

In search of moral politics: Kant's cosmopolitan right in state sovereignty crises

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ENG Abstract: There is a tension in the relationship between law and morality, especially in relation to cosmopolitan law. On the one hand, a number of commentators argue that there is a sharp distinction whereby morality should be subordinated to legal regulation because the latter belongs to the public sphere, while morality belongs to the private sphere, and thus hospitality is linked to right; and, on the other hand, some argue that morality takes precedence by understanding hospitality as an ethos that is essential to achieving political integration and that goes beyond the legal sphere. After seeing how Kant grounds duties, I will analyse both perspectives with respect to the right of hospitality. It will then be seen that for Kant right and morality are indistinguishable except for one exception, namely, when it is the legislator who does not comply with the right and does not guarantee the three basic principles that underpin a civil constitution: freedom, equality, and independence. It will be argued that this is a situation that is currently taking place: the sovereignty of the State has gone into crisis as it produces legislation contrary to what Kant thought would be the legal foundations because, on the one hand, the State is not subject to accountability, and on the other, a law that takes into consideration new contemporary practices of freedom in harmony with Kantian theorization has not been redefined. Three possible solutions to this problem will be proposed based on Kant's thought. The first is civil disobedience protected by the criterion of publicity. Secondly, the ecological issue is creating an epistemological status that obliges us to act in accordance with the general will in the contemporary situation. Finally, generosity is proposed as a form of political action and a moral duty that has an extensive character insofar as subjects transform themselves and overlap interests, enabling them to create reciprocal networks and unanticipated communities that conform to the categorical imperative and institute a form of law based on co-obligations.

Keywords: Kant, State, sovereignty, crisis, hospitality.

Resumen: Hay una tensión en la relación entre el derecho y la moralidad, especialmente en relación con el derecho cosmopolita. Por un lado, algunos comentaristas sostienen que hay una distinción marcada por la cual la moral debería subordinarse a la jurisdicción porque esta última pertenece a la esfera pública, mientras que la primera a la esfera privada, y por lo tanto la hospitalidad está vinculada al derecho. Por otro lado, algunos argumentan que la moral tiene prioridad al entender la hospitalidad como un ethos que es esencial para lograr la integración política y que va más allá de la esfera legal. Después de ver cómo Kant fundamenta los deberes, analizaré ambas perspectivas con respecto al derecho de hospitalidad. A continuación, se verá que para Kant el derecho y la moral son indistinguibles salvo por una excepción, a saber, cuando es el legislador quien no cumple con el derecho y no garantiza los tres principios básicos que sustentan una constitución civil: libertad, igualdad, independencia. Se argumentará que esta es una situación que se está dando actualmente, la soberanía del Estado ha entrado en crisis al producir legislación contraria a lo que Kant pensaba que serían los fundamentos legales porque, por una parte, el Estado no está sujeto a rendición de cuentas, y por otra, no se ha redefinido un derecho que tenga en consideración nuevas prácticas de libertad contemporáneas que están en armonía con la teorización kantiana. Se propondrán tres posibles soluciones a este problema basadas en el pensamiento de Kant. La primera es la desobediencia civil amparada por el criterio de publicidad. En segundo lugar, la cuestión ecológica como creadora de un estatus epistemológico que obliga a actuar de acuerdo con la voluntad general de la situación contemporánea. Finalmente, se propone la generosidad como una forma de acción política y un deber moral que tiene un carácter extensivo en la medida en que el sujeto se transforma a sí mismo y trasciende intereses, permitiéndole crear redes recíprocas y comunidades imprevistas que se ajustan al imperativo categórico e instituyen una forma de derecho basada en co-obligaciones.

Palabras clave: Kant, Estado, soberanía, crisis, hospitalidad

Resumo: 1. The Grounding of Kantian Duties. 2. Hospitality as an Ethical Duty and as a Legal Obligation. 3. Contemporary Sovereignty: A Control Beyond Domination 4. Towards New Kantian Forms of Moral Politics. 5. Conclusion. 6. Bibliography

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1. The Grounding of Kantian Duties

Kant went a step further than iusnaturalism, which had taken another step from Christian theology, where Christian duties were discussed. Iusnaturalism had a rational foundation (natural rights), though it still employed theological vocabulary as it addressed duties. Kant, on the other hand, prioritized freedom over duties (MM 237)¹ because, according to him, it is a necessity of reason (MM 221). However, to carry out this transcendental deduction, he needed to develop principles that would allow the compatibility of one person's freedom with that of another, which could only be provided by a third guarantor, the authority of the State. Therefore, Kant's significant innovation lay in the necessity of the State to ensure freedom.

However, if, as will be argued later, it happens that the State is undergoing a crisis of sovereignty, rendering it unable to ensure the instituting principles of the civil constitution, the legitimacy of the State as an impartial third guarantor comes into question. Hence, it is appropriate to consider what Kant understands by duties and rights, for which it is necessary to first examine the concept of freedom employed by Kant, as this constitutes the ultimate foundation of his entire theory. This analysis aims to explore the relationship between the duty of law and morality, and how the transition between the two occurs, in order to ascertain how the State can be strengthened in the current situation.

The issue of cosmopolitan right arises from the interpretation of Kant's understanding of duties and rights. According to Kant, the pursuit of freedom is a duty, and there can only be duties of law and moral duties. As Boot (2018: 46) states, a significant portion of commentators advocating human rights operate under a logic where rights would come first for Kant, and duties would be derived from them. This is erroneous, as Kant asserts in *The Metaphysics of Morals* (MM 239) that "all duties are either juridical duties (*officia iuris*), that is, those for which external legislation is possible, or duties of virtue (*officia virtutis s. ethica*), for which such legislation is impossible." Therefore, as Boot (2018: 47) maintains, "only where there can be a duty of law can there also be a (human) right."

For Kant, freedom is not a right, as that would be tautological (MM 230; PP 350). Freedom entails the existence of norms (duties) to which one submits, as these are necessary to guarantee it. Thus, a priori knowledge is required concerning what constitutes harm to others, which is not the case with the tautological perspective. Therefore, given that duty is the ultimate foundation of Kant's theory of freedom, what distinguishes right from virtue is that right is "the set of conditions under which one's will can be reconciled with another's will according to a universal law of freedom" (MM 230). Right prescribes solely obligatory external actions, "the practical relationship of one person to another" that is not concerned with *wills* but only with *choices (arbitrium)*, as the first is an internal inclination that in practice is indistinguishable from choice.

Therefore, when discussing rights, one must always keep in mind that ultimately one is addressing a duty. For Kant, alongside the principle of freedom, the constitution of a republican state necessitates the principle of equality, the "sole innate right" (MM 237). Equality, which entails independence, that is, "not being obligated by others except to that to which we can reciprocally oblige them," signifies that all must be subjected to norms (MM 238). However, these must be norms to which one has given consent (MM 314; PP 350). In *Theory and Practice* (TP 27), Kant asserts that "these principles [freedom and equality] are not laws dictated by an already constituted state, but rather the only laws in accordance with which the establishment of a state is possible in conformity with the pure rational principles of external human right in general." No one can compel another to be happy in a particular manner; each individual may pursue their happiness in their own way "as long as it does not infringe upon the freedom of others".

Beade (2017: 139) argues that Kant's theory of freedom encompasses liberal, republican, natural law, and contractualist elements, leading to diverse and contradictory interpretations. Thus, in certain texts, Kant appears to perceive freedom as an exclusive attribute of the citizen or as a principle rooted in the republican constitution, rather than an innate right of humanity (*ibid*: 142-3). Faced with this array of interpretations, this paper will analyse two, which, as noted by Allison (1990: 54), can be categorized as practical-empirical freedom and transcendental freedom. Authors who understand it in the former manner tend, as Boot criticized, to perceive duties as the cause of rights, not vice versa. On the other hand, perspectives that comprehend freedom as a transcendental matter tend to assert that freedom emanates from pure reason, rather than the civil constitution. However, as Allison himself points out, each of these interpretations leads to a distinct set of issues, yet they are not inherently incompatible with each other (*ibidem*).

In relation to cosmopolitan right, this distinction is relevant because if freedom is understood as granted by the law of a constitution, then indeed, law loses sight of all duty. However, if it is understood that law finds its source in the categorical imperative, then it becomes a duty, elevating it beyond the realm of mere legality

¹ Metaphysics of morals (MM); Perpetual Peace (PP); Theory and Practice (TP)

and transforming it into a moral imperative. In “Perpetual Peace,” there exists an ambivalence. Kant advocates for a transcendental freedom by subordinating politics to morality (PP 370), but in the third definitive article, he asserts that “cosmopolitan right is a matter of law, not philanthropy” (PP 358). This latter assertion, which serves as the opening phrase of the third article, has led many interpreters to lean toward this latter interpretation. However, Kant would be advocating for the former, the subordination of politics to morality, as conceiving law solely through practical reason entails the risk of interpreting it from a “general doctrine of prudence,” enabling the denial of morality in favour of utilitarianism (PP 370), that is, the risk of neglecting or denying the existence of the ethical-moral sphere.

In *Theory and Practice*, Kant clarifies the three rights upon which a civil constitution is founded: “the freedom of every member of society as a human being; the equality of this individual with any other as a subject; the independence of each member of a community as a citizen” (TP 290). These arguments are also present in other works such as *Perpetual Peace* (PP 350) or *The Metaphysics of Morals* (MM 314). The last right is the most controversial, as it distinguishes citizens as active, those who, being independent, have the right to vote, and passive, those without civil status such as minors, women, and all those who cannot sustain themselves through their own labour and responsibility. Nevertheless, Kant asserts that this latter group should eventually transition to the active citizen group (MS 315).

But that’s not necessarily the case, especially not according to Kant’s own theory. Understanding freedom solely based on the notion of citizenship presents challenges. Abellán (1996: 242) asserts that the natural law theorists of the 17th and 18th centuries, with whom Kant engaged and from whom he drew inspiration, followed the Aristotelian tradition of politics, where only those with power are capable of engaging in political action. Thus, a division persists between the *oikos* (grounded in economics) and politics (a matter for property owners). The only difference between them and Aristotle was the introduction of the idea of the social contract, but the legitimacy of power within civil society still remained with individual property owners, those who were self-sustaining. Kant, while elevating the principle of freedom to the foundational principle of civil society, did not eliminate all elements of natural law theory (ibid: 245). Thus, the principle of independence results in not all citizens having the right to vote, but only those capable of self-sustenance. Here, Abellán asserts that “Kant genuinely abandons the transcendental method and ventures into empirical territory” (ibid: 249). Kant claims that indirectly everyone will be protected; however, this example demonstrates that the very right itself can be unjust and does not fully guarantee republican political participation, as a portion of society remains excluded from decision-making, and their inclusion cannot be entirely ensured through this approach.

These three constitutive rights, freedom, equality, and independence, as Kant himself affirms, are not only those which the law must guarantee, but they are the very foundation of an entire civil constitution. They are “the only laws in accordance with which the establishment of a state is possible in conformity with the pure rational principles of external human right in general” (TP 290). However, Kant’s conception of these rights is not without issues, as we have seen. Nowadays, we understand that all individuals, regardless of their status as property owners, should possess equal rights of political participation. Failing to ensure this would infringe upon the principle of equality and also impede upon the principle of freedom, as the inability to partake hinders potential paths through which a person could seek happiness. Thus, in this case, the State acts paternalistically and unjustly by dictating how certain individuals should attain happiness (TP 291).

2. Hospitality as an Ethical Duty and as a Legal Obligation

There is a debate that gained particular prominence in the late 1990s and early 2000s, especially fuelled by Jacques Derrida’s publications on the issue of hospitality. This debate comprised two opposing viewpoints. On one hand, there is the perspective advocated by Derrida himself and others, asserting the existence of an ethics of hospitality. On the other hand, there is a stance that contends that hospitality should be governed by the laws of the State, as without such regulation, there would be no assurance of its enforcement.

Even though he believes that hospitality is a matter of a hospitable *ethos*, which entails a disposition to pay attention and engage in potential dialogue with alterity, Derrida ultimately ends up arguing that a certain degree of political jurisdiction is necessary. The law delimits hospitality, and foreigners are those who exist outside the boundaries of established laws or *ethos*. Furthermore, it allows for a distinction between a guest and a parasite who seeks to undermine the bonds of hospitality and the household (Derrida, 2000: 59). Derrida asserts that hospitality in its purest form can only be unconditional but putting it into practice is not feasible as it would entail the annihilation of all laws, traditions, or communities, since it would involve offering one’s entire home to an absolute stranger. This form of unconditional hospitality is possible up to a certain point, until it undermines one’s individual identity or private property. This leads to the necessity of specific subtypes of hospitality, such as that which is conditioned by norms (ibid: 79).

In response to this perspective, other viewpoints have emerged asserting that ethical obligations do not guarantee the establishment of legal principles and that it is necessary to focus solely on this latter dimension. Bessone (2015) notes that the law has been inspired by the metaphor of the household, which belongs to the ethical realm, and in Kant, this would be a paternalistic State (TP 290). This has facilitated the exclusion of foreigners from the political sphere, the practical realm, as their participation is denied when their status is restricted to specific rights outlined in the laws of host States. Thus, the legal State would lack a distinct concept of hospitality, and States have merely transported the doctrine of virtue to the doctrine of law, resulting in an “ethicalization” of the latter that renders it incapable of achieving the republican principle of political integration and equal rights of participation. Consequently, legally, the principle of hospitality entails an asymmetrical relationship, as the asylum seeker who enters the “house” of a State is confined in rights

by the laws of that host household, thereby having a limited freedom of movement as defined by the host's will. This legal act demonstrates an irreducibility of the foreigner, attempting to control it by constraining it to predefined rights, in order to prevent invasion or intrusion and thus avoid potential destabilization of the sovereignty of the host State.

Bessone proposes, on the one hand, a change in discourse, advocating the abandonment of the metaphor of hospitality in favour of a republican political commitment. This implies repoliticizing the concept of hospitality, not restricting it solely to the ethical dimension. She acknowledges that changing discourse does not necessarily lead to changes in practices. Nevertheless, she views it as a promising starting point to gradually advance toward achieving republican principles. On the other hand, she encourages considering participation as preceding citizenship, rather than the other way around, in order to avoid excluding foreigners from the decision-making process regarding the principles of justice that should govern a society. This is relevant because, as observed, Kant himself did not take this into account, and viewed from this legal perspective, nothing can ensure that these principles will be considered if foreigners do not at least have the opportunity to participate in the discourse.

Another stance is that of Huseyinzadegan (2019), who argues that the right to hospitality is grounded in political economy. To substantiate this viewpoint, she builds her argument upon two theses (*ibid*: 153): first, she contends that Kant bases the right to hospitality on the doctrine of law rather than the categorical imperative, and second, she asserts that Kant developed this right in a context oriented towards commercial exchange rather than political action. As discussed above, for Kant, there is no sequence of rights followed by duties; instead, everything originates from duty, and from duty, rights of law emerge with the aim of safeguarding freedom and equality. In any case, the focus here shifts to how the transferability between duties of right (strict) and moral duties (wide) is achievable when legal enforcement comes under strain. As will be explored further in relation to Hannah Arendt's interpretation of Kant's political philosophy, only human beings engage in political action, wherein, guided by the criterion of publicity, "Man, insofar as he does anything at all, lays down the law; he is the legislator" (Arendt, 1992: 50).

Huseyinzadegan's second thesis is intriguing, as few interpretations of Kant's cosmopolitan right frame it in economic terms. Huseyinzadegan is correct in asserting that political economy, as Kant also maintained, remains a central concern for the community today, just as it was in his time. However, her misstep lies in believing that the economy functions independently of morality. Thus, when she states, "while current appeals to hospitality at first seem to operate under the banner of moral duty, it is, in fact, negotiated primarily in economic terms" (Huseyinzadegan, 2019: 169), she seems to suggest that the two possess distinct ethical frameworks. It is conceivable to comprehend hospitality solely through an economic lens, but this approach carries the risk of reducing it to matters of gains and losses, indirectly treating individuals as means rather than ends.

Huseyinzadegan's proposal would involve a reconceptualization of the right to hospitality in economic terms, aiming to achieve both a political integration of refugees or immigrants and the safeguarding of economic dynamics. A potential avenue for this remodeling could be focused on the productive force that immigrants or refugees could contribute to the entire community. This argument is indirectly supported by Huseyinzadegan through Kant, as she asserts, "he claims that, because of the growing spirit of commerce that sooner or later takes hold of every nation, we will be compelled to promote peace and be hospitable to foreigners, albeit not for moral reasons but in order not to interrupt global commerce and trade (Kant PP 365; 368)" Hence, while it is not possible to sever economic relationships, which have always been significant throughout history, a constitutional reform can be undertaken to address economic inequalities. Addressing a current European issue such as population aging (New York Times, 2023) by applying a Kantian pragmatic perspective strictly from the standpoint of duties of right, these immigrants are an essential workforce and therefore, it would be a duty to engage in a political discourse genuinely concerned with their integration. However, the most significant obstacle they would encounter would precisely align with the issue raised by Bessone. The integration of their productive force would not necessarily coincide with political integration, thereby putting them at risk of marginalization and loss of political agency, effectively excluding them from the social contract. Nevertheless, in the current political climate this is challenging because, as argued by Wendy Brown (2010), walls are being erected on one hand, and on the other hand, there is a resurgence of nationalism and far-right formations that are gradually gaining not only access to institutions but, in some cases, even governance.

When Kant stated that politics should kneel to right, he was referring to the idea that politics and morality are indistinguishable for the moral politician, as both derive from reason. In contrast to this interpretation, the political moralist believes he can establish a right solely based on experience, even acting against established law if it might ultimately lead to a greater good. In this manner, he thinks that through a series of strategic manoeuvres, it will also be possible to achieve perpetual peace.

Kant asserts that "all maxims required by publicity simultaneously conform to both Law and Politics" (PP 385). In this regard, Caffarena points out that "it is still the ethical philosopher who is speaking; it continues to be a translation of the categorical imperative into the political realm" (Caffarena, 1996: 72). Not everything that can be made public is inherently just, as someone can publicly declare intentions to violate the rights of others (PP 385), and due to having the means and power, they can carry it out unhindered. Therefore, Kant formulates a positive principle, a statement regarding the execution of a transparent action where the possibilities of contingency are diminished when made public, meaning there are no secret plans leading rivals to believe they will be unexpectedly attacked and potentially dominated. Kant does not argue that all moral actions must necessarily be public; however, in this situation of transparency, the political moralist guided

by the ethics of convictions would exhibit a disposition toward dialogue or understanding, facilitating mutual compliance with rights. In fact, in a situation where Kantian social contract operates correctly, whether intentions are made public or not would be inconsequential, as there would be an assurance that individuals act in accordance with the dictates of the categorical imperative. Nevertheless, generally, such an agreement of publicity “is not extensive” because “the effort of approximation has a limit” (Caffarena, 1996: 73). In other words, it does not guarantee that political moralists act in accordance with the moral law demanded by Kant. They will continue to regard the values of pure reason as one set of values among others, leading them to advocate for a politics understood as power relations, as Max Weber puts it, as a struggle between gods. This results in the observation that, when viewed solely from experience, even moral law at times may be relegated to a power relationship and comprehended as a politics *à la* Schmitt.

Huseinzadegan and similar interpretations construe law as an analogy of absolute sovereign power, where practices would be constrained by the dictates of law. This is erroneous for several reasons. Firstly, it is practices that shape the right; therefore, as the self-consciousness of freedom expands, legislation must also incorporate such practices if they align with the categorical imperative. Secondly, in recent decades, it has been recognized that sovereignty is not an exclusive attribute of the State, but, and this was one of Foucault’s most important contributions, there is a diversity of powers and they can come from different places. Confronted with this decentralization of power, it becomes pertinent to contemplate, alongside Kant, how to redefine the division of powers, avoiding the consolidation into an absolute power, which would be a political theology.

Thus, a critical task for contemporary political theory is to deliberate how the social contract and the concept of law can accommodate the novel power practices that arise from diverse origins, ensuring their alignment with Kant’s maxim of “humanity within oneself.” This inquiry becomes all the more significant as political agency extends beyond human actors to encompass non-human agents. Such developments open avenues for envisioning alternative forms of societal coexistence, departing from those shaped by modernity, which can address injustices or introduce new exclusions. In this context, Kantian thought, with its foundational commitment to liberty and equality, assumes crucial significance in the theoretical examination of these emerging scenarios.

How does the *ethos* proposed by the ethics of hospitality differ from generosity? To be fleshed out later, a quick Kantian response can be offered here. The main distinction lies in the fact that *ethos* is linked to experience, whereas generosity stems from reason. This implies the possession of a custom that transcends the doctrine of virtues and is capable of withstanding certain situations or potential political issues for which *ethos* might be insufficient. In this regard, proponents of robust legal rights to safeguard the right of hospitality are justified. In fact, this stance is not exclusive to either *ethos* or generosity, but rather all share a common concern for ensuring a political community characterized by republican values.

Moreover, as Bessone (2015) points out, the *ethos* stance, utilizing the metaphor of the household, cannot be disentangled from a notion of possession. Thus, every reciprocal relationship between host and guest is founded upon the idea of benevolence, whereby the host welcomes others into their home. This inevitably leaves open the possibility that the host, for any reason, may become weary and cut the relationship. Kant’s position is distinct from this, as the ultimate basis of reciprocity lies in the universal law. Furthermore, as he asserts in both *The Metaphysics of Morals* and *Perpetual Peace*, due to the characteristics of the earth, humans must necessarily share space, rendering it incapable of belonging to one more than another (PP 358). Moreover, private property, which secures public right, also precludes the exclusion of others, as this would run counter to moral duty. Bessone is correct, and Kant would concur, in affirming that even benevolent actions are actions of right, for if no injustice had been committed against a person beforehand, there would be no duty to rectify the inflicted harm. There can also be cases where one is not benevolent but has not infringed upon rights; such an individual, according to Kant, “can always be regarded as just, and if all were such, poverty would not exist” (MM 432).

3. Contemporary Sovereignty: A Control Beyond Domination

The preceding positions are correct in asserting that law and morality are not the same, and although both entail duties, law possesses its own distinct characteristic, external coercion. Kant asserts that any resistance to a legitimate public law “is the supreme and most punishable offense in a community, because it destroys its foundations” (TP 299). However, could it be possible for the law itself to act against morality? In the event that such a situation occurs, Abellán suggests that this would be the only instance in which the State becomes a moral entity: “What the legislator cannot do is turn into law what is bad for morality or impedes it. Nothing less and nothing more. In this sense, and only in this sense, is the State a moral institution” (Abellán, 2018: XLV). Can the State, therefore, modify legislation in such a way that the new norm contradicts morality? And how is such a thing possible? According to Kant, this can only occur if the three fundamental rights essential for the construction of a civil constitution — liberty, equality, and independence — are not respected or are undermined. As previously discussed with Foucault, the challenge lies in how to achieve an interdependence of decentralized powers that aligns with the universal law.

The questioning of state sovereignty is the central theme that Dardot and Laval analyses in their recent study *Dominer: Enquête sur la souveraineté de l’Etat en Occident* (2020), where they argue that the contemporary state has entered a crisis of sovereignty because it has lost the capacity for representation. This does not result in a loss of power or legitimacy, but rather allows for legislative changes to be made without being held accountable.

In a situation like the current one, where not only the rights of hospitality and human rights towards refugees are not respected, and where neoliberal rationality imposes an economic logic of efficiency that disseminates in all aspects of life², and where the State is a key actor enabling this, how can the injustices committed against the three principles that establish the civil constitution be rectified? And what is the underlying issue in all these situations? The first question will be addressed in the following section. Regarding the second, as Pierre Charbonnier (2021: 238) argues, “we can see that much of the process of democratization of modern societies is dependent on a mode of relation to the world constructed as unequivocal: the nonhuman environment is to a huge extent conceived as a stock of available resources (whether renewable, like soil productivity, or not, like coal and oil reserves) and from which it is possible to draw the conditions of emancipation.” In this sense, the modern concept of both individual freedom and State sovereignty are grounded on the idea of exclusive control over an inorganic matter, where the privilege of exclusivity for action negates the need for responsibility or accountability.

Some authors argue that the duality between nature and culture emerged in the 17th and 18th centuries. Since the late past century, they have shown how the creation of Nation-States in those centuries was linked to a Newtonian conception of science that separated nature and culture³. According to this interpretation, the reason behind this was the religious wars of the 16th century between Catholics and Protestants, which culminated in the Peace of Westphalia. Due to the high degree of political instability, there was a search for something that could provide a degree of certainty, and that thing was science, which, with its laws, offered a stability that human action was incapable of. It was also in this context that Hobbes, in the face of the constant risks posed by contingent human action, sought to deprive citizens of it. All of this led to the understanding of nature as the only place from which human beings could extract resources, but the fundamental mistake, which we now know is not true, is to think that these resources are infinite. Looking at it that way, freedom had no restrictions. However, in the contemporary era, we are witnessing how nature is indeed a political actor and that human action must take its agency into account, which necessarily implies a modification of the modern concept of freedom.

In the realm of representative liberal democracy, Dardot and Laval (2021 [2020]) highlight a similar phenomenon concerning the principle of representation, which grants unrestricted autonomy to representatives for a specific duration. However, during this period, they can alter legislation in a manner that favours their re-election. This is feasible due to the foundational premise of liberal democracies, which rests on the sovereignty of the people that becomes divested of sovereignty once the vote is cast. In response to this, they advocate a popular sovereignty, as will be discussed further below, characterized by the establishment of co-obligations.

The main argument of Dardot and Laval is that, in relation to the rise of neoliberal rationality, the State has not lost power; on the contrary, it has become a key actor that enables and on which global capital depends. Thus, the State remains a strong entity; its defining feature is that it has shifted from being social to becoming entrepreneurial. From a Kantian perspective, this further empowers active citizens, while passive citizens find themselves even more dependent on the benevolence of the former. In this situation, the principles of freedom and equality tend to fade away, as in practice, there is nothing ensuring that they will be co-legislators.

The authors argue that the 1986 European Union Single European Act, “which paved the way for the creation of the European single market,” and the 1989 Washington Consensus, “which established the ‘ten commandments’ to which indebted countries of both the South and the North had to adhere,” were the most significant documents that enabled the contemporary neoliberal era. These acts transferred power by granting “potentially unlimited rights” to capital through a legal framework that only states could provide (Dardot and Laval, 2021: 711). Regarding the consequences of this, Wendy Brown (2010) contends that the state has lost sovereignty over economic flows, “allowing” goods and capital to move while restricting the movement of people, thereby tightening and “walling off” borders. However, Dardot and Laval (2021: 711) do not share this view, as they believe that “capital cannot rule directly”; it can only manifest itself through a strong State that acts as an intermediary.

This latter perspective still allows for a certain Kantian optimism, as the aim is then to inquire how it is possible to redirect state sovereignty towards the three constituent principles. First and foremost, Dardot and Laval propose a popular sovereignty instead of state sovereignty (the representation that legitimizes the State’s dominion over the people) or the sovereignty of the people (where the right to vote deprives the people of their sovereignty). Popular sovereignty does not refer to a subject of sovereignty, but to a quality of sovereignty (ibid: 747). This is closely linked to Kant’s notion of the general will or social contract since, unlike Rousseau’s understanding, Kant’s concept is not an assembly of all members of a community; it does not refer to the entirety of the people making decisions, as this is not feasible. It is not a *factum*, but a Reason’s idea. According to Dardot and Laval, popular sovereignty “is primarily a question of practice and experience [...] it consists of practices of controlling rulers, that is, practices of self-government that entail a resolute rejection of all political representation.”

These practices do indeed, on the one hand, pertain to Rousseau’s perspective insofar as they involve shared experiences, but since they possess a Local focus rather than a Global one, they still necessitate

² This argument can be found in Brown, W. (2015). *Undoing the demos: Neoliberalism’s stealth revolution*. MIT Press and in Brown, W. (2019) *In the ruins of neoliberalism: The rise of antidemocratic politics in the West*. Columbia University Press.

³ To delve further into the argument advocating the creation of a duality between nature and culture in the modern era see: Toulmin, S. (1990). *Cosmopolis: The hidden agenda of modernity*. University of Chicago Press and Latour, B. (1991). *Nous n’avons jamais été modernes: essai d’anthropologie symétrique*. La découverte.

representation, which is within the realm of reason. The notion of popular sovereignty maintains a very close relationship with Kantian practical reason, as reason determines in experience whether the principles of the civil constitution are fulfilled or not. In this manner, when the people are not stripped of sovereignty, injustices can constantly be rectified. Therefore, legislators do indeed continue to exist, but under a much more robust criterion of accountability, being “obliged to constantly answer for their actions before the governed” (ibid: 748)⁴.

But beyond representation, Dardot and Laval propose a new form of reciprocity and obligation that they call “the principle of the commons or principle of co-obligation.” Viewed from the Kantian perspective, this idea fully aligns with duty and the universal law. The authors point out that this obligation arises from a new necessity, the “responsibility for the habitability conditions of the Earth for all living beings” (ibid). The Kantian duty towards non-human actors, considered part of nature, is extended, while the relationship is not based on an exclusive ownership dominion but on a control grounded in the responsibility to fulfil moral duty, which is indistinguishable from caring for the world, a love that is not only *amor sui generis humanis* but *amor mundi* to say it with Arendt, when she claims that when resisting evil, the “care for the world takes precedence in politics over your care for yourself” (Arendt, 1992: 50)

4. Towards New Kantian Forms of Moral Politics

Firstly, as proposed by Bernstein (2018), it would be possible to conceive a new concept of civil disobedience inspired by Kantian thought, which non-violently creates resistance against injustices committed against morality. Kant does not use the term “civil disobedience,” and he seems to be firm when it comes to any right to revolution or even to an illegitimate law that the legislator has enacted, even if he contradicts himself (TP 300)⁵. Nevertheless, there could be a pathway through which resistance can be exercised without violence, acting in accordance with the criterion of publicity.

Kant does not support violence or revolution under any circumstances, but he is aware that a legislator who consistently oppresses citizens is at risk of facing violent resistance. In such a context, citizens “have reason to inform their government and the rest of the public, in hopes of preserving the civil condition and instigating reforms” (Bernstein, 2018: 152). Otherwise, if, as some authors argue, no form of critique were possible due to Kant’s perceived inflexibility, it would be difficult to comprehend how a civil constitution could ever come to fruition, as one would be unable to break free from a despotic government. It is in such situations that Kant referred to when he changed the meaning of *fiat justitia, pereat mundus*, which, instead of asserting that justice be done despite the world perishing, the philosopher from Königsberg interpreted as let justice prevail and let the scoundrels in the world sink when he claims that “the world will certainly not come to an end by there being fewer evil people” (PP 379).

Hence, the freedom of expression to make grievances public is always feasible, even if it entails the risk of condemnation, not by the right, but by the power. This signifies making one’s intentions public, which are not aimed at combating public right, something Kant rejects (TP 300), but rather at acting in accordance with the a priori natural laws of reason. Moreover, the legal framework itself permits such actions, as is the case with freedom of speech or the right to protest. And how is it possible to ascertain that the civil constitution disrespects morality? According to Bernstein (2018: 146), this is achieved through the exercise of judgment. As seen above, public law is characterized by ensuring freedom and equality. If, through the exercise of judgment, citizens perceive that the law is being violated, “their use of force will not constitute revolution, since their aim will not be to overthrow civil government but instead to establish it” (ibid: 147). Therefore, Bernstein, drawing on the example of Martin Luther King Jr., argues that civil disobedience is indeed possible from a Kantian perspective, as long as it is not merely deemed an unjust law but rather an invalid one, implying a deeper level of understanding and correlation between the law of right and the law of reason.

Kant defends this stance in *Theory and Practice* when he asserts that the people also have their rights, albeit non-coercive, in the face of the despotic drift of the head of state (TP 303). While for Hobbes, the sovereign is not accountable because their decisions cannot be judged by the people, for Kant, it is legitimate for the people to voice their grievances regarding potential injustices that, in their judgment, the sovereign may be committing, even though there can be no violent or revolutionary resistance. Thus, “with the permission of the sovereign itself, [the people possess] the faculty to publicly express their opinion about what they deem to be unjust in the sovereign’s decrees towards the community” (TP 303).

Hannah Arendt understands Kant’s criterion of publicity in relation to freedom in his political philosophy in a similar manner. She states that “The Age of Enlightenment is the age of “the public use of one’s reason””; hence, the most important political freedom for Kant was not, as for Spinoza, the *libertas philosophandi* but the freedom to speak and to publish. The word “freedom” has many meanings in Kant, as we shall see; but political freedom is defined quite unequivocally and consistently throughout his work as “to make public use of one’s reason at every point” (Arendt, 1992: 39). Kant himself upholds this view when he asserts that “the freedom of the pen is the sole palladium of the people’s rights “ (TP 304). In this way, reason and judgment

⁴ In an institutional context, Jane Mansbridge conceptualizes this dynamic of continuous feedback as “recursive representation.” See Mansbridge, J. (2018). *Recursive representation*. Creating political presence: The new politics of democratic representation, 298-338.

⁵ Due to space constraints, arguments from commentators asserting that Kant categorically denies the right to any resistance against sovereign power will not be addressed here. For a condensed overview of some of these interpretations, refer to Bernstein, A. R. (2018). *Civil Disobedience: Towards a New Kantian Conception* in Kant’s Doctrine of Right in the Twenty-First Century (pp. 140-160), published by the University of Wales Press.

are inherent to all human beings, and in practice, Arendt argues, their purpose is to unite rather than to divide. She contends, citing Kant, that “Reason is not made to isolate itself but to get into community with others” (ibid: 40).

Judgment has two characteristics that make it important for the political life of the community. Firstly, communication and intersubjectivity arising from the public sphere enable comparison and the creation of a *sensus communis*, a communal sense that emerges from judgment made as part of a community. Secondly, interaction with others enables the notion of exemplary validity, which Kant develops in the Critique of Judgment and which Arendt asserts is important because, once again quoting Kant, “Examples are the go-cart of judgment” (ibid: 76). According to Arendt, examples operate on judgment in the same way that schemas operate on knowledge. This is significant because these two forms, the common sense and exemplary validity, facilitate the acquisition of awareness of the general will, allowing legitimate acts of resistance against power.

A second alternative is to try to strengthen cosmopolitan right and aim toward perpetual peace based on natural laws, although some interpretations argue directly or indirectly that considering nature as an agent with agency deprives human beings of freedom. According to Baiasu (2018: 193), moral inclination and duty do not ensure Perpetual Peace alone, but it should also “have an epistemic status that provides some motivating force in addition to the normative force of the associated moral duty.” Baiasu asserts that consent can be achieved based on judgment, and thus it is not a subordination to an external will, but rather it is based on criteria of truth and objective evidence (ibid). In this way, he argues that nature cannot ensure Perpetual Peace because even harmonizing moral duty and the law of nature does not eliminate the irreducible contingency of human freedom. However, this epistemological status is not merely an opinion, but a belief that, originating from reason and becoming customary, becomes a necessity, which “will discourage any attempt to break the rules” (ibid: 197). This thesis is present in *Theory and Practice* when Kant states that “Providence will provide a way out for Humanity taken as a whole, so that it reaches its final destination through the free use of its powers and as far as such powers will allow, a way out that, by the way, is opposed to the ends of men taken individually” (TP 312), and also throughout *Idea for a Universal History with a Cosmopolitan Purpose*. Kant, after arguing that he trusts the practical realm because it offers the maxim of proceeding in disputes, also states that he trusts the nature of things because it “forces us to go where we do not want to go willingly. And the nature of things includes human nature itself” (TP 313).

How to achieve an epistemological status that is independent of one’s own moral inclination and that also departs from one’s own values to redefine the concept of the freedom, is a central issue for contemporary political theory, which is closely linked to the ecological question. As seen in the previous section, this is the concern of Charbonnier, but in recent decades, more and more authors like Bruno Latour have argued that the rise of nationalism, extreme right-wing radicalism, or climate change denial is possible because they operate within a modern logic where freedom continues to be understood as the realization and satisfaction of one’s selfish values over a nature considered infinite⁶.

In the first supplement to *Perpetual Peace*, Kant asserts that the guarantor of perpetual peace is “nothing less than the great artist nature (*natura daedala rerum*). The mechanical course of nature visibly reveals a purposive plan to create harmony through discord among people, even against their own will” (PP 360). However, he later indicates that it is human judgment that becomes aware of the course of nature: “a providence we do not actually cognize as such based on the artifices of nature or *infer* its existence on the basis of such artifices, but rather (as in all relations in general between the form of things and ends) can and need only *add* it *in thought* in order to conceive of their possibility according to the analogy of human acts of artifice” (TP 362). Here, Kant contradicts what he had stated at the beginning of the supplement. Thus, it is rational observation which, upon examining history, appears to perceive a teleological purpose in nature. Consequently, the realization of nature’s end becomes a duty to be carried out in practice.

Next, before arguing how perpetual peace is ensured, Kant states that it is “necessary first to examine the state in which nature has placed the actors on her vast stage”. Thus, he asserts that habitability can take as many forms as the means that can ensure it, which often arise through war and reciprocal relationships. Nature takes care of creating the conditions for habitability (“she has made it possible for human beings to live in all the regions of the earth that they populate”), an achievement made possible through war, which indirectly could be considered a magnificent means to create new habitable spheres in previously inhospitable areas (“through war, she has driven humankind in all directions”), and as the intensity of war subsides, it compels people to enter “into more or less legal relations with one another,” giving rise to commercial relations, “establishing peaceful relations among them and even forming societies, agreements, and peaceful relations with the farthest ones” (PP 363).

The intriguing aspect of this phenomenon is that war enables the discovery of new forms of social organization and reciprocity, even against one’s own will. Kant argues that this is the case because nature (in the form of human reason) tends to make everything usable: “nature has willed that these Arctic coastlines should not remain uninhabited” (PP 364). Kant illustrates this through the example of people who have been forcibly displaced from their territory, a population that finds itself in a new land with sufficient resources to live sufficiently well and even act in accordance with the universal law. However, for this people devoid of flora residing along the glacial coast, the wood, necessary for their survival, arrives in floating logs. Kant ponders

⁶ This is a central argument put forth by Bruno Latour in his last works. See Latour, B. (2015). *Face à Gaïa: huit conférences sur le nouveau régime climatique*. La Découverte and particularly Latour, B (2017). *Où atterir? Comment s’orienter en politique*. La Découverte.

what will happen when civilization efficiently controls those trees, preventing them from falling into rivers and drifting out to sea. He posits that the region will then engage in trade relations with the people of the glacial coast, providing them with wood and the glacial people will give them animal products. Yet, it is worth considering what will be done when there is either insufficient wood to trade or when the glacial people no longer have animals to exchange. This lack of foresight reveals the aforementioned argument, the belief in which Kant also shares, that nature offers unlimited resources. War has led to inhabiting inhospitable areas, but at a certain point, the process will reverse; habitable zones will decrease, necessitating learning how to coexist within similar spheres⁷, even if once again, it goes against one's own will.

Kant asserts that when nature wants something to happen, it takes care to make it happen, irrespective of duty, which belongs to practical reason. Thus, he quotes Seneca, *fata volentem ducunt, nolentem trahunt*, stating that "fates lead the willing, and drag the unwilling" (PP 365). In this regard, Lea Ypi argues that Kant is overly optimistic (Ypi, 2010: 142) and that nothing can guarantee perpetual peace because human freedom has the potential to be unstoppable and destructive. Against this stance, Baiasu argues for the necessity of establishing an epistemological status (a juridical condition) that prompts individuals to act, not necessarily out of inclination, but out of conviction (Baiasu, 2018: 198).

In the current context, it has been observed that the State cannot guarantee rights, but that is not a reason to reject the State, as in the last two centuries it has also been essential to advance the guarantee of the three basic principles: freedom, equality, independence. However, the circumstances of the 21st century have led to a situation in which ensuring freedom does not solely and directly rely on the State. This is not the same as the classical liberal thesis of negative freedom as non-interference, but rather the pursuit of new forms of social organization based on co-obligations among communities themselves, more dynamic forms of institutionalization beyond the State, yet not exactly beyond its right, and simultaneously serving as an instituting force for it. The main idea is that right, as *a priori* product of reason, in practice must be carried out and guaranteed by the practices of freedom, rather than by the static legislation that was once established.

In relation to the latter, the primary characteristic of generosity is that in creating these obligations, it transforms the self of the subject, albeit always remaining subordinate to moral duty. Its potential lies in considering nature not as a place of extraction, but as a space that enables the overlapping of interests. In this regard, Latour (2017: 301) asserts that "to reclaim the common world, and perhaps also common sense, the solution is not to appeal to totality, which in any case does not exist, but to learn to represent the territory to which we belong in a different way." This becomes clearer if one shifts from the notion of globalization to focusing on practical ends through the local context. The perspective inherent in the practice of globalization is an empty content because the subject has minimal or no agency, control, or even sovereignty in the modern sense. Scale, according to Latour, "is not achieved through successive nesting of spheres of different sizes but through the ability to establish more or less numerous and, above all, reciprocal relationships" (ibid: 157-8). This doesn't negate republican principles; rather, it seeks to overcome certain contradictions, such as the political participation of all human beings inhabiting a territory upon which they depend. Bessone demonstrated how immigrants lack this right due to hospitality being based on the metaphor of the home, thus legally legitimizing the exclusion of individuals who, despite depending on the territory, cannot participate politically. Kant already posited the idea that the earth does not legally belong to any individual or nation, so no one can have a privileged right over it (PP 358). Ultimately, all must learn to tolerate each other; however, he still privileges only a portion of the population.

Generosity opposes indifference towards others and resentment. Nietzsche (2017: 140-6) elucidates this by contrasting two types of egoism: a diseased one characteristic of the resentful individual, the miser who seeks not personal growth but more possessions and superiority over others; and a healthy egoism where one becomes a gift to others without expecting anything in return. In the latter, the individual engages and embodies actions considered inherently good, irrespective of others' opinions, and without the belief that the world owes them. The diseased egoist is chained to prevailing values, while the healthy egoist transvaluates those values, engendering new forms of evaluation, thereby expanding the moral and political domain. Thus, for Nietzsche, generosity is an overflowing virtue that bestows gifts not with pain, but with pleasure. According to Spinoza, a consequence of generosity is the creation of bonds of friendship: "By generosity, I understand the desire whereby each individual strives, solely by the dictate of reason, to help other men and to unite them to himself in friendship" (Spinoza, 2000: 168).

Generosity does not dictate how one should obtain happiness, but rather, in its practical realization, unveils new forms and possibilities. As it forges new relationships with others and discovers novel modes of comprehending experience, it incites desire. On one hand, this vigilance enables one to always be attentive when the other legislator violates the law; on the other hand, it prevents succumbing to the desire for possession over the other. Despite initial appearances, generosity engenders resistance, maintaining a close relationship with war. While it strives to avert war, it does not fear it when the need arises and is necessary to uphold the universal law in the absence of any other viable alternative. Thus, generosity is not the attribute solely of the peaceable, but of the peacemakers.

The right stemming from co-obligations is not autonomous; the three principles of the civil constitution can no longer be thought of in an anthropocentric manner but are dependent upon the conditions of habitability

⁷ This is what Bruno Latour has called "critical zones". See Latour, B., & Weibel, P. (Eds.). (2020). *Critical zones: The science and politics of landing on earth*. MIT Press.

of the Earth. This epistemology is achieved through the collaboration between politics and science⁸, which legitimizes and thus envisions new ways of engaging with the material world⁹.

Generosity could be interpreted as something inherent to the *Doctrine of Virtues*, specifically to the duty of beneficence, which involves making the happiness of others our own end in practice (MM 452). This would help foster inclinations that aid in coercing the will towards the ends of pure reason. However, due to the profound changes that contemporary times have undergone, the proposition is that generosity is constitutive of law, as the co-obligations it creates are grounded in judgment. It is a political act characteristic of the moral politician, who, as Arendt asserted, “man, insofar as he does anything at all, lays down the law; he is the legislator” (Arendt, 1992: 50). Although they are not a legal guarantee in the modern sense of the term, these co-obligations, or what Arendt refers to as promises, represent a form of freedom “under the condition of non-sovereignty” that serves to “in the ocean of uncertainty, which the future is by definition, islands of security without which not even continuity, let alone durability of any kind, would be possible in the relationships between men” (Arendt, 1998: 244; 257).

Political representation and especially the Welfare State remain important, but given their fragility, new ways must be sought to fulfil the moral duty. Although it currently leans more towards a corporate state, simply attempting to strengthen it through the same strategies from the left is insufficient. This is what Dardot and Laval refer to as “sovereignist ideology”: both the right and the left believe that reinforcing sovereignty will provide them with enough strength to confront the emerging problems. However, this is not the case, as the consequences of this ideology are already unfolding: it nurtures nationalism and statism; it presents a false solution to neoliberalism since it has already hybridized under forms of identity-based and protectionist frameworks; it encourages the exercise of authoritarian power; and it cannot address the challenges posed by the new climate regime¹⁰ or immigration. They argue that “this ideology is rooted in amnesia because it goes against true democracy, that is, against the self-governance of societies and the autonomy of individuals” (Dardot and Laval, 2021: 27).

In the realm of right, emancipation often appears to be closer than it actually is; the legal framework provides a ground, but it is the practices of freedom, the exercise of rights, that determine whether the law is respected or not. Within the sphere of law, generosity, due to its dynamic and expansive nature, can be linked to generation. A generation can be understood as an ongoing stream that, due to human limitations, particularly biological ones, necessitates delineations to allow for comprehensive navigation. Given that this continuum is infinite, human reliance on external wills is inevitable; sovereignty can no longer claim omnipotence or independence. The inherent contingency of human action defies rationalization by its very nature, as new generations of human beings continuously emerge. Hence, an expansive and progressive legal framework is required—generous in its capacity to help both subjects and objects extend their rights. In the contemporary context, rights must be extended to future generations and non-human entities. As discussed earlier, in light of the aging population in the developed world and global overpopulation, contemplating the establishment of a relationship with future generations in legal terms or reimagining demographics becomes intriguing. Moreover, pondering how humans can represent non-human entities through the lens of ecological thinking stands as a pivotal concern in the realm of politics.

Therefore, contemporary politics is moving towards organizational forms beyond the sovereignty of the State, which does not imply that its achievements in its fundamental principles fade away. Kantian thought has been a great source of inspiration for creating a jurisdiction that meets the requirements of freedom, equality, and independence. Precisely for this reason, in the face of the political challenges that currently concern us, it must be set in motion and reflect how to follow the path of the critical method.

Within this intricate conceptual framework, the principle of representation, a central idea for Kant, must be taken into account. As has been observed, in the nation-state, there exists a gap through which, legally, it is exempt from responsibilities or being held accountable. While collective action repertoires, such as protests demanding accountability, may arise, there are often perspectives rooted in the study of neoliberal rationality that cast doubt on the potential of substantial social movements to address the injustices at hand. The argument is made that the pervasive influence of economic logic is so deeply ingrained that, in certain instances, the resulting damage becomes irreparable¹¹.

⁸ In the present day, with the diminished status that Newtonian science has experienced over centuries, the debate revolves around the existence of diverse approaches to conducting science – in other words, a plurality of sciences that collaborates with fields of knowledge previously seen as antagonistic and despised, such as arts or humanities, in order to create partial, not omnipotent, yet rigorous knowledge. This approach, as advocated by Kant, places significant emphasis on imagination as a primary factor. See Yanow, D. (2005). *In the house of science, there are many rooms*. Perestroika and the 'science studies' turn. *Perestroika! The raucous rebellion in political science*, 200–217. And Rocafort, V. A. (2020). *Una teoría política adaptada a la ciencia del siglo XXI*. In *Ciencia política en la nueva política*, Salamanca 10–12 of July 2019: XIV Congreso Español de Ciencia Política y de la Administración. Asociación Española de Ciencia Política y de la Administración.

⁹ Regarding the way of engaging with the world, Jane Bennett examines how matter traditionally seen as inorganic can be a valuable source of inspiration. She argues that political theory should acknowledge the significance of this “vital materialism” both for gaining a better understanding of the climate issue and for reimagining forms of community organization. See Bennett, J. (2010). *Vibrant matter: A political ecology of things*. Duke University Press. Also, consider Donna Haraway’s generative approach, which posits *response-ability* as a central trait for crafting organizations and novel ways of life in collaboration with other species within the precarious and vulnerable world that certain ideals of modernity have engendered. Thinking and imagination stand as pivotal features within this outlook. See Haraway, D. J. (2016). *Staying with the trouble: Making kin in the Chthulucene*. Duke University Press.

¹⁰ From a broad perspective, the contemporary challenge of reconciling democracy with the climate issue is what Bruno Latour has termed the “new climatic regime.” Unlike other fields studying climate problems, this approach is closest to canonical Western political theory, yet simultaneously, while drawing significant inspiration from it, seeks to transcend its contradictions.

¹¹ Villacañas warns of this possibility. See Villacañas (2020). *Neoliberalismo como teología política: Habermas, Foucault, Dardot, Laval y la historia del capitalismo contemporáneo*. Ned ediciones.

Generosity is inseparable from ecological thinking, which demands a departure from the historically inherent anthropocentric perspective in Western ideology. The yet-to-be-defined right and representation must respect this, being cautious not to fall into contradictions such as the paternalism of hospitality that employs the metaphor of home. Therefore, representation must be characterized by establishing a balance of powers that enables the legislator to be held accountable at any given time. Simultaneously, generosity as an act stemming from moral duty in accordance with the categorical imperative primarily has the general will in mind. This is more achievable in local action, as, as Kant stated, compared to the self-interested pursuit of happiness requiring elaborate calculations, duty presents itself as readily accessible. Ultimately, generosity counters sovereignty as domination; the extraction of resources for pleasure, whether from individuals or the environment, is no longer the focus, which also restricts the formation of new practices and experiences. Generosity, insofar as communicability, allows for the development of a *sensus communis* and action based on the criterion of publicity. When all these variables are combined, the individual, acting in accordance with moral duty, transforms both experiential situations and the individual's self. This reinforces imagination and establishes enhanced knowledge, enabling them to decide in each specific case what is the correct course of action to take.

5. Conclusions

We have begun to wonder what the limits of the right in Kant are. As evidenced, the right is essential and mandates respect due to its role in safeguarding liberty, since Kant prioritizes freedom over duties because, for him, it is a necessity of reason (MM 221). However, it is only when it contravenes morality and the three principles underpinning any civil constitution – liberty, equality, and independence (TP 290; PP 350; MM 314) – that resistance becomes permissible. On one hand, evolution of the State, which is necessary for Kant to reconcile one person's freedom with another's, has led to instances where it operates contrary to the right, adopting a corporate stance to favour neoliberal rationality, thereby forsaking other tenets of the Welfare State. On the other hand, neither the state's sovereignty nor the sovereignty of the people are completely subject to accountability. Inevitably, this impacts cosmopolitan law, hindering the treatment of foreign individuals or refugees as ends in themselves or integration into the political community. This does not entail a dismissal of the State; rather, it necessitates the exploration of novel avenues for the right to uphold its principles. Bessone's proposition underscores the need for all community members inhabiting a territory to have a voice, serving to restore authentic republican principles. Conversely, through Huseynzadegan's more liberal perspective, it is demonstrated how integration can also be manifested in economic relations.

Observing how the sovereignty of the modern State has been characterized by its dominion over a territory without the need for accountability or answerability, under the shelter of the principle of representation, propositions such as that of Dardot and Laval have underscored the imperative to reconceptualize this notion from a more localized perspective, affording greater agency to demand responsibilities. Concurrently, the modern-era assurance of freedom through sovereignty was sustained by a duality between culture and nature, the latter being perceived as an inexhaustible realm from which resources could be extracted. It has been noted that this situation was not considered by Kant in *Perpetual Peace*, where he assumes that nature provides unlimited resources (PP 364), whereas the contemporary situation reveals that this is not the case. This opens up a space for debate on how to understand Kantian morality and law in this new context. In the contemporary age, novel approaches must be sought to uphold the substantial achievements of the State while concurrently redefining practices of freedom in accordance with ecological thinking. This paradigm, still in the process of exploration and definition, not only aligns harmoniously with the imperatives of Kantian duty but also draws inspiration from it, thereby furnishing a strong foundation.

In this context and drawing inspiration from Kantian moral duty, generosity has been proposed as a possible solution. Firstly, it is envisioned as a political-moral act, congruent with the doctrine of right and opposing the resentment that the concept of modern freedom may indirectly engender. Secondly, it functions as a mechanism of control, establishing co-obligations to ensure accountability and responsibility in the realm of representation. Lastly, its expansive nature enables self-regulation in accordance with the general will.

Bibliography

- Abellán, G. J. (1996). *En torno al concepto de ciudadano en Kant: comentario de una aporía*. In *La paz y el ideal cosmopolita de la Ilustración: a propósito del bicentenario de "Hacia la paz perpetua", de Kant* (pp. 239-258). Tecnos.
- Allison, H. E. (1990). *Kant's theory of freedom*. Cambridge University Press.
- Arendt, H. (1992). *Conferencias sobre la filosofía política de Kant*. The university of Chicago Press.
- Arendt, H. (1998 [1958]). *The human condition*. The university of Chicago Press.
- Baiasu, S. (2018). *Kant's Guarantee for Perpetual Peace: A Reinterpretation and Defence*. In *Kant's Doctrine of Right in the Twenty-first Century* (pp. 181-201). University of Wales Press.
- Beade, I. P. (2017). *En torno a dos concepciones diversas de la libertad en la filosofía político-jurídica kantiana*. In *La filosofía práctica de Kant* (pp. 137-172). CTK E-Books.
- Bernstein, A. R. (2018). *Civil Disobedience: Towards a New Kantian Conception*. In *Kant's Doctrine of Right in the Twenty first Century* (pp. 140-160), University of Wales Press.
- Bessone, M. (2015). *Le vocabulaire de l'hospitalité est-il républicain?*. *Éthique publique. Revue internationale d'éthique sociétale et gouvernementale*, 17(1).

- Boot, E. (2018). *Judging rights by their duties: a Kantian perspective on human rights*. In *Kant's Doctrine of Right in the Twenty-first Century* (pp. 46-67). University of Wales Press.
- Brown, W. (2010). *Walled states, waning sovereignty*. Princeton University Press.
- Caffarena, J. G. (1996). *La conexión de la política con la ética: (¿logrará la paloma guiar a la serpiente?)*. In *La paz y el ideal cosmopolita de la Ilustración: a propósito del bicentenario de "Hacia la paz perpetua", de Kant* (pp. 65-76). Tecnos.
- Charbonnier, P. (2021 [2020]). *Affluence and freedom: An environmental history of political ideas*. John Wiley & Sons.
- Dardot, P., & Laval, C. (2021[2020]). *Dominar: Estudio sobre la soberanía del Estado de Occidente*. Gedisa.
- Derrida, J., & Dufourmantelle, A. (2000). *Of hospitality*. Stanford University Press.
- Huseynzadegan, D. (2019). *Re-reading Kantian hospitality for the present*. In *Kant's Cosmopolitics: Contemporary Issues and Global Debates* (pp. 151-78). Edinburgh University Press.
- Kant, I. (2013 [1784]). *Lecciones de ética*. Austral.
- Kant, I. (2011 [1793]). *Teoría y práctica*. Tecnos.
- Kant, I. (2013b [1795]). *La paz perpetua*. Tecnos.
- Kant, I. (2018 [1797]). *La Metafísica de las costumbres*. Tecnos.
- Latour, B. (2017 [2015]). *Cara a cara con el planeta. Una nueva mirada sobre el cambio climático alejada de las posiciones apocalípticas*. Siglo veintiuno.
- Leatherby, L. (July 16, 2023). *How a Vast Demographic Shift Will Reshape the World*. New York Times. <https://www.nytimes.com/interactive/2023/07/16/world/world-demographics.html> [Accessed on July 21, 2023]
- Nietzsche, F. (2017 [1883]). *Así habló Zaratustra*. Alianza.
- Spinoza, B. (2000 [1677]). *Ética demostrada según el orden geométrico*. Trotta.
- Villacañas, J. L. (2020). *Neoliberalismo como teología política: Habermas, Foucault, Dardot, Laval y la historia del capitalismo contemporáneo*. Ned ediciones.
- Ypi, L. (2010). *Natura daedala rerum? On the justification of historical progress in Kant's guarantee of perpetual peace*. *Kantian Review*, 14(2), 118-148.