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Claremont McKenna College

Kantian Self-Government and the Role of Deliberation: Taking Seriously Our Mastery of
Ourselves

Submitted to
Professor Hurley

By
Sarah Simionas

For
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Abstract

This thesis works to unpack the ideal state government put forward in Kant's political philosophy. Looking at the work of Arthur Ripstein, Helga Varden, Corey Brettschneider, and Iris Young, I will argue that the ideal Kantian government involves all citizens participating in their own self-governance through democracy. Within this democracy, Kant's definition of individual freedom and requirements for active citizenship act as the procedural and substantive guidance and constraints for the procedures and outcomes of self-rule. Kant's principles of individual freedom therefore need to be codified into a constitution that citizens can appeal to as both authors and addressees of the law. Further, in order to govern in accordance with all citizen's mastery over themselves, a Kantian democracy must ensure that its laws are based purely on public purposes, which are best determined and secured through democratic exercises of deliberation, with the deliberation's procedures and outcomes guided and constrained by the requirements of Kantian freedom. Finally, I will argue that the state has a positive obligation to create and uphold these public avenues of democratic deliberation and point to modern examples of governments who have done so.

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Introduction

Kant refined the philosophical foundations for liberal thought by creating a political philosophy centered on citizens' status as free and equal. For Kant, freedom means being the master of yourself and not subject to the constraint of another. As individuals begin to pursue that freedom in community and shared spaces, we have to reckon with moments where our pursuit of freedom hinders the pursuits of another. Kant makes the compelling case that the only way to resolve being masters of ourselves with living amongst individuals equally entitled to that same freedom, is through public state authority securing the conditions necessary to guarantee our equal freedom. This places a set of positive obligations on the state, actions the state must take in order for its constituents to experience equal, individual freedom, with none subject to the will of another.

As I will further explore, the relationship Kant creates between freedom and state government has powerful implications. In an age where freedom and equality are central to discussions of both liberal states' foundations and flaws, where they are deployed as reasoning for arguments both on the side of hands-off government and expanded welfare states, Kant's philosophy helps clarify the seemingly contradictory implications of individual freedom and living in a community. His philosophy offers us a way to sort through the complex fact that there are some actions a state is prohibited from taking and others that it is required to take, all in the name of equal individual freedom.

While Kant's political philosophy outlines the justification and reasoning behind all state action, one has to consider the government structure necessary to put these theories into practice. Kant asserts that in order to protect individuals' mastery over themselves, state authority must rule on behalf of them all equally, not influenced by the most powerful or common private

interests but with its only concern being equal individual freedom. The state also cannot assign any rule over an individual that the individual would not assign themselves. Kant defines this as the state getting its authority to rule from the omnilateral will.

Kant's definition of individual freedom and equality are compelling. Whether or not individuals attribute it to Kantian theory, I believe that his definitions of both are widely accepted. His connection to how they make public authority necessary is profound. If one accepts both his understanding of equal freedom as well as his argument of what that requires from the state, one next must examine how those requirements ought to be secured. How does a state best rule on behalf of the omnilateral will, and in accordance with each individuals' mastery over themselves?

In this thesis I will argue that the Kantian answer to this question involves all citizens participating in their own self-governance through democracy. Within this democracy, Kant's definition of individual freedom and requirements for active citizenship provide procedural and substantive guidance and constraints for the processes and outcomes of self-rule. Kant's principles of individual freedom therefore need to be codified into a constitution that citizens can appeal to as both authors and addressees of the law. Further, in order to govern in accordance with all citizen's mastery over themselves, a Kantian democracy must ensure that its laws are based purely on public purposes, which are best determined and secured through exercises of democratic deliberation, with the deliberation's procedures and outcomes guided and constrained by the requirements of Kantian freedom. Finally, I will argue that the state has a positive obligation to create and uphold these public avenues of democratic deliberation and point to a modern example of an attempt to do so.

I will begin by using Arthur Ripstein's work in *Force and Freedom* to defend and outline Kant's definition of equal freedom and the public conditions necessary for the state to protect that freedom. I will then turn to the work of Helga Varden in "Self-governance and reform in Kant's liberal republicanism— ideal and non-ideal theory in Kant's Doctrine of Right" to unpack what it means to Kant for the state to act on behalf of the omnilateral will to secure these conditions. Drawing from Varden's work, I will argue that the ideal Kantian state best secures these conditions and freedoms through democratic self-government. It best approximates the omnilateral will by having as many active citizens participating in assigning laws to themselves as possible. I will then turn to the work of Corey Brettschneider on self-government, to show that when conceptualized as a Kantian account, his theory demonstrates how considerations of freedom guide and constrain the procedures and outcomes of self-government. Finally, turning to the work of Iris Young I will emphasize the key role deliberation plays in developing public purposes, and what deliberative democracy guided and constrained by Kant's freedom would look like. The thesis will be structured as follows:

- I. Ripstein's Kant: Reconciling freedom and equality through public state authority
- II. Who governs? Varden on Kant's ideal self-governing state
- III. Freedom's implications on democracy
- IV. Creating public purposes: the role of deliberation
- V. Securing public avenues of deliberation
- VI. Conclusion

I. Ripstein's Kant: Reconciling freedom and equality through public state authority

Kant's political philosophy is unique in the fact that unlike other political philosophers, he does not view developing a political state as instrumental to any purpose that could be secured without the political state. The role of the state does not arise only in response to certain circumstances or in response to negative realities of human nature, or to act as "a coordinating device that enables people to carry out their moral obligations more effectively" (Ripstein 1). Arthur Ripstein in *Force and Freedom* characterizes Kant as "rejecting empirical or anthropological starting points in political philosophy" (4). Instead, for Kant, political philosophy is entirely guided and limited by his definition of freedom: for individuals to be their own master and not subordinated to another person's arbitrary will (Ripstein 4). The state is intrinsically tied to this definition because the only way to guarantee this freedom is through public law and institutions. "The consistent exercise of the right to freedom by a plurality of persons cannot be conceived apart from a public legal order" (Ripstein 9). It is this necessity that gives the state authority and legitimacy that no individual could have.

Kant's definition of freedom begins from a person's innate right of humanity. This innate right means that you have the right to independence from others. It also encapsulates what Kant refers to as one's rightful honor, that you are required to "not allow yourself to be a mere means for others" (Ripstein 18). People are entitled to this "independence simply because they are persons capable of setting their own purposes" (Ripstein 17). In order to expand from one's bodily autonomy to robust independence, there must also be entitlements to things outside one's body. "Freedom requires that you be able to have usable things fully at your disposal," and therefore introduces the concept of private rights (Ripstein 19). Private rights expand beyond

bodily autonomy to entitlements that fall into the “areas of law governing property, contract, and other legal relationships between private parties” (Ripstein 18).

Freedom requires independence to pursue one’s ends, which requires autonomy over one’s self and having private control over certain goods or tools that serve as means to achieving those ends at your disposal. However, there is the important consideration that one is living in a community of individuals all with these same equal innate rights. One’s freedom is therefore defined relationally: this freedom is “subject only to such constraints imposed by the entitlement of others to use whatever usable things *they* have” (Ripstein 19). The extension from innate rights to private rights introduces people’s abilities to make claims to different things. Kant argues that these claims require public authority to be legitimate. Without private authority, one does not have the assurance that if they “leave objects belonging to others untouched” the same will be done towards them (Ripstein 23, Kant 6:256). There is also the issue of indeterminacy, of not knowing what and how much of something can be acquired. Finally, acquiring property changes the normative setting for other individuals of what is available to them. This places other individuals under new authority. Given individuals’ equal status as masters of themselves, someone would not be able to exert this power over another if it was not for “more general, omnilateral authorization” (Ripstein 24). Public authority therefore is needed to enable our private rights.

To make Kant’s argument more clear, Ripstein explains it through a *reductio ad absurdum* of famous opposing libertarian arguments using the example of public roads. Ripstein begins with the situation where only equal private freedom exists in terms of land. Everyone can control what happens on their land but cannot do anything to others’ land without the owner’s approval. Included in this is that you cannot enter others’ land without their consent. Let’s say

you want to visit a friend's land, but they are not directly adjacent to you. For every body of private land you have to pass over, your ability to pursue your purpose is in the respective landowner's hands. Not only that, but if some of the landowners allow you to pass through but then others deny you and you have to turn back, you would need permission back through the land. Now, not only were the other landowners in a position to stop you from pursuing your original purpose of freely interacting with your friend, but they are entitled to stopping you from even returning to your private property. "Their property right gives them a power to block [you and your friend's] consensual interaction... it is not just that we are unable to get together when we want to; somebody else gets to decide whether we are allowed to" (Ripstein 246). The situation where everyone is experiencing private freedom is interfering with one's ability to be their own master, and therefore violating Kant's definition of freedom. The solution to this problem that allows private property rights and freedom to be reconciled, is a system of public roads that guarantee equal access to voluntary travel (Ripstein 249). In order for everyone to have access to the road, "the road and the public rules regulating it come as a package," which refutes arguments that public laws are encroachments on freedom of choice (Ripstein 249). The public road and the rules of the road are necessary to reconcile the interacting individuals' rights to private property and freedoms to be their own masters.

As seen when the individuals in Ripstein's public roads example are landlocked from traveling to one another, public law is needed to authorize private property's use and ability to be exclusive, as well as ensure that a system of private property does not inhibit others' equal claims to mastery over themselves. The public road guarantees that others do not need to resort to encroaching on your private property to pursue their ends. Its establishment through public law guarantees your right to exclude them off your property, thus securing your mastery, too.

Because of this, the public right to the road and the laws governing it are preconditions needed for private rights to be enjoyed by interacting individuals.

Public roads are just one example of a condition that the state must secure in order to protect individuals' ability to be their own master. The public road can also be thought of as an analogy for a robust set of public conditions necessary for an individual to be master of their own life. The example of public roads specifically deals with our ability to be in control of our movement, but the analogy would translate to, for instance, a basic public access to food and water. If one is to be their own master, they need access to basic sustenance. If an individual has to take food and water from another person to survive, they compromise the mastery of the individual they are stealing from by compromising their exclusive right to their private property. This action would also be inconsistent with the dependent person's rightful honor to not be subject to the will of another (Ripstein 26). Since, "citizens lack the rightful power to bind themselves to such a situation... enforceable private property is only rightful under a law that precludes this possibility" (Ripstein 26). This argument explains Kant's commitment to protection from poverty, and can be extended to public conditions such as healthcare, housing, and education that individuals need access to to be able to support themselves. It is only after these basic public conditions are secured that private rights can be acted on in a way that is consistent with individuals' equal freedom.

Ripstein's explanation of Kant's political philosophy has therefore shown the necessity of state authority and public law. The state reconciles our individual mastery with our equality through the public conditions it secures and public laws it enacts that enable individuals to secure their private rights. The condition where individuals are able to experience private rights is called the rightful condition. Ripstein best summarizes what this entails for the state:

The state is under a positive obligation to take steps to secure, maintain, and improve a rightful condition. This positive obligation in turn generates a right on the part of the officials to make and implement judgements about how to best do this. They cannot make arrangements for the people that those people could not make for themselves (26).

This idea of the state assigning laws consistent with what its people can assign for themselves constrains the role of the state in two ways. First, it defines the role of the state to the “specification of properly public purposes,” both limiting the scope of the state’s work but also empowering it to determine how those purposes should best be pursued. Ripstein notes, “how exactly [public purposes] are best pursued— whether, for example, the best way of providing for the poor includes job training or public health insurance against debilitating illnesses— is a question for a principle of politics to decide,” (27). Second, the power to give laws to themselves is restricted by what is required by their individual innate rights. Just because a certain strategy would be more efficient at securing public purposes, if it does not align with each person’s individual rights, citizens cannot assign that for themselves. Ripstein gives the example that a “hereditary bureaucracy could be more efficient than a system that left careers open to talent” in protecting individuals from poverty, but a state in the rightful condition cannot enact that because it compromises individuals’ innate rights to be masters of themselves (27). Given these constraints, Ripstein concludes that “the principle of public right thus does not seek to generate a specific answer to every question of politics, only to show that having public bodies reach decisions which could have been different is consistent with each person’s right to be his or her master” (27).

Ripstein’s comments on how principles of public right constrain the actions of the state but leaves open questions within the principle of politics are important, and will be returned to in

my third and fourth sections. First, I will explore what Kant says about the structure of the state that establishes this rightful condition and acts on this omnilateral will. Kant's work at first glance seems to argue that the omnilateral will can be expressed in an autocracy, bureaucracy, or democracy, as long as those ruling rule from a public perspective. However, turning to the work of Helga Varden, I will argue that Kant points to a democratic system of self-government as the ideal structure of the state. From this I will conclude that the omnilateral will is best approximated when lawmaking power is actually expanded to as many citizens of the state as possible.

II: Who Governs? Varden on Kant's ideal self-governing state

Helga Varden in her work "Self-governance and reform in Kant's liberal republicanism-ideal and non-ideal theory in Kant's Doctrine of the Right" explores Kant's idea of self-government by unpacking his understanding of different political systems and his use of ideal theory. In looking at Kant's view on political systems Varden will further clarify his definition of the omnilateral will, citizenship, and public versus private reason. Her exploration of his use of ideal theory sheds light on Kant's understanding of how states should reform themselves.

First, in order to clarify what ruling from the omnilateral will means, Varden deploys an extensive section of Kant's work in the *Metaphysics of Morals* that defines what it means to be a citizen. He characterizes a citizen as such:

The members of such a society who are united for giving law... are called *citizens of a state*... In terms of rights, the attributes of a citizen, inseparable from his essence (as a citizen), are: lawful *freedom*, the attribute of obeying no other law than that to which he has given his consent; civil *equality*, that of not recognizing among the *people* any superior with the moral capacity to bind him as a matter of right in a way that he could not in turn bind the other; and third, the attribute of civil *independence*, of owning 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... (6:314f) (Varden 43)

From this quote from Kant, we conclude that being a citizen of the state requires lawful freedom, civil equality, and civil independence. Lawful freedom asserts that citizens can only be assigned laws they consent to (which Kant says is done through voting). Civil equality shows Kant's clear commitment that no person should be able to exert more power over an individual than the individual could exert over them. It protects innate rights and sets aside rights that the general will cannot vote away for any part of their population. And finally, independence: having control over your existence and the preservation of your rights rather than someone else. Since some members of society do not have that independence, Kant differentiates between passive

and active citizens. Kant argues that to be a citizen one has to be fit to vote, and being fit to vote depends on having this independence from the choices of others. Active citizens, who have all three of the criteria above, therefore have the right to vote and passive citizens, who have the first two but lack independence do not.

Even Kant acknowledges that “the concept of passive citizen seems to contradict” his conceptions of citizens, freedom, and equality (6:314f). He therefore turns to examples to clarify this. He writes that passive citizens are citizens such as “an apprentice in the service of a merchant.... domestic servant... a minor...all women... all these people [who] lack civil morality” (Kant 6:314f, Varden 43). He characterizes these groups as lacking civil morality because the preservation of their existence and rights depends on the will of others. However, because they still have rights to freedom and equality, active citizens still must govern in accordance with their rights. Kant also writes that in order to protect all citizens’ freedom and equality the laws enacted must allow for “anyone [to] work [one’s] way up from this passive condition to an active one” (Kant 6:314f).

Kant’s differentiation between active and passive citizens enters controversial grounds, but first looking at the noncontroversial example, children, can show the merit in his general separation between active and passive citizens. Children lack the moral capacities to be trusted to vote on laws, yet they are still members of society whose equality and freedom matter, and therefore justify a split between active and passive citizens. Existing laws contain their ability to become active citizens, which they will be able to do when they reach a certain age, and therefore are in accordance with their equality and freedom.

However, Kant also mentions domestic servants and women in this category of passive citizens. Kant presents these two examples to try and clarify the contradiction between his idea

of passive citizens with his ideas about freedom, but to the modern reader this only deepens the contradiction. His assertion that domestic servants and women are dependent on the will of others should, according to his own theory of freedom and equality, point to a problem in the state for not securing their independence. Varden unpacks this moment in Kant's theory in a way that further clarifies his use and understanding of ideal theory.

Varden notes how there are times in Kant's theory where he confusingly switches from arguing strictly from a position of ideal theory, assuming individuals want to respect each other's reciprocal freedom, to accounting for non-ideal aspects of human nature and how we should "think about interaction given such conditions" (47). However, even in these moments, Kant remains unequivocally committed to the idea that ideal theory must set the framework of his philosophy. At times ideal theories will be able to incorporate certain non-ideal circumstances within it, but Kant argues that theories of justice should not be made the other way around. From this, he finds that ideal theory should set the framework for how states are governed, and states should work to reform themselves to get closer to the ideal state, where the rightful condition is secured. This is because "freedom cannot be ideally, coercively limited by anything but considerations of freedom itself—any other limits must be considered fundamentally contingent, and hence also correctible, over time" (Varden 48).

Varden also turns to Kant's work in the *Anthropology* where he writes that societal reform is a slow process "because it is both something we must do together and something that requires education" (Varden 49, Kant A7:322-30). Taking Kant's view of ideal theory's relationship to non-ideal circumstances and his understanding of societal reform, Varden asserts that Kant does not view himself above this need for reform. To explain this, I will quote Varden extensively:

It follows from what Kant says there that if he makes claims concerning history or moral anthropology that are mistaken (and so wrongly makes space for them in his ideal theory of justice), then this can and should be corrected. Kant is not only worried that others may make mistakes, in other words, but also that *he* might be making mistakes by “misrepresent[ing] as unattainable what has only not been attained just because the law has not been seen and presented in its purity.” (MM 6: 217) And this problem of mistakes (bad judgment) is one main reason why it is so important that freedom (the unconditioned) is what sets the framework of justice, and not the contingent facts (including historical and anthropological ones) that such an ideal theory of freedom must make space for. (49).

Therefore, when Kant writes that women and domestic servants should be passive citizens, it should be interpreted as Kant mistakenly making space for non-ideal claims about history or moral anthropology in his ideal theory. Generations of effort from racial justice and women’s movements have worked to show that we cannot reconcile a group of people’s lack of independence with their innate freedom and equality. However, it is significant that his ideal theorizing of freedom came before this claim. In this sense, we can reform his mistaken anthropological claims to be closer to the very ideal he put forward. It is also worth noting that Kant believes that all passive citizens should be able to work themselves into a position of active citizenship. This shows that Kant envisions society to ideally expand active citizenship to all citizens. Given this statement, Kant’s use of ideal theory, and definition of equal freedom, one can conclude that in Kant’s ideal state all adults would be acting as active citizens.

With this definition of active citizenship in mind, we can next turn to Kant’s understanding of how government is to be structured. Kant outlines a tripartite government, with a legislative, executive, and judicial branch. Both Varden and Ripstein explain how these three branches arise from and to address Kant’s problems with a system of private rights. The legislative branch is thought of as the “general specification or positing of laws” that guarantees law is made by the “voice of the people, so that they rule themselves” (Varden 45, Ripstein 23).

The executive branch that “upholds the law” provides assurance that “others have that incentive to respect everyone’s acquired rights” (Varden 45, Ripstein 191). And finally, the judicial branch takes the general specifications of the law and applies them to particular cases, which “solve[s] problems of indeterminacy by interpreting objective standards from a standpoint that is not defined by the views of either party” (Ripstein 191).

While the state must have these three branches, Kant seemingly does not advocate for a single kind of government. Varden writes that:

Kant is explicit in the Doctrine of Right that the idea of a tripartite public authority (legislative, judicial, executive authority) as representing the general, united will of the people can be understood as held by or entrusted to be one person (autocracy: one active citizen), by a few persons (aristocracy: a few active citizens), or by many (democracy: many active citizens) (Varden 52, Kant 6:338f).

While Kant writes that state government can be conceived as an autocracy, aristocracy, or democracy, Varden argues that Kant advocates for states to reform themselves “into better and better means through which a people realize justice together through public self-governance” (52). In this sense, her argument will show that while Kant believes all of these types of government can be minimally just, self-governing democratic systems move closer to the ideal version of the state. Varden creates this argument by combining Kant’s work where he outlines the different ways law, force, and freedom can be combined, and his understanding of how ideal theory and nonideal circumstances interact.

First, Kant defines the different possible combinations of force, freedom, and law as follows:

A. *Law and freedom without force (anarchy)*

B. *Law and force without freedom (despotism)*

C. *Force without freedom and law (barbarism)*

D. *Force with freedom and law (republic)*

(Kant A7: 330f) (Varden 42)

For Kant, law and freedom are the two pillars of a civil society, with force serving as a middle term connecting the two, ensuring that the law is effective in securing freedom. While law and freedom can exist without force, this situation is one where we have not “enabled justice... but also one in which there is also no injustice; it is simply a condition ‘*devoid of justice*’” (Varden 53). Kant labels this an anarchy. The only condition worse than this is barbarism, where there is no freedom or rights-securing laws. Kant concludes that neither of these conditions are just: anarchy is devoid of justice and barbarism, where “force is not restricted” by freedom or law is unjust (Varden 53).

Where there is “rule-governed stability” but that rule is not “based on the protection of all citizens as free and equal” there is law and force without freedom, despotism (Varden 54). For there to be people in charge of the state that are exercising law and force without freedom means that those who govern are governing from a position of private power, rather than public interests that secure the equal freedoms of the people they are governing. The government in place is not representative. Varden notes that this private power can be exercised by one person (autocracy), a handful of people (aristocracy), or a larger group of citizens (democracy) “subjecting all others to [their] private choice” (54). However, it is also important to note that a despotism is still experiencing stability because of the laws and force in place, thus according to Kant making it “often prudent and wise to work within it to strive towards the establishment of civil society” (Varden 54).

A republic, on the other hand, where force exists with freedom and law, is the only “true civil condition” where individuals’ mastery of themselves is protected by public authority (Kant A 7:330f). A republic is able to accomplish this because it is ruled by public persons, using their voting and lawmaking powers to protect citizens’ status as free, equal, and independent. If public officials were to use their positions to pursue their private interests, the law would deem them as corrupt. Because the republic is the only state where citizens experience equal freedom, it is the only one where (with reform) all “morally responsible citizens can work themselves into a condition where they actively can participate” in self-rule, by participating “in informed ways in public reason generally and by holding any of the public offices” (Varden 54).

Varden then introduces Kant’s idea of the minimally just state, where there is a tripartite government and public authority, but where most citizens are passive citizens rather than active. This means that not everyone can work their way up into law-making positions. These minimally just states may exist because of “reasons of prudence and history,” meaning that in the interest of their stability, their reform to a more just state must be a slower process (Varden 56). For states with histories of being unjust, reforming to a civil society can be timely and require a period where they rely on individuals with inherited power to take positions of public authority to maintain their stability as they reform into an increasingly just state. Because not anyone could work their way into positions of public authority, Kant characterizes these minimally just states as having despotic elements, because their legal-political institutions rely on “one, few, or some” specific, thus private, persons (Varden 56). Varden thus shows that for Kant, a state cannot remain in a minimally just state, with “many imperfectly republican or despotic, actual institutional principles,” for long and must reform into a “flourishing” republic, “where the republican ideas of self-government infuse the whole” state and public culture (Varden 57).

Once again, this discussion of the minimally just state reforming itself points to the idea that Kant's ideal state includes as many citizens acting as active citizens as possible. Given that being an active citizen means one has lawful freedom, equality, and independence, we can conclude that based on our innate rights, ideally, all adults should be able to act as active citizens. Therefore, while Kant says that a republic can be an autocracy, monarchy, or democracy, given the ideal expansion of active citizenship, it seems that moving from a minimally just republic to a flourishing republic would require opportunities for this larger group of active citizens to participate in self-rule through democratic processes.

Another key point can be revealed by returning to Kant's distinction between despotism and a republic. In his separation between despotism and a republic, Kant does two important things: he both differentiates between what constitutes a public and private perspective and links public perspectives to the realization of equal individual freedom. Given that Kant's account of political philosophy is entirely based on freedom, this key aspect of governance that determines its realization should receive significant attention. Kant also wrote that a democratic process of individuals ruling from private purposes would also be a despotic system. Therefore, while the expansion of active citizenship points to Kant's ideal advocating for democratic processes, it is critical that these are democratic processes of self-rule where active citizens are ruling from a public perspective. Any attempt of making Kant's freedom-based account an empirical reality relies on our ability to create and rule from strictly public perspectives.

To reiterate, a public perspective means governing with the only concern being citizens' equal individual freedom. The public perspective creates laws that all citizens could assign themselves. It aligns with and protects citizens' mastery over themselves and right to pursue their private interests. A private perspective means individuals are governing in accordance with their

privately held interests or preferences. Taking into account Kant's belief in expanding active citizenship and governing from a public perspective to individual freedom, one can conclude that for Kant's ideals about state government and individual freedom to be realized, a state must be ruled by as many active citizens as possible, developing and ruling from public perspectives.

Varden writes:

“Kant was, if not the first, then among the first to give a thoroughly freedom-based rather complex account of public reason. Public reason includes what we saw above as the kinds of ideals that we, as citizens of liberal states, must hold those entrusted with public authority accountable to, as well as, of course, the ideals those vested with public power must uphold as they reason and uphold the rule of law” (58).

While Kant provides guidance for what a public perspective can consider and must be concerned with, he mentions the public discussions and institutional mechanisms necessary for citizens to establish public purposes as if they are self-explanatory to conduct. Varden concludes her article on this note: “if this account is correct then one important aspect of [creating this ideal state] must be to build mechanisms ensuring that the public authority is exactly how it should be” (63). The next section will begin to explore what putting this freedom-based account of public reason into practice would entail to get closer to the realization of a state government based on Kant's principles of equal individual freedom.

III. Freedom's implications on democracy

Given that Kant's ideal form of state government is one where all citizens can act as active citizens and one that is ruled from a public perspective, we can conclude that an ideal Kantian state government needs to be public in two senses of the word. On one hand, it must be publicly accessible for active citizens to participate in their own self-rule. On the other, it must be public in its reasoning for the laws it pursues and rights it invokes. This two-pronged publicity is necessary to secure the rightful condition, where individuals are masters of themselves.

In the Preface of the *Metaphysics of Morals* Kant writes:

Toward the end of the book I have worked less thoroughly over certain sections than might be expected in comparison with the earlier ones, partly because it seems to me that they can be easily inferred from the earlier ones and partly, too, because the later sections (dealing with public right) are currently subject to so much discussion, and still so important, but they can well justify postponing a decisive judgment for some time (Kant 6:209)

By making his principle of equal individual freedom the foundation for the role of the state, Kant's theory provides guidance for how state authority should function and precise standards for what citizens should expect from the state. At the same time, as Varden affirms, Kant "explicitly and deliberately left behind" some of the work of securing public rights "for those coming after him" (Varden 40). With a firm foundation in Kant's political philosophy, we can begin to develop and evaluate systems of self-government and principles of politics by holding them up to his standard of freedom. To move Kant's ideal theory to an empirical reality, one must establish political practices that make state government public in nature. To do so, these practices must create laws and policies based on public reason and allow for all citizens to

act as active citizens, giving laws to themselves. To explore how this twofold mission can be accomplished, I will turn to the work of two philosophers, Corey Brettschneider and Iris Young, to examine the decision-making processes within self-government. Brettschneider's work will show that procedures of self-government and their substantive outcomes are both empowered and limited by Kantian freedom. He therefore argues that the individual rights flowing from Kant's account of freedom must be codified in a constitution in order for citizens to appeal to them when they are both creating public purposes and pursuing their private interests. While Brettschneider's work continues to emphasize the importance of law being based on public reason in securing Kantian freedom, Young's work will emphasize the role deliberation plays in creating public perspectives and holding the government accountable to pursuing them. By showing the implicit appeals to equal individual freedom within Young's work that aligns with Kant's theory, one can apply the procedural and substantive constraints presented in Brettschneider to deliberative democracy to envision what this important process of Kantian self-government should look like. For a state government to be public in both its practices (such that all citizens can serve as active citizens) and its reasoning (such that laws appeal to citizens' status as free and equal), implies certain expectations from both the government's procedures and the substance of the laws it creates.

Within democratic theory there is the well-known debate on how we measure if a democracy is functioning justly: by its procedures or by its outcomes? For proceduralists, how democratic a society is is judged based on the system in place for self-governance. If the system in place is democratic, then its outcomes— whatever they may be— are democratic. Those who take issue with this worry that a majority rule can approve a law that is inherently undemocratic or unjust, such as taking away the rights of a minority of people. On the other side of the debate

are those who measure the justice, or success, of democracy by its outcomes: are the procedures in place producing laws and conditions that align with a certain definition of what justice looks like? Others will characterize this as self-governing republics moving towards some conception of the common good, some ethical or moral conception of what our lives should look like in a community. The concern with this is the question of *who* gets to determine what constitutes as the “right” outcome democracy should strive towards in addressing problems the state faces. Further, there is the concern that the “right” answer democracy should strive towards limits individuals’ autonomy to create and pursue their own definition of the good, or virtuous life.

What does it mean, then, for Kantian theory to imply expectations on both self-governing procedures and the outcomes of those procedures? Corey Brettschneider’s work, *Democratic Rights: the substance of self-government*, offers clarification. Brettschneider wants to offer an alternative to this debate within democratic theory by arguing that “democracy is an ideal of self-government constituted by three core values — political autonomy, equality of interests, and reciprocity” that guide and constrain both the procedures of self-government and its outcomes (3). Thus, both the procedures and substantive outcomes of self-government must be held up to these core values in order to declare the state just. Brettschneider believes that this “proposes a general shift in democratic theory from an emphasis on value-neutral procedure to a moral account of democratic values,” with the best defense for adhering to the values he puts forward being that they respect citizens as self-rulers (27). He writes that a “state can best respect this status by honoring the right of citizens to participate in democratic procedures *and* by limiting those policy outcomes that would fail to respect citizens as rulers” (27).

When held up to Kantian theory, it becomes clear that the three values that Brettschneider sees as guiding democratic theory have an even deeper foundation. Beneath Brettschneider’s

ideals of political autonomy, equality of interests, and reciprocity, is an underpinning commitment to freedom. Brettschneider's values benefit from being reframed as Kantian freedom because where Brettschneider takes democracy to be intrinsically valuable, a Kantian account justifies the commitment to democracy as a more compelling commitment to freedom. In turn, Brettschneider's theory clarifies Kantian government's dual commitment to procedures and laws that are public in nature.

First, in order to equivocate the implications of Brettschneider's theory to Kant's theory one must equivocate Brettschneider's core values to Kant's definition of freedom. Brettschneider's equality of interests, political autonomy, and reciprocity represent Kant's ideal of individuals having mastery of their lives as active citizens experiencing lawful freedom, civil equality, and civil independence.

Equality of interests, as the name suggests aligns with Kant's definition of civil equality: "that all reasonable interests of citizens be respected as having equal weight" (Brettschneider 23). Brettschneider defines a reasonable interest as one that appeals to public reason which he defines in the same way Kant defines the public perspective, as "appeal[ing] to citizens' status as free and equal" (Brettschneider 61). Therefore, equality of interests means citizens have equal claims to freedom, no individual has the "moral capacity to bind [another] as a matter of right in a way that [other] could not in turn bind [them]" (Kant 6:314f, Varden 43). Next, political autonomy refers to the "treatment of citizens as individual rulers in a society characterized by collective self-rule" (Brettschneider 24). This aligns with Kant's definition of civil independence, of "owning [one's] existence and preservation to [one's] own rights and powers as a member of the commonwealth" (Kant 6:314f, Varden 43). Finally, Brettschneider's reciprocity refers to the public reason embedded in Kant's political philosophy. Reciprocity means that

“policies governing citizens’ treatment must be defensible by appeal to arguments that reasonable citizens can accept” by “appealing to citizens’ common values of autonomy and equality to discern the limits of coercion” (25). Brettschneider refers to reciprocity as an “organizing value because it suggests how to apply the other two core values” of equality and autonomy. Similarly, Kant’s lawful freedom refers to not being subject to law (coercion) that you did not consent to. If one only obeys laws they consent to (lawful freedom), that means that no other citizen exercised power over them that they could not have over the other (civil equality), and they were able to preserve their rights and powers as a member of the commonwealth (civil independence). In this sense, Kant’s lawful freedom encapsulates the requirements of civil equality and civil independence, just as reciprocity encapsulates the requirements of equality of interests and political autonomy.

While Brettschneider attempts to ground his theory in the intrinsic value of democracy, even in his own argument Brettschneider points to a definition of individual freedom greater than democratic self-rule. This is seen in a hypothetical he presents, Larry Legislator. Larry Legislator is a democratically elected legislator who has access to all the procedural rights, information, and methods of communication necessary to legislate in accordance with public reason and Brettschneider’s principles of self-rule, but is locked in a cell for the duration of his term as legislator. Brettschneider says that it follows our intuition to say that Larry is not actually living the democratic ideal because “if citizens are deemed capable of making decisions for others on the basis of rights of political rule, it should follow that they are capable of making decisions for themselves in the most important matters of their own private lives” (31). This shows that while Brettschneider claims that his core values are based in the intrinsic value of being self-ruling, the value of self-ruling is actually based in the intrinsic value of experiencing freedom as being

masters of ourselves. Freedom requires us to be masters of ourselves, which therefore requires us to be self-ruling, active citizens. But to simply be self-ruling in a political sense would not guarantee being master of ourselves in our private lives.

It is from this understanding of Brettschneider's core values as actually approximating a commitment to equal individual freedom that we can evaluate how Kant's political theory guides and constrains democratic procedures and outcomes by turning to Brettschneider's explanation of how equality of interests, political autonomy, and reciprocity have procedural and substantive implications.

First, Brettschneider considers what it means for citizen's reasonable interests to have equal weight in a democratic society. Procedurally, this invokes the same notions as the saying "one person, one vote" (Brettschneider 23). Contrastingly, Brettschneider gives the example of John Stuart Mill's proposal that educated individuals should have two votes in order to produce "better" legislative outcomes. Where Brettschneider writes that this would undermine "the sense of democracy by all the people and the democratic idea that all citizens have equal status," Kant would extend this to argue that it undermines individuals' innate status as equal masters of themselves (24). Brettschneider goes on to say, however, that the value of equality of interests implies more than this, it implies a substantive limit on democracy. Even if a democratic procedure gave every citizen an equal opportunity to participate in legislation, it could still produce laws that undermined that status of equality. As proof of this, Brettschneider points to the fact that while American colonist's argument of "no taxation without representation" may at face value seem like an argument for procedural equality, he points to the fact that the colonists "refused representation in Parliament on the grounds that their fundamental interests as colonists would be neglected even if they enjoyed procedural equality with Englishmen" (21). This goes to

show that procedural equality does not guarantee substantive equality in rulings. This is also captured in Varden's earlier statements that democracy on its own does not guarantee the pursuit of public purposes. Rather it is still open to the risk of simply being "a larger group of citizens... subjecting all others to [their] private choice," thus despotic in nature (Varden 54). The argument that individuals' civil equality has substantive rather than strictly procedural implications on lawmaking is further justified from Kant's definition of innate right that does not allow one to make themselves a mere mean for others. "At the level of private right, you cannot sell yourself into slavery; at the level of public right, the state lacks the power to make arrangements for you requiring you to advance another person's private purposes" (Ripstein 18). As a matter of freedom, one must respect their own and others' status as free and equal both in the procedure of lawmaking and the substance of the laws they subject themselves to.

Brettschneider further shows this in his discussion of political autonomy. Brettschneider writes that the value of political autonomy forbids citizens to be forced to vote a certain way or for one citizen to purchase the votes of another even if either action would bring about some "overall good" (24). These actions would be undemocratic because they rid citizens of the autonomy to make their own political decisions. For Kant, these practices would undermine your ability to own your rights and existence, and make you subject to the choice of another therefore reducing you to a mere means. Moreover, just as equality had substantive and procedural implications for lawmaking, so does our autonomy. Brettschneider shows this through an examination of ex post facto laws. He gives the example where state prosecutors have a known murderer that they for legal reasons cannot get a guilty verdict on. These prosecutors "might want to define new crimes ex post facto so that the defendant could still be convicted" (Brettschneider 39). One could even imagine that all active citizens were brought into this

decision-making process equally and were in agreement on this course of action. Brettschneider argues that a law of this nature would “undermine [the defendant’s] status as [an] autonomous self-ruler by abridging their ability to foresee when the state will and will not coerce them” (41). By subjecting individuals to “coercion without fair warning, citizens could not plan their lives without fearing arbitrary mistreatment” (Brettschneider 24). Another way of putting Brettschneider’s point on political autonomy is that even if all citizens equally participating in lawmaking decided to sentence an individual to life in prison, it is not enough to sentence the person “because a majority of legislators voted as such” (Brettschneider 43). The substance of the law they are invoking to imprison the individual matters, and must comply with their status as equal and autonomous. As a matter of freedom, “citizens as rulers must be given reasons for state coercion” and those reasons must uphold their status as masters of themselves, equal with their fellow citizens (Brettschneider 43). Similarly, in the *Metaphysics of Morals* Kant emphasizes that “freedom ‘is the principle and indeed the condition for any exercise of coercion’ (MM 6:340) — making rightful coercion the ‘*hindering of a hindrance to freedom* in accordance with a universal law’ (MM 6:231)” (Varden 40). Therefore, just as with equality, political autonomy has implications not only for democratic procedure, but the substance of the laws enacted so that individuals can own their existence and protect their freedom.

Further, Brettschneider’s discussion of ex post facto laws parallels a similar argument in Kant’s understanding of how public law secures our freedom to pursue our own private interests and thus our autonomy. Kant defines public authority as necessary to solve a system of private right’s issues of assurance, determinacy, and authority. Section 1 discussed how, for Kant, our innate rights require us to be able to interact with things outside of our body in order to pursue our purposes. Public authority allows citizens to know what and how much of something outside

of themselves they can acquire and permits the citizen to change the normative setting for others around them. If citizens cannot guarantee that the law put forward by the state is actually the law that they are subject to because of the possibility of ex post facto law, the assurance and determinacy public law provides is undone. Individuals can no longer pursue their private interests and freedoms because they have no guidance or protection for how to interact with the world around them (Ripstein 23). Kant and Brettschneider are in agreement that political autonomy, or civil independence, has procedural implications for how citizens participate in lawmaking, but also substantively constrains laws to respect citizens' status as autonomous.

Brettschneider's discussion of ex post facto law also introduces a larger discussion of the role of the rule of law in securing freedom. Brettschneider argues, given the concerns he has explored above, that "the rule of law must respect citizens' sovereign status in their capacities as political participants *and* as addressees of state coercion" (39). It does this by establishing individual rights citizens are entitled to as authors and addressees of the law. Brettschneider writes that we are both owed "rights to propose, deliberate about, argue over, and vote on legislation," as well as to be treated legitimately, thus limiting the kind of laws the democratic body can create to those that can be defended by an appeal to individual equality and freedom (29). The rule of law thus functions to capture the omnilateral will and shield our status as free and equal from the influence of private power or perspectives. Kant characterizes this in the *Metaphysics of Morals* when he writes "the best constitution is that in which power belongs not to human beings but to the laws" (Ripstein 191, Kant 6:355). It accomplishes this by codifying the ideals of equal individual freedom and rights following from that so that the law can be appealed to in establishing processes of self-government and serve as a standard to hold the outcomes of that self-government up to. By creating a constitution defended by public reason,

and therefore “consistent with the rights of everyone,” the state can provide individual rights based in equal individual freedom that protect citizens as rulers in the process of self-government as well as addressees of the laws, empowered by public right to pursue their private interests (Ripstein 191).

Given the overlap between Brettschneider’s core values and Kant’s definition of freedom and active citizenship, as well as moments where Brettschneider directly gives credit to neo-Kantians such as John Rawls, it is not a far stretch to write that Brettschneider’s core values of democracy are inherently a Kantian account of equal individual freedom. With this context, Brettschneider’s explanation for how these principles of freedom constrain the procedures and outcomes of self-government helps unpack how Kant’s theory guides self-government. With guidance from the work of Brettschneider, one can conclude that a Kantian government would require a constitution that codifies the state’s commitment to securing the rightful condition, thereby protecting citizens’ status as equal amongst one another and master of themselves, through a set of individual rights that empower citizens to set and pursue their own private purposes. As citizens engage in their own self-government their procedures for lawmaking as well as the substance of the laws they create must appeal to the codified standards of equal individual freedom.

IV. Creating Public Purposes: The Role of Deliberation

Brettschneider's work on self-government revealed that Kantian freedom provides and requires procedural and substantive constraints on self-government based on active citizens' claims to lawful freedom, civil equality, and civil independence. It also suggests that the ideal of Kantian freedom must be codified into a constitution that provides individuals with certain rights as both authors and addressees of the law, that they can adhere and appeal to as they create public purposes and pursue private interests. This helps clarify the requirement for Kant's government to be public both in citizens' ability to participate in self-rule freely and equally, as well as in the sense that the law's reasoning must be based on claims to their shared status as free and equal.

Throughout this account of Kant's political philosophy, the adoption of a public perspective and use of public reason has remained imperative to the government securing the rightful condition where individuals can freely and equally pursue their private ends. The rule of law that Brettschneider proposes is only effective in providing procedural and substantive guidance if it is created from a purely public perspective. The rule of law exists to "ensure that citizens are treated in a manner consistent with their core values and their status as rulers, with their assurance of equal treatment and freedom from arbitrary coercion" (Brettschneider 53). While citizens are protected as both authors and addressees by the authority the law carries, that same authority can make the rule of law extremely harmful if it mistakenly codifies private perspectives. Alternatively, without proper procedures ensuring accountability of following this theory of freedom, even if a state has a constitution based on public purposes it can have a reality of unequal freedom because governing officials are not taking their constitution's commitments seriously. The question remains then, how do we ensure that the public perspective is created,

respected, and actually implemented by a democratic, governing body? Since Kant advocates for all citizens to be active citizens and therefore capable of taking part in self-rule, all citizens must be able to rule from a public perspective. They must all be capable of separating their private interests from public purposes, and only consider the latter when participating in lawmaking. The question then becomes, how do citizens differentiate between their private and public perspectives, and how do we hold them accountable for ruling only from the latter?

The work of Iris Young in *Inclusion and Democracy*, when held up to Kantian standards of freedom, helps answer this question by highlighting a key aspect of self-government that Ripstein and Brettschneider only briefly mention: the role of deliberation. Young's characterization of deliberative democracy explains how the discursive element of democracy forces individuals to leave the sphere of their own private preferences to propose, argue, and in the end implement policies based on publicly assertable reasons. In doing so, Young reviews the same criticisms as Brettschneider did of what is typically referred to as the process of deliberative democracy, which she refers to as aggregative democracy. Young instead casts deliberative democracy in a different light, by proposing a model of deliberation that emphasizes four ideals: inclusion, political equality, reasonableness, and publicity. She argues that "under ideal conditions of inclusive political equality and public reasonableness, democratic processes serve as the means of discovering and validating the most just policies" (Young 17). In this sense, she writes that her theory creates a "normative theoretical connection between democracy and justice" (Young 17).

Where Young writes that deliberative democracy creates a connection between democracy and justice, a closer examination of her definition of justice reveals that her model of deliberative democracy creates a connection between democracy and Kantian freedom. Young

defines her appeal to justice as an appeal to two ideals, “self-development and self-determination” (Young 31). Her definition of self-development describes abilities Kant categorizes as freedom to choose and pursue your own ends and her definition of self-determination captures the idea that being master of yourself requires a participatory role in the powers that govern you. Within these ideals, she also points to the instrumental role of institutions in securing our self-development and self-determination that Ripstein made explicit in Kant’s theory. Young defines self-development as “institutions provid[ing] conditions for all persons to learn and use satisfying and expansive skills in socially recognized settings... enabl[ing] them to play and communicate with others or express their feelings and perspectives on social life” (32). She further writes that “self-development in this sense certainly entails meeting people’s needs for food, shelter, health care, and so on” (Young 32). This resembles the argument set forward by Ripstein, that state institutions are necessary to secure the rightful condition, where one’s innate and acquired rights, such as freedom of association and “to have usable things fully at your disposal,” are protected on the basis of their freedom (Ripstein 210, 19). Further, Young defines self-determination as “being able to participate in determining one’s action and the condition of one’s action” (32). As with Kant, Young emphasizes that “institutions sometimes regulate and interfere with action in order to restrict dominative power and promote co-operation” and that “participation in making the collective regulations designed to prevent domination” is a key aspect of experiencing self-determination (Young 32). This demonstrates Young’s agreement with Kant’s statement that state coercion is only rightful when it is a “hindering of a hindrance to freedom” and that being an active citizen is a key aspect of being master of yourself (Varden 40, MM 6:231). Taken together, Young’s definition of self-determination and self-development are analogous to Kant’s conception of being master of

yourself. Therefore, from Young's definitions of justice as self-development and self-determination, one can conclude that Young is operating off of the definition of justice as freedom.¹

Thus, when Young writes that her model of deliberative democracy leads to more just policies, she means that the substance of the laws created will be based in a Kantian definition of freedom as self-mastery. Kant's theory is further seen as undergirding Young's theory in how her four ideals work to secure equal individual freedom. Her four ideals also demonstrate the overlap between her and Brettschneider, as some of them require procedural constraints on democratic deliberation while others point to the substance the deliberation produces that makes its laws just. Finally, what Young does not make explicit in her work, but becomes obvious when comparing her standards for deliberative democracy to Kant's theory, is that to make their claims publicly assertable, the citizens participating in her deliberation must appeal to the same principle she is implicitly appealing to in her conception of ideal conditions of deliberation: Kantian freedom. By holding Young's theory up to Kant's theory, it reveals the imperative connection between democratic deliberation and the realization of Kant's ideal of equal individual freedom. Further, the way in which her four ideals procedurally guide deliberation that produces law that promotes equal individual freedom helps us unpack the way deliberation would function in a Kantian government, empowered and limited by considerations of freedom.

Young turns to two prominent theories of how democratic decision-making occurs: aggregative and deliberative democracy. Her comparison between the two characterizes the

¹In the footnotes of her definition of self-development and self-determination, Young refers to the work of Carol Gould *Rethinking Democracy: Freedom and Social Cooperation in Politics, Economy, and Society* as "develop[ing] a thorough account of freedom as self-development." She also refers to Philip Pettit's political theory of freedom as non-denomination, which she expands on to add the importance of participating in self-government. These references further show a commitment to freedom underpinning her commitment to self-development and self-determination

difference between citizens ruling from private and public perspectives. Aggregative democracy involves accumulating citizens' preferences and choosing officials or policies based on the "most widely and strongly held preferences" (Young 19). The goal in politics is therefore to win the greatest total number of votes, regardless of the motives of said votes. As Young notes, in this model "citizens never need to leave the private realm of their own interests and preferences... [it] lacks any distinct idea of a *public* formed from the interaction of democratic citizens" (20). This type of decision-making explains how even democracies can be despotic in nature if they are ruled by a majority of citizen's private preferences. This distinction also characterizes Brettschneider's critique of purely procedural accounts of democracy, that a majority can rule in favor of its own private interests and undermine the self-mastery of a minority of its population.

Alternatively, deliberative democracy, according to Young, views the "democratic process [as] primarily a discussion of problems, conflicts, and claims of need or interest" with dialogue playing a fundamental role in allowing individuals to "test and challenge these proposals and arguments" (22). Deliberative democracy stresses citizens not just expressing preferences and tallying them, but the public engaging with, defending, and refining its own plurality of preferences. Doing so requires individuals to move beyond private purposes to defend their views in ways that are "publicly assertable" (Young 26). It is here that Kantian theory enriches Young's theory by arguing that defending views in ways that are publicly assertable requires appealing to citizens' shared status as free and equal masters of themselves. Young writes that "in the deliberative model political actors not only express preferences and interests, but they engage with one another about how to balance these under circumstances of inclusive equality" (26). Here, Young's "under circumstances of inclusive equality" is referring to the procedural circumstances of her deliberation (which will be explored below). However,

Brettschneider and Ripstein's arguments above give us good reason to argue that the act of balancing individual interests is also *substantively* constrained by the requirements of producing circumstances of inclusive equality in society. Ripstein emphasizes that Kant's theory constrains the consideration of balancing interests according to the same equal individual freedom Young's procedural norms are drawing from. Ripstein writes

“The authority of any person or institution's mandate to balance competing values must itself be reconciled with each person's right to be his or her own master. That does not mean that political authority or justified coercion is impossible, or even that institutions are never competent to balance competing values, only that the authority to make or enforce decisions needs to be established by showing it to be consistent with each person's right to freedom before competing interests or values can be considered” (6).

Therefore, when Young writes that individuals must balance their interests under circumstances of inclusive equality, Kant argues that this should also be read as a substantive constraint on the extent to which their private interests or preferences can move beyond the deliberation to the codification stage of democratic procedure. However, it is important that Young views individuals' preferences and interests as having a role in deliberation that aims to create policies that apply to all citizens generally as masters of themselves. This is because while laws based on public reason must be general in order to apply to all citizens equally, the validity of public reason is tested by “examin[ing] the law's impact on specific individuals” experience of freedom and equality (Brettschneider 65). For instance, returning to Brettschneider's example of ex post facto law, the fact that this law would be “illegitimate because of [its] adverse effects on those who cannot predict their requirements... would be true even if such law appealed generally to” principles of equality or freedom (Brettschneider 65). For laws to truly in their

substance recognize and respect citizens as equal, self-determining, and self-developing, it must consider “that persons are situated in particular contexts and social positions and that their distinct interests are implicated differently by each coercive law or institution,” and “justify coercion while respecting the distinct interests that arise within these particular points of view” (Brettschneider 66). The state must examine how particular acts of coercion implicate different particular persons in order to ensure that it is upholding individuals’ freedom equally rather than simply appearing to do so in its presentation. Thus Young’s model reveals the importance for individuals to talk *through* their personal interests and preferences to reach publicly assertable conclusions as opposed to trying to talk *around* them. In this sense Young’s model is

“not merely [about] expressing and registering, but...*transforming* the preferences, interests, beliefs, and judgements of participants. Through the process of public discussion with a plurality of differently opinioned and situated others, people often gain new information, learn of different experiences of their collective problems, or find that their own initial opinions are founded on prejudice or ignorance, or that they have misunderstood the relation of their own interests to others” (Young 26).

Young argues that this discursive element of democracy creates policies supported by the best reasons rather than the most people, because it allows preferences to not just be expressed but transformed. Thus, it is through these discussions that citizens can guarantee that politics are executed in accordance with their equal individual freedom, and challenge proposals that do not align with that. By engaging with and challenging each others’ different views, individuals can move beyond their private preferences to develop public purposes.

The seemingly basic yet powerful idea behind deliberative democracy is that if individuals need to create laws that others can agree or accept on the basis of their shared status

as equal individual actors in society rather than any subscription to certain beliefs or private interests, the best way to do so is to present their arguments for various policies to each other. In doing so, the active citizens can reveal where private interests are driving certain proposals and can better identify public needs that are not currently being met in their communities.

However, Young points to the important fact that “social and economic inequality produces political inequality. Money often has greater influence than open debate in determining the outcomes of elections, referendum campaigns, or legislative battles” (Young 34). Even when thinking of democracy in discursive terms, social and economic advantages tend to boost the voices and needs of some over the voices and needs of others. Deliberation is helpful in understanding how public purposes can be created, but it alone does not protect against democratic processes being manipulated for private purposes. For this reason, Young points to four “normative ideals for relationships and dispositions of deliberating parties” that she finds fundamental to her very definition of deliberative democracy (23). Her four ideals are inclusion, political equality, reasonableness, and publicity. Young’s implicit appeal to Kantian theory becomes clear when comparing her ideals of deliberation to Kant’s requirements of active citizenship. While the earlier explanation of Brettschneider’s work emphasized the substantive constraints Kant’s theory puts on active citizens when they are engaging, Young’s work emphasizes the procedures for deliberation Kant’s theory would require. Taken together, their works create a Kantian account for democratic deliberation.

Young’s first ideal, inclusion, refers to the idea that decisions are “legitimate only if all those affected by it are included in the process of discussion and decision-making” (Young 23). This aligns with Kant’s definition of citizen’s lawful freedom, of only obeying law they have given consent to, because “persons... are treated as means if they are expected to abide by rules

or adjust their actions according to decisions from where...their voice and interests have been excluded” (Young 23). Here, Brettschneider would offer the clarification that while we have shown that an individual's interests have a role in deliberation, only their “reasonable interests” should be codified. In terms of using Young’s ideals to imagine the actual organization of deliberative exercises, she addresses the fact this norm opens questions about how affected an individual is by a certain law, and if there are instances where it may be “absurd” or trivial” to include everyone affected by a decision in the deliberation (23). To address this, Young turns to Kant’s definition of freedom for guidance. She narrows her ideal of inclusivity by defining “affected” to mean “at least that decisions and policies significantly condition a person’s options for action” (Young 23). Conditioning a person’s options for action relates to their ability to choose and consent to their fate, a capability that Kant finds indispensable for being master of yourself; for Kant, “you exercise your purposiveness by choosing” (Ripstein 41). Young’s discussion on her norm of inclusion reveals that in the face of practical difficulties in achieving ideal circumstances of deliberation, procedural decisions can look to Kant’s ideal theory for guidance.

Young’s next ideal is political equality, coinciding with Kant’s definition of civil equality. All of those affected by a law should be included in these decision-making processes, and they should be included equally. As Kant would say, no citizen should be able to bind the other in a way that the other could not turn around and bind him. Equality and inclusion must be taken together so that the voices of marginalized individuals are not ignored when demanding their conditions of freedom. For Young, this means that in deliberation there must be an “equal effective opportunity to question one another, and to respond to and criticize one another” (23). This ideal suggests a need for procedural rules based on equal individual freedom to deliberative

exercises that guarantee a certain level of fair play in discussions, so that powerful figures or voices cannot dominate the conversation.

Young's next ideal touches on the dispositions necessary from the individuals involved in deliberation for equal and inclusive deliberation to be possible, reasonableness (not to be confused with the way "public reason" or "reasonable interests" have been used in previous sections).² Here, Young defines reasonableness as individuals taking part in deliberation with the actual goal of reaching an agreement, and therefore with the propensity to hear out those with opposing views as them, to make compromises, and to change their beliefs with further information. For Young, being reasonable people does not mean that every person has the same set of beliefs, but that they are willing to *exchange* beliefs. She writes, "reasonable people often have crazy ideas; what makes them reasonable is their willingness to listen to others who want to explain to them why their ideas are incorrect or inappropriate" (Young 24). Implicitly embedded within this ideal is a commitment to respecting other's freedom. Being motivated to reach agreement as citizens means "tak[ing] seriously each other's status as free and equal," actually conceiving other's interest to hold the same merit as your own, and therefore being motivated to fairly balance them in a process of "mutual justification" (Brettschneider 68).

It is important to note that Young's ideal of reasonableness can not be procedurally guaranteed. One could imagine a deliberative exercise where citizens are motivated to reach an agreement by placing a decision-point at the end of the deliberation. One could also imagine a moderator encouraging deliberators to approach the exercise willing to have their beliefs challenged or changed. But while procedures can encourage certain behaviors, they cannot

² It should be noted that Young's use of the word reasonable and Brettschneider's use of it differ. Reasonable for Young refers to what Brettschneider discusses in his section "Motivation to Reach Universal Agreement" on page 68

procedurally force individuals to have an open mind or want to reach a consensus. Therefore, just as Young appeals to Kantian freedom to create her ideals, moderators and participants would need principles of freedom available to them so that they can appeal to those principles in the face of disagreement. In this sense, participants can use the fact that they all agree to Kantian principles of equal individual freedom to reframe arguments in terms of what decision gets them closest to this ideal that they all share in common: wanting to secure and pursue their own purposes. The fact that this ideal cannot be secured purely procedurally shows further proof to Brettschneider's point that there must be law articulating the procedural and substantive constraints of self-governance, so that in the face of disagreement authors of the law have a shared standard they can compare their competing proposals against.

Finally, Young writes that "the conditions of inclusion, equality, and reasonableness... entail that the interaction among participants in a democratic decision-making process forms a public in which people hold one another accountable" (25). Her ideal of publicity means that all those involved in democratic deliberation and decision-making are held accountable to the wider public. They therefore must deliberate and make decisions with the awareness that the wider public, with a plurality of different experiences and viewpoints, should be able to understand them. Young writes that participants in self-government "must try to explain their particular background experiences, interests, or proposals in ways that others can understand, and they must express reasons for their claims in ways that others recognize could be accepted" (25). Bringing Young's ideal of publicity in conversation with Kant's political theory draws upon the earlier discussion of her claim that deliberation prompts active citizens to frame their arguments for certain decisions in ways that are "publicly assertable" (Young 26). Her ideal provides good reason for the mode of communication within deliberation to be accessible to all citizens, for

instance using in easy-to-understand language, being broadcasted through public and free forms of communication, and thoroughly explaining the reasons behind decisions. Further, as discussed above, there is good reason for constituents to want to talk through their particular backgrounds and interests in deliberation. Thus, within the deliberative stage, content does not need to be *immediately* understandable and acceptable, but must aim to be with further discussion (Young 25). This allows for deliberation to err on the side of inclusion when individuals are attempting, and may be struggling, to explain coercion's impact on their "particular social context" (Brettschneider 67). However, as deliberation aims to make legislative decisions, Kant, Ripstein, and Young's ideals give good reason for the substance of its arguments to appeal to values that all citizens could understand and agree to, and thus "appeal to citizens' status as free and equal" given that "the task of... democratic deliberation and process... is for the citizens to give themselves laws that are consistent with their lawmaking powers" (Brettschneider 61, Ripstein 256). Therefore, for the same reasons that Young advocates for equal and inclusive procedural rights in the democratic process, the outcomes of that process must appeal to citizens' status as free and equal.

The publicity and accessibility of the deliberative process is directly tied to the possibility of accountability. It is what takes self-government that respects individuals as masters of themselves from an idea to a reality, by taking seriously their capacities for self-government and their ability to consent to the laws adopted. This too respects the civil independence and lawful freedom of Kantian citizens. One cannot be considered part of the self-governing body if they cannot understand or access their state's political decision-making processes. One also cannot hold public offices and active citizens accountable for pursuing only public rather than private purposes without government affairs and decision-making being public in process and substance.

From these four ideals governing deliberative democracy, Young powerfully concludes: “The more that public life and political decision-making motivate political actors to justify their claims and actions and be accountable to their fellow citizens, the more the arbitrariness of greed, naked power, or the cynical pursuit of self-interest can be exposed and limited. When public debate gets beyond soundbites and manipulated opinion polls, issues often are seen as more complex and less polarized, and thus more open to minority voices” (35)

In order to secure public purposes, a Kantian government requires the kind of deliberation between active citizens that Young advocates for. It also requires that deliberation be conducted in accordance with Kant’s definition of equal individual freedom, and therefore subject to guidelines created on the basis of political equality, inclusivity, and public reasonableness. Combining the insights from Young’s work with those from Brettschneider, the citizens participating in this deliberation would require a constitution, codifying the Kantian understanding freedom, that the procedures of deliberation would adhere to, and that citizens could appeal to in their efforts to reach agreements on the rightful exercises of coercion. Further, these laws would protect from deliberative exercises becoming overcome by private interests or powerful voices by constraining the laws that the deliberative body could create to uphold citizens’ status as free and equal.

This conception of democracy is how we can understand what Ripstein means when he writes that “the Kantian approach provides a framework that tells officials *how* to think about questions of public provision, rather than *what* to think about them” and a “framework for citizens to engage in democratic deliberation and process” (Ripstein 256). Kant’s definition of freedom and the rightful condition empowers and limits the government to consider only

subjects concerning securing that rightful condition, but does not conceptualize an exact, “correct” way of doing so that the deliberating public needs to reach in order for their governance to be just. If democratic deliberation is constrained to the pursuit of securing the rightful condition and set up in accordance with each individuals’ status as equal and master of themselves, then the outcome of the deliberative process will appeal to citizens’ status as free and equal, and thus be representative of the omnilateral will and therefore just.

V. Securing public avenues of democratic deliberation

From the previous sections, one can conclude that democratic deliberation, guided and constrained by Kant's definition of freedom, is necessary for active citizens to best create law based on public reason and hold the law accountable for pursuing public purposes. The discursive process of sharing and refining one's views with others forces citizens to move beyond their private preferences to frame their reasoning for laws in ways that are publicly assertable. In addition, it gives citizens the opportunity to understand how coercion affects those with different histories and social positions as them, therefore testing the validity of public reason (Brettschneider 65). This ability for active citizens to develop public purposes and thus assign laws to themselves is essential for them to experience mastery over themselves.

In the first section of this thesis, we discussed public conditions that the state must secure in order to protect individual's ability to set and pursue their own ends. For Kant, this includes things like basic protection from poverty, access to healthcare, education, and any other conditions that are required for your independence and that another person should not be able to restrict you from. Ripstein explained this through his discussion of the public road, whose existence along with the public rules of the road governing it reconciles our individual freedom with our equality. Further, Varden's work expands on Ripstein's characterization of Kantian freedom to show that a critical part of your freedom is your ability to have no laws assigned to you that you could not assign yourself, and to be able to preserve your rights. This means that the public conditions provided by the state, as part of empowering your mastery over yourself, empower you to participate in self-government. Kant gives the example of education as a public condition that has this purpose. Education is "both an effective means of achieving some basic public purposes" and "a necessary means of a rightful condition perfecting itself" (Ripstein 292).

This is because “as a condition of public right... every citizen must be able to stand on his or her rights, both against private persons and against the state. Each of these aspects of a rightful condition demands both literacy and civic education” (Ripstein 293). Education both empowers and protects individual mastery in private pursuits and allows individuals to meet the requirements of being an active citizen. If moving towards an ideal republic means moving towards any citizen being able to act as a lawmaker and rule themselves, then basic education to understand the law and issues is needed. Therefore, publicly funded education is a public condition that the state must secure your access to.

While education is an example of one public condition necessary to secure the rightful condition, the exploration into Kant’s definition of active citizenship and public purposes in the sections above suggests the need for more. For law to respect the status of all citizens and free and equal, it must be made through public reason. Since in Kant’s ideal state government power “the people rule themselves through public law and this possibility does not depend on any particular person,” all citizens would be active citizens participating in their own self-government, then all citizens need to be able to separate from their private and public perspectives (Varden 54). While education can help individuals do this, the previous sections have shown that deliberation guided and constrained by our status as equal individual citizens is necessary to create public purposes and expose private interests in lawmaking in order for the state to rule on behalf of the omnilateral will. If democratic deliberation with constraints based on Kantian freedom is necessary for a civil condition to be realized, then similar to education, the avenues for this democratic deliberation to take place are public conditions that the state must secure for its citizens to be able to act as active citizens. Just as Ripstein’s *reductio* concluded that the state must provide public roads and the public rules governing them, a Kantian state

must provide public avenues for deliberation and the public rules governing that framework to ensure citizens' ability to assign laws to themselves and have autonomy over their own lives. Just as the rules of the road come with the public road, Brettschneider and Young have shown why the public rules governing deliberation must come with the avenues of deliberation. A democratic society requires both public deliberation as well public law, through a constitution, that enshrines what lawmaking should appeal towards: the equal individual freedom of all citizens to define and pursue their own ends while living in community with one another. The procedures of the deliberation would have to uphold citizen's lawful freedom, civil equality, and civil independence. The deliberative group would also be constrained to producing laws that align with those same rights, therefore setting Kantian freedom as the ideal democracy aims to achieve.

The idea of a group of 'regular' citizens actually meeting and deliberating over the best course of action for a government to take, coming to a decision, and that decision leading to policy implementations may seem like either a practice of the past or an exercise confined to political theory but not empirical practice. While the sections above have argued that there is a strong link between public avenues of deliberation, to creating public purposes, and thus securing our freedom, compared to current avenues of democratic participation in the United States, the idea may still seem both outdated and experimental. However, through mini-publics, public referendums, or citizens' assemblies, deliberative exercises are being put into practice around the world. In 2020, the OECD reported on over 300 examples of deliberative exercises since the 1980's (OECD).

To highlight one example, in 2012 Ireland utilized a deliberative method for a Constitutional Convention. The Convention had 100 participants with a Government-appointed

chair. 66 of the participants were randomly selected citizens (stratified by gender, age, class, and geography). The other 33 were members of Ireland's upper and lower houses, including a representative from any political party that wanted representation at the Convention. Eight constitutional issues were covered at the convention, with six of those issues being chosen for discussion by the Houses and two coming from the Convention participants' interests. In choosing the six issues to be addressed by the Convention, the House accepted public submissions for proposed topics for constitutional reform, and received 800 that were considered (*Citizens Information*).

The government of Ireland put forward five values that were guiding the organization of this convention that echo the freedom-based procedural and substantive constraints on democracy Young and Brettschneider advocate for. They were openness, fairness, equality of voice, efficiency, and collegiality (*Citizens Information*). Their standard for openness exemplifies Young's idea of publicity: the Convention was made available and accessible to the public through livestreams, topic submissions, meetings around the country to hear opinions on the Convention, and Referendums on some Convention proposals. For these avenues of publicity to be effective, arguments and proposals had to be made in terms that were accessible and understandable by the public, appealing to "practical reason." Their values of equality of voice, collegiality, efficiency, and fairness as well as their stratified selection process embody the values of inclusivity, political equality, and reasonableness Young advocates for.

There were many noteworthy outcomes of the Convention, such as multiple Constitutional amendments resulting from it. The protection of same-sex marriage, removing blasphemy as an offence, and reducing the minimum age for presidential candidates were all proposed by the Convention and put to a Referendum, with the first two passing. While not all

proposals from the convention were implemented, those that were not (or not yet at least) had clear timelines for when the public could expect a government decision on the matter. This government accountability shows that the Convention's proposals were taken seriously.

Ireland's Constitutional Convention is just one example of taking the state's positive obligation to organize avenues of democratic deliberation seriously. The example further shows that securing the public condition of avenues of deliberation has room for creativity in the modes in which deliberation can occur and include those outside of the exercise, such as by using online proposal processes, publicly broadcasting of the exercise, and putting the deliberative group's final proposals up to a referendum vote. The five values the government put forward guiding the deliberation hints that procedures based in our equal individual freedom can be secured, and the fact that proposals were reviewed by elected officials who then had to provide reasoning for any disapproval shows that the substantive outcomes of deliberation can be held up to and constrained by principles of freedom codified by the state. This example further shows that deliberation does not erase a system of representative government or the idea of checks and balances, two functions that Kant advocates for (Varden 43). Instead, deliberation takes seriously the idea of citizens giving laws to themselves and empowers them to voice concerns to and keep elected officials accountable. This follows the sentiments of Varden when she writes:

Moreover, as we keep reforming our system, we do not want to get rid, but rather further develop the public officials' ability to reason as our representatives, namely to analyse legal-political issues in terms of each citizen's basic rights (innate, private, and public rights). To do this, of course, we also need to strive towards a legal-political culture where such reasoning is expected and encouraged in public discourse (58).

Kant's account of freedom gives us a compelling reason to expect the state to secure certain public conditions that enable our equal individual freedom. Further, it gives us reason to expect that the laws enacted by the state will be based in public reason. The combination of a Constitution codifying the rights Kant deems "inseparable from [one's] essence" as a citizen—lawful freedom, civil equality, and civil independence— and public avenues of democratic deliberation work together to transition Kant's political philosophy from an ideal theory to an empirical reality.

VI. Conclusion

This thesis has aimed to unpack the type of public authority necessary for the empirical realization of Kant's definition of individual freedom. Kant's political philosophy is grounded on the compelling idea that all individuals have an innate right to be masters of themselves. As individuals interact with the world around them in order to pursue their own ends, public authority reconciles the individual's mastery with others equal claims to the same freedom. The public authority thus acts in accordance with the purposiveness of all citizens, making the "provision of incentives or the exercise of judgment consistent with the rights of everyone" (191). In this sense, public law can not assign any law that the individual could not assign to themselves. For the law to act in accordance with the rights of everyone is for it to act on purely public purposes, or on behalf of the omnilateral will.

In examining the governmental structures that best approximate the omnilateral will, the work of Helga Varden shows that Kantian freedom is best secured when all citizens can act as active citizens and thus experiencing lawful freedom, civil equality, and civil independence as they assign laws to themselves. The work of Corey Brettschneider and Iris Young further explain how this materializes in democratic governments. Brettschneider's work asserts that Kant's definition of freedom imposes procedural constraints on democratic practices as well as substantive constraints on the law democratic processes in act. Thus, he shows the importance of a constitution codifying the rights that come from Kant's definition of active citizenship, so citizens can appeal to it as they establish public purposes and pursue their private interests. Young's work emphasizes the idea that in order to better approximate public purposes, active citizens must deliberate amongst one another to defend their proposals for how state authority should function in ways that are publicly assertable. When taken together with the work of

Brettschneider and the standard of Kantian freedom, one therefore can conclude that active citizens best secure the public conditions necessary for their equal individual freedom by engaging in deliberative exercises guided and constrained by Kant's principles of freedom, appealing to their codified equal individual rights to solve the collective problems they face. This thesis works to advocate for the state to take positive steps to further the efforts of establishing a democracy where at the heart of its processes, the reasoning used in its laws, and in the provisions it enacts, lies a deep commitment to equal individual freedom and mastery, through the construction of public avenues for deliberation.

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