

## KANT'S PERPETUAL PEACE: UNIVERSAL CIVIL SOCIETY OR LEAGUE OF STATES?

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For Kant, the ultimate end of politics and history is the abolition of war and the establishment of a just peace among rational agents. This is achieved by replacing the arbitrary violence of the state of nature with a juridical condition in which disputes are settled by appeal to public law, that is to say, by the establishment of civil society as defined by the social contract. But so long as an international state of nature exists, no lasting peace can be secured. A just civil order is always susceptible to the injustice of violence committed against it by other states with whom it has no law-governed relations, while the pressure of defending itself against external threats, real or imagined, constantly threatens to restrict the legal rights of its own citizens. Consequently, Kant concludes that "the problem of establishing a perfect civic constitution is dependent upon the problem of lawful external relations among states and can not be solved without the solution of the latter problem."<sup>1</sup> As a solution, Kant proposes the establishment of a league of states that would be dedicated to the maintenance of peace among its members and their defence against external aggressors.

In this paper, I shall examine Kant's proposal for a peace-keeping organization of independent states and relate it to his conception of the social contract. I shall start by explaining the rationale behind his proposal and finish with a critique of his plan. It is my contention that Kant's proposed league is incompatible with his idea of the social contract, which, properly understood, requires the creation of a universal civil society.

According to Kant, it is a duty of justice for all rational agents to enter into a juridical condition with all others with whom they may come into contact; that is, they are obligated to establish a civil society in accordance with the idea of the social contract. It is important to note here that, for Kant, the social contract is an idea of practical reason. As such, it serves to regulate our conduct by providing a standard of judgment and a guide to action. The social contract defines an ideal of civil society that ought to serve as the model for the reform of existing political institutions. We will never be able perfectly to instantiate this

ideal, but we can gradually approach it through our collective efforts over the course of history. This point will be of some importance for my criticism of Kant.

Now under a juridical condition, the rights of individuals (most importantly, the right of property) are established and secured, and all interpersonal disputes are adjudicated on the basis of a public law. (In the ideal case, this public law is capable of commanding the assent of all rational agents.) Consequently, with the establishment into civil society, arbitrary violence is replaced by law and the condition of constant war by the condition of peace. As long as individuals live under separate states whose relations are not governed by law, however, it can not be said that the duty to enter into civil society has been fully discharged, for no one will be in a truly juridical condition with all other rational agents. In particular, one will not occupy that position vis à vis members of civil societies other than one's own.

Now it is not quite accurate to say that the citizens of different states are wholly in a state of nature vis à vis each other. Individuals generally encounter each other in the midst of some civil society or other, and their interactions are subject to the public law of that particular state.<sup>2</sup> But insofar as their respective home states are in a state of nature with each other, neither can they be truly said to be in a juridical condition with one another. Further, the public law governing interpersonal relations will be neither universally-legislated nor universally-binding, a marked deviation from the idea of the social contract as including all rational agents who may come into contact with each other.

In the absence of a some all-inclusive, supranational political organization, states remain in a state of nature with each other. Even though hostilities may not have broken out, this condition is in effect one of constant war with individual states having the right to act in any manner they deem fit, unencumbered by any enforceable legal obligations towards other states and their citizens. Just as individuals are obligated to leave the anarchic condition of the state of nature, so must states do likewise; otherwise disputes can only be settled by violence and not through adjudication in accordance with public law as commanded by the principles of right. The social contract must be completed by the political integration of individual states.

Kant states the whole of his reasoning on this matter quite succinctly in Section 54 of the *Metaphysical Elements of Justice*:

(1) With regard to their external relationship to one another, states are naturally in a non-juridical condition (like lawless savages).

(2) This condition is a state of war (the right of the stronger), even though there may not be an actual war or continuous fighting (hostility). Nevertheless (inasmuch as neither side wants to have it better), it is still a condition that is in the highest degree unjust, and it is a condition that states are obligated to abandon.

(3) A league of nations in accordance with the Idea of an original social contract is necessary, not, indeed, in order to meddle in one another's internal dissensions, but in order to afford protection against external aggression.

(4) But this alliance must not involve a sovereign authority (as in a civil constitution), but only a confederation. Such an alliance can be renounced at any time and therefore must be renewed from time to time. This is a right that follows as a corollary in subsidium from another right, which is original, namely, the right to protect oneself against the danger of becoming involved in a state of actual war among the adherents of the confederation.<sup>3</sup>

I quote this passage at length because it is Kant's clearest and most concise statement on this matter and worthy of some detailed consideration. In my discussion of Kant's position, I will follow the outline presented in this passage.

I have already discussed somewhat points one and two of Section 54. Since states are not subject to a public law enforced by some recognized authority, they occupy a state of nature. The state of nature is a state of war even if there are no hostilities for there always exists the threat of them; consequently, states "may be judged to injure another merely by their coexistence in the state of nature (i.e., while independent of external laws)."<sup>4</sup> But just as individuals ought to exit the state of nature and relinquish their "lawless freedom" for the "rational freedom" of the juridical condition, so individual states are

obligated to do likewise: "Each of them may and should for the sake of its own security demand that the others enter with it into a constitution similar to the civil constitution, for under such a constitution each can be secure in his right."<sup>5</sup>

This civil constitution, however, differs markedly from that which governs the internal affairs of a particular civil society. One might expect Kant to espouse some conception of world republicanism, but instead he opts for a loosely-connected league of states dedicated solely to the preservation of peace among its members and their protection from external threats. This league would have no legislative authority over its members and would be forbidden to interfere in their internal affairs. Membership in the league would be purely voluntary, with each state retaining the right to quit the league "at any time." As we shall see, this proposal is far from satisfactory.

Kant's basic claim that states must leave the state of nature and enter into a condition governed by "a constitution similar to the civic constitution" in accord with "the Idea of the original social contract" suggests a far higher degree of political integration than that provided for by his conception of a league of states. The idea of the social contract governs relations among persons and not states, and it is only by treating each state as a "moral" person analogous to a real person that Kant is able to extend this notion to an agreement among states. But it is far from clear that this analogy is appropriate. If we take the idea of the social contract seriously, then we must conclude from the universality of its application that all persons ought to enter into civil society with each other, unmediated and undivided by particular states. In his Fifth Thesis on history, Kant himself recognizes this point: "The greatest problem for the human race, to the solution of which Nature drives man, is the achievement of a universal civil society which administers law among men."<sup>6</sup> Now the analogy of states with persons may be useful in thinking about the structure of this projected "universal civil society," but Kant uses this analogy to produce only a pale reflection of the civil constitution established by the idea of the social contract, one hardly deserving of the name.

Kant's proposed league is devoid of any real political authority, for it lacks the power to promulgate and enforce public laws on its members, such as is established by a civil constitution. The absence of legislative authority has far-reaching

consequences for the viability of Kant's project. Kant argues that each member of the league will be protected against external aggression by the combined force of the league as a whole rather than being dependent solely on its own resources: "In a league of nations, even the smallest state could expect security and justice, not from its own power and by its own decrees, but only from this great league of nations (Foedus Amphictyonum) from a united power acting according to decisions reached under the laws of their united will."<sup>7</sup> But where is this "united power acting according to the decisions reached under their united will" to be found in the league of states? The answer is nowhere. Under the social contract, the united will simply is the legislative authority binding civil society together, but this same authority is lacking in Kant's proposed league of states.

The absence of real unity is further underscored by the right of exit that each state retains upon entering into the league. By granting to each state the right to exit the league whenever it so chooses, a right not similarly granted to individual persons under the terms of the social contract, Kant essentially preserves the state of nature among states. So long as states are permitted to enter and exit the league as they please, each individual state will remain the arbiter of its own fate and will retain the right to act in any manner it sees fit, being checked only by the forces arrayed against it. Consequently, the member-states of the league will not have forsworn the use of violence, as is required of persons upon entrance into the social contract. Moreover, this provision seriously weakens the ability of the league to perform its assigned task. No state can seriously expect the united power of the whole to protect it when each state is able to exempt itself from such service as it sees fit. Ultimately, the only bond available to this league is the narrow calculations of self-interest by each member-state. While self-interest may, as Kant argues, drive each state into establishing the league, it can hardly serve as the glue that holds it together over the long haul.

In sum, Kant's league of states lacks every distinguishing characteristic of a civil constitution. It seems a bit far-fetched, then, to describe this arrangement as similar to that established by a civil constitution. Rather than a social contract among states, we have little more than an alliance that is always at risk of being scattered to the four winds.

In a curious passage in Section 61 of the *Metaphysical*

Elements of Justice, Kant himself acknowledges the validity of this point. Kant begins by pointing to a concrete historical approximation of what he calls a "permanent congress of states" (i.e., his proposed league of states) and then noting its failure.<sup>8</sup> This paragraph is then followed by another in which he reiterates the limitations of this "congress" and implicitly commits himself to the moral necessity of the political unification of all states, citing the United States as an example of this type of union:

A congress in the sense intended here is merely a free and arbitrary combination of various states that can be dissolved at any time. As such, it should not be confused with a union (such as that of the American states) that is founded on a political constitution and which therefore can not be dissolved. Only through the latter kind of union can the Idea of the kind of public Law of nations that should be established become a reality, so that nations will settle their differences in a civilized way by juridical process, rather than in the barbaric way (of savages), namely, through war.<sup>9</sup>

The fulfillment of the social contract, then, in Kant's own mind, requires more than just the establishment of a league of states; it requires their real union.

In fairness, Kant does have his reasons for settling for the unsatisfactory arrangement of his proposed league of states. First, he argues that it is unrealistic to expect that the sovereigns of individual states will give up their authority and transfer it to some higher political entity:

For states in their relation to each other, there can not be any reasonable way out of the lawless condition which entails only war except that they, like individual men, should give up their savage (lawless) freedom, adjust themselves to the constraints of public law, and thus establish a continuously growing state consisting of various nations (*civitas gentium*), which will ultimately include all the nations of the world. But under the idea of the law of nations they do not wish this, and reject in practice what is correct in theory. If all is not to be lost, there can be, then, in place of the positive idea of a

world republic, only the negative surrogate of an alliance which averts war, endures, spreads, and holds back the stream of those hostile passions which fear the law, though such an alliance is in constant peril of their breaking loose again.<sup>10</sup>

This argument, however, explicitly accepts the subordination of considerations of justice to empirical judgments of what is realistic in the near future (nations "reject in practice what is correct in theory"). In putting forth this argument, Kant succumbs to the very same weakness that he so often warns us against—subordinating the ideal to the real, theory to practice—leaving us with only a "surrogate" arrangement so that something can be salvaged.

But we are concerned here with the ideal, the integrity of which ought to be preserved and not diluted by the considerations he adduces. Nor is it clear that he need do so. Rather than just accepting the intransigence of existing states by conceding that the league of states is the end-point of our action, Kant could have argued that this is nothing more than a necessary stepping-stone to the final goal of a world republic, a position that would better accord with the idea of a social contract and his own evolutionary view of history. Kant makes a similar point in his own discussion of despotism, maintaining that despotism, though contrary to the principles of justice, has served historically to accustom persons to the authority of law.<sup>11</sup> Similarly, Kant could have argued that the league of states, while inadequate in itself, serves the historical purpose of accustoming states to a higher level of political integration and the rule of international law, thus paving the way for the establishment of universal civil society. The establishment of the league of states would then be a necessary step in the construction of more-encompassing political and legal institutions in the form of a world republic. This position would accord well with his conception of an idea as model for slow, gradual approximation in history while maintaining the purity of the ideal.

Kant does present a second and more serious argument against the establishment of a universal civil society, one that does not suffer from any inconsistency with the rest of his theory. Kant argues that, because of the vast extent of the territory it would cover, a world republic would eventually degener-

ate into a world tyranny subversive of the principles of right and from there slide into anarchy: "Although this condition is itself a state of war (unless a federative union prevents an outbreak of hostilities), this is rationally preferable to the amalgamation of states under one superior power, as this would end in one universal monarch, and laws always lose in vigor what government gains in extent; hence a soulless despotism falls into anarchy after stifling the seeds of the good."<sup>12</sup> Technological advances in communication and travel have probably reduced the force of this argument somewhat, but Kant does display here a sensitivity to the serious problem of centralization and decentralization inherent in any democratic polity. Following Rousseau, Kant recognizes that the more remote the government is from the individual citizen, the less responsive and accountable and the more burdensome it is to him or her.<sup>13</sup> The amalgamation of smaller political units into larger ones increases the remoteness between government and individual citizen, with the extreme limit being reached at the level of the world as a whole. But the same technological developments that have reduced the vast extent of the world have effectively unified the world, a unity not yet adequately reflected in our political institutions.

In response to these concerns, Kant reaches for the correct solution of this problem—some type of federation or confederation of states—but fails to bind together sufficiently the political units of the world system. Developments in the latter half of our own century give added urgency to Kant's project. Kant himself could not foresee the dangers of nuclear holocaust and world-wide environmental degradation, but these threats underscore the need to move beyond the present state of nature among nations toward a degree of political integration in keeping with the existing reality of global economic and environmental unity. Given the historical influence of Kant's views on the creation of existing international institutions, there is no better starting point than his reflections on the order of nations.

#### NOTES

<sup>1</sup>Immanuel Kant, "Idea for a Universal History from a Cosmopolitan Point of View," in *On History*, ed. Lewis White Beck (New York: 1988), p. 18.

<sup>2</sup>There are of course some cases in which interactions among persons do not take place in the context of any civil society and its laws, on the high seas for instance.

<sup>3</sup>Immanuel Kant, *Metaphysical Elements of Justice*, trans. John Ladd (Indianapolis: 1965), p. 116.

<sup>4</sup>Immanuel Kant, *Perpetual Peace*, trans. Beck (Indianapolis: 1959), p. 16.

<sup>5</sup>*Perpetual Peace*, p. 16.

<sup>6</sup>"Idea for a Universal History," p. 16. My emphasis on the theoretical necessity of a universal civil society for Kant is further bolstered by his claim that the whole world can be conceived of as an original community of land: "any piece of land that is possessed by an inhabitant of the earth and on which he lives is only a part of a determinate whole, and as such, everyone can be conceived as originally having a right to it." (*Justice*, p. 125) Since property is only possible in civil society, then all inhabitants ought to enter into a universal civil society with each other. Until that time, all claims to property represent nothing more than arbitrary usurpations on the part of individuals and their respective states.

<sup>7</sup>"Idea for a Universal History," p. 19.

<sup>8</sup>*Justice*, p. 124. Kant refers to the assembly of states-general at the Hague in the first half of the eighteenth century.

<sup>9</sup>*Justice*, p. 124-5.

<sup>10</sup>*Perpetual Peace*, pp. 19-20.

<sup>11</sup>*Perpetual Peace*, p. 38.

<sup>12</sup>*Perpetual Peace*, p. 31. See also *Justice*, p. 124.

<sup>13</sup>For Rousseau's views on this matter, see *The Social Contract* (Book II, Chapter 9).