

**DUTY AND COERCION
IN KANT'S REPUBLICAN
COSMOPOLITANISM¹**

N. Sánchez Madrid*

This paper argues whether Kant's cosmopolitanism entails a specific theory of coercion. I will especially tackle Kant's account of international political order. First, I claim that Kant attributes a systematic role to the cosmopolitan right, what justifies considering this part of the doctrine of law as a necessary rational conclusion of the legal system, although its institutional embodiment differs from that required by the rights of states. I highlight that according to Kant states may not behave as individual citizens do, since they do not recognize any higher authority than themselves. Second, cosmopolitan law shows that coercion is not an insurmountable condition to fulfill legal obligations, since the cosmopolitan order depends on the moral equality among states, far from involving a hierarchy over governmental structure. Third, I will discuss that the only reason to perform an active role in the political sphere according to Kant stems from the statehood, so that to help other needy and less developed peoples and societies in order to boost that they achieve their autonomy as a state would not belong to the duties that a republic should abide to. Thus, the transformation of a human society into a republican civil union means according to Kant's account of right the greatest contribution that a state could offer to enhance the cosmopolitan order.

Key words: *Kant, cosmopolitanism, sovereignty, duty, coercion, global justice*

This paper will argue that Kant builds his appraisal of cosmopolitanism on the indisputable centrality of the state of right, so that a federative community of states or *Völkerbund* will mean a more feasible model than a supranational authority — a *Völkerstaat* — fitted with an alleged legitimacy to intervene in the own affairs of another state as member of an organic whole, even for their own good². I will claim that Kant under-

* University Complutense of Madrid. Faculty of Philosophy.
Spain, 28040 Madrid, Ciudad Universitaria, Plaza de Menéndez Pelayo s/n.

Article received on 16.01.2015

doi: 10.5922/0207-6918-2015-3-ENG-5

© N. Sánchez Madrid, 2015

¹ An earlier draft of this article was given at the Kant Workshop of the University of Pre.sov (May 2014) and published by the journal *Studia Philosophica Kantiana*. I gratefully acknowledge the Institute of Philosophy (IFS) of the CSIC (Spain) for according me a 2014/15 research stay during the writing of this paper.

² P. Kleingeld has argued that Kant does not reject any kind of world government provided with coercive powers, but only the perspective of a universal monarchy, necessary despotism; see her book (Kleingeld, 2012a), chapter 2. I do not agree with this concrete point of her account of Kant's cosmopolitanism.

stands the political good as a goal that every community should attain by itself, renouncing to foreign tutelage. Along my argumentation I will draw special attention to the most complete account about Kant's cosmopolitanism, recently published by Pauline Kleingeld (2012a), and I will consider some texts of Katrin Flikschuh (LSE), who has often stressed Kant's suspicion regarding the nowadays discussion about cosmopolitanism. I shall refer also to recent papers of some authors representative of the so called "third wave" of global justice theories, as Laura Valentini, Miriam Ronzoni and Lea Ypi³, which contribute to cast light on Kant's grounding of cosmopolitanism.

1. Cosmopolitanism within the boundaries of the system of right

My aim is to highlight some basic remarks about Kant's theory of cosmopolitan right, which clearly tops the system of right, although the institutional tools of the third part or the theory of right could not be compared to the legislative legitimacy of a state body. The cosmopolitan claim seems more related to a corollary that aims at ruling the global coexistence of human beings on the Earth than to a supranational model of state. I suggest to remind the ontological scope of a famous passage which ends the definitive articles of *Perpetual Peace*:

Since the (narrower or wider) community of the nations of the Earth has now gone so far that a violation of right on *one* place of the Earth is felt in *all*, the idea of a cosmopolitan right is no fantastic and exaggerated way of representing right; it is, instead, a supplement to the unwritten code of the right of a state and the right of nations necessary for the sake of any public rights of human beings and so for perpetual peace; only under this condition can we flatter ourselves that we are constantly approaching perpetual peace (ZeF, AA VIII, S. 360).

I start from this citation since this text hints to the fact that all human beings share the Earth as common habitation, so that they have legitimacy to demand hospitality through their displacements around the world and to see recognized the infringement of their legal and human dignity by the courts of foreign states. Nevertheless, cosmopolitan claims are not enough to set up a supranational state, which could take measures and impose duties to the rest of states. Moving from this evidence, the interpreter could be able to sustain that Kant's cosmopolitanism involves chiefly rhetorical and abstract purposes that do not encounter the way to any factual expression. However the evidence of facts as the spherical shape of the Earth and the physical *commercium* among human beings (MS RL, AA VI, S. 352 (§ 62)), which circulate through the world, urge the development of the *ius cosmopolitanicum*, it is not completely clear how to implement this right, beyond the institution of a licence to temporary visit all regions of Earth. Even if Kant does prefer federative global political models, a work as *Idea for a Universal*

³ For a detailed illustration of this line of research see V. Beck and J. Culp interview (2013, p. 40): «[T]he third wave is different from both "the first wave" of cosmopolitan or globalist theories, which extrapolated liberal-egalitarian principles of domestic justice to the global realm, and the "second wave" of statist or nationalist theories which defended the validity of sufficientarian norms of justice beyond the state. These third wave theorists share the intuition that a theory of global justice should require more than just the realization of a global minimum, even if they don't postulate liberal-egalitarian principles for the world at large".

History from a Cosmopolitan Purpose hints enigmatically in its eighth proposition to the formation of a “large state body” destined to enforce a juridical order in the interstate relations:

Although this state body for now stand before us only in the form of a very rough project, nevertheless already a feeling begins to stir in all members, each of which has an interest in the preservation of the whole; and this gives hope that after many transforming revolutions, in the end that which nature has as its aim will finally come about – a universal *cosmopolitan condition*, as the womb in which all original predisposition of the human species will be developed⁴ (IaG, AA VIII, S. 28).

At first sight, the “cosmopolitan condition” could be understood as a pleading for a large transnational state, endowed with the function of ruling the interaction between states. If this were Kant’s last word on cosmopolitan order, a higher civic organism would finally subject the league of states, fulfilling the final end of human species. The passage lacks any remark about the moment when this organism would emerge, but it is sure that this denouement obeys the rational structure of human beings. A renowned Kant scholar Pauline Kleingeld highlights that the creation of a league of states means the first step that will lead asymptotically to the ideal of a “global federative state of states” (Kleingeld, 2004, p. 321). This interpreter has also rightly focused on the fact that Kant’s idea of cosmopolitanism suffers an evolution from the writing of *Idea for a Universal History* (1784) to the political writings from the 1790’ on. According to the 1784 text, the establishment of a rightful civil order is regarded as a medium leading toward a further final goal, i. e. the complete development of human rational predispositions, which constitutes the genuine final end of history (Kleingeld, 2009, p. 172). It involves that the juridical order should become a moral and organic totality, going beyond alternative federative solutions (IaG, AA VIII, S. 21). It should be remarked first, that – as *Perpetual Peace* affirms – although the appearances that the reading of the eighth proposition of *Idea* could produce at first sight, no good state constitution could stem from inner morality, but quite on the contrary only a genuine republican constitution would provide a good moral education to its people. Second, it should be noted that Kant edges with different nuances his idea about the final goal of history in later writings, which includes a critical appraisal regarding an alleged natural racial hierarchy and colonialist European practices that condemn other countries to a legal-political minority. This textual evolution confirms that Kant’s cosmopolitanism develops to a systematic theory of right, increasingly independent from morals. It could be also proved with the help of the third part of *Theory and Practice* – devoted to cosmopolitan right – where the teleology maintains an important role, which will be progressively substituted by the analogy between the laws of right and the mechanical laws of nature in the *Rechtslehre*.⁵ So, the teleological paradigm would be forth replaced by a kind of natural embodiment of right, explained with recourse to the law of action and reaction of bodies. Most Kant scholars, as Helga Varden clearly displays, attempt to lay down an explicative dynamical analogy between state right and cosmopolitan right, so that inasmuch as the unilateral

⁴ See Lea Ypi’s commentary of this excerpt in her recent book (2012b, p. 26ss.).

⁵ See specially on this point K. Flikschuh (2007, p. 241): “From the search for moral intention in nature, Kant thus gradually moves to the employment of a law of nature as supplying a sensible schema for the construction of the non-sensible law of Right”.

point of view of the citizens ought to be overcome by the point of view of the distributive justice provided by the state, the national perspective adopted by each state should be replaced by a higher authority, charged with the purpose of increasing global justice and prevent unjust inequalities.⁶ Yet Kant's right does not recognize a higher juridical legitimacy outside the state, so that Varden's argument leads us to a paradox. Lea Ypi, a representative member of the called "third wave" global justice theories, beholds that Kant's political cosmopolitanism oscillates between a federal authority provided with coercive powers and a voluntary league, which the states are free to join (Ypi, 2013, p. 80). It could be useful to add to our discussion the following passage of Alfred Verdross and Bruno Simma, that regards the state right as surpassed phase:

The newest developments in international law have broken up the absolute subjection of people to the state. Not only does the content of an ever growing number of treaties in international law serve the *interests* of individual human of certain groups, but individuals are also being elevated immediately to bearers of *rights* under international law, and they are put in a position to *assert* these rights at the level of international law themselves (Verdross, Simma 2012, p. 88).

The law would evolve from state to individual as main legal agents, so that the society should take over the outdated priority of states, even if Kant does not understand the subordination of society to the state as an historical fact.⁷ I take distance from such readings insofar as I take serious what Katrin Flikschuh called "Kant's sovereignty dilemma"⁸, what draws up the idea that Kant's portrayal of a "large state body" refers more to a community that gathers a multiplicity of national states than to a higher authority compared with these national entities, i. e. the existence of a national state would entail direct effects for the global order. Cosmopolitanism would thus not surpass the state right, but it would rather furnish to public right the clue to the third relation category, t.i, the category of community.

2. Right beyond coercion

Authors have often disregarded the regulative scope of cosmopolitan right, stressing the coercive weakness of the last part of the system of right, which they considered too directly as a lack of sovereignty. Instead of adopting this point of view, I shall suggest considering the cosmopolitan order as a display of moral and juridical equality of states, which would be radically infringed in the case of accepting the rule of a supranational juridical structure. My claim is that the regulative sense of Kant's cosmopolitan right, which several passages highlight⁹, has not been – with few exceptions – enough assessed by Kants scholarship

⁶ See H. Varden (2011, p. 2057): "Unilateralism cannot in principle enable global justice. After all, even an internally just, powerful state cannot rightfully enable global justice because it cannot in principle be impartial, have rightful standing in particular transnational disputes or assume rightful authority over global systems of interaction. The reason is simply that any particular state can only represent the general united will of its own people".

⁷ See MS RL, AA VI, S. 307: "The civil union *is* not so much a society but rather *makes one*" (§ 41).

⁸ I tackle this topic in my paper (2013).

⁹ See MS RL, AA VI, S. 311 (§ 43) and ZeF, AA VIII, S. 354. Cfr. K. Flikschuh (2010, pp. 487–488).

yet. In order to cast more light on the tensions between national and federative transnational juridical authority, I would like to meditate about the limits of coercion in Kant's right, that Flikschuh scores successfully:

Individuals and states are distinct types of moral agents. Individual in the pre-civil condition are non-sovereign right claimants who raise prima facie valid freedom claims against one another, yet who each lack the authority coercively to enforce these claims against one another. Non-sovereign individuals can be compelled into the civil condition as the only condition under which their claims can become enforceable. Their being so compelled in no way affects their status as (non-sovereign) moral persons. The same is not true of states. [...] To compel states to enter into a coercive federation would amount to a denial of their distinctive moral status a belonging to that type of moral agent whose will is juridically sovereign. [...] It then follows that relations of Right between states can only be non-coercive: only a non-coercive league of states is feasible, an association of states as moral equals with no coercive superior above them¹⁰ (Flikschuh 2010, pp. 480–481).

According to Kant's right system it is a matter of fact that right itself as a reasonable product goes far beyond the means of coercion. Actually, individuals ought to enter into a civil union and so they have to be subjected to a higher authority, called "state", but the analogical argument could not be continued to cover also the order formed by single states. If this is true, legal freedom among states could not be achieved by the means of coercion, but rather by the worldwide spread of national state model. Naturally, it will be immediately considered a too blurred goal – why not pursue the worst political form instead the best when coercion lacks? – but the judgment could change if one sees this mimicry among states as a process launched by the republicanism. This imitation would not mainly depend on effective interferences of developed countries in those which aim at assuming a republican constitution, since such actions could not take the place of foreign political agency. Moreover, the global right order would extraordinarily accept, taking inspiration from Kant's legal thought, specific humanitarian actions moved by a foreign state into the territory of another one, with the paradoxical aim of enhancing the sovereignty of it, but such measures could never involve a juridical legitimation. With a similar intent, J. Rawls argued in *The Law of Nations* for a duty to help developing countries according to a "principle of transition", which aims at achieving the "essentials of political autonomy".¹¹ These actions should be always regarded as extreme and exceptional measures, in order to both prevent further damages and to stimulate a mimetic behaviour. Actually, the arguments of Flikschuh are deeply connected with Rawls's formulation of the second original position concerning the states, which several of his cosmopolitan readers have assessed critically, since this appraisal of global justice would not prioritize individual moral claims. Yet Rawls' "Law of Peoples" displays a large list of duties of assistance that liberal democratic governments – "well-ordered peoples" – would have to fulfill toward other peoples, i. e. the "burdened societies", in order to reduce the inequalities among them and to meet the basic needs of every community on the Earth.¹² It should be added that not all the causes of inequality are identical, therefore Rawls' as-

¹⁰ cfr. MS RL, AA VI, S. 350 (§ 62) and ZeF, AA VIII, S. 355–358.

¹¹ See J. Rawls (2001); cfr. H. Williams (2007, pp. 57–72). As a critical approach to Rawls' position about international right, see Pogge, 1994, pp. 195–224.

¹² See the interesting account of this quite substantial list of duties of assistance in Kleingeld, 2012, p. 193ss.

sistance measures only aim at relieving the unjust inequalities, but not those derived from the consequences of peoples' free choices in the realm of trade or labour right. If one focuses directly on Kant's texts, she will not encounter any defence of a duty to decrease the economic inequality within a society; at most the reader will find arguments in favour of the appeasement of poverty, since this extreme situation could incite violent popular riots (Sánchez Madrid, 2014). On my view, Rawls and Kant share the idea that the political and legal development according to a republican constitution will display more positive consequences for the political global order than the institution of supra-national assistance agencies. Many of Kant's main political statements prove that legitimated international aid and assistance actions should not risk performing a new practise of neo-colonialism, but they rather ought to stimulate the achievement of the civil status by all people on the Earth. The following excerpt of *Perpetual Peace* explains Kant's hope on a self-regulated state system:

[I]n accordance with their idea of the right of nations, they [states] do not at all want this [to form a state of nations], thus rejecting *in hypothesi* what is correct *in thesi*; so (if all is not to be lost) in place of the positive idea of a world republic only the *negative* surrogate of a league that averts war, endures, and always expands can hold back the stream of hostile inclination that shies away from right, though with constant danger of its breaking out (*furor impius intus – fremit horridus ore cruento. Virgil*) (ZeF, AA VIII, S. 357).

As a negative surrogate of a world republic, a league of nations in constant expansion should prevent the outbreak of hostile inclinations among states, which represents the most powerful enemy of right, renouncing to remove completely this «constant danger». As states cannot coerce each other, only a federative formula could promote an enlargement of the principle of sovereignty, which will establish dynamically, i. e. promoting through lawful interactions, equality among states (Flikschuh, 2010, p. 489). No state could be legitimated to curtail the public autonomy of another people, but it is not discarded that the first could positively intervene for the sake of strengthening the juridical capacities of a developing country.¹³ I consider this reading of Kant's idea of a federative league of states not far from – even if not identical with – some points highlighted by the *background justice* approach claimed by Miriam Ronzoni, that proposes a middle way between a strong cosmopolitanism – understood as the imposition of a transnational political authority – and a narrow statism:

Interestingly, an argument in favor of the establishment of supranational institutions can be advanced for the sake of *protecting sovereignty* itself. If global economic dynamics play an excessively intrusive role in influencing the domestic policies in developing countries in particular [...], then fairer global institutions might be required to give governments *more*, rather than less, freedom, or at least to re-equalize the amount of discretion that developed and developing countries have over their domestic policies. In other words, global background justice may require states to give up their *formal* sovereignty to some extent in order to protect their *effective* one (Ronzoni, 2009, p. 249).

¹³ See Wenar, Milanovic, 2009, p. 484: "In our model it is not the *nature of* but rather the *connections among* democratic peoples that keep hostilities from breaking out between them. If this hypothesis is true, a liberal world is not in itself a peaceful world: it must be a connected world as well. Until that world emerges, we cannot expect liberal democracies to be as peaceful as many liberals believe them to be".

Kant would never uphold that a state could give up its formal sovereignty in order to receive the outer impulse to make it effective, but his appraisal of a rightful cosmopolitan authority implies also a worldwide protection of the principle of sovereignty. Thus, the obstinacy of some states to join a transnational league would heavily contravene the duty to enter into rightful relations with other national units, which the domestic sovereignty self entails by itself. Therefore, cosmopolitanism comes up as a mean to forward the international enhance of national state model, therefore as the unique suitable framework for defending, for example, basic human rights, whose disrespect should be generally assigned to a lack of sovereign function.¹⁴ To maintain some governments in a juridical and political minority, subjected as they often are to neo-colonialist conducts, would turn them completely unable to protect the basic human rights of their people, what makes the task of gaining a governmental public agency the most important goal that a human community has to aim at and the most inalienable function that it has to discharge. I agree with following Laura Valentini's remark about the conditions which make a government able to offer an effective human rights protection to their citizens:

The coordination and interpretation that make freedom impossible in the state of nature make it equally impossible in a sufficiently integrated system of states. Solving these problems would seem to require the establishment of authoritative coordinating agents stopping international interdependence rights sensitivity in those that already exist (e.g., the WTO and IMF). The idea is not to replace independent states with a global state. Instead, it is to guarantee the *equal* substantive sovereignty of all states, hence the conditions for them to be able to protect their citizens' human rights. Only once states are genuinely equally sovereign (i.e., when they are all independent and effectively capable of controlling their territories and populations) can we truly say that the responsibility for the human rights of their citizens falls primarily upon them. If the environment in which states exist makes them *unable* to protect human rights despite their best efforts, how could we hold them primarily responsible for their protection¹⁵ (Valentini, 2012, p. 592).

Kant points also clearly out that the internal development of a community as an independent source of public agency is a clue condition in order to remove definitively exploiting colonialist practices from the Earth. His writings display a progressive tendency to denounce and criticize the cosmopolitan and civilizing pretexts which only try to ease the economical and political control of foreign countries by European potencies. The moral equality among states keeps off the spread of this kind of exploiting practices.¹⁶ Civilization cannot be exported, sin-

¹⁴ I completely share the point of view of Katrin Flikschuh about this point: "Human rights theorists often combine a strong commitment to human rights fulfilment with disinterest in and sometimes even disdain for the sovereignty of states. This seems to me to be mistaken. Current human rights theorizing must acknowledge that many states lack adequate sovereign competence even whilst functioning as members of an international community in which the assumption of sovereign competence remains fundamental. Lack of sovereign competence may be a principal reason for persistent human rights non-fulfilment in many states. Yet denial of sovereign standing in the name of human rights protection followed by extensive international interference cannot be the answer" (Flikschuh, 2011, p. 35).

¹⁵ See also the valuable paper of Onora O'Neill (2005).

¹⁶ "[T]he entire argument for Kantian civic patriotism is guided by the fundamental cosmopolitanism principle of the freedom and equality of all humans" (Kleingeld, 2012a, p. 187).

ce it is an outcome of the autonomy of a people; at most the education could enhance the achievement of this purpose. Cosmopolitan right depends on the republican constitution of the state members of a global federation, insofar as the implementation of republicanism, federalism and cosmopolitanism is interdependent in Kant's theory of right and, therefore, patriotism and cosmopolitanism do not appear as opposed goals, but as internally linked tasks. Therefore, to boost a global public sphere will purport positive effects for the aims of global justice projects.

Kant's political writings from the decade of 1790' on contain several hints to uphold – as Howard Williams has claimed – that cosmopolitan right is based on a *a priori* true principles and on the contents of innate right. Human beings see their innate right fulfilled only when they enter as members into a republican state, but they belong also to a large community that has to be respected as they move throughout the world. Moreover, a global model of justice should guide the political agenda of states, so – as H. Williams sets out – that “a country has to be coerced to conform with the principles of law is already an indication that it is not ready for a fully legal set of relations with other states” (Williams, 2014, p. 25). As Lea Ypi points out:

Kant's *ius cosmopolitanicum* does not abolish the preceding *ius gentium*; instead, it constitutes its historical-universal condition of development. [...] Within the Kantian paradigm, *ius cosmopolitanicum* acts as a regulative principle orienting historical and political initiatives with global inspiration. Realizing such a principle requires mobilizing political agency *within* the state because only here the relevant political, social, and cultural conditions necessary to an effective allocation of political obligation may be found (Ypi, 2012b, p. 30).

I have claimed before that Kant's cosmopolitanism should be understood as the state sovereignty from the point of view of the category of community, i. e. as a world formed by independent republics that build up a tight network of mutual commitments, since they share the same political-legal rational code. Naturally, recent papers counter-argument this reading, claiming that some supranational institutions with some sovereign powers are needed to help worldwide governments to exercise their political agency.¹⁷ I claim, against these kind of Kant inspired global justice theories, that those international agencies could only remind singular states the duty to perform as a public agency, provided with a positive sovereignty, i. e. no global institution could supersede the statehood or political autonomous status of a people, going beyond of livening up its sense of autonomy. The point that I regard as crucial in this context concerns the formulas which make it feasible to promote the legal protection of peoples at a world scale and to enhance the fulfillment of human rights in every corner of the Earth. It is easy to catch up that the furtherance of a global public sphere cannot be put apart from these goals. Kant argues that the existence of such a sphere is a *a priori* matter that justifies a global community of human beings on Earth, which should not be misunderstood as a common ownership. Moving from this evi-

¹⁷ A good sample of this approach is M. Ronzoni (2014), see specially p. 54. See also Lafont (2010, p. 208): “Establishing internal mechanisms of accountability in global institutions to guarantee that their obligations to respect human rights are discharged may prevent only the most obvious cases of gross human rights violations if the criteria agreed upon are minimal or too narrowly construed. But in the absence of any such mechanisms there is no reason to expect that even the most obvious violations will be prevented at all”.

dence, Lea Ypi has suggested an interesting permissive theory of the territorial rights wielded by a state. According to it, the political agency over the territories recognized as ownership of a state should fulfill also a protection commitment extendable to foreign people, a behavior that acknowledges the historical contingency of every national territorial frame:

The permissive theory of territorial rights acknowledges the contingency of boundaries and ascribes territorial rights to states only provisionally and conditionally. However we ought to be cautious about jumping into conclusions about how these conditions ought to be enforced. If we take seriously the permissive theory laid out above, states' present enjoyment of rights over their territory is intrinsically bound to their taking up a series of political obligations towards both their citizens and outsiders. A state's domestic jurisdiction cannot be assessed regardless of how it acts in the international sphere; it is intrinsically related to it. The permissive theory of territorial rights makes us, as citizens, aware of both the historical contingency of territory and of its political necessity (Ypi, 2012a, p. 22).

So the national territory will be assessed by the *law of the Earth* according to the unwritten code of public right – as *Perpetual Peace* asseverates, – a *codex* which reminds me slightly the unwritten rules of Zeus claimed by Antigone. I agree with the point that the inalienable Earth community argues for the inclusion of a cosmopolitan right in the legal system, sharply detached from the good purposes of philanthropy, since it promotes both the internal and external development of the statehood. It will be enough to draw attention to the spherical form of the Earth to feel all human beings committed with the goals of a world citizenship, but this perceptual evidence does not need to declare the law of states surmountable by the law of peoples. To put it differently, to keep safe the political autonomy of people unfailingly draws to the form of a state. According to this point of view cosmopolitanism could begin to be considered more as a *systematic corollary* of state public right than as a *corrective mechanism* destined to surpass the domestic sovereignty level. Kant supports interdependence between the three sections of right with a formula that the advocates of the analogy between them often forget: “if the principle of outer freedom limited by law is lacking in any one of these three possible forms of rightful condition, the framework of all the others is unavoidably undetermined and must finally collapse” (MS RL, AA VI, S. 311 (§ 43)).

3. The peaceful path to cosmopolitanism in Kant's interstate right

In this section I aim at shedding some light over the obscure but clue passage of *Perpetual Peace* (ZeF, AA VIII, S. 357) that simultaneously encourages the different peoples of the world to submit to public laws and recognizes the right of states to reject *in hypothesi* what is right *in thesi*, so that the “negative surrogate of a lasting and continually expanding league” (*ibidem*) would legitimately replace the “positive idea of a world republic”. This issue has been the target of a recent critical exchange between Pauline Kleingeld, Helga Varden and Alyssa R. Bernstein, which I would like to refer in the next pages to. I agree with Kleingeld's claim that the aforementioned excerpt proves Kant's rejection of any coercion to force a state or regime to join the international rightful condition. Thus, the *hypothesis* of a loose league of states would mean the first step bringing to the final embodiment of the cosmopolitan vocation of the human species¹⁸ (Kleingeld,

¹⁸ Cfr. Kleingeld's neat remarks on this issue (2014, p. 274–275).

2011, pp. 43–44, 49 and 51). Moreover, Kleingeld situates Kant's position in clear contrast to the Jacobin figure of the revolutionary France, Anacharsis Cloots, who defended in his writings world-state cosmopolitanism, establishing "a republic of the united individuals of the world" (Kleingeld, 2011, p. 40), as the best application of social contract theory. According to Cloots a republican world-state would be the unique formula to provide juridical protection to every human being and it would also guarantee to leave the state of nature at the international scale. Kleingeld claims that "Kant's political cosmopolitanism [...] constitutes an answer to Cloot's challenge"¹⁹ (Kleingeld, 2011, S. 44). Indeed, several Kant's texts display the disanalogy between the situation of individuals before the establishment of the state and the international state of nature, so that coercion at the level of interstate relations would entail a paternalist conception of power, what would betray the tenets of republicanism. Thus, a voluntary federative league of states (MS RL, AA VI, S. 350 (§ 61)), in the wake of the *Foedus Amphictyonum* of ancient Greeks, will reduce the warfare threat and hence will progress continually to the achievement of perpetual peace and to the «cosmopolitan situation» [*weltbürgerlicher Zustand*], where all the dispositions of human being will completely develop. I claim that Kant held this pragmatic shift from thesis to hypothesis through his entire work, what is far from the observations suggested by Byrd and Hruschka about this topic in their commentary of Kant's *Doctrine of Right*. I shall consider the following excerpt:

Kant says that states have a right in the state of nature to coerce their neighboring states to enter a juridical state of states. If their neighbors are not willing to enter a juridical state, the state can wage war to coerce the neighbors to do so. A war waged in order "to establish a state approaching a juridical state" (MS RL, AA VI, 344 (§ 55)) must be permitted if and because the states are required to leave the state of nature and enter a juridical state (Byrd, Hruschka, 2010, p. 195).

In my view, Kant keeps considering the federative association of states in the *Doctrine of Right* as a tool to avoid warfare that does not involve sovereign authority. Moreover, when he refers in § 55 of the *Doctrine of Right* to a war supposedly aiming at approaching free states to the rightful condition, immediately after he does tackle the fact that to wage war or simply to declare war to a foreign state or regime a rightful state ought to obtain first the assent of its people through their representatives (MS RL, AA VI, S. 345–346 (§ 55)). It is true that Kant does acknowledge the right of republican states to defend what belongs to them from an "unjust enemy", i. e. a state whose public expressed will would make peace impossible and that threatens its neighbors with a return to the state of nature (MS RL, AA VI, S. 349 (§ 60)). Yet, the warfare union of free states against this threatening neighbor would not imply a right to divide, after defeating it, the foreign territory among themselves, making that state disappear, since each people could not lose "its original right to unite itself into a commonwealth" (MS RL, AA VI, S. 349 (§ 60)). Such an association for the sake of the defense of the rule of law would have rather the right to force the enemy state to adopt a constitution unfavorable to war (*ibidem*), but it would not be authorized to transform the self-defense principle in a plea for conquest and colonize foreign territories.

¹⁹ Cfr. for a similar approach: Maus, 2004. K.K. Mikalsen (2011) argues for a more normative reading of the league of states. See also the original defence of Kant's idea of a cosmopolitan republic in J.-A. Hirsch (2012, pp. 492ss. and specially 499), even if I don't see how make its conclusions compatible with the systematic framework of Kant's right.

Basing on the precedent texts, I consider excessive to support — as Alyssa R. Bernstein does — that, according to Kant’s treatment of permissible intervention of peacefully allied states against an unjust enemy “permissible means do not include seizing territory or resources but to include rescuing people from genocide and enabling them to establish a legitimate government”²⁰ (Bernstein 2014, p. 244). Bernstein adduces to uphold her claim that Kant never uses the term “paternalism” outside the context of the relation between the ruler and the citizens, which is not, as discussed before, completely analogous to the relation among states (Bernstein, 2014, p. 242). She also considers that to force a state to enter a juridical condition would encompass also the assistance of countries where the human rights are systematically violated, downplaying in my view the scope of Kant’s fifth preliminary article for perpetual peace (Bernstein, 2014, p. 245), which forbids a state to interfere in the internal affairs of another. Kant puts as example in this context the internal stasis of a state, asserting that, even in the middle of the consequential anarchy, till the fight will not finish, any foreign interference will be considered “a violation of the rights of a people dependent upon no other and only struggling with its internal illness” (ZeF, AA VIII, S. 346). As P. Kleingeld stresses, Bernstein’s examples hint to barbarian regimes, where the mere force takes over suppressing freedom and law (Anth, AA VII, S. 330–331), a situation that Kant identifies with the state of nature. However, it would be quite arguable that a group of states could be entitled to intervene for emancipating a population from the despotic government of its ruler (Kleingeld, 2014, pp. 276–277). Kant’s goal at admitting that a peaceful republican league of states declares war to an unjust enemy is to hinder the destructing force of a regime that, for example, violates systematically public contracts (MS RL, AA VI, S. 349 (§ 60)), i. e. his point is self-defense against a neighbor state dismissive with the public sphere, not the spread of republicanism around the world, as Cloots endorsed. Moreover, this self-defense argument, that could form an alliance of states, seems to be the rear view of the unavoidable side by side coexistence that triggers the submission of societies to a public civil authority (MS RL, AA VI, S. 307 (§ 42)). Yet, that alliance shall not be entitled to become “a league for attacking others and adding to their own territory” (MS RL, AA VI, S. 349 (§ 59)).

In a nutshell, I do not track in the *Doctrine of Right* or in *Perpetual Peace* (ZeF, AA VIII, S. 357) any evidence to legitimate a warfare intervention for humanitarian reasons.²¹ Moreover, the right to peace consists of the right to *neutrality*, “when there is a war in the vicinity»; the right to a *guarantee* of the validity of peace treaties and the right to form an alliance for *common defence* against an internal or external attack. Yet, common defence has not immediately to do with the relief of other countries’ deficiencies. Even if Kant decidedly regrets what he calls “the whole litany of troubles that oppress the human race” (ZeF, AA VIII, S. 359), which includes wars, famine, rebellions and treachery, he does not stop to high-

²⁰ Bernstein holds in this article more tempered theses than in her previous paper (2008, p. 93).

²¹ I appreciated T. Mertens remarks about this point: “[T]he concept of supreme emergency escapes by definition pre-given descriptions and conditions. To allow politicians to invoke such situations to violate the value of the integrity of political communities and of the human person is tantamount to giving them free rein. This is not to suggest that emergencies do not exist. [...] Admittedly, cases of an immediate humanitarian catastrophe may occur where the temptation to rescue a threatened population by military means is almost irresistible. In such exceptional cases, however, the intervening force should invoke the necessity defense rather than the right to intervention” (Mertens, 2007, pp. 236–237).

light that war “produces more evil people than it destroys” (ZeF, AA VIII, S. 365). It is true that the habitants of a region of the earth have legitimacy to refuse the attempt to establish contact of a foreign arrived at their shores, but it may occur “if this can be done without destroying him” (ZeF, AA VIII, S. 358), a remark that addresses neatly the case of refugees. Yet, it does not open up in Kant’s view a right to military intervention for humanitarian reasons, but only a right to every human being be provisionally hosted in every region of the world. Bernstein deems that to coerce an unwillingly state into the juridical condition would be a permissible deed for Kant, provided that the prudence of the moral politician will urge to take that step, what invites to take into account the contingencies of the context (Bernstein, 2014, pp. 245–247). Nevertheless, I consider this claim a lightly excessive pragmatic account that leads up to water down the core of Kant’s theory of international relations, contrary to any heteronomous action. It could naturally be supported as a Kant-inspired position, but not as a corollary of Kant’s tenets of interstate relations, since the autonomy of states seems to guide here the political agenda.²²

References

1. Beck, V., Culp, J. 2013, Interview of K. Flikschuh, R. Forst and D. Moellendorf, in: *Global Justice: Theory Practice Rhetoric* 6, pp. 40–53.
2. Bernstein, A. R. 2008, Kant on Rights and Coercion in International Law: Implications for Humanitarian Military Intervention”, in: *Jahrbuch für Recht und Ethik* 16, pp. 57–100.
3. Bernstein, A. R. 2014, The Right of States, the Rule of Law, and Coercion: Reflections on Pauline Kleingeld’s *Kant and Cosmopolitanism*, in: *Kantian Review* 19/2, pp. 233–249.
4. Byrd, S., Hruschka, J. 2010, *Kant’s Doctrine of Right. A Commentary*, Cambridge.
5. Flikschuh, K. 2007, Duty, Nature, Right: Kant’s Response to Mendelssohn in Theory and Practice III, in: *Journal of Moral Philosophy* 4/2, pp. 223–241.
6. Flikschuh, K. 2010, Kant’s Sovereignty Dilemma, in: *The Journal of Political Philosophy* 18/4, pp. 469–493.
7. Flikschuh, K. 2011, On the Cogency of Human Rights, in: *Jurisprudence* 2011, 2/1, pp. 17–36.
8. Hirsch, J.-A. 2012, Legalization of International Politics: On the (Im)Possibility of a Constitutionalization of International Law from a Kantian point of view, in: *Göttingen Journal of International Law* 4/2 (2012), pp. 479–518.
9. Kleingeld, P. 2004, Approaching Perpetual Peace. Kant’s Defence of a League of States and His Idea, in: *European Journal of Philosophy* 12/3 (2004), pp. 304–325.
10. Kleingeld, P. 2012a, *Kant and Cosmopolitanism. The Philosophical Idea of World Citizenship*, Cambridge.
11. Kleingeld, P. 2012b, Kant’s changing cosmopolitanism, in: Rorty, A.O., Schmidt J. (ed.), *Kant’s Idea for a Universal History with a Cosmopolitan Aim. A Critical Guide*, Cambridge, pp. 171–186.
12. Kleingeld, P. 2014, Patriotism, Peace and Poverty: Reply to Bernstein and Varden, in: *Kantian Review* 19/2 (2014), pp. 267–284.
13. Lafont, C. 2010, Accountability and global governance: challenging the state-centric conception of human rights, in: *Ethics & Global Politics* 3/3, pp. 193–215.

²² I completely agree with following Kleingeld’s critical remark to both Bernstein and Byrd/Hruschka (2014, p. 279): “I do not see Kant arguing that there is a right (albeit one that is subject to strict conditions) to wage war for the purpose of establishing a global international federation with coercive powers. Furthermore, if Kant defended such a right, it would be inexplicable why he argues that existing states do not have the right to bring ‘newly discovered’ territories – even those that are still in the state of nature – into the civil condition, nor a right to ‘use force’ to ‘establish a civil union with them’ (MS RL, AA VI, S. 353)”.

14. Maus, I. 2004, Kant's Reasons against a Global State: Popular Sovereignty as a Principle of International Law, in: *Filozofski Godisnuak* 17, pp. 81–97.
15. Mertens, T. 2007, Kant's Cosmopolitan Values and Supreme Emergencies, in: *Journal of Social Philosophy* 38/2, pp. 222–241.
16. Mikalsen, K.K. 2011, In defense of Kant's league of states, in: *Law and Philosophy* 30, pp. 291–317.
17. O'Neill, O. 2005, The dark side of human rights, in: *International Affairs* 81/2, pp. 427–439.
18. Pogge, T. 1994, An Egalitarian Law of Peoples, in: *Philosophy and Public Affairs* 23, pp. 195–224.
19. Rawls, J. 2001, *The Law of Peoples*, Harvard.
20. Ronzoni, M. 2014, Two conceptions of state sovereignty and their implications for global institutional design. In: Macdonald T., Ronzoni M. (ed.), *Global Political Justice*, New York, pp. 53–71.
21. Ronzoni, M. 2009, The Global Order: A Case of Background Injustice? in: *Philosophy & Public Affairs* 37/3, pp. 229–256.
22. Sánchez Madrid, 2013, Private property and *a priori* general united will in Kant's *Rechtslehre*. Some troubles with Kant's alleged foundation of liberalism, in: *Studia Kantiana* 15, pp. 103–120.
23. Sánchez Madrid, N. 2014, Has social justice legitimacy in Kant's theory of right? The empirical conditions of the rightful State as a civil union, in: *Revista Trans/Form/Ação* 37/1, pp. 127–146.
24. Valentini, L. 2012, Human Rights, Freedom, and Political Authority, in: *Political Theory* 40/5, pp. 573–601.
25. Varden, H. 2011, A Kantian conception of global justice, in: *Review of International Studies* 37, pp. 2043–2057.
26. Verdross, A., Simma, B. 2012, *Universelles Völkerrecht: Theorie und Praxis*, Berlin, 1984.
27. Wenar, L., Milanovic, B. 2009, Are Liberal People Peaceful? in: *The Journal of Political Philosophy* 17/4, pp. 462–486.
28. Williams, H. 2014, Kantian Underpinnings for a Theory of Multirights», in: A. Follesdal/R. Malik (ed.), *Kantian Theory and Human Rights*. New York: Routledge, pp. 8–26.
29. Williams, H. 2007, Kant's Cosmopolitan Right, in: *Journal of International Political Theory* 3, pp. 57–72.
30. Ypi, L. 2012a, A permissive theory of territorial rights, in: *European Journal of Philosophy* 22/2, pp. 288–312.
31. Ypi, L. 2012b, *Global Justice and Avant-Garde Political Agency*, Oxford.
32. Ypi, L. 2013, Cosmopolitanism Without If and Without But, in: Brock, G. (ed.), *Cosmopolitanism versus Non-Cosmopolitanism. Critiques, Defenses, Reconceptualizations*, Oxford, pp. 75–91.

About the author

Dr Nuria Sánchez Madrid, Associated Professor, Faculty of Philosophy, University Complutense of Madrid, nuriasma@ucm.es