Universal Principle of Right, world state

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