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ARTICLES

Navigating Political Philosophy in the Twenty-first Century:
Global Challenges and Theoretical Insights

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Abstract. **This special** issue explores new approaches in political philosophy that address many global challenges facing humanity, with particular attention to Kantian and post-Kantian methods along with their limitations. The idea for this issue was born from the 2019 European Consortium for Political Research (ECPR) workshop "Kant on Political Change: Theoretical Grounds and Global Implications" held at the ECPR Joint Sessions at the Université Catholique de Louvain in Mons. The workshop was organised by the Kantian Political Thought Standing Group at the ECPR. Several papers in this issue are refinements from that cooperative endeavour, with inclusion of contributions that reflect a wide range of ways to approach Kantian and post-Kantian philosophy today.

This special issue explores new approaches in political philosophy that address many global challenges facing humanity, with particular attention to Kantian and post-Kantian methods along with their limitations. The idea for this issue was born from the 2019 European Consortium for Political Research (ECPR) workshop "Kant on Political Change: Theoretical Grounds and Global Implications" held at the ECPR Joint Sessions at the Université Catholique de Louvain in Mons. The workshop was organised by the Kantian Political Thought Standing Group at the ECPR. Several of the papers in this special issue are refined developments from that cooperative endeavour, with inclusion of additional contributions that orbit the issue theme: "Navigating Political Philosophy in the Twenty-first Century: Global Challenges and Theoretical Insights." These papers reflect a wide range of ways to approach Kantian and post-Kantian philosophy today.[1]

The four papers take a contemporary political problematic as their subject matter, and try to analyse it through a Kantian lens, also testing Kant's relevance for our twenty-first century world. The authors do so by problematising outdated theoretical views in Kant (and in post-Kantians such as Rawls) and reflecting on the limitations and exclusions of the canon of political thought and of contemporary mainstream political philosophies. The authors assume responsibility, as global citizens and as scholars, for urgent matters such as climate change, the current situation of refugees and political exiles all over the world, and structural racism, aiming to develop theoretical grounds for addressing these challenges in a Kant-inspired way that is also aware of the limitations of Kant's own thought.

1] That the themes of this issue, including the significance of Kant's political philosophy for today, are of interest to scholars is clear from innovative work being currently published. See, for example, Pinheiro Walla and Demiray 2020 and Caranti and Pinzani 2022.

Mehmet Ruhi Demiray's paper, "The Incongruity Between Kant's Republicanism and His Conception of Sovereignty," initiates the special issue with a critique of the dominant liberal vision of cosmopolitan law, from the point of view of people who have lost their citizenship because of political persecution or civil war. Demiray problematises Kant's concept of sovereignty as attached to a particular person or group of persons (as if it were a Hobbesian-Kantian view on sovereignty), to defend the plausibility of a republican reading of Kant's political philosophy that dissolves the personalisation of sovereignty and ascribes it to the rule of law. He proposes that when reading Kant's political philosophy, we should avoid liberal conceptions of human rights modelled after natural law theories as well as interpretations that make Kant a radical democratic popular sovereignty theorist, and advances his own reading of Kant as an author of republican constitutionalism.

Drawing upon Hannah Arendt's work, he interprets Kant's distinction between *forma imperii* and *forma regiminis* as only working "if the forms of sovereignty are recast as the forms of despotism and a republic is considered as a form in which there is no place for a sovereign understood as a determinate office or person within the political-legal order." Kantian republicanism is useful for accounting for the situation and dignity of those who have lost their citizenship status, in so far as innate freedom is the precondition of having rights, not the result of them, and is protected, as opposed to endangered, by the rule of law.

Demiray highlights Kant's defence of metamorphosis in political change rather than violent palingenesis (Zachary Vereb's paper analyses this point in relation to our responsibility for climate change) and suggests that for Kant republic entails a future-oriented perspective that aims at the withering away of sovereignty. In a nutshell, Demiray's thesis is that the archaic notion of personalised sovereignty operates today when those in power persecute and discriminate, and also when the international human rights system is unable to provide a solution to those being persecuted and discriminated against. Kant's conception of the republic could show that the rule of law does not necessarily entail the appeal to this obsolete and damaging idea of sovereignty.

Huw Williams, in "Beyond Democracy Promotion: Kant, Rawls, and a Liberal Alternative," continues Demiray's train of reflections on humanitarian crises. Williams explores the international relevance of Kantian-inspired political philosophy, but this time through the critical reformist influence Rawls (in *Law of Peoples*) claimed to have drawn from *Perpetual Peace*. In doing so, Williams champions Rawls as an unlikely though valuable ally for normative guidance vis-à-vis international justice. His paper begins by outlining the post-9/11 democracy promotion paradigm, situating it alongside adventuristic Kant-inspired readings in the field of international relations. After reflecting on the limitations of an aggressive, "hawkish" Kant dominating the literature, Williams then turns to alternative views of Kant, taking Alyssa Bernstein, among others, as an exemplar for a more "dove-like" interpretation.

Although his reading of Rawls' Kantianism remains squarely – and intentionally so – within the liberal discourse on democracy promotion, it at the same time argues (more radically) for its discontinuance along liberal lines. This is no doubt due to the paper's emphasis on liberal tolerance, non-interventionism, and non-paternalistic sustainable assistance. In the end, the Kantian-inspired Rawls that Williams sketches is well-suited to assist with the task of rethinking twenty-first century political issues, especially through the lens of foreign policy. Yet despite the merit of the more radical political reading of Rawls proposed by Williams, Macarena Marey in the subsequent paper exposes a problematic underbelly of Rawlsian philosophizing more generally.

In "On Onora O'Neill's Critique of Rawls, and on Rawls' non-Kantianism, with a little help from Charles W. Mills," Macarena Marey scrutinizes Rawls's Kantianism and his constructivism as developed out of *Justice as Fairness* and the *Dewey Lectures*. She does so in order to question the possibility of an alternative political reading of Kant, tempered through critical insights of the late Charles W. Mills. After reconstructing O'Neill's objections that call into doubt Rawls' Kantianism, Marey argues that Kant's strategy in *political* philosophy does not succumb to the same idealisation worries. There, Kant does not begin with the idealised individual. Instead, as Marey suggests, he takes as his point of departure social interactivity and its normative consequences.

Marey is concerned to show the compatibility of Kant's political philosophy with non-ideal frameworks. Her approach, in this respect, showcases the value of Kant's thought for global justice issues. Yet, as Marey cautions, Kant can only be an asset for these issues if we confront his biases and examine how they reflect those of today. Marey concludes by drawing from Mills' own misgivings with Rawlsian constructivism, posing the reader a question: "If ideal theories like Rawlsian constructivism cannot account for structural injustices such as racism and sexism, could a Kantian approach to political issues avoid this serious theoretical and practical shortcoming?" Marey answers that a situated understanding of Kant as radical Westphalian critic promises to provide a more emancipatory reading. Her response also reminds scholars of the importance to critically evaluate ideas in the philosophical canon.

In the final paper, "Kant, Revolution, and Climate: Individual and Political Responsibility," Zachary Vereb recovers some points treated by Demiray and investigates the promise of Kantian thought for a related global issue: this time, not the injustices of racism, sexism, imperialism, and classism, but the injustices relating to conservativism in the face of climate change. Though these issues are interconnected, as scholarship in environmental justice attests, Vereb highlights that climate change urgently demands that we adopt the radical goal of profoundly transforming the way we inhabit the Earth if justice in our social relations is to be attained. Vereb proposes that there are at least two different ways of understanding "revolution" in the turn of phrase "green revolution," that have their parallels in Kant's theory of human progress: metamorphosis versus palingenesis. In the first sense, revolution means radical social, moral, and ethical change, a change from the roots up, not necessarily violent, and towards a better situation; in

the second sense, revolution denotes the violent destruction of the present but not necessarily towards a better situation.

From Kant, Vereb recovers the defence of metamorphic action to achieve sustainability by sustainable means, which does not imply this change will be slow. "The clock matters" emphasizes Vereb, but radical goals call for metamorphosis as it is a surer path than palingenesis (the traditional image of violent political revolution), which is always uncertain in terms of outcomes. Indeed, sustainability is a goal of a specific kind: it must be achieved by means such that they do not produce more violent and damaging disruptions to nature, non-human animals, humans, and social justice and peace. Action to achieve a sustainable way of living must not add to the unsustainability of our current system of production and consumption. Vereb's insight is that Kant's moral and political philosophy can contribute to developing this vision of the green revolution as metamorphic radical transformation: "The caricature of Kant's view, whereby political change must be slow and linear, is mistaken. Just as the transformation of pupa to butterfly involves a qualitative shift, so also does Kantian political reform operate with non-linear thresholds; all that is needed to supersede a threshold is an evolutionary spark."

At the end of the day, we hope the reader will find this special issue of *Public Reason* illuminating. If this collection of papers inspires readers to rethink the canon of political thought – whether this means finding new ways to apply ideas of the past, or by critically reassessing the cognitive and normative blind-spots of frameworks they rely upon – then the special issue will have done its job. However, this would never have been possible were it not for support along the way. We would therefore like to conclude by thanking those who have helped make this possible, including the European Consortium for Political Research (ECPR), the ECPR Kantian Political Thought Standing Group, the Keele-Oxford-St Andrews Kantian Research Centre (KOSAK), and workshop organisers Sorin Baiasu and Jakub Szczepański (along with their helpful feedback). We would also like to thank workshop participants for fruitful discussions: Federica Basaglia, Stefano Lo Re, Ewa Wyrębska-Đermanović, and Amy Kings. Finally, we appreciate assistance from Christoph Hanisch, Sofie Möller, Timothy Waligore, and Ewa Wyrębska-Đermanović for their invaluable feedback.

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The Incongruity Between Kant's Republicanism and

His Conception of Sovereignty

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Abstract. This paper is based on the conviction that a reading of Kant's political-legal philosophy centred on his republican conception of "freedom as independence" (as the irrevocable status of every individual) might be of great value in understanding correctly, and dealing adequately with, the issue of the rights. However, his archaic conception of sovereignty as the supreme power that should be assigned to a determinate person stands as a stumbling block for that purpose. This paper argues that this conception is indeed at odds with his republican theory of law too and might better be discarded.

Keywords: Kant, republicanism, sovereignty, forms of state and forms of government, Skinner.

The situation of people who are exposed to civil war, discrimination and persecution in their countries, either because of their identities or because of political views, has again turned out to be a major issue for human rights in our period. As these people flee their countries, are expulsed from them and seek refuge in western-liberal countries, they become much more than a matter of humanitarian concern about calamities experienced out of the borders of western liberal-democracies. They become a vexed public issue for such countries because these countries have constitutionally committed themselves to universal respect for human rights.

The rights of people who have lost their civil rights assured by their membership in decent systems of rule of law is a difficult problem with various aspects. One aspect is the deficiencies of the mainstream-liberal conception of rights, which seems still to be prevalent in the mind-set of public opinion and policy makers in western countries. According to this conception, rights and human rights are substantial entitlements to be assured to individuals, which can be enumerated conclusively in positive law. Hence, when you have a look at the public debates concerning the rights of refugees, you will see that the whole debate turns on the issue of figuring out which substantive list of specific rights these people are entitled to. For instance, whether they are entitled to a right to residence in the long term, or to be permanent guests, or to the rights to work, or to benefit from certain social security measures typically assured to citizens in a welfare state. There is yet a fundamental deficiency in this conception. It blinks at the fact that these people have also lost their very status as equal right-holders when they lost their civil rights assured to them as members of a political community. As Arendt impressively diagnosed in the wake of the calamities of the Second World War, the people pushed to such a situation are indeed deprived of legality; they are put "out of the pale of law" (Arendt 1949, 29). Even in the lucky cases in which they persist and enjoy certain fundamental freedoms, such as freedom of movement or freedom of opinion, the kind

of treatment they receive is a matter of "charity" on the part of others rather than that of rights respected by others.

It is not surprising that we owe one of the most impressive diagnosis of this problem to such an author with strong republican convictions as Arendt. Only from a republican point of view can we fully grasp the link between citizenship and rights. All specific rights presuppose equal legal standing, a status she called the "right to have rights" and formulated as the right "to live in a framework where one is judged according to actions and opinions" (Arendt 1949, 30). When one is deprived of this status, her interests and needs can still be protected by the society, as certain interests and needs of slaves were protected in their societies or certain interests and needs of animals have been protected in many societies. However, what one cannot have is the kind of treatment that would be in accord with her quality as a human being, which Arendt designated as "human dignity" and Kant calls "rightful honour" in Roman-Ulpian terms (MS, AA 06: 236).[1]

I think that Kant also had a similar republican insight when he argued that external freedom, i.e., freedom as independence, is the only one innate right belonging to everyone by virtue of her humanity and gave a constitutive role to this right in his *Doctrine of Right* (MS, AA 06: 238). For Kant, freedom as independence marks the status of legal personality that a decent order of law (a civil union) should recognize as the fundamental status of every mature individual. As Arendt argued that there is one single right, the right to have rights, "without which no other [right] can materialize" (Arendt 1949, 37), Kant suggested that all our specific rights presuppose this constitutive right to freedom. As I elaborated elsewhere (Demiray 2020), the innate right to freedom is not a first level right to be understood as a specific entitlement, namely a "liberty-right" or a "claim-right". Rather, we should consider it as a right of superior level, which contains the features of what Hohfeld called "immunities" and "powers" (Hohfeld 1978). It is an immunity pertaining to each person because it is the irrevocable right to be a person, a being with rights and obligations. It is also a power because it is the right to have rights and thus the ground of all "acquired rights", which we need in order to instantiate our freedom as independence, and which bring forth normative consequences conditioning others' uses of their freedoms. Akin to Arendt's right to have rights, it is thus a prior empowerment to claim and take rights in the civil condition. The major difference between Arendt's and Kant's conceptions lies in the fact that Arendt's conception empowers individuals as active co-authors of civic-political life, while Kant's more characteristically Roman-republican conception empowers them primarily as independent authors of their civil lives and, by virtue of this, as *capable* of taking part in civic-political life on an equal footing with others. Hence, political rights (rights to participation) constitute the core of Arendt's conception, while Kant's conception is centred around the rights that enable one to choose and pursue her way of life freely.

1] Citations from Kant's texts refer to volume and page numbers in the Akademie edition. All translations are from *The Cambridge Edition of the Writings of Immanuel Kant.*

It is a pity that Kant's idea of cosmopolitan law is frequently discussed in a misleading way in the debates turning around what specific rights people escaping from civil wars, discrimination and persecution should have. By misleading reading, I mean the tendency to take Kant's cosmopolitan law as a self-standing system of rights and thus to make it into an edifice of mainstream-liberal conception of rights, while it is indeed the complementary part of a single republican system of law including public law and a law of nations at its prior levels. Kantian cosmopolitan law presupposes republican public law and law of nations. Particularly, Kant's discussion of cosmopolitan rights presupposes that all individuals are already citizens of a particular political society. This is the reason why it is almost completely silent on how the people who have lost their citizenship or were ostracized from their native political communities should be treated by other states.[2]

Another aspect of the complicated problem with the rights of people who have lost their civil rights assured by their membership to decent systems of rule of law is the principle of the sovereignty of states that is still respected as a basic principle both at the national and the international levels. I would not contend that some Kelsenian abstract conception of sovereignty designating the legal order as the supreme order might be essential for the rule of law. However, such abstract sovereignty that could be traced back to the general will of the people should have always been latent in the sense that no power within a legal system could claim sovereignty for itself. It would merely mean that all power should be wielded by public institutions simultaneously authorized and limited by the constitution. This is yet not the case. Even in democratic states, sovereignty tends to make itself concrete and active in the hands of powerful actors presuming to be representatives of the popular or national will. As might be well observed in today's shifts of liberal democracies towards radical right populism as well, this leads to the deterioration of the rule of law, making all laws and rights subordinate to some allegedly supreme interests or vital needs of nations and their states. The claim to sovereignty is put forward as the alleged reason in almost every case wherein people are discriminated, persecuted or expelled in specific countries. It is also one of the major reasons that the international Human Rights system is incapable of setting right the mistreats of human dignity/rightful honour.

Up to now, I have submitted two contentions. First, if we want to correctly understand – and adequately deal with – the issue of the rights of people with no civil rights assured by membership to a decent rule of law, we must go beyond the mainstream liberal conception of rights and human rights modelled after Natural Rights Theories. We should think about rights from within a more republican perspective, emphasizing the insoluble relation between having rights and the assurance of equal status of rightful

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2] Indeed, Kant comes up with a very problematic proviso in the only instance he speaks up about the states' rights to turn away strangers. He argues that "[a stranger] can indeed be turned away, if this can be done without destroying him […]" (ZeF, AA 08: 358).

honour under the rule of law. Second, sovereignty is the reason why this problem rises recurrently and why we fail to set it right.

These two contentions constitute the background of what I will be talking about from now on. I think that Kant's political-legal philosophy provides us with an invaluable point of orientation in dealing with this issue. Yet, there is an important reservation to be made in this regard. The kind of Kantian theory that puts us in a better position in understanding and dealing with the problem at hand can neither be the kind of interpretation of him as a Natural Rights Liberal in the vein suggested by Byrd and Hruschka (2010), nor the one presenting him as a Democratic Popular Sovereignty Theorist in the vein suggested by Maus (1994). It should be a reading of him as an author of Republican Constitutionalism. I think that such an interpretation will be more fitting, both with the text and spirit of Kant's political-legal philosophy. Nevertheless, I should admit that there is an element which is like a stumbling block for his republican theory of the legal-political order and his idea of citizenship as the essential status of subjects in a republic. It is his conception of sovereignty, which I try to problematize in what follows.

In order to do this, I will first rehearse the distinction Kant draws between the "forms of sovereignty" and the "forms of government" (Part II). I will then make a detour via Quentin Skinner's historical analysis of the political theory of the commonwealthmen of the civil-war-period Britain to provide a brief account of major republican contentions against liberalism (Part III). In the subsequent part, I will claim that Kant subscribes to the republican contentions, while also intending to fight off certain riotous implications of republicanism through introducing the distinction between the forms of sovereignty and the forms of government. However, I will contend, this distinction engenders significant problems in his theory, which are particularly evident in his views concerning political-constitutional change (Part IV). I will conclude that Kant's distinction would work only if the forms of sovereignty are recast as the forms of despotism and a republic is considered as a form in which there is no place for a sovereign understood as a determinate office or person within the political-legal order (Part V).

II. KANT'S DISTINCTION BETWEEN THE FORMS
OF SOVEREIGNTY & THE FORMS OF GOVERNMENT

Kant introduces the distinction between the "forms of sovereignty"/"forms of state" [*Form der Beherrschung/Staatsform (forma imperii)*] and the "forms of government" [*Form der Regierung/ Regierungsart (forma regiminis)*] both in *Perpetual Peace* (AA 08: 352-53) and in *Doctrine of Right* (AA 06: 338-41). Let us first have a look at *Perpetual Peace*. There, Kant strikingly introduces the aforementioned distinction in order to make clear that a republican constitution is not identical with a democratic constitution. He argues that "the forms of a state (*civitas*) can be divided either according to the different persons who have supreme power within a state or according to the *way* a people *is governed* by its head of state, whoever this may be" (ZeF, AA 08: 352). He then labels three forms of

state depending on whether the power is in the hands of an individual, or of a group, or of all citizens, namely as autocracy, aristocracy and democracy. Then, he defines the second classification, the form of government, as the one indicating the way a state makes use of its supreme power. There are two different forms in this regard. The first is the republican form in which the legislative power is separated from the executive power (the government). The second is the despotic form in which there is no such separation, that is, the ruler (or the rulers) make and execute the laws. In Kant's view, this amounts to an identification between the public will and the ruler's will; and this is a crucial problem because it makes the entire process of ruling arbitrary while it is the basic function of the laws to prevent arbitrariness.

If arbitrariness characterises despotism, *representativeness* characterises its opposite, republicanism, in Kant.[3] Representativeness means that the ruler cannot identify herself with the public will (omni-lateral will) and cannot set up herself as the owner (dominus) of the state and of the people. Kant suggests that despotism is indeed an anomaly of political rule and this anomaly recurs much more frequently in democracies rather than autocracies and aristocracies. Indeed, he goes far to arguing that

> It can therefore be said that the smaller the number of persons exercising the power of a state (the number of rulers) and the greater their representation, so much the more does its constitution accord with the possibility of republicanism, and the constitution can hope by gradual reforms finally to raise itself to this. On this basis it is already harder in an aristocracy than in a monarchy to achieve this sole constitution that is perfectly rightful, but in a democracy it is impossible except by violent revolution (ZeF, AA 08: 353).

He then makes the point that from the standpoint of the concept of right, what matters is the form of government rather than that of the state, that is, whether it is the laws that are ruling rather than individuals, whoever they are and what number they might have. In his view, laws can rule only when legislative authority is separated from the executive authority.

The paragraph introducing the same distinction in *Doctrine of Right* comes out towards the end of the first section on Public Right (The Right of a State). In a way that seems to conflict with his previous identification of the legislative authority exclusively as the sovereign,[4] Kant now refers to all three authorities in a state as heads of the state and the sovereign. His emphasis now lies on the point that the sovereign should not remain an abstract idea but be clearly designated as a specific natural or artificial person. The form of a state raises as a result of such designation: autocracy when a single person has command over all; aristocracy when several persons, equal among themselves,

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3] More precisely, the republican form is characterized by the interconnected principles of separation of powers, representativeness and the rule of law, while the despotic form is conversely characterized by the monopoly over powers, arbitrariness and the rule of the mighty by Kant.

4] MS, AA0 6: 316-17. Kant refers there to the executive authority as "the ruler", to legislative authority as "the sovereign", and to the judicial authority as "the judge".

command; and democracy when "all together have command over each other and so over themselves as well" (MS, AA 06: 338). Kant revises his comparison of the advantages of the different forms of the state in this text as well: although autocracy is still the most advantageous with regard to the administration of right, it is now regarded as "the most dangerous for a people, in view of how conductive it is to despotism" (339).

Concerning the comparative significance of the classifications, however, Kant repeats his argument in *Perpetual Peace*: the form of a state (i.e., the form of sovereignty) is its letter while the kind of government is its spirit (MS, AA 06: 341). Here, however, the distinction is discussed with a view to the question of political-constitutional change, and Kant points out to the idea of a "pure republic" or "true republic" as the final end of all public right. He says that it is

> the only constitution that accords with right, [whereby] the old (empirical) statutory forms, which served merely to bring about the *submission* of the people, are replaced by the original (rational) form, the only form which makes *freedom* the principle and indeed the condition for any exercise of *coercion*, as is required by a rightful constitution of a state in the strict sense of the word (MS, AA 06: 430).

It is the form of state in which "*law* itself rules and depends upon no particular person" (MS, AA 06: 431). Again, a true republic is designated as a representative state; however, Kant now emphasises the relation to the collective will of the people rather than the separation of legislation and executive. With regard to the right of supreme legislation, i.e., the sovereignty in the strict sense, he argues that "whoever has it can control the people only through the collective will of the people; he cannot control the collective will itself, which is the ultimate basis of any public contract" (341).

III. REPUBLICAN CONTENTIONS (TO LIBERALISM)

I think that Kant's distinction between the forms of states and the forms of governments is particularly interesting when it is related to the debates between liberalism and republicanism, as they are staged by the Anglophone neo-Roman republican authors in contemporary political theory. Quentin Skinner's *Liberty before Liberalism* formulates very lucidly the core of the republican political thought as it was raised in the context of the civil war in Britain. He argues that republicanism was more than the idea of popular sovereignty understood as the contention that "the people, naturally free and originally sovereign, merely delegate their sovereign powers to be exercised for their benefit, while retaining ultimate rights of sovereignty and in consequence the right to remove any ruler acting to their detriment rather than benefit" (Skinner 1998, 21). According to him, not only republicans but also such other groups as Monarchomachs, which defended the parliament in the civil war, shared this assumption.

Skinner suggests that two main ideas concerning freedom characterise the republican tradition and the same ideas have turned out to be major republican contentions against the dominant political paradigm in the modern age, namely

liberalism. The first one is the idea of freedom in a free state, namely the idea that an individual can be free only as a citizen of a free civil association (Skinner 1998, 23). Concerning what a free civil association means, he argues, "the bodies of nations and states are likewise free if and only if they are similarly unconstrained from using their powers according to their own wills in pursuit of their desired ends." (Skinner, 25-26) As most of the republicans of the civil war period in Britain believed, such a free civil association should constitutionally rest on actual consent of the people and the principle of majority rule as the optimal solution, enable equal participation, and have a federative structure and features of a mixed constitution (Skinner, 27-35).

The second idea lies in the very definition of freedom as one's being *sui juris*, i.e., one's being her own master (Skinner 1998, 36). The republicans understood freedom as the opposite of slavery, i.e., "living at the mercy of other people" (Skinner 1998, 94). While liberalism inherited the conception of freedom as the (actual) absence of interference, masterfully formulated by Hobbes, Skinner argues (2008), republicans proposed a broader but still negative conception of freedom according to which actual coercion is neither necessary nor sufficient to amount to the lack of freedom:

> The thesis, on which the neo-roman writers chiefly insist, however, is that it is never necessary to suffer this kind of overt coercion in order to forfeit your civil liberty. You will also be rendered unfree if you merely fall into a condition of political subjection or dependence, thereby leaving yourself open to the danger of being forcibly or coercively deprived by your government of your life, liberty or estates. This is to say that, if you live under any form of government that allows for the exercise of prerogative or discretionary powers outside the law, you will already be living as a slave. Your rulers may choose not to exercise these powers, or may exercise them only with the tenderest regard for your individual liberties. So you may in practice continue to enjoy the full range of your civil rights. The very fact, however, that your rulers possess such arbitrary powers means that the continued enjoyment of your civil liberty remains at all times dependent on their goodwill. But this is to say that you remain subject or liable to having your rights of action curtailed or withdrawn at any time. And this, as they have already explained, is equivalent to living in a condition of servitude (Skinner 1998, 69-70).

Hence, the republican idea is that freedom is forfeited not only under the condition of an actual coercive interference, but in any condition wherein we lack independence and self-governance.[5]

One should note that a basic conclusion to be drawn from these two ideas about freedom considered together was that republicans oppose not only tyrannies but also all monarchies and any other regimes wherein the right to rule (*imperium*) is anchored to a particular person or group (Skinner, 45). To put it simply, the idea of a republic designates the rule (*imperium*) of laws and this is the exact opposite of the rule of a person or a particular group.

5] For a systematic presentation of the republican idea of freedom in the contemporary political theory, see Philip Pettit's influential work, *Republicanism: A Theory of Freedom and Government* (1997).

I think that Skinner's account of the Anglophone republican tradition during the civil war period in Britain is interesting not simply from the standpoint of a historian but also from that of a political theorist. The two ideas he identifies as characterizing the civil-war-period republicanism in Britain might be taken as the basis of the republican political standpoint as such. Having said that, however, I need to note that there is one aspect that seems to me a bit downplayed in Skinner's *Liberty before Liberalism*. It is the republican disposition to contest the existing political authorities, i.e., the right to revolt/rebellion or the people's "right to remove any ruler acting to their detriment rather than benefit" (Skinner 1998, 21). To emphasize this aspect is important because Hobbes develops his distinctive idea of negative freedom in order to fight off the rebellious/seditious republican political doctrines, as Skinner himself impressively established in another work (Skinner, 2008). Hence, the Hobbesian idea of freedom inherited by the liberal tradition implies an aversion against the right to revolt/rebellion, while such a right seems to be entailed in the republican idea of freedom.

IV. KANT'S REPUBLICANISM

Let's now think about what would be Kant's position in relation to the republican-liberal debate, as I believe this would provide us with valuable insights concerning both difficulties and prospects of Kant's theory. We should better start with the obvious aspect, namely the republican conception of freedom as one's being her own master. There might be no controversy about the republican character of Kant's conception of freedom. Indeed, the innate right to (external) freedom understood as independence from arbitrary constraints from others plays a pivotal role for Kant's entire political-legal philosophy; and this right involves one's being her own master as well as an innate right to equality, being beyond reproach and being authorized to do anything that does not in itself diminish other's rightful entitlements (MS, AA 06: 237-38). I will not elaborate Kant's conception of external freedom and its pivotal role for his political-legal philosophy.[6] It will suffice to note that Kant's conception is paradigmatically republican in the following respects: freedom is a matter of everyone being subject to law (not the absence of law); law is a matter of not living under the arbitrary yoke of anyone else, no matter how benevolent this other person might be; freedom is thus a matter of a status that we have against others rather than a happenstance of the absence of actual interference; this status is never compromised when we are subjected to the limitation by just laws in contrast to the choices of others.

When we think about the other aspect of the republican conception of freedom, namely the idea of freedom in a free state, the issue turns out to be more complicated in Kant. At first glance, Kant seems to express the republican thesis in a straight-out manner.

6] In this respect, see Arthur Ripstein's masterful systematic treatment, Ripstein, *Force and Freedom: Kant's Legal and Political Philosophy* (2009). Also, see Demiray (2016).

He argues that "legislative authority", which he designates as the sovereign, "can only belong to the united will of the people" (MS, AA 06: 314). Indeed, this seems to be even stronger than what Skinner pointed out as the thesis of popular sovereignty shared by all parliamentarians in the civil-war-period Britain. Parliamentarians in Britain contented that sovereign powers should be understood as delegated from people and thus are indeed a trust to be used to the benefit of the people in any case. However, Kant seems to be considering the legislative authority of the people as entailing the idea of citizenship, and he considers "being fit to vote" as "the only qualification for being a citizen" (MS, AA 06: 314). For him, it is a feature of the republican, i.e., rightful, constitution that subjects are also citizens in that state (ZeF, AA 08: 350). Indeed, he once argues that if the law assigns the right to citizenship only to a certain class of subjects, this would be an instance wherein the rules fail the test of the rightfulness of public laws.[7]

However, Kant's commitment to the republican thesis of freedom in a free state is indeed compromised. Although he is always committed to it as the ideal case of a pure republic, he seems to be much concerned about its seditious implications for actually existing states and tries to fight off such implications at the price of remarkable inconsistencies in his political-legal philosophy. Indeed, I think, the distinction between the forms of state and forms of government arises out of this concern. On the basis of it, Kant seems to argue that the form of state, i.e. the question of who actually holds the sovereign power in a political community, should not be considered very important by a republican, and thus cannot underlie the justification to rebel against the state. I will now highlight certain inconsistencies that result in Kant's political and legal philosophy. I will then point out to a way out of those difficulties in a later step, which will amount to an impeccable republicanism.

First, Kant's distinction between the forms of state and the forms of government culminates in a position that contradicts even the moderate versions of popular sovereignty as defended by the groups supporting the cause of parliament in civil-war Britain. As we saw above, Kant argues that the sovereignty should not be left as an abstract idea, but a physical person should be designated as the sovereign in any case. In line with this, he really means that an autocrat is the sovereign and not the representative of the sovereign in an autocracy. This becomes clear, for instance, when he argues that "the autocrat is the sovereign, whereas the monarch merely represents the sovereign" (MS, AA 06: 339).[8] The same goes with an aristocracy as the rule of a privileged group.

7] "If a public law is so constituted that a whole people could not possibly give its consent to it (as, e.g., that a certain class of subjects should have the hereditary privilege of ruling rank), it is unjust" (TP, AA 08: 297). According to Kant, the universal principle with which we judge the rightfulness of public laws is contained in the following proposition: *"What a people cannot decree for itself a legislator also cannot decree for a people"* (TP, AA 08: 304).

8] In passing I would like to note that given Kant's argument for the sovereign as a person not subject to laws (TP, AA 08: 291) and his argument against the "moderate constitution" as an absurdity (MS, AA 06: 320), it is also controversial to make a distinction between the monarchical power as the

It is then clear that Kant meant to defend a conception of sovereignty that is not a fiduciary conception. He does not think that sovereignty is a trust if this would imply commitments and obligations on the part of trustees that the people as beneficiary/trustor could demand. Hence, when Kant argues that rulers can rule the people only through the collective will of the people but cannot rule the collective will of the people itself (MS, AA 06: 341), it is difficult to give any credit to his argument, if we also take seriously his foregoing view of the sovereign authority. He should have dismissed either the personalistic conception of sovereignty or the democratic/republican conception according to which the sovereignty cannot pertain to any specific person but only to the people as a whole.

The contradiction between his conception of sovereignty and Kant's view of citizenship as a right to which all independent individuals should be entitled to is even sharper. He claims that autocracy in which a single person rules and all others are merely subjects without being also citizens is one of the forms of the state that are not necessarily incompatible with the republican form of government. This cannot be squared with his claim that subjects are also citizens in a republic. He should have dismissed either the idea that an autocracy might be a form of legitimate (republican) government or the idea that all independent individuals in a republic are also citizens there.

Furthermore, the distinction between the forms of state and the forms of government has a crucial repercussion in Kant's theory of political/constitutional change. Indeed, he well encapsulates the core of his position when he argues that "a change in a (defective) constitution, which may certainly be necessary at times, can therefore be carried out only through reform by the sovereign itself, but not by the people, and therefore not by revolution; and when such a change takes place this reform can affect only the executive authority, not the legislative" (MS, AA 06: 321-22). Kant has then two major theses concerning political/constitutional change. The first is the reformism thesis that changes should take place through gradual and peaceful reforms rather than through violent revolutions. I do not think there is any contradiction that this thesis in itself engenders in Kant's republican political-legal philosophy. However, the second thesis, which I call the thesis of the irreplaceability of the sovereign, seems directly going against the republican scripture. Kant presents this thesis in a more overt way in another passage after restating the reformism thesis:

> insurrection in a constitution that already exists overthrows all civil rightful relations and therefore all right, that is, it is not change in the civil constitution but dissolution of it. The transition to a better constitution is not then a metamorphosis but a palingenesis, which requires a new social contract on which the previous one (now annulled) has no effect. But it must still be possible, if the existing constitution cannot well be reconciled with the idea of the original contract, for the sovereign to change it, so as to allow to continue in existence that form which is essentially

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highest authority and the autocratic power as the plenary power, as Kant makes in the same passage (MS, AA 06: 338-39).

required for a people to constitute a state. Now this change cannot consist in a state's reorganizing itself from one of the three forms into another, as, for example, aristocrats agreeing to submit to autocracy or deciding to merge into a democracy, or the reverse, as if it rested on the sovereign's free choice and discretion which kind of constitution it would subject the people to. For even if the sovereign decided to transform itself into a democracy, it could still do the people a wrong, since the people itself could abhor such a constitution and find one of the other forms more to its advantage. (MS, AA 06: 340)

Whatever you might think of the value of this thesis for the irreplaceability of the sovereign, I think it is hardly compatible with Kant's republicanism, particularly with his arguments that republicanism is a form in which subjects of laws are also citizens, and that the restriction of the right to citizenship to certain persons or groups is a paradigmatic example of public laws failing to be rightful.

V. A WAY OUT OF THE DIFFICULTY: THE FORMS OF SOVEREIGNTY VS. REPUBLIC?

Yet, I think one interpretation that would make Kant's republicanism internally consistent is conceivable. As hinted at by Hannah Arendt,[9] Kant might be considered as claiming that the only distinction that matters is the one between republican constitutions and despotisms, and the forms of sovereignty are indeed not a separate distinction but specify the different forms that despotism can take. In line with this, his genuine point would be formulated as the claim that a republic cannot be established through a simple change of the form of sovereignty, because it is a form in which sovereignty, supreme power, is absorbed so that power belongs to no men or no group of men but to laws alone, in other words, to no particular instance or office within the political-legal order but to this order in its entirety (see MS, AA 06: 355). Hence, the progress towards a true republic can only be conceived as a metamorphosis rather than a palingenesis. Any revolutionary undertaking targeting the specific form of sovereignty works only to exacerbate the fight for sovereignty and thus results in violence. Any such undertaking is necessarily backward looking. It can only ignite a palingenesis, i.e., the revival of the historical origin. The historical origin, that is, the founding moment

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9] "Kant's point is that all these forms of domination (as the word 'domination' itself indicates) are, strictly speaking, illegal. Constitutional or lawful government is established through the division of power so that the same body (or man) does not make the laws, execute them, and then sit in judgment on itself. According to this new principle, which comes from Montesquieu and which found unequivocal expression in the Constitution of the United States, Kant indicated two basic structures of government: republican government, based on the division of powers, even if a prince is at the head of the state; and despotic government, where the powers of legislation, execution, and judgment are not separated. In the concrete political sense, power is needed and incorporated in the possession of the means of violence for the execution of laws. Where, therefore, the executive power is not separated from and controlled by legislative and judicial powers, the source of law can no longer be reason and consideration, but becomes power itself. That form of government for which the dictum 'Might Is Right' rings true is despotic-and this holds regardless of all other circumstances: a democracy ruled by majority decisions but unchecked by law is just as despotic as an autocracy." (Arendt 1994, 330-31)

of a state, is in any case a situation in which the despotic dictum "Might is Right" is valid, regardless of whether a single autocrat, or an elect group, or the majority holds this might. Then, Kant suggest, the republic is like a butterfly that can grow out of a caterpillar that shall willingly transform itself into a different form of existence that has been developing in its body for a long time.[10] This means that a republic is conceivable only through a forward-looking perspective that will rely not on the archaic principle of might – understood as raw power – but on the principle of the rule of law that blossoms and gradually consolidates under the condition of pacification, of withering away of sovereignty in other words.

The only textual difficulty for such an interpretation originates in Kant's insistence on a conception of sovereignty as the supreme power that the head of state should have. Here, I am aware that many readers of Kant will insist that this conception of sovereignty plays a systematic role in Kant. They might argue that since his "doctrine of right wants to be sure that what belongs to each has been determined (with mathematical exactitude)" (MS, AA 06: 233), institution of a unitary sovereign is necessary for the Kantian rule of law rather than a dismissible idea. Although I find this analogy a bit too hyperbolic, I would agree with them and Kant on the point that the rule of law aspires to provide determinate rule and judgment concerning any issue about rights. In that sense, it cannot construct itself as anything other than the supreme and final coercive authority. However, there is nothing in such a construction that necessitates that some specific office or person should be the supreme and final authority in a comprehensive way concerning what is right and what is wrong in every case. Legal rights and duties may be still determinate and are much more effective when powers are divided among different organs of the rule of law. Indeed, Kant's unitary conception of sovereignty is at odds not only with the principle of the separation of powers characterising the Kantian rightful state; It is also incompatible with Kant's idea of a republic as a constitution in which the supremacy belongs not to men but to laws and his idea of citizenship as the essential status of subjects in a republic. The way to mend this difficulty would be to restrict Kant's arguments for sovereignty to the despotic constitution, that is, to argue that sovereignty might have been a concept historically necessary in the path towards a republican constitution but should be overcome to advance further toward the same ideal.

VI. CONCLUSION

The following was the initial conviction underlying my paper: a reading of Kant's political-legal philosophy centred on his republican conception of "freedom as independence" (as the irrevocable status of every individual) might be of great value in

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10] For a historically informed elucidation of Kant's use of the notions of metamorphosis or palingenesis as the basis of his theory of political change, and an impressive account of his reformism, see Williams 2001.

understanding correctly, and dealing adequately with, the issue of the rights of those who have lost their civil rights assured by their membership to a decent system of rule of law. Such a reading will see international law and cosmopolitan law not as different self-standing systems, but as necessary parts of a republican system of law that assures universal respect for everyone's rightful honour. However, I highlighted that there is an obstacle in Kant's philosophy, namely his archaic conception of sovereignty as the supreme power that should be assigned to a determinate person or office within a legal-political order. I showed that this conception is indeed at odds with his republican theory of law and should be discarded.

As we all know too well, given the political experiences of the recent centuries, the archaic conception of sovereignty continues to be at work, when the holders of power discriminate, persecute certain groups of people, and expulse them from civil life. It is also the same conception that stalls the international Human Rights system in setting right the situation of these people.

However, there is nothing in the idea of the rule of law that makes necessary taking recourse to this archaic conception of sovereignty. Rather, the ideal of the rule of law refers to an order in which all powers are separated among different authorities and used exclusively in legally authorized ways. As illustrated by the federal states and the regional supra-national political associations of our time, it is a matter of fact that even the use of the same power, e.g. legislation, might be divided among different authorities, which mutually check and balance each other. This means that the rule of law is not compromised when the claims to sovereignty by specific actors are pushed back in our conception of legality. Quite reversely, the rule of law will always remain open to deterioration insofar as we insist keeping up with the archaic conception of sovereignty. From the standpoint of the rule of law, sovereignty should mean nothing more than a pure abstraction designating the principle that all powers should be used by the organs of law and in the ways prescribed by the law, i.e., the anti-despotic principle that no one is above laws and there should be no authorization without limitation and supervision. In line with this, the rule of law is not only compatible but also requires the creation of international and cosmopolitan authorities that will have certain legislative and judicial powers necessary to assure that no one is deprived of her status as a legal person, i.e., her rightful honour as a free being living under the protection of law rather than the discretion of others.

Finally, I would like to conclude by noting an essential incompleteness that haunts not only the Kantian republican constitutionalism I defend, but any attempt to develop institutional solutions to the issues of the rights of people who have lost their civil and civic contexts. Institutions can provide people only with the *opportunity* to take part in civil and political life on an equal footing with others. However, if standing as a person of dignity or of rightful honour is a matter of one's taking and claiming her rights in the context of civil and political life, this can be actualized only by those people themselves. At the end of the day, these people should be the saviours of their rightful honour and

thus the actors keeping alive the republican project in the countries they have sought refuge. This means that political contestation will be a necessary aspect of the story if it is ever to have a happy end.

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Beyond Democracy Promotion: Kant, Rawls, and a Liberal Alternative

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Abstract. This article argues for a more radical philosophical approach to the problems of democracy promotion, one which is grounded in John Rawls' view of international politics. His circumspect, Kantian perspective contrasts with other attempts to justify an adventurist, interventionist foreign policy, also sometimes labelled as Kantian. With respect to democracy promotion, Rawls' view contrasts significantly with a reformist 'critical' perspective, and suggests we should move beyond this policy paradigm entirely. Indeed, it is claimed this Kantian perspective offers a robust alternative liberal narrative, which takes tolerance and recognition of non-democratic 'decency' as a more apt starting point for Western foreign policy. This is a gradualist philosophical perspective that potentially encourages greater international security, more stable development – and possibly more democratization in the long term.

Key words: democracy promotion, Kant, Rawls, decent peoples.

Over the previous three decades democracy promotion has become a cornerstone of Western foreign policy. It has dovetailed in a forceful way with the state-building agenda that was given new legitimacy following 9/11. Subsequently, attempts to intervene in order to create more secure institutions in weak and failed states became far more salient as a security issue, and not just as a concern in the field of development. This paper will focus on underlying philosophical narratives that have emerged during this period, concentrating specifically on the significant influence of Kant's thought. The particular aim is to elucidate John Rawls' thinking in this area, inspired by his interpretation of Kant's *Toward Perpetual Peace,* and the key claim is that it offers a robust alternative to a policy paradigm that has had its legitimacy slowly eroded.

The paper begins with a section on the emergence and problematization of the democracy promotion agenda, in particular against the backdrop of Kant's increasing influence in the field of International Relations. I present this problematization with reference to Chris Lazarus's threefold critique (2014), and its focus on the overreach of the democracy promotion paradigm. In presenting Lazarus's argument, which calls for a critical reformation of the democracy promotion project, I pay specific attention to the key tenets of **principle**, **security** and **development**, particularly as these later provide a useful heuristic for assessing Rawls' approach. I also set out Lazarus's critique with reference to the philosophical justification for the project of democracy promotion, derived in some instances from a particularly hawkish liberal interpretation of Kant's thought. It is notable that Kant has been cited by some in this way, particularly as part of the public justificatory framework for the development of these policies (signified most pertinently by those who mobilized aspects of his work in order to justify the Iraq War). Having set out Lazarus's critique of democracy promotion and elucidated its grounding

in one possible (albeit controversial) interpretation of Kant, I then turn to opposing readings of Kant, specifically Alyssa Bernstein, in order to demonstrate how other less hawkish interpretations provide a convincing counterpoint.[1]

This sets the scene for the bulk of the paper, which will then turn to Rawls and his *Law of Peoples* (1999) to provide an account of an alternative Kantian framework relevant to democracy promotion, grounded in a gradualist, circumspect perspective. The foundations of this Rawlsian perspective on democracy promotion will be articulated with reference to the three key tenets as described by Lazarus. Specifically, it will be argued that a Rawlsian alternative presents strong claims with regard to all three tenets: 1) **democracy** as a guiding principle for international affairs should be replaced by the concept of *decency* 2) **security** in the international realm is best achieved through non-intervention rather than 'gun-barrel' democracy promotion 3) sustainable **development** in the global south is more likely achieved *without* external intervention demanding democracy promotion. Rawls' ambition of a worldwide society of peoples is for moral and practical reasons best left to the internal reform and democratization of states, rather than enforcement through democracy promotion.

Rather than offer a critical response along the same lines as Lazarus, therefore, Rawls' Kantianism provides us with an alternative liberal discourse on democracy promotion: one which seeks not to reform this policy paradigm, but to rather more radically argue it should be discontinued.

I. PROBLEMATIZING DEMOCRACY PROMOTION AND KANT THE HAWK

The promotion of political development abroad is not necessarily a recent phenomenon in foreign policy, at least if one were to consider the context at the end of the Imperial age, the Mandate system and decolonization – and the explicit attempts by Western powers to bring colonies up to the appropriate 'standard of civilization' (see Bain 2003). However, democracy promotion specifically has gained major currency as a concept and practice in particular since the 1990s, in the context of the democratization of the former Soviet Bloc and wider ambitions that became extant during this period after the heralding of the victory of liberal capitalism; this was a spirit captured most famously, of course, in Francis Fukuyama's positing of the 'End of History' (1992).

1] I will not engage explicitly with the question of which is the most convincing interpretation. Any attempt to assert the superiority of a more dove-like interpretation of Kant is put to one side given that the key aim is elucidating an alternative perspective on democracy promotion, and given that the case for superiority is analytically separate from asserting the possibility of an alternative Kantian perspective on democracy promotion. Implicitly, however, this type of interpretation is favoured here, and the paper is in this respect aligned with Luigi Caranti's arguments as set out in his Kantian critique of Democratic Peace Theory (2016). Indeed, this paper seeks to align Rawls more closely with the Kant presented in Caranti's work, demonstrating that Rawls' practical views on democracy promotion issue from a dovish interpretation of Kant. For an extensive critique of more hawkish interpretations of Kant and the attempt to interpret him as a Just War theorist, see Howard Williams (2012).

Bound up in the hope for this new age was a new-found moral sense of mission that left little room for scepticism in relation to the goods to be won from promoting democracy, exemplified not only in the more robust attitudes with respect to Western foreign policy. Also significant was the work of authors such as Michael Doyle on the Democratic Peace Theory (1997), inspired by Kant's hypothesis on the pacific tendencies of republican states, and the prevalence of the belief – captured eloquently in Amartya Sen's compendious work *Development as Freedom* (1999) – that the global south could best develop through adopting the norms of democracy.

9/11 and the beginning of the War on Terror was a watershed moment, for in coupling democracy promotion explicitly to the state-building project – and more obviously armed intervention – it became tied in with a realist geopolitics. Democracy promotion became inseparable from what David Chandler described as *Empire in Denial* (2005), as state-building became more and more widespread and invasive in those declared 'weak' and 'failed' states, with Afghanistan and Iraq at the sharp end of this newly calibrated practice. It was no longer a case of facilitating the global south in "getting to Denmark" (Fukuyama 2015, 25) – democracy was going to be foisted upon them through a whole gamut of measures. A backlash was perhaps the inevitable outcome.

Chris Lazarus (2014) indeed pointed to a crisis in democracy promotion, but noted that while the Iraq War may have been hugely significant in its impact on the legitimacy of democracy promotion, the failings were far more widespread and deep-rooted. It is on this assumption that he puts forward his case for reforming the democracy promotion project. A foundational problem, according to Lazarus, lies in the concept of the democracy being promoted, namely a system of *polyarchy* that puts excessive focus on the importance of electoral politics, to the detriment of true engagement with the social and economic aspects that are key constituents of democratic politics. Beyond this problem with what we might term the 'product' being promoted, Lazarus points to the three key tenets of democracy promotion that have been routinely undermined and how this needs to be addressed. They are the **principle** of democratic rule, the **security** engendered through a democratic state, and the **development** that is supposedly encouraged by democratic reform.

In Lazarus's view, the first, moral argument for democracy has become untenable given the manner it is frequently waylaid in the action of Western foreign policy by commercial influences and geo-strategic interests. The second tenet of security, legitimated with reference to the democratic peace theory's claims around the reduction of war, has little currency given the prevailing climate of interventionism and widespread instability in fledgling democracies. Lastly, with respect to the idea of development, the apparently inherent link between democracy and development is as often contradicted as it is realized. Moreover, the success of more authoritarian regimes in securing developmental success – largely measured in economic terms – suggests an alternative model that may be of greater efficiency in meeting the aims of development so defined.

Lazarus asserts that this assessment leads to the conclusion we cannot with any confidence make the claim of a causal link between the democracy promotion of the West and the lasting democratization of the states it has targeted. In fact, he suggests that we saw a backlash both at state level and amongst the population of targeted states. The failings of the project and the spectre of gun-barrel democracy promotion would suggest rethinking the notion in its entirety. Intriguingly however, rather than asking whether it is an ill-conceived project, Lazarus seeks to argue that challenging the hegemonic concept of neo-liberal capitalist polyarchy can arrest the backlash. It requires reform and recalibration, not an entire rethink. In particular, in his view, this can be achieved by seeking to "repoliticize democracy by reembedding politics within the social and economic realms, thereby emphasizing the material basis of individual and collective freedom and justice" (Lazarus 2014, 56). In summary, promoting a more participatory model of democracy, one that engages the wider population in the possibility of creating reform, would open up the possibility of more successful democracy promotion. Change the product, not the practice.

It is notable that Lazarus's critique should point to some of the widespread issues with the democracy promotion agenda, but in suggesting alternative paths forward, does so whilst remaining faithful to that very same agenda. That is to say, it is a matter of doing it better, as opposed to questioning its legitimacy as a whole. It is still perceived, from this perspective, as the right thing to do and the proper course of action to pursue.

In some respects this reflects the assumed progressive agenda it is coupled with, an agenda characterized in part by an affiliation with a Kantian approach to international politics. Kant has proved an increasingly key figure in both academic and public debate for at least three reasons. Firstly his view of history and the possibility of a future peaceful federation chimed very much with the optimism of the 1990s, and along with Hegel's philosophy inspired ideas such as Fukuyama's 'End of History' thesis; secondly, his arguments suggesting the likelihood that republican states would avoid war were the basis for the Democratic Peace theory that inspired much of the enthusiasm for democracy promotion during this period; thirdly, and perhaps less explicitly (if not less significantly) Kant's international political theory as a whole was regarded as a philosophical precursor for the ambitious ideas of cosmopolitanism (Brown 1993) and theorists such as Charles Beitz, Martha Nussbaum and Kok-Chor Tan. They had risen to prominence by the end of the last century and their ideas were influencing the developing intellectual backdrop for understanding World Politics in the age of globalization, and the increasing purchase of Human Rights and the individual's status, the Responsibility to Protect and a more normatively charged global politics in general.[2]

In terms of its wider public prevalence, this engagement with Kant and the application of his ideas to international relations reached a certain notoriety with Roger Scruton's controversial claim that Kant would have argued for the invasion of Iraq

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2] See for example Heather Roff (2013).

(2004). Arguments in a similar vein circulated in academic publications such as the work of Fernando Tesón (2003), and this appropriation of Kant for justifying armed intervention can be viewed as the most 'hawkish' interpretation of his work, which reflected the desire at the time to be able to legitimize such invasions from a broadly liberal perspective.

These tendencies presented an influential, albeit intuitively questionable application of Kant's thinking that inevitably prompted debate. Whilst they set out the case for an aggressive form of Kantianism in the international realm, it is significant and central to the arguments of this article that others sought to reflect a more 'dove-like' interpretation – one that establishes a philosophical groundwork at odds with a more combative attitude towards democracy promotion. Alyssa Bernstein's detailed arguments (2008) provide one such example. She makes a strong case for rejecting the characterisation of Kant by interlocuters such as Tesón (although she still wishes to maintain – unlike Thomas Mertens (2007) – that in some very particular circumstances Kant might advocate armed humanitarian intervention).

Much of her discussion hinges upon the interpretation of Preliminary Article 5 in *Toward Perpetual Peace*, "No state shall forcibly interfere in the constitution and governance of another state." (ZeF, AA 08: 346) Bernstein's own argument is that this prohibition should be regarded as conditional on state conduct, whilst it also rests upon Kant's understanding of what constitutes a state. Where there is no state, or its conduct is suspect, and where the duty to establish or protect a rightful condition (i.e. a peaceful federation) holds, there may be a "narrow class of cases" in which intervention is justified, although "pragmatic considerations may rule it out in any given case" (Bernstein 2009, 59).

Bernstein explains that central to the state's claim to sovereignty and non-intervention is its status as a moral person, capable of free actions and being subject to – and judged by – laws.[3] The law, or rather absence thereof, is critical with respect to Kant's understanding of the state, as it is the measure of whether or not the legislator is able to carry out the function of government (Bernstein 2009, 59): "where law is absent there is no political obligation and no state." Such a condition is one of barbarism.

Somewhat counterintuitively with regard to the law, she goes on to argue, those who are signatories to the pacific league may leave themselves more open to intervention than non-signatories – as they are party to a public contract that they may violate in a way that those outside the league cannot. Nevertheless, non-signatories that actively undermine the progress of the league "forfeit the state's natural rights of external sovereignty and non-intervention" (Bernstein 2009, 85). Bernstein argues, moreover, that this extends to

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3] For a seminal discussion of the idea of the state as a 'moral person' in Kant, see Sharon Byrd (1995). For a recent, detailed debate on the question of the Kantian grounds for a state's independence see Arthur Ripstein (2021) and Anna Stilz's response (2021).

those states that are not active in their opposition, but who act in such a way as to retard a rightful international condition. This is to wrong others and their own.

The broad outlines of Bernstein's interpretation of Kant are emulated by Wilson and Monten (2011) who respond with some scepticism to Michael Desch's hawkish interpretation of Kant (2007). Their preoccupation is with undermining the suggestion that Kant somehow justifies the case for regime change, and countering the idea that his belief in the progressive force of a pacific league led him to argue for coercion of states into that league. Another of the more interesting and relevant responses to the interpretation of Kant comes from Burleigh T. Wilkins (2007), who in the same fashion as Bernstein foregrounds the importance of the second preliminary article, where Kant states, "To annex a state, which, like a tree trunk, has its own roots […] it to annul its existence as a moral person and to treat this moral person as a mere thing." (ZeF, AA 08: 344)

Foregrounding this idea of the state as a person, he developed the Kantian idea of the state as a moral personality in order to suggest that the prohibition of armed intervention presumed by others is actually a more unconditional prohibition of *any* form of intervention. He suggests of Kant's line on the state's moral personality,

> I think this is the lynch-pin of his claim that states should not intervene in the affairs of other states. When we think of intervention we often think of military intervention and of wars of conquests, but, as Kant realized, intervention can take a variety of forms, and states may be acquired in a variety of ways […] in all of these transactions Kant believed the subjects of a state are used or misused as objects to be manipulated at will […] it is not too much of a stretch to suggest that for Kant a state conceived of as a rational being is an organized collective with its own decision-making procedure, and that the freedom of such a collective consists in part in its capacity to act according to the decisions it has made. (Wilkins 2007, 150-51)

The line that Kant would argue against any form of behaviour that attempted to influence the policy of another state is one that will be of particular relevance in assessing Rawls' latter-day interpretation of the *foedus pacificum* and policies towards nondemocratic people. In seeking to emulate Kant, it is fair to suggest that Rawls' interpretation and ideals are ones that cohere with Wilkins' views, including the need to ensure extensive positive freedom for states: "When Kant wrote of a federation of free states he meant a federation of states free from the compulsion or coercion of other states which might seek to force them to adopt a more extended lawful constitution in keeping with their ideas of right." (Wilkins 2007, 155-56)

A brief foray, therefore, into some of the secondary literature on Kant demonstrates the relative ease with which a more dove-like perspective can emerge: one which opposes war and denies claims to justness, which regards legitimacy residing only in self-defence and the aim of a lasting peace, which will countenance intervention only in lawless territories. It is also a perspective that encourages the prospect of non-republican states becoming part of a pacific league but rules out coercion into that league. Regime

change is therefore necessarily ruled out in this instance, as states are conceived as moral personalities where any attempt to influence policy is prohibited.

In contrast to more recent foreign policy undertaken in the name of democracy promotion, this has the makings of a very different view of international relations and the potential of a path towards perpetual peace. It is in general terms a perspective that also posits far greater importance in the integrity of the state as the locus of the legal order than modern cosmopolitans. In fact, one might go so far as to say that there is a wholesale rejection of democracy promotion implicit in this interpretation of Kant.

In the main body of the paper, I will look at how Rawls' rendition of the Kantian project is indeed along these interpretive lines. I will argue that it offers a contemporary Kantianism that stands in contrast to the prevailing tendencies within the liberal international discourse over the last three decades, advocating the centrality of the state, the circumspect deployment of force, and refraining from other forms of intervention. In fact, it is suggested that this is a radical departure from the democracy promotion paradigm, and that it proposes a far more fundamental challenge than the likes of Lazarus – looking beyond democracy promotion, towards other policy possibilities.

II. A GRADUALIST KANTIAN FOREIGN POLICY

As a dominant figure in liberal thought, John Rawls might be considered an unlikely source for a more fundamental, radical response to the democracy promotion crisis – yet in basic terms he rejects its moral legitimacy and assumed efficacy. His Kantian perspective suggests rather than trying to reform the project, we should look again at the underlying assumptions, and question foreign interventionism on a fundamental moral basis. Instead of assuming that promoting democracy is the effective long-term normative approach, he outlines instead a perspective that elucidates a concept of 'decency' rather than democracy as the baseline goal of foreign policy and asserts that promoting the development of such 'decent' institutions should cleave to pre-existing indigenous institutions, practices and values rather than a prescriptive democratic ideal. This, I claim, represents an important and currently novel challenge to the customary liberal narratives, and constitutes a different approach to the disappointment of democracy promotion. Moreover, for those committed to the democratization project, it is in fact more likely in the longer term through a gradualist, non-interventionist Kantianism.

Rawls' ideas are analysed here with reference to the aforementioned key tenets of democracy promotion as discussed by Lazarus, weighing up how Rawls' approach suggests we might approach the issues of principle, security and development. The aim is to work through Rawls' general perspective and first elucidate its implications for grounding principles (namely arguing for the principle of decency, not **democracy**); then set out the circumspect approach it suggests with regard to key **security** issues such as armed intervention; and lastly articulate the alternative form of **development** it advocates. I aim to draw out the main contrasts with the key tenets of the dominant democracy

promotion narrative, suggesting the originality and moral efficacy of this alternative liberal narrative.

Rawls' *Law of Peoples*

Rawls' definitive account of his international theory is not particularly noted for its warm reception amongst political theory and IR scholars. It has been assailed from a cosmopolitan perspective because of its alleged acquiescence to the status quo and preoccupation with realist concerns (Buchanan 2000), whilst it has been condemned from the pluralist and realist perspectives for its unremitting cosmopolitanism (Jackson 2005). This is perhaps inevitable, given that, as Catherine Audard (2007) set out with admirable clarity, Rawls' ambition is to steer a course between the two. Despite the fierce criticisms, a handful of significant publications saw merit in the work and substantial philosophical content that demanded sustained consideration (Brown 2002). Of late there has been an increasing willingness to consider the implications of Rawls' perspective for specific issues in international politics, and to take seriously his invocation that the Law of Peoples should be regarded as much as the working out of ideals and principles for liberal foreign policy (Rawls 1999, 10). Whilst he emphasises the content is "developed out of a liberal idea of justice similar to, but more general than, the idea I called *justice as fairness* in *A Theory of Justice*" (Rawls 1999, 3-4), the explicit practical orientation of the work is a noticeable contrast to the less applied focus of his previous works. This may in part stem from the need in the international context to grapple extensively with the non-ideal theory issue of realizing the basic structures described – where in the domestic context the discussion can be focused almost entirely on how those structures should be organised, as they are to a large extent established.

Grasping the Kantian basics of Rawls' international theory is important so that we both understand and appreciate the philosophical provenance of the ideals and principles, whilst being able to grasp the broader thrust of the work that informs the view he takes on the relationship with non-democratic states (or to use Rawlsian parlance, *non-liberal* or *decent peoples*).[4] In terms of Rawls' oeuvre, the tendency amongst his critics has been to regard *The Law of Peoples* as a sorry third in his series of books – a poorly constructed afterthought on international politics that is philosophically inconsistent with his earlier work. Both Audard and Percy Lehning (2011) have been successful in debunking this myth by demonstrating how it can be considered as the completion of Rawls' political theory.

An analogy with Kant's political philosophy perhaps best captures the thrust of *The Law of Peoples* and its relation to the rest of Rawls oeuvre: individual right according to Kant ultimately requires a peaceful federation of republican states, because without this assurance it cannot be said to be secured. In the same manner, the conditions for

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4] The interpretation of Rawls' work presented here is grounded in previous analyses of *The Law of Peoples;* see for example Williams (2011, 2014).

a stable liberal democratic state and an individual worthwhile life cannot be said to obtain from Rawls' point of view, without a peaceful and stable Society of Peoples free from external threat. In general, it should always be remembered that Rawls' vision owes a large debt to Kant, and his view of what a Kantian outlook on international politics entails: one that values a commitment to gradualism, circumspection and respect with regard to other political communities, and peace – peace above all. Indeed, Rawls states in his introduction to the book that his "basic idea is to follow Kant's lead as sketched by him in *Perpetual Peace* and his idea of *foedus pacificum*" (1999, 10). More specifically, his approach entirely "accords with Kant's idea that a constitutional regime must establish an effective Law of Peoples in order to realize fully the freedom of its citizens" (1999, 10).

The Law of Peoples should also be regarded as an extension of Rawls' political theory when viewed from the point of view of his methodology. That is to say, what is fundamental to his approach both with regard to the domestic and international realms is that he is seeking a theory in reflective equilibrium. That his approach is dictated by this method (1999 58, 86n) often seems to be overlooked by those critical of the volume, but an acknowledgement of this philosophical grounding does much to elucidate both the consistencies and development in Rawls' international theory. In short, Rawls is of the opinion that any moral theory should be in reflective equilibrium, whereby its principles reflect, elucidate and test our considered judgements. Where there is dissonance this illuminates the need either to re-evaluate these judgements or to recalibrate the principles themselves. The classic analogy is that of the relationship between everyday use of language and the rules of grammar (Rawls 1999b, 9).

This equilibrium is implicitly a requirement of his theory of international justice, and accounts to a large degree for the cosmopolitan accusation that he cleaves to the status quo by beginning with a moral account of a society of states. Rawls cannot in this regard be flatly accused of philosophical incoherence in terms of his methodology,[5] and his approach lies at the heart of an account of international politics that begins with the here and now, and attempts to piece together a moral vision of the emergent values of the international public political culture. In this sense, it is not unhelpful to think of Rawls as providing a more normatively charged version of the solidarist view of International Relations.

The construct Rawls uses to achieve this equilibrium is the same in his international theory as it is in his domestic theory – the famous original position. This is a natural step given that Rawls intention is to aspire to an international equivalent of *justice as fairness*, which regards the value of impartiality, so central to his domestic perspective, as being important to the foundational principles of international society (and is reflected in representatives' lack of knowledge of some of their society's core characteristics, behind the veil of ignorance (1999, 32-33)). This entails the adaptation of the social contract

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5] Although Thomas Pogge raises such issues extensively (2006).

to the society of states, which constitutes both a rejection of the realist view in the assumption that anarchy does not characterise the international realm, whilst rejecting cosmopolitanism by positing the agents in the original position as representatives of peoples' interests, not those of *individual* persons. Moreover, Rawls' concept of a people (1999, 23-30) is a heavily normative version of the modern nation-state, emphasising their moral nature and capacity for reciprocity, whilst contrasting them with the traditional realist view of the state. This both signifies Rawls' commitment to the idea of peoples as moral persons capable of moral learning over time, and his commitment also to the importance of states (or peoples in his terms), their ongoing integrity, and their position as the locus of the international legal order. These are ideas that suggest on Rawls' part a Kantianism that is in contrast to the emphasis on individual rights found in the more hawkish cosmopolitanism of Tesón and others.

The contractors in the first international original position represent the interest of *liberal* peoples, and they are denied knowledge of key facets such as the size, wealth and population of their societies, and any other properties that might allow them to skew the principles in favour of their own people. Rawls' view is that they agree on eight principles that represent settled norms in international politics.[6] Having set out the principles liberal peoples would agree upon, Rawls postulates an additional original position, this time including representatives of the remaining well-ordered, peaceable, but non-liberal peoples. It is Rawls' central claim that for his international theory to maintain a fully liberal nature, then it must be the case that its key tenets can be seen to be acceptable from a non-liberal point of view. If it is not the case that the representatives in this second original position can approve these principles then they go against the core value of political liberalism, namely toleration. In the domestic case, those who do not subscribe to a liberal comprehensive doctrine must be able to agree to the principles of political liberalism otherwise they fall short of this principle. Analogously, in the international case, peoples that do not hold to a politically liberal conception of domestic politics must be able to agree to international principles of political liberalism on their own terms. This step in Rawls' argumentation can in broad terms be regarded as emulating Kant's own advocacy of expanding the federative union to "thereby secure the condition of peace" (ZeF, AA 08: 356).

In the next section we will see in more detail what exactly typifies these societies and the principle of decency, and how it is that Rawls believes societies that do not hold to the same political conception of justice can be regarded as equal and meriting reciprocity. There are other non-liberal societies, however, which Rawls believes cannot be included in the initial contract stage, for varying reasons. One group he describes as *Benevolent Absolutisms,* which are typified by a regime that, despite ensuring security and fulfilment of urgent individual rights, deny their population any voice or participation

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6] It should be noted that Rawls does not regard this list as final, and he notes that principles for regulating economic relations would be an expected addition (1999, 43).

in the political process. These societies are peaceable and do not constitute a threat, but the sense in which they fail to represent a well-ordered, collective moral entity through some form of representation renders their status as one of outsiders with regard to the Society of Peoples; in Kantian terms one might say that this lack of consultation with subjects undermines any claim to a moral personality on behalf of the state – yet their treatment of their subjects does not entail any cause for concern around intervention.

Outlaw States, as the name suggests, are fundamentally different in that they are expansionist and represent a clear and present threat to the peace. They are typified by a political regime that rejects the reasonable demands of the Law of Peoples and have no wish to comply to its principles. They forego any opportunity to be part of the contract and must be dealt with in a circumspect and careful manner. On the basis of his description in *The Doctrine of Right* one might draw a parallel with Kant's unjust enemy, "whose publicly declared will [...] betrays a maxim which, if it were made into a general rule, would make peace among the peoples impossible" (2006, 144).[7] There is also the suggestion from Rawls that states that perpetually violate the rights of their citizens, whilst not representing any external threat, might be placed in the same category, but these differences and the appropriate response will be grappled with later in the paper. Lastly there are *burdened societies*, which demonstrate a desire to be fully-fledged members of the Society of Peoples, but are unable to secure worthwhile lives for their citizens because of any number of reasons relating to a lack of capability (a clear Kantian analogy is less obvious in this case, although given Bernstein's reasoning, one might suppose these are states that invite intervention due to the inability to secure the rights of all their citizens).

In setting out the broad approach of Rawls' philosophy of international politics, the nature of the Kantian influence becomes clear, specifically in his clear statement on the importance of *Towards Perpetual Peace* and some basic features of his vision for a Society of Peoples. In particular, the emphasis on peoples, and their internal structures and moral personality as the primary moral agents of international society invoke the earlier interpretations of Kant. These will be underlying themes as we articulate the approach to democracy promotion that is implicit in Rawls' *Law of Peoples*. In the next section there is a discussion of decency and decent peoples that puts in question the idea of democracy as an organising **principle** of the international order. We will then turn to the issues of the relationship between liberal peoples and non-liberal peoples (with respect to the issue of the 'decency' principle and elements of **security**), outlaw states (in explicit relations to the **security** issues around armed intervention) and burdened societies (with respect to the issue of **development**). This should elucidate what I argue is a notable Kantian alternative to liberal states' policy of democracy promotion.

7] Interestingly, whilst Kant makes the point that an unjust enemy is a pleonasm (RL, AA 06: 350) in the state of nature, arguably in the Rawlsian reasonable utopia an outlaw state might be reasonably described as unjust, given the existence of a Society of Peoples where right exists, and which it threatens.

Defending 'Decency'

As limited and ultimately inadequate the foregoing sketch of the Law of Peoples is, it suffices in drawing out some key features of Rawls' international theory. It is within this context we must elaborate further on why it is Rawls accepts the idea of a pluralist world order, one that demands that non-liberal peoples of a certain character should be treated equally on moral grounds, as a matter of basic justice. In effect, in elucidating this moral argument Rawls is dismissing the first key tenet that Lazarus identifies with respect to democracy promotion: namely the principle of democratic rule itself. Rather than demand the principle of democratic rule for all states (whilst undermining the principle routinely in practice) Rawls is effectively suggesting we question this basic principle, and accept that there is a normatively compelling case for respecting other forms of political order. Rawls goes into some detail in Part II of *The Law of Peoples* in drawing out the exact characteristics of decent peoples, but it suffices here to highlight the most noteworthy elements that inform the relation between liberal and non-liberal peoples, and the requirement of equal respect that Rawls posits. These are perhaps best captured by Jon Mandle's analysis of the required criteria for non-liberal peoples (2005). There are, he argues, four particular aspects of decent peoples that behoove liberal people to tolerate them and attend to them reciprocally, as equals.

The first of these is the basic requirement that they should be peaceable and non-aggressive. As such they show themselves to be capable of adhering to the Law of Peoples and respectful of the general long-term goal of a peace-loving Society of Peoples. They issue no threat and they are capable of holding to the principles of the law. The second is that they should respect a basic package of human rights that is the subject of an overlapping consensus between the members of the Society of Peoples. As these rights emerge from an agreement between a number of different political orders, it is natural that they should not constitute the same package of individual rights representative of a liberal conception. As such, they are less expansive with regard to certain social and economic rights, and perhaps most significantly, the right to vote is excluded. Given the contemporary definition of democracy, that as Lazarus argues is typified by the concept of polyarchy, this exclusion is tantamount to saying that there is no fundamental human right to democracy, which is a claim of some significance.

A third criterion of such a society is that they should hold to a common good idea of justice, in the sense that there will be a notion of the good that protects the interests of every individual in the society, which directly informs the dominant idea of justice. Cosmopolitan thinkers are of a view that full toleration ought not to be extended to those political orders that do not respect their same values, in particular with regard to the freedoms and rights of the individual. Rawls, however, conceives of certain societies that must be regarded as collective moral agents, worthy of respect, because of the particular way in which the interests of all individuals are incorporated into the political order – even though not all may have the right to ballot.

This is connected directly with the fourth criterion Mandle identifies, namely the existence of a legitimate legal order that issues bona fide duties in the spirit of this common good. Such a legal system will have the requisite level of legitimacy because of the fact that they will take into account the good of each citizen. In this regard they must ensure freedom of conscience, and most importantly, *there must be appropriate channels for the individual to attempt to change and challenge the overriding conception of the common good.* Such channels ensure that despite the limited franchise, all individuals have the means to press their cause and there are mechanisms in place for reforming political structures. A minimal representation

> allows an opportunity for different voices to be heard […] persons as members of associations, corporations, and estates have the right at some point to the procedure of consultation […] to express political dissent, and the government has an obligation to take a group's dissent seriously. (Rawls 1999, 72)

In recognising the possibility of political orders other than democracy that might be considered legitimate, neither is it necessarily the case that they should be viewed as systems that are democracies-in-waiting, which are on the developmental path towards the superior political form. Proper toleration of these societies takes seriously the possibility that their systems are acceptable *in perpetuity* – and that from the perspective of certain cultures the individualism at the heart of polyarchy is mistaken, as persons should first and foremost be regarded as members of a group. The justification for such a perspective might claim that,

> in a liberal society, where each citizen has one vote, citizens' interests tend to shrink and centre on their private economic concerns to the detriment of the bonds of community, in a consultation hierarchy, when their group is so represented, the voting members of the various groups take into account the broader interests of political life. (Rawls 1999, 73)

There are some further, important features of these types of societies that compel us to take seriously their claims to reciprocity. As noted above, freedom of conscience is vital where the common idea of the good might well be linked to the ultimate authority of a state religion, and this would have to extend to a guarantee that other religions will not be denied the social conditions allowing their practice, or that that they should live in fear of recrimination. Last of all is the key right to exit. Indeed, Rawls claims that any decent and reasonable people should in fact "provide assistance for the right of emigration" (Rawls 1999, 74). Taken together, these different elements constitute in Rawls' mind a political order that must be tolerated and respected from a liberal point of view. To deny reciprocity to peoples that are peace-loving, well-ordered, with a body of law tied to a common good that allows genuine space for political debate and dissent, is to descend into a liberal perspective that undermines the tradition of toleration that is so fundamental to its cause.

With respect to liberal foreign policy, it is the ideal of decency rather than the principle of democracy that represents the baseline in terms of our guiding values for our relations

with others. As such, this moves us away from a more far-reaching cosmopolitan attitude that posits democracy as the necessary end for all political orders and a normative goal that encourages a more interventionist liberal foreign policy. In crude terms, we might say that whereas the views of a cosmopolitan thinkers such as Buchanan and Tan have echoes of the Kant that comes to us via the likes of Tesón and Desch, Rawls provides a view on foreign policy more aligned with the Kant that is brought to us via Bernstein, Wilkins and even Mehrtens. In the next section we consider the more practical consequences of such an approach; the main implication is that many non-liberal societies considered to be appropriate targets for democracy promotion on the current pervasive principle of democratic rule are instead to be tolerated and left to their own devices. As will become evident, this normative perspective also ties in with certain security concerns.

Security

a) Democracy Promotion: The Case of Decent Peoples

Evidently, Rawls' international theory forces us to consider the case that tolerating non-liberal societies should be viewed not simply as a prudential decision within a pluralist and unstable world order. Rather than taking a circumspect approach in a manner befitting a fragile *modus vivendi,* he makes the case that we should treat these societies on the basis of equality and reciprocity on fundamental moral grounds. Their way of life may seem alien to our political culture, but the fact that they represent collective moral agents that respect certain individual rights, and provide opportunities for political representations, requires good liberals to allow them to pursue their common good without interference. To use a Rawlsian domestic analogy: in the same way that we would not deign to interfere in the lives of other reasonable and rational individuals in our own society – nor seek to correct their conceptions of the good life – neither should we look to interfere in the political arrangements of other reasonable, well-ordered peoples, who demand our respect and toleration (an argument that brings to mind Kant's own emphasis on the significance of the state's moral personality). To return to the golden rule, if we expect them to refrain from interfering with our political order, we should do likewise.

Set out in even this schematic way, we can see that the position Rawls sketches has far-reaching and radical implications for the foreign policy of liberal peoples vis-a-vis their non-liberal neighbours. For even if it is the case that elements of democracy promotion might be carried out in ways that do not threaten the *modus vivendi,* there remains the moral injunction that this would be the wrong course of action. Given that Rawls' own preference is for a liberal conception of justice that is radically egalitarian (as expressed through his two principles of justice elucidated in *Theory*), it may at first seem slightly odd that he should acknowledge this moral ideal to the letter. One suspects there might be room for a certain amount of activity that ultimately aspires to more individual freedoms and resources in non-liberal societies – 'soft' democracy promotion, as it were.

This in my view would be to read him incorrectly, however, and to underestimate the emphasis he places on the value of toleration and the importance of the integrity of indigenous political structures. If decent peoples have established a political system through the use of their own reason, to condemn it by attempting to alter it and undermine it is to violate the principles of toleration and mutual respect. This would be to presume in an unreflective manner that liberal democracy is the only reasonable form of government, and leaves us open to "error, miscalculation, and also arrogance" (Rawls 1999, 83). In short, if it were perceived to be a requirement that all societies should become, and therefore be encouraged to be liberal,

> then the idea of political liberalism would fail to express due toleration for other acceptable ways […] of ordering society […] we say that, provided a nonliberal society's basic institutions meet certain specified conditions of political right and justice and lead its people to honor a reasonable and just law for the Society of Peoples, a liberal people is to tolerate and accept that society. (Rawls 1999, 59-60)

Toleration and acceptance of these societies means exactly that in Rawls' mind, to the extent that he rules out any attempt to provide incentives to liberalize. David Reidy draws out the argumentation implicit in this perspective (2013). He suggests two strands to Rawls' argument – which chime with Kant's arguments for non-intervention – one grounded in respect for peoples and the other respect for persons. With regard to the latter, it is suggested that attempts to press decent societies to change fails to show the requisite respect for its leaders and members as reasonable and rational beings with the ability to make free decisions; after all, if the society in question meets the necessary criteria then there will be structures in place that allow them to express their views and champion reform. With respect to the former, then such attempts on behalf of liberal peoples undermine both the relationship of reciprocity and the status of a decent people as a collective moral agent. As with individuals in a liberal society, it is not for some group or other to presume that they have recognized the truth and to force others to be free. Reidy makes the astute point that liberal powers have their own history of struggle, revolution and reform – emerging from systems of a different kind. Assuming that other societies are unable to change in a similar way is ethically dubious, not to mention to presume a great deal. One might also suggest here that Reidy is here invoking the gradualism associated with Kant with respect to societal change on a domestic level.[8]

In addition to the moral arguments against democracy promotion – even in the form of incentives – there is a strong prudential element to Rawls' views on the relationship between liberal and non-liberal peoples, which has two strands and can be broadly related to long term security concerns. The first of these points to an ambiguity in Rawls' position where despite advocating strict non-interference and arguing for mutual respect for decent peoples in perpetuity, there is a sense in which he suggests a tolerant, non-invasive foreign policy on behalf of liberal peoples is more likely to achieve the long-term goal of

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8] For a recent, contexualized and nuanced discussion of Kant's views on revolution see Maliks (2022).

promoting democracy than any attempts to influence or intervene. Any attempts in this direction are more likely, in his view, to provoke hostility towards liberal peoples (Rawls 1999, 85) rather than encourage co-operation, whilst allowing decent peoples to develop by their own lights is likely to foster reform in a far more efficient and stable manner. Two quotes capture Rawls' sensibilities in this regard:

> Liberal peoples should not suppose that decent societies are unable to reform themselves in their own way. By recognizing these societies as *bona fide* members of the Society of Peoples, liberal peoples encourage this change. They do not in any case stifle such change, as withholding respect from decent peoples might well do. (Rawls 1999, 61)

Moreover,

> if a liberal constitutional democracy is, in fact superior to other forms of society, as I believe it to be, a liberal people should have confidence in their convictions and suppose that a decent society, when offered due respect by liberal peoples, may be more likely, over time, to recognize the advantages of liberal institutions and take steps toward becoming more liberal on its own. (Rawls 1999, 62)

This latter passage is telling not only in Rawls' view that it is the power of example, rather than the example of power that will best ensure a development towards a Society of Liberal Peoples. It also reveals him at his most cosmopolitan, in the sense that he attests to his own preference for liberal democracy and discloses his desire to see this form of government ultimately prevail. In this way his personal aspirations are identical to avowedly cosmopolitan thinkers, but in a very important sense his principles and his pragmatism see him put a greater emphasis on the respect for the integrity of collective moral agents in the international realm. Here is the nub, of course, of Rawls' political liberal position in the international context – a preference for one particular political order must be married with the principled toleration of other reasonable forms of government, and an acknowledgement that there is no monopoly on the truth in these matters.

The second strand to his pragmatism relates to the overriding aim of peace and security, as referred to in the opening section. Democracy promotion runs the risk of creating conflict between liberal and non-liberal peoples, because of the flagrant way in which it tends to undermine the autonomy and values of decent peoples – and the legitimacy of its own principles. Such incidents are deleterious to the goal of a peaceful Society of Peoples that is stable for the right reason (i.e. an atmosphere of mutual respect rather than the fragile balance of powers inherent in a *modus vivendi*). Indeed it transforms the nature of the Society of Peoples from a community of mutual interests to a thinly-veiled game of power politics where one group of peoples feels put upon by the majority. Rawls for one does not believe that because the internal structure of decent societies does not reflect the liberal conception of justice, the broader aims and hopes of the Society of Peoples should be sacrificed. If their common good idea of justice can be tolerated then this is far more conducive to everyone's common aims (and if we desire long-term

democratization this is more likely to come about without active democracy promotion). Order and justice go hand in hand, but where perceived injustices – *within a certain range* – can be tolerated, order should not be compromised:

> Some may feel that permitting […] injustice and not insisting on liberal principles for all societies requires strong reasons. I believe there are such reasons. Most important is maintaining mutual respect among peoples. Lapsing into contempt on the one side and bitterness and resentment on the other, can only cause damage […] maintaining mutual respect among peoples in the Society of Peoples constitutes an essential part of the basic structure and political climate of that society. The Law of Peoples considers this wider background basic structure and the merits of its political climate in encouraging reforms in a liberal direction as over-riding the lack of liberal justice in decent societies. (Rawls 1999, 62)

With respect to two of the three key tenets of democracy promotion, as identified by Lazarus, Rawls presents us with a telling liberal alternative. He disagrees fundamentally with the project on the basis of principle, ruling out the notion of the potentially aggressive, interventionist application of a right to democracy. Any moral arguments in support of the project are spurious. With regard to the second tenet of security, he warns us against democracy promotion on pragmatic grounds, even those softer elements pertaining to incentivizing reform. Attempting to foist liberal principles on non-liberal, reasonable peoples even indirectly is only likely to create instability and bad blood.

b) Democracy Promotion: The Case of Outlaw States

Rawls' moral and pragmatic stance clearly presents us with a critical view of democracy promotion, and goes so far as to question it even its 'softest' form, in a manner reminiscent of Wilkins' characterisation of Kant's position. Encouraging reform through diplomatic persuasion or incentives is dismissed in the case of decent peoples. This would seem to preclude the notion that it could be legitimate and morally expedient in its most aggressive form – namely the gun-barrel democracy promotion associated with the Iraq War. Here we move further onto the territory of the second tenet of security, and how a Rawlsian approach might dictate a different approach to outlaw states – both those that are aggressive and those that carry out egregious harms to their own population. It will be argued here that Rawls regards only defensive wars as in any sense just, and that armed intervention in outlaw states can be justified only in terms of human rights violations and a strong prudential element, namely the likelihood of peace – and not in the name of 'just' war and regime change.

With respect to the idea of regime change, and the legitimacy that the narrative of democracy promotion lent the Iraq War (a just war in Bush and Blair's terms), a Rawlsian approach would rail against such practices. Bernstein (2006) has previously argued that Rawls' philosophy does not condone intervention in undemocratic societies in order to secure regime change to a democratic order. Decent societies represent legitimate forms of political rule worthy of equal respect, whilst the basic protection of human rights

provided by *Benevolent Absolutisms* precludes the idea that they might be subjected to war. Bernstein does, however, draw attention to the possibility that a Rawlsian approach justifies humanitarian warfare, and that if a country's government "has been violating basic human rights to such an extent there is sufficient moral reason to depose it" (Bernstein 2006, 293). However, she is at pains to argue that even if this action entails the need for post-war assistance the establishment of a democratic regime *cannot be used as a justifying factor for war.* Intervening to halt abuse is very different to intervening to establish a new regime. For one thing, given that democracy is not projected as the elevated ideal to be aspired to, it cannot be used as a regulative principle for conducting international relations, most especially aggressive warfare. It might be suggested that similar post-war assistance is legitimate where it is compatible with the history, traditions and explicit desires of the society in question whilst ensuring decent institutions; once more, however, it would not be this principle that would be the justification for action.

To understand better how Rawls deals with this issue of justifying the use of humanitarian warfare, and how it stands in contrast to a heavily moralized narrative advocating regime change, we need to consider further his understanding of war. Predictably, this understanding is enmeshed within his broader commitments to a cautious, morally informed perspective on international affairs. In this regard, we should once again understand Rawls' view of war by returning to the broadly Kantian commitments of his international theory.

These commitments to his interpretation of Kant mean that his view of war is always couched in terms of the long term goal of peace; in this sense Rawls sees in Kant one very important ideal in relation to war, which Arthur Ripstein also emphasizes in his interpretation of Kant: that the idea of peace is the regulative principle of war (2016). Somewhat surprisingly, given Kant's rejection of Just War in *Towards Perpetual Peace,* which is the touchstone for Rawls' approach, *The Law of Peoples* does in fact posit a version of the doctrine.[9] However, he presents these principles as transitional, for the non-ideal present, seeking to regulate war in such a way that it will always be conducted with long-term peace in mind. Rawls essentially advocates a certain sceptical, "contingent pacifism" (Moellendorf 2014, 331) with a presumption against war and strict injunctions on Statesman to pronounce and conduct warfare with the utmost caution. For Rawls, as with Kant, war is inherently unjust and is a great evil to be overcome – and it may only be conducted with the long term goal of peace in mind.

This general reluctance to advocate war extends to Rawls' view of humanitarian warfare, and it is especially indicative that he does not advocate a systematic inclusion of the act within his just war doctrine. Rawls allows for only one qualification of the right to war in self-defense that, as specified in the footnote, is "the right to help to defend one's allies" (Rawls 1999, 91 n2). Therefore although he is clear in his view that liberal and

9] Were Rawls to indicate some sympathy or interest in the view of war expressed in *The Doctrine of Right* this would be less of surprising move.

decent peoples have every right to wage a just defensive war against aggressive outlaw states, there is no clear or unambiguous endorsement of the idea of humanitarian warfare (against outlaw states that commit acts of violence against their own population) as belonging to the just war doctrine. There is a reticence on Rawls' part to treat such states in a systematic manner and there may be a very good reason for this: such an approach could entail laying down the type of explicit moral injunctions that are inappropriate for such cases, where human rights and the norm of non-intervention clash, where lines are blurred and what is properly just and unjust is difficult to decipher, and where clear outcomes are very difficult to predict. Rawls here makes a telling admission: these cases call "for political wisdom, and success depends in part on luck. These are not matters to which political philosophy has much to add" (Rawls 1999, 93).

It is his opinion that for the main goal to be realized – of bringing all societies eventually to honor the Law of Peoples – the Society of Peoples needs to steer clear of violent adventurism grounded in an aggressive liberalism. Rather it will need to establish "institutions and practices [...] for their common opinion and policy toward non-well-ordered regimes" (Rawls 1999, 93) that will enact a number of non-violent measures. Such institutions will seek to apply diplomatic pressure on outlaw states and other more invasive forms of intervention, such as denying them any involvement in mutually beneficial practices, establishing economic sanctions and denying assistance. Admittedly, there may come a time, when the human rights offences are egregious and there is no response to sanctions, and it is in such cases that Rawls sees armed intervention as an action that may be *acceptable* where a peaceful outcome is likely – but no such action can ever be labelled as just (Rawls 1999, 94n6).

Rawls, therefore, does not on my reading incorporate humanitarian intervention as one of the principles of his just war, and as such he militates against the regular use of humanitarian warfare. It is to be deployed only in those worst of cases where human rights abuses are rife and the long-term aim of peace can be confidently secured. The act of war will always be subsumed under the regulative principle of peace and so violence is only justifiable and undertaken in terms of the long-term aim of a stable peace. Whilst in some sense defensive war against outlaw states is right and moral for Rawls (although never fully just), humanitarian war cannot be justified in these terms, and only with respect to the hope for peace – and attendantly, with respect to an outcome that increases collective security.

Taken as a whole, therefore, we can see that Rawls' rejection of the universal case for democracy, and his more general caution with regard to war, leads to a very different mentality to the kind that we have witnessed being attached to the project of democracy promotion. The notion of decency precludes any form of intervention with non-liberal peoples that aspires to bring about democratic reform, not only because their norms, practices and structures entail a moral demand of reciprocity, but also because it endangers international security. This cautious approach to security is reflected with respect to humanitarian warfare, because for Rawls neither decency nor democracy can

be used as an ideal to justify regime change. Moreover, the possibility of humanitarian intervention is positioned within a complex and nuanced set of considerations where post-conflict actions are to be weighed up, never as a justification for intervention but only in terms of the likelihood of securing peace. Humanitarian intervention cannot be couched in terms of a just war, and it is only justifiable where the rights' violations are egregious and the promise of a stable peace is realistic. It is regulated not by the idea of promoting or establishing democratic or even decent regimes, rather by the "negative" principles of rights protection and the positive prospects of peace.

Development: Democracy Promotion and The Case of Burdened Societies

The third tenet that justifies democracy promotion is the notion that democratization fosters development. In the words of USAID "democracy, good governance, and development reinforce each other to create a virtuous circle" (USAID 2005, 5). It is in the case of this agenda, that is carried out by both governments and charity with great fanfare, that democracy promotion might be regarded at its most ubiquitous and most acceptable. Where countries are regarded as neither possessing the requisite capability to reject and resist the assistance of others, nor as volatile or aggressive enough to raise questions about the wisdom of involvement, there is prevailing acceptance that proffering aid for democratic reform is an unquestionable moral imperative (save for those such as Dambisa Moyo who rail against the dependency culture it can create (2010)). As noted previously both the moral and practical arguments supporting the attendant democratization agenda are put forward most forcefully and eloquently by Sen (1999), and within the industry it seems fair to suggest that it is regarded as a truism that development means democratization. Even the criticisms from critical scholars such as Lazarus focus on the empirical evidence that undermines these claims – with a view to challenging the *type* of democracy that is promoted. The ultimate aim remains 'getting to Denmark'.

In this sense, a Rawlsian perspective provides a notable, dissenting voice, in as much as he questions the moral grounds for promoting democracy amongst weak and failing states. Instead of the ideal of democracy, we have instead the normative concept of decency setting the benchmark for development assistance, one that is more capacious and tolerant of different forms of government and political justice – allowing greater scope in theory for encouraging reform in keeping with existing practices and structures. The end point, or goal of assistance is not a particular level of democratic or economic development, but rather an "international minimum" (Williams 2011, 107-10), represented by a state of institutional robustness that means a society ensures worthwhile lives for their citizens.

Setting out his perspective in full requires a brief treatment of the duty of assistance he envisages, which compels the members of the Society of Peoples to aid those burdened societies on the periphery. I want to suggest that in terms of a general vision of

development, Rawls offers us a different liberal discourse to democracy promotion that opens up alternative possibilities for the manner in which liberal peoples pursue their policies vis-a-vis burdened societies. This includes the seemingly common-sensical but potentially radical insight that they might be assisted to become a decent society, rather than a democratic one. At its heart is a desire to avoid the trap of dealing with such states in a paternalist manner, a strong Kantian sentiment that aims at practical policies that treat them in accordance with the ultimate goal – namely a full moral personality and the capacity to protect their citizens.

In Rawls' taxonomy, burdened societies can be understood in more common parlance as weak or failing states. They are described in general terms as being peaceable, but "lack the political and cultural traditions, the human capital and know-how, and, often, the material and technological resources needed to be well-ordered" (Rawls 1999, 106). This does not exclude the possibility, however, that some burdened societies will have fallen from grace for any number of reasons – such as natural or financial disaster – having once been well-ordered. A failure to be well-ordered amounts to a lack of underlying decent or just structures that can ensure the basic rights for its citizens, and which promote a "worthwhile life" (Rawls 1999, 107) for its citizens. Because of these basic institutional failings, they are unable to sustain the status of a collective moral entity, as the claims of all are not administered to, and in all likelihood many will be unable to contribute to the common good and political life due to any number of impediments ("traditions, the human capital and know-how and often the material and technological resources" (Rawls 1999, 106)). As a consequence, they take up a marginal role in the international realm, and in a significant and similar way to Outlaw States and Benevolent Absolutisms, they do not enjoy the same status as their well-ordered neighbours. This is reflected in the fact that Rawls excludes them from the initial contract stage; however we should bear in mind that Rawls' ideal types function as normative concepts that can be applied critically. In this case we might judge the vast majority of liberal peoples to be burdened societies in the sense that they allow some of their citizens to live (and indeed die) homeless, or exercise policies that often precipitate deeper, unnecessary suffering – especially amongst certain minority populations.

The peripheral status of burdened societies has led to some criticism of Rawls, in particular because it might be seen to undermine the strength of a duty of assistance. If burdened societies are not regarded as fellow contractors, it would seem to suggest that the duty to them will inevitably be humanitarian, rather than being rendered an enforceable duty of justice. There are two ways around this claim however, that can both be traced back to Rawls' *Theory of Justice*. The cosmopolitan route is to claim that a natural duty of justice pertains with regard to ensuring institutions exist to serve the individual. It may be that burdened societies cannot make a claim on well-ordered societies, but the individuals within them can. The other, statist route, is to conceive of these societies as potential moral agents within the Society of Peoples, whose interests must therefore be represented by others within the original position. In this sense their claims are given

equal status and are to be considered claims of justice as future members of that society (and given that all contractors are themselves potential future burdened societies, then the cleavage between those who form the contract and those who do not is less pronounced).

Despite the initial imbalance at the contracting stage, as I have argued elsewhere (Williams 2011, 86-9), Rawls favours a perspective that endows burdened societies with equal status in a practical sense. This sense is embodied in a duty of assistance which, after all, appears as one of the eight "Constitutional Essentials" in the *Law of Peoples*. This aspect of equal status is most evident in terms of the spirit in which the duty – one of transition that aims at political autonomy – is to be administered: "the well-ordered societies giving assistance must not act paternalistically, but in measured ways that do not conflict with the final aim of assistance: freedom and equality for the formerly burdened societies" (Rawls 1999, 111). Therefore, even if one is to ask fundamental questions of Rawls' philosophical argument regarding these societies, the practical injunction is that they should, at the very least, be treated in the spirit of equality. As with decent peoples, "the foreign policy of liberal peoples should recognize that good [self-determination] and not take on the appearance of being coercive" (Rawls 1999, 85). This is of no small consequence, not only in terms of the type of economic policies that those granting assistance pursue, but more crucially in terms of the aims that are laid out for the development of political structures in these societies; the suggestion here is that in the case of burdened societies that do not have democratic structures then there is no compulsion to undergo such reform, whilst those that do exhibit such structures should be given a free hand to develop their own model of democracy.

Before returning to these major implications in terms of political reform, it is necessary to make some passing remarks on what might be broadly termed the 'economic' policies that are envisaged as part of this duty. This is in part because there has been a pronounced tendency to dismiss Rawls' ideas on the grounds that they offer little substantive in terms of support for burdened societies (Pogge 2001, 250). In one sense this is inevitable because his work is, in an important sense, a response to cosmopolitan theories, and he is particularly sceptical about the practical significant and moral grounds they ascribe to the redistribution of wealth. He rejects the idea of an ongoing global distributive principle akin to his famous difference principle, favouring instead a duty with a "cutoff point" (Rawls 1999, 119). This cutoff point is all-important to understanding the broader perspective Rawls has on assistance, because rather than it being represented by a certain level of wealth or economic development, this international minimum is representative instead of a certain level of decency and well-orderedness with regard to the basic institutions. In other words, once a society reaches the point where their institutions can protect the basic rights, there is no further need for assistance – in whatever form that may pertain. His critics have interpreted Rawls as disallowing any form of financial aid, but a more measured interpretation shows that it

includes both measures to balance the global background structure fairly (Rawls 1999, 115) and the redistribution of resources (Rawls 1999, 119).

What he is most at pains to assert is that development and assistance should not be measured in economic terms, and that there is no fundamental link between money and creating a well-ordered society: "Great wealth is not necessary to establish just (or decent) institutions" (Rawls 1999, 107). Not all burdened societies are poor "any more than well-ordered societies are wealthy" (Rawls 1999, 106), and how much financial aid is needed "will depend on a society's particular history as well as on its conception of justice" (Rawls 1999, 107). This suggests an outlook on assistance that rejects a one-size-fits-all model akin to the Washington Consensus, which foregrounds economic development as a panacea. Rather a Rawlsian approach would be far more catholic and open-ended, being client-led in the sense that it looks to the particular conditions and aspirations of the society in question, whilst being able to call on a raft of different measures under the rubric of the duty of assistance – whether they be geo-economic policies, financial assistance, the transfer of expertise, resources, or technological know-how (Williams 2011, 140-52).

Most importantly with regard to the contrast with the traditional democracy promotion agenda, this open-ended approach extends beyond the economic realm and provides the grounds for what is perhaps the single most important contribution of a Rawlsian perspective to the debate. For underlying the entire edifice of the duty of assistance is the presumption that the ideal of a decent society is as legitimate a goal as the ideal of a democratic society. It is thus shot through with the principle of toleration and equal respect afforded to non-liberal peoples, and as such the bilateral relationship suggested by Rawls between donor and recipient entails not only the possibility of differing economic goals and policies, but more fundamentally, the construction of a political order that not only rejects polyarchy, but rather any form of democratic government. And radical though this may seem, beginning as we do with the groundwork of Rawls' political liberalism, we are confronted with the moral argument and practical possibility that 'good liberals' should accept the possibility that in many cases we should be seeking to promote not democratic, but reasonable, peaceable, decent well-ordered societies that are congruent with the particular traditions and values of non-liberal societies. Allied with the less than persuasive evidence alluded to by Lazarus regarding democracy's benefits for development, here we have a normative perspective that questions democracy itself as the appropriate end for development.

III. CONCLUSION

In this article I have addressed the legitimacy crisis of democracy promotion, as described by Lazarus, through the Kantian theory of John Rawls. The democracy promotion paradigm was presented as an outgrowth of a particular set of ideas and policy aspirations that typified the ambition and optimism of the 1990s and the promised

'End of History'. The prevalence of Kant as a key philosophical figure in legitimizing this agenda was recognized first in explicating the derivation of the ideas, and then in pointing us towards an alternative narrative. Indeed, it was suggested that a different interpretation of Kant, more dove than hawk-like, provides the philosophical grounds for a rejection of democracy promotion in the international theory of John Rawls, which functions as a contemporary interpretation of *Towards Perpetual Peace.*

The bulk of the paper therefore articulated a different liberal narrative for guiding foreign policy, grounded in Rawls' particular form of Kantianism, arguing that he presents a powerful and novel normative perspective that liberal governments should consider adopting. Central to this narrative is the importance of Kantian gradualism and liberal tolerance in the international sphere, and the moral injunction that we must respect and treat as equals those societies defined by decent political structures. Whilst Rawls deals in ideal types, the moral argument he articulates is a fundamental challenge to the more aggressive liberalism reflected in the democracy promotion narrative, leading us to consider that there may be many non-liberal societies that should be approached in a way that puts to one side the tendency to try and influence and democratize.

With respect to the three key tenets of democracy promotion, this moral argument constitutes a robust challenge to the first tenet, which is the **principle** of democracy itself. Other political conceptions of justice are potentially tolerable and worthy of equal respect from the liberal perspective. The second tenet of **security** can also arguably be furthered by a Rawlsian approach, in particular because of its circumspect and humble approach to foreign relations. In the first instance, refraining from attempting to influence others shows them greater respect and encourages mutual understanding, whilst in Rawls' eyes it allows democratic reforms to occur in the most robust and sustainable manner – from within. In the context of dealing with outlaw states, we find a doctrine of Just War that is enmeshed within Kantian commitments, which regards worldwide peace as a feasible ambition. With respect to humanitarian intervention, we should not consider this to be an extension of just war; rather it is the unfortunate and unjust resolution of egregious crimes against humanity. Regime change can never justify intervention, only the violation of rights and the genuine prospect of a better peace.

Lastly, with respect to the third key tenet of development, we discover in this alternative Kantian narrative the moral basis for a very different approach, which eschews democracy promotion as an aim. Rather, we are focused on securing assistance that respects the other as an equal, allowing them the opportunity to develop political structures in keeping with their traditions and practices, whether they are democratic or decent. I submit that were this alternative Kantian narrative adopted by states and international institutions alike, we would be working on the basis of a very different approach to the international realm, one that would potentially be better characterized by principle, security and gradual progress.

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On Onora O'Neill's Critique of Rawls, and on Rawls' non-Kantianism, with a little help from Charles W. Mills

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CONICET

Abstract. In this paper I develop a sympathetic political reading of Onora O'Neill's Kantian critique of Rawls' constructivism, using critical tools from Charles Mills' work too, with the aim of highlighting potential strengths of a modified Kantian political philosophy, tempered by awareness of structural issues relating to racism, sexism, imperialism, and classism. Also, in opposition to a widespread view, I think that Kant's political philosophy is not constructivist, and that is a good thing because it makes it more able to account for structural injustices and systematic oppression.

Key words: constructivism, interaction, idealisation, justification, structural injustices, racism.

More than thirty years ago, Onora O'Neill published a well-known critique of Rawls: "Constructivism in Ethics", which originally appeared in *Proceedings of the Aristotelian Society* (89, 1988-1989, Presidential Address, 1-17), and then was included as chapter 11 in her classic work *Constructions of Reason. Explorations of Kant's Practical Philosophy* (Cambridge University Press, 1989). Together with another influential article by her, "Abstraction, Idealisation, and Ideology in Ethics" (*Royal Institute of Philosophy Lecture Series*, 22, 1987, 55-69), this text is one of the keenest critiques of the Rawlsian constructivist enterprise, which is understood in this framework as "ideal theory". The terms of this critique were later retaken by Charles Mills in many of his works, such as his classic book *The racial contract* (Ithaca, Cornell University Press, 1997), and the paper "'Ideal theory' as ideology" (*Hypatia*, 20, 3, 2005, 165-84).

In this paper I present a political reading of Onora O'Neill's critique of Rawls' constructivism (understood simply and roughly as a "method of generating principles of justice by reference to choices made in an original position", O'Neill 1989, 207), basically of her three major objections to it, i.e., that it is heteronomous, that it deprioritises duty and obligation, and (more importantly) that it is idealising. I wish to strengthen her plausible thesis that Rawls departs from Kant in such a way that his enterprise is deeply non-Kantian. Another aim relates to O'Neill's task of elaborating a constructivism alterative to Rawls'. In opposition to a widespread view, I think that Kant's *political* philosophy is not constructivist. I will not address the issue of whether his ethics is constructivist or not; my concern here is only with political philosophy. Not being constructivist in political philosophy does not make Kant's social contract theory relativist or moral realist. There are other alternatives to these two extremes and Kant's political philosophy can be a source of inspiration to find them – fundamentally, because it can provide a non-idealising political theorisation without relapsing into relativism. This, in turn, is possible because Kant's political and legal theorising begins not with individual agents but with interaction and

its normative consequences, and because he sees the social world as structurally unjust, i.e., not as something imperfect that is still not as perfect as the ideal. Moreover, I propose that unlike Rawlsianism and the Rawlsian readings of Kant, Kant's political philosophy is compatible with non-ideal normative approaches, and is, therefore, better suited to avoid the problems of idealisation in political philosophy.

I take O'Neill's critical work here as itself worthy of philosophical attention, not as a simple 33-year-old comment on Rawls and Kant, or as part of an obsolete debate from the late eighties. I also use it as critical guide to analyse if Kant can actually offer us some philosophical theses to develop a non-ideal approach, to see if Kantian critique can be read as non-ideal normativity.

In the first section, I reconstruct O'Neill's critiques of Rawls, as expounded in Chapter 11 of *Constructions of Reason.* I concentrate there on two objections, i.e., that Rawls' constructivism is heteronomous and that it is idealising. These objections shape her own constructivist alternative as sketched in this book. In the second section, I hold that Kant's methodological strategy to elaborate his political model does not depend on the elections of isolated individuals, nor on the hypothetical rational deliberation of (abstract or idealised) agents. Kant's normative justification in political philosophy does not rely on features attributed to an individual who choses primary goods (such as liberties, income, health) and gives voluntary individual consent to norms and pacts, but on an aspect of human practical reality that is central also for O'Neill: interaction and its normative consequences (which make what I call "the critical-objective perspective on law"). This perspective also implies another radical difference between Rawlsian constructivism and Kantian political and legal philosophy: the priority of obligations and duties not as elements of a natural law that would give a priori norms to individuals, but as the practical consequences of human interaction.

As *clausula salvatoria*, I wish to mention that for the purposes of this particular paper it is not necessary to develop a philological analysis of Rawls' works. My focus is on O'Neill's philosophical analysis as it deals with Rawlsian constructivism, insofar as her Kantian critiques work as a propaedeutic to finding a better constructivist theory.

Rawls considered himself Kantian in *A Theory of Justice* and in the *Dewey Lectures*, and later explicitly distanced himself from (his version of) Kant in "Justice as Fairness: Political, not Metaphysical" (1985). All this prompted a series of works on the question "Is Rawls really Kantian?". In the third section, in dialogue with some of the literature on the topic, I sketch my own negative answer to the question "Is Rawls' Kantian constructivism Kantian?". This is important because constructivism of the Rawlsian sort has a series of flaws (as I will show here with the help of O'Neill and Mills) that render it a theory unable to account for structural injustices, and I think that Kant can provide some methodological and normative theses to build an approach able to do so, although obviously with some limitations.

My main thesis concerning this is that what Rawls intended to do was not what Kant did, that their basic strategies of normative justification in political philosophy and their

overall approaches to society are *essentially* different. Kant uses his social contract theory mainly to show the practical necessity of a particular form of political authority (that of the omnilateral collective will) without which there cannot be legitimacy and justice in human interaction (MS, AA 06: 256; 313-14; 315-16). Within this framework, Kant does not conceive of people, of individual persons and collectives, as ideal agents who pick primary goods or principles of justice. On the contrary, his analysis of the state of nature shows that for principles of justice to exist, a political collective will must exist first. Political authority is the condition of possibility of any principle of justice. It is important to remember this statement when reading Rawls because what he called "principles of justice" are not merely moral principles in general that could apply to non-political interactions; they are political principles whose work is to establish duties corresponding to claim-rights, i.e., they are coactive and regulate institutions and legislation. For Kant, not all moral principles are or should be coactive (famously, ethical principles cannot be coactive for him), and coaction is an essential element in his definition of rights and of law. Because they will be coactively applied, justifying political principles is normatively more demanding than establishing moral abstract principles.

As the underlying concern of this paper is to see if Kant's political thought is compatible with non-ideal approaches to political philosophy, in the concluding section, with the help of Charles Mills' critique of structural racism in Western political philosophy, I will address the question of racism in Rawlsian constructivism and in political Kantianism, from my own situated reading. By "situated reading" I am not surreptitiously claiming an epistemologically and morally privileged standpoint for myself and the place of the world from where I am writing. I do mean however that it is possible to propose different, equally plausible but more emancipatory readings of the same corpus if we focus on different political concerns, i.e., the ones that have a pressing importance in political contexts that are different from the ones generally assumed as universal in mainstream political philosophy.[1] My concern is: if Rawlsian constructivism cannot account for structural injustices in the national as well as in the international spheres, or for power asymmetries in social relations, could an alternative reading of Kantianism overcome Kant's own voluntary (or involuntary) ignorance about race, gender, class, and colonialism? I am not completely sure that it can, but I propose a reading of Kant's political philosophy as an overarching enterprise that is more able than Rawlsianism to overcome structural racism and imperialism. Recently, Helga Varden (2020) has developed a lucid antisexist and trans-inclusive Kantian theory of sex, love, and gender that does not ignore Kant's own sexism. Here I try to follow her path, that of acknowledging Kant's biases and offering an alternative reading of his theories.

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[1] An example of a recent situated reading of Kant is a book by Milla Emilia Vaha. Vaha 2021 studies the moral standing of the state in Kant's theory, offering her own reading of it as an alternative to current views on the topic. Her reading aims to be useful for "the threatened 'small island states'", to which Kant would provide "a powerful normative argument for their continued existence should they lose their territory to rising sea levels" (2021, 6).

From where I am writing (South America), dismantling the Westphalian narrative of the state and international relations is a fundamental intellectual task. The Westphalian vision of history and contemporary politics implies, in the international arena, a supremacist conception of the state by which some nations are considered intrinsically inferior in cultural, social, economic, and development terms, and, within nations, a structurally racist and classist organization of law and state institutions. Concisely, I believe that Kant can provide useful tools for this critical task because even though his work is part of a Eurocentric and racist canon (Mills 2015), there is also a strong critique of the Westphalian system in his political philosophy, instead of the usual rationalisation of it.

I. HETERONOMY AND IDEALIZATION: O'NEILL ON RAWLS

The interest O'Neill finds in a constructivist project is that it could be used to establish principles of justice, justified in such a way that they would avoid relativism (roughly understood as appealing to "our" tradition to support an ideal conception of the moral person employed in the construction of those principles) and moral realism. O'Neill's general critique of Rawls is that his project falls into both. Her two specific objections have been articulated several times against Rawls. They are two *fundamental* objections because they point to the very design of the agents that enter the original position; they attack the bricks of Rawls' construction.[2] The first one, the *heteronomy objection*, is made from a Kantian perspective. According to O'Neill, even though he later adds reasonability, Rawls' whole construction depends solely on an instrumental conception of rationality (O'Neill 1989, 207). I want to add a further argument under the title of this objection, also from a Kantian perspective. If heteronomy is a serious flaw in the construction of principles of justice, it is necessary to specify where precisely lies the heteronomy of the instrumental-teleological reason and why this heteronomy has a negative impact on the elaboration of political principles. In other words, why, from a Kantian perspective, is instrumental reason heteronomous, and why is heteronormativity something one should avoid in the construction of political principles of justice?

The instrumental rationality associated with rational choice theory deals only with the choice of means, it does not apply to deciding on the ends that give their raison d'être to the choice of the means. This is why Kant thinks that agents set their ends by a use of reason that is *practical*, i.e., not instrumental, even if they adopt "heteronomous" ends. Setting our own practical ends is to a considerable extent what gives sense to the notion of external freedom Kant uses in his legal and political theory. The autonomous setting of one's ends is, in Kant's terminology and explicitly in *Religion within the boundaries of mere reason*, a spontaneous act of an agent's free choice [*Willkür*]. This terminology should not lead us to think that we are dealing with a metaphysically robust conception of human autonomy,

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2] There is a third objection against the fact that the principles of justice establish entitlements instead of duties. I will return to this later on.

designed in a transcendental-idealistic way, or with an ethical conception of inner freedom. Kant's theory of freedom in the *Religion* text and in the *Metaphysics of Morals* only says that we are free as far as we can choose the ends of our actions. In turn, this does not mean that we act without any consideration of our concrete contexts and interactions; choosing our ends is "spontaneous" in the sense that it is not something our instrumental reason can do, and it is autonomous as far as it is not conditioned by some further end that we all ought to have as human beings (as it is the case in the natural law tradition).

Instrumental reason can be exercised only once one has adopted their own ends and this adoption is what gives human praxis part of its meaning of freedom. Now, if instrumental reason is set as a point of departure for a construction of moral principles it may seem that Rawls' theory is not making claims about the agents' particular ends. By not making substantive claims about what those ends are and must be, a constructivist theory could avoid moral realism. It could also avoid an unjust consequence that would follow from the fact that some particular ends would be privileged and thus those people in the community that have not chosen those ends would get seriously disadvantaged. But from a Kantian perspective, allowing instrumental rationality to do most of the normative work implies allowing some ends, given prior to any procedural limitation, to define the election of the primary goods; it does not matter if the idealised agents are aware that they hold those ends or not. If one is committed to the Kantian aim of protecting the freedom of proposing oneself one's own ends,[3] then concealing ends behind a veil of ignorance and establishing a set of primary goods as universally desired is not the proper strategy because it means the precise thing one is trying to avoid, i.e., privileging some ends and not equally acceptable other ones. A different conception of rationality is needed. Let me explain this further.

The heteronomy of instrumental reason is a strong objection for a particularly "Kantian" reason. For Kant, means-ends rationality implies not just any ends but a specific one: one's own happiness. Kant treats this type of rationality under the concept of pragmatic imperatives or imperatives of prudence. The function of these imperatives is to "prescribe the means to the universal end to which all the *subjective* grounds of human willing refer, i.e., happiness, which all creatures need. Here, the imperatives command under the condition of a real end" (V-NR/Feyerabend, AA 27: 1324). Instrumental rationality can be applied only under the condition that we already have an end (this is what a "real end" here denotes), which for Kant we do actually have: happiness. Why is this a problem for Rawls if constructivism is to be Kantian? The problem with happiness is that it has, necessarily, different contents for each agent: the idea of happiness is irreducibly personal and individual and, thus, the principle of happiness, we learn from the second *Critique*,[4] cannot produce a universal rule valid for everyone.

3] I do not mean that Rawls is committed to every Kantian tenet; I am only claiming that this is one of Kant's central tenets and that Rawls directly contradicts it.

4] See KpV, AA 05: 40ff.

It is worth noticing here that this does not mean that Kant would reject all principles of what we call "well-being". For example, Kant defends the right of the state to tax the rich in order to support the poor (MS, AA 06: 325-26). Here, well-being is not necessarily understood as happiness (which for Kant is always subjective and individual); it is on the contrary better understood in the objective terms of inequality and injustice. In fact, Kant thinks that rich people are rich generally because "they are favoured by the injustice of the government; this injustice introduces an inequality of richness that makes people dependent on the charity of others" (MS, AA 06: 454). Concisely, here we can approach poverty with ideas of structural inequality instead of using ideas of human flourishing or subjective happiness. For instance, Alice Pinheiro Walla (2019) has developed a Kantian theory of welfare rights based on equity rights and reparative justice.

For Kant, a universal end that everyone would have does not necessarily produce a universal principle, law, or rule, because the characteristic of that end, in the case of happiness, is being essentially individual. If hypothetical imperatives can barely guide, for Kant, the decisions of a single individual in a steady and coherent way (TP, AA 08: 287), they are almost inapplicable to guide collective action. This is why the principle of happiness makes a ruler a despot and the people rebel (TP, AA 08: 302), as it necessarily implies the imposition of a particular conception of happiness to everyone in that political community. If empirical ends are taken as points of departure in the election of normative principles, that is, if principles are selected from them, then those normative principles would be grounded entirely on an empirical condition (V-NR/Feyerabend, AA 27: 1324). The problem is not simply that this procedure would lack formality; its main flaw is that it implies allowing unilateral eudaimonic grounds, which are irreducibly individual and contingent, to enter the field of the omnilateral normative justification of coactive norms and institutions. In Rousseauean terms, agents who chose following an instrumental reason make a *volonté de tous*, not a *volonté générale*. In turn, for Kant this particular *volonté de tous* would be an unjust collective authority, imposing the hegemonic ends of the ones who were able to dominate the actual procedure onto the freedom of everyone else, who would then not have a strong reason to accept the resulting principles.

Kant's original contract creates a practical situation in which the omnilateral exercise of reciprocal normative justification of juridical duties corresponding to acquired rights is possible.[5] In stark contrast to Rawls' contract theory, the task of a Kantian contract is not the election of goods, but the justification of a normative order, a correlation of rights and duties. Therefore, the instrumental use of reason cannot have a leading role in it. Kant's explicit insistence that ends (whether happiness or even the ends of Kant's ethics)[6] cannot ground a political constitution is not only a rejection of eudaimonic and ethical justifications of the political, but also a rejection of the idea that instrumental rationality

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5] See Marey 2020 for a more detailed analysis of this thesis.
6] See RGV, AA 06: 95-96.

should play a justifying role in the normative realm of right.[7] In a word, justifying political principles a priori calls for the use of a kind of argumentation that is neither instrumental nor teleological, because it is about reciprocally justifying the sanction of legal, coactive duties corresponding to claim-rights.

The *objection of idealisation* "is not to reasoning that is detached from certain predicates that are true of the objects discussed, but to reasoning that assumes predicates that are false of them" (O'Neill 1989, 209). O'Neill's differentiation between abstraction and idealisation is useful in political philosophy because it discriminates between non-exclusionist and exclusionist grounds for normative principles. She points out that when justifying political principles one cannot take as starting point, and not even in consideration, every actual and potential choice an agent could or would make, and at the same time, reflecting on any practical situation necessarily involves a theoretical approach mediated by theoretical terms, which are abstract. This is why abstraction is virtually unavoidable in political philosophy. The real challenge for a social contract theory and for a constructivist project is to avoid idealisation.

Let me expand a little more on the problems of idealisation in normative theory. In a 2005 paper, Charles Mills developed O'Neill's critique of idealisation with more detail. Mills explains that

> what distinguishes ideal theory is not merely the use of ideals, since obviously non-ideal theory can and will use ideals also (certainly it will appeal to the moral ideals, if it may be more dubious about the value of invoking idealised human capacities). What distinguishes ideal theory is the reliance on idealisation to the exclusion, or at least marginalisation, of the actual. As O'Neill emphasises, this is not a necessary corollary of the operation of abstraction itself, since one can have abstractions of the ideal-as-descriptive-model type that abstract without idealising. But ideal theory either tacitly represents the actual as a simple deviation from the ideal, not worth theorising in its own right, or claims that starting from the ideal is at least the best way of realising it. (2005, 168)

Mills then lists the primary assumptions made by ideal theorists that produce this "exclusion of the actual": "An idealised social ontology", "idealised capacities", "silence of oppression", "ideal social institutions", "an idealised cognitive sphere", "strict compliance" (2005, 168-169). The fundamental problem with these assumptions is that

> In modelling humans, human capacities, human interaction, human institutions, and human society on ideal-as-idealised-models, in never exploring how deeply different this is from ideal-as-descriptive-models, we are abstracting away from realities crucial to our comprehension of the actual workings of injustice in human

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7] That Kant's ethical thought is to be distinguished from his legal and political theory is something he himself insists upon all throughout the *Religion* text and the *Metaphysics of Morals*. See also Marey 2018, where I defend the thesis that Kant's concept of right is normative without being ethical and analyse a juridical, moral but non-ethical, use of the categorical imperative.

interactions and social institutions, and thereby guaranteeing that the ideal-as-idealised-model will never be achieved. (Mills 2005, 170)

One cost of taking an idealised conception of the person as the starting point in the construction instead of beginning, as Kant did, from interaction or, as Marxist, decolonial, queer, and critical race theorists do, from social relations, is that the results of the construction are not applicable to any actual contexts, being as they usually are structured by domination and oppression. It does not matter here if Rawls intended his theory to be applied to actual contexts or not, the point is that the results of *any* construction of principles of justice does not have any meaning whatsoever if it is not meant to be applied to an actual context, and actual societies are structurally unjust. If it is so detached from actual practical contexts and its problems, then what is Rawlsian constructivism about?

An idealised model neither explains nor applies to any human society. Therefore, it is either unnecessary and superfluous, or (which is worse) if one tries to apply it to a social context to detect, explain, and offer solutions to injustices, one will likely end up doing more harm. By not detecting the actual injustices, by silencing and obfuscating them, one is prone to offering guides to action that will most probably deepen those injustices.[8] As Elizabeth Anderson pointed out, "[t]he epistemic infirmity of ideal theory arises from the fact that if one hasn't anticipated that an injustice of a certain form may arise, one may fail to represent the ideal state as one that essentially lacks that injustice, and may even allow that injustice to be unwittingly incorporated into the ideal state" (2009, 135). This is what, with O'Neill and Mills, we can impute to the conceptions of personhood with which Rawls works in *A Theory of Justice* and in "Kantian Constructivism in Moral Theory", i.e., that they are not applicable to any significant actual context, with the potential "infirmity" of incorporating injustices in the very description of the ideal (idealised) model.

Why is Rawlsian constructivism idealising? In *A Theory of Justice*, Rawls claims that his aim is to argue "from widely accepted but weak premises to more specific conclusions" (1971, 18). So, one could say that Rawls abstracts (and does not idealise) in at least three senses. First, because he believes that seeing human behaviour as eminently an instantiation of rational choice, he is not introducing features alien to human rationality. This would help to avoid assuming a metaphysically dense conception of the self, of agency and moral personhood. Second, Rawls says in *A Theory of Justice* and in "The Basic Structure of Society" that the original position is "a procedural interpretation of Kant's conception of autonomy and the categorical imperative" (1971, 226). By "procedural" Rawls means that he takes these conceptual elements from Kant, but devoid of all the transcendental idealist traits that arouse contemporary philosophical suspicions.[9] Thirdly, according to Rawls, the principles of justice do not assume an ideal of the moral

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8] For a clear contrast between the problems of ideal theory as expounded by Mills 2005 and the virtues of non-ideal approaches to normative theory ("non-ideal standpoint methodology", as Elizabeth Anderson called it), see also Anderson 2010, 3-7, and Anderson 2009.

9] Rawls falls here into a methodological mistake from a Kantian standpoint: he takes elements from Kant's ethics and uses them in political philosophy. I will return to this later on.

person but *define* one (1971, 260ff); in other words, the ideal presumably follows from the principles and thus there would not be an idealised vision of human personhood *ex ante*, embedded in the original position.

Now, in "Kantian Constructivism in Moral Theory" the ideal of the moral person is defined by the attribution of the two "moral powers", i.e., sense of justice and the capacity to have and pursue a conception of the good (Rawls 1980, 547-50). The primary goods are understood as "generally necessary as social conditions and all-purpose means to enable human beings to realise and exercise their moral powers and to pursue their final ends" (Rawls 1980, 526), i.e., as means to carry out and practise the ideal of the moral person. This is why O'Neill indicates that "[t]hese powers define a certain ideal of the moral person and thereby the highest-order interests of actual persons" (1989, 210), which cannot be *simply* attributed to actual people. This moral personhood attributed to ideal agents is an idealisation because it is built into the process of constructing principles of justices, where it plays the role of the basic motivation agents have when choosing those principles, that is: the idea of the moral person is not the result of the procedure but its presupposition. The critiques of idealisation motivated Rawls' own revisions of his theory in "Political, not Metaphysical". But as it is clear by the heteronomy objection, for O'Neill (and for Kant), using rational choice theory is an idealising movement that transfers an idealised conception of the moral person to the rest of the procedure. Furthermore, for O'Neill, with the very description of the veil of ignorance, the Rawlsian construction assumes that persons and their desires are mutually independent, which in turn implies a series of false propositions about human agents: this independence cannot be predicated on any real or possible human agent or any real or possible practical context (1989, 209).

Why is Rawlsian constructivism non-Kantian? Simply because Kant did not derive principles of justice from a conception of private autonomy (if there is such a thing as a "private" autonomy), be it procedural or metaphysical, or from the ethical application of the categorical imperative. Eminently, Kant did not derive the idea of the state, the principle of right, or the idea of a republic from (what Rawls understands as) an ethical categorical imperative. Moreover, as Arthur Ripstein 2009 held, Kant's political philosophy is not grounded upon transcendental idealism, even when Rawls affirms it is as response to the numerous objections that he received because of the idealising tendencies of his own theory. (But nowhere in his work does Rawls actually show how Kant's political and juridical concept of external freedom is metaphysically robust. He just claims it is). So: if Rawls idealises, he does this not because he is Kantian – in fact, Kant would have helped him not to make that mistake. My point, in sum, is that Rawls did not take important aspects of Kant's political philosophy, not even marginal ones; he only took a few isolated aspects of Kant's ethics, interpreted, moreover, according to a certain reading of it that can be easily challenged. Would we call someone Hegelian if they rejected dialectics? Then why call someone Kantian if their methodology and primary normative assumptions directly oppose Kant's?

In sum, for O'Neill the failure of the Rawlsian project of a Kantian constructivism is double: it fails in its intention of avoiding realism and relativism and is not Kantian. The main reason of this failure is the use of instrumental reason to justify principles of justice and the relation of dependence of these with the (contingent) desires of (idealised) agents. This inaugurates a sequence of inconveniences whose solutions lead from heteronomy to relativism, through idealisation. The sequence can be summarised as follows. According to O'Neill, (i) the risk of heteronomy triggered by instrumental reason (ii) makes it necessary to unfold the veil of ignorance to filter out contingent desires. (iii) Now the risk we face is indeterminacy because we are still operating with instrumental reason, which necessarily operates in the realm of the means, and (iv) this indeterminacy is overcome by selectively piercing the veil of ignorance. This step, in turn, calls for (v) an explanation as to how to make the veil, and how and where to pierce it. As criteria for making the veil, (vi) Rawls uses a specific ideal of the moral person. But this ideal has to be normatively justified (not merely assumed to be empirically correct, which by the way is not). To justify this ideal, and as (vii) Rawls wishes to avoid metaphysics (and metaethics altogether, perhaps?), he appeals to "our" tradition to support the ideal of the moral person (O'Neill 1989, 212). For O'Neill, this amounts to a relapse into relativism, and finally frustrates the very aim of constructivism. The accumulation of non-Kantian steps frustrates, in turn, the aim of elaborating a Kantian interpretation of justice as fairness.

II. INTERACTION AND NORMATIVE JUSTIFICATION

For my part, I think that the objection of heteronomy is radical in the sense that it is not possible to overcome it. It is not possible to overcome the assumptions of instrumental reason with a tailor that would adjust the veil to adapt it to an agent idealised according to "our" tradition. For Kantians, the basic methodological mistake here is starting from instrumental reason. The very structure of this reason determines that the results of the procedure reflect empirically given desires of some individuals – and not all individuals, only the desires of those who fit the ideal. That the outcome merely reflects some desires whose desirability is not, in the end, normatively justified to those who do not share those desires but have to share the same normative space in a context of interaction makes the procedure undesirable to these people. This is why the objection of idealisation is ultimately an objection to the unjustly exclusionary character of a theory.

In contrast to what happens with this constructivist framework (and perhaps in contrast to all constructivist approaches to normative justification), I claim that Kant's normative justification does not rely on the subjective motivation of pre-political individuals, or on the rational deliberation of (whether abstract or idealised) agents. As mentioned, Kantian normative political justification hinges on an aspect of human praxis that is philosophically central for O'Neill also: (the consequences of) interaction. The basic juridical-political question is, here, the validity of the normative orders that are

necessary to regulate that interaction to prevent the wrongs that occur when humans interact with each other and with the environment.

A virtue of the Kantian social contract theory is that it is not *grounded* on claims about a pre-political nature of human agency. Kant surely has such a conception, but in his political theory his starting point is that practical external interaction among human beings which generates the normative need to acquire rights that correspond to juridical duties. Human interaction is analysed under the hypothesis of a non-juridical condition that shows, in the *Doctrine of Right*, that reciprocal justification is unavoidable because coexistence is unavoidable (we share the same place of residence, a finite earth)[10] and can only exist within a juridical-political condition. This is why Kant's social contract argument aims at showing the a priori character of the united will. I think that the apriority of the united omnilateral will entails a conceptual priority of the political subject over the rest of the political principles (principles "of justice", of institutional design, of legitimacy, and of political authority). It also means that principles of justice are not, *pace* Rawls, chosen by an aggregation of individual pre-political agents who decide according to a conception of the good or their desires, but by a collective political agent whose internal normative logic is the reciprocal justification of juridical *duties*.

A third critique O'Neill makes to Rawlsian constructivism is that its principles of justice create entitlements rather than obligations (1989, 214). Her argument is centred around the indeterminacy of the distribution of entitlements and goods, a difficulty Rawls tried to surmount by using a metric of maximisation. O'Neill points out that freedom is not an object of metrics, and she is right. This is why Rawls would resort to the individuals' desires to determine the set of maximal rights (titles on goods). Besides the mistake of thinking of rights as goods instead of them as necessarily attached to duties (a normative web of rights and duties),[11] this move also makes Rawls vulnerable to the two previous objections of idealisation and heteronomy, because the theory relies on the (idealised) agent's actual desires to determine the set of rights / goods.

Two recent texts contribute interesting insights to these points. In a text in which he deals with the question "Can Kantian constructivism avoid realist commitments?", Michael Lyons (2020) proposed that "constructivism is more plausible when interpreted as a form of moral realism (and as a result, in order to defend moral constructivism, one must commit to at least some form of moral realism)" (2020, 19). Kant's would make a

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10] Even if humans (high income countries with space programs such as the NASA) could colonise other planets, the Kantian point would be that such endeavours necessarily imply cooperation and collective, international, even cosmopolitan action, not to mention the externalities they would carry with them, with material and normative consequences for almost everyone on Earth. In a few words: who builds the rocket to Mars? Where do its materials come from? Et cetera.

11] Compare to Kant's idea of subjective rights: "To every duty there corresponds a right in the sense of an *authorization* to do something (*facultas moralis generatim*); but it is not the case that to every duty there correspond *rights* of another to coerce someone (*facultas iuridica*). Instead, such duties are called, specifically, *duties of Right*" (MS, AA 06: 383).

good constructivism as far as "it can and should be reconciled with a conception of moral realism" (Lyons 2020, 17). Lyons deals with ethics as treated in the *Groundwork of the metaphysics of morals* (1784), and not with Kant's ethics of virtue from the *Doctrine of virtue* (1798) or with Kant's political philosophy, which, I hold, is not constructivist. Nevertheless, what is interesting about this paper is that its author emphasises that in order for any sort of plausible moral constructivism to work without falling prey to radical relativism, one needs a moral realist commitment to some moral truths (I would say normative principles), "which are neither dependent on, nor true or false in virtue of, any opinions or attitudes about them, or any entailment therefrom" (Lyons 2020, 24). This point is true of all constructivist theories, whether their authors embrace this unavoidable commitment or not, and even if they are not aware of it. A constructivist procedure is always applied within a certain practical (abstract or real) context and theoretical framework, both of which give the procedure several limitations that help to avoid absolute relativism. The issue with Rawls is, I believe, that he did not embrace his realist commitments, and that these were particularly heavy ones. I am not saying one should embrace realism, I am just pointing out that Rawls did have realist commitments which he failed to acknowledge as such.

In the same compilation by Alice Pinheiro Walla and Mehmet Ruhi Demiray where Lyon's paper is published, Sorin Baiasu's text ("Staying philosophically on the surface: constitutivist and naturalist quests for normativity") analyses the problems Ralwsianism gains by trying to avoid metaphysics at all costs. He rightly proposes that, in order to "clarify the mystery of normativity, the tendency to stay philosophically on the surface would need to be critically overcome, and here Kant's philosophical example is particularly helpful" (Baiasu 2020, 54). Kant can help with this because, he suggests, instead of simply avoiding non-dogmatic metaphysics, he investigated its limits and its content (Baiasu 2020, 41). What I want to highlight with this insight is that Rawlsian constructivism has a lot of self-imposed expectations to live up to, up to which it does not live because the mere claim that one is not doing metaphysics does not amount to not having strong metaphysical assumptions. The problem with Rawlsian constructivism, from what we have been analysing here following O'Neill and Mills, is that it does not have the theoretical tools to conduct a critical assessment of its own tacit idealising assumptions. Dealing with its own metaphysics would have proven a much more successful strategy in order to avoid extreme moral realism and radical relativism. His own metaphysics was, of course, his idealised conception of human agency; a better way to proceed would have been realising that he had such a flawed conception.

Kant's social contract is *not* a formal procedure to setting principles of justice by reference to some agents' choices. On the contrary, it helps shape the practical context within which a political community can legislate their own norms. Kant's original contract also creates the political agent whose task is to legislate those norms because it creates the universal (omnilateral) legislative will, which does not exist before the contract takes place. Thus, it is not a hypothetical situation where abstract people chose

principles and goods according to their desires and by answering questions about the universal-reasonable acceptability of possible principles. So, we cannot claim that Kant was a constructivist in political philosophy, neither in the Rawlsian nor in the Oneillian versions, if by "constructivism" one understands eminently a "method of generating principles of justice by reference to choices made in an original position" (O'Neill 1989, 207), by individual (as opposed to collective) agents, even when the conception of these agents fits the methodological requisites set by O'Neill.[12]

O'Neill holds that her version of constructivism is different from Rawls' because in it "abstraction from determinate desires of agents is complete: Hence no special ingenuity is needed to avoid either heteronomy or cruder forms of relativism" (1989, 218). This abstraction of (idealised) motivations and desires is achieved by focusing on interaction, not on the practical reasoning of (idealised) moral persons. With this, O'Neill is closer to a non-ideal approach to political philosophy because it is precisely in interaction, in social relations, where injustices and domination occur. Another desirable trait of this complete abstraction (whether it is possible to achieve it or not) is that "as a consequence, it is impossible to answer questions about the hypothetical choices of abstract agents" (O'Neill 1989, 218). With this latter trait, O'Neill leaves room for the actual choices of actual agents, not determining a priori what they will choose. To avoid relying on hypothetical decisions, "the construction has to fall back on modal questions about the possible choices of abstract agents, and construct an answer to the question 'What principles must a plurality of abstractly characterised agents reject?'" (1989, 218). The construction should not ask, then, "what principles *would* a plurality of *ideally* characterised agents reject?". With this, in turn,

> Finally, rejection of non-universalizable principles can guide action by requiring that we ensure that the agents actually affected, with their particular identities and vulnerabilities, can genuinely choose or refuse those principles. If this sketch can be filled out, there is at least some space between realism and relativism. (O'Neill, 1989, 218)

My claim is that the aim of guiding action mentioned by O'Neill in this quotation can be achieved by a theory that, instead of aiming at designing abstract procedures to reach principles that the affected agents would/can/must choose/refuse, would aim at being sensible to structural injustices in concrete social settings, so as to achieve decisions about principles of justice that would counter those concrete injustices. By focusing too much on what (abstract, idealised, actual) agents would/can/must decide, we lose sight of the way social relations influence not only those putative, possible, necessary, and actual decisions, but also the way in which decision-making procedures reproduce social injustices.

12] Which are: rejection of idealised-idealising vision of agents, their rationality, and their mutual independence; complete abstraction of actual desires; absence of moral realist claims. We can further ask: How does one reject an idealised version of agents and abstract from actual desires? Is it possible? And is the absence of moral realist claims completely desirable?

III. OMNILATERAL WILL: POLITICAL, NOT ETHICAL

I think that Rawlsian constructivism is not political enough to be called "Kantian", and that a Kantian theory is too political to be considered constructivist. In fact, there is a general problem both in Rawls' and O'Neill's readings of constructivism: we cannot talk about ethics if the object of the construction are principles of justice. We are talking, in any case, about normativity. This Kantian correction is not trivial. That ethics and law are two different realms of morals has a series of normative and methodological consequences, among them, that in the juridical realm, normative justification is not centred around an (individual) agent deliberating on their reasons to act (as it is the case with Kantian ethics in the *Groundwork*). Kant's juridical-political perspective is centred around practical external interaction and the exigencies of reciprocal justification this interaction generates. Moreover, Kant's aim when reflecting on interaction is to show the a priori character of the omnilateral united will, and most of this work is done by an analysis of juridical duties and obligations instead of by postulating entitlements. This is consistent with O'Neill's thesis that principles of justice must determine obligations and not merely rights without paying attention to the corresponding duties. But most importantly, Kant's social contract theory cannot be defined as constructivist because, as I mentioned, it is not a "method of generating principles of justice by reference to choices made in an original position", of establishing moral principles and settling moral conflicts between individual agents while doing so (paraphrasing O'Neill's definition of constructivism in 1989, 207). The reason for this is that it is not a methodology to finding those principles but the *act by which a political collective agent (the omnilateral will) is constituted*. Briefly, Kant's methodology in legal and political philosophy is not a formal-procedural method to assessing the moral correctness of principles of justice.

Rawls considered himself Kantian in *A Theory of Justice* and in the *Dewey Lectures*, and later explicitly distanced himself from (his version of) Kant in "Justice as Fairness: Political, not Metaphysical" (1985). All this prompted the question "Is Rawls (or Rawlsian constructivism) really Kantian?". The topic has been the object of many texts from the very publication of *A Theory of Justice*. For instance, in his review of this work, Allan Bloom was blunt in his negative answer: Rawls "attempts to lend his 'original position' the glow of Kantian moral nobility" (Bloom 1975, 656). This is a constant, according to Bloom, in Rawls' work. Rawls picks isolated elements of classical works, but "never really caught up in the necessity of their arguments, sure that he looks down on them from a higher plateau" (1975, 656). Of course, this is a normal strategy in philosophy (all "great" philosophers do it), but for Bloom, and he is right in this, Rawls *inverts* Kantian morality by giving it a eudaimonic motivation and by downplaying the significance of universality. Analysing the well-known § 40 of *A Theory of Justice*, Johnson 1974 and 1977 (in this latter paper responding to Darwall's 1976 defence of Rawls) affirms that there is no Kantian interpretation of justice as fairness because Rawls' and Kant's ideas of the human being as a moral being are straightforwardly incompatible. Krasnoff

1999 holds that constructivism cannot be Kantian because its main methodological characteristics are opposite to the methodology of the ethical categorical imperative. Heyd 1980, also compares Rawls' constructivism with Kant's ethics. His analysis is more Rawlsian than Kantian, since he assumes the false premise (taken from Rawls himself) that Kant's practical philosophy is explicitly derived from a conception of human nature. It is remarkable that not only Rawls but also most of the works on Rawls' Kantianism make the same mistake of assuming that if there is an *ethical* general theory of the moral person (of course there is one in Kant), this necessarily grounds his political philosophy. But this is not the case in the proper Kantian sources. We can attribute this flaw to the fact that Rawls and many of the authors discussing his work do not refer to the only work in which Kant systematically developed his political philosophy and his practical metaphysics as a whole, i.e., the *Metaphysics of Morals*, but almost exclusively to the *Groundwork*.

In the literature on the topic "was Rawls really Kantian?" it is usual to compare the Rawlsian intention to establish principles of justice with Kant's ethics, instead of comparing it with Kant's legal and political philosophy. In my opinion, the most accurate work on Rawls' alleged Kantianism is a paper by Otfried Höffe (1984). Höffe makes the comparison in relation to Kant's political philosophy, not to his ethics, and notes that an ethical constructivism cannot be used if one wants to elaborate juridical and political principles. I agree with both Höffe's strategy of comparing Rawls' constructivism with Kant's political philosophy and not his ethics, and that an ethical constructivism cannot be used to build juridical and political principles. Höffe denies the Kantian filiation of Rawls' theory by showing that his premises completely diverge from Kant's *political* premises and theses. Kant thought that it was necessary to show, in the first place, why external interaction can only be fair within a certain kind of political arrangement. As I read Kant's political philosophy, his arguments for the formation of a united legislating will of the people take precedence over the establishment of the principles of justice because it is their condition of possibility.

The main reason Rawlsian constructivism was not Kantian is that it contradicts Kant's juridical-political methodology by applying allegedly Kantian ethical concepts to a political theory. Rawls does not turn to Kant's political and legal philosophy. He calls his constructivism "Kantian" because he takes elements from Kant's ethics, interpreted in a particular way. In the case of "Kantian Constructivism", Rawls' reading of Kant's ethics is strongly influenced (sometimes verbatim) by Silber's (1974) pure proceduralist reading of the categorical imperative. Kant simply did not take his conception of the moral agent from the *Groundwork* and put it as the basis of his *Doctrine of Right*. One would not believe that Rawls was Rousseauean if he would have picked a couple of isolated elements from *Émile, ou de l'éducation* (and not from the *Contrat social*) to elaborate his original position. Why think he was Kantian if what he did with Kant's corpus is analogous to this example?

IV. JUST A FEW WORDS ON RAWLSIAN AND KANTIAN RACISM

In several works,[13] Charles Mills argued that Rawlsian constructivism, as an exponent of Western political philosophy, is racist and imperialist. In those works, Mills also showed how Kant's moral (ethical and legal) *theory* is racist, i.e., that racism is not simply reducible to a couple of offensive statements here and there in his works. From *The racial contract*, as well as from Frantz Fanon's works among many others, we learn that racism is a system of domination, "a system in its own right" (Mills 2003, xvii): "White supremacy is the unnamed political system that has made the modern world what it is today" (Mills 1997, 1). As a political system of its own right, racism is a "form of domination" (Mills 1997, 1); being unnamed in mainstream political philosophy is precisely part of its being a political system of domination. Ideal social contract theories such as Rawls', noted Mills, obfuscate "the ugly realities of group and power domination" (1997, 3).

The concern I want to address can be stated as follows. If ideal theories like Rawlsian constructivism cannot account for structural injustices such as racism and sexism, could a Kantian approach to political issues avoid this serious theoretical and practical shortcoming?

We cannot make Kant answer questions he did not ask himself, of course, but neither can we just abstract his racism, Eurocentrism, sexism, and classism away from his political philosophy. It could be argued that one should just situate Kant's works in their historical context and then extract the racist (sexist, imperialist) features in them as mere obsolete residues from the past. But this is not so reasonable an approach as it appears to be, since (apart from the fact that there were abolitionist and feminist struggles when Kant wrote) the point is that the very way modern political and moral philosophies were developed served to build a racist (and sexist and imperialist) vision of the world. Among the growing literature on Kant's racism, Inés Valdez (2017) and Huaping Lu-Adler (2022) have recently made strong cases against the possibility of just abstracting those undesirable features away from Kant's practical philosophy. So why insist on studying Kant's political philosophy other than for a merely philological interest, or for anything other than a denunciatory purpose?

Another way of phrasing this question is: What does Kant's voluntary political ignorance about different dimensions of inequality mean for political philosophers interested in understanding structural injustices?[14] Awareness of racism, classism, and sexism in Kant's thought is now widespread even among Kantian scholars who are politically conservative or at least not radical. But what do they do with this information?

13] Mills 1997, 2005, 2015, 2018, for example.

14] With "voluntary ignorance" I mean that he himself was culpably immature (to use the terms of his Enlightenment text) about slavery and that he contributed to the development of philosophical racism and sexism, that is: he was not just a "child of his time" unaware of certain facts of the world. Chattel slavery, for instance, was not a minor detail of the development of the modern state and of capitalism, but a central aspect of them. Again I recommend Lu-Adler 2022 for a critique of Kant's treatment of slavery.

Does it change anything in the practices of Kantian academia? Does it decolonise practices; that is, do those practices become less racist, colonial, less Eurocentric? Does awareness of Kant's racism change the way we conceptualise the state, the social contract, cosmopolitanism, international relations, sovereign equality, subjective rights? When Kant scholars point out that Kant made racist and sexist remarks, does this help with countering structural racism and sexism in academia? Or, on the contrary, does it just serve to performatively take away responsibility for current structural injustices, in academia and outside of it?[15]

One of the aims that make it so important to illuminate a racist past is casting light unto today's racism. So, what matters about the question of Kant and racism is asking "what does Kant's racism mean for us?". Of course, "for us" is the key here and the answer will depend on who is asking the question. Then, we can face the question of what to do with this awareness of the fact that Kant's moral, ethical, legal, and political *theories* have racist tenets. This is, to my eyes, more important today than trying to show that Kant's political theory is not racist or Eurocentric at all. Asking these questions in the "Third Word", where I live and work, carries a specific weight and, from here, it is important to analyse whether there can still be critical, emancipatory versions of Kant's political philosophy. Denunciatory readings are fundamental for a better comprehension not only of the past but of the theoretical assumptions of the present. This notwithstanding, another fundamental task is to contest mainstream readings (apologetic or denunciatory) of the canon, which are typically neither critical nor self-critical.

Charles Mills emphasized the importance of taking oppression seriously.[16] Oppression, I add, organizes our own political epistemologies as readers of Kant. Racism, sexism, imperialism, and classism are not the exception in Western political philosophy, broadly construed, and this is also true of mainstream *readings of the history* of political philosophy. Now, oppression and domination organize political ontologies and epistemologies, but this is also true of resistance to them.

In this latter sense, I believe we can elaborate emancipatory (although limited) readings of Kant's political philosophy if we follow the orientations of a situated study, guided by questions that arise in contexts other than the ones usually taken for granted in mainstream academia. It is in this sense that a reading of Kant as a strong critic of the

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15] For a keen critique of attachments to innocence in academia, see Ravecca and Dauphinee 2021. These authors observe, for instance, the following: "As critical theory is increasingly equated to morally charged indictments (of racism, homophobia, sexism and so on) against others, the response we expect is the immediate parsing and hierarchization of violence, and the separation of the self from the worst of the violence's implications: I benefit from settler colonialism, but I am not a genocidaire. I benefit from white supremacy, but I am not a racist. I have access to life preserving technologies while others die in modern camps, but I am not a eugenicist. I am fighting for my liberation, so I cannot be oppressing others" (Ravecca and Dauphinee 2021, p. 45).

16] "Why should anyone think that abstaining from theorizing about oppression and its consequences is the best way to bring about an end to oppression? Isn't this, on the face of it, just completely implausible?" (Mills 2005, 171).

Westphalian order can be useful today. Also, because the constructivist reading of Kant is implausible and because his starting point in political philosophy was interaction and its consequences, one gets a more suitable framework to account for social relations and the injustices they produce. If the starting point of a political theory is interaction and its normative consequences, then one is in a better position to theoretically avoid obfuscating social relations, their asymmetries, and injustices. I think this is essentially why that Kant can be a good ally to new, successor critical theories (anti-racist, anti-colonialist).

In this paper I have claimed that Kant did not derive his political principles from an idealised notion of the individual but from his treatment of external interaction and its consequences. Of course, this does not imply he did not have a racist, Eurocentric, classist, and sexist idea of humanity, of what it means to be a full moral agent. My point is rather that this radicalising reading of Kant I propose is better equipped than Rawlsian constructivism to overcome Kant's own voluntary ignorance on inequality and his epistemological deficit when perceiving structural injustices.

Acknowledgments

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Kant, Revolution, and Climate:
Individual and Political Responsibility

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Abstract. There has been a revived interest in the relevance of Kant's philosophy for contemporary global issues. This paper investigates the extent to which Kant's philosophy can provide grounds for addressing the global issue of climate change, despite his seemingly conservative defense of reform over revolution. First, I argue that Kant's account of societal progress as metamorphosis is compatible with the conception of a green revolution understood as restructuring society toward sustainability. Second, I claim that Kant's evolutionary model of political change offers a helpful framework for thinking about how to transition present societies to more sustainable ones. I conclude with reflections on how Kant's views have applied relevance for climate-related problems.

Key words: Kant, revolution, reform, climate, environment

Climate change is among the most pressing of contemporary moral and political challenges. Because there has been a revived interest in the relevance of Kant's philosophy for contemporary global issues, a discussion of its significance for sustainability is desirable.[1] However, since it has been suggested by some that a green revolution is urgently needed to usher in sustainable societies,[2] Kant's rejection of revolution might be thought to limit the importance of his philosophy for sustainability. This paper investigates the extent to which Kant's moral and political philosophy can provide grounds for addressing climate change despite his seemingly conservative emphasis on reform, not revolution. I aim to show that it can be mobilised as one strategic resource, among many, for thinking about a sustainable and just future.

I argue that Kant's account of societal progress as metamorphosis is compatible with the conception of a green revolution understood as a restructuring of society toward sustainability.[3] I claim, additionally, that Kant's evolutionary model of political change offers a helpful framework for thinking about how we might transition present societies to more sustainable ones. Contrary to the worry that Kant's rejection of revolution makes his philosophy too conservative and therefore inadequate for sustainable

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1] See Williams 2012, Roff 2013, Baiasu 2014, Reglitz 2016, and Wood 2017 for recent literature on contemporary global problems viewed through a Kantian lens. For accounts touching on climate change, see Rentmeester 2010, Altman 2011, Frierson 2014, and Pinheiro Walla 2020.

2] E.g., Malm 2021. See Hall and Taplin 2007 for a discussion on environmental rhetorical and political strategies on revolution vs reform. For Marxist ecological revolution, see Pepper 1993 and Foster 2014. On revolutionary aspects of ecocentrism and deep ecology, see McLaughlin 1993. The activist Deep Green Resistance (DGR) organisation promotes violent civil disobedience; I discuss DGR later.

3] Sometimes 'green revolution' refers to renewable energy transformation (e.g., Gardiner 2011, 63-71). Though a green revolution will involve these technological innovations, I use the term more broadly to express a restructuring and reorientation of society, including technology, institutions, and values.

transformations (which, I take it, is one reason for a dearth of literature on sustainability in Kant scholarship), his account of progress and political change provides invaluable insights for sustainability.[4]

This paper is divided into four parts. Part I surveys Kant's views on revolution and reform. I consider Kant's explicit arguments against revolution and some of his general concerns about it. Then, I argue that the environmentalist call for a green revolution should not necessarily be understood as revolution in the sense that Kant rejects, but rather as a global project for political reform and human maturation. Part II explores the value of Kant's account of political change for the project of sustainability, especially his model of metamorphosis contrasted with palingenesis. Part III draws from ideas in Kant's works to outline a way for justifying climate-related duties regarding nonrational nature, rights of climate refugees, and obligations of nations. I conclude in Part IV with objections on the temporal shortcomings of reform.

I. KANT ON REFORM, NOT REVOLUTION

Kant famously opposes revolutionary action, even in the face of a despotic leader or regime.[5] Instead, Kant enjoins piecemeal reform. One difficulty in interpreting Kant's arguments involves the ambiguous meaning of 'revolution'. Some commentators suggest that Kant means violent rebellion, while others interpret revolution as resistance to state laws, which may include civil disobedience.[6] I stipulate that Kant at the very least has in mind unlawful action, so peaceful, lawful protests do not necessarily count as acts of rebellion.[7] I leave open the possibility of permissible civil disobedience, since

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4] Of course, even if the Kantian approach is plausible, this does not mean that it will necessarily ensure we effect the sustainable shift in time; that remains an open question. See the IPCC's AR6 for concerns for change by mid-century. I address this question at the end of the paper.

5] Kant's excitement over the French Revolution despite his general condemnation of revolution has puzzled many commentators. There are several responses to this tension. Possibly Kant did not view the pre-Terror French Revolution as revolution properly speaking (Nicholson 1992, 256). Others think that Kant was sympathetic to the revolutionary cause, yet dissembled in his publications to evade censorship (Beck 1971 rejects such a view; Yovel 1980 endorses it). In any case, Kant thinks that violent revolution, like war, can be a lucky vehicle of progress from the perspective of human history, though it should never be uncritically endorsed. In many ways, climate change presents a global analogue of the French Revolution; the question, in the end, is whether it too will end in a global terror.

6] Does violence concern harm to persons only, or property also? Malm (2021) affirms the former, following Martin Luther King Jr. For Kant, we probably must assume both, given arguments in the *Metaphysics of Morals*.

7] The sense of the term *Widerstand* for Kant is contentious (see Nicholson 1976 and Schwarz 1977). To ensure that my question is not a mere terminological dispute but a philosophical one, I take 'revolution' and 'resistance' for Kant to refer to actions that violate rational law(s) of the state or lead to unjust violence. Lawful pressure aimed to legislators for reformative policies need not be secretive, violent, or non-universalizable, and appear permissive, unless, of course, the sovereign prohibits the right to free speech; if this happens, hope remains with the moral politician to convince the sovereign that free speech permissions benefit her self-interest (Williams 1992).

Kant does remark (in the *Metaphysics of Morals*)[8] that the state cannot force citizens to act in contradiction to "inner morality" (MS, AA 06: 371; cf. 06: 321n and Refl 19: 8051).[9] In any case, Kant presents a number of differing arguments as to why revolution is impermissible. Below, I consider four argumentative strategies – conceptual, political, moral, and pragmatic-historical. I do not evaluate or endorse Kant's arguments. Instead, I ask: why does Kant see revolution as illegitimate for social change? Is he simply reactionary, or are there lessons to learn here?[10]

First, in MS Kant argues that revolution is itself contradictory in character when viewed from a juridical standpoint.[11] No legal right to revolution exists, for Kant, since there may only be one sovereign, represented by the legislative authority. The sovereign is legitimated only by the people's voluntary submission to its authority. In other words, the sovereign has rightful power because citizens, as rational agents, (in principle) submit themselves to its authority in the execution of laws designed to coerce those who hinder unlawful freedom for the purpose of leaving a state of nature and entering into a rightful condition (MS, AA 06: 320). Citizens have "voluntarily replaced arbitrary coercion (in the state of nature each is his own judge) by legitimate and rational coercion (the rule of law) and, yet, they wish to act as judges of their own cause, which is absurd" (Linden 1988, 180). A right to rebel against these laws, Kant thinks, contradicts that commitment (MS, AA 06: 319-21; cf. TP, AA 08: 302). In short, revolutionaries constitute a part of the state, but as a mere part they cannot rightfully claim to represent the whole state (i.e., the entire people) against the only rightful representation (i.e., the sovereign). A right to rebel, in the end, would entail two conflicting sovereigns, which is a contradiction.

Second, in TP Kant argues that a right to revolt (on the basis of actions of the sovereign perceived to disadvantage happiness) "destroys" the rational "foundation"

8] Parenthetical references to Kant's writings give the volume and page number(s) of the Royal Prussian Academy edition (*Kants gesammelte Schriften*). Translations are from the Cambridge Edition of the Works of Immanuel Kant, with the following abbreviations: MAM = "Conjectural Beginning of Human History" (in Kant 2007); MS = *Metaphysics of Morals* (in Kant 1996); Päd = *Lectures on Pedagogy* (in Kant 2007); TP = "On the Common Saying: That May Be Correct in Theory, but it is of No Use in Practice" (in Kant 1996); ZeF = *Perpetual Peace* (in Kant 1996); WA = "An Answer to the Question: What is Enlightenment?" (in Kant 1996); KU = *Critique of the Power of Judgment*; SF = *Conflict of the Faculties.*

9] By "inner morality" Kant clearly does not have in mind subjective moral beliefs (for that would make little sense in Kant's system), but rather that the state, as the instantiation of (external) legality, cannot conflict with (inner) morality. I bracket the question as to whether unlawful but peaceful protest is permissible if positive law conflicts with right. At the very least, it is possible based on this passage to defend a view supportive of civil disobedience.

10] Many neo-Kantian socialists have claimed that Kant's arguments against revolution are poorly formulated. For a discussion of this with emphasis on Hermann Cohen, see Linden 1988. Interestingly, the influential Marxian thinker Ernst Bloch argued that, though Kant could not see it, his categorical imperative only makes sense in a classless society (1986, 874).

11] Exceptions arguably include a "state" in name only, i.e., a "den of thieves" as Byrd and Hruschka put it, following Augustine (2010, 183). In any case, Kant admits that unlawful states (i.e., states that do not represent the general will of the people) "ripen" for revolt.

upon which legitimate civil society is based (TP, AA 08: 299). For Kant, civil society's main purpose is to secure the freedom of people from arbitrary coercive actions that hinder independence; it is not tasked with securing the happiness of citizens, unless that happiness is somehow instrumental to securing a rightful condition (TP, AA 08: 298), as happiness is personal and contingent (*Critique of Practical Reason*, AA 05: 25-26). Sovereign laws that detriment happiness may appear unjust, but, as Kant argues, only the sovereign has the authority to adjudicate their necessity for securing liberty. The sovereign can of course err in judgment, but that is irrelevant, since the social contract that has been, as it were, agreed upon by the people as an idea of reason (TP, AA 08: 297) represents the sovereign as the sole authority for such determinations. Worse, a universalized revolutionary maxim would "annihilate any civil constitution and eradicate the condition in which alone people can be in possession of rights generally" (TP, AA 08: 299). In dissolving the civil constitution, revolutionary actions (at least temporarily) revert us to a state of lawlessness: "There cannot be a law which permits lawlessness, nor an institution of power that provides for its own forcible dissolution" (Beck 1971, 413). Kant is hesitant to accept this, since in addition to the perceived conceptual and political contradictions, he is worried that a new despotism would fill the vacuum.

A third criticism against rebellion can be found in ZeF, where Kant argues that the right to rebel violates the categorical imperative's publicity criterion and is therefore prohibited (ZeF, AA 08: 386; Linden 1988, 184). Now, successful revolutions require careful coordination. If a maxim of rebellion were to become public in order to secure such cooperation, this would undermine the possibility of its effective execution since the sovereign could crack down on its organisers. The planning would then need to be secretive, presumably relying on unethical means such as deception and lying. Thus, "The wrongness of revolt is revealed by the fact that the maxim through which one *publicly declares it* renders one's own intention impossible" (ZeF, AA 08: 382). It is clear that Kant has in mind here secret revolutionary organisation, such as a planned military coup. As we will see later, Kant's narrow view of revolution does not necessarily rule out the possibility of, e.g., demonstrations that do not violate publicity or the categorical imperative.

Lastly, Kant generally opposes the legitimacy of revolution for its potential to destabilize human-historical progress, engender violence, and promote irrational enthusiasm. In "What is Enlightenment?" Kant argues that revolution has an allure as the ideal solution to perceived despotism, yet society will regress if it fails, which Kant thinks is probable. Kant assesses the potential moral and political counterproductivity of *enthusiastic* revolution, whereby "the great unthinking mass" of people will reign, instituting new prejudices and injustices (WA, AA 08: 18). As Howard Williams notes, "the shock of a revolution might awaken this mass but Kant is sceptical that this will have the lasting effect we might hope to see" (2003, 23-24).

Quick fixes to societal ills, Kant worries, are probably unsustainable, and may even regress to an uncivil condition. Because citizens have the right for free speech

in enlightened society (WA, AA 08: 37; TP, AA 08: 304), Kant thinks wiser means for progress should first look to political reform via, e.g., education and critical public expression.[12] Piecemeal reform, Kant thinks, is therefore preferable. Given this, we might wonder whether Kant would disapprove of the environmentalist call for a green revolution, even in the face of governmental mismanagement with climate change.[13] If Kant's arguments against revolution also apply here, i.e., if climate mismanagement does not undermine the state's legitimacy, we might have reason to abandon the question of Kantian sustainability and instead consider revolutionary alternatives.

The Green Revolution: Revolution or Reform?

Sustainability is touted as a win-win solution for addressing environmental degradation, climate change, global poverty, and injustice. Yet because of the existential urgency of resource scarcity and climate-induced civilization collapse, we require a green revolution, which, it is claimed, implies a deeper social revolution to succeed (Foster 2014). Like 'sustainability', the phrase 'green revolution' is vague. Sometimes the latter refers to radical, illegitimate political change in the sense Kant rejects, and other times it is used to suggest a restructuring or reformation in societal institutions, values, and culture (or generally, human maturation). Is revolution in the so-called radical sense required for the task at hand? If it is, perhaps we occupy an emergency justifying suspension of typical ethical norms. Let us begin by considering perspectives that endorse radical, social revolution vis-à-vis environmental crisis.

On Naomi Klein's view, our current economic system – with its structural requirement for infinite growth – and our political system – which is ill-suited to serve the people – are incompatible with sustainability. Though we must, of course, embrace new values, Klein is pessimistic about the saving power of green virtues cultivated within present institutions. Realistic solutions must involve a radical revolution of our market system, political institutions, and values (2014, 57, 91). For law in its current

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12] Indeed, prohibiting the public use of one's reason through free speech would inhibit the progress of enlightenment for present and future generations. And, as Kant very clearly puts it, it would be a "*crime against humanity*" to cut this flower of progress at its root (WA, AA 08: 39).

13] Byrd and Hruschka argue that it is possible to defend revolution as a *duty* for Kant, supposing the state acts unjustly and therefore constitutes nothing more than a state of nature: "[…] Not every association that calls itself a 'state' or a 'civil society' is a juridical state […] Kant is far from prohibiting revolution in a 'state' which, although it calls itself a 'state' […] Otherwise remains a den of thieves and thus indistinguishable from the state of nature […] A prerequisite for the prohibition against revolution is that we have a *lawgiving* head of state, who expresses his *universal lawgiving will*. If we do not, only a despot remains […] The prohibition against revolution does not apply in a despotic state" (2010, 181-84). In a state of nature, agents have a duty to enter a rightful condition meant to sustain itself in perpetuity (MS, AA 06: 312, 307, 325). If corrupted legislatures can be argued to be unlawful and lacking in legitimate sovereignty (by, e.g., violating the innate right of independence, MS, AA 06: 237), perhaps revolt in such contexts would not necessarily apply to the arguments against revolution glossed in this section.

form privileges the wealthy.[14] For Klein, sustainability requires bottom-up mobilisation: "Only mass social movements can save us now […] We will need the climate revolution playing on repeat, all day every day, everywhere" (2014, 450-52). Whether this demands violent revolt is unspecified, though she reflects on historical precedents, such as the abolition of slavery, involving much bloodshed (2014, 455-56).

Social theorists John Bellamy Foster (2014) and David Pepper (2013), though much of their views on ecological revolution align with a Kantian view of reform (since they understand the state playing a major role in sustainability), endorse revolutionary activity as the only viable way to sustainability; they do not outright endorse violent or unlawful means, yet their commitment to Marxian and anarchist positions – ones that do not rule out unlawful strategies – place them at odds with the Kantian view of metamorphosis. Indeed, Foster argues that "the only rational answer" for responding to climate change, "lies in an ecological revolution, which would also have to be a social revolution" (2014, 46). Both theorists suggest that reform is a dead-end; a global socialist revolution is thus the only viable pathway to sustainability.

Dave Foreman and Murray Bookchin go further and endorse direct action. As current institutions tend to perpetuate injustice and environmental degradation, these commentators suggest that recourse must be unlawful, presumably involving eco-terroristic resistance (Foreman 1991, 72-73; Bookchin 1991, 78). Their views are echoed today in Andreas Malms' recent manifesto *How to Blow up a Pipeline*, which details the inefficiencies of civil disobedience and questions the anti-revolutionary, anti-violent methods of the American civil rights movement. Malm suggests that we consider violence (toward property, not persons) as a "tactical asset" to bottom-up, "hands-on" change since we find ourselves in an emergency climate situation where so-called passive options have proven fruitless: "[…] Change will have to be forced upon them. The movement must learn to *disrupt* business-as-usual" (Malm 2021, 51, 84, 20).[15]

Not all green revolution proponents endorse this radical sort. Many argue that we do not need a complete overhaul of society. Instead, attempts should first be made to reform society by promoting awareness of structural violence, prioritizing education, and stressing the importance of public debate. For instance, Lester Brown (1981) argues

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14] One potential concern for a Kantian approach regards a systemic problem that goes deeper than individual actors. Klein (2014), e.g., argues that the root is neither corrupt politicians nor uncaring citizens, but rather the inherent logic of capitalism with its endless growth. Though I cannot address this here, many twentieth century neo-Kantians indeed flirted with Marxian ideas in trying to think through impediments of global capitalism for social progress. For our purposes, it is sufficient to note that individuals still matter for charting a sustainable future, and Kant is at least suited for addressing *these* sorts of challenges.

15] Though Malm (2021) defends the necessity for force, force is not lacking in Kant's thought. Ethics alone will certainly not cut it given failures of Glasgow's COP26. Justified force is needed, so perhaps Kant's juridical philosophy can help. Still, there may be potential problems with such an approach, seeing that it justifies property-relations which might be thought, like Malm, to be one of the roots of the crisis. Here, then, we come against limits of Kantian thought, though the basis of Kant's justification – with the idea of our common ownership of the earth – may be a moment used to develop a future Kantian *climate ethic*.

that the path to sustainability is one which can be changed from within if institutions, religions, and values converge on the common goal of building a sustainable society. Martin Schönfeld (2013) suggests that a normative paradigm shift could be the basis for a sustainable restructuring of society. And though he is pessimistic about the possibility of reform given the complex theoretical entanglements of the climate tragedy, Stephen Gardiner (2011) argues that our best shot begins with development of an "ethics of transition" which gives citizens and legislators the intellectual tools to enact just climate policy.[16] Still, the environmentalist call for a green revolution is widespread. Where does Kant's view of political change sit with regard to the call?

II. METAMORPHOSIS, POLITICAL CHANGE, AND SUSTAINABILITY

How would Kant evaluate the *radical* version of the green revolution? Unlawful, violent revolt, even if done to secure the safety of the environment, threatens a state of irrational anarchy contrary to the categorical imperative and the duty to seek a rightful condition. Additionally, revolutionary enthusiasm makes violent revolt likely. Few things are more dangerous to international unity and peace than civil war, and the failed revolution of a dominant power would be counterproductive to global sustainability.[17] In its most radical formulation green revolution appears off the table, unless conceived as a collective act of self-defense in a state of nature.

Yet it is not obvious that Kant would reject the *reformative* instantiation of the green revolution. First, there is no logical contradiction or violation of publicity in the idea that governments reform themselves from the top down, through lawful pressure from the bottom up (such as organised by Greta Thunberg and the youth protest of March 2019 or the youth climate lawsuits of 2015). Second, effective green reform would ensure that the state does not succumb to societal collapse in failing to address climate change.[18] Finally, sustainable reformation is universalizable. Some commentators, such as Schönfeld, have suggested that the categorical imperative is itself a blueprint for sustainability (2008, 14).

16] So-called 'evolutionists' or 'reformists' may not use the phrase 'green revolution'. Part of my purpose is to disambiguate, to show how there are at least two ways to think about what a green revolution entails, one of which is plausibly anti-Kantian and the other, progressively Kantian.

17] This is so for at least two reasons: First, effective climate treaties require commitment from most nations, though some nations emit far more than others. A failed revolution in one of those nations, ending in civil war, could leave the remaining nations with no reasonable emission mitigation solutions other than technological ones, since even if a *failed* nation emits less because of decreased production, war is itself emission-intensive. Relatedly, geoengineering would then remain the only viable mitigation strategy, having its own ethical and political problems (Robock 2008). I address this in Part IV.

18] Besides resource shortages which pose a danger to the health of nations, climate change is, as the IPCC and others have put, a "threat multiplier" (CNA Military Advisory Board, 2007), i.e., it will only exacerbate geopolitical problems and lead to more failed states such as Yemen, Libya, and Syria. Fertile grounds for radicalized terrorist organisations (such as ISIS) then result, along with more refugees. Failure to reform soon makes it far more difficult later. The clock matters.

Rather than burning society down and starting anew, the reformist green revolutionary would promote the restructuring of society in accordance with the progress of humanity. Thus, Kant's rejection of revolution is compatible with the reformist view of a green revolution for sustainability.

Political change, for Kant, is characterized in the biological terms of metamorphosis and palingenesis. Metamorphosis, as used in Kant's time, signifies "'a transformation, a restructuring of the form of a thing'" (Williams 2003, 164). For society to change in accordance with metamorphosis means that society is refashioned, as in the transformation of caterpillar to butterfly. Though the transformation may be qualitative and nonlinear (SF, AA 07: 55), the organism suffers no rupture; similarly, Kant views successful societal change in terms of the metamorphic continuity of reform rather than the abrupt break of palingenesis (MS, AA 06: 339-40). A contemporary environmental parallel to palingenesis can be seen in the DGR, which even Malm opposes. This revolutionary organisation aims "to 'induce widespread industrial collapse, beyond any economic or political systems' – to reduce organised human life to a *tabula rasa* and hand the planet back to the animal kingdom […] Murder is no longer abhorred" (cited by Malm 2021, 156). By contrast, Kant's organic and evolutionary model of metamorphosis is a preferable heuristic for thinking about the societal shift to sustainability. It is only useful, however, *while* we remain at a fork in the road (i.e., not long).

Metamorphosis emphasizes the improvement of civil society through epistemic, moral, and political growth. Growth from the standpoint of metamorphosis is inward, not outward, just as education represents qualitative development and expansion, not disruption. The green revolution requires "educational reform on a planetary scale," involving creativity, deep-thinking, and "critical consciousness" (Assadourian 2017, 6-14), just as societal improvement and progress for Kant rest, in great part, on education and public enlightenment (Päd, AA 09: 444; WA, AA 08: 39). Relatedly, metamorphosis underscores the importance of political continuity for the advance of human progress. Rather than succumbing, for Kant, to the irrationality of violent and unlawful means, viewing the transition to sustainability via societal metamorphosis allows for "political improvement with radical goals but which employ non-radical means" (Williams 2003, 162-63). If we understand the green revolution as a fundamental restructuring of society and a reorientation to a new paradigm of thought (Costanza 2013, 128), this is precisely what I take Kant to mean when he understands the qualitative transformation and continual progress of the species.

In addition, metamorphosis represents a healthy, embedded view of humanity-in-society-in-nature conducive to species-maturation. Sustainability, as it turns out, requires we problematize the infinite-growth model and reflect on alternatives, since planetary boundaries have limits. Transitioning from growth-based societies to sustainable ones is best appreciated with the model of the butterfly; the caterpillar represents the immature, growth-based society; if the maladaptive caterpillar continues to eat without anticipating the need for a cocoon state, it destroys itself by exceeding natural boundaries. Only once

the caterpillar has stopped growing can it finally transform into a butterfly. This is the wisdom needed for transitioning from unsustainable societies to sustainable ones, and it is the model Kant prefers for just political change. To invoke the same imagery, the radical revolutionary approach has the caterpillar sacrifice itself with no guarantee for future caterpillars. Deliberate progress toward sustainability reflects a more mature and healthy relation of humanity to nature. It furthermore avoids the risks of civil collapse and the impairment of global climate mitigation.

Destruction, dispersion, discontinuity, immaturity, and enthusiasm all characterize the *palingenetic* model of political change that is antithetical to the metamorphic one. These palingenetic features are also antithetical to sustainability. By contrast, metamorphosis represents a fundamentally forward-looking model of human development. We are to consider not only the *present* legislative state, but the *future* goals for sustainability on a species-wide scale, including concerns for posterity and its potential. Concrete examples of metamorphic strategies in the sustainability literature include the promotion of eco-education (Assadourian 2017), transformative democratic change in politics (Leach 2013), the prioritisation of public institutions and economic metrics that more adequately track human well-being (Costanza 2013), infrastructure innovation (Newman 2010), and finally public policy addressing economic inequality and consumption (Kasser 2009).

All these require, in principle, reform rather than abrupt and violent change. Accordingly, they function as real-life examples of sustainable metamorphosis from a Kantian perspective. Thus, not only is Kant's rejection of revolution compatible with the call for a green revolution, but his model of political change fits nicely with frameworks to green society: what remains is their implementation and enforcement. With this in mind, the next section draws from Kant's works to outline moral and political duties that enjoin these and related metamorphic policies.

III. CLIMATE CHANGE AND RESPONSIBILITY

In his political works, Kant discusses the finitude of the earth, and his arguments have implications relevant to the climate crisis (e.g., MS, AA 06: 352; ZeF, AA 08: 358). In MS, Kant's concept of the original common possession of earth, which is understood not as disjunctive but as *common* possession (and therefore which is distinguished from property), is foundational to his argumentation (MS, AA 06: 262, 352). The right that can be derived from this common possession is a "right to be" somewhere on the surface of the earth (which is to say, empirical possession), rather than a right to be a proprietor of something (which would be intelligible possession, like a share in the earth's surface) (MS, AA 06: 262).[19] Byrd and Hruschka gloss this right "to a place on the earth" as

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19] In climate justice, it is commonly argued that justice demands everyone, irrespective of national-ity or background, by virtue of their humanity, receive an equal share of the earth's atmosphere (i.e., its ca-

meaning, in essence, "the right not to be propelled off the earth's surface" (2010, 127). That is, "my right, which I have against everyone else, is a right to an (unspecified) piece of earth that I have even if all the land on this earth has been claimed by others. In other words, I have a right to exist on the face of the earth as I am. No one may throw me against my will into the ocean […]" (Byrd and Hruschka 2010, 128). The right of hospitality (i.e., the "right to visit"), thinks Kant, is derived from original common possession of the earth's surface.

Though Kant clearly does not discuss such issues, a Kantian approach that develops these sections may hold promise for rethinking obligations owed to climate refugees threatened by sea-level rise and perpetual drought. Such individuals – especially those in poorer nations that have contributed least to climate change and therefore bear the least responsibility – have the right to hospitable treatment on the part of wealthier (and more culpable) nations, since they cannot return to their old homes. Not allowing them to at the very least temporarily visit would be the functional equivalent to propelling them off the earth. When discussing war, Kant defends as much regarding refugees who are permitted to seek asylum if alternatives would involve destroying them (ZeF, AA 08: 358). The notion of a 'climate refugee' is, however, largely alien in traditional international law since refugees are usually recognized as persecuted individuals, not displaced ones. The foregoing discussion (along with Kant's remarks on the cosmopolitan right to hospitality) readily lends itself to justified defenses on the part of those impacted, who as it were will be thrown (by wealthy nations) against their "will into the ocean."[20]

In addition to refugees, it is possible to draw from Kant's thought to reflect on duties regarding nonrational nature in the context of climate change. In KU, Kant claims that sublimity prepares us for morality by making us receptive to the moral law (Allison 2001, 324; KU, AA 05: 259) while making us aware that we are creatures dependent on nature (Brady 2013, 82-83); and the disinterested appreciation of beauty in nature prepares us to love nature and be moral to others (KU, AA 05: 298-99, 380; MAM, AA 08: 113). Combining these insights with passages in MS where Kant states that we have indirect duties regarding nonrational nature give us good reasons to avoid cruelty toward animals and wanton destruction of the beautiful in nature, all of which are exacerbated by unmitigated climate change and its sublime impacts (MS, AA 06: 443-44; Vereb 2019).

The prevention of biodiversity loss – since it preserves nature's beauty and ensures the stability of environments (and, consequently, welfare of flora and fauna) – can be thought as a corollary to our duties regarding nonrational nature. Thus, we have wide moral obligations to prevent biodiversity loss. These duties have an amplified significance

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pacity for absorbing GHG emissions, which currently wealthy countries overindulge). Although I believe it would be possible to develop a juridical argument of this sort using Kant's philosophical resources, I do not have the space to do so here.

20] Pinheiro Walla 2020 and Vaha 2019 address related questions on Kant's practical philosophy vis-à-vis threatened peoples.

when framed in the context of climate change, for two reasons. First, we are creating a sixth mass extinction event with extinction rates currently up to 100-1000 times that of the Holocene.[21] An extinction event would massively reduce biodiversity. This implicates us in animal cruelty and wanton destruction of beautiful nature on a large scale, failing our duties toward others and ourselves. Second, robust global biodiversity functions as a key bulwark against climatic instability. Biodiversity is, as it were, the planet's immune system, and a reduction in biodiversity means a more erratic climate, leading to increased rates of climate impacts, such as extreme weather, heat waves, and water shortages.[22] Just as we have indirect duties to ourselves regarding the preservation of our health (*Groundwork for the Metaphysics of Morals*, AA 04: 397) to ensure we are able to fulfil our direct duties, so also do we have indirect duties regarding biodiversity loss to ensure the planet is hospitable for us to pursue our moral ends. Additionally, when we fail these duties regarding nature, we also create conditions that make the planet less stable, in turn threatening the stability of the state. To better realize these duties, agents can use several means at their disposal to facilitate policy change, including critique and lawful resistance. However, since individual action alone is insufficient to mitigate climate change, the state duties must also be considered.

On Kant's view, the primary function of the state (and the core of the state's obligation to its citizens) is the ensure that individuals have space to pursue their own ends independently and in harmony with one another (TP, AA 08: 289-90; ZeF, AA 08: 350). The aim of the state is thus to prevent a condition antithetical to rationality (Williams 2003, 18). To prevent political chaos, the state is authorized to issue policies of coercion in order to ensure the liberty of agents and the sustainability of the state. With climate change on the scene, numerous societies – especially less developed ones – face political conflict such as civil war.[23] Many countries will likely face destabilization, if not collapse, from an increasingly large stream of climate refugees, resource scarcity, and political instability. Additionally, states have obligations as moral agents (ZeF, AA 08: 354; MS, AA 06: 343) to form a federation that makes sustained peace possible, whose role today must include international agreement on GHG reduction.

A number of political obligations follow from the foregoing outlines. States must be hospitable to refugees who would be destroyed by climate-related impacts, since everyone has a right to be somewhere on our finite globe. Second, states have obligations to ensure that biodiversity is protected in order to safeguard that society does not decline from climate destabilization, creating the space for individuals to practice their duties with regard to nonrational nature. Third, because states have obligations to pursue peace

21] Though there is general agreement that climate change will severely impact biodiversity loss and extinction rates, there is some contention about whether a true sixth mass extinction is already under way. See Ceballos 2015 for critical discussion of this debate.

22] That "biodiversity insures ecosystems against declines" has become known as the 'insurance hypothesis' (Yachi and Loreau 1999).

23] See Hsiang 2011 for a discussion on organised political violence and climate impacts.

and prevent war (ZeF, AA 08: 356), they must work collectively towards preventing climate change and the endless war that will result when civilizations breakdown.[24] Civil breakdown not only precludes agent self-determination, but the "duty to realize the condition of public right, even if only in approximation by unending progress [...]" (ZeF, AA 08: 386).

IV. CONCLUDING REMARKS

The worry of Kant's apparent conservativism in regard to climate change is no intrinsic obstacle for the wide applicability of Kant's philosophy for climate change. Reformism is prudent insofar as it ensures stability and security against the overly swift and potentially derailing aspects of palingenetic revolutionary change. In this respect, Kant's account is wise. Still, even if this is granted, one might object that the climate problem is unique not only insofar as it is an international challenge (which, to be sure, Kant's political philosophy is suitably equipped to address), but more perniciously: it is a race against time. Without swift change in the next few decades, we will be locked into a climate trajectory of no return. The analogy often used is a runaway train. Even if we slam the brakes, the train will slide down the tracks. Likewise, since we see the cliff ahead, we must act now to avoid oblivion. Hence, Malm's justification for violence vis-à-vis obstacles to climate action. The problem with Kant's account of change, it might be thought, is that it is too slow, as are present democratic methods. Perhaps the Hobbesian approach is wiser in times of crisis: Should we not install an international sovereign and/or suspend usual moral and juridical protocols in a global emergency situation?

From a Kantian standpoint, the Hobbesian solution is problematic primarily because it would establish a "soulless despotism" (ZeF, AA 08: 367). For Kant there are worse things than death, and the annulment of the power of self-determination is one; it would be better to try first, at least, to promote the reform of education and political institutions (on the domestic level) and push for a federation of nations (on the international level) rather than institute a global hegemon.[25] This echoes Gardiner's call for a "global constitutional convention" (2019).

Second, the procedure of disbarring juridical and moral norms to enact an emergency protocol could also lead to the very thing it is trying to prevent. For the

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24] In many ways, the question of peace for Kant is like the question of sustainability. If we do not come together as nations and agree to exit the global state of nature, we may very well meet our demise in war. Similarly, if we do not come together as nations and determine a course of action for addressing climate change, we may very well end up with climate war, with nations competing over scarce resources on an increasingly inhospitable planet. In the worst-case scenario, climate change may very well lead to perpetual peace by spelling the end of humanity, so seeing ourselves as citizens of the world on a finite planet, as Kant suggests, is an important frame.

25] Though education affects individuals (especially youth), reform of education is primarily a policy matter rather than the responsibility of individual teachers and students (SF, AA 07: 93). Likewise, though climate treaties relate to individual nations (and representatives), they need international consent to work.

most obvious solution to climate change from this standpoint would be to deploy geoengineering as a 'lesser evil' solution. If we do not achieve political solidarity and commit to norms of global justice, a rogue state (e.g., China or USA) could deploy, e.g., sulfate injections in the atmosphere, acting under the aegis of 'emergency' without global consent (Gardiner 2011, 347; 395). Since geoengineering on a global scale has never been done and is, in truth, an experiment, it is quite likely for geoengineering to backfire, having catastrophic effects for humans and non-humans alike (Robock 2008), thus ultimately stunting the progress of humanity.

Finally, it is not clear that all reform must be slow. There is no a priori reason why reform cannot happen swiftly. Several empirical examples of successful, rapid reform without revolution, such as the international ban of CFCs/HCFCs of the Montreal Protocol, the Meiji Restoration in Japan and the Chartist Movement in Britain, give us reasonable hope that change is possible.[26] The caricature of Kant's view, whereby political change must be slow and linear, is mistaken. Just as the transformation of pupa to butterfly involves a qualitative shift, so also does Kantian political reform operate with non-linear thresholds; all that is needed to supersede a threshold is an evolutionary spark. Thus, though Kant often talks of change as a slow, generational process, we have actual evidence of reform happening on swifter time-scales. Despite this, the stakes remain high, and the odds are not in our favor. We should learn lessons from Kant's insights, but not remain blind to other alternatives, especially ones that are able to temper efficacy with ethical legitimacy.

The question of the climate reform timeline is a crucial but open one. In this paper, I have suggested that Kant's moral and political philosophy offers conceptual resources for this task. The green revolution needed to overcome climate change will require more than individuals performing their duties, yet it must include them if we are to attain a society *worth* sustaining. In addition to such duties, Kant's account of political change as metamorphosis provides us with an alternative framework for approximating a sustainable future. What remains is to implement it.

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26] The Montreal Protocol, which secured a global ban on ozone-destroying substances, is an example of rapid reform at the international level. The Chartist movement of the mid-nineteenth century and the Meiji Restoration of the late-nineteenth century are examples of rapid domestic reform. The former involved legal pressure on parliament for labour rights and suffrage, and though it involved some insurrectionary activity, was largely successful for influencing reform in roughly 30-60 years without violent resistance as its primary motor. The latter involved the sovereign of Japan reasserting control over the illegitimate shogunate occupation. The Restoration led to better living conditions for its citizens, abolished the feudal class-system, and reformed education, all in the span of about 30 years. Though violent resistance was part of this transition, the force stemmed from the unlawful shogun, who lacked sovereign authority. Other examples of top-down progressive reform include: Frederick the Great and his father Frederick I of Prussia (e.g., open borders, freedom of the speech, press, and school reform), Peter the Great and the House of Romanov prior to Nicholas II (especially regarding education reform), and the Tang Dynasty (or cosmopolitan, 'Golden Age') of China.

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