

## The Ends of Politics: Kant on Sovereignty, Civil Disobedience and Cosmopolitanism<sup>1</sup>

Paul Formosa

A focus on the presence of unjustified coercion is one of the central normative concerns of Kant's entire practical philosophy, from the ethical to the cosmopolitical. This focus is intimately interconnected with Kant's account of sovereignty, since only the sovereign can justifiably coerce others unconditionally. For Kant, the sovereign is she who has the rightful authority to legislate laws and who is subject only to the laws that she gives herself. In the moral realm (or kingdom) of ends, each citizen is both a member of that realm and an equal co-sovereign of its categorically binding laws (GMS, 4:433-34, Reath 2006, p. 5). As such, each citizen is '*subject* to the moral law' only insofar as she is 'at the same time *lawgiving* with respect to it and only for that reason subordinated to it' (GMS, 4:440). But when Kant comes to think about sovereignty in the political sphere, a number of tensions emerge. These tensions emerge because a doctrine of absolutist *popular* sovereignty, according to which the people are the ultimate holders of sovereignty, seems to be implied by Kant's underlying normative theory. However, Kant also makes numerous explicit statements which seem to imply a doctrine of absolutist *ruler* sovereignty, according to which the ruler is the ultimate holder of sovereignty. And this seems inconsistent. However, despite the *appearance* of inconsistency I shall argue, by exploring the issues of civil disobedience and cosmopolitan peace, that Kant consistently defends an account of absolutist popular sovereignty which is compatible with his core normative commitments. Exploring these issues will also illuminate Kant's political teleology by showing us the political *ends* towards which we should work and the *means* by which we should pursue them.

## 1. The Popular Basis of Sovereignty

Coercion is a key focus of both Kant's ethical and political theories. As Kant understands it, the core question for the ethical community is how to foster virtue without coercion, whereas the core question for the political community is how to develop a coercive system of right that will protect its members' external freedom (RGV, 6:95). This coercive system of right is one that all participants could freely legislate for themselves since it equally protects the right of each citizen to make independent use of his or her power of choice in a way that is consistent with an identical right for all others (TP, 8:289-90, Ripstein 2004). This system involves 'a fully reciprocal use of coercion that is consistent with everyone's freedom in accordance with universal laws' (MS, 6:232). In this way, each citizen indirectly coerces every other citizen in a reciprocal manner through universal public laws which each citizen can regard him or herself as freely self-legislating and which are only binding because of this. Citizens are thereby subject only to laws that each could regard him or herself as self-legislating.

This ideal union of citizens, subject only to their own laws, implies that a 'civil condition, regarded merely as a rightful condition, is based *a priori* on' the principles of freedom, equality and independence (TP, 8:290-97, MS, 6:314). Freedom means here, not being paternalistically forced to obey laws or adopt ends other than those to which one could give one's free consent, even if only by directly consenting to a democratic constitution and indirectly to the laws that arise from, and are consistent with, such a union (TP, 8:296-97). Equality means here, not recognising the superiority of any member of the civil community such that she could bind me in a way that I could not in turn bind her. This expresses the requirement that in a rightful civil condition laws must be universal and coercion must be

reciprocal. Finally, independence means here, having one's rights and powers guaranteed by the civil community and, in particular, the right as a *citizen* to be a free and equal 'co-legislator' of public laws (MS, 6:314, TP, 8:294).<sup>2</sup> Independence requires the protection of each citizen's rights and the fostering of each citizen's capabilities to contribute to the practices of self-government.<sup>3</sup> From these three principles, which are defining of a civil condition, it follows that the 'mass of people joining in a union must itself be the lawgiver (of constitutional law)' (RGV, 6:98). In other words: 'legislative authority can belong only to the [general] united will of the people' (MS, 6:313-14),<sup>4</sup> where the general will is understood to be composed of what all could freely consent to as free, equal, and independent co-legislators.

This conceptualisation of a civil condition implies that 'the sole constitution ... on which all rightful legislation of a people must be based – is a *republican* constitution' (ZeF, 8:350). What makes a 'form of government' republican is that it is '*representative*' of the general will of the people at least in spirit, if not also in form (ZeF, 8:352, MS, 6:341). In order to represent the people's general will a republic requires three authorities: a legislator to make laws, an executive to enforce those laws, and a judiciary to judge what belongs to each in accordance with those laws. In line with this Kant understands the '*sovereign authority* (sovereignty)' to reside in the 'person of the legislator' insofar as she represents the general will, 'the *executive authority*' to reside in 'the person of the ruler (in conformity to law)', and 'the *judicial authority*' to reside in 'the person of the judge' (MS, 6:313). Further, the executive must possess sufficient power to enforce the law (at least well enough) if a civil condition is to exist (ZeF, 8:382-83).

In assigning sovereignty *exclusively* to the legislative branch, insofar as it represents the people's general will, Kant emphasises the primacy of the legislative functions of a state and the rule of law. This sovereign primacy is expressed in the way that both the executive (who enforces and administers it) and the judiciary (who interprets it) are dependent on the laws set by the legislator. This in turn requires that 'a people's sovereign (legislator)' not 'also be its *ruler*' (MS, 6:317). This separation of powers is required in order to ensure that the ruler's will is bound by laws. Without this separation there is no rule of law, but only rule by executive 'ordinances or *decrees* (not laws)' (MS, 6:316). In this case there is no distinction between the law and the will of the executive. This amounts to at least despotism in form. It also amounts to despotism in spirit when the ruler 'handles the public will as his private will' (ZeF, 8:352). Such a condition is formally incompatible with the independence of each citizen as a free and equal co-legislator of the general will, since in this case a single will (the ruler's), rather than the general will, is legislative. As such, despotism implies a *paternalistic* government, since it is based on a sovereign superior, the ruler, who makes rules for an inferior, the people. In contrast, republicanism implies a *patriotic* government, since it is based on self-rule by free, equal, and independent citizens whose general will is sovereign (MS, 6:316-17, TP, 8:290-91, Kleingeld 2003). The people's general will in a civil condition therefore *is* sovereign, because it is the ultimate source of political authority which in turn is not subject to any higher legislative authority.

## **2. Absolutist Sovereignty**

Kant's account of sovereignty implies that the *holder* of sovereignty, insofar as he or she is in fact sovereign, must be an *absolute* sovereign; that is, 'absolute' in the sense that a sovereign lawgiver is not unconditionally subject to laws given by any other lawgiver.

Obviously, so understood, sovereignty can (but doesn't have to) be a territorial concept, since an authority may be the highest lawgiver not unconditionally subject to any higher lawgiver within its own borders, but not outside of its borders. So understood, sovereignty is defined both positively and negatively: negatively in the sense of not being subject unconditionally to what others say is right, and positively in the sense of being able to say what counts as right through giving law. However, a sovereign need not *always* in fact have the final say on what is right. This can happen because the sovereign has not *actually* consistently given public laws to cover all cases, or because the sovereign conditionally *delegates* the final say on particular matters to some other power who remains unconditionally subject to the sovereign's law but not vice versa.

A civil condition requires the presence of a sovereign through whom what each has a right to 'is [conclusively] determined *by law* [as interpreted by a *court*] and is allotted to it by adequate [executive] *power* (not its own [power] but an external power)' (MS, 6:302, 312). Where there is no coercive public law securing what one has a right to, then in that case one's external freedom is at best secured only provisionally (if it is secured at all). This can occur either because one lives in a state of nature marked by the complete absence of coercively enforced just public laws, or because one lives in an otherwise civil condition that is marked by legislative incompleteness or inconsistency, the presence of some unjust laws, or partial failure of executive enforcement of just laws. In the latter case we have a civil condition that is only to *some degree* in conformity with right.<sup>5</sup> In a civil condition in *perfect* conformity with right there would exist perfect legislative completeness such that *all persons in all cases* would have their external freedom conclusively secured by just public laws backed by a competent and impartial power. As such, we should think of modern democratic states as lawful states in civil conditions which conform to principles of right to *some degree*, but not

*perfectly*. Indeed, Kant doubts that a 'perfectly *rightful constitution*' is possible in practice (MS, 6:371). A state that is not even to some degree in conformity with right is not, however, in a civil condition at all.

Kant's absolutist conception of sovereignty is challenged by Thomas Pogge. Pogge (1992, p. 58, 2009, pp. 202-06) defends an alternative conception of a 'semi-judicial condition' in which sovereignty can and ought to be 'widely dispersed in the vertical dimension'. On this view no party has the final say, either because every party is subject to the authority of some other party with no party having the final say, or because there is confusion and no binding civil mechanism for resolving that confusion about who has the final say over what. Pogge argues that the modern division of powers within a state, in which no branch of government has ultimate authority and thus absolute sovereignty, illustrates that although a dispute between the various branches about the limits of their authority is always possible, in practice this rarely happens. Pogge's (2009, p. 59) non-absolutist conception of sovereignty therefore 'works in practice', even if it is theoretically messy. Further, it has the benefit of having built-in protections against the abuse of authority by any one branch.

However, Pogge's example of a division of powers within a state is a poor one since it is not ruled out by (indeed it is *required* by) Kant's absolutist conception of sovereignty. This is because, on Kant's view, what is dispersed in a modern state are powers – it is, after all, a separation of *powers* – and not sovereignty itself, that is, the *final* say on what counts as right in that state. This final say belongs derivatively to the constitution itself, which has the final say over which powers belong to which branches, and ultimately to the citizens themselves whose general will grounds the constitution's authority.<sup>6</sup> Kant's conception of a rightful condition therefore rules out, not a division of *powers*, but a situation where there are

multiple governments or government-like authorities within a single domain and no ultimate constitution or authority to which all are bound, that is, a state of utter *legislative* anarchy or civil war. Kant's absolutist conception of sovereignty does not, therefore, preclude him from supporting the same sorts of political structures that Pogge defends.

Indeed, Kant's account of a civil condition which is not in perfect conformity with right amounts to something very much like Pogge's semi-judicial condition. The key difference, though, is that Pogge takes such a condition to be better than Kant's ideal of a perfectly just civil condition, since Kant's ideal requires a single *unsupervised* legislative power which is not kept in check by some peer institution. But Kant's single unsupervised legislative power is not ultimately, as Pogge seems to think, the fallible officeholders of a particular institution at some point in time, but rather the united people themselves through their general will. On Kant's view it is the people's general will alone which is ultimately sovereign and which needs no higher supervision.

### **3. The Internal Face of Absolutist Popular Sovereignty: Civil Disobedience**

Thus far it seems obvious that Kant must endorse an account of absolutist *popular* sovereignty: that is, the general will of the people is sovereign, since it has the final say on what is right and it is not unconditionally subject to any higher lawgiver. But when we read what Kant actually says in his political philosophy it is easy to get quite the opposite impression, namely that Kant endorses an account of absolutist *ruler* sovereignty: that is, the ruler him or herself ultimately has the final say over what is right. This raises the question of *who* for Kant is the ultimate *holder* of sovereignty: the people or their ruler? It is important to note that this question does not arise because Kant defends an *absolutist* conception of

sovereignty. The dispute between popular and ruler conceptions of sovereignty is not about whether or not there must be an entity that has the final say on what is right (which is all that is implied by Kant's absolutist conception of sovereignty), but rather about *who* has the final say: the people's general will or the ruler's individual will.

The clearest way to assess which view Kant endorses is to examine the set of normative implications that follow from endorsing an account of either popular or ruler sovereignty respectively, and then seeing which set of normative implications Kant seems to accept. Popular sovereignty is the view that the general will of the people is sovereign, and that the people's representatives may properly employ sovereign powers on their behalf only so long as they continue to represent their citizens' general will. From the doctrine of popular sovereignty we can reasonably draw the following implications. Internally, the obligation of citizens to obey their ruler or government is always conditional on that ruler or government retaining its legitimacy, and that is dependent on it representing and uniting the people's general will. Externally, the obligation of states to recognise the sovereignty of other states is dependent on those states possessing some degree of legitimacy.

In contrast, ruler sovereignty is the view that the sovereign powers of a government belong to the rulers themselves and are thereby not conditional on anything other than the ability of that government to enforce its rule within its borders. Sovereigns, on this view, are neither legitimate nor illegitimate, but weak or powerful. From the doctrine of ruler sovereignty we can reasonably draw the following implications. Internally, subjects have an unconditional obligation to obey their sovereign, since having sovereign powers, not representing the general will, is what grants sovereignty. Externally, sovereign entities (i.e. states) should enjoy the absolute right to 'internal self-determination without external

interference' (Brown 2005, p. 498), since they are not bound by any external normative requirements. In this section we shall focus on the internal aspect of sovereignty, and in the next section we shall focus on the external aspect.

Kant seems to endorse the internal aspect of ruler sovereignty when he argues that once a person or regime gains sovereign powers, however they gain and wield that power, the people have an obligation to obey that ruler so long as its powers are retained (Siber 1985). Kant argues that:

there is a categorical imperative, *Obey the authority who has power over you* (in whatever does not conflict with inner morality) ... Unconditional submission of the people's will ... to a *sovereign* will ... is a *deed* that can begin only by seizing supreme power ... To permit any resistance to this absolute power ... would be self-contradictory (MS, 6:371-72; see also MS, 6:318-19).

Once the people leave the state of nature, which they have an obligation to do, however they leave it – and others have a right to coerce them into leaving such a state by seizing sovereign powers for themselves (ZeF, 8:349) – they are forbidden from returning to such a state by dissolving the civil union through acts such as sedition, rebellion, regicide, or revolution (MS, 6:320). Therefore the people, says Kant, have a 'duty to put up with even ... an unbearable abuse of supreme authority' (MS, 6:320).

Although this looks like the internal aspect of ruler sovereignty, it actually follows from popular sovereignty properly understood. To see why this is we need to, first, note that the categorical imperative to '*Obey the authority who has power over you* (in whatever does not conflict with inner morality)' (MS, 6:371), also implies the categorical imperative: to

*disobey the authority who has power over you in whatever does conflict with morality.* Kant makes this explicit elsewhere: '*observance*' is due only to 'legitimate' 'statutory civil laws' and thus 'when human beings [including 'a human lawgiver'] command something that is evil in itself (directly opposed to ethical laws), we may not, and ought not, obey them' (RGV, 6:100). Kant gives a powerful illustration of this with his example of a man who is ordered by 'his prince', 'on pain of ... immediate execution', to 'give false testimony against an honourable man whom the prince would like to destroy' (KpV, 5:30). Clearly, if Kant thinks that we owe unconditional obedience to the commands of whoever has power over us, in this case a despotic prince, then he should claim that the man in this example should *obey* his prince. But, of course, Kant says no such thing, and instead argues that the man ought to *disobey* his prince.<sup>7</sup>

What does it mean for a statutory civil law to 'conflict with inner morality' or to 'directly oppose ethical laws'? Morality includes both laws of right and ethical laws. A civil law is directly opposed to ethical laws when it 'conflicts with the vocation and end of humanity' (TP, 8:304-05). This occurs when it *permanently prevents* attempts by citizens to pursue their own virtue, including the obligatory ends of self-perfection and the happiness of others, or attempts by the species as a whole to progress towards enlightenment and the highest political good, perpetual peace. A civil law is directly opposed to laws of right, that is, it is utterly unjust, when it lacks the legislative legitimacy that can only be conferred on it by representing the general will of the people. As such, 'a public law' is 'unjust' if it 'is so constituted that a whole people *could not possibly* give its consent to it'. It is not enough, however, that 'the people are at present in such a situation or frame of mind that, if consulted about it, they would probably refuse their consent' (TP, 8:297). For the law to be utterly unjust it must be the case that a whole people *could not possibly*, not just *do not at present*,

consent to it. A law that is incompatible with the status of each citizen as a free, equal and independent co-author of that law is one that a whole people *could not possibly* consent to. Such an unjust law therefore cannot possibly be representative of the general will, even if it is the will of the majority, since it is analytically incompatible with what the general will is.

Kant uses the example of hereditary privileges to illustrate his point. Such privileges treat some persons as superior and others as inferior on the basis of birth. But birth is not a 'deed of the one who is born', and we cannot incur any rightful inequality except through our own deeds, such as criminal acts (TP, 8:292-93). Therefore a free, equal and independent person *cannot possibly* freely consent to being unequal to others through no deed of her own, since this is incompatible with her status as equal to all others in a civil condition. This also rules out as unjust, for the same reason, laws which negatively discriminate solely on the basis of gender, ethnicity, and race. Laws and decrees that are unjust in these ways directly oppose morality and ought not to be obeyed. Kant therefore has a strong account of civil disobedience. But while Kant's approach rules out certain laws as unjust on the basis that they undermine, for example, equality before the law, it also leaves a lot of legislative room open for free, equal and independent citizens to contest and decide substantive matters democratically among themselves.

But *who* is to say *what* the general will of the people says on any particular matter? In a civil condition the answer must be: the people's legislators. This is because to leave a state of nature is to give up the right to directly coerce others on the basis of what you alone judge to be right. Of course, citizens do not give up the right to *advocate* and *seek reform* in accordance with what they alone judge to be right, but only the right to *directly coerce* others on this basis. Such powers are instead invested exclusively in the state. In a civil condition,

the legislature, in uniting and thus articulating the otherwise unarticulated general will, has the final interpretative say on *what* the general will wills on any particular occasion – *except* where what it legislates *could not possibly* represent the general will. Such an unjust law lacks the legislative authority that can arise only from correctly representing the general will and is therefore 'not to be regarded as the real will of the monarch [or legislator]' (TP, 8:305). Citizens therefore owe obedience to their government as the sole authoritative interpreter of the general will, except where what is legislated *unequivocally* could not possibly represent the general will.<sup>8</sup> The legislator in a state therefore does not unconditionally have the final say over what is right. It is the people's general will which has the final say over what is right and this amounts to popular sovereignty.

Yet Kant still claims that *were* an unequivocally unjust law 'nevertheless arranged by the supreme legislation [i.e. legislated by a state], general and public judgments could be passed on it, but resistance to it in word or deed could never be summoned' (TP, 8:305). This is a strange passage because in it Kant says *both* that negative public judgments may be passed on an unjust law *and* that resistance to an unjust law *even in words* should not be summoned. But surely voicing negative public judgments amounts to resistance in words? What can Kant mean by resistance here, and are his views here consistent with a defence of popular sovereignty? To answer this question we need to distinguish between two occasions which may warrant resistance: when the executive violates just laws and when the legislator gives unjust laws.

First we shall consider the case of the unjust executive. Kant argues that 'the ruler [i.e. the executive] is subject to the law and so is put under obligation through the law by *another*, namely the sovereign [i.e. the legislator]' (MS, 6:317). As such, the 'sovereign can also take

the ruler's authority away from him, depose him, or reform his administration. But it cannot *punish* him ... for punishment is ... an act of the executive authority' (MS, 6:317). This view follows from accepting, and not rejecting, the republican separation of *powers*. Kant is not claiming that the executive cannot be held in check by legislative and judicial *powers*, but rather that those branches of government, as well as the people, should not usurp the executive's *coercive* powers of punishing since this amounts to despotism. This is why Kant makes a single 'exception' for 'one (physical or moral person), the head of state', from his principle of reciprocal coercion under laws of right. The head of state (i.e. the executive) is alone 'authorized to coerce without himself [or herself] being subject to a *coercive* law [emphasis added]' (TP, 8:291). This exception is needed not because the executive is not *subject* to the *law*, but rather because the executive alone directly possess *coercive* powers in a civil condition. The wrongness of active rebellion or punishing the executive occurs not, then, in the people attempting to depose or punish a tyrant, but in their usurping coercive powers that cannot belong to them in a civil condition.<sup>9</sup>

However, the prohibition on punishing the executive only applies to the current officeholder of the executive. Once the former officeholder of the executive no longer holds that office, for example, after he or she has been legally deposed by the sovereign, then the former officeholder *can* (without contradiction) be punished by the new officeholder of the executive. Alternatively, where there is some higher authority, such as an international criminal court, with its own executive powers of punishment, then there is no reason why a past or even a current executive officeholder cannot, in a manner consistent with a civil condition, be punished for violating the rule of (if not domestic, at least binding international or cosmopolitan) law. This is permissible because it can be done in such a way that the executive's powers are not unjustly usurped.

Next we shall consider the case of the unjust legislator. As Kant explains, the peoples' representatives in the legislature are 'men who have a lively interest in positions for themselves and their families' (MS, 6:319). This results in a conflict of interest for politicians between representing the people's general will and furthering their own interests (such as getting re-elected and gaining wealth and power). Such conflicts of interest can and often do result in defective legislation (as well as defective administration), that is, the sort of legislation that a whole people *would not* and, in extreme cases, *could not possibly* give themselves. Only in the latter case does Kant argue that the law is 'null and void' and 'is not to be regarded as the real will of the monarch [or legislator], to whom counter-representations can accordingly be made' (TP, 8:305). But while negative public judgments can and ought to be passed on such legislation, no 'resistance' should be offered (TP, 8:305). Unfortunately, Kant does not make clear what he means by 'resistance' here. However, elsewhere Kant differentiates between *active* and *passive* (or negative) resistance, and he explicitly rules out only 'active resistance (by the people combining at will) to *coerce* the government to take a certain course of action, and so itself performing an act of executive authority' (MS, 6:322; see also Formosa 2008, pp. 167-73).

Interpreting Kant's prohibition on resistance to the unjust legislator and the unlawful executive as a prohibition on *active* resistance *only*, the sort of resistance that involves the usurping of *coercive* executive powers, makes the most sense of Kant's overall account. While the people in a civil condition may never rightfully employ *coercive means* to resist, no matter what their government's abuses, they may always rightfully employ *civil means* to resist. These civil means include public critique and protesting in a peaceful manner (i.e. making public '*complaints*') (MS, 6:319), engaging in civil disobedience, voting in a new

government (where possible), and starting legal proceedings in relevant courts. However, where these civil means fail or are not available, then each citizen has a duty to *disobey* laws and decrees that directly oppose morality.<sup>10</sup> But such passive disobedience does not amount to active resistance.

Further, when the executive or legislator becomes so openly and systematically despotic that it is utterly impossible to see him or her as even partly representing the general will of the people, and where the means of civil progress are totally obliterated, then the civil condition itself is completely destroyed. While Kant argues that a condition that is only in a 'small degree in conformity with right' is better than a non-civil condition (ZeF, 8:374), when the conditions under a despotic regime are such that its rule is not even to a small degree in conformity with right, then the civil condition itself has *already* been destroyed. When this happens the people are plunged back into an uncivil state of nature where might, and not right, rules. In such a condition they can rightfully *coerce* each other, including their tyrannical rulers, to re-enter a civil condition.

#### **4. The External Face of Absolutist Popular Sovereignty: Cosmopolitanism.**

We saw in the previous section, through examining civil disobedience, that Kant endorses the internal aspect of popular (not ruler) sovereignty. Does he also endorse the external aspect of popular sovereignty? To answer this question we shall look at Kant's account of a just world order. Kant's key distinction in this account is between a federated international system (a pacific league) and a cosmopolitan world republic. A federation of states involves 'no sovereign authority (as in a civil condition) but only an *association* (federation); it must be an alliance that can be renounced at any time' (MS, 6:344). A

federation is thus based on 'a voluntary coalition of different states which can be *dissolved* at any time', i.e. a league free of coercion unlike a domestic civil condition, whereas a world republic is 'based on a constitution and can therefore not be dissolved', i.e. a coercively enforced union akin to a domestic civil condition (MS, 6:351).<sup>11</sup> A world republic is a condition in which there is a single world constitution which is *coercively* enforced in such a way that a state or person cannot choose unilaterally not to be bound by that constitution. Such a world constitution, and the associated legislative, executive and judicial powers to which it would give rise, would represent the general will of all human beings on earth. A world republic could, under a binding world constitution, take either the form of a world state composed of all peoples (a state of peoples) or a world state composed of states (a state of states or nations).

Trying to make sense of Kant's apparently contradictory remarks about a world republic is no easy matter. As a result, four main lines of interpretation have emerged. First, that Kant unequivocally endorses a world republic. This reading of Kant, once common, has now been replaced by a second reading which Pauline Kleingeld (2004, p. 304) claims has become the 'standard interpretation' of Kant. On this second view, Kant unequivocally endorses a free association of states. On the third reading, defended at one stage by Pogge (1988, p. 428), Kant's view is unclear since he defends neither a world state nor a federation of states unequivocally.<sup>12</sup> Since, as the third interpretation makes clear, it is hard to read Kant as unequivocally endorsing either of the first two views, a fourth interpretation has emerged. On this fourth reading, which is defended convincingly by Kleingeld (2004) and Georg Cavallar (1994), Kant endorses a world republic as the final ideal, but argues that a free association of states is the provisional cosmopolitan goal. I shall support a version of this fourth interpretation here. However, my main goal in this section is not to defend this fourth

interpretation in depth, but to strengthen it by examining how Kant's arguments in relation to a world republic fit with an account of popular sovereignty.

On the interpretation defended here we can summarise Kant's position with four theses. States are at present in a condition of war in relation to one another which they ought to leave. In order for states to leave such a state of nature they must be united under coercive public laws, i.e. under a world constitution (ZeF, 8:357). Thus a world republic is the ultimate moral and political goal – call this 'the world republic' thesis. But the fact that states 'do not at all want this' at present is a good reason not to force them to join such a union against their will (ZeF, 8:355-57, Kleingeld 2004, p. 307), since to force them would involve coercion, which is impermissible. Thus coercion is an impermissible means to bring about a world republic – call this 'the no coercion' thesis. However, 'if all is not to be lost', states should 'in place of the positive idea of a world republic' pursue the 'negative surrogate of a league that averts war' (ZeF, 8:357). Thus a free association of states forming a pacific league is the provisional cosmopolitan goal – call this 'the provisional goal' thesis. This is the provisional goal not for *purely strategic* reasons, as Pogge (2009, p. 201) suggests, but rather because of the *wrongness* of coercing lawful states to join a union they do not want to join. Further, because of the difficulty of governing large areas and the dangers of despotism, reforms toward a world republic, beyond a pacific league, are (or at least were in Kant's day) premature (MS, 6:350, TP, 8:311). Call this 'the suitable conditions' thesis, since it stipulates under what conditions we should seek to move beyond the provisional goal of an association and work towards (without the use of coercion) a world republic.

A world republic is required to establish both a fully rightful condition and guarantee the highest political good, perpetual peace, and is therefore, as the first thesis claims, the

ultimate moral and political goal. A world republic is needed to establish a *fully* rightful civil condition because without a coercively enforced world constitution there is no way for either states to resolve disputes with other states or citizens of one state (or no state) to resolve disputes with other states about what each has a right to *conclusively* and in a *civil manner*. Only a world republic with a coercively enforced world constitution can ensure that what each has a right to at domestic, international and cosmopolitan levels is secured *conclusively*, and not just *provisionally* (MS, 6:311). A world republic is the highest political good because only within such a condition can all of humanity fully develop their predispositions to the good and, in this way, all persons and the species as a whole flourish to their full potential (IaG, 8:27-29, TP, 8:307-13). Because even the threat of war undermines the conclusive possession of rights and freedoms and significantly limits the scope for all humans to flourish, securing a fully rightful condition and establishing perpetual peace requires the permanent abolition of war. A permanent abolition of war is not merely the temporary cessation of fighting amid continual preparations for war, which is the sort of precarious (and non-rightful) peace that Kant claims is (at best) achieved by a balance of powers (TP, 8:312).

But a free association of states forming a pacific league cannot guarantee perpetual peace. This is because, while such a league *may* greatly minimise the occurrences of war, at least between its members (as the so-called ‘democratic peace theory’ shows) (Doyle 1983), the possibility of war always remains. This possibility remains as states retain their military powers and have no available binding world constitutional means to resolve conclusively disputes about what they have a right to. However, insofar as such a pacific league *can*, under favourable circumstances, at least *approximate* a genuine condition of perpetual peace, and involves no impermissible coercion of states, it should be our provisional goal, as claimed by the provisional goal thesis. However, a pacific league can never achieve a fully rightful

condition because there is no way to secure conclusively what each has a right to in a civil manner in all cases.

The only way to guarantee permanently the end of war is to have a world republic which is able to prevent all war between states and conclusively resolve disputes about rights in a civil manner. It *could* do this by maintaining a monopoly on the possession of military power (Carson 1988, pp. 184-87). In this way, states could not go to war against one another as they would lack the military power to do so. Thus a world republic is the only way in which *both* perpetual peace can be guaranteed *and* a fully rightful condition can be established. While we have already defended the second part of this claim (a fully rightful condition is possible only with a world republic), we need to appreciate properly the scope of the first part of this claim. An *unbroken* peace *could* come about through, say, states voluntarily disarming or a balance of powers. In this way, a pacific league could approximate such a condition of peace by relying on the voluntary good conduct of states. But without a rightful *guarantor* of that peace, the peace would remain only unbroken and not perpetual. Further, the claim is not that a world republic *would* guarantee perpetual peace, since a world republic could become despotic or face a violent insurgency, both of which would disrupt peace. But *only* a world republic *could* guarantee perpetual peace *and* establish a fully rightful condition.

Insofar as we can defend the no coercion thesis, we can reject Thomas Carson's (1988, p. 185) claim that the model Kant 'should have' defended is one where a powerful state or coalition of states coercively (i.e. militarily) forces other states to join them in a cosmopolitan union. Kant explicitly forbids the annexing of a state into a union against its will on the grounds that it treats the state, as a moral person (Byrd 2006), as if it were a mere

thing (ZeF, 8:344). Kant's opposition to a coercively formed world republic, in effect a world revolution, is motivated in a similar way to his opposition to domestic revolution (SF, 7:85-87). In both cases the key issue is the impermissibility of *coercive means*. Instead Kant envisages a world republic emerging by republican states freely choosing to enter into an ever-expanding peace league (ZeF, 8:356). The members of such a league could then gradually transform themselves into a cosmopolitan union under a single constitution to which all its members are bound. This is a peaceful growth model devoid of coercion.

But why is it legitimate for persons to coerce one another to leave the domestic state of nature, as Kant thinks it is, but illegitimate for states to coerce one another to leave the international state of nature? In a domestic state of nature persons cannot possibly reciprocally coerce one another on the basis of public law. In a civil condition they can. This invests a people within a civil condition with a level of rational maturity that other states should not interfere with, provided they are governed in at least a republican spirit. There are thus good *republican* reasons not to coerce lawful states, comprised of free, equal and independent citizens, into joining a union that they do not freely want to join. These same reasons do not also hold for individuals in a state of nature, since in that condition there are no institutional structures to bring about republican self-rule and no way for the people's general will to be united and articulated. This makes it a condition which is necessarily '*devoid of justice*' and from within which it is impossible to make progress towards a more rightful condition (MS, 6:312). But once a people have entered into a civil condition, even if it is only in a small degree in conformity with right, then an organ comes into being that can represent the people's general will. Where such republican institutions exist, they ought not to be coercively interfered with. That is why states which have minimally republican institutions, at least in spirit, ought not to be coerced into joining a union, but individuals in a

domestic state of nature devoid of such republican institutions may coerce one another into joining a union that establishes such institutions (ZeF, 8:383).

However, elsewhere Kant argues that there is a *strict* law of prohibition that 'no state shall forcibly interfere in the constitution and government of another state' (ZeF, 8:346). The strictness of this prohibition looks like the external aspect of ruler sovereignty. But this prohibition is not in fact unconditional. Where, due to 'internal discord', a state has 'split into two parts', each claiming the whole for itself, then 'in that case a foreign state could not be charged with interfering in the constitution of another state if it gave assistance to one of them (for this is anarchy)' (ZeF, 8:346; see also Cavallar and Reinisch 1998). A state which has succumbed to anarchy has lost its status as a moral person. More generally, it is not only civil war but any condition in which a state cannot possibly be construed as ruling in a republican spirit, since it pays no heed to domestic, international and cosmopolitan right, that counts as one of lawlessness or anarchy, and thus one in which a state loses its status as a moral person. In this case, *were* other states to interfere in its internal affairs, then those states could not be seen as interfering in the process of self-rule by a republican people since that process is not present, even in spirit, in such lawless states. This is not to say that states *should* intervene in lawless states, but only that the reasons why states should not intervene cannot be because of the unconditional prohibition of not interfering in lawful states.<sup>13</sup> Once again this follows from a popular (not ruler) conception of sovereignty.

Kant's suitable conditions thesis states that we should not pursue reforms towards the ideal of a world republic which threaten to undermine the very freedoms they seek to protect. This thesis is based on two key concerns. These concerns are not an inconsistent attempt by Kant to deny in practice what is correct in theory, but a consistent example of Kant's defence

of gradual reform ('palingenesis' not 'metamorphosis' (Williams 2001)) and the political wisdom of not undermining freedom through the premature pursuit of it (ZeF, 8:372-74). Kant's first concern is that a world republic must be able to successfully govern large areas. Such capacities did not exist in Kant's day, and Kant uses the foreseeable lack of such capacities to conclude that perpetual peace is therefore an 'unachievable idea' (MS, 6:350). But with modern communication, transportation, and military technologies, these technical problems have largely been overcome. Ingeborg Maus (2006, pp. 472-73) raises a related concern about a world republic, namely that it is impossible to extend democracy to large areas. However, Maus's concern is based on well-known problems with citizen participation in distant democratic processes which *already* exist in large, modern democratic states. As such, the problems caused by a world government in this regard are not new problems, but simply the same problems (although, perhaps, to a greater degree) that already exist in large states. But to compensate for this a world government would be able to open up new domains of democratic rule over world issues, such as pollution and arms proliferation, which currently elude the democratic control of any single state (Held 1995), and be able to protect democratic practices in all parts of the world. In this way a world republic could lead, not to a decline in democracy, but rather to a global expansion and strengthening of democracy.

The second and more serious concern that Kant raises is that a world republic, especially one with a monopoly on military powers, could become a 'most fearful despotism'. If a world republic is 'more dangerous to freedom' than the absence of a world republic (TP, 8:311), then we ought to content ourselves with a pacific league. Kant is right to fear that 'soulless despotism' would be the likely outcome of a 'universal monarchy' (ZeF, 8:367, Kleingeld 2004, p. 313). However, a world *republic* (not a universal *monarchy*), which is republican in both structure and spirit, and which protects democratic spheres of local, state,

regional and world governance under an overarching world constitution, could arguably be structured so as to minimize sufficiently the risks of universal despotism. If it could be so structured, then republican peoples should seek to reform themselves gradually, through the free agreement of other republican peoples, into members of a suitable cosmopolitan world constitutional democracy in order to establish a fully rightful condition of the sort which could guarantee perpetual peace.

Such progress will depend, however, on the emergence of cosmopolitan dispositions, emotions, allegiances and identities among peoples. This is because only in this case will patriotic republican citizens be motivated to work freely towards a cosmopolitan constitution. Citizens with cosmopolitan dispositions will understand themselves to be, not subjects of purely self-interested states, but rather equal co-sovereigns of a united and diverse cosmopolitan world. Such cosmopolitan allegiances and identities should be understood as additional to, and not necessarily in competition with, the other multiple local and regional allegiances and identities that people may have. This is because having cosmopolitan dispositions is compatible with also understanding oneself to be a citizen of local, state, and regional polities, as well as a member of various non-political groups. Kant argues that such cosmopolitan dispositions will emerge over time through education, social interaction, and economic, moral, and political progress (Päd, 9:499, RGV, 6:199-200).

This growth of cosmopolitan dispositions will also help to destroy the myth that by joining a cosmopolitan union people lose their sovereignty. This is a myth because it is only the nation-state, which no longer has the final say over all matters (such as whether to go to war to resolve its disputes), and not the people themselves, who lose their sovereignty by such moves. Indeed, far from losing, the people only *fully gain* their sovereignty by becoming

free, equal and independent members of a world republic. This is because it is only as members of such a world republic that *all* people, no matter where they are born, can have all their rights secured conclusively and be able to exercise democratic control over world issues which at present elude their democratic control.

## **5. Conclusion**

Kant consistently defends an account of absolutist popular (not ruler) sovereignty, according to which the general will of the people, of which each person is a free, equal and independent co-legislator, is ultimately sovereign. This leads Kant to support, internally, domestic republican institutions which unite and articulate the people's general will. This also leads Kant to support, externally, the gradual and peaceful formation of world republican institutions which can safeguard perpetual peace, secure rights conclusively in all parts of the world, and unite and articulate the people's general will in regard to global issues. However, Kant argues that we should only employ non-coercive means to these important political ends by pursuing gradual, peaceful and consensual reforms, and aiding the promotion of cosmopolitan dispositions in all people. This clearly illustrates Kant's political teleology by identifying the political ends towards which we should work and the means by which we should seek those ends.

## **References**

Brown, G. (2005) State Sovereignty, Federation and Kantian Cosmopolitanism. *European Journal of International Relations*, 11(4), pp. 495-522.

- Byrd, S. (2006) The State as a 'Moral Person'. In: S. Byrd and J. Hruschka, eds. *Kant and Law*. Aldershot: Ashgate, pp. 379-99.
- Carson, T. (1988). 'Perpetual Peace': What Kant Should Have Said. *Social Theory and Practice*, 14(2), pp. 173-214.
- Cavallar, G. (1994) Kant's Society of Nations. *Journal of the History of Philosophy*, 32(3), pp. 461-82.
- Cavallar, G. and Reinisch, A. (1998) Kant, Intervention and the 'Failed State', *Kantian Review*, 2, pp. 91-106.
- Doyle, M. (1983) Kant, Liberal Legacies, and Foreign Affairs. *Philosophy and Public Affairs*, 12, pp 205-35.
- Formosa, P. (2008). 'All Politics Must Bend Its Knee before Right': Kant on the Relation of Morals to Politics. *Social Theory and Practice*, 34(2), pp. 157-81.
- Held, D. (1995) *Democracy and the Global Order*. Cambridge: Polity Press.
- Kleingeld, P. (2003) Kant's Cosmopolitan Patriotism. *Kant-Studien*, 94, pp. 299-316.
- Kleingeld, P. (2004) Approaching Perpetual Peace. *European Journal of Philosophy*, 12(3), pp. 304-25.
- Maus, I. (2006) From Nation-State to Global State, or the Decline of Democracy. *Constellations*, 13(4), pp. 465-484.
- Pogge, T. (1988) Kant's Theory of Justice. *Kant-Studien*, 79(4), pp. 407-33.
- Pogge, T. (1992) Cosmopolitanism and Sovereignty. *Ethics*, 103(1), pp. 48-75.
- Pogge, T. (2009) Kant's Vision of a Just World Order. In: T. Hill, ed. *The Blackwell Guide to Kant's Ethics*. Oxford: Wiley-Blackwell, pp. 196-208.
- Reath, A. (2006) *Agency and Autonomy in Kant's Moral Theory*. Oxford: Clarendon.
- Ripstein, A. (2004) Authority and Coercion. *Philosophy and Public Affairs*, 32, pp. 2-35.

Silber, J. (1985) Kant at Auschwitz. In: Funke and Seebohm, eds. *Proceedings: Sixth International Kant Congress*. Washington: Center for Advanced Research in Phenomenology, pp. 177-211.

Williams, H. (2001) Metamorphosis or Palingenesis? *The Review of Politics*, 63(4), pp. 693-722.

---

<sup>1</sup> All translations of Kant's work are from: *The Cambridge Edition of the Writings of Immanuel Kant*. New York: Cambridge University Press, 1992-.

<sup>2</sup> This has important implications for social justice and the grounding of positive entitlements.

<sup>3</sup> Unfortunately, Kant's understanding of who counts as a full citizen is far too narrow (TP, 8:295-96). However, there is arguably no great difficulty in rejecting this part of Kant's theory, although we shall not have time to examine the details of doing that here.

<sup>4</sup> Kant's concept of 'the people' here is not an exclusive one used to refer to an ethnically, linguistically or historically distinct nation, but an inclusive one used to refer to a free association of persons (whoever they are) uniting to give themselves public law – see Maus (2006, p. 467).

<sup>5</sup> If only a condition in *perfect* conformity with right constitutes a *civil* condition, then no actual state is (or has ever been) in a civil condition or has left a state of nature. But this claim goes against commonly held intuitions about what counts as a state of nature. Kant discusses the idea of a '*rightful* constitution' which is only 'to a small degree in conformity with right' in ZeF, 8:373.

<sup>6</sup> Of course, constitutions leave many things unsaid, and what they do say is open to various interpretations. This can lead to disputes about *what* powers the sovereign assigns to whom, but not about *who* is the ultimate holder of sovereignty (the people's general will).

<sup>7</sup> For a similar example from a later text see RGV, 6:50.

---

<sup>8</sup> In a civil condition the presumption of the citizens must be that their legislators do not wish to wrong them, and accordingly laws should be interpreted as charitably as possible, and thus laws must be *unequivocally* unjust to potentially authorise disobedience.

<sup>9</sup> In discussing the permissibility of 'taking up arms' against a tyrant, Kant says that though the people do 'no wrong' to the tyrant in so acting, they nevertheless do 'wrong in the highest degree by *seeking their rights in this way*' [emphasis added]. The problem is not deposing the tyrant, but the *means* used, namely violence. See TP, 8:299-301, MS, 6:308.

<sup>10</sup> As with all ethical duties, we need to ask difficult casuistical questions, such as, is it permissible to obey an unjust command when one's disobedience will lead to the death of one's entire family?

<sup>11</sup> Note that 'federation' is used by Kant to refer both to a voluntary association (MS, 6:344) and a federation 'like that of the American states' which is based on a constitution and cannot be dissolved (MS, 6:351).

<sup>12</sup> In a more recent paper Pogge (2009, p. 201) endorses the fourth interpretation.

<sup>13</sup> Reasons we might have for *not* intervening in a lawless 'state' include, for example, that such actions would be unsuccessful or would lead to a great loss of life.