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Kant on Civil Self-Sufficiency

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Abstract: Kant distinguishes between ‘active’ and ‘passive’ citizens and holds that only the former are civilly self-sufficient and possess rights of political participation. Such rights are important, since for Kant state institutions are a necessary condition for individual freedom. Thus, only active citizens are entitled to contribute to a necessary condition for the freedom of each. I argue that Kant attributes civil self-sufficiency to those who are not under the authority of any private individual for their survival. This reading is more textually grounded than the dominant reading, which understands civil self-sufficiency in terms of economic relations alone. I further argue that Kant was interested in relations of authority because he was concerned to eliminate certain forms of corruption. This indicates that Kant’s contested distinction between active and passive citizens was a response to a key problem of any account of public lawgiving.

1 Introduction

In the *Doctrine of Right* and “Theory and Practice”, Kant draws a distinction between ‘active’ and ‘passive’ citizens.¹ Active citizens are those members of a state who are permitted to participate in lawgiving. Passive citizens may not participate in this way; though they are protected by the laws of a state, they do not contribute to those laws.² Kant tells us that the members of a state who count as

¹ In what follows, references to Kant’s works refer to volume and page numbers of the Akademieausgabe (*Kants gesammelte Schriften*, Berlin 1902–). There are some passages that are not included in this edition but do appear in *Nachforschungen zu Briefen und Handschriften Immanuel Kants* published in Stark (ed.) 2014. References to those texts are cited using ‘Stark’ and the pagination from that volume; for example, ‘Stark 244’. Throughout the paper I use the translations of the *Cambridge Edition of the Works of Immanuel Kant*. Where I depart from those translations, I include the German. See the bibliography for full details.

² Throughout this paper, I will refer primarily to the right to vote as the right gained by active citizens. However, this should not be taken to indicate that this is the only (or even a necessary) right of active citizens on Kant’s account. Other activities that only active citizens are permitted

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active citizens are those who possess the attribute of civil self-sufficiency (*bürgerlichen Selbstständigkeit*) (*MM*, VI: 314). Civil self-sufficiency is thus a central feature of Kant's account of citizenship. Possession of this attribute permits some members of a state to participate in shaping the coercively enforced laws of that state. Participation in lawgiving is important to Kant's political philosophy, for, on his view, state institutions are a necessary condition for individual claim-rights. Moreover, individual claim-rights partly constitute our external freedom, and external freedom is the central concern of Kant's political philosophy as a whole. Thus, those who possess the attribute of civil self-sufficiency (and who are thereby active citizens) are the only members of a state permitted to contribute to a necessary institutional condition for the external freedom of each.

Kant's account of active citizenship has been the subject of much critical scrutiny in recent literature, and for good reason.³ He explicitly excludes women from that status on the grounds that they are civilly dependent. We might therefore worry that Kant's account of civil self-sufficiency is inseparable from his well-known sexism.⁴ He also appears to exclude the poor from active citizenship by making property ownership a necessary condition for civil self-sufficiency. These charges are troubling given the connection between active citizenship and participation in lawgiving. Kant's account of who is entitled to participate in lawgiving appears unjustifiably inegalitarian.

The purpose of this paper is to argue for a revised reading of Kant's account of civil self-sufficiency. In particular, I argue that civilly self-sufficient members of a state must not depend on private relations of authority for their "preservation in existence" (*MM*, VI: 314). This reading is more textually grounded than

to participate in include serving on a jury, representing oneself in court, being elected by sortition (or being considered for election by sortition) and participation in citizens' assemblies with legislative power. There are also duties that only active citizens possess. I discuss this in Davies (forthcoming).

³ For critical comments on the distinction between active and passive citizenship, see Baynes 1989, 445, Beiner 2010, 23–27, Ellis 2006, 551–52, George 1988, 204–05, Grcic 1986, 454 f., Kersting 1992a, 357, and 1992b, 153 f., Kleingeld 1993, 137 f., Mendus 1992, 168–74, Mulholland 1990, 330, Pateman 1988, 171, Pogge 2002, Potter 2002, 269–71, and Uleman 2004, 596. Weinrib 2008 and Shell 2016 are two of the very few defenders of Kant's comments on citizenship.

⁴ I have in mind here Kant's discussion of the 'character of the sexes' in the *Anthropology from a Pragmatic Point of View* (see VII: 303–311). The worry here is not whether Kant was a sexist. This is, perhaps, a settled issue. The worry is rather whether his sexism is entailed by his systematic and mature beliefs about citizenship. I will argue below that it is not. A similar charge has been raised with respect to Kant's beliefs about race by, amongst others, Eze 1997. For a defence of Kant against the charge that his systematic beliefs entail racism, see Hill and Boxill 2001.

the dominant reading in the literature, which understands civil self-sufficiency in terms of economic independence alone, but it preserves the dominant reading's focus on the relationship between civil self-sufficiency and dependence. My reading also makes sense of Kant's puzzling examples and helps to illuminate a distinction that even he found difficult to draw at times (see *TP*, VIII: 295n). In addition, it has the advantage, if correct, of not necessarily excluding women or the poor from the status of active citizenship. A further task of the paper is to suggest that Kant was interested in these private relations of authority because he was concerned to eliminate certain forms of corruption on the part of those who participate in lawgiving. Those who depend on private relations of authority, we might think, are more likely to act for the sake of private interests and should be excluded from participation in lawgiving for this reason.⁵

Let me make a remark about translation. Gregor translates '*bürgerliche Selbstständigkeit*' as 'civil independence', and this is how this term is most often translated in the literature. However, this translation invites confusion. In particular, since Kant refers to independence in his characterisation of the innate right (see *MM*, VI: 237), Gregor's translation suggests that Kant's discussion of innate independence has considerable bearing on his account of active citizenship.⁶ This is mistaken. Innate independence and civil self-sufficiency differ, and Kant marks this difference by using different terms to refer to each. When discussing innate independence, he uses *Unabhängigkeit*. When discussing civil self-sufficiency, he uses *Selbstständigkeit*. Whereas innate independence is the *entitlement* to be free from the necessitating choice of another (when one is performing permissible actions), civil self-sufficiency is the *attribute* of members of a state who do not depend on the authority of any private person or group for their survival (or so I will argue below).⁷

My discussion continues as follows. In Section 2 I argue for an 'authority reading' of civil self-sufficiency. Unlike readings that focus exclusively on economic independence, this reading is able to make sense of Kant's puzzling examples. In Section 3 I argue that, on my reading, civil self-sufficiency does not necessarily exclude women or the poor from active citizenship. In Section 4 I examine three possible justifications for Kant's belief that civil self-sufficiency is a necessary condition for active citizenship (and thus participation in lawgiving). These are (i) the 'incapacity justification', (ii) the 'no liberty justification' and (iii)

⁵ I am not convinced that a blanket exclusion of civilly dependent members of the state from all forms of lawgiving is the best way to tackle the worry about corruption. I discuss this in § 4.3.
⁶ James 2016, Riedel 1981, Holtman 2006 and 2018, Weinrib 2003 and Hasan 2018 seem to think this for instance.

⁷ For more on this distinction, see Dierksmeier 2002 and Shell 2016.

the ‘corruption justification’. I argue that while the corruption justification is the strongest of the three, it still does not justify Kant’s exclusions. It does, however, indicate that Kant was responding to an important and difficult problem that arises when thinking about the possibility of public lawgiving.

2 Civil Self-Sufficiency and Authority

Kant’s account of civil self-sufficiency is primarily contained in two passages, one from the 1797 *Doctrine of Right* and the other from the 1793 essay “Theory and Practice”. Since the *Doctrine of Right* plausibly represents Kant’s mature thoughts on the matter, we will start there.

2.1 The *Doctrine of Right*

Kant characterises a civilly self-sufficient member of the commonwealth as one who owes “his existence and preservation to his own rights and powers as a member of the commonwealth, not to the choice of another among the people (*nicht der Willkür eines Anderen im Volke, sondern seinen eigenen Rechten und Kräften, als Glied des gemeinen Wesens*)” (*MM*, VI: 314). It is due to this attribute that Kant believes we need the distinction between active and passive citizens. Kant introduces this distinction as follows:

[The quality of being self-sufficient] requires a distinction between active and passive citizens, though the concept of a passive citizen seems to contradict the concept of a citizen as such. – The following examples can serve to remove this difficulty: an apprentice in the service of a merchant or artisan; a domestic servant (as distinguished from someone in the service of the state); a minor (*naturaliter vel civiliter*); all women and, in general, anyone whose preservation in existence (his being fed and protected) depends not on his management of his own business but on the direction (*Verfügung*) of another (except that of the state). These people lack civil personality and their existence is, as it were, only inheritance. – The woodcutter I hire to work in my yard; the blacksmith in India, who goes into people’s houses to work on iron with his hammer, anvil, and bellows, as compared with the European carpenter or blacksmith who can put the products of his work up as goods for sale to the public; the private tutor, as compared with the school teacher; the tenant farmer as compared with the leasehold farmer, and so forth; these are mere underlings of the commonwealth because they have to be under the command (*befehligen*) or protection of other individuals, and so do not possess civil self-sufficiency. (*MM*, VI: 314 f.)

Many commentators take the examples in this passage to primarily concern relations of economic dependence. According to one version of this reading, a civilly self-sufficient member of the commonwealth is someone who does not rely *economically* on any other person or group of people in order to survive. Thus, Kleingeld states that, for Kant, “fitness to vote depends not only on being an adult but also on being economically independent and male” (2018, 74).⁸ Call this the ‘simple economic dependence reading’. One strength of this reading is that it seems to make sense of Kant’s claim that dependent members of the state rely on others for their ‘preservation in existence’. This at least appears to signal a concern with economic standing.⁹

However, I believe that this reading does not fully capture Kant’s view of civil self-sufficiency because it is unable to make sense of his examples.¹⁰ It will characterise some of those who Kant claims are dependent as civilly self-sufficient, and some of those who Kant claims are civilly self-sufficient as dependent. If an ‘Indian’ blacksmith or private tutor are exceptionally good at what they do, and so are in high demand, it is not true that they depend economically on the people for whom they work presently; they would be able, by virtue of being in such high demand, to find work elsewhere should their current arrangement falter.¹¹ Focusing solely on economic dependence would thus lead us to conclude that they are civilly self-sufficient, though Kant labels them civilly dependent. The simple economic dependence also risks characterising those who Kant believes are civilly self-sufficient as civilly dependent. For example, a ‘European’ blacksmith still relies on their patrons in order to survive. Even those who Kant believes are civilly self-sufficient rely economically on others. Thus, the simple economic dependence reading only gets Kant’s examples right contingently. Since proponents of that reading have to assume that certain circumstances obtain in order

8 Stilz claims that “those who are economically dependent and have no property or profession” count as passive citizens (Stilz 2011, 203n). However, she has the passage from “Theory and Practice” in mind rather than the above quoted passage from the *Doctrine of Right*.

9 I discuss the possibility that economic concerns underlie the authority reading of civil self-sufficiency in Section 3.2.

10 The examples Kant deploys are far from transparent and have invited the charge of arbitrariness. This charge appears to be exacerbated by the fact that Kant himself would count as civilly self-sufficient according to the account he gives in his published works; see Ellis 2005, 197; Beiner 2010, 25. Weinrib 2008, 12n, suggests that it is Kant’s commitment to civil self-sufficiency that prompted him to become a schoolteacher rather than a private tutor.

11 In what follows, I will only refer to dependence on a ‘private person’. However, this should be taken to mean dependence on a ‘private person or group of people’.

for the examples to work, this reading appears insufficient as an explanation of Kant's account of civil self-sufficiency.¹²

It may be objected that economic dependence should not be understood simply in terms of economic reliance on others, but might also concern one's access to the relevant means of production. Along these lines, Pinzani and Sanchez Madrid 2016, 31, suggest that Kant "does not attach due importance to the fact that [the lack of capital of some members of the state] condemns [those members] to enter into unfair relations with other human beings, landowners or stockholders, as Marx will later observe". Passive citizens, on their account, must enter unfair employment relations as a result of lack of access to the means of production.¹³ This way of construing economic dependence suggests that it is one's position in the economic system as a whole, rather than one's economic relationship to particular individuals, that determines one's civil status. On this reading, property owners, who have access to the means of production, count as active citizens and those who rely on them count as passive citizens. Call this the 'revised economic dependence reading'. This reading does better than the one that we started with. For example, it is able to explain why 'Indian' blacksmiths who are in high demand still count as passive citizens. This is because they still

¹² Ellis 2006 argues that Kant was not interested in determining who has rights of political participation and who does not do so in his discussion of the active/passive citizen distinction. Ellis's view is that Kant did not see full civil self-sufficiency as something that can be achieved, but rather as a standard towards which we can work. By bringing people closer to this standard, we are able to better approximate the demands of political judgement (Ellis 2006, 552). If Ellis were correct, the counterexamples that I have offered above to the simple economic reading, and those that I offer below to other views, would not land. There are, however, two problems with Ellis's view. First, a number of passages offer support for the claim that Kant was interested in excluding some members of the state from the possession of rights of political participation. See, for three examples, *TP*, VIII: 294, *MM*, VI: 314, and *DTP*, XXIII: 317 f. Second, Ellis does not provide an account of what she takes civil self-sufficiency to involve. One way of reading the relevant comments in her paper (cf. Ellis 2006, 551 f.) is that civil self-sufficiency requires no dependence on others at all. This would indeed mean that no person could satisfy Kant's conditions. However, this cannot be what Kant means since we can imagine a number of forms of dependence that clearly have no bearing on whether a person is entitled to political participation. If I depend on my tennis doubles partner to show up for our amateur game, this does not exclude me from active citizenship. Only certain forms of dependence are relevant. But once we specify more fully what forms of dependence are relevant, it becomes less clear why being civilly self-sufficient is impossible. On the reading that I defend, there is no reason to think that it cannot serve as a way of determining who possesses rights of political participation, and this seems to fit with Kant's own discussion of the distinction between active and passive citizens.

¹³ Dierksmeier 2002, Ellis 2006, and Maliks 2014, 105–13, all focus more on the structural relation of property ownership, though they are not as explicit as Pinzani and Sanchez Madrid.

rely on those who have access to the means of production in order to survive. No number of potential employers can change the fact that they are unable to produce goods with the means at their disposal (i. e., their skills and tools). The revised economic dependence reading also makes sense of Kant's claim that relations of right only concern the form of the relationship between individuals, and not material considerations such as relative wealth (*MM*, VI: 230).

This indicates that there is something right about the revised economic dependence reading. In particular, it is right to point to relations in which one person depends on another for their survival as relations that disqualify a person from counting as civilly self-sufficient. However, this reading is not able to accommodate all of Kant's examples. Take, for instance, the distinction between a barber and a wig maker. Kant tells us that the barber is a passive citizen and the wig maker is an active citizen. On the revised economic dependence reading, this difference would have to be explained by appealing to the fact that the barber does not have access to the relevant means of production, but the wig maker does. However, such an explanation would obscure the fact that, unlike 'Indian' and 'European' blacksmiths, barbers and wig makers do not perform the same type of task; wig makers create a good (an '*opus*' in Kant's terms, *TP*, VIII: 295n) and barbers offer a service. The aim of a barber is not to produce a good that can be sold on the market and thus the relevant difference between them is not one of unequal access to means. The relevant difference is the way in which they interact with those who employ them. Barbers depend on the authority of others in the sense that they rely on the permission of others in order to provide their service. Wigmakers do not depend on others in this way when they sell the goods they have produced. The revised economic dependence reading is also unable to account for the difference between a domestic servant and a civil servant. Even if neither has access to the means of production, the civil servant still counts as an active citizen. The revised economic dependence reading cannot account for this difference between them.

I suggest instead that, for Kant, civilly self-sufficient members of the commonwealth do not rely 'on the direction (*Verfügung*)' of a private person for their survival, whereas dependent members do.¹⁴ I call this the 'authority reading' of civil self-sufficiency.¹⁵ I grant that the revised economic dependence reading and

¹⁴ It is necessary to characterise civilly self-sufficient members of the state as not being under the direction of any private person, because all members of a state are subject to the authority of the state (see *MM*, VI: 326).

¹⁵ Varden 2016, 116. also notes that Kant was concerned with authority but does not elaborate on the implications of this. She claims that the central problem for this view is how to reconcile the distinction between active and passive citizens with the innate right to freedom (Varden 2016,

the authority reading overlap in many cases. However, on the authority reading, economic independence is neither necessary nor sufficient for civil self-sufficiency.¹⁶

Let me make an important clarification before turning to Kant's examples. It is not the case that depending on *any* relation of authority is sufficient to disqualify a member of a state from active citizenship. For example, we might think that the captain of my amateur basketball team has authority over me, in the sense that they can decide the strategy the team will employ in the game, make changes to the team, etc. This does not disqualify me from active citizenship since I do not rely on this relation for my survival. Only those relations of authority that must be entered into for one's survival disqualify members of a state from active citizenship. If I played basketball professionally, and so relied on being under the authority of my coach, or the franchise, for my survival, then I would be disqualified from active citizenship.¹⁷ Relations of authority also take different forms, and we should not expect each instance of an authority relation to be identical to all others. For example, those who are employed by the state stand in very different kinds of authority relations to married women on Kant's account.

In what follows, I will explain the authority reading of civil self-sufficiency by appeal to three of Kant's examples: namely, his distinctions between (i) those in the service of the state and domestic servants, (ii) schoolteachers and private tutors and, (iii) 'European' and 'Indian' blacksmiths. As I see it, the difference between each of the pairs is that one of them depends on private relations of authority for their survival, but the other does not.

THOSE IN THE SERVICE OF THE STATE AND DOMESTIC SERVANTS: A person who is in the service of the state counts as civilly self-sufficient because they are employed by the state, which does not express the will of any private individual but the general will. Domestic servants, on the other hand, are employed by a family. They require the permission of 'another among the people' in order to perform the tasks by which they support themselves. The reliance of domestic servants on private members of the state is made especially clear if we consider that many of the tasks that they perform require handling the property of another.¹⁸ Since both those in the service of the state and domestic servants may make little, consid-

117). As was mentioned above, I hold that being under the authority of another particular person is compatible with one's innate freedom.

¹⁶ I discuss this further in Section 3.2. Thanks to Katrin Flikschuh for pressing me to clarify this.

¹⁷ See also Moran (forthcoming).

¹⁸ Domestic servants would also have had work contracts with their employers (which Kant termed a contract of letting work on hire, see *MM*, VI: 285), which further indicates that they

erations of their position solely in economic terms will not allow us to identify a relevant difference between them.

SCHOOLTEACHERS AND PRIVATE TUTORS. At the time Kant was writing, legitimate schools in Prussia received support from the state. This support was used to subsidise the pay of teachers and the construction and maintenance of the schools.¹⁹ Even though they were paid little, schoolteachers therefore did not rely on any private person for their survival and, thus, occupied a similar position to those in the service of the state. Private tutors, on the other hand, relied on the head of the family for whom they worked, and often lived in the house of that family. They thus occupied a similar status to domestic servants (see Kuehn 2001). For this reason, schoolteachers count as civilly self-sufficient and private tutors do not even in cases where the former are poorer.

‘EUROPEAN’ AND ‘INDIAN’ BLACKSMITHS. The idea here is the same as in the other cases (and this example is part of a set of examples that the revised economic dependence reading gets right). Kant identifies ‘European’ blacksmiths as those who are able to produce their goods prior to any specific demand and then sell those goods in public. They do not depend on “the direction or protection” (*MM*, VI: 315) of any private person in order to exercise their skills. This does not mean that they do not require patrons in order to survive, for someone must buy their goods. However, this economic dependence on others does not undermine their civil self-sufficiency. What matters for Kant is that they do not require permission from another private person in order to exercise their skills. ‘Indian’ blacksmiths must travel door-to-door and can only exercise their skills on the condition that another member of the people gives them permission, space, and means to do so.

Thus, by adopting the authority reading of civil self-sufficiency we are able to make sense of Kant’s examples, and we have seen that they cannot be explained solely by appeal to economic considerations. However, defenders of the revised economic dependence reading may argue that the primary support for that reading is not the *Doctrine of Right*, but “Theory and Practice”. Let us turn to the relevant passage now.

were under the authority of those on whom they depended. On the situation of domestic workers in Prussia, see Hagen 2008, chs. 6 and 7.

¹⁹ This subsidisation was a result of the 1763 General-Landschul-Reglement, although financial support on a large scale only occurred in the 1770’s. On this, see Melton 1988.

2.2 Theory and Practice

Here is the relevant passage from “Theory and Practice”:

He who has the right to vote in this legislation is called a *citizen* [...]. The quality requisite to this, apart from the *natural* one (of not being a child or a woman), is only that of *being one’s own master* (*sui juris*), hence having some property (and any art, craft, fine art, or science can be counted as property) that supports him – that is, if he must acquire from others in order to live, he does so only by *alienating* what is *his* and not by giving others permission to make use of his powers – and hence the requisite quality is that, in the strict sense of the word, he *serves* no one other than the commonwealth. (TP, VIII: 295)

While there are many similarities between this passage and the one from the *Doctrine of Right*, they also differ. For example, “Theory and Practice” is primarily concerned with property that can be alienated, while the *Doctrine of Right* speaks in more general terms. Moreover, in “Theory and Practice” Kant explicitly identifies two characteristics necessary for active citizenship. The first is the quality of not being a woman or a child. The second is the quality of being one’s own master, which is understood in terms of having some property. For now, I will leave aside Kant’s problematic exclusion of women from the status of active citizenship (but see Section 3.1).

Kant’s comment on the quality of being one’s own master might be taken to support the revised economic dependence reading (see, for example, Kersting 1992b, 357). In “Theory and Practice”, possession of property is indeed a necessary condition for active citizenship. This appears to allow a person’s material standing to determine their civil status. However, the case for the revised economic dependence reading is not as strong as it first appears. Kant explicitly understands property in a broad sense in the passage above. A footnote brings the view presented in “Theory and Practice” into closer proximity to the view developed in the *Doctrine of Right*. Kant tells us:

Someone who makes an *opus* can convey it to someone else by *alienating* it, just as if it were his property. But *praestatio operae* is not alienating something. A domestic servant, a shop clerk, a day labourer, or even a barber are merely *operarii*, not *artifices* (in the wider sense of the word) and not members of the state, and are thus also not qualified to be citizens. Although a man to whom I give my firewood to chop and a tailor to whom I give my cloth to make into clothes both seem to be in a quite similar relation to me, still the former differs from the latter, as a barber from a wigmaker (even if I have given him the hair for the wig) and hence as a day labourer from an artist or craftsman, who makes a work that belongs to him until he is paid for it. The latter, in pursuing his trade, thus exchanges his property with another (*opus*), the former, the use of his powers, which he grants to another (*operam*). It is, I admit, somewhat difficult to determine what is required in order to be able to claim the rank of a human being who is his own master. (TP, VIII: 295n)

The distinction Kant draws in this passage is between a person who is able to produce some good that can be sold on the market and a person who grants another the use of her powers.²⁰ When I give cloth to a tailor, they create something which they can sell to another should I refuse to pay. The same is true of a wig maker. However, a barber does not create an object that can be sold, but rather grants the use of their powers to another, i. e., performs a service. Kant believes that only those who support themselves by *alienating* something that can be sold as a good on the market can be their own masters. Those who merely grant another the use of their powers serve those others. Thus, while the language used in this passage appears to speak in favour of economic considerations, Kant's concern is with the relation of authority. This is stated explicitly in the drafts for "Theory and Practice", where Kant writes that "[t]he [self-sufficiency (*Selbstständigkeit*)] that is required to be a citizen of a state is the rightful condition of not standing under another's orders" (Stark 245). The tailor and the wig maker do not 'stand under another's orders' in the relevant sense because they are able to produce a good to be sold on the market without the permission of another. The barber and the day labourer, to the contrary, perform a service for which the permission (and means) of particular other persons is necessary.

Thus, while the way in which he draws this distinction differs between "Theory and Practice" and the *Doctrine of Right*, Kant's criterion for civil self-sufficiency in both texts is that one does not depend on private relations of authority for one's survival. In the *Doctrine of Right* this is indicated by Kant's claim that civilly dependent members of the state are under the 'direction' or 'command' of others. In "Theory and Practice" it is indicated by his claim that civilly dependent members of the state serve someone other than the state, whereas civilly self-sufficient members of a state only serve that state and not any member of it.

3 Women and the Poor

With the authority reading of civil self-sufficiency to hand, we can turn to the common charge that Kant's account of citizenship necessarily excludes women and the poor (see Kleingeld 1993 and Kersting 1992b). To be sure: it is both understandable and justifiable that a distinction must be made between those who are

²⁰ Kant draws a similar distinction in "On the Wrongfulness of Unauthorised Publication of Books" when he says that works (*opera*) "can exist on their own, as things, whereas the latter [actions, *operae*] can have their existence only in a person" (*WUP*, VIII: 86; see also *MM*, VI: 290).

permitted to participate in lawgiving and those who are not. For example, it is no cause for concern that children are not able to participate in this way. The concern is rather with the way in which Kant is thought to draw the distinction.

3.1 The Exclusion of Women

As we have already seen, Kant states in “Theory and Practice” that women do not meet one of the necessary conditions for active citizenship. In this context, it is an implication of Kant’s account of active citizenship that women are excluded from that status. Since Kant also excludes women from active citizenship in the *Doctrine of Right*, we may think that his position remained the same throughout his political writings.

However, Kant does not present being male as a necessary condition for active citizenship in the *Doctrine of Right*. Instead, he merely lists women as an example of those who are *dependent*. We should read this exclusion as the result of Kant’s beliefs about women rather than as an implication of his mature account of citizenship. In particular, Kant believed that women are naturally dependent on men in precisely the way that is relevant to his account of civil self-sufficiency. Thus, in his account of marriage in the *Doctrine of Right*, Kant claims that the husband commands (*befiehlt*) and the woman obeys (*gehört*) because of the man’s “natural superiority” (*MM*, VI: 279). This view is also endorsed in the *Anthropology* (published one year after the *Doctrine of Right*), where Kant claims that “Women regardless of age are declared to be immature [*unmündig*] in civil matters; the husband is her natural curator” (*A*, VII: 209).²¹ As seen, Kant holds that those who are under the authority of a private person do not count as civilly self-sufficient. Given his belief that men have a natural authority over women, he committed himself to viewing women merely as passive citizens. Evidently, we do not have to draw the same conclusion as Kant.

The passages quoted above from the *Doctrine of Right* and the *Anthropology* support the view that Kant believed that women were inferior to men as regards

²¹ We might think that this gives women a reason not to marry (see Beiner 2010, 27). If having a husband is the condition under which a woman ceases to be civilly self-sufficient, then not marrying might be a good way of retaining that attribute. This was Fichte’s view. He believed that a woman can manage her own affairs until the point at which she marries. Once she is married, she is under the authority of her husband and so civilly dependent (see Fichte 2000, 301 f.). However, it is unlikely that this was Kant’s view; he suggests in the *Anthropology* that if the husband is not managing the affairs of his wife, then another man, presumably the father or a brother, is (see *A*, VI: 209).

political judgement and should be excluded from lawgiving on those grounds. The fact that today many women *are* no longer dependent on men does not mean that they *should not be* dependent on Kant's account. Even so, since Kant's misguided belief about the natural inferiority of women is not entailed by his account of citizenship, there is no reason to believe that women could not be active citizens on Kant's account in the *Doctrine of Right*. That is, once we correct Kant's false belief about the natural superiority of men in political matters, it becomes possible to attribute civil self-sufficiency to those women who do not depend on private relations of authority.

3.2 The Exclusion of the Poor

Kant's requirement that one own property of some kind has also been the subject of criticism, for it appears to exclude the poor from the status of active citizenship. For example, Kersting 1992b, 357, claims that Kant's account of civil self-sufficiency “[degrades] those without property into second-class political beings” (see Hasan 2018 for an expression of similar concerns).

The concern raised here is that those who have a skill but no material means to exercise it will be barred from active citizenship. This concern has some traction. While Kant's account of civil self-sufficiency is concerned with relations of authority, as I have argued, we can ask what conditions lead someone to enter into such relations. Imagine two blacksmiths of equal talent. One, who has little, is unable to afford the cost of setting up a shop. They are therefore required to go door-to-door in order to sell their skills. The other, who has inherited a significant sum, is able to set up a shop. The former relies on private relations of authority for their survival and so is a passive citizen. The latter does not rely on such relations and so is an active citizen. The only salient difference between them, we can imagine, is their material standing. Thus, we might think that economic independence underlies Kant's concern with relations of authority. One might buy oneself into active citizenship.²²

But we should not move too quickly. Even if it is true that one may buy oneself into active citizenship, that does not mean that the poor are excluded from that

²² Moran (forthcoming) notes that at the time, travelling blacksmiths “were not impoverished – indeed, they usually had an apprentice who travelled with them”. Moreover, Kant would have known this from his reading Sonnerat's *Reise nach Ostindien und China*. This point speaks in favour of the view that material standing is not what determines one's civil status. However, we might still worry that those who are not so fortunate will be ruled out from active citizenship because their material standing requires that they enter into relations of authority.

status. In fact, on my reading, possession of material wealth is neither necessary nor sufficient for civil self-sufficiency.

We can illustrate this with two examples. First, consider the fact that those who serve the state count as active citizens on Kant's account even if they do not hold significant offices.²³ Anyone who works for the state – even those who are paid by the state to clean government buildings, for example – will count as civilly self-sufficient. Thus, on my reading one need not make significant amounts of money, or be independently wealthy, in order to count as civilly self-sufficient.²⁴ Second, a member of a state may be wealthy but still rely on another for the management of their estate (due to incompetence, for example). Such a person may have access to wealth or the means of production, but still rely on relations of authority for their survival. Thus, material wealth is neither a necessary nor a sufficient condition for civil self-sufficiency on Kant's account. Those whose means are meagre may be active citizens and those with wealth may be passive citizens. What matters is not a person's material standing, but whether or not their survival depends on the authority of another.

4 Authority and Participation

So far, I have argued that Kant's account of civil self-sufficiency is concerned with relations of authority between members of a state. The question I turn to now is that of why Kant thinks that dependence on private relations of authority for one's survival is sufficient to exclude a member of a state from the status of active citizenship. To my knowledge, Kant gives no account of his endorsement of civil self-sufficiency as a necessary condition for participation in lawgiving. In light of this lack of explanation, I present three possible reconstructions of Kant's justification. I call these (i) the 'incapacity justification', (ii) the 'no liberty justification' and (iii) the 'corruption justification'. There is something to be said for each of these reconstructions, though I think the corruption justification is the strongest of the three. It ascribes to Kant the view that no member of a state who relies on

²³ Kant does not use the term '*Beamte*' in the *MM*, VI: 314 f. passage. At the time of publication of the *Doctrine of Right* citizenship was "largely confined to privileged members of corporate bodies such as guilds" (Clark 2007, 334). Kant's extension of active citizenship to those who did not hold privileged positions in service of the state thus appears to be more inclusive than the law at the time.

²⁴ An interesting consequence of this is that the state can increase the number of active citizens by nationalising private sectors of the economy. This would increase the number of members of the state who are subject to the authority of no private individuals or groups.

private relations of authority should be permitted to participate in lawgiving. A plausible reason for enforcing such an exclusion is that those depend on such relations to private persons may be more likely to act for the sake of some private interest. This justification may indeed provide the grounds for exclusions in some cases. However, I argue that it does not justify the blanket exclusion from all participation in lawgiving that characterises Kant's account of passive citizenship – civil self-sufficiency is not a sufficient condition for avoiding the kind of corruption that (I argue) Kant was concerned with.

4.1 The Incapacity Justification

According to the incapacity justification, Kant believed that those who are passive citizens are in some way incapable of making a decision for themselves. For this reason, they are barred from participating in lawgiving.

The incapacity justification would have been familiar to Kant's readers. For example, it was the view of the influential French political theorist (and contemporary of Kant's) Emmanuel-Joseph Sieyès. Sieyès states that some members of the state are passive citizens because they are "too dependent to be able to vote freely in favour of their own order" (Sieyès 2003, 109). For Sieyès, the reason why some people are not permitted to vote is that they are incapable of making an independent decision. The vote they cast would thus be like a second vote for the person on whom they depend. Kant may have held a similar view. Indeed, there are recent commentators who believe that this is the best way to make sense of Kant's position. Here are a just two examples:

We now generally regard as false Kant's anthropological claim that those without independent wealth cannot *think* independently enough to cast meaningful vote. (Uleman 2004, 596; my emphasis)

[Kant] may have believed [...] that those who depend on others for their livelihoods would either be too eager to please their masters or too susceptible to pressure [...] for their votes to be truly their own. (Rosen 1993, 39)²⁵

Whereas Uleman claims that, for Kant, dependents were somehow cognitively unable to cast a vote that differed from those on whom they depend, Rosen holds that Kant regarded the power relation between dependents and those on whom

²⁵ For similar views, see Mendus 1992, 170; Ellis 2006, 552; Pinkard 1999; Hasan 2018, 12; and Weinrib 2008, 3.

they depend to be such that dependents were practically unable to cast a vote that represented their own judgement on the matter.

There are reasons that speak in favour of the view represented by these passages. For example, at the time in which Kant was writing, domestic servants only had limited access to information beyond what their master told them. This speaks in favour of the view that dependents might not have been able to make a sufficiently detached judgement for their vote to count as their own. We have also seen that Kant believes that women are immature (*unmündig*) in civil matters, and so are in the same position as a child regarding potential contribution to the laws of the state. This also speaks in favour of the view that Kant believed that dependents are cognitively unable to exercise their own judgement. In addition, Kant may have been thinking about open ballot voting in his discussion of active citizenship since this was in effect at the time he was writing. Thus, on this way of reading Kant, we might think that some members of the state are not permitted to participate in lawgiving because they would be unable to do so on their own behalf.

However, there are two considerations that speak against this reading. The first is that whether or not those who Kant characterises as passive citizens are able to form their own opinions about a particular subject is an entirely contingent matter. For example, a private tutor may be more educated than the head of the household for which they work. They might therefore be fully capable of exercising their judgement independently of their employer.²⁶ Similarly, a door-to-door blacksmith may feel no pressure to vote in a way that reflects the views of those for whom they work. Moreover, the views of those for whom they work may conflict, making it impossible for them to act in accordance with the judgements of each of the people on whom they depend. In addition, if Kant's concern had been about the social pressures that attend open ballot voting, then it is unclear why he would not simply have advocated for a close ballot system. The fact that the incapacity justification fails to capture some of Kant's examples of passive citizens speaks against attributing it to him. However, it does not speak conclusively against this attribution, for Kant may have believed that civil dependence is sufficient for dependence of judgement. The falsity of this belief does not, on its own, stop us from ascribing it to Kant and so does not, on its own, stop us from ascribing the incapacity justification to him.

²⁶ There are also biographical reasons for thinking Kant would not have accepted this explanation. As Malik 2014, 108, notes, "Since Kant had been a private tutor residing in a household, he would have known that [...] the reasoning skills of live-in servants are not necessarily inferior to those of schoolmasters (who are counted as active citizens)".

The second, more significant, problem with the incapacity justification is the following. According to this view, the problem with dependent members of the state is unconnected to the characterisation of dependence itself. Whether or not a person is able to exercise her judgement independently of others bears no necessary connection to whether that person stands in a relation of authority with a private person or group of people. Moreover, even those who only serve the state might be incapable of making a judgement independent of a private person or group. This would happen, for example, if one person idolises another. If we ascribe the incapacity justification to Kant, then such a person should also be considered dependent. Indeed, if dependence on the judgement of another explained why some are unable to vote (or participate in lawgiving in some other way), then we would expect Kant to draw the distinction between active and passive citizens in terms of the capacity for independent judgement. But he does not do this. He casts the distinction between active and passive citizens in terms of relations of authority. This poses a significant problem for reconstructing Kant's views in this way.

4.2 The No Liberty Justification

Kant might also be taken to believe that those who are dependent on another particular person are not at liberty to participate in lawgiving because the authority on which they depend forbids them from doing so.²⁷

Consider the following example. A domestic servant is called for jury duty. We might think that they are unable to take up this call and serve on the jury because they have to perform the duties specified in their contract.²⁸ The same might be said of other passive citizens. They are not passive as a result of any cognitive incapacity, or due to fear stemming from the social power possessed by those on whom they depend, but simply because they are no longer at liberty to

²⁷ Similarly, Moran (forthcoming) claims that Kant is making a “pragmatic point about a person's inability, in effect, to excuse himself from his work”. On this view, passive citizens are not under a duty not to participate in lawgiving, but rather cannot get away as a result of the kind of work they do. I believe that the objections raised above also apply to Moran's view and so I will not discuss it separately.

²⁸ Kant says that domestic servants agree “*to do whatever is permissible for the welfare of the household*” (*MM*, VI: 360f.), and so worries might also arise concerning a lack of independence of action. However, in contrast to the incapacity justification, the fact that a domestic servant may represent their master is not a result of some cognitive incapacity or social power relation, but rather a contractual obligation.

spend their time as they please. We might think that the same might be true of less time-consuming activities such as voting, which still require that one make it to the location of the vote within a certain time. The performance of contractual duties may not allow for this. This provides a more cohesive interpretation of Kant's comments than the incapacity justification, since the exclusion of dependent members of a state from participation in lawgiving is justified by appeal to exactly that feature of their situation that causes them to be dependent.

However, a door-to-door blacksmith need not have all of their time taken up with their duties. Even in cases in which a person must be under the authority of another for their preservation in existence, this does not mean that the use of *all* of their time will be determined by another. Thus, the mere fact that a person is under the authority of another person some of the time does not speak conclusively against that person being permitted to participate in lawgiving. Now, a proponent of this view might argue that participation in lawgiving requires not only making it to the polls occasionally, but also greater engagement with the political process and time to educate oneself about the relevant decisions.²⁹ Passive citizens may not have sufficient time for these more strenuous activities. However, this way of responding to the objection is open to criticism. In particular, the more strenuous the activities associated with participation in lawgiving, the more likely they are to rule out those who Kant would otherwise count as active citizens. The owner of a company or a person who cleans government buildings both count as active citizens on Kant's account, but may have much of their time taken up with their duties and due to this be unable to participate in the more expansive requirements of active citizenship.

4.3 The Corruption Justification

Another reason to justify the exclusion of civilly dependent members of a state from active citizenship is the belief that those who depend on private relations of authority for their survival are more likely to act in a way that advances the private interests of themselves or those on whom they depend when participating in lawgiving. As we have seen, Kant claims that active citizens should serve no one other than the commonwealth (*TP*, VIII: 295). This suggests that he was concerned that those who are civilly dependent would serve a private interest

²⁹ Moran (forthcoming) makes this point in support of her pragmatic reading of the distinction between active and passive citizens, saying that active citizenship may require "sustained information-gathering, debate, and discussion".

when they participate in lawgiving. Such acts of corruption would undermine the public status of the law.

The preservation of the public status of the law is significant for Kant's political philosophy, since publicity plays an important role justifying state authority. In the state of nature, Kant argues, interactions between individuals are morally problematic on the grounds that they either involve a lack of assurance that each person will respect the rights of others (thus resulting in each person constituting a threat to those others) or a morally problematic assertion of authority of one person over others.³⁰ The state is meant to be uniquely able to solve the normative problems of the state of nature. Unlike the actions of individuals in the state of nature, the actions of state institutions do not advance the interests of particular individuals. Rather, the state provides a structure within which individuals can pursue their goals free from the necessitating interference of others (see *MM*, VI: 306 f.; Ripstein 2009, 196). It does this by both promulgating, and making judgements on, laws governing interpersonal interactions and enforcing those laws. By promulgating and making judgements on laws, the state remedies the morally problematic assertions of authority in the state of nature.

We can now see why serving another person when participating in lawgiving would be particularly problematic on the Kantian account. Allowing those who are likely to use participation in lawgiving in order to advance the interests of themselves or others would amount to undermining a central feature of the state. Thus, according to the corruption justification, Kant excludes those who are civilly dependent from participation in lawgiving in order to preserve this feature.³¹

I believe that the corruption justification does better than the other two reconstructions of Kant's beliefs that we have considered for two reasons. First, it is consistent with the authority reading of civil self-sufficiency. According to the corruption justification, the reason for excluding dependent members of the state from participation in lawgiving is connected to what makes them dependent. The concern about corruption arises due to the fact that some members of the state serve a private person or group in addition to serving the state. Second, on the corruption justification, Kant is responding to a problem that is especially relevant to his understanding of the function of the state. In addition to this, the corruption justification does appear to capture an important class of cases. Only

³⁰ For different views on how to characterise the problems that plague the state of nature on Kant's account, see Ripstein 2009, Flikschuh 2000, Sinclair 2018, and Byrd and Hruschka 2010.

³¹ For passages in which Kant is concerned about the possibility of rightful lawgiving, see *I*, VIII: 23, *NF*, XXVII: 1391, *Refl* 7714, XIX: 498, and *Refl* 7683, XIX: 489. I believe that the distinction between active and passive citizenship is one way of dealing with this concern.

active citizens will be able to hold important public positions such as that of a judge or a minister and it is plausible to suggest that holders of such positions should not depend on relations of authority with private individuals. Members of a state occupying prominent public positions ought not to be privately beholden to another member of the state whose interests may be advanced by that person's actions. Those holding prominent public positions ought to be civilly self-sufficient in the way Kant describes.

Despite the strengths of the corruption justification, it also has problems. Perhaps most pressingly, depending on private relations of authority does not necessarily heighten the chances of corruption. There are two reasons for this. First, in many cases, there is no chance for this kind of corrupt action. A domestic servant called for jury duty will rarely (if ever) get called to make a decision on a case the outcome of which would in some way benefit her employer. This, one might say, is beside the point. All that matters is that when members of the state are in a position to act in the interests of those who employ them, they are more likely to do so. Pointing to historical instances of vote buying and voter intimidation may also appear to support this view. However, I do not believe this supports a blanket exclusion of civilly dependent members of the state from participation in lawgiving. Even if we believe that civilly dependent members are more likely to be corrupt, this still only supports contingent exclusions on the basis of the particular circumstances of the person in question. The principle governing participation in lawgiving for civilly dependent members of the state might be conditional: 'if the contribution being made does not impact the interests of the person for whom they work, civilly dependent members of the state are permitted to participate'.

Second, and this seems the more significant problem, it is simply not clear that those who depend on relations of authority with others for their survival are in fact more likely to act for the sake of a private interest. That is, being civilly self-sufficient is not sufficient for a person to eschew self-interest when participating in lawgiving.³² Even those who depend on no private person may act in the interests of themselves or another when participating in lawgiving. Why believe that the head of a company is less likely to act with the interest of her company in mind than one of her employees? If corruption was Kant's main concern when

³² The problem of acting in a way that does not represent one's own interest, and how exactly to specify the nature of legislative acts that would properly count as serving the commonwealth, is a difficult one. Given that Kant was concerned about the fact that in the state of nature an individual's own judgement is privileged, it is hard to see how individual judgement in the context of the holding of civic positions will resolve the problem. It is beyond the scope of this paper to address these issues. For discussion, see Sinclair 2018.

drawing the distinction between active and passive citizens, understanding that distinction in terms of relations of authority between members of the state does not justify the blanket exclusion Kant endorses. While it may support the exclusion of those in prominent public positions from also depending on private relations of authority, it does not rule out civilly dependent members of the state from voting.

5 Conclusion

In this paper I have argued that, for Kant, members of a state are civilly self-sufficient if they do not depend on private relations of authority for their survival. I have also suggested that when distinguishing active and passive citizens on the basis of civil self-sufficiency, Kant may have been concerned with possible instances of corruption in lawgiving. The elimination of corruption is especially important for Kant, since it is the public nature of state institutions that distinguishes state actions from the actions of individuals in the state of nature. A state that merely expresses the will of private individuals would be no state at all on Kant's account. For this reason, his theory hinges importantly on the distinction between active and passive members of the state. Nevertheless, Kant's concern with corruption does not justify his blanket exclusion of members of the state who are under the authority of a private individual or group. Concerns with corruption may justify excluding civilly dependent members of the state from holding prominent public positions, but it does not exclude civilly dependent members of the state from voting. While the claim that some members of the state should be excluded from participation in lawgiving is justified, the principle by which Kant determines who should be excluded is not.³³

MM *Metaphysics of Morals*

A *Anthropology from a Pragmatic Point of View*

TP "On the common saying: that may be true in theory but it is of no use in practice"
("Theory and Practice")

DTP the drafts for "Theory and Practice"

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WUP “On the Wrongfulness of Unauthorised Publication of Books”
 I *Idea for a Universal History from a Cosmopolitan Aim*
 NF *Feyerabend Lecture Notes on Natural Right*
 Refl *Kant’s Reflections*

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