

RECKONING WITH KANT ON RACE*

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This essay develops Kant's theory of reform to theorize racial justice reform. I assess the function of Kant's philosophy of race as part of his nonideal theory of justice, which offers a racist pragmatic anthropology that uses the concept of race to determine the practical effectiveness of legislative reason. His philosophy of race defends a teleological account of the natural history of the human species to fulfill the requirements of justice and assumes that certain racial groups have failed to develop their innate capacity for legislative reason. I show that we need an alternative Kantian nonideal theory of justice that demonstrates how legislative reason actualizes practical freedom. Rather than appeal to anthropology, I expand Kant's model of public reason to advance racial justice reform under the conditions of partial compliance to the requirements of justice in a profoundly nonideal republic such as the U.S. I then show-case the promise—and limits—of the a priori ideals of citizenship and publicity for racial justice reform and introduce the new ideal of interracial civic fellowship to guide the public use of reason in nonideal circumstances.

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I. INTRODUCTION

In spite of the growing interest in the topic of Kant and race, few commentators have explored the function of Kant's philosophy of race as part of his nonideal theory of justice. Kant's pragmatic anthropology examines the practical efficacy of legislative reason under the conditions of partial compliance to the requirements of justice. The object of his anthropology is not what nature makes of human beings, but "what [...] a free acting being makes or can and should make of themselves."¹ His pragmatic anthropology uses the concept of race to illustrate the human species' potential for achieving a civil condition, that is, a coercive system of equal freedom under law or public right governed by the universal principles of justice (or right). Kant defends a teleological view of history, the final end of which is the establishment of constitutional republics. While all persons have an innate capacity for legislative reason, he holds that some racial groups have failed to develop it fully. According to Kant, a natural history of the human species showcases an apparent indisposition of nonwhite racial groups to express an innate capacity for legislative reason to advance a "law-governed social order."² His racist pragmatic anthropology assumes that, in part, the problem of partial compliance reflects an indisposition among people of color to enter a civil condition and to advance the final end of history.

Many commentators have aimed to sever Kant's comments on race from his moral and political philosophy.³ There are two dominant lines of defense: (1) Kant's ideal theory (e.g., the universal principles and concepts of his moral and political philosophy) "contradicts" elements of his nonideal theory of justice, especially his philosophy of race and (2) Kant abandons his racial hierarchy in his mature writings of the 1790s to grant full juridical status to all persons, explicitly condemning slavery and colonialism. Line (2) logically entails (1). For example, Pauline Kleingeld argues that in the mid-1790s Kant discerns the contradiction between his moral universalism and his racist views.⁴ He, then, grants all persons

¹ Immanuel Kant, *Anthropology from a Pragmatic Point of View* (New York: Cambridge UP, 2006) 3.

² Immanuel Kant, "Idea for a Universal History with a Cosmopolitan Purpose," *Kant: Political Writings* (New York: Cambridge UP, 1991) 41–53, 44–45.

³ For example, Lucy Allais, "Kant's Racism," *Philosophical Papers* 45 no. 1–2 (2016): 1–36; Thomas Hill and Boxill Bernard, "Kant and Race," *Race and Racism*, ed. Bernard Boxill (New York: Oxford UP, 2001) 448–71; Robert B. Loudon, *Kant's Impure Ethics: From Rational Beings to Human Beings* (New York: Oxford UP, 2000).

⁴ Pauline Kleingeld, "Kant's Second Thoughts on Race," *The Philosophical Quarterly* 57 no. 229 (2007): 573–92; Pauline Kleingeld, "Kant's Second Thoughts on Colonialism," *Kant and Colonialism: Historical and Critical Perspectives*, ed. Katrin Flikschuh and Lea Ypi (New York: Oxford UP, 2014) 43–67; Pauline Kleingeld, *Kant and Cosmopolitanism: The Philosophical Ideal of World Citizenship* (New York: Cambridge UP, 2013) ch. 3.

full juridical standing in a cosmopolitan condition in his mature political philosophy.

In this essay, I develop a new interpretation of Kant's philosophy of race. I focus on the role that Kant assigns race in his pragmatic anthropology and argue that his philosophy of race attempts to illustrate partial compliance to the requirements of justice.⁵ His racist pragmatic anthropology is, therefore, part of his nonideal theory of justice. Given his offensive and implausible assessment of race, we need an alternative nonideal theory of justice that models how legislative reason becomes practically effective in a nonideal public sphere. Kant blames people of color for a cultural "backwardness" as the cause of their exclusion from domestic and cosmopolitan right. In contrast, a viable theory of racial justice reform should target the habits of citizenship among dominant racial groups that legitimate racially exclusionary laws and public policies in a nonideal public sphere.⁶ Unsurprisingly, Kant does not theorize how a white-controlled polity tends to condone and legitimate racial exclusion in a multiracial polity, which is precisely what a viable theory of racial justice reform requires, at least in the U.S. To be sure, Kant did not even posit the task of building a just interracial polity; and so, his conception of reform omits the civic virtues necessary for advancing racial justice in the context of interracial civic fellows sharing a republican constitutional state. It is therefore necessary to rethink his conception of public reason as a tool for racial justice reform.

In sum, I expand Kant's mature theory of reform from the 1790s, which includes the "pure" ideals of a just state (*Rechtsstaat*), publicity, and citizenship, with the "impure" ideal of interracial civic fellowship to guide racial justice

⁵ My approach complements Todd Hedrick's excellent essay, "Race, Difference, and Anthropology in Kant's Cosmopolitanism," *Journal of the History of Philosophy* 46 no. 2 (2008): 245–68. See also Mark Larrimore, "Antinomies of Race: Diversity and Destiny in Kant," *Patterns of Prejudice* 4–5 no. 42 (2008): 341–63; Mark Larrimore, "Sublime Waste: Kant on the Destiny of the Races," *Canadian Journal of Philosophy* Supplementary 25 (2010): 99–125.

⁶ Kant scholars have increasingly focused on his nonideal theory. See Dilek Huseyinzedegan, *Kant's Nonideal Theory of Politics* (Evanston: Northwestern UP, 2019); Katrin Flikschuh and Lea Ypi (Ed.), *Kant and Colonialism: Historical and Critical Perspectives* (New York: Oxford UP, 2014); Inés Valdez, *Toward Transnational Cosmopolitanism: Kant, Du Bois, and Justice as a Political Craft* (New York: Cambridge UP, 2019); Thomas McCarthy, *Race, Empire, and the Idea of Human Development* (New York: Cambridge UP, 2009). Sankar Muthu, *Enlightenment Against Empire* (Princeton: Princeton UP, 2003). I leave aside the broader issue of the value of pragmatic anthropology in Kant's nonideal theory of justice. For a defense, see Robert B. Loudon, "Anthropology from a Kantian Point of View: Toward a Cosmopolitan Conception of Human Nature," *Studies in History and Philosophy of Science* 39 no. 4 (2008): 515–22; Robert B. Loudon, *Kant's Human Being: Essays on his Theory of Human Nature* (New York: Oxford UP, 2011) ch. 6; Allen Wood, *Kant's Ethical Thought* (New York: Cambridge UP, 1999) ch. 6.

reform, particularly in the U.S. Building Kant's *Rechtsstaat* in America showcases the potential power—and limit—of Kant's mature political thought for theorizing racial justice.⁷ Although consistent in spirit, Kant's mature political thought does not schematize the “virtues of justice”—to borrow a term from Onora O'Neill—that are characteristic of interracial civic fellowship to achieve racial justice reform and to advance a civil condition, although such virtues are necessary to implement the requirements of justice in constitutional regimes with significant structural racism and an imperfect record of governance with respect to racial matters.⁸ I thus offer an alternative Kantian nonideal theory of justice to advance racial justice reform.⁹ My proposal is broadly consistent with Kant, although it is not to the *letter* of his mature political thought inasmuch as it focuses on a theory of noncoercible virtue rather than that of a coercive system of equal freedom under law or public right.

In Section II, I assess the function of Kant's philosophy of race as part of his nonideal theory of justice, which proposes a racist pragmatic anthropology that employs the concept of race to determine the effectiveness of legislative reason to promote a civil condition. I argue that it is plausible to assume that Kant remains committed to a racial hierarchy that ranks racial groups according to their historical advance of a civil condition, even after he assigns full juridical status to all humans in a cosmopolitan constitution. In Section III, I examine the key ideals in Kant's model of reform in his mature political writings of the mid-1790s, namely citizenship and publicity. Finally, in Section IV, I enrich Kant's model of reform with the ideal of interracial civic fellowship, which should guide the public use of reason in racially exclusionary polities such as the U.S. The ideal of interracial civic fellowship captures how an autonomous but historically situated citizenry should participate in a nonideal public sphere to delegitimize racist laws and public policies. The virtues of justice that characterize interracial civic fellowship include speech, responsive engagement, and truthfulness. Though these virtues can promote justice in any nonideal circumstance, my presentation of them aims to delegitimize racial exclusion and promote racial justice reform.

⁷ In this respect, my essay tackles Charles Mills's suggestion to theorize a “black radical Kantianism.” This is not to say that, in my view, Kant is the only—or even the best resource—for theorizing racial justice reform. However, following Mills, it is instructive to illustrate the extent to which Kant is helpful resource for racial justice.

⁸ Onora O'Neill, *Towards Justice and Virtue: A Reconstructive Account of Practical Reasoning* (New York: Cambridge UP, 1996) 133–41.

⁹ The ideal of civic fellowship can promote republican ideals more broadly, but here I use it to counteract racial exclusion and to promote racial justice specifically.

II. KANT'S IDEAL AND NONIDEAL THEORY OF JUSTICE: THE PURPOSE OF HIS PHILOSOPHY OF RACE

A comprehensive theory of justice includes ideal and nonideal principles. Ideal theory models a just state under the conditions of strict or perfect compliance to the requirements of justice.¹⁰ It formulates principles that should constitute a well-ordered society. Tommie Shelby argues that, in contrast, nonideal theory “charts a feasible course, from where we stand now, to the realization of principles of justice.”¹¹ Nonideal theory guides the implementation of the requirements of justice under the conditions of partial compliance—to wit, it starts “from where we stand now”—to remedy deviations from justice.¹² The function of nonideal theory is to provide an accurate account of the nature of partial compliance and a method for solving this problem through the public use of reason in nonideal circumstances.

Given my characterization of ideal and nonideal theory, Kant’s practical philosophy includes an ideal and nonideal theory of justice. Kant’s ideal theory of justice defends the idea of the social contract, which asserts the “pure” ideal of a just state (*Rechtsstaat*). To wit, the idea of the social contract represents a system of equal freedom under law or public right. It defends a republican constitutional state that must accord with the Universal Principle of Right: “an 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 universal law.”¹³ The universal principle of right establishes relations of external freedom to ensure that no individual is subject to the ends of another without their consent. Relations of external freedom enable each person to be a master of their lives as innately free (*sui juris*). A citizen of a legitimate state is entitled by innate right to exercise their free choice without undue interference by another’s power of choice; and the idea of a system of equal freedom under law allows persons to move their bodies, rightfully, through space and time. Under the just institutional conditions of public right, citizens are subject to the coercive power of the law but free to pursue their ends in reciprocal relations of nondomination. Kant’s theory of justice

¹⁰ It is beyond the scope of this paper to review the ideal/nonideal theory debate. For further discussion, see Laura Valentini, “Ideal vs. Nonideal Theory: A Conceptual Map,” *Philosophy Compass* 7 no. 9 (2012): 654–64; Tamar Schapiro, “Compliance, Complicity, and the Nature of Nonideal Conditions,” *The Journal of Philosophy* 100 no. 7 (2003): 329–55.

¹¹ Tommie Shelby, “Racial Realities and Corrective Justice: A Reply to Charles Mills,” *Critical Philosophy of Race* 1 no. 2 (2013): 145–62, 151.

¹² Shelby (2013): 148. Though there is much to say about compensatory justice and Kant’s practical philosophy, in this article, I limit my discussion of Kant’s “nonideal” theory to the issue of implementation of the requirements of justice rather than the rectification of past injustice.

¹³ Immanuel Kant, *The Metaphysics of Morals* (New York: Cambridge UP, 1996) 24.

is grounded in an innate right to freedom and does not incorporate empirical or historical facts about human nature or the organization of existent societies for its justification.¹⁴ In other words, a lack of compliance cannot detract from its unconditional prescriptive force. The idea of public right is justified by the innate right to freedom, which is the sole innate right of humanity and establishes a perfect duty to enter a civil condition, that is, to actualize the principle of justice by founding and refining constitutional republics.

Kant's nonideal theory of justice, however, does address the matter of partial compliance to the requirements of justice. His nonideal theory assesses the inherent ineptitude, as well as the suitability, of the human species to advance the requirements of morality and justice through historical time.¹⁵ Namely, his pragmatic anthropology ascertains the effectiveness of legislative reason to shape constitutional republics. It considers human nature as an object of "scientific" study. In his essays on race (1775–88) and in his lectures on anthropology and physical geography (1781–82), Kant treats race as an object of study for the natural sciences of his day.¹⁶ As philosophers of race have noted in extensive detail, he pioneers modern scientific racism.¹⁷ Advancing a monogenetic theory of race, he holds that all racial groups are members of the human species because we descend from an "original phylum."¹⁸ In response to environmental pressures, the human species developed a set of "seeds" (*Keime*) into a shared set of "natural predispositions" (*Naturanlangen*).¹⁹ The formation of racial groups is irreversible and entails such heritable "racial" features as skin color and hair texture, to which he assigns pragmatic relevance: the deformation of character and intellect. He thus sketches a "natural history" of the human species to survey the historical development of a "pragmatic disposition" to enter a civil condition.²⁰

For Kant, racial biology tracks the unequal historical development of the species, ranking races according to their preparation to promote a civil condition.²¹

¹⁴ Louden (2000): 12.

¹⁵ Immanuel Kant, *Religion and Rational Theology* (New York: Cambridge UP, 1996) 94.

¹⁶ Immanuel Kant, *Lectures on Anthropology* (New York: Cambridge UP, 2012) 274; "Of the Different Races of Human Beings (1775; 2nd edn 1777); "Determination of the Concept of a Human Race" (1785); and "On the Use of Teleological Principles in Philosophy," *Anthropology, History, and Education*. Guenther Zoeller, ed. Robert B. Louden (New York: Cambridge UP, 2007).

¹⁷ Kant (2012): 274–76; Kant (2007): 199; Bernasconi, Robert. "Who Invented the Concept of Race? Kant's Role in the Enlightenment Construction of Race," *Race*, ed. Robert Bernasconi (Oxford: Blackwell, 2001) 11–36.

¹⁸ Kant (2007): 199–200; Kant, "On the Different Races of Human Beings," pp. 84–85; Boxill, Bernard. "Racism and Kantian Teleology," *Oxford Handbook on the Philosophy of Race*, ed. Naomi Zack (New York: Oxford UP, 2016) 44–53, 46.

¹⁹ Kant (2007): 85.

²⁰ Kant (2007): 418–19.

²¹ Louden (2000): 94–95.

Although all human beings share the same cognitive apparatus as a reproductive species, he observes that, in fact, some racial groups are better prepared than others to *exercise* an innate capacity for legislative reason in the light of their sociocultural habits. He comments: “We find nations that do not appear to have progressed in the perfection of human nature, but have come to a standstill, while others, as in Europe, are always progressing.”²² He thus offers a natural history of the “Negro,” “Red,” and “Yellow” races to showcase their indispositions to enter and promote a civil condition.²³ Not only does Kant fail to condemn slavery and colonialism until the 1790s, but he cites proslavery texts and sensational travelogs to confirm what he believes are the setbacks of nonwhite racial identity for advancing practical freedom.²⁴ Kant’s philosophy of race is thus meant to illustrate the human species’ tendency to deviate from the requirements of justice inasmuch as certain racial groups appear unprepared to promote a civil condition.

In response, numerous Kant scholars have argued that Kant’s philosophy of race “contradicts” his moral and political universalism inasmuch as his formulations of moral personhood, rational practical agency, and public right “contradict” his philosophy of race. But it is not clear in what sense Kant’s ideal theory is incompatible with his racist nonideal theory about how legislative reason becomes practically effective in historical time. His defense of racial hierarchy is consistent with the contention that all human beings are rational practical agents to whom the universal principle of justice applies. Indeed, the accusation that people of color have failed to promote a civil condition presupposes that all human beings *should* promote it, that is, that they are rational practical agents who can act on the basis of reasons, if they choose to do so. And so, insisting that people of color are “persons” in Kant’s narrow sense of the term in moral, public, and cosmopolitan right does not altogether dissolve his racial hierarchy.²⁵ His racial hierarchy emerges in the light of his pseudoscientific survey of the historical development of legislative reason, capturing what he believes to be the racialized sociocultural reality of partial compliance around the globe. He appeals to diverse sociocultural expressions for “evidence” of the unsuccessful realization of

²² Kant (2012): 274.

²³ These are the four relevant races Kant lists in his (2012): 320–21; Kant (2007): 197.

²⁴ Kleingeld (2007): 574. Kant’s writing on racial biology prior to the 1790s suggests that slavery and colonialism provide a kind of “moral education,” as European religious and cultural traditions—and knack for economic exploitation—activate a dormant capacity for legislative reason.

²⁵ This is the route that most Kant scholars take to save Kant from himself, but it only establishes moral and juridical duties that forbid the political domination and use of persons as mere means; moral and public right does not require that civic fellows also view each other as fully actualized members of the human species. Cf. Allais (2016): 17–20.

practical freedom among peoples.²⁶ For him, uneven sociocultural development is a “natural,” apparently empirically-confirmable fact about the human species.²⁷ Therefore, the contention that persons of color possess full juridical status by virtue of an innate right to freedom does not by itself improve their inferior rank in his racial hierarchy.²⁸ In other words, while the late Kant comes to believe that no human beings ought to be dominated under a cosmopolitan constitution, he at the same time maintains that some racial groups have failed to actualize their full potential as members of the human species and as subjects of cosmopolitan right. As Robert Bernasconi aptly puts it, in his mature political thought, Kant continued to integrate “his racism into his philosophy of history in a particularly disturbing way.”²⁹

In two well-known essays, Pauline Kleingeld argues that Kant held racist views in his early period, but second thoughts led him to abandon them.³⁰ By the mid-1790s, with the publication of *Perpetual Peace*, *Metaphysics of Morals*, and *Anthropology from a Pragmatic Point of View*, Kant is no longer committed to racial hierarchy, as he comes to recognize the inconsistency between his moral universalism and his philosophy of race. He assigns full juridical status to all humans in cosmopolitan right and supports the self-determination of all peoples around the globe against European encroachment:

Instead of his earlier claims that Africans and Native Americans cannot govern themselves and that Europe will probably eventually legislate for them, Kant now envisions a world in which peoples on different continents establish peaceful relations with each other. He sketches a vision of a world in which ‘distant parts of the world can enter peaceably into relations with one another, which can

²⁶ By “ethnic,” I mean Kant’s characterization of a group with shared ancestry and sociocultural practices; he often also refers to “spirited” groups as a “people” or a “nation.”

²⁷ In the preface of the *Anthropology*, Kant asserts that pragmatic knowledge reflects “knowledge of the human being as citizen of the world, [but] knowledge of the races of human beings as products belonging to the play of nature is not yet counted as pragmatic knowledge of the world, but only as theoretical knowledge of the world” (p. 4). I take this often-quoted passage in defense of Kant’s moral rehabilitation to mean that practical freedom has not been fully actualized in the properly historical, that is, political sense among nonwhite racial groups. For it is *plausible* that Kant assumes that nonwhite racial groups lack “pragmatic knowledge” inasmuch as he takes it for granted that they remain “products belonging to the play of nature.” Many thanks to Pauline Kleingeld for pressing me on this point.

²⁸ One might opt to demonstrate the efficacy of global legislative reason—that people of color can, and do, satisfy the requirements of morality and justice—and point to historical evidence of complex civilizations, surveying millennia of rich intellectual, cultural, and political traditions. This kind of historical research is crucial, but, on my view, should be coupled with scrutiny of the habits of judgment that attribute to people of color a cultural backwardness in the first place, and assume whiteness is *the* universal marker of political modernity.

²⁹ Robert Bernasconi, “Kant’s Third Thoughts on Race,” *Reading Kant’s Geography*, ed. Stuart Eldon and Eduardo Mendieta (Albany: SUNY Press, 2011) 291–318, 307.

³⁰ Kleingeld (2007): 586–92; Kleingeld (2014): 52–58.

ultimately become publicly lawful and so finally bring the human race ever closer to a cosmopolitan constitution' (ZeF 8:358). He expresses the hope that all states of the world will form a union, 'for a lawful settlement of their disputes (by analogy with a universal state)' (ZeF 8:379), and he writes that this 'state of peoples' (*Völkerstaat*) would 'finally encompass all of the peoples of the earth' (ZeF 8:357). [...] All peoples of the earth are to strive towards a single union of states, which will settle their conflicts at a federal level, instead of Europe being mentioned as the one continent in charge.³¹

Kleingeld claims that Kant "now envisions a world in which peoples on different continents establish peaceful relations with each other." In assigning full juridical status to all humans, she posits that the cultural life forms of peoples "on other continents" should not be violated or interfered with by Europeans.³² "Hunting" and "farming" peoples who "want to plant orchards, and so forth" should be free to use their territories as they please.³³ For Europeans should not be considered the leaders of the world and all peoples are entitled to self-determination.

Note that Kleingeld concedes that Kant still "defends the normative ideal of the state as a republic, a self-legislative, self-determining union of citizens and he no longer argues that other races are incapable of achieving this."³⁴ In other words, the normative ideal of a republican constitutional state remains essential to Kant's mature theory of justice. In my view, his commitment to the normative ideal of the republican constitutional state presents three viable options for tackling the racial hierarchy in his mature political thought:

1. First, one can identify *ie ipso* the self-determination of peoples around the globe with the advance of constitutional republicanism, thereby locating all racial groups on the same plane, so to speak, of historical development. In other words, whatever activities a people might pursue, they are nevertheless advancing a civil condition at the same time.³⁵ However, there are two reasons one cannot plausibly attribute this position to the mature Kant. First, as detailed above, Kant makes numerous claims that strongly suggest a cultural chauvinism akin to what critical race theorists describe as cultural or imperial racism.³⁶ For "Kant accepts the imperialist's premise that the Europeans have a more advanced culture than the people they have conquered."³⁷

³¹ Kleingeld (2007): 58.

³² Ibid: 57.

³³ Ibid: 57. In the *Metaphysics of Morals* Kant asserts, "so long as they [hunting, pasturing, and farming peoples] keep within their boundaries, the way they want to live on their land is up to their own discretion" (p. 53).

³⁴ Kleingeld (2014): 58.

³⁵ In favor of this line, consider that Kant countenances that the force of nature prompts the involuntary historical development of peoples in spite of their worst selves, that is, "unsocial socialibility."

³⁶ Linda M. Alcoff, *Visible Identities* (New York: Oxford UP, 2006) 274–75.

³⁷ Allen W. Wood, *Kant's Ethical Thought* (New York: Cambridge UP, 1999) 299.

Moreover, Kant maintains that it is critical to point out the extent to which nations fail to live up to the idea of public right and thereby highlight the dramatic extent to which we as a species are not on the same “plane” of historical development. Second, Kant lacks a notion of a “genuinely alternative modernity” wherein various racial groups around the globe advance the public institutional conditions of right on their own terms.³⁸ Specifically, he does not imagine that the self-determination of racial groups can use models of modern statecraft that do not look to Europe for guidance and inspiration. In other words, in his nonideal theory of justice the universal principle of justice seems to entail, substantively, European public political culture. In Kant’s mature view, he simply grants that other peoples might achieve European institutional conditions as well. He does not entertain the possibility that political modernity, i.e., the self-determination of a people under the idea of public and cosmopolitan right, might take different paths around the globe and achieve *sui generis* institutional expressions of modern public political culture.³⁹ To make matters more complicated, in order for the idea of alternative modernities to dismantle a racially chauvinist conception of human historical development, one must affirm some conception of the pragmatic significance of race. By locating racial groups on the same plane of historical development, one presupposes that racial groups, in fact, exist with a shared practical or ‘spiritual’ identity oriented toward practical freedom. Otherwise one is supposed to assume that the fact that for Kant European public political culture substantively embodies practical freedom is an innocent coincidence. Note that Kleingeld *denies* the pragmatic significance of race altogether in Kant’s mature political thought. But if one denies the pragmatic significance of race, then, “racialized” interpretive practices cannot, then, count as instances of the self-determination of a people

³⁸ Hedrick (2008): 265.

³⁹ For example, though I cannot address the issue here, it is vital to consider whether the ideal of republican constitutionalism covers indigenous claims to territorial sovereignty and self-determination in the Americas and around the globe. The de-colonial movements in Africa, the Caribbean, and South America also present special interpretative difficulties for using European-style constitutional republicanism as a universal prescriptive model for advancing reciprocal relations of nondomination. I do not mean to suggest that it is impossible to address these difficult cases using a broadly Kantian framework that rethinks what, substantively, constitutional republicanism must amount to. However, it is crucial to underscore how much reconstructive philosophical work needs to be done, particularly with respect to Kant’s underwhelming nonideal theory, to showcase how the universal principle of right might actualize a cosmopolitan constitution around the globe.

in the advance of practical freedom. Rather, on Kleingeld's reading, in the cosmopolitan constitution, we advance as individual members of the human species, who come together to establish republics, rather than as historically developing "spirited" or "racialized" groups. In other words, on such a reading, pace the noted Africana philosophers Frank Kirkland and Sylvia Wynter, there can be no such thing as "modernity in Black."⁴⁰ Kleingeld favors instead a colorblind cosmopolitanism, in which shared racial identity has *no* influence on the exercise of political autonomy. She claims that the mature Kant comes to hold a merely "physiological" conception of race, denying its pragmatic relevance for the historical development of practical freedom.⁴¹

2. The second—in my view, undesirable—option is to retire constitutional republicanism as an unconditionally binding ideal for humanity. In any case, Kant *never* gives up the ideal. He maintains that to the extent that other nations deviate from it, then the people share an indisposition to enter a civil condition. He is mindful that most peoples, regardless of national, racial, or cultural origin, struggle to achieve a civil condition. However, inasmuch as he implicitly racializes the sociocultural activities of a people and their potential to participate in public right, his system retains a racial hierarchy.⁴² Indeed,

⁴⁰ See Frank M. Kirkland, "Modernity and Intellectual Life in Black," *The Philosophical Forum* 24 no. 1–3 (1993): 136–65; Frank M. Kirkland, "Kant on Race and Transition," *Routledge Companion to Philosophy of Race*, ed. Paul C. Taylor, Linda M. Alcoff, and Luvell Anderson (New York: Routledge, 2018) 28–42; Sylvia Wynter, "Is 'Development' a Purely Empirical Concept or also Teleological?: A Perspective from 'We the Underdeveloped,'" *Prospects for Recovery and Sustainable Development in Africa*, ed. A. Y. Yansané (Westport: Greenwood Press, 1996) 297–316.

⁴¹ Kleingeld (2014): 58, 64–65. For a cultural theory of race, see Chike Jeffers's essential article: "The Cultural Theory of Race: Yet Another Look at Du Bois's 'The Conservation of Races,'" *Ethics* 123 no. 3 (2013): 403–26. For an excellent recent account of the significance of history for shaping racial identity in W.E.B. Du Bois's influential philosophy of race, see Kimberly Ann Harris, "W.E.B. Du Bois's 'Conservation of Races': A Metaphilosophical Text," *Metaphilosophy* 50 no. 5 (2019): 670–87.

⁴² My point is not that Kant is and will always remain a racist simply by virtue of defending the principle of right—the notion of an innate right to freedom. Rather, I aim to underline why in his mature political thought it is plausible to link sociohistorical underdevelopment with the race concept and the so-called spirit of a people. In other words, contrary to Kleingeld claim, on my view, race retains a pragmatic significance in Kant's mature political thought, for he continues to refer to the "habits" that constitute a group's "second nature." In the *Anthropology* he surveys Europeans to assess their republican "spirit." He mentions but dismisses Slavic and Turkish peoples as not worth serious consideration, which strongly implies that he also dismisses the normative character of the rest of the globe, that is, nonwhite racial groups and other "failed" whites (pp. 221–22). Many thanks to Pauline Kleingeld for discussion of these points.

I submit, that the notion of “farming” and “hunting” peoples become racist dog whistles in his later work.⁴³ For example, in the *Anthropology*, he asserts that “savage” pastoral and hunting peoples are often not motivated by “the concept of freedom under moral laws, but [by] the mere sensible representation of outer freedom.”⁴⁴ His later condemnation of slavery and colonialism is, therefore, consistent with the supposition that there remain shortcomings in nonwhites’ historical development.⁴⁶ Indeed, he claims, “Of all ways of life, that of the hunter is undoubtedly most at odds with a civilised constitution.”⁴⁶

To be clear, Kleingeld rightly stresses that in his late period Kant assigns people of color a juridical status that poses a normative constraint on European behavior. Undoubtedly, Kant “explicitly extends the principles of right to humans on all continents, and in which he clearly draws the pertinent conclusions regarding European colonialism.”⁴⁸ In the very same passage that she cites to confirm the extension of the cosmopolitan constitution, however, Kant also pleads for Europeans not to “exploit the ignorance of the natives.”⁴⁸ He thus denigrates nonwhite a racial group, even as he grants that they, as equal subjects of a cosmopolitan constitution, should no longer endure extreme violence, enslavement, the expropriation of their lands and resources, and European colonial occupation. I therefore submit that the mature Kant raises the original repulsive question that had inspired his racist pragmatic anthropology: whether or not certain

⁴³ To be clear, Kant uses the adjective “*edel*” to describe pastoral lifestyles, which translates as “noble.” However, in the *Anthropology* he also likens pastoral peoples to newborn babies and savages, and so his comments about their “nobility” is more akin to Rousseau’s musing about the “noble savage” naked of modernity than respect for cultural differences (pp. 168–69). Strangely, Kleingeld downplays Kant’s repeated references to “civilized” European states: “[T]he statement is not necessarily comparative. It need not mean that states on other continents are not or cannot be civilized” (p. 56).

⁴⁴ Kant (2007): 169. Cf. Kant (1795): 102–03.

⁴⁵ Charles Mills conjectures that, for Kant, people of color are “subpersons” excluded from the ideal of right. Mills asserts that racial exclusion is not normatively salient in Kant’s (early and late) practical philosophy because Kant does not envision nonwhite races as partaking in modern statecraft in an interracial political effort. Charles W. Mills, *Black Rights/White Wrongs: The Critique of Racial Liberalism* (Oxford: Oxford UP, 2017); “Black Radical Kantianism,” *Res Philosophica* 95 no. 1 (2018): 1–33; *The Racial Contract* (Ithaca: Cornell UP, 1997) 11–19; “Kant’s *Untermenschen*,” *Race and Racism in Modern Philosophy*, ed. Andrew Valls (Ithaca: Cornell UP, 2005).

⁴⁶ Kant (1795): 110 Cf. Kant (1996): 172–73.

⁴⁷ Kleingeld (2014): 54.

⁴⁸ Kant (1996): 173.

- racial groups are fully “civilized,” such that they are prepared to advance right or would rather prefer to “plant orchards, and so forth.”
3. Finally, for the remainder of this essay, I develop a third option to tackle the racism in Kant’s mature political thought. I reconstruct a Kantian nonideal theory of justice, that is, I model racial justice reform for profoundly nonideal polities such as the U.S. Kant’s racist pragmatic anthropology attempts to explain partial compliance to the requirements of justice by positing a civil indisposition in people of color and a civil disposition in whites. *But neither group actually possesses these characterological dispositions.* The relevant inconsistency in Kant’s practical philosophy is, therefore, not between his ideal theory and his philosophy of race. One can affirm the moral and juridical equality of racial groups, as Kant does in his late period, while maintaining that, on the whole, their historical development does not meet a normative threshold of a fully “civilized” people. Rather, I show that the relevant inconsistency is between actual modern racial realities and his inaccurate characterization of racial realities in his nonideal theory of justice, which fails to represent the true nature of partial compliance in the world. Namely, I submit that Kant posits a civil disposition in a racial group that *in reality* systematically dominates other racial groups. He thereby ignores the obstacle that white racism poses to the historical development of justice. He posits, instead, the ostensible “backwardness” of nonwhite races to explain why global progress has stalled. Consequently, in my view, Kant’s nonideal theory of justice neglects to redress white civil indisposition toward vulnerable racial groups as an obstacle to progress.

In pursuing this option, rather than scrutinize the efficacy of legislative reason in nonwhite racial groups around the world, I seek to dispel the illusion that white-controlled polities in Europe and North America have substantively actualized the universal principle of right in the first place and have intimated a republican constitutionalism at all.⁴⁹ In pursuing this line of interpretation I highlight the obstacle that *white racism* continues to pose for the advance of republican ideals in self-described constitutional republics with a longstanding history of incivility toward people of color.

⁴⁹ To be sure, I believe this option is consistent with Kleingeld’s defense of public and cosmopolitan right. However, I seek to show more than that Kant became a critic of slavery and colonialism to demonstrate his value as an anti-racist critic.

III. KANT ON CITIZENSHIP, PUBLICITY, AND REFORM

Kant's political thought has promise—and limits—for combatting the weakness of the public sphere in modern societies that tolerate racial domination, sometimes for hundreds of years, as in the case of the U.S., which gave extensive constitutional protections for the ownership of black people by white people and attempted to rationalize such protections as consistent with the liberal values of freedom and equality. Kant's mature political philosophy provides at least two significant normative resources for reforming imperfect constitutional states: the "pure" ideal of active citizenship and the *a priori* principle of publicity.⁵⁰ These are interdependent concepts of his "ideal theory" of justice: publicity presupposes a citizenry who subject the status quo to public scrutiny. As Elizabeth Ellis notes, publicity is "the mechanism of progress" in Kant's political philosophy, and it defines his conception of the purpose of politics as an ongoing attempt to make the transcendental ideal of public right an empirical reality in a particular polity.⁵¹ The state thus undergoes "an infinite process of gradual approximation" to right.⁵² However, the manner in which the *a priori* principle of publicity—as a shared activity of a plurality of citizens—achieves reciprocal relations of nondomination is underdeveloped in Kant's thought. In this section, I argue that the ideal of active citizenship for all should guide the public scrutiny of the status quo. In the next section, I further supplement Kant's model of reform with the "impure" ideal of interracial civic fellowship in modern states that historically support racial domination.

A. *The Ideal of Active Citizenship*

In Part I of the *Metaphysics of Morals*, Kant argues that the pure ideal of citizenship consists of three "essential" attributes, that of freedom, equality, and independence.⁵³ He defines citizens as a plurality of free, equal, and independent persons who have a moral right to (a) consent to the laws that govern them, (b) establish the civil equality of persons as equal subjects before the law, such that among the people no one has "any superior with the moral capacity to bind [one] as a matter of right in a way that [one] could not in turn bind the other," and (c)

⁵⁰ Kant provides several different formulations of publicity. I focus on his definition of the *a priori* principle of publicity in *Perpetual Peace* because it offers the most systematic account of the function of public reason in his theory of justice.

⁵¹ Elizabeth Ellis, *Kant's Politics: Provisional Theory for an Uncertain World* (New Haven: Yale UP, 2005) 184; Kant, *Perpetual Peace* in *Kant: Political Writings* (Cambridge: Cambridge UP, 1991) 130.

⁵² Ellis (2005): 151; Kant (1795): 130.

⁵³ Kant (1996): 91.

achieve civil independence through one's "rights and powers as a member of a commonwealth acting from [one's] own choice in a community with others."⁵⁴ Civil independence (c) makes a person an active citizen by giving them a public voice in republican politics. Active citizens together propose laws and public policies whose legitimacy their collective judgment authorizes. They acquire a "civil personality" through the ballot and the co-legislation of the general will as *civic equals*.⁵⁵ While all persons are "naturally" moral equals by virtue of our shared rational humanity, civil independence alone indicates that a person has achieved public recognition as a free and equal citizen to direct modern statecraft. As a consequence, their civic fellows recognize their moral right to scrutinize and restructure public institutional arrangements on the basis of their determinate judgment of what justice requires.

Kant distinguishes the pure ideal of active citizenship from passive citizenship. Unlike active citizens, passive citizens lack civil independence because they are forced to rely on others for subsistence in a free market society. They live in relations of dependence as private civilians. Women, people of color, day laborers, domestic servants, and anyone who lacks the means for economic self-sufficiency are passive citizens; and, for Kant, their dependence on others warrants their political exclusion and civic inequality.⁵⁶ He does not believe that relations of private dependence delegitimize a republican state. Instead, he argues that passive citizenship is *consistent* with republican liberalism, so long as a person's "natural rights" are not violated. One can therefore have juridical recognition as a "free" and "equal" subject before the law but remain a mere associate, rather than an active and independent citizen, of the polity.⁵⁷ Possessing full juridical status is consistent with the civic inequality of persons as lawmaking citizens and participants in the public sphere. Kant adds that in a legitimate polity second-class citizens can "work" themselves into active citizens, so that gradual reforms achieve the pure ideal of active citizenship for all.⁵⁸ Unfortunately, he provides little insight to explain what "working up" into active citizenship entails. Specifically, he fails to consider whether those who already enjoy active citizenship must cultivate habits of citizenship and judgment to scrutinize prevailing private relations of dependence. Instead, he claims that by "working themselves into a rightful condition," second-class citizens somehow *extract* the public

⁵⁴ Ibid: 91.

⁵⁵ Ibid: 91.

⁵⁶ Ibid: 92. Kant worries that economic dependence makes a person a mouthpiece for the private interests of their employers, thereby particularizing the general will.

⁵⁷ Kant assumes that a person's innate right to freedom can secure certain "basic" legal protections, even if she lacks civil independence in the public sphere. In a legitimate state, for Kant, civic inequality in the polity is *consistent* with the *moral equality* of persons.

⁵⁸ Kant (1996): 92.

recognition of their moral right to civil independence from dominant members of the public sphere who already enjoy civil independence.⁵⁹

B. Centering the Ideal of Active Citizenship in Kant's Model of Reform

In the Doctrine of Right, Kant suggests a model of reform that, alternatively, posits an obligation to assist our civic fellows who are forced to live in relations of private dependence and to recognize their rightful claims for public recognition as our civic equals. In his mature political writings, the ideal of free, equal, and independent citizenship emerges as a standard for the proper use of public reason and as a guide for the reform of imperfect states. It obligates citizens to increasingly come to recognize and elevate each other as free, equal, and independent citizens; as a result of this sort of ongoing political practice, the universal principle of right is realized.⁶⁰ The creation of rightful conditions is, then, the *outcome* of reshaping habits of political judgment to increasingly promote the ideal of active citizenship for all. The free use of public reason or freedom of speech is thus not the “mere absence of constraint” and should not “amount to unconstrained babble.”⁶¹ In its public (as in its private) dimension, practical reason imposes *constraints* or *standards* for its proper use. While Kant does not explicitly state that the ideal of citizenship should be taken as a standard for public reasoning—nor does he restrict other ways of exercising freedom of speech—there is ample evidence in *The Metaphysics of Morals* and *Perpetual Peace* that it is indispensable for actualizing rightful conditions (i.e., reciprocal relations of nondomination) from the first-person, agential perspective of republican citizens fighting for progressive reforms.

First, in *Perpetual Peace* (1795), Kant presents publicity as an *a priori* “transcendental” principle of politics that provides a “formal constraint” on public reason: “All actions relating to the right of other human beings are wrong if their maxim is not compatible with their being made public.”⁶² He adds that the principle of publicity presupposes the existence of a lawful state with a viable public

⁵⁹ Varden argues that relations of dependence require the state to pass anti-poverty legislation. But in order for such legislation to pass, members of the public at large must first *judge that adult persons, especially women and people of color, who are forced to live in relations of private dependence is inconsistent with the idea of public right*. Otherwise, there would be no political will to pass any such legislation. Helga Varden, “Self-Governance and Reform in Kant’s Liberal Republicanism: Ideal and Nonideal Theory in Kant’s Doctrine of Right,” *Doispontos* 12 no. 2 (2016): 39–70.

⁶⁰ Kant posits that the duty of rightful honor (*honeste vive*) obligates citizens to assert one’s worth as a human being in relation to others and to speak out about one’s vulnerability to domination. My concern, however, is not on the failure of the oppressed to speak up, but on the public’s indifference and hostility to them.

⁶¹ Onora O’Neill, *Constructing Authorities: Reason, Politics, and Interpretation in Kant’s Philosophy* (New York: Cambridge UP, 2015) 63.

⁶² Kant (1795): 125–26.

sphere, where any maxim can be “made public.” Outside of a lawful state, however, claims in the public sphere assert private interests.⁶³ Free speech or freedom of the pen alone is, therefore, *insufficient* to advance reforms. In an illegitimate state, those with “decisive supremacy” do not need to conceal their maxims because they have a monopoly on political power—they can say whatever they want. They refuse to recognize others as a legitimate source of political obligation and in doing so undermine the capacity for all to be self-governing (*sui generis*) masters of their own lives. In a lawful state, however, public servants, lawmakers, and members of the polity must be prepared to recognize the claims of others as posing a legitimate normative constraint on institutional arrangements. The normative ideal of a lawful state thus entails the gradual realization of the ideal of active citizenship for all. Moreover, in a state where the people cannot participate in the public sphere, there can be no way to tell whether a maxim is incompatible with it being made public, as no one can voice grievances or objections. A lawful state must have a public sphere increasingly controlled by active citizens to determine whether or not a proposed claim has injurious or exclusionary effects. In a state without a viable public sphere that makes it possible for all to (eventually) achieve the ideal of active citizenship, publicity cannot advance justice and “all its reasonings are unwise and veiled injustice.”⁶⁴

Second, actual members of imperfect states are ultimately responsible for implementing the requirements of justice, as they learn to co-legislate principles of governance as civic equals and to impose political changes from the ground up. Kant’s formulation of the principle of publicity appeals to the republican ideal of self-government: the judgment of ordinary citizens must establish and authorize the laws and public policies that will govern them. In order for their efforts to result in reciprocal relations of nondomination, an imperfect people must learn to take the ideal of citizenship *for all* as a crucial constraint on their political judgment.⁶⁵ This is important because, in reality, the state itself—and private civilians—often *cause* and *condone* relations of dependence.⁶⁶ The pure ideal of active citizenship obligates citizens to recognize and advance the civil independence of all by directing their attention to the experiences of systematic dependence shared by vulnerable social groups. To advance just institutional arrangements and fair

⁶³ Ibid: 129.

⁶⁴ Ibid: 129.

⁶⁵ Cf. Sarah Holtman, “Kant, Justice, and Civic Fellowship,” *Politics and Teleology in Kant*, ed. P. Formosa, A. Goldman, and T. Patrone (Cardiff: U of Wales P, 2014) 121.

⁶⁶ See also Jacob Weinrib, “Kant on Citizenship and Universal Independence,” *Australian Journal of Legal Philosophy* 33 (2008): 1–25; Ariel Zylberman, “The Public Form of Law: Kant on the Second Personal Constitution of Freedom,” *Kantian Review* 21 no. 1 (2016): 101–26; Elizabeth Ellis, “Citizenship and Property Rights: A New Look at Social Contract Theory,” *The Journal of Politics* 68 no. 3 (2006): 544–55.

terms of social cooperation, a people must discern, in detail, existent social inequalities that plague their polity.

If one is accustomed to monopolizing political power or benefits from the social and economic powerlessness of others, accepting—much less, promoting!—structural reforms will be difficult without an accompanying shift in attitude and habits of judgment. Kant neglects to consider that if a vulnerable social group attempts to advocate for their own independence, they have little chance that their efforts will succeed without an accompanying attitudinal shift in their civic fellows. It seems more likely that a public that views civil dependence as consistent with the natural equality of persons, the struggle for structural reforms can *strengthen* the public’s contempt and indifference to their plight. This possibility is especially troubling if the state is the cause of asymmetrical relations of dependence. Existent relations of dependence must become a salient public concern. The failure to understand and confront them is a distinct failure of the public use of reason. Unfortunately, Kant’s mature theory of reform does not stress existent social inequalities to guide the proper use of public reason.

IV. CIVIC FELLOWSHIP AND THE VIRTUES OF JUSTICE: BUILDING KANT’S *RECHTSSTAAT* IN THE U.S.

As part of a nonideal theory of justice, the ideal of interracial civic fellowship not only addresses the reality of partial compliance, highlighting the obstacle that habits of racist judgment pose for the advance of justice. But it also provides a political solution to the problem of racial exclusion by cultivating habits of political judgment. The ideal of interracial civic fellowship develops a “habit of attention” based on “good will” that is oriented toward historically excluded racial groups.⁶⁷ Kant’s original formulations of right, citizenship, and publicity do not demand such a determinate form of public engagement to counteract racist incivility. In states that condone racial domination, the weakness of the public sphere often reflects the decline—or total absence—of interracial civic fellowship in the public sphere.⁶⁸ In such circumstances, at least in the U.S. communities of color—and black communities in particular—are not viewed as a legitimate source of political obligation for public institutions; racist public policies and laws are, then, prone to acquire a perceived legitimacy in a nonideal public sphere. In states with significant structural inequalities, citizens must acquire virtues that refine their

⁶⁷ Danielle S. Allen, *Talking to Strangers: Anxieties of Citizenship since Brown v. Board of Education* (Chicago: The U of Chicago P, 2004) 134–37.

⁶⁸ O’Neill (1996): 187; Ellis (2005): 12.

capacity to evaluate the claims of others with whom they are historically unaccustomed to share political power as civic equals.⁶⁹

The capacity to listen to others and to judge each other's claims fairly—with an attitude of civility and respect—Onora O'Neill identifies as the “virtues of justice,” which “includes [the commitment to] justice itself, as well as varied forms of fairness, of [...] respect for others, of fidelity and probity, and of truthfulness and honesty” in the public sphere.⁷⁰ The virtues of justice encompass a range of excellences that broadly fall under the ideal of “civic fellowship.”⁷¹ They are non-coercible ethical duties that refine one's capacity for political judgment to scrutinize legislation in the light of its morally injurious and exclusionary effects. They are indispensable for actualizing rightful conditions that counteract the partiality of the general will in imperfect polities. Expressed across racial lines, the virtues of justices can help refound an increasingly just, unified, and inclusive polity.⁷²

The virtues of justice that express interracial civic fellowship compel the public to confront, in a judicious and thoughtful manner, the experience of racial domination by vulnerable racial groups and to recognize people of color as equally entitled to share and direct political power.⁷³ Consider some key virtues of justice that are characteristic of interracial civic fellowship and might advance racial justice reform. First, speech and responsive public engagement are virtues of racial justice. One *talks* to one's fellows and is *responsive* to their claims, especially those concerning wrongdoing, if one is invested in maintaining a cooperative relationship with them as a civic equal. If citizens remain “locked up” in themselves, the prospect of justice dims, as no one would bother speaking to strangers to voice their misgivings.⁷⁴ In a state that historically supports racial exclusion, the project

⁶⁹ Moreover, even as ostensibly “equal” juridical subjects, without the accompanying ideal of interracial civic fellowship, whites can maintain a disposition of sociocultural superiority over their non-white civic fellows and thereby remain unlikely to view racial injustice as an object of public concern.

⁷⁰ O'Neill (1996): 187. O'Neill adds: “Since institutions are never perfect, the virtues of justice are never redundant: if institutions are not knave-proof, it helps not to have too many knaves around” (p. 187).

⁷¹ See Sarah Holtman, “Civility and Hospitality: Justice and Social Grace in Trying Times,” *Kantian Review* 6 (2002): 85–108; Holtman (2014): 120–21. See also Allen (2004): 119–39.

⁷² Cf. Loudon (2000): 160. My discussion focuses on domestic justice, with an eye on the U.S. The ideal of interracial civic fellowship is not only compatible with cosmopolitan right, but domestic right must also include cosmopolitan right in a comprehensive Kantian theory of justice. See Pauline Kleingeld, “Kantian Patriotism,” *Philosophy & Public Affairs* 29 no. 4 (2000): 313–41.

⁷³ A distinct set of virtues cultivates ties of black political solidarity to counteract racial domination. See Rogers Melvin L. “Race, Domination, and Republicanism,” *Difference without Domination: On Justice and Democracy in Conditions of Domination*, ed. D. Allen and R. Somanathan (Chicago: U of Chicago P, 2020) 15–16; Tommie Shelby, *We Who Are Dark: The Philosophical Foundations of Black Solidarity* (Cambridge: Harvard UP, 2007) 201–58.

⁷⁴ Kant (1996): 217.

of reform creates a distinctive challenge for white citizens who hold a monopoly on power and illicit privileges: they must learn to *recognize* the validity of the claims that persons of color make and give up their excess of political power and resources for the sake of justice. That is, they must learn to *hear* the claims of others; and, if a claim is valid, they must be prepared to respond appropriately.⁷⁵ Namely, they must be prepared to *concede* the validity of a claim in an interracial cooperative effort to advance rights and redistribute resources. The virtue of responsive engagement, especially in white communities, is indispensable to mitigate the potential partiality of the general will to implement the requirements of justice across the color-line.

Unfortunately, those who have a monopoly on political power are often precisely those who create arbitrary restrictions on its access by vulnerable racial groups and deceive themselves into believing that such restrictions are consistent with the principles of republican governance.⁷⁶ The principle of publicity is the mechanism of progress precisely because it challenges habits of partial reasoning that discount the claims of others for arbitrary reasons, although the dominant (white) citizenry often lack the moral self-awareness that their partial judgment is, well, partial. Instead, it is often for those historically excluded from the public sphere that the partiality of the general will is normatively salient. The virtue of responsive engagement is thus necessary to counteract this phenomenon, especially among the white citizenry.

In communities of color, the responsive engagement of others can build *trust* that one's claims will be heard and that one's (white) civic fellows will seriously consider public measures to address an injustice. In a state that historically supports racial domination, the pursuit of reforms creates a distinctive challenge for black citizens and other historically excluded racial groups. For, speaking to whites can seem like—and often is—a waste of time. Besides outright murder, the U.S. routinely intimidates, deports, exiles, and imprisons people of color. Oftentimes, their claims are met with blank indifference. It can be foolhardy, at best, and a threat to self-respect and even one's very life, at worst, to trust anyone who has treated you this way for a long time or to expect them to change. But were white citizens to develop the virtue of responsive engagement—and become prepared to sacrifice their self-interest and illicit economic and political power for the sake of justice—trust can be slowly earned and restored across racial lines. However, the advance of right requires the public to welcome the judgment and experiences of communities of color. Racist laws and public

⁷⁵ Contrast the virtue of responsive engagement with Ripstein's contention that "a condition of public right includes your right to speak in your own name, including your right to address not only those near you but the public. *Others do not need to pay attention to you*, but they must be the ones who decide for themselves whether to pay attention." in *Force and Freedom*, p. 293; emphasis added.

⁷⁶ Cf. Allais (2017): 28–30.

policy will only lose a perceived legitimacy when there is widespread acceptance of the validity of the black and brown experience of the basic structure of modern U.S. society. With the virtue of responsiveness guiding the public use of reason, the success of reforms that target structural racism is more likely. Indeed, the requirements of justice more broadly can be better implemented as existent social inequalities become normative salient in the public sphere.

Additionally, the virtue of truthfulness encourages public reasoning in light of accurate natural scientific, social scientific, and historical facts.⁷⁷ It narrows the scope of reasonable disagreement by casting doubt on claims that are not supported by evidence or common experience. As Jennifer Uleman argues, relevant facts about the modern human condition “develop guidelines for protecting external freedom in common, determinate situations.”⁷⁸ The polity must, then, confront the centrality of the historical and contemporary reality of racial domination. Assume that one sincerely aims to realize the innate right to freedom for all, if one does not believe that structural racism is a fact about the world and lacks a basic understanding of its (common and longstanding) experience in communities of color, then, one is unlikely to focus on the problem of racial exclusion to advance rightful conditions. Members of the public, however, are obligated to confront the shared experience of exclusion and dependence to advance the requirements of justice. In order to do this with increasing felicity, as interracial civic fellows, citizens must understand the distinct forms that racial exclusion takes in their polity. In the spirit of truthfulness, then, citizens must develop some basic moral literacy concerning, at the very least, *who* is subject to racist exclusion and *who* benefits from it. In a racially inegalitarian society, the virtue of truthfulness compels citizens to develop a sensitivity to patterns of racial exclusion by taking care to evaluate the claims of historically excluded racial groups with good will. At the very least, one must accept that in one’s particular polity there are racial groups who have been subject to historical exclusion in the first place.

Of course, one can acknowledge the history of racial injustice but believe that racial exclusion is a thing of the past. But the virtue of truthfulness that characterizes the ideal of interracial civic fellowship encourages citizens to confront their own inclination for self-deception with respect to racial matters. The purpose of undertaking a judicious examination of habits of judgment is to reveal just how such patterns continue to shape habits of judgment today that either in conception or in effect support arbitrary restrictions on access to the ballot, basic opportunities, and the fair distribute of material resources. For historical exclusion on the arbitrary basis of membership in a racial group is often what renders a person

⁷⁷ Cf. Jennifer K. Uleman, “External Freedom in Kant’s *Rechtslehre*: Political, Metaphysical,” *Philosophy and Phenomenological Research* 68 no. 3 (2004): 578–601, 596.

⁷⁸ Uleman (2004): 597.

vulnerable to racial exclusion in the present. To counteract the potential partiality of the general will, all citizens must seriously consider and foreground, with good will, the black, Latinx, and indigenous experience of racial exclusion in the Americas—and this task remains perhaps the greatest political challenge in the U.S. And so, the virtues of justice, especially that of responsive engagement and truthfulness, ensure that exist racial inequalities pose a meaningful constraint on public reason.

One might object that for Kant the ideal of interracial civic fellowship is not a legitimate constraint on public reason. His theory of justice prohibits the coercion of the “ground determining choice.”⁷⁹ The idea of public right constrains the spatiotemporal expression of choice, which can only be legitimately constrained by another’s power of choice. A lawful state must recognize the right of all individuals to the free determination and pursuit of their ends, so long as their actions are consistent with all others’ exercising the same freedom of choice. It authorizes the use of coercion to remove hindrances to the spatiotemporal exercise of choice in order to maintain rightful “external” relations of freedom. But it cannot compromise persons’ “internal” freedom to adopt ends—even those ends that lack moral worth. Kant thus writes: “anyone can be free so long as I do not impair his freedom by my external action, even though I am quite indifferent to his freedom or would like in my heart to infringe upon it.”⁸⁰ Because one has a perfect—or a narrow juridical—duty to obey the law, the state can use external incentives to ensure compliance, coercing the “external” performance of actions that accord with right. Moral life, on the contrary, depends on the autonomy of a self-legislating will, that is, on the “internal determination of the will.”⁸¹ Coercion destroys the moral worth of action. If one lacks the intention to pursue a particular moral end, one cannot be said to have acted for the sake of moral law.

Although intentions cannot be coerced, republican politics presupposes that one shares a commitment with strangers to advance republican ideals and to participate in a cooperative effort to perfect public institutions. Sara Holtman thus distinguishes between our stance as subjects to laws and as agents who make laws and shape public institutions:

there [is] an important difference between our stance as persons subject to laws and as lawmakers on the Kantian model. As subjects, we cannot be held to the requirement that we internalise, or act from, standards of justice on particular occasions. As lawmakers, though, it would seem that we must ensure that the standards of justice we recognise or enact indeed are moral laws, pure practical laws of reason that obligate those to whom they properly apply. They must be laws subjects could internalise consistent with their nature as moral beings [...]. Although day-to-day compliance with

⁷⁹ Kant (1996): 13.

⁸⁰ *Ibid.*: 24.

⁸¹ *Ibid.*: 145.

justice demands no moral motivation, an internalisation and commitment to the demands of justice may be necessary if we are successfully to shape and extend them as legislators [...] or, indeed, as individuals deciding what actions to undertake. In sum, Kant's discussions of the concept of justice and the relationship between justice and freedom seem to reserve a place for civic fellowship in the realms of lawmaking and interpretation.⁸²

Thus, "in the realms of lawmaking and interpretation," we ought to, as Kant puts it, "rise beyond mere obedience to formal law."⁸³ This means that citizens judge for themselves what sorts of formal constraints on the public use of reason facilitate the emergence of rightful conditions, given the distinct shortcomings of our political reality. To be sure, political judgment based on civic fellowship, like the principle of publicity itself, is not coercible.⁸⁴ A state that attempts to stipulate, manipulate, or coerce the terms on which citizens judge it (or each other) destroys the moral worth—and effective normative force—of public judgment. There must be, therefore, a wide latitude for citizens to judge how best to advance their ties of civic fellowship and advance reforms, judging for themselves when and which changes to propose and what the ideal of civic fellowship should warrant in their interaction with others.⁸⁵

V. CONCLUSION

In this article, I show why it is plausible that Kant's mature political thought retains a racist dimension and what Kant scholars can do about it. To wit, I expand Kant's model of reform into a theory of racial justice reform for modern states that historically support racial exclusion, defending the pure principles of publicity and active citizenship as the mechanism of progress. I supplement Kant's mature theory of reform with the impure ideal of interracial civic fellowship to guide the public use of reason in nonideal public spheres that historically condone racial exclusion. While no procedure for public deliberation guarantees morally perfect judgment, the ideal of interracial civic fellowship prepares citizens to share political power with those with whom they are historically unaccustomed to do so. The ideal of interracial civic fellowship reconstitutes the public sphere across racial lines to create an increasingly just and inclusive polity. The virtues of justice of responsiveness and truthfulness, especially among white citizenry in racially inequalitarian states, are necessary to reshape dominant habits of judgment to implement the requirements of justice. The public at large must learn to counteract

⁸² Holtman (2014): 116.

⁸³ Kant (1991): 65.

⁸⁴ Kant asserts that the principle of publicity is both "ethical" (i.e., pertaining to a theory of virtue) and "juridical" (i.e., affecting the rights of man) (1795): 126.

⁸⁵ Kant (1996): 153.

the partiality of its reasoning with respect to historically excluded groups and to develop basic moral literacy about racial matters. If one endures the longstanding misrecognition of one's rights and privileges as a citizen, and historically lacks access to political power, then, one is more likely (to continue) to be subjected to arbitrary interference by others for whom one's innate right to freedom is not considered to be a legitimate constraint on public right. As a consequence, one is restricted access to the ballot, basic opportunities, and material resources. The ideal of interracial civic fellowship aims to remedy structural racism and the ever-widening racial inequalities in wealth, income, and basic opportunity.

By way of concluding, I would like to address two possible objections. First, one might object that my argument overlooks Kant's own rejection of the relevance of history in a theory of justice. Kant claims not only that the historical conditions under which modern states develop do not impact their legitimate right to govern.⁸⁶ But he also objects that preoccupation with the historical conditions of the emergence of modern states threatens their public legislative authority. The violent and unseemly reality of their historical formation would inspire in the people an anarchistic rejection of public authority that plunges them into the state of nature. Moreover, Kant argues against developing a "moral culture" out of a "historical culture," for "the culture of memory [...] tries in vain to deduce morality from it."⁸⁷ His concern is that history is an inadequate standard for the formation of political judgment. To appeal to it risks making morality "appropriate to culture," rather than promoting the moral education of the species by making culture conform to morality.⁸⁸ To be sure, Kant's caution against assigning weight to history reflects his fear that the public would perceive history as weakening universal standards of judgment. My proposal, instead, demonstrates that the formal demands of "ideal theory" justice and lawmaking under the conditions of strict compliance require a nonideal theory for the determinate reorientation of public reason. A nonideal theory of justice must, then, bring members of the public to understand the historical formation of social inequalities and to focus on the shared experience of racial exclusion, as it is communicated by civic fellows. My proposal thus educates public moral perception about the normative salience of race and racism in public reason. What is more, the issues of the unconditional right of a state to govern and that of its systematic failure to govern well in reality are distinct. The political project of reform presupposes that one has a moral right to subject the status quo to public scrutiny without either rejecting the state's legitimate right to rule or tolerating unjust laws. This is the balance that the ongoing task of republican politics must strike through the cultivation of habits of political

⁸⁶ Ibid: 95.

⁸⁷ Kant (2007): 423.

⁸⁸ Ibid: 423.

judgment. The ideal of interracial civic fellowship is thus meant to develop—not overthrow—public legislative authority as part of a nonideal theory of justice.

Second, one might object that my proposal, in focusing on the problem of white racism, aims to instill virtues into whites and white-dominated public institutions to change dominant habits of judgment. I accept the objection and believe it is a strength of my view. For too long whites in the U.S. have assumed that the problem of race and racism is a problem for communities of color to solve. Racial justice reform, however, requires that all persons take responsibility for an imperfect world and work to develop a basic moral illiteracy about racial realities. As it stands, whites disproportionately misunderstand the nature of race, racism, and resultant structural inequalities.⁸⁹ As a consequence, in the history of U.S. racial justice movements, communities of color have often stood alone against hostile white mobs as the sole voice of reason.

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⁸⁹ For an excellent philosophical discussion of “white” habits of judgment, see Linda M. Alcoff, *The Future of Whiteness* (Cambridge: Polity, 2015).