

COSMOPOLITANISM AND INTERNATIONAL ECONOMIC INSTITUTIONS

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Abstract: Immanuel Kant viewed economic interdependence among nations as the catalyst for a cosmopolitan legal order. Some of the most advanced international institutions in existence today facilitate such interdependence. Are bodies such as the EU, WTO, and NAFTA harbingers of Kantian cosmopolitan right? This article contends that the commercial motif in Kant's thought deserves greater scrutiny than it has so far received, particularly since it has encouraged some to summon Kant's authority in advocating global economic liberalization, while leading others to attack the cosmopolitan project as a smokescreen for neoliberalism. Maneuvering Kantian cosmopolitanism out of this double bind requires placing renewed emphasis on constitutional states as the building blocks of a cosmopolitan order and paying greater attention to the conditions of legitimacy that supranational institutions must meet in order to claim the cosmopolitan mantle.

Keywords: Kant, cosmopolitanism, *doux commerce*, globalization, international economic institutions

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Booming trade across the seas in the seventeenth and eighteenth centuries coincided with a pronounced universalist orientation in Western political thought (Armitage 2013, 24). In their respective ways, eighteenth century thinkers from Montesquieu to Hume to Paine predicted that global economic exchange would lead to a gradual convergence of mores and values among commercial nations. The burgeoning system of global capitalism prompted a moral reevaluation of commerce not simply as a privately beneficial activity but also as a progressive political force (Hirschman 1977; Hont and Ignatieff 1983; Pocock 1983; Dickey 2004; McGilvray 2011). In his distinctive contribution to this universalist current, Immanuel Kant framed commercial interdependence as the causal (and, by some readings, moral) engine of a global juridical order, or as he termed it, a “cosmopolitan constitution” (*weltbürgerliche Verfassung*) (Kant 1996a, *PP* 8:358).¹

It should come as a surprise, then, that many contemporary champions of Kant’s project of cosmopolitan right not only downplay Kant’s emphasis on commercial interdependence, but regard economic globalization (and the institutions that promote it) with attitudes ranging from distrust to hostility. Thomas Pogge’s verdict that the “particular, especially brutal path of economic globalization that our governments have chosen to impose” has resulted in “the appalling trajectory

¹ A list of abbreviations for Kant’s works used in this paper is as follows: *PP* = “Toward Perpetual Peace”; *MM* = *Metaphysics of Morals* (consisting of the *Rechtslehre* and *Tugendlehre*); *IUH* = “Idea for a Universal History with a Cosmopolitan Aim”; *APPV*: “Anthropology from a Pragmatic Point of View”; *T&P* = “On the Common Saying: ‘This May be True in Theory, but it does not Apply in Practice’”; *GMM* = *Groundwork of the Metaphysics of Morals*

of world poverty and global inequality since the end of the Cold War” is emblematic.² According to another observer, “nobody can seriously believe that economic globalization and its current regulatory regime contribute to the emergence of a global sense of political community, except by way of triggering resistance [...]” (Bauböck 2003, 115). Overall, as Flikschuh notes, “one aspect of cosmopolitan Right which one does not find much discussed is its economic content—i.e. individuals’ right to try to establish commercial relations with others” (Flikschuh 2000, 189). The voluminous normative literature that draws inspiration from Kant’s writings has largely failed to consider (much less refute) the provocative claim that contemporary institutions that promote global economic interdependence and unfettered market access instantiate Kant’s project of cosmopolitan right (but see Fleischacker 1996; Kleingeld 2012; Ypi 2014; Caranti 2016).

This omission is all the more puzzling given that the most entrenched institutions at the global level operate in the economic domain. Furthermore, organizations such as the European Union (EU), the International Monetary Fund (IMF), and the World Trade Organization (WTO), as well as treaties such as the North American Free Trade Agreement (NAFTA), international investment agreements (IIAs) such as the proposed Trans-Pacific Partnership (TPP) and Transatlantic Trade and Investment Partnership (TTIP) correspond surprisingly well to many legal and institutional demands that contemporary cosmopolitans have derived from Kant’s thought.³ These entities subject states to

² Pogge’s complaint is primarily directed against the inequitable division of the benefits of economic liberalization rather than liberalization *per se*. See Pogge 2002, 18.

³ Following Keohane (1988, 343-4) and North (1991, 97), I understand institutions to include both formal organizations and discrete “complexes” of norms of behavior that structure interactions between agents (whether individuals or states). The entities this article considers

extensive legal norms, prohibit discriminatory treatment of foreigners, and enable the movement of factors of production across borders. Their dispute resolution mechanisms not only monitor state compliance, but sometimes even allow private actors to claim rights against states. Finally, some observers credit institutions that promote economic integration with pacifying relations between states (Oneal et al. 1996; Oneal and Russett 1999; Gartzke and Li 2003; Gartzke 2007). While advocates of global economic liberalization cite these considerations as evidence that contemporary institutions of global economic governance herald a Kantian world order, critics view them as evidence that cosmopolitanism is little more than an ideological cover for neoliberal hegemony.⁴ Are the WTO, NAFTA, or IIAs harbingers of Kantian cosmopolitan right? More broadly, under

under the blanket term “international economic institutions” are admittedly diverse, varying in terms of their structure, membership composition, and degree of institutionalization.

Nevertheless, I discuss them together insofar as they share the broad objective of market liberalization, meaning that in founding or joining them, states commit to enabling access to their domestic markets by one another’s producers, traders, investors, and/or service providers.

⁴ “Neoliberalism” is a fraught term. It is wielded as an accusatory epithet more often than it is sincerely espoused as an intellectual commitment (Boas and Gans-Morse, 2009). Because it finds few self-described adherents, its content has been defined, for the most part, by its critics.

Furthermore, applying this label to existing international institutions implies that these institutions follow a coherent philosophical or ideological agenda. This is a contested assumption that needs empirical support. In order to steer clear of these difficulties, I avoid the term “neoliberalism” and propose instead to attend to the observable principles, norms, and rules enshrined by a select group of influential international economic institutions.

Kant's scheme, how far can (or should) states relinquish their sovereignty in favor of global economic liberalization?

These questions raise a preliminary methodological issue. The contemporary institutional implications of Kant's political thought are ambiguous at best. In any case, we should not evaluate the latter on the basis of how well it predicts the existing configuration of global governance. Instead, I argue, we should attend to the principles and concerns that underpin Kant's project because they offer a promising starting point for formulating coherent criteria of legitimacy for international institutions. In this paper, I address one part of this task by teasing out the implications of Kant's theory for institutions that govern international trade and investment. Without a precise understanding of the role of economic interdependence in Kant's thought, I argue, his cosmopolitan project stands exposed to both misappropriation and critique. Maneuvering Kantian cosmopolitanism out of this double bind requires revisiting two essential strictures of Kant's thought, namely, his insistence on the *limited substantive scope of cosmopolitan right* and on the corresponding *autonomy of constitutional states*. Motivated by a deep suspicion towards the nation-state, many of Kant's contemporary interpreters have modified his theory on both counts. In response, others have reinforced the role of states in Kant's theory of cosmopolitan right (Flikschuh 2010; Stilz 2009; Ellis 2005, 85; Kleingeld 2004 and 2012; Mertens 1996). Building on the latter line of scholarship, I argue that the anti-statist interpretation makes Kant's project vulnerable to appropriation on behalf of institutions that prioritize market liberalization to the detriment of other important public interests. By contrast, following Kant's prescription yields a more selective approach to empowering institutions beyond the state. The point of Kantian cosmopolitan right, I argue, is to stop human beings from falling through the cracks of legal protection, which states remain in the best position to provide. Accordingly, institutions that enlarge those cracks must be

viewed with suspicion. Kant's theory generates support for international institutions only insofar as they buttress the capacity of states to realize the equal freedom of individuals subject to their power. This *complementary* conception of cosmopolitan right is more faithful to Kant's concerns, but more importantly, it enables cosmopolitans to mount a more effective critique of existing institutions of global economic governance.

I will begin my analysis by detailing the appropriation of Kant's mantle in the context of contemporary international economic institutions. I will then revisit the anti-statist orientation of contemporary cosmopolitanism and show that the institutional demands it generates dovetail with existing institutions that promote market liberalization. In the final section, I will return to Kant in order to show that these affinities rest on a number of important misinterpretations of his theory. It is precisely because Kant anticipates the ravages of global capitalism that his theory of cosmopolitan right prescribes a more selective role for supranational (or supra-state) institutions than what many of his contemporary interpreters have endorsed.

(i) Cosmopolitanism: the handmaiden of global capital?

Is modern cosmopolitanism essentially a vehicle of market expansion? Many Enlightenment thinkers conjectured that growing commercial interdependence among nations would lead to a peaceful world order (Hirschman 1977, 1982; Hont and Ignatieff 1983; Hont 1987, 1990; Holmes 1997; Bevir and Trentmann 2004; McGilvray 2011). Kant distills the generic commercial universalism of this period into a series of juridical demands premised on the principle of equal freedom of all persons (Brown 2006). Kant speculates that "trade among various peoples" was the initial means by which "they were first brought into... understanding, community, and peaceable relations with one another, even with the most distant" (Kant 1996a, *PP* 8:364). Lately, he posits, the intensification of commercial linkages has created a universal moral consciousness

whereby “a violation of right in *one* place of the earth is felt in *all*” (Kant 1996a, *PP* 8:360). Ultimately, “the *spirit of commerce* [*Handelsgeist*], which cannot coexist with war... sooner or later takes hold of every nation” (Kant 1996a, *PP*, 8:368). Kant expects that market integration will not only forge a “universal community” out of diverse peoples but also shepherd sovereign states under the canopy of a global legal system (Kant 1996a, *PP* 8:360). Ongoing wars, he argues, can be understood as the prolonged birth pangs of this system. In a nod to hard-nosed realism, Kant argues that concern for their own advantage rather than an enlightened sense of moral duty will impel states to accept reciprocal legal constraints. In his conjectural history “with a cosmopolitan aim,” Kant hypothesizes that “[f]inally war itself will gradually become not only an enterprise so artificial, and its outcome on both sides so uncertain, but also the aftereffects which the state suffers through an ever-increasing burden of debt (a new invention), whose repayment becomes unending, will become so dubious an undertaking” that it will lead states to form a law-governed political order (Kant 2007a, *IUH* 8:28).

While many contemporary readers of Kant’s theory of cosmopolitan right have largely bracketed this commercial motif, advocates of global economic liberalization have ignored its nuances, depicting global and regional institutions promoting trade and investment as Kantian pacific confederations and champions of economic liberty. For instance, Ian Ward has written that “[w]hat Kant advocated... was a world order of the confederal type which exists in the European [Union] today,” pronouncing Kant’s emphasis on commerce as the driving force for such a confederation as “prophetic” (Ward 1993, 126). According to Ernst-Ulrich Petersmann, the law of global economic governance “corresponds to the Kantian insight that market freedoms are indispensable complementary conditions of individual autonomy, self-determination, and peaceful cooperation across frontiers” (Petersmann 1999, 17). Petersmann views “transnational ‘market

freedoms’ for movement of goods, services, persons, capital, and related payments” that enable individuals to engage in commercial activity across borders as elements of a Kantian regime of individual autonomy governed by the categorical imperative (Petersmann 1999, 17; Petersmann 2002, 639).

Similar views figure prominently in the self-perception of jurists, diplomats, and bureaucrats tasked with building and running the institutions of global economic governance. Sir David Edward, a former member of the European Union’s judiciary, submits (Edward 2008):

the freedoms guaranteed by the [founding treaties of the European Union] are *not* just secondary ‘economic’ rights to be relegated to an annex... They are rights that are in every sense as fundamental and important for the average citizen as those enshrined in the European Convention on Human Rights.

In a 2001 speech, onetime EU Trade Commissioner and WTO chief Pascal Lamy draws inspiration from Kant’s “utopian idea of federal association between free republics” in setting out an aspirational vision of “cosmopolitics” (Lamy 2001). According to Lamy, the prerequisite for the emergence of a vibrant global civil society is the further empowerment of global economic institutions. For this reason, “questions of legitimacy will, by definition, tend to take a back seat” “until the WTO amounts to an effective instrument of world governance” (Lamy 2001). In Lamy’s view, the road to cosmopolis runs through global commercial institutions that can secure the free movement of factors of production and create forums for post-national political participation.

The appropriation of cosmopolitan rhetoric by proponents of global economic liberalization provides fodder for critics who accuse cosmopolitanism of masking the neo-imperialistic ambitions of global capital. To many, cosmopolitanism is and has always been an ideological cover for the global ambitions of capital, enabling Western economic exploitation to

parade under a flag of benevolent universalism (Zolo 1997; Hardt and Negri 2001). James Tully argues that Kant's account is emblematic of this ruse, insofar as it combines "two very powerful imperial stories: a presumptively universal and Eurocentric narrative of historical development or modernization and an equally universal and Eurocentric juridical theory of global justice" (Tully 2008, 97). Kant's account of a "just and universal post-colonial world of identical, free and independent constitutional states under public international law, opened to capitalism and free trade, and governed informally by a 'league' of the advanced states," Tully writes, is "the particular historical product of European colonial imperialism" (Tully 2008, 83). While contemporary interpreters of Kant's scheme have toned down its imperial overtones, Tully contends, they have "[retained] its overall imperial character" (Tully 2008, 90). Broadening this line of critique, Costas Douzinas submits that cosmopolitanism "starts as a philosophical moral universalism... it degenerates each time into imperial globalism" (Douzinas 2007, 176). In his view, "institutionalized cosmopolitanism risks becoming the normative gloss of globalized capitalism at its imperial stage" (Douzinas 2007, 176; Zolo 1998, 310).

Kant scholars have answered this critique by pointing to Kant's forceful (and, for that period, contrarian) critique of European commercial empires. According to Sankar Muthu, Kant designed his scheme of cosmopolitan right precisely to address "the newly emerging ethical problems of the modern age," most notably those resulting from voyages of trade and conquest (Muthu 2003, 189). He sought to "articulate an ideal with which one can both condemn European imperialism *and* encourage nonexploitative and peaceful transnational relations" (Muthu 2003, 192). As I will shortly argue, however, this does not dispel the concerns of critics such as Tully, since contemporary market liberalization institutions do not operate in the same ways as the imperial powers of Kant's day. In fact, as I will demonstrate, these institutions bear greater

resemblances (at least on their face) to the system of cosmopolitan right Kant advocated than to the imperialist states and corporations that he condemned. While Kant's anti-imperialist intuitions are key to a contemporary critique of global economic liberalization, maneuvering Kant's cosmopolitan project out of the double bind of misappropriation and critique requires a more careful articulation of its moral underpinnings and institutional implications, a task to which I now turn.

(ii) The cosmopolitan critique of the state system

As a general legal and institutional project, modern cosmopolitanism seeks to create *polites* (citizens) of the *cosmos*.⁵ Its basic principle is that the individual human being constitutes "the ultimate unit of moral concern" (Pogge 1992, 49; Held 2005, 12). Although cosmopolitan thinkers disagree about how this principle might be best realized, they hold that individuals, not states or collectives, constitute the primary subjects of a cosmopolitan order.⁶ On this view, social and

⁵ In this article, I attend to what several observers have referred to as *legal* or *institutional* cosmopolitanism as distinguished from *moral* cosmopolitanism (Pogge 1992, 49; Beitz 1994, 124; Pogge 2002, 175). Like moral cosmopolitanism, legal cosmopolitanism is based on the principle that all human beings have equal moral worth. However, its immediate concern is with reforming existing political and institutional conditions to conform to this principle. In this essay, I bracket foundational and justificatory questions of moral cosmopolitanism, which are extensively treated by contemporary political philosophers, including Appiah 2006; Nussbaum 1996; Tan 2004; Vernon 2010.

⁶ While cosmopolitanism shares a normative premise with liberalism in its insistence on the equal and paramount moral worth of individuals, it extends that principle beyond the borders of

political aggregations often scramble our moral radar, distracting from the moral priority we must accord individuals. Since group memberships, affiliations, and identities are often “arbitrary from a moral point of view,”⁷ they must not affect the respect that each individual is entitled to demand from the laws and institutions that govern them.

While they are suspicious of most forms of ethical particularism, contemporary cosmopolitans have trained their critical gaze on the nation-state as the main obstacle to realizing a universal standard of protection for human beings (Zolo 1997, 115). Their institutional demands have taken shape largely as a reaction to the impunities and excesses sanctioned by state sovereignty in the 20th century (Chandler 2003, 340). In a global system composed of sovereign states, political membership is the prerequisite for equal legal protection. It is affixed by states and revocable at their whim. As long as universal human rights gain legal tender only as the rights of citizens, therefore, losing one’s citizenship can mean forfeiting one’s claim to humanity (Arendt 1967; Benhabib 2004 and 2006; Gündoğdu 2015). Moreover, the fact that each state is responsible for protecting its own citizens gives rise to “the special danger that governments, which are supposed to protect the people who live in their territory, will instead murder them, enslave them, and persecute them, transforming their homeland from a haven into a killing field” (Luban 2004,

bounded political communities. Not all liberals are willing to take this step, on which cosmopolitans insist. See especially, Beitz 1999; Carens 1987.

⁷ The phrase is borrowed from John Rawls, although Rawls himself refused to include national membership among attributes that should be considered arbitrary from a moral point of view (Rawls 1999). For a cosmopolitan reconstruction of Rawls’s principle of moral arbitrariness, see Kuper 2000; Pogge 1994; Beitz 1979.

117). Even states that are constitutional democracies are deficient from a cosmopolitan point of view insofar as their treatment of non-citizens remains largely discretionary. In a world where individuals are blockaded behind the ramparts of sovereignty, the dubious security of citizenship is surrounded by the moat of statelessness, and neither the safety of citizens nor of aliens is assured.

Cosmopolitans consider the moral problem of state sovereignty to be compounded by the *nation-state*, which fuses ethnic identity with state power. The impossible aspiration of rendering the state “congruent” (Gellner 1983, 1) with an ethnically homogeneous people “[obscures] the presence within state boundaries of several ethnic groups with separate, often antagonistic, psychopolitical conceptions of national identity” (Falk 1995, 166). The pursuit of ethnic homogeneity has inspired interstate aggression, genocide, mass expulsion, and ethnic ‘cleansing.’ In response to the nation-state’s systemic propensity to exclude and neglect the ‘other,’ cosmopolitans have been engaged in a quest to find a mode of political ordering that is free of the systemic flaw of ethical particularism.

(iii) Three key cosmopolitan demands

These concerns motivate three key institutional demands on the cosmopolitan agenda. First, contemporary cosmopolitans tend to view the transfer of power from states to supranational institutions as a step in the right direction. While most reject the idea of a world state (e.g., Pogge 1992; Habermas 2008a, 132-7; Archibugi 2008; cf. Scheuerman 2014), many favor the further development of international human rights law and *jus cogens*, international humanitarian and criminal law, and regional unions and confederations of states. For instance, Mary Kaldor writes that “a cosmopolitan institution would co-exist with a system of states but would override states in certain clearly defined spheres of activity” (quoted in Chandler 2003, 344-5). Similarly, Held submits that “[c]osmopolitan law demands the subordination of regional, national, and local

‘sovereignties’ to an overarching legal framework” that would eventually prompt the “withering away” of states in the sense of their “no longer [being] regarded as the sole centers of legitimate power within their borders” (Held 2005, 26). Some cosmopolitan thinkers build the preference for supranational governance into their very definitions of the concept; thus, according to Beitz, “*institutional* cosmopolitanism” “holds that the world's political structure should be reshaped so that states and other political units are brought under the authority of supranational agencies of some kind” (Beitz 1994, 124).

While traditional bodies like the League of Nations and the United Nations have largely preserved state sovereignty, disappointing more universalistic aspirations, contemporary international economic institutions come much closer to instantiating a system of global governance that subjects states to legal norms. In recent decades, international economic institutions have become prolific sources of binding rules (Abbott et al. 2000). In particular, bodies like the WTO and the EU, and treaties like NAFTA and IIAs empower dispute settlement mechanisms to apply and enforce supranational norms. Called upon to weigh a member state’s policies against its treaty obligations, these bodies often exercise a judicial review function over domestic policy choices (Tate and Vallinder 1995; Cottier and Mavroidis 2003). The steady output of decisions crystallizes over time into a *de facto* body of norms by which states and other actors are bound regardless of whether they have formally agreed to them (Sandholtz 1999; Goldstein et al. 2000; Shaffer 2009; Stone Sweet 2010). Furthermore, by constraining the ability of states to regulate cross-border commercial mobility, market liberalization institutions have significantly abridged state sovereignty, whose emblematic expression is boundary control (Brown 2010).

Second, contemporary cosmopolitanism often calls for “the transformation of international law as a law of *states* into cosmopolitan law as a law of *individuals*” (Habermas 2008a, 124;

Habermas 1998, 181; Chandler 2004, 334-5). According to Archibugi, a cosmopolitan order “presupposes not only the existence of universal human rights protected by the states but also the formation of a hard core of rights that individuals can demand from global institutions” (Archibugi 2008, 110). The post-World War II international human rights regime, which recognizes individuals—alongside states—as subjects of international law has been hailed as a bridgehead in this process (Lauterpacht 1968; Falk 1995; Habermas 1998, 181; Benhabib 2006; Kleingeld 2012, 87-9). Although international human rights law is important in many respects, however, it provides sparse remedies against violations by states, and mostly lacks direct effect within domestic systems. By contrast, international economic law creates extensive rights, benefits, and privileges for private economic actors that can be enforced against states. For instance, many investment treaties and regional trade agreements equip firms with direct and/or indirect means of suing host states for alleged breaches of treaty norms (Van Harten 2007; Alvarez 2011; Simmons 2014). As a result, the relevant provisions of these agreements are translated into duties on the part of states that can be cashed in by private agents as subjective rights. In other words, many international economic agreements appear to fulfil the cosmopolitan demand for a juridical status and enforceable rights for individuals under international law, albeit for a narrow constituency consisting mostly of *legal* rather than natural persons (Isiksel 2016).

A third institutional demand widely shared by contemporary cosmopolitans is the creation of effective avenues through which individuals, as citizens of a universal *polis*, can participate in global governance. If political autonomy is understood as having an equal and meaningful share in making the laws to which one is subject, globalization calls into question the state’s adequacy as a framework for collective self-rule (Habermas 1998). However, institutionalizing democratic representation at the level of international institutions remains one of the toughest challenges of

global governance (Dahl 1999). Here, too, international economic institutions have created effective participatory avenues for private agents. Once again, however, these agents are mostly powerful multinational corporations. For instance, firms that conduct business across borders are not only protected but also politically enfranchised by interstate agreements that allow them to sue states. Insofar as dispute settlement results in norm-production, it enables private economic actors to shape the economic regimes to which states are subject (Isiksel 2012; Arato 2015). Similarly, if cosmopolitan democracy entails extending “the influence of international courts... so that groups and individuals have an effective means of suing political authorities for the enactment and enforcement of key rights, both within and beyond political associations,” then regimes such as NAFTA and IIAs appear to meet this demand (Held 1995a, 108).

What conclusions are we to draw from these points of correspondence between what contemporary cosmopolitans hope to accomplish on the one hand, and what institutions of global economic liberalization have put into place, on the other? Clearly, these institutional arrangements are not what most Kantian cosmopolitans have in mind. In fact, some of Kant’s most ardent champions today envisage ambitious schemes of global wealth redistribution that are wholly at odds with existing global trade and investment institutions. As these thinkers would be eager to point out, distorted institutional approximations of their demands do not impugn (much less invalidate) the demands themselves. However, the relative ease with which the existing global regime of market liberalization can claim the cosmopolitan mantle signals a need to clarify and better tailor the demands that define the cosmopolitan agenda. In particular, it calls into doubt the proposition that any transfer of power away from the state towards international institutions is to be celebrated as a step in the cosmopolitan direction. In the next section, I will argue that we must complement the well-established cosmopolitan critique of the sovereign state with an equally

exacting articulation of the role of supranational institutions within a cosmopolitan system. Only by adopting a more selective and circumspect approach towards supranational institutions can we appreciate that far from instantiating a world order of the sort Kant endorsed, the existing global trade and investment regime is highly suspect from a cosmopolitan point of view.

(iv) Reconstructing the institutional implications of Kant's cosmopolitan right

To the extent that political theorists contest the appropriation of the cosmopolitan mantle by proponents of global economic liberalization, they have done so by highlighting Kant's critique of imperialism. This is a first and necessary step for countering the pro-market reading of Kant's theory. I will begin this section by briefly revisiting it. I will then argue that two further steps are equally necessary for sharpening cosmopolitanism's critical edge towards contemporary institutions of global economic governance. First, we must take seriously Kant's reasons for insisting that cosmopolitan right must be "limited to conditions of universal *hospitality*" (Kant 1996a, *PP* 8:357). Second, we must acknowledge the role that bounded political communities, instantiated for the most part today as states, have to play in realizing a Kantian conception of individual freedom. Reconstructing these points yields demanding conditions of cosmopolitan legitimacy that apply not just to states, but to institutions at every level, including supranational ones. I will conclude the paper by sketching these conditions.

First step: Clarifying the commercial motif in Kant's cosmopolitan thought

Markets, according to Kant, epitomize the "unsocial sociability of man" (Kant 2007a, *IUH*, 8:20). Human beings desire each other's company, if only in order to secure recognition, advantage, or prestige for themselves. The constant jostling of their wills, Kant conjectures, impels rational beings to agree upon fair terms of social cooperation. Instituting a rightful condition based on the equal freedom of all does not require moral rehabilitation in the short run; rather, the task

is “so to arrange the conflict of [human beings’] unpeaceable dispositions... that they themselves have to constrain one another to submit to coercive law and so bring about a condition of peace in which laws have force” (Kant 1996a, *PP* 8:366). Kant sees the same mechanism at work among states, who are also rational, competitive agents. Eventually, Kant writes, “states find themselves compelled... to promote honorable peace,” “admittedly not through incentives of morality,” but rather because war drains the public purse, disrupts economic exchange, and squanders the affluence it can generate (Kant 1996a, *PP*, 8:368). Accordingly, Kant expects economic interdependence to prompt states to accept reciprocal constraints on their behavior, producing a cooperative equilibrium with a cosmopolitan legal order to underwrite it.

Although his commercial peace hypothesis is hardly novel amongst thinkers of the period, Kant is careful not to represent commerce as either an intrinsically peaceful or civilizing activity. In fact, he underlines the ruthlessness that the competitive drive for profits can engender (Muthu 2003; Mertens 1996). Provided that they refrain from violence and exploitation, however, Kant regards the plucky explorers, adventurers, and merchants who traverse the globe as potential agents of human progress (Muthu 2008, 191-5; Ellis 2005, 95; Brown 2008). Encounters between foreigners enable “distant parts of the world can enter peaceably into relations with one another, which can eventually become publicly lawful and so finally bring the human race ever closer to a cosmopolitan constitution” (Kant 1996a, 8:358). We cannot enter into a lawful relationship with people we have only ever eyed from afar; nor can we do so if they fire their cannons at us without asking us who we are and why we visit their shores. At the same time, Kant recognizes that such fears pale in comparison to European practices of conquest, plunder, and domination in other parts of the world (Kant 1996a, 8:358-9). Thus, on the one hand, commercial interaction “provides the occasion for troubles and acts of violence in one place on our globe to be felt all over it” (Kant

1996b, *MM* 6:353). On the other hand, “this possible abuse cannot annul the right of citizens of the world [*das Recht des Erdbürgers*] to try to establish community with all and, to this end, to visit all regions of the earth” (Kant 1996b, *MM* 6:353, emphasis original). For Kant, then, commerce poses a moral dilemma: it deserves protection *and* constraint (Muthu 2003, 192; Kleingeld 2012, 147).⁸

Kant doubts that the contemporary law of nations (*jus gentium*) is up to this task, as it primarily regulates the conditions of war, conquest, and dominion amongst states rather than their relations with non-state agents such as foreign trading companies (Kleingeld 1998, 74; Kleingeld 2012, 72-5). In a world crisscrossed by voyages of discovery and trade, individuals who transact outside their political community find themselves in a lawless relation with foreign nations and their citizens. According to Kant’s well-known dictum, the moral law commands that “all men who can mutually affect one another must belong to some civil constitution” (Kant 1996a, *PP*, 8:349; Stiliz 2009, 27-56). “[I]nsofar as individuals and states, standing in the relation of externally affecting one another, are to be regarded as citizens of a universal state of mankind,” their relationships must also be subject to laws (Kant 1996a, *PP*, 8:349). Since interactions between citizens of different states or those between a state and the citizens of other states fall outside the scope of civil right (*ius civitatis*) and the law of nations (*ius gentium*), they must accord with a “right of citizens of the world” or “*ius cosmopoliticum*” (Kant 1996a, *PP*, 8:349; Muthu 2003,

⁸ As Muthu clarifies, while Kant did espouse an eighteenth-century conception of commerce as a manifestation of human freedom, he understood it to entail “not only to the market-oriented manufacture and trade of goods, but also to interaction, exchange, and communication more generally.” (Muthu 2008, 188).

190; Ellis 2005, 77; cf. Meckstroth 2018). Accordingly, “[t]he idea of a cosmopolitan right is... a *supplement* to the unwritten code of the right of a state and the right of nations [*Staats— als Völkerrecht*] *necessary* for the sake of any public rights of human beings and so for perpetual peace” (Kant 1996a, *PP*, 8:360, emphasis added).

On this point, Kant’s mistrust is directed primarily against overseas trading companies, which he describes as the agents of the most violent, “horrifying” episodes of imperialism and accuses of perpetrating the “cruellest and most calculated slavery” in the Caribbean and inflicting “the whole litany of troubles that oppress the human race” on India (Kant 1996a, *PP*, 8:358-9). His theory of cosmopolitan right is an attempt to govern the actions of *private agents* as much as an attempt to regulate the behavior of states towards visitors (Flikschuh 2000, 187; cf. Fleischacker 1996). Kant’s concerns remain particularly relevant today, when 13 of the world’s 100 largest economies are private for-profit corporations whose power often dwarfs that of states (The World Bank 2010, 17). Commercial interdependence makes a system of cosmopolitan law imperative, not because it is an inherently progressive force, but because it contains great potential for violence (Ypi 2014, 122). Some of this violence is perpetrated by private actors, who face little accountability under the traditional law of nations. Far from being a means to globalize the freedom of trade, then, cosmopolitan right is a necessary response to its potential lawlessness.

Second step: Kant’s limitation proviso

Kant’s wariness towards the agents of economic interdependence also sheds light on his otherwise puzzling choice to confine the substantive scope of cosmopolitan right to “conditions of universal hospitality.” Hospitality, according to Kant, entails merely “the right of a foreigner not to be treated with hostility because he has arrived on the land of another” (Kant 1996a, *PP*, 8:357-

8). Accordingly, cosmopolitan right is no more and no less than a subjective right to establish contact with a foreign nation and to “seek commerce [*Verkehr*] with the old inhabitants” (Kant 1996a, *PP*, 8:358, emphasis original). It allows the receiving state to turn away the stranger “if this can be done without destroying him” (Kant 1996a, *PP*, 8:358). Due to its carefully constrained scope, I will refer to this clause of cosmopolitan right as Kant’s *limitation proviso*.

Kant’s contemporary readers have grappled uneasily with his deliberate limitation of the substantive scope of cosmopolitan right. How hospitable is a right that entitles its bearer to nothing but forbearance from violence by the other side? Is the right of hospitality broad enough to underwrite the extensive supranational legal protections (such as capacious schedules of human rights norms and powerful judicial bodies) that many contemporary cosmopolitans endorse? Does it create a right to open borders for the purpose of market exchange? And finally, why would the blueprint for a cosmopolitan order leave such a limited role for supranational norms?

Kant’s limitation proviso is perplexing to modern cosmopolitans because they see a need to extensively constrain state behavior. Accordingly, they consider the institutional locus of cosmopolitanism to be primarily supranational. Kant, by contrast, places very little of the burden of a cosmopolitan order at the supranational level. In his conception, a cosmopolitan order is a tripartite system that comprises municipal law (*Staats(bürger)recht* or *ius civitatis*), the law of nations (*Völkerrecht* or *ius gentium*), and the universal right of hospitality (Kant 1996a, *PP*, 8:349-60). Each sphere of public right governs a distinct set of relationships, but all three patrol “the external and indeed practical relation of one person to another, insofar as their actions, as deeds, can have (direct or indirect) influence on each other.” (Kant 1996b, *MM*, 6:230) Put differently, public institutions at all levels are charged with effectuating “the universal principle of right”; that is to say, with ensuring “the sum of conditions under which the choice of one

[moral agent] can be united with the choice of another in accordance with a universal law of freedom.” (Kant 1996b, *MM*, 6:230)

Kant’s system assigns primary responsibility for “specifying and guaranteeing equal civil rights through public law” to states (Stilz 2009, 25). In order to fulfil this promise, Kant emphasizes, states must be of a republican character. In particular, republican states guarantee three facets of freedom to their citizens: first, freedom as self-legislation (that is, understood as “obeying no other law than that to which [the citizen] has given his consent”); second, “civil equality” as “not recognizing among the *people* any superior with the moral capacity to bind him as a matter of right in a way that he could not in turn bind the other”; and third, “civil independence,” as owing “his existence and preservation to his own rights and powers as a member of the commonwealth.” (Kant 1996b, *MM*, 6:314) Although few states realize such a capacious conception of freedom, Kant views it as the distinctive responsibility (and promise) of this mode of political organization to do so.

In limiting the scope of cosmopolitan right, then, Kant attempts to thread a slender needle: cosmopolitan right must be demanding enough to give individuals who fall through the cracks of state protection a remedy of last resort, but not so demanding as to handicap states in their dealings with powerful market forces. Accordingly, when states prove unwilling or unable to protect their citizens, as they too often do, the moral claims of a foreigner to avoid “destruction [*Untergang*]” take precedence over the host community’s right to exclude foreigners (Kant 1996a, *PP*, 8:358, Benhabib 2004; Kleingeld 1999). We can certainly use the right of hospitality, as Benhabib urges, to derive a general posture of cosmopolitan concern for individuals as “human beings *simpliciter*,” one that trumps the exclusionary reflexes and ethical particularism of states (Benhabib 2006, 30). What we cannot derive from it is a right to engage in trade across borders that triggers a

corresponding duty on the part of receiving states. Although the denial of market access may harm a firm's business interests, that prospect does not command the same urgency (capable of imposing a duty on a host state) as the prospective destruction of a human life. While a human being's dignity or inner worth subtends the moral claims she makes on a foreign state, a firm falls squarely in the category of what Kant defines in the *Groundwork* as "[w]hat can be replaced by something else as its equivalent" (Kant 1997, *GMM* 4:435). As such, it does not have moral weight comparable to a human being. In sum, states surely have *discretion* to grant market access, but they have no moral obligation to do so. In what follows, I will trace the contours of this discretion.

Third step: Complementary cosmopolitanism

In some respects, our world is not so different from Kant's: despite the expansion of the powers of international institutions in the past century, states remain the primary guardians of fundamental human rights, the primary source of basic public goods, and the primary institutional locus for the exercise of individual and collective autonomy (Stilz 2009). It is by virtue of their membership in a commonwealth that most individuals can hope to enjoy freedom as independence on an equal footing as their peers. When a state fails to discharge this essential task (as too many states do), international institutions can rarely take its place. Furthermore, we have yet to find ways to equip international institutions with mechanisms of democratic self-rule comparable to those available at the domestic level (Goodhart 2007). It is these considerations, rather than any intrinsic moral qualities of the state, that motivate Kant to carve out ample space for this unit of political organization in his scheme of cosmopolitan right. To be sure, Kant's institutional prescription hinges partly on the efficacy of particular institutional forms (such as states or, in our day,

international institutions) in realizing equal individual freedom. This means that depending on how different institutional arrangements fare over the long term, the structure of cosmopolitan order may one day look quite different from the tripartite, state-centered scheme Kant envisages. For the moment, however, supranational institutions are hardly in a position to take over the state's (imperfectly realized but nonetheless key) role in securing the conditions of equal freedom. In fact, as I will shortly argue, they often work to hobble this function.

Unlike in Kant's day, contemporary states have accepted extensive constraints on their authority by creating a variety of institutions and agreements, the most significant of which operate in the economic domain. These institutions and agreements often affect the degree to which states can meet their domestic constitutional obligations to their citizens (Peters 2006). While this paper does not pretend to comprehensively assess the fairness and welfare issues raised by global economic liberalization and the institutions that promote it (see Moellendorf 2009; Rodrik 2011; cf. Bhagwati 2007), these institutions raise considerations of freedom that warrant some attention. Insofar as they dismantle barriers to economic exchange, organizations and agreements such as the WTO, EU, NAFTA, and IIAs have been described as expanding the scope of individual freedom in ways that are consonant with Kant's doctrine of right (Petersmann 2002, 630). On this view, states impose arbitrary barriers on the exercise of economic freedom, including the liberty to enter into contracts, buy and sell goods, and move capital across borders. In founding or joining market liberalization institutions, states commit themselves to reducing quantitative restrictions and tariffs, eliminating protectionist measures, reforming domestic institutions, refraining from arbitrary treatment of foreign firms, and removing myriad other obstacles to the circulation of goods, services, and capital.

While the entrenchment of norms of cross-border commercial mobility do expand the scope of freedom available to some market actors, however, it can correspondingly diminish the freedoms of other stakeholders who depend on domestic mechanisms to uphold health and safety protections, fair wages, and labor standards, and to ensure access to basic necessities such as land, water, energy, and a clean environment. International organizations tasked with the protection of socioeconomic, cultural, and environmental interests tend to be less powerful and their normative outputs less binding (Abbott and Snidal 2000). At least for the moment, addressing the negative externalities of market liberalization falls disproportionately to states, while its benefits disproportionately redound to a small constituency of private economic actors (Rodrik 2011).

Moreover, existing international economic institutions often make it harder for states to discharge their duties towards citizens by using loan conditionality, financial penalties, and trade-related sanctions to enforce the strictures of market liberalization. To take an infamous example, numerous arbitral panels have ordered Argentina to pay foreign private investors awards of up to \$1.35bn in compensation for emergency measures its government adopted during the 1999-2002 financial crisis (UNCTAD 2017, 5). Some of these panels rejected Argentina's claim that the drastic measures in question (such as the devaluation of the Argentinean currency and the pesification of deposits, tariffs, and contractual debts) were necessitated by the social, economic, and political crisis facing the country at the time (*CMS Gas Transmission Co. v. Argentine Republic* 2005, ¶321-3; Peterson 2009, 24). Similarly, arbitral panels have generally dismissed Argentina's appeal to its constitutional obligations to protect the "health, safety and economic interests" of its citizens and ensure their "equitable and dignified treatment" in favor of the balance sheets of foreign investors (e.g. *CMS Gas Transmission Co. v.*

Argentine Republic 2005, ¶ 204). By contrast, existing international economic institutions create few if any legal duties that firms must respect in the communities in which they do business and allow for sparse remedies against the breach of such duties (UN Human Rights Council 2008; Ratner 2001).⁹

The asymmetries that international institutions create in governing cross-border economic interactions are particularly problematic in view of Kant's concern with ensuring *equal* freedom (rather than freedom as such). As much as "the innate right to freedom forms the foundation of Kant's political philosophy" (Pallikkathayil 2013, 885), Kant emphasizes that the concept of right has a reciprocal structure. Accordingly, the task of public power is to safeguard "the sum of the conditions under which the choice of one can be united with the choice of another in accordance with a universal law of freedom." (Kant 1996b, *MM* 6:230) "The principle of innate freedom" implies "equality, that is, independence from being bound by others to more than one can in turn bind them." (Kant 1996b, *MM* 6:237-8) Accordingly, a one-sided expansion of freedom (such as those that benefit cross-border economic actors) are incompatible with the universal principle of

⁹ A recent arbitral panel took an unusual view, arguing that corporate social responsibility standards under international law entail a commitment on the part of firms to comply with human rights and that these obligations could be subject to adjudication under bilateral investment treaties. However, it held that protecting the human rights in question (namely, the human right to water and sanitation) was not the responsibility of the company contractually engaged by Argentina to provide water and sewage facilities to the Buenos Aires region. (*Urbaser S.A. and others v. Argentine Republic* 2016, ¶1195-1210)

right if they diminish the freedom of choice available to other constituencies with divergent interests.

These considerations vindicate an important insight already built into Kant's theory of cosmopolitan right: neither supranational institutions nor states are failsafe guarantors of equal freedom. Likewise, empowering supranational institutions at the expense of states does not necessarily further the cosmopolitan project. According to Kant, a cosmopolitan condition (*weltbürgerlicher Zustand*)¹⁰ or cosmopolitan constitution (*weltbürgerliche Verfassung*)¹¹ encompasses all three spheres of public right (Kant 1996a, *PP* 8:350-360). On this reading, *cosmopolitan* is an attribute of the tripartite system taken as a whole. As Kant writes, "if the principle of outer freedom limited by law is lacking in any of these three possible forms of rightful condition, the framework of all the others is unavoidably undermined and must finally collapse." (Kant 1996b, *MM* 6:311) Kant's insistence that the "three possible forms of rightful condition" are

¹⁰ In the *Universal History* essay, Kant conjectures that "partly through the best possible arrangement of their civil constitution internally, partly through a common agreement and legislation externally, a condition... resembling a civil commonwealth" will emerge between states, which he describes as "a cosmopolitan condition" guaranteeing the security of public institutions (Kant 2007a, *IUH* 8:26, 8:28). In another work, Kant speaks of a "cosmopolitan society [*cosmopolitismus*]" as a "regulative principle" of progress towards a law-governed universal human community in his lectures on anthropology (Kant 2007b, *APPV* 7:331).

¹¹ In *Perpetual Peace*, Kant writes that commerce will allow "distant parts of the world" to "enter peaceably into relations with one another," and ultimately "bring the human race ever closer to a cosmopolitan constitution" (Kant 1996a, *PP* 8:358).

functionally distinct but mutually presupposing (Kant 1996b, *MM* 6:311) implies that the relationship between the sovereign state and supranational institutions must be one of complementarity rather than opposition. For this reason, I describe this as a *complementary* conception of cosmopolitanism (Höffe 2006, 140), and distinguish it from supranational conceptions of the same.¹²

Some notable consequences follow from thinking of cosmopolitanism as a comprehensive system that operates at multiple levels rather than as an exclusively supranational one. First, it implies that the institutional setting for the enforcement of cosmopolitan right need not be supranational, much less global. In fact, Kant does not assign responsibility for applying cosmopolitan right to any particular institutional locus. Cosmopolitan right binds all public institutions regardless of their scale. By the same token, any public institution can function as a cosmopolitan one if it guarantees the equal freedom of those subject to its power.¹³ A local

¹² Valdez (2012) also describes Kant's account of cosmopolitanism and sovereignty as "complementary," but argues that the principle of sovereignty and the requirements of cosmopolitan right have since become orthogonal. Specifically, Valdez argues that the invocation of sovereignty today allows wealthy nations to restrict immigration and therefore works against the key concern that animates Kant's eighteenth century cosmopolitan project, namely that of protecting non-European peoples from exploitation.

¹³ This interpretation is supported by Kant's insistence in *Perpetual Peace* that "any rightful constitution is, *with regard to the persons in it,*

- 1) one in accord with *the right of citizens of a state... [ius civitatis]*;
- 2) one in accord with *the right of nations... [ius gentium]*;

legislative assembly, a municipal court, or a domestic administrative body can fulfil the requirements of cosmopolitan right just as much as an international human rights court or a global parliament.¹⁴ A parallel from the EU context may help to illustrate this idea: even the lowest domestic courts of EU member states are understood to be organs of a supranational judiciary insofar as they are responsible for applying EU law within their jurisdiction. Analogously, what gives a particular unit of political organization its rightful place within a cosmopolitan order is not the fact that it operates ‘above’ states (a misleading spatial metaphor at best), but that whatever the scope of its jurisdiction, it applies cosmopolitan principles. This conception of cosmopolitanism not only imposes duties for public institutions at every level, but also requires that they bolster rather than undermine one another’s capacity to ensure the equal freedom of the individuals subject to their power. For instance, just as domestic institutions must refrain from disproportionately burdening foreigners, international institutions must refrain from undermining domestic constitutional safeguards and mechanisms of collective self-rule.

Second, underlining the primacy of constitutional states in Kant’s tripartite scheme allows us to ferret out gratuitously anti-statist deployments of cosmopolitan discourse. Under Kant’s scheme, the rules of international trade and finance as overseen by international economic

3) one in accord with the *right of citizens of the world... [ius cosmopolitanum]*” (Kant 1996a, *PP* 8:349, emphasis added)

I take this passage to mean that all public institutions are bound (wherever applicable) by all three categories of right, even if the scope of a given institution’s jurisdiction will usually make one category more pertinent to its operation.

¹⁴ For a similar conception, see Kumm 2009, 271.

institutions must preserve the capacity of states to ensure the equal freedom of individuals subject to their power (Kleingeld 2012, 139) and safeguard “the prosperity of the people” (Kant 1996c, *T&P* 8:300n). To the extent that they erode this capacity, neither contemporary institutions of global market liberalization nor the commercial mobility rights they extend to private economic actors can fit in the carefully circumscribed scope of Kantian cosmopolitan right. Similarly, where market liberalization norms hamstring domestic mechanisms of collective self-rule or diminish overall standards of social protection such as environmental stewardship, labor safeguards, consumer safety, or public health, they cannot claim the sanction of cosmopolitanism in its Kantian iteration.

This argument is complicated by the fact that market liberalization institutions have themselves been created by states in their sovereign capacity. Does this make them legitimate from a Kantian standpoint? As political thinkers of various stripes have noted in recent years, state consent cannot be the sole normative consideration in assessing the legitimacy of international institutions (Buchanan and Keohane 2006). For instance, yawning asymmetries of power and information allow some states to impose unfavorable conditions on their already disfavored peers in the system. Such agreements “may not be voluntary in the relevant sense, because of the unfair institutional background structure in which they take place.” (Brandt 2011, 192) As Flikschuh points out with respect to a different problem of public right, moreover, Kant’s justificatory strategy is cosmopolitan rather than contractarian (Flikschuh 2000, 149, 170), resting as it does on the “necessity of a system of public lawgiving that can do justice to the claims of Right of each” of its subjects (Flikschuh 2000, 168). International institutions are consonant with the project of cosmopolitan right only to the extent that they ensure that the “freedom of choice of each can coexist with everyone’s freedom in accordance with a universal law.” (Kant 1996b, *MM* 6:230)

Although they are typically created by states to serve their ends, Kant's emphasis on individual freedom as the fundamental principle of all three spheres of public right places significant constraints on how international institutions may be configured. Accordingly, states have an obligation to refrain from entering into institutional arrangements that diminish their capacity to ensure the conditions of equal freedom for those they govern.

All told, how much room does the complementary conception of cosmopolitanism leave for governance beyond the state? Although the world is formally carved up into sovereign states, globalization has undoubtedly diminished their efficacy. The lives of individuals everywhere are increasingly subject to political, social, and economic forces that elude the control of any one state. Furthermore, the way in which each state chooses to exercise its authority inevitably affects any number of outsiders (Pogge 1992, 66; Habermas 2008a, 176). As states lose the ability to single-handedly address transnational problems or provide extensive social safety nets to their citizens, well-constituted international institutions can shore up their capacity to govern. On a range of cross-border challenges such as climate change, environmental degradation, or collective security, international cooperation has the potential to help states function more effectively and equitably as political communities. Empowering international institutions that seek to compensate for the loss of domestic regulatory capacity (such as the International Labor Organization, the World Health Organization, environmental agreements, and standard-setting bodies) would be consistent with Kant's complementary conception, as would reforming the rules of international trade and finance to give states sufficient latitude to protect their citizens from socioeconomic insecurity and manage the consequences of global interdependence.

It goes without saying that the complementary conception imposes duties on states, as well. As a wide array of cosmopolitan thinkers have convincingly argued, appropriately designed

international institutions can provide a corrective to the nation-state's tendency toward ethical particularism. Left to their own devices, states tend to neglect duties of justice owed to non-citizens, such as aiding forcibly displaced persons or moving towards a more equitable global distribution of wealth and resources. To emphasize the centrality of states to Kant's tripartite scheme is not to underplay the troubling tendencies of bounded political communities. Rather, it is to underline the need for an equally critical approach to institutions beyond the state. We must be alert to the possibility that when international institutions constrain state sovereignty and/or assume legislative, executive, or judicial functions hitherto reserved to states, they do not necessarily govern in a more democratic or enlightened manner. Instead, they may create new lines of exclusion and privilege, betraying the principle of equal freedom that forms the bedrock of Kant's project of cosmopolitan right. Unfortunately, while the need for constraints on state power is widely accepted by cosmopolitans, the question of tailoring the scope of authority appropriate to international institutions has received less attention than it deserves. A key advantage of this conception, therefore, is that it gives us a critical measure by which to assess the cosmopolitan credentials not just of states but of international institutions, as well.

In this paper, I argued that the anti-statist posture that predominates among contemporary cosmopolitans makes it easier to cloak institutions that promote global economic liberalization at the expense of other important public interests with the cosmopolitan mantle. To address this problem, I revisited the complementary relationship Kant envisages between different levels of political organization. This relationship, I argued, is guided by a concern for equal freedom—not only of those who engage in commerce across borders, but also of those who remain within them. If Kant construes cosmopolitan norms narrowly, it is because he intends for them to serve as a backstop to the capacious protections that states are responsible for providing to their citizens. The

institutions that govern international trade and finance today vindicate Kant's circumspection toward supranational authority. Instead of keeping powerful private economic actors in check, as Kant meant for cosmopolitan right to do, these institutions prioritize their freedoms over vast constituencies whose interests are mostly represented at the domestic level.

Casting cosmopolitanism primarily as a project to attenuate state power can lead us to miss these important points. The structure of Kantian cosmopolitan right implies that international institutions are legitimate to the extent that they complement, rather than erode, the capacity of states to ensure the equal freedom of those whom they govern. As a general matter, what gives public institutions a cosmopolitan character is not their geographic scale, but their commitment to the principle of equal freedom. That commitment is neither immanent nor inimical to any particular level of political organization.

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