VIII

Kant

Introduction

IMMANUEL KANT WAS BORN IN 1724 in Königsberg, East Prussia (now part of Russia), and he never journeyed more than forty miles from the city. Kant appears to have seriously entertained the possibility of marriage at least twice during his life. On one occasion, he was in the process of assessing his financial situation to determine whether to propose to a young widow when the woman accepted a marriage proposal from someone else. On another occasion, a Westphalian visitor to Königsberg, in whom Kant was interested, left town with her employer before Kant could make up his mind.

Kant was educated in Leibniz's philosophy but later was profoundly influenced by Hume and Rousseau. By Kant's own admission, Hume awakened him from his dogmatic slumbers. However, Rousseau seemed to have had an even stronger influence on him. When he received a copy of Rousseau's *Emile* in 1762, his rigid schedule (rising, coffee drinking, writing, lecturing, dining, walking, each at a set time) was thrown out of kilter for two whole days while he read the book.

Kant's most important work, his *Critique of Pure Reason,* was published in 1781. After that, his other famous writings followed in quick succession; he published the *Prolegomena to Any Future Metaphysics* (1783), *Groundwork of the Metaphysie of Morals* (1785), *Metaphysical First Principles of Natural Science* (1786), the second edition of *Critique of Pure Reason* (1787), *Critique of Practical Reason* (1788), *Critique of Judgment* (1790), *Theory and Practice* (1792), *Religion Within the Bounds of Reason Alone* (1793), *Perpetual Peace* (1795), and *Metaphysie of Morals* (1797).

Only once did Kant come into collision with political authority. That was in connection with his *Religion Within the Bounds of Reason Alone.* The work was approved by the theological faculty of Königsberg in 1793. But in 1794, the work was censured by Frederick William II, and Kant was forbidden to write or lecture on any religious subject. Kant accepted this censure, for which he was widely criticized.

Kant was already fifty-seven years old when he published his *Critique of Pure Reason.* Consequendy, his literary production from 1781 to the time of his death in 1804 constitutes a remarkable performance. He was working on a restatement of his philosophy at the time of his death.

In the selection from *Theory and Practice,* Kant sets out his social contract justification of a civil state. He claims that a civil state ought to be founded on an original contract that satisfies the requirements of freedom (the freedom to seek happiness in whatever way one sees fit as long as one does not infringe upon the freedom of others to pursue a similar end), equality (the equal right of each person to coerce others to use their freedom in a way that harmonizes with one's own freedom), and independence (that independence of each person that is necessarily presupposed by the free agreement of the original contract).

According to Kant, the original contract, which ought to be the foundation of every civil state, does not have to "actually exist as a fact." It suffices that the laws of a civil state are such that people would agree to them under conditions in which the requirements of freedom, equality, and independence obtain. Laws that accord with this original contract would then, Kant claims, give all members of society the right to reach any degree of rank that they could earn through their labor, industry, and good fortune. Thus, the equality demanded by the original contract would not, in Kant's view, exclude a considerable amount of economic liberty.

The "union of nations" proposed by Kant in the selection from *Perpetual Peace* is close in concept to President Wilson's League of Nations and its successor, the United Nations. According to Kant, the respect for law that prevails in a republican state makes it incumbent upon its citizens and its government to establish a similar system of law in international affairs. Kant's principles of right demand that the nations agree to laws capable of peacefully settling disputes between them.

In "Kant: 'An Honest but Narrow-Minded Bourgeois'?" Susan Mendus claims that Kant regards women as passive citizens in a very strong sense. As Kant claims in the selection from the *Metaphysic of Morals,* women, unlike male passive citizens, who can attain active citizenship and the right to vote once they become sufficiently independent, can never become active citizens. This is because Kant identifies women by nature with inclination and men with reason.

Why did Kant get things so wrong? Mendus suggests that it is not simply because he was a narrow-minded bourgeois. Rather, it was because he was committed to individualism, and individualism requires that in any relationship someone must dominate and someone must be subordinated. But why should a commitment to individual human rights (individualism) require a commitment to dominant/subordinate relationships? Can you think of any good reason why this would be the case? If not, it may be that the best explanation of why Kant got things so wrong is, after all, that he was a narrow-minded bourgeois.

In his *Perpetual Peace,* Kant sketched a plan for achieving peaceful relations between nations. In "On *Satyajjraha*," Mohandas K. Gandhi sketches a nonviolent way of dealing with violent conflict. Gandhi requires that one approach violent conflict in such a way as to enable both oneself and one's opponents to progress to greater awareness of the truth. To do this, one must be willing to suffer. According to Gandhi, a willingness to suffer helps transform one's opponents by confronting them with the reality, in human terms, of their violence toward others. Only in this way can one maximize the conditions by which both sides can progress toward the truth and a peaceful resolution of conflicts. Using the practice of satyagraha or nonviolent resistance, Gandhi was able to win independence for India in 1948.

30 Theory and Practice

IMMANUEL KANT

II

ON THE RELATIONSHIP OF THEORY TO PRACTICE IN POLITICAL RIGHT

(Against Hobbcs)

AMONG ALL THE CONTRACTS by which a large group of men unites to form a society,. . . the contract establishing a *civil constitution.* . . is of an exceptional nature. For while, so far as its execution is concerned, it has much in common with all others that are likewise directed towards a chosen end to be pursued by joint effort, it is essentially different from all others in the principle of its constitution. ... In all social contracts, we find a union of many individuals for some common end which they all *share.* But a union as an end in itself which they all *ought to share* and which is thus an absolute and primary duty in all external relationships whatsoever among human beings (who cannot avoid mutually influencing one another), is only found in a society in so far as it constitutes a civil state, i.e. a commonwealth. . . .

The civil state, regarded purely as a lawful state, is based on the following *a priori* principles:

1. The *freedom* of every member of society as a *human being.*
2. The *equality* of each with all the others as a *subject.*
3. The *independence* of each member of a commonwealth as a *citizen.*

These principles are not so much laws given by an already established state, as laws by which a state can alone be established in accordance with pure rational principles of external human right. Thus:

1. Man's *freedom* as a human being, as a principle for the constitution of a commonwealth, can be expressed in the following formula. No one can compel me to be happy in accordance with his conception of the welfare of others, for each may seek his happiness in whatever way he sees fit, so long as he does not infringe upon the freedom of others to pursue a similar end which can be reconciled with the freedom of everyone else within a workable general law—i.e. he must accord to others the same right as he enjoys himself. A government might be established on the principle of benevolence towards the people, like that of a father towards his children. Under such a *paternal government.* . . the subjects, as immature children who cannot distinguish what is truly useful or harmful to themselves, would be obliged to behave purely passively and to rely upon the judgement of the head of state as to how they *ought* to be happy, and upon his kindness in willing their happiness at all. Such a government is the greatest conceivable *despotism,* i.e. a constitution which suspends the entire freedom of its subjects, who thenceforth have no rights whatsoever. The only conceivable government for men who are capable of possessing rights, even if the ruler is benevolent, is not a *paternal* but a *patriotic* government. . . . A *patriotic* attitude is one where everyone in the state, not excepting its head, regards the commonwealth as a maternal womb, or the land as the paternal ground from which he himself sprang and which he must leave to his descendants as a treasured pledge. Each regards himself as authorized to protect the rights of the commonwealth by laws of the general will, but not to submit it to his personal use at his own absolute pleasure. This right of freedom belongs to each member of the commonwealth as a human being, in so far as each is a being capable of possessing rights.

2. Man's *equality* as a subject might be formulated as follows. Each member of the common-

wealth has rights of coercion in relation to all the others, except in relation to the head of state. For he alone is not a member of the commonwealth, but its creator or preserver, and he alone is authorized to coerce others without being subject to any coercive law himself. But all who are subject to laws are the subjects of a state, and are thus subject to the right of coercion along with all other members of the commonwealth; the only exception is a single person (in either the physical or the moral sense of the word), the head of state, through whom alone the rightful coercion of all others can be exercised. For if he too could be coerced, he would not be the head of state, and the hierarchy of subordination would ascend infinitely. But if there were two persons exempt from coercion, neither would be subject to coercive laws, and neither could do to the other anything contrary to right, which is impossible.

This uniform equality of human beings as subjects of a state is, however, perfecdy consistent with the utmost inequality of the mass in the degree of its possessions, whether these take the form of physical or mental superiority over others, or of fortuitous external property and of particular rights (of which there may be many) with respect to others. Thus the welfare of the one depends very much on the will of the other (the poor depending on the rich), the one must obey the other (as the child its parents or the wife her husband), the one serves (the labourer) while the other pays, etc. Nevertheless, they are all equal as subjects, *before the law,* which, as the pronouncement of the general will, can only be single in form, and which concerns the form of right and not the material or object in relation to which I possess rights. For no one can coerce anyone else other than through the public law and its executor, the head of state, while everyone else can resist the others in the same way and to the same degree. No one, however, can lose this authority to coerce others and to have rights towards them except through committing a crime. And no one can voluntarily renounce his rights by a contract or legal transaction to the effect that he has no rights but only duties, for such a contract would deprive him of the right to make a contract, and would thus invalidate the one he had already made.

From this idea of the equality of men as subjects in a commonwealth, there emerges this further formula: every member of the commonwealth must be entitled to reach any degree of rank which a subject can earn through his talent, his industry and his good fortune. And his fellow-subjects may not stand in his way by *hereditary* prerogatives or privileges of rank and thereby hold him and his descendants back indefinitely.

All right consists solely in the restriction of the freedom of others, with the qualification that their freedom can co-exist with my freedom within the terms of a general law; and public right in a commonwealth is simply a state of affairs regulated by a real legislation which conforms to this principle and is backed up by power, and under which a whole people live as subjects in a lawful state. . . . This is what we call a civil state, and it is characterised by equality in the effects and counter-effects of freely willed actions which limit one another in accordance with the general law of freedom. Thus the *birthright* of each individual in such a state (i.e. before he has performed any acts which can be judged in relation to right) is absolutely *equal* as regards his authority to coerce others to use their freedom in a way which harmonises with his freedom. Since birth is not an act on the part of the one who is born, it cannot create any inequality in his legal position and cannot make him submit to any coercive laws except in so far as he is a subject, along with all the others, of the one supreme legislative power. Thus no member of the commonwealth can have a hereditary privilege as against his fellow-subjects; and no one can hand down to his descendants the privileges attached to the rank he occupies in the commonwealth, nor act as if he were qualified as a ruler by birth and forcibly prevent others from reaching the higher levels of the hierarchy (which are *superior* and *inferior,* but never *imperans* and *subieetus)* through their own merit. He may hand down everything else, so long as it is material and not pertaining to his person, for it may be acquired and disposed of as property and may over a series of generations

create considerable inequalities in wealth among the members of the commonwealth (the employee and the employer, the landowner and the agricultural servants, etc.). But he may not prevent his subordinates from raising themselves to his own level if they are able and entitled to do so by their talent, industry and good fortune. If this were not so, he would be allowed to practise coercion without himself being subject to coercive countermeasures from others, and would thus be more than thgir fellow-subject. No one who lives within the lawjuf state of'a commonwealth can forfeit this equality other than through some crime of his own, but never by contract or through military force. . . . For no legal transaction on his part or on that of anyone else can make him cease to be his own master. He cannot become like a domestic animal to be employed in any chosen capacity and retained therein without consent for any desired period, even with the reservation (which is at times sanctioned by religion, as among the Indians) that he may not be maimed or killed. He can be considered happy in any condition so long as he is aware that, if he does not reach the same level as others, the fault lies either with himself (i.e. lack of ability or serious endeavour) or with circumstances for which he cannot blame others, and not with the irresistible will of any outside party. For as far as right is concerned, his fellow-subjects have no advantage over him.

3. The *independence* . . . of a member of the commonwealth as a *citizen,* i.e. as a co-legislator, may be defined as follows. In the question of actual legislation, all who are free and equal under existing public laws may be considered equal, but not as regards the right to make these laws. Those who are not entitled to this right are nonetheless obliged, as members of the commonwealth, to comply with these laws, and they thus likewise enjoy their protection (not as *citizens* but as co-beneficiaries of this protection). For all right depends on laws. But a public law which defines for everyone that which is permitted and prohibited by right, is the act of a public will, from which all right proceeds and which must not therefore itself be able to do an injustice to anyone. And this requires no less than the will of the entire people (since all men decide for all men and each decides for himself). For only towards oneself can one never act unjustly. But on the other hand, the will of another person cannot decide anything for someone without injustice, so that the law made by this other person would require a further law to limit his legislation. Thus an individual will cannot legislate for a commonwealth. For this requires freedom, equality, and *unity* of the will of *all* the members. And the prerequisite for unity, since it necessitates a general vote (if freedom and equality are both present), is independence. The basic law, which can come only from the general united will of the people, is called the *original contract.*

Anyone who has the right to vote on this legislation is a *citizen* . . . (i.e. citizen of a state, not *bourgeois* or citizen of a town). The only qualification required by a citizen (apart, of course, from being an adult male) is that he must be his *own master (sui iuris),* and must have some *property* (which can include any skill, trade, fine art or science) to support himself. In cases where he must earn his living from others, he must earn it only by *selling* that which is his,[1] and not by allowing others to make use of him; for he must in the true sense of the word *serve* no one but the commonwealth. In this respect, artisans and large or small landowners are all equal, and each is entitled to one vote only. As for landowners, we leave aside the question of how anyone can have rightfully acquired more land than he can cultivate with his own hands (for acquisition by military seizure is not primary acquisition), and how it came about that numerous people who might otherwise have acquired permanent property were thereby reduced to serving someone else in order to live at all. It would certainly conflict with the above principle of equality if a law were to grant them a privileged status so that their descendants would always remain feudal landowners, without their land being sold or divided by inheritance and thus made useful to more people; it would also be unjust if only those belonging to an arbitrarily selected class were allowed to acquire land, should the estates in fact be divided. The owner of a large

estate keeps out as many smaller property owners (and their votes) as could otherwise occupy his territories. He does not vote on their behalf, and himself has only *one* vote. It should be left exclusively to the ability, industry and good fortune of each member of the commonwealth to enable each to acquire a part and all to acquire the whole, although this distinction cannot be observed within the general legislation itself. The number of those entitled to vote on matters of legislation must be calculated purely from the number of property owners, not from the size of their properties.

Those who possess this right to vote must agree *unanimously* to the law of public justice, or else a legal contention would arise between those who agree and those who disagree, and it would require yet another higher legal principle to resolve it. An entire people cannot, however, be expected to reach unanimity, but only to show a majority of votes (and not even of direct votes, but simply of the votes of those delegated in a large nation to represent the people). Thus the actual principle of being content with majority decisions must be accepted unanimously and embodied in a contract; and this itself must be the ultimate basis on which a civil constitution is established.

CONCLUSION

This, then, is an *original contract* by means of which a civil and thus completely lawful constitution and commonwealth can alone be established. But we need by no means assume that this contract, . . . based on a coalition of the wills of all private individuals in a nation to form a common, public will for the purposes of rightful legislation, actually exists as a *fact,* for it cannot possibly be so. Such an assumption would mean that we would first have to prove from history that some nation, whose rights and obligations have been passed down to us, did in fact perform such an act, and handed down some authentic record or legal instrument, orally or in writing, before we could regard ourselves as bound by a pre-existing civil constitution. It is in fact merely an *idea* of reason, which nonetheless has undoubted practical reality; for it can oblige every legislator to frame his laws in such a way that they could have been produced by the united will of a whole nation, and to regard each subject, in so far as he can claim citizenship, as if he had consented within the general will. This is the test of the rightfulness of every public law. For if the law is such that a whole people could not *possibly* agree to it (for example, if it stated that a certain class of *subjects* must be privileged as a hereditary *ruling class),* it is unjust; but if it is at least *possible* that a people could agree to it, it is our duty to consider the law as just, even if the people is at present in such a position or attitude of mind that it would probably refuse its consent if it were consulted. But this restriction obviously applies only to the judgement of the legislator, not to that of the subject. Thus if a people, under some existing legislation, were asked to make a judgment which in all probability would prejudice its happiness, what should it do? Should the people not oppose the measure? The only possible answer is that they can do nothing but obey. For we are not concerned here with any happiness which the subject might expect to derive from the institutions or administrations of the commonwealth, but primarily with the rights which would thereby be secured for everyone. And this is the highest principle from which all maxims relating to the commonwealth must begin, and which cannot be qualified by any other principles. No generally valid principle of legislation can be based on happiness. For both the current circumstances and the highly conflicting and variable illusions as to what happiness is (and no one can prescribe to others how they should attain it) make all fixed principles impossible, so that happiness alone can never be a suitable principle of legislation. The doctrine that *salus publica suprema civitatis lex est* retains its value and authority undiminished; but the public welfare which demands *first* consideration lies precisely in that legal constitution which guarantees everyone his freedom within the law, so that each remains free to seek his happiness in whatever way he thinks best, so long as he does not violate the lawful freedom and rights of his fellow subjects at large. If the supreme power makes laws which are primarily directed towards happi-

ness (the affluence of the citizens, increased population etc.), this cannot be regarded as the end for which a civil constitution was established, but only as a means of *securing the rightful state,* especially against external enemies of the people. The head of state must be authorised to judge for himself whether such measures are necessary for the commonwealth's prosperity, which is required to maintain its strength and stability both internally and against external enemies. The aim is not, as it were, tQ make the people happy against its will, but only to ensure its continued existence as a commorfwealth. The legislator may indeed err in judging whether or not the measures he adopts are *prudent,* but not in deciding whether or not the law harmonises with the principle of right. For he has ready at hand as an infallible *a priori* standard the idea of an original contract, and he need not wait for experience to show whether the means are suitable, as would be necessary if they were based on the principle of happiness. For so long as it is not self-contradictory to say that an entire people could agree to such a law, however painful it might seem, then the law is in harmony with right. But if a public law is beyond reproach (i.e. *irreprehensible)* with respect to right, it carries with it the authority to coerce those to whom it applies, and conversely, it forbids them to resist the will of the legislator by violent means. In other words, the power of the state to put the law into effect is also *irresistible,* and no rightfully established commonwealth can exist without a force of this kind to suppress all internal resistance. For such resistance would be dictated by a maxim which, if it became general, would destroy the whole civil constitution and put an end to the only state in which men can possess rights.

It thus follows that all resistance against the supreme legislative power, all incitement of the subjects to violent expressions of discontent, all defiance which breaks out into rebellion, is the greatest and most punishable crime in a commonwealth, for it destroys its very foundations. This prohibition is *absolute.* And even if the power of the state or its agent, the head of state, has violated the original contract by authorising the government to act tyrannically, and has thereby, in the eyes of the subject, forfeited the right to legislate, the subject is still not entitled to offer counter-resistance. The reason for this is that the people, under an existing civil constitution, has no longer any right to judge how the constitution should be administered. For if we suppose that it does have this right to judge and that it disagrees with the judgment of the actual head of state, who is to decide which side is right? Neither can act as judge of his own cause. Thus there would have to be another head above the head of state to mediate between the latter and the people, which is self-contradictory.—Nor can a right of necessity *(jus in casu necessitatis)* be involved here as a means of removing the barriers which restrict the power of the people; for it is monstrous to suppose that we can have a right to do wrong in the direst (physical) distress.[2] For the head of state can just as readily claim that his severe treatment of his subjects is justified by their insubordination as the subjects can justify their rebellion by complaints about their unmerited suffering, and who is to decide? The decision must rest with whoever controls the ultimate enforcement of the public law, i.e. the head of state himself. Thus no one in the commonwealth can have a right to contest his authority....

NOTES

1. He who does a piece of work *(opus)* can sell it to someone else, just as if it were his own property. But guaranteeing one's labour *(praestatio operae)* is not the same as selling a commodity. The domestic servant, the shop assistant, the labourer, or even the barber, are merely labourers (*operarii*), not *artists (artifices,* in the wider sense) or members of the state, and are thus unqualified to be citizens. And although the man to whom I give my firewood to chop and the tailor to whom I give material to make into clothes both appear to have a similar relationship towards me, the former differs from the latter in the same way as the barber from the wig-maker (to whom I may in fact have given the requisite hair) or the labourer from the artist or uadesman, who does a piece of work which belongs to him until he is paid for it. For the latter, in pursuing his trade, exchanges his property with someone else *(opus),* while the former allows someone else to make use of him.—But I do admit that it is somewhat difficult to define the

qualifications which entitle anyone to claim the status of being his own master.

2. There is no *casus necessitatis* except where duties, i.e. an *absolute* duty and another which, however pressing, is nevertheless *relative,* come into conflict. For instance, it might be necessary for someone to betray someone else, even if their relationship were that of father and son, in order to preserve the state from catastrophe. This preservation of the state from evil is an absolute duty, while the preservation of the individual is merely a relative duty (i.e. it applies only if he is not guilty of a crime against the state). The first person might denounce the second to the authorities with the utmost unwillingness, compelled only by (moral) necessity. But if a person, in order to preserve his own life, pushes a shipwrecked fellow away from the plank he grasps, it would be quite false to say that (physical) necessity gives him a right to do so. For it is only a relative duty for me to preserve my own life (i.e. it applies only if I can do so without committing a crime). But it is an absolute duty not to take the life of another person who has not offended me and does not even make me risk my own life. Yet the teachers of general civil law are perfectly consistent in authorising such measures in cases of distress. For the authorities cannot combine *a penalty* with this prohibition, since this penalty would have to be death. But it would be a nonsensical law which threatened anyone with death if he did not voluntarily deliver himself up to death when in dangerous circumstances.

31 The Metaphysic of Morals

IMMANUEL KANT

Section 45

A STATE (*civitas*) is A UNION of an aggregate of men under rightful laws. In so far as these laws are necessary *a priori* and follow automatically from concepts of external right in general (and are not just set up by statute), the form of the state will be that of a state in the absolute sense, i.e. as the idea of what a state ought to be according to pure principles of right. This idea can serve as an internal guide *(norma)* for every actual case where men unite to form a commonwealth.

Every state contains three powers, i.e. the universally united will is made up of three separate persons *(trias politica).* These are the *ruling power* (or sovereignty) in the person of the legislator, the *executive power* in the person of the individual who governs in accordance with the law, and the *judicial power* (which allots to everyone what is his by law) in the person of the judge *(potestas legislatoria, rectoria et iudiciaria).* They can be likened to the three propositions in a practical operation of reason: the major premise, which contains the *law* of the sovereign will, the minor premise, which contains the *command* to act in accordance with the law (i.e. the principle of subsumption under the general will), and the conclusion, which contains the *legal decision* (the sentence) as to the rights and wrongs of each particular case.

Section 46

The legislative power can belong only to the united will of the people. For since all right is supposed to emanate from this power, the laws it gives must be absolutely *incapable* of doing anyone an injustice. Now if someone makes dispositions for *another* person, it is always possible that he may thereby do him an injustice, although this is never possible in the case of decisions he makes for himself (for *volenti nonjit iniuria).* Thus only the unanimous and combined will of everyone

whereby each decides the same for all and all decide the same for each—in other words, the general united will of the people—can legislate.

The members of such a society *(societas civilis)* or state who unite for the purpose of legislating are known as *citizens (cives*), and the three rightful attributes which are inseparable from the nature of a citizen as such are as follows: firsdy, lawful *freedom* to obey no law other than that to which he has given his consent; secondly, civil *equality* in recognising no one among the people as superior to himself, Tin less it be someone whom he is just as morally entided to bind by law as the other is to bind him; and thirdly, the attribute of civil *independence* which allows him to owe his existence and sustenance not to the arbitrary will of anyone else among the people, but purely to his own rights and powers as a member of the commonwealth (so that he may not, as a civil personality, be represented by anyone else in matters of right).

Fitness to vote is the necessary qualification which every citizen must possess. To be fit to vote, a person must have an independent position among the people. He must therefore be not just a part of the commonwealth, but a member of it, i.e. he must by his own free will actively participate in a community of other people. But this latter quality makes it necessary to distinguish between the *active* and the *passive* citizen, although the latter concept seems to contradict the definition of the concept of a citizen altogether. The following examples may serve to overcome this difficulty. Apprentices to merchants or tradesmen, servants who are not employed by the state, minors (*naturaliter vel civiliter*), women in general and all those who are obliged to depend for their living (i.e. for food and protection) on the offices of others (excluding the state)—all of these people have no civil personality, and their existence is, so to speak, purely inherent. The woodcutter whom I employ on my premises; the blacksmith in India who goes from house to house with his hammer, anvil and bellows to do work with iron, as opposed to the European carpenter or smith who can put the products of his work up for public sale; the domestic tutor as opposed to the academic, the tithe-holder as opposed to the farmer; and so on—they are all mere auxiliaries to the commonwealth, for they have to receive orders or protection from other individuals, so that they do not possess civil independence.

This dependence upon the will of others and consequent inequality does not, however, in any way conflict with the freedom and equality of all men as *human beings* who together constitute a people. On the contrary, it is only by accepting these conditions that such a people can become a state and enter into a civil constitution. But all are not equally qualified within this constitution to possess the right to vote, i.e. to be citizens and not just subjects among other subjects. For from the fact that as passive members of the state, they can demand to be treated by all others in accordance with laws of natural freedom and equality, it does not follow that they also have a right to influence or organise the state itself as *active* members, or to co-operate in introducing particular laws. Instead it only means that the positive laws to which the voters agree, of whatever sort they may be, must not be at variance with the natural laws of freedom and with the corresponding equality of all members of the people whereby they are allowed to work their way up from their passive condition to an active one. . . .

32 Perpetual Peace

IMMANUEL KANT

Section II

THE STATE OF PEACE AMONG MEN living side by side is not the natural state *[status naturalisé* the natural state is one of war. This does not always mean open hostilities, but at least an unceasing threat of war. A state of peace, therefore, must be *established,* for in order to be secured against hostility it is not sufficient that hostilities simply be not committed; and, unless this security is pledged to each by his neighbor (a thing that can occur only in a civil state), each may treat his neighbor, from whom he demands this security, as an enemy.

FIRST DEFINITIVE ARTICLE FOR PERPETUAL PEACE

"The Civil Constitution of Every State Should Be Republican." The only constitution which derives from the idea of the original compact, and on which all juridical legislation of a people must be based, is the republican. This constitution is established, firstly, by principles of the freedom of the members of a society (as men); secondly, by principles of dependence of all upon a single common legislation (as subjects); and, thirdly, by the law of their equality (as citizens). The republican constitution, therefore, is, with respect to law, the one which is the original basis of every form of civil constitution. The only question now is: Is it also the one which can lead to perpetual peace?

The republican constitution, besides the purity of its origin (having sprung from the pure source of the concept of law), also gives a favorable prospect for the desired consequence, i.e., perpetual peace. The reason is this: if the consent of the citizens is required in order to decide that war should be declared (and in this constitution it cannot but be the case), nothing is more natural than that they would be very cautious in commencing such a poor game, decreeing for themselves all the calamities of war. Among the latter would be: having to fight, having to pay the costs of war from their own resources, having painfully to repair the devastation war leaves behind, and, to fill up the measure of evils, load themselves with a heavy national debt that would embitter peace itself and that can never be liquidated on account of constant wars in the future. But, on the other hand, in a constitution which is not republican, and under which the subjects are not citizens, a declaration of war is the easiest thing in the world to decide upon, because war does not require of the ruler, who is the proprietor and not a member of the state, the least sacrifice of the pleasures of his table, the chase, his country houses, his court functions, and the like. He may, therefore, resolve on war as on a pleasure party for the most trivial reasons, and with perfect indifference leave the justification which decency requires to the diplomatic corps who are ever ready to provide it.

SECOND DEFINITIVE ARTICLE FOR A PERPETUAL PEACE

"The Law of Nations Shall be Founded on a Federation of Free States." Peoples, as states, like individuals, may be judged to injure one another merely by their coexistence in the state of nature (i.e., while independent of external laws). Each of them may and should for the sake of its own security demand that the others enter with it into a

constitution similar to the civil constitution, for under such a constitution each can be secure in his right. This would be a league of nations, but it would not have to be a state consisting of nations. That would be contradictory, since a state implies the relation of a superior (legislating) to an inferior (obeying), i.e., the people, and many nations in one state would then constitute only one nation. This contradicts the presupposition, for here we have to weigh the rights of nations against each other so far as they are distinct states and not amalgamated into one.

When we see the attachment of savages to their lawless freedom, preferring ceaseless combat to subjection to a lawful constraint which they might establish, and thus preferring senseless freedom to rational freedom, we regard it with deep contempt as barbarity, rudeness, and a brutish degradation of humanity. Accordingly, one would think that civilized people (each united in a state) would hasten all the more to escape, the sooner the better, from such a depraved condition. But, instead, each state places its majesty (for it is absurd to speak of the majesty of the people) in being subject to no external juridical restraint, and the splendor of its sovereign consists in the fact that many thousands stand at his command to sacrifice themselves for something that does not concern them and without his needing to place himself in the least danger.[1] The chief difference between European and American savages lies in the fact that many tribes of the latter have been eaten by their enemies, while the former know how to make better use of their conquered enemies than to dine off them; they know better how to use them to increase the number of their subjects and thus the quantity of instruments for even more extensive wars.

When we consider the perverseness of human nature which is nakedly revealed in the uncontrolled relations between nations (this perverseness being veiled in the state of civil law by the constraint exercised by government), we may well be astonished that the word "law" has not yet been banished from war politics as pedantic, and that no state has yet been bold enough to advocate this point of view. Up to the present, Hugo Grotius, Pufendorf, Vattel, and many other irritating comforters have been cited in justification of war, though their code, philosophically or diplomatically formulated, has not and cannot have the least legal force, because states as such do not stand under a common external power. There is no instance on record that a state has ever been moved to desist from its purpose because of arguments backed up by the testimony of such great men. But the homage which each state pays (at least in words) to the concept of law proves that there is slumbering in man an even greater moral disposition to become master of the evil principle in himself (which he cannot disclaim) and to hope for the same from others. Otherwise the word "law" would never be pronounced by states which wish to war upon one another; it would be used only ironically, as a Gallic prince interpreted it when he said, "It is the prerogative which nature has given the stronger that the weaker should obey him."

States do not plead their cause before a tribunal; war alone is their way of bringing suit. But by war and its favorable issue in victory, right is not decided, and though by a treaty of peace this particular war is brought to an end, the state of war, of always finding a new pretext to hostilities, is not terminated. Nor can this be declared wrong, considering the fact that in this state each is the judge of his own case. Notwithstanding, the obligation which men in a lawless condition have under the natural law, and which requires them to abandon the state of nature, does not quite apply to states under the law of nations, for as states they already have an internal juridical constitution and have thus outgrown compulsion from others to submit to a more extended lawful constitution according to their ideas of right. This is true in spite of the fact that reason, from its throne of supreme moral legislating authority, absolutely condemns war as a legal recourse and makes a state of peace a direct duty, even though peace cannot be established or secured except by a compact among nations.

For these reasons there must be a league of a particular kind, which can be called a league of peace *(foedus pacificum),* and which would be dis-

tinguished from a treaty of peace *(pactum pads)* by the fact that the latter terminates only one war, while the former seeks to make an end of all wars forever. This league does not tend to any dominion over the power of the state but only to the maintenance and security of the freedom of the state itself and of other states in league with it, without there being any need for them to submit to civil laws and their compulsion, as men in a state of nature must submit.

The practicability (objective reality) of this idea of federation, which should gradually spread to all states and thus lead to perpetual peace, can be proved. For if fortune directs that a powerful and enlightened people can make itself a republic, which by its nature must be inclined to perpetual peace, this gives a fulcrum to the federation with other states so that they may adhere to it and thus secure freedom under the idea of the law of nations. By more and more such associations, the federation may be gradually extended.

We may readily conceive that a people should say, "There ought to be no war among us, for we want to make ourselves into a state; that is, we want to establish a supreme legislative, executive, and judiciary power which will reconcile our differences peaceably." But when this state says, "There ought to be no war between myself and other states, even though I acknowledge no supreme legislative power by which our rights are mutually guaranteed," it is not at all clear on what I can base my confidence in my own rights unless it is the free federation, the surrogate of the civil social order, which reason necessarily associates with the concept of the law of nations—assuming that something is really meant by the latter.

The concept of a law of nations as a right to make war does not really mean anything, because it is then a law of deciding what is right by unilateral maxims through force and not by universally valid public laws which restrict the freedom of each one. The only conceivable meaning of such a law of nations might be that it serves men right who are so inclined that they should destroy each other and thus find perpetual peace in the vast grave that swallows both the atrocities and their perpetrators. For states in their relation to each other, there cannot be any reasonable way out of the lawless condition which entails only war except that they, like individual men, should give up their savage (lawless) freedom, adjust themselves to the constraints of public law, and thus establish a continuously growing state consisting of various nations *{civitasgentium),* which will ultimately include all the nations of the world. But under the idea of the law of nations they do not wish this, and reject in practice what is correct in theory. If all is not to be lost, there can be, then, in place of the positive idea of a world republic, only the negative surrogate of an alliance which averts war, endures, spreads, and holds back the stream of those hostile passions which fear the law, though such an alliance is in constant peril of their breaking loose again. *Furor impius intus . . .fremit horridus ore cruento* (Virgil).[2]

THIRD DEFINITIVE ARTICLE FOR A PERPETUAL PEACE

"The Law of World Citizenship Shall Be Limited to Conditions of Universal Hospitality."" Here, as in the preceding articles, it is not a question of philanthropy but of right. Hospitality means the right of a stranger not to be treated as an enemy when he arrives in the land of another. One may refuse to receive him when this can be done without causing his destruction; but, so long as he peacefully occupies his place, one may not treat him with hostility. It is not the right to be a permanent visitor that one may demand. A special beneficent agreement would be needed in order to give an outsider a right to become a fellow inhabitant for a certain length of time. It is only a right of temporary sojourn, a right to associate, which all men have. They have it by virtue of their common possession of the surface of the earth, where, as a globe, they cannot infinitely disperse and hence must finally tolerate the presence of each other. Originally, no one had more right than another to a particular part of the earth.

Uninhabitable parts of the earth—the sea and the deserts—divide this community of all men,

but the ship and the camel (the desert ship) enable them to approach each other across these unruled regions and to establish communication by using the common right to the face of the earth, which belongs to human beings generally. The inhospitality of the inhabitants of coasts (for instance, of the Barbary Coast) in robbing ships in neighboring seas or enslaving stranded travelers, or the inhospitality of the inhabitants of the deserts (for instance, the Bedouin Arabs) who view contact with nomadic tribes as conferring the right to plunder them, is fhds opposed to natural law, even though it extends the right of hospitality, i.e., the privilege of foreign arrivals, no further than to conditions of the possibility of seeking to communicate with the prior inhabitants. In this way distant parts of the world can come into peaceable relations with each other, and these are finally publicly established by law. Thus the human race can gradually be brought closer and closer to a constitution establishing world citizenship.

But to this perfection compare the inhospitable actions of the civilized and especially of the commercial states of our part of the world. The injustice which they show to lands and peoples they visit (which is equivalent to conquering them) is carried by them to terrifying lengths. America, the lands inhabited by the Negro, the Spice Islands, the Cape, etc., were at the time of their discovery considered by these civilized intruders as lands without owners, for they counted the inhabitants as nothing. In East India (Hindustan), under the pretense of establishing economic undertakings, they brought in foreign soldiers and used them to oppress the natives, excited widespread wars among the various states, spread famine, rebellion, perfidy, and the whole litany of evils which afflict mankind.

China and Japan (Nippon), who have had experience with such guests, have wisely refused them entry, the former permitting their approach to their shores but not their entry, while the latter permit this approach to only one European people, the Dutch, but treat them like prisoners, not allowing them any communication with the inhabitants. The worst of this (or, to speak with the moralist, the best) is that all these outrages profit them nothing, since all these commercial ventures stand on the verge of collapse, and the Sugar Islands, that place of the most refined and cruel slavery, produces no real revenue except indirectly, only serving a not very praiseworthy purpose of furnishing sailors for war fleets and thus for the conduct of war in Europe. This service is rendered to powers which make a great show of their piety, and, while they drink injustice like water, they regard themselves as the elect in point of orthodoxy.

Since the narrow or wider community of the peoples of the earth has developed so far that a violation of rights in one place is felt throughout the world, the idea of a law of world citizenship is no high-flown or exaggerated notion. It is a supplement to the unwritten code of the civil and international law, indispensable for the maintenance of the public human rights and hence also of perpetual peace. One cannot flatter oneself into believing one can approach this peace except under the condition outlined here.

NOTES AND REFERENCES

1. A Bulgarian prince gave the following answer to the Greek emperor who good-naturedly suggested that they settle their difference by a duel: "A smith who has tongs won't pluck the glowing iron from the fire with his bare hands."

2. "Within, impious Rage, sitting on savage arms, his hands fast bound behind with a hundred brazen knots, shall roar in the ghastliness of blood-stained lips" *(Aeneid* I, 294-96, trans. H. Rushton Fairclough, "Loeb Classical Library," Cambridge: Harvard University Press, 1926).