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Kant's grounded cosmopolitanism: original common possession and the right to visit

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BOOK REVIEW

Kant's grounded cosmopolitanism: original common possession and the right to visit, by Jakob Huber, Oxford, Oxford University Press, 2022, 192 pp., £65 (hardback), ISBN: 9780192844040

1. Introduction

Jakob Huber's *Kant's Grounded Cosmopolitanism: Original Common Possession and the Right to Visit* sets out a rich and novel project of Kant interpretation and defence. Huber does well to wed arguments and insights in Kant's political philosophy to methodological and normative considerations from Kant's broader moral and theoretical philosophy. The book carves out a distinctive interpretative space that deserves to be taken seriously by Kant scholars and political philosophers.

The central aims of the book are two-fold. First, and primarily, the book defends the interpretative claim that we can best understand Kant's mature cosmopolitanism (found primarily in the Doctrine of Right) only if we take seriously the idea of our shared 'earth dwellership'. In brief, 'earth dwellership' is meant to capture the distinctive relation that we find ourselves in as rational, embodied agents who 'jointly inhabit a bounded territory' (5) and who can affect each other through our choices. Huber argues that we can only fully make sense of the two central features of Kant's cosmopolitanism – (i) a prohibition on colonialism and (ii) a right to visit foreign territories – against the backdrop of this relation. The second aim of the book is to defend Kant's cosmopolitan insights, so understood. Huber eschews the project of speaking *equally* to both Kant scholars and contemporary defenders of cosmopolitanism (in favour the Kantians), but also notes that his book is not to be taken as 'a purely exegetical exercise in Kant scholarship or a project of historical reconstruction' (9). While the book will be most fruitfully engaged with by those interested in Kant scholarship, contemporary moral and political philosophers thinking about cosmopolitanism will also benefit from engagement with and reflection on Huber's arguments.

In what follows, I begin by sketching the main claims of the book (§2). Then I introduce some critical comments. First, I challenge Huber's interpretation of Kant's 'right to be somewhere' (§3.1). Then, I raise some questions about the normative implications of earth dwellership as Huber presents it (§3.2).

2. The core claims of the book

The first two chapters of *Kant's Grounded Cosmopolitanism* set out the interpretative basis for Huber's reading of Kant's cosmopolitan right to visit. These are the chapters in which the idea of 'earth dwellership' and its most immediate normative consequences are set out.

Kant tells us that all human beings 'have a right to be wherever nature or chance (apart from their will) has placed them' (6:262).¹ That is, we have a right to occupy whatever space we occupy through no fault of our own. This right is not one of ownership over *this* or *that* place, but rather it is a right just to occupy *some* place. Chapter 1 explains this right in more detail. Huber argues that the right to be somewhere is neither an innate nor

¹Kant's works are cited according to the volume and page number of the standard editions of Kant's works. Translations are from Kant, *Practical Philosophy* (Cambridge University Press 1996) and Kant, *Lectures and Drafts on Political Philosophy* (Cambridge University Press 2016).

an acquired right in Kant's sense of those terms. This stands in contrast to what Huber calls the 'standard reading',² according to which the right to be somewhere is understood as a part of the innate right to freedom.³ Huber's arguments against the standard reading are challenging and complex, and I cannot give them their full due here. The central points, however, are these: on Huber's reading, the right to be somewhere cannot be innate since (i) the specific empirical circumstances in which Kant claims we possess a right to be somewhere (i.e., joint occupation of a bounded territory) are not taken into consideration when Kant introduces the innate right (31–36) and (ii) the right to be somewhere is a right over an external object (23), which is something the innate right cannot entitle us to.⁴

Based on his arguments that the right to be somewhere is neither innate nor acquired, Huber claims that it plays a distinct normative role in the Doctrine of Right. Chapter 2 argues that this role is to be fleshed out in terms of our original common possession of the earth (OCP). Huber argues, against the standard reading, that OCP is not a kind of proto-ownership or solely a criterion against which claims of private ownership are measured, but rather is 'a particular way in which we relate *to one another* given that we find ourselves co-inhabiting a finite space' (38). The claim here is that by virtue of our sharing the earth we must view ourselves as standing in a certain kind of community with each other. As members of this community, we also have a distinctive set of obligations to each other; namely, we must treat each other as justificatory equals, 'i.e., as agents with whom [we] share not only the predicament of co-inhabiting a finite space, but also the ability to come to terms with it by finding mutually agreed terms of coexistence' (60–61).

It is against the backdrop of the right to be somewhere and the normative standard of OCP that Huber develops Kant's cosmopolitan right to visit. As Kant puts it, this right is limited to '*offering to engage in commerce with any other*' without being treated as an enemy in doing so (6:352). Huber identifies restrictive and permissive features of the right to visit. It is restrictive because it does not entitle foreign visitors to do anything *but* offer to engage in commerce with those they encounter. It is permissive because Kant claims that the cosmopolitan right entitles us to visit other parts of the world.

Chapter 3 explains the restrictive feature of the cosmopolitan right to visit. It is important for Kant that this is not taken as an entitlement to settle anywhere in the world, and thus to force those whom you encounter to enter a state.⁵ In some ways this is puzzling. Kant claims that we have a moral obligation to leave the state of nature. Coercing others into a state is both permissible and necessary because a state is the only condition in which our rights are secure. When it comes to cosmopolitan encounters, particularly with those who are not yet in a state, the question then becomes: why can global travellers not coerce those they encounter to enter a state? Why is the permission that is normally available absent here? The bulk of the chapter is dedicated to these questions and explaining the grounds of Kant's anti-colonialism. Huber's strategy is to suggest that anti-colonial obligations are based on 'earth dwellership'. It is because each of

²Huber focuses primarily on the work of Ripstein, *Force and Freedom* (Harvard University Press 2009) and Byrd and Hruschka, *Kant's Doctrine of Right: A Commentary* (Cambridge University Press 2010) in setting out the reading that provides the foil throughout the book. It is worth pointing out that these views, and the others subsumed under the same heading, differ in many respects, sometimes importantly for the content of the criticisms (e.g., the centrality of property to state entry varies between the authors). I will leave this aside here, but readers should not take the standard reading to *fully* represent any of the authors to whom it is ascribed. With that said, Huber's own view offers a distinct alternative from the authors with whom he is engaged.

³The innate right to freedom reads: '*Freedom* (independence from being constrained by another's choice), insofar as it can coexist with the freedom of every other in accordance with a universal law, is the only original right belonging to every human being by virtue of his humanity' (6:237).

⁴The right to be somewhere is not acquired since we need not perform any act to acquire it (16).

⁵As Huber rightly points out (70), Kant is primarily interested in voluntary, and presumably Western, travellers encountering non-state peoples in his discussion of cosmopolitan right. This helps to explain the focus on colonialism.

us can recognise that those whom we encounter cannot but claim a space for themselves that we have obligations to them. Huber says: “This is what grounds both the obligation of state citizens to think of themselves as in a cosmopolitan relation with members of non-state peoples, and the right against the host not to be treated “as an enemy”” (92). These obligations take the form of a non-coercible contractual relation between the visitors and the residents.⁶

Chapter 4 moves to the permissive aspect of the cosmopolitan right to visit. While the restrictive aspect entitles global travellers to no more than hospitality (i.e., they cannot settle and force others into a state), the permissive aspect entitles individuals to be globally mobile. We must be permitted to offer to enter into exchange with each other. The question that arises when addressing this feature of the cosmopolitan right is: ‘why does Kant *even* allow for a right to visit?’ (102).⁷ Noting that for Kant cosmopolitan right must be non-coercive (due to a lack of shared coercive institutions), Huber outlines two reasons for why the right to visit is ‘a precondition for lawful peace’ (120). The first reason is that cosmopolitan encounters are necessary for truly public uses of reason – that is, those uses of reason whose addressees are not arbitrarily restricted by state borders (122). The second reason is that attempting to engage in commerce can be productive for the establishment of global peace because it creates interdependence relations between populations (124).

Chapter 5 discusses political progress, Kantian state institutions, and the political end of ‘universal and lasting peace’ (6:355). Literature on Kant’s account of political progress often takes progress to be a matter of reforming existing political institutions so that they are brought more in line with the demands of justice. Huber argues that this is only able to make sense of *domestic* progress. Cosmopolitan progress is not a matter of reforming institutions but of bringing them into existence. We make progress from the point of view of cosmopolitan right by engaging in commerce with each other (broadly understood) and making contractual agreements (145).⁸ This view of progress also has an impact on how we view the Kantian state. In particular, the state must force its citizens to act in accordance with the requirements of cosmopolitan right (146). Finally, Huber argues that the hope that we will achieve perpetual peace provides us with a regulative standard for these institutional changes: ‘Just as hope for the highest ethical good provides a regulative basis for *ethical* action, so does hope for a peaceful world provide a regulative basis for *political* action from the global standpoint’ (156).

3. Discussion

Having now set out the core claims of the book, let me now make some critical comments. First, I challenge Huber’s characterisation of the right to be somewhere as neither innate

⁶Huber assumes that contractual obligations do not require coercive enforcement (13n, 95–96). More could have been said about this since Kant tells us that even contractual obligations require the state for their realisation (6:312). This puts some pressure on the idea of a non-enforceable cosmopolitan contract. Huber could have done more to explain Kant’s position here.

⁷The puzzle here is meant to be that permitting global mobility would allow foreign visitors to infringe the property rights of the members of the country they visit (103). I’m not sure if this is a real problem. This is because, if the right to visit is understood minimally as the right to offer to enter into commerce, then no violation of property rights is licensed by the entitlement to travel. If the would-be host tells you to leave or if you are turned away at the border, you must leave. Kant’s explanation of the right does not appear to include a requirement that individuals be permitted to move freely *within* other territories without permission. He certainly does not say this explicitly. Moreover, in his discussion of cosmopolitan right in *Perpetual Peace*, Kant even cites with approval the cases of China and Japan strictly policing their borders and denying entry to foreigners (8:359). This sits uneasily with a view according to which foreigners must be able to travel *within* borders and not just to them.

⁸Presumably even cosmopolitan institutions brought about gradually will not function perfectly once they come into existence. For this reason, it is a bit puzzling that reform of cosmopolitan institutions does not also form part of Huber’s account of political progress.

nor acquired on Kant's view (§3.1). Then, I raise some questions about the normativity of earth dwellership (§3.2).

3.1. *The right to be somewhere and the innate right*

One of Huber's central claims is that the right to be somewhere is neither innate nor acquired. However, there are good textual grounds for thinking that the right to be somewhere is innate. For example, Kant repeatedly tells us this in his drafts for the *Metaphysics of Morals*. He says:

Now all human beings by right occupy the place on the earth upon which nature or chance has placed them without any choice, and thus in accordance with an innate right (prior to any rightful act) are in possession of the land upon which they find themselves [...] (23:318; see also 23:320 and 23:281)

Huber mentions another such passage, in which Kant claims that 'every human being has an innate right to be on some place' (23:279, quoted on 25). These explicit passages make Huber's claim that the right to be somewhere is not innate surprising.

A further textual consideration is the following. In the Introduction to the Doctrine of Right, Kant tells his reader that the highest division of rights 'is the division into *innate* and *acquired* right' (6:237). This division is drawn based on how we come to possess the right in question. The innate right 'is that which belongs to everyone by nature, independently of any act that would establish a right' (ibid.). Acquired rights, to the contrary, are those 'for which such an act is required' (ibid.). In his subsequent explanation of the innate right, Kant claims that it is the 'only original [*einzig, ursprüngliche*] right belonging to every human being by virtue of his humanity' (ibid.). In the passage in which he introduces the right to be somewhere, Kant repeats this language. He says:

All human beings are originally [*ursprünglich*] (i.e., prior to any act of choice that establishes a right) in a possession of land that is in conformity with right, that is, they have a right to be wherever nature or chance (apart from their will) has placed them. (6:262)

Since there is only one original right, and this right requires no act to establish it, the language of this passage suggests (in published works this time) that the right to be somewhere is innate. So, the fact that the division between innate and acquired right is exhaustive, and the further fact that Kant calls the right to be somewhere 'original', causes trouble for Huber's interpretative project. To suggest that Kant thought of the right to be somewhere as neither innate nor acquired is to suggest, against the textual evidence, that he thought there was a right that didn't fit into his own conceptual scheme. Here, a clearer distinction between Kant's position and possible *Kantian* positions might have been a fruitful one for Huber to draw.

Recall though that Huber had two arguments against considering the right to be somewhere innate. The first turned on the idea that the empirical considerations that Kant claims are necessary for us to have a right to be somewhere (joint occupation of a bounded territory) are not in play at the point at which the innate right is introduced. The second was that it is a right over an external object, something the innate right cannot provide. Let's consider these in turn.

As Huber reads Kant, the right to be somewhere only arises under specific empirical circumstances: that of joint occupation of a bounded territory. Huber calls this state of affairs 'objectively contingent', by which he means that it is a contingent fact that is not the result of human agency. The fact that I am wearing black trousers and a green jumper, on the

other hand, is *subjectively* contingent (35). I chose to wear them when I got dressed this morning. Huber uses this distinction to argue that the right to be somewhere is co-constituted by joint possession of the earth, rather than a prior right that is merely triggered by a (subjectively) contingent fact. As he says: ‘the relevant kind of juridical normativity would simply not be pertinent under circumstances in which agents could indefinitely disperse rather than being constrained to articulate their claims to freedom of actions and action within a limited space’ (36). The textual basis for this is Kant’s claim that the right to be somewhere is a ‘possession *in common* because the spherical surface of the earth unites all the places on its surface’ (6:262). So, on Huber’s view, without a bounded surface, there is no right to be somewhere. The right to be somewhere thus requires a set of empirical assumptions that do not form part of the innate right.

We might reasonably wonder why we must share a finite space to have the right to be somewhere. Assume that the earth was an infinite plane, but that humans only settled an area of it equal to the surface area of our earth. Would the inhabitants of such a world lack the right to be somewhere on it? Denying them this right seems implausible. It strikes me as more plausible to suggest that, once we interact with each other, each of us has a right to be somewhere even if the territory on which we interact is limitless. The consequence of not asserting this is that individuals who interact under such circumstances would be permitted to, for example, launch each other into space. Instead, we should read Kant as claiming that the right to be somewhere is innate – we possess it just by virtue of being rational, embodied agents – but the circumstances in which we find ourselves alter the ways in which the right is held. Just as, for example, our entitlement to consume resources might be altered when those resources are scarce. Indeed, when Kant mentions the possibility of the earth’s surface being an unbounded plane, he does not state that we would not have a right to be somewhere on it. Rather, he says that we would not be in the same kind of community with each other as we are given the boundedness of the earth. The specific empirical circumstances in which we find ourselves shape the way in which we hold a right that we would possess even in the absence of those circumstances.

Now consider the claim that the right to be somewhere is a right over an external object and so can’t be innate. Huber’s reasoning – since it is a right ‘over’ an external object, it extends further than the bounds of the innate right (23) – is too quick. Consider a case of holding an object without acquiring it (and so not having property rights in the object). Kant calls this ‘empirical possession’ (6:249–50). When I am holding an object, others are not permitted to take the object from me because in doing so they would interfere with my innate right. The reason for this is that an interference with what I am holding necessarily involves an interference with my body, and a right of bodily integrity forms part of the innate right. Since I do not have a right to the object itself, the innate right only indirectly protects what I am holding from the interference of others. I do not have a right *over* the object, I merely have a right that happens to protect my use of the object at that time. The same is true of the right to occupy space. This right does not directly entitle us to some external object, thus problematically extending the scope of the innate right. Rather the innate right *indirectly* protects our occupation of the place we happen to occupy by specifying that others may not interfere with our bodies by pushing us away.

Given what I have just argued, it strikes me as plausible to view the right to be somewhere as part of the innate right. What conclusions should we draw from this? It is important to realise that Huber can continue to maintain the claim that sharing a bounded territory raises distinct normative obligations for us. He should drop the claim that these obligations stem from a distinct form of normative agency on Kant’s view though. Rather, my suggestion

is that we view these as obligations that arise from the innate right in our specific empirical circumstances.

3.2. Two questions about earth dwellership

3.2.1. Colonialism, equality and the right to be somewhere

As we have seen, Chapter 3 of *Kant's Grounded Cosmopolitanism* argues that Kant's anti-colonial commitments can be explained by the right to occupy space. In the end, it is because each of us cannot but claim a place for ourselves that we have an obligation not to settle in the territory now occupied by another and force them to enter a state. One question we can ask of this view is: does having a right to be somewhere entitle us to enough to combat colonial *displacement* (as distinguished from colonial subjugation)? Remember that, as Kant characterises it, the right is not one to any specific piece of land, but just to occupy space. This seems to indicate that the right is satisfied if each of us can occupy some space and doesn't entail that we each get to continue to occupy the space we are currently occupying. Now consider the following scenario: European settlers arrive in the territory occupied by non-state peoples. The territory is large enough to sustain both groups comfortably. Imagine further that the Europeans set up a colony (and thus extend the territory of their state) and give the stateless population a free choice of whether they want to join. They do not force the stateless population into their state, but they do mark out some of the territory for themselves and then police the new border. Since the territory is large, European settlement does not leave the stateless population with nowhere to go. If we judge this kind of displacement to be wrong, I am not sure how the right to be somewhere can explain that judgement.

Huber's response to this is likely to be that he is interested in reading the right to be somewhere not merely as a right to be wherever you happen to find yourself, but rather as one entailing more robust rights against others. Huber builds significant content into the right to be somewhere by focusing on the obligations that we owe to each other because of OCP; in particular, his claim that we are bound to view each other as justificatory equals. Our status as justificatory equals can then be appealed to in order to explain the wrong of colonial displacement. But this raises the question: what has happened to the right to be somewhere once we have the claim of juridical equality?

This, I think, is the problem that arises for Huber's view. If we try to maintain a close connection between the right to occupy space and juridical equality, the content of the latter might be restricted in such a way that it cannot successfully prohibit actions that we want to rule out (such as colonial displacement). However, if we separate the two, then it becomes less clear that a right to occupy space is necessary at all. Why not just start with juridical equality and go from there? An endorsement of juridical equality does not require that we assert that each of us has a right to be somewhere. It may be true that reflecting on our shared predicament of occupying a bounded territory is *one way* of getting to the idea that we are juridical equals. But it is not true that such reflection is necessary for drawing that conclusion. The result of this is that it isn't clear why earth dwellership needs to form part of the explanation for the anti-colonial implications of the cosmopolitan right. If the real work is being done by the idea of juridical equality, and this is something that can be defended on several different grounds, the starting point of shared, finite territory might be allowed to fall away.

3.2.2. The community of earth dwellers

Throughout *Kant's Grounded Cosmopolitanism*, Huber characterises the relation that we stand in to each other, for example, as 'direct physical confrontation' (3), as 'concurrent

existence in finite space' (5–6), as one of 'thoroughgoing interaction' (56), as one in which we 'affect and constrain each other with our choices' (64), as a community of agents who are 'capable of physically interacting' (60) and, quoting Kant, as one of 'possible physical interaction' (7, 6:352).

In some of these characterisations, Huber tells us that the relevant community is one in which the members are in some way capable of interacting with each other. Since we share a bounded territory in common (one which is also small enough that we can traverse it to encounter other people and populations), we stand in a community with all others even if the absence of concrete interaction with them. However, in other characterisations, Huber seems to suggest that the relevant community is one in which we *do* affect others' choices through our own actions. Rather than a community of possible interaction, this paints earth dwellership as a community of actual interaction. Presumably the idea here is that, given the fact of our existence on a bounded territory, what we do really affects our shared condition by shaping the moral and physical landscape in which we all act.


Both ways of thinking about global community have some merit. The possible interaction view might allow for broader reflections on what we owe to those who are globally distant but who cannot be said to interact with us in any meaningful sense. The actual interaction view might do better to capture relations that we find morally important, such those that form international supply chains for the production of certain goods. Either way, these two characterisations are not the same and the difference between them is significant because the community of earth dwellership is the foundation of Huber's cosmopolitanism. *Kant's Grounded Cosmopolitanism* does not give as clear a picture as one would like of which characterisation is being defended. Let me raise one question for each of these characterisations.

The possible interaction view is the one that Huber uses most frequently, and the motivation for it is a direct quote from Kant. For that reason, we might think this is the favoured interpretation. The central question here, which is a question both for Huber and for Kant, is: why is the mere possibility of interacting with others morally significant? It is hard to see why I have obligations to globally distant others merely because it is *possible* that I interact with them, particularly when the likelihood of interaction is low. This means that, without more substantive content built in, merely possible interaction due to sharing a bounded territory does not seem sufficient to ground the kinds of moral obligations that Huber is after. Why think that the idea of merely possible interaction is sufficient to ground the entire cosmopolitan moral framework?

This last question might push us more towards an actual interaction view. Here it seems that there are good grounds for thinking that we have global obligations. For if I act in a way that affects you negatively (even if you are globally distant from me), I stand in need of a justification for my action. That you are far away will not be sufficient as an excuse for mistreatment. Given increasing globalisation, it is not hard to think of ways in which we can affect even globally distant others through our choices. So, focusing on actual interaction might seem promising. The problem with turning to actual interaction, however, is that it will not generate a fully global community. Huber is interested in a community to which we all belong, but actual interaction does not get us there. This is because it isn't plausible to suggest that our actions really do impact upon the actions that can be taken by *all* others. The price of adopting this strategy then seems to be that the view cannot capture the kind of relation Huber is after.

These are, of course, mere suggestions of questions that could be pursued at more length. The central point here is that, by moving between two different characterisations of the kind of interaction that he is interested in, the basis of Huber's global community is not as clear as one would like.

With that said, and with the worries I have raised set aside, *Kant's Grounded Cosmopolitanism* provides ample food for thought, both as a contribution to Kant scholarship and to philosophical cosmopolitanism more broadly. The book raises interesting questions of interpretation and methodology and articulates a novel position in Kantian scholarship. Whether or not one agrees with Huber that we owe obligations to each other by virtue of our earth dwellership, his arguments merit, and reward, serious consideration.

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