

FREEDOM, COSMOPOLITANISM AND IMMIGRATION:

A KANTIAN APPROACH



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A Kantian Approach

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## DECLARATION OF ORIGINALITY

I, Gökçenur Hazinedar Erbora, certify that

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## ABSTRACT

Freedom, Cosmopolitanism and Immigration:

A Kantian Approach

This thesis explores Immanuel Kant's works and principles to evaluate different waves of immigration from Turkey to Germany based on his concepts of cosmopolitanism, freedom, patriotism, egalitarianism and hospitality. Although Kant did not explicitly comment on modern immigration, his philosophy provides a valuable lens for evaluating contemporary immigration practices and integration policies. This thesis begins with Kant's foundational ideas of cosmopolitanism and freedom and extends to debates between open and closed border theories, highlighting differing interpretations of Kant's views on immigration by scholars such as Reinhardt and Miller. This thesis argues that Kant's principles advocate for an approach to immigration which emphasizes the cosmopolitan obligations to individuals while considering the integrity of states. By examining the history of immigration from Turkey to Germany, the thesis illustrates how Kant's ideas could influence contemporary policies to better align with citizenship laws and integration practices that respect individual dignity. The aim is to show that Kant's philosophical approach, when we evaluate his theories within the framework of contemporary immigration issues, offers valuable guidance for developing just immigration policies in Germany and beyond.

## ÖZET

### Özgürlük, Kozmopolitanizm ve Göç: Kantçı Bir Yaklaşım

Bu tez, Immanuel Kant'ın eserlerini ve ilkelerini inceleyerek ve onun kozmopolitanizm, özgürlük, yurtseverlik, eşitlikçilik ve misafirperverlik kavramlarını temel alarak Türkiye'den Almanya'ya gerçekleşen farklı göç dalgalarını değerlendirmektedir. Kant, modern göç hakkında açıkça yorum yapmamış olsa da, Kantçı felsefe güncel göç uygulamaları ve entegrasyon politikalarını değerlendirmek için değerli bir bakış açısı sunar. Bu tez, Kant'ın kozmopolitanizm ve özgürlük ile ilgili temel fikirlerinden başlayarak açık ve kapalı sınır teorileri arasındaki tartışmalara kadar uzanmaktadır. Reinhardt ve Miller gibi akademisyenlerin Kant'ın göç hakkındaki görüşlerine dair farklı yorumlarını değerlendirmektedir. Bu tez, Kant'ın ilkelerinin, devletlerin bütünlüğünü göz önünde bulundurmakla beraber, bireylere yönelik kozmopolitan yükümlülükleri ön plana çıkaran bir göç yaklaşımını desteklediğini savunmaktadır. Türkiye'den Almanya'ya göçün kısa bir tarihini de sunan bu tez, Kant'ın fikirlerinin, bireysel haysiyeti dikkate alan vatandaşlık yasaları ve entegrasyon uygulamalarıyla daha iyi uyum sağlayacak şekilde güncel politikaları nasıl etkileyebileceğini göstermektedir. Amaç, Kant'ın felsefi yaklaşımının, onun teorilerini güncel göç meseleleri çerçevesinde değerlendirdiğimizde, Almanya ve ötesinde adil göç politikaları geliştirmek için değerli bir rehberlik sunduğunu göstermektir.

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## ABBREVIATIONS

All references to Kant's works are listed in the References section.

- G Grundlegung zur Metaphysik der Sitten,  
Groundwork for the metaphysics of morals
- GTP Über den Gemeinspruch: Das mag in der Theorie richtig sein, taugt aber nicht  
für die Praxis,  
On the common saying: This may be correct in theory, but it is of no use in  
practice
- IaG Idee zu einer allgemeinen Geschichte in weltbürgerlicher Absicht,  
Idea for a universal history from a cosmopolitan perspective
- MdS Metaphysik der Sitten,  
Metaphysics of morals
- ZeF Zum ewigen Frieden: Ein philosophischer Entwurf,  
Toward perpetual peace: A philosophical sketch

## CHAPTER 1

### INTRODUCTION

In this thesis, I examine what Kant's position would be regarding different kinds and waves of immigration from Turkey to Germany, considering his moral and political philosophy. Kant's views pertaining to cosmopolitanism and freedom provide a framework for analyzing the patterns of immigration from Turkey to Germany, as well as Germany's immigration and integration policies since 1960s.

In the second chapter, I explore Kant's cosmopolitanism, through his accounts on patriotism, external freedom and egalitarianism. In the light of Kant's perspective on these concepts, Kant's stance on immigration may be interpreted in different ways. Kant's moral and political philosophy shed light on current interpretations of his views on different aspects of immigration. His concepts of cosmopolitanism, freedom, and patriotism, his views on moral and psychological essence of an individual, and the integrity of republican states are key to evaluating what Kant would have said about immigration, in this thesis's case immigration from Turkey to Germany since 1960s. Kant's views on freedom and cosmopolitanism encompasses political, economic, and social dimensions, advocating for a global moral community where individuals' rights are respected while respecting the integrity of states' borders.

In the third chapter, I compare open border and closed border theories regarding immigration. Then, I evaluate two contemporary interpretations on what Kant might have thought about immigration in today's conditions. The first account is Reinhardt's views on the subject, considering her article "A Right to Migrate? On The Virtue of Productive Disharmony" (2022). Reinhardt's main claim is that Kant's

account argues neither for open-borders nor closed-borders. She puts forth that while Kant does not align with open-border theorists in terms of a right to migrate, he would allow a wider freedom of movement between borders and would have supported unconditional refugee protection. On the other hand, Miller, in his article “What Kant Might Have Said About Immigration: An Alternative View” (2022), opposes Reinhardt’s position on the matter. He instead focuses more on the maintenance of the integrity of legitimate states, and their rights of self-determination. He claims Kant would have a more restrictive position on immigration. This chapter highlights the ongoing debate between open and closed border theories, and the relevance of Kantian principles in current immigration discourse. I believe we can gain a comprehensive understanding of how Kantian philosophy can be applied to the contemporary issue of immigration through these contemporary views. I claim that Reinhardt’s interpretation of Kant’s writings is more plausible since it aligns with Kantian principles in a more comprehensive sense, considering both his moral philosophy and political philosophy.

In the fourth chapter, I will assess the extent to which Kant’s ideas on immigration correspond with different waves of immigration from Turkey to Germany, especially the guest worker recruitment program implemented by Germany in the 1960s and 1970s and the new immigration wave. In this analysis, I aim to provide a historical overview of the guest worker recruitment program, examining its subsequent ramifications. Additionally, I explore the compatibility of Germany’s immigration laws and integration policies with the perspective of Kant’s views on cosmopolitanism, freedom and immigration. I also discuss the family reunification period following the guest worker recruitment program and efforts towards integration. The forthcoming section addresses the ongoing process of the

new wave that includes skilled worker immigration and evaluate the extent to which Germany's citizenship laws and integration policies today align with Kant's perspectives on immigration.

In the conclusion, I claim that Kant's views on immigration, while they are under debate due to lack of direct comments from him, are more prone to welcoming immigrants although he is not an open-border theorist. Analyzing the experiences of the initial guest workers and the new wave of skilled immigrants, I highlight the evolving dynamics of immigration and the need for policies that promote integration and a path to citizenship.

Overall, this thesis aims to bridge Kant's moral and political philosophy and Kantian principles with contemporary issues in immigration policy. By evaluating Germany's approach to immigration from Turkey through this framework, I seek to contribute to the broader discourse on immigration and integration policies of host states.

## CHAPTER 2

### KANT'S COSMOPOLITANISM AND EXTERNAL FREEDOM

Cosmopolitanism is a key concept in the conversation surrounding immigration. In order to evaluate and understand if and how Kant's moral and political philosophy aligns with Germany's immigration and integration policies regarding different waves of immigration from Turkey, I would like to first discuss what his views on cosmopolitanism entail. For this purpose, Kleingeld's book on *Kant and Cosmopolitanism* (2012) serves as a foundational guide for the purposes of this thesis.

Kant's concept of cosmopolitanism, as a political position, is the concept that paves the way to be a world citizen according to Kant. It encompasses the attitudes of recognizing, respecting, and being concerned for all humans as members of an interconnected world-wide community. Kant did not necessarily think that travelling and experiencing different lands was a necessary condition for cosmopolitanism, and he himself lived in Königsberg his whole life.<sup>1</sup> He believed that cosmopolitanism as a political position would also lead citizens to be more open to the world and its people whether they physically experienced different parts of the world or not.

(Kleingeld 2012, pp.1-2)

Kant develops his perspective on cosmopolitanism, particularly through his explanation of juridical constitutions which he argues are essential for achieving perpetual peace. In "Toward Perpetual Peace", he identifies three forms of juridical constitution, the third of which he terms as being based on "cosmopolitan right."

This concept is critical as it regards individuals and states, which interact and

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<sup>1</sup> For further information on Kant's life, see Kuehn, M. (2001). *Kant: A Biography*. Cambridge: Cambridge University Press.

influence each other externally, as citizens within a universal state of humankind, or “ius cosmopolitanum”. Kant states that

any juridical constitution, with regard to the persons that are subject to it, takes one of the following forms: ... 3. One based on cosmopolitan right, to the extent that individuals and states, who are related externally by the mutual exertion of influence on each other, are to be regarded as citizens of a universal state of humankind (ius cosmopolitanum). This classification is not arbitrary but necessary with respect to the idea of perpetual peace. (Kant, 2006, p.73, footnote, Zef 8:349)

Kant’s vision of a cosmopolitan world, where the legal and moral imperatives transcend local and national boundaries, fosters a global community committed to peace.

When an individual becomes a member of a state and leaves the state of nature, Kant contends that they also become world citizens. This is possible through being a citizen of a state and that state being a member of a league of states. A league of states for Kant, is a federation that secures and maintains the freedom of states and peace among them. Kant explains the league of states as follows:

But peace can be neither brought about nor secured without a treaty among peoples, and for this reason a special sort of federation must be created, which one might call a pacific federation ( foedus pacificum). This federation would be distinct from a peace treaty ( pactum pacis) in that it seeks to end not merely one war, as does the latter, but rather to end all wars forever. This federation aims not at the state’s acquisition of some sort of power, but rather at its securing and maintaining the freedom of a state for itself and also the freedom of other confederated states without these states thereby being required, as are human beings in the state of nature, to subject themselves to public laws and coercion under such laws. It can be shown that the idea of federalism, which should gradually encompass all states and thereby lead to perpetual peace, is practicable (that is, has objective reality). For if fortune so determines that a powerful and enlightened people can constitute itself as a republic (which according to its nature necessarily tends toward perpetual peace), then this republic provides a focus point for other states, so that they might join this federative union and thereby secure the condition of peace among states in accordance with the idea of international right and gradually extend this union further and further through several such associations. (Kant 2006, p.80, Zef 8:356)

Here, Kant posits a pathway towards perpetual peace, wherein states are motivated not by conquest but by a shared commitment to freedom and mutual respect under the idea of international right.

United Nations may be an example of such a league of state, as Thorpe (2019) suggests the concept of a united international organization striving for peace is a concept introduced by Kant in “Toward Perpetual Peace”. The goals of United Nations align with Kant’s ideal of perpetual peace.<sup>2</sup>

Cosmopolitan right, according to Kant, is one of the essential rights necessary for perpetual peace. Kant states that

This rational idea of a peaceful, if not yet friendly and universal community of all peoples on earth who can come into active relations with one another is not a philanthropic (ethical) one, but rather a principle of right. Nature has placed them all together (due to the spherical shape of the place where they live, as *globus terraqueus*) within finite boundaries. And since the possession of land on which the earth’s inhabitant can live can always only be thought of as the possession of a part of a certain whole and thus a part to which everyone originally has a right, all peoples originally stand in a community of the land, but it is not a legal community of possession (*communio*) and thereby of use, or ownership of the same. Rather it is a community of possible physical interaction (*commercium*), that is, of a universal relation of one to all others to present oneself for possible commerce [*Verkehr*] with each other. They have a right to try to enter into it, without the foreigner being justified in confronting him as an enemy for that reason.—This right, to the extent that it concerns the possible unification of all peoples with the intention of establishing certain universal laws governing their possible commerce, can be called cosmopolitan right (*ius cosmopoliticum*). (Kant 2006, p.146, MdS 6:352)

According to Kant’s cosmopolitan right, human beings, by virtue of sharing the earth, have a right to engage in interaction. Regardless of their state, they are entitled not to be treated as enemies, promoting a peaceful coexistence.

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<sup>2</sup> “Kant argues that in order to promote world peace we must (a) encourage a respect for human rights, (b) maintain international law and promote the development of international institutions and (c) promote economic development.” (Thorpe, 2019, pp.216-217)

The topic of whether people and states have the right to possess and own property in a world where there is a limited quantity of land available is at the center of the discussion. When states or individuals lay claim to land, they are claiming something that was originally owned by everyone without first obtaining the approval of others. If other states are also involved in the decision-making process, then the control of a certain region of the earth by a state would be legitimate. We are once more brought back to the necessity of the league of states. In some cases, it is possible that the rights of other states and individuals may be infringed. Consider the following: a state controls the territory of the headwater of a river that flows through another state as well. According to this scenario, disputes may arise in terms of who has the right to what quantity of water. The disputes can be resolved within the framework of a federation that is a league of states.

Moreover, when considering the freedom of an individual, it is essential to address the aspect of an individual's property rights. The concept of freedom necessitates an examination of the freedom of ownership. An individual's property rights are ensured by the regulations of the state. Membership in a state grants individuals freedom to own property, when the legitimacy of the states and their borders are ensured by a league of states. The right of individuals to have property is endorsed and safeguarded by the state, while the right of states to own a certain land is legitimized by other states within the league of states. Each member of the league accepts the legitimacy of the boundaries of other states. Nevertheless, this does not result in absolute control over a territory that is entirely inaccessible to foreigners. Conversely, it allows for the freedom to travel to and enter a foreign state as the finite land on earth belonged originally to everyone. However, this freedom is not a right or guarantee to stay in a foreign state.

This also extends to the cosmopolitan right at the individual level. As members of the league of states recognize the legitimacy of other states, individuals who live under the rule of a state likewise acknowledge and accept the legitimacy of other states. For example, Germany acknowledges the legitimacy of Turkey as a state and its territorial boundaries. Consequently, German citizens acknowledge the legitimacy of Turkey as a state and its borders.

As members of the league of states, every state is obligated to acknowledge and uphold the right of foreign individuals to enter and present themselves at their respective borders. This is not a right to stay, but rather to enter and present themselves. Nevertheless, the question persists as to how we may provide foreigners with the right to stay. For instance, does the marriage of a resident or a citizen of one state to a citizen of another state automatically provide the foreigner the right to stay in their spouse's state of residence? Does the unity of families supersede the state's authority to decide the individuals who are allowed to stay in its territory? Questions such as these are at the heart of the discussion surrounding immigration in the following chapters.

In order to better understand cosmopolitan right and Kant's account of cosmopolitanism in general, it is necessary to further evaluate certain concepts, especially patriotism, egalitarianism, external freedom and hospitality.

## 2.1 Patriotism

An important aspect of Kant's cosmopolitanism is his account of patriotism. Kant describes what constitutes patriotic as follows:

Patriotic is namely that way of thinking whereby everyone in the state (the head of state not excluded) regards the commonwealth as the maternal womb or the country as the paternal land from which and on which one has come into being, and which one must leave behind as a treasured pledge. Each thus

considers himself authorized only to protect the rights of the same through laws of the common will, but not authorized to subject it to his own absolute discretionary use. (Kant 2006, p.46, GTP 8:291)

Kleingeld (2012) suggests that Kant believed that cosmopolitanism and patriotism are compatible with each other. (p.2) His concept of patriotism entails individuals having a connection to their own state through citizenship and working to improve their state through laws. However, many contemporary thinkers may believe patriotism and cosmopolitanism to be incompatible because contemporary understanding of patriotism is different from what Kant believed patriotism entailed. In his time, nationalism was not as prevalent as it is today, so his concept of patriotism did not include the nationalist elements of our times. He saw patriotism not as nationalism, but as civic patriotism, a necessary aspect of being a world citizen while having a connection to one's own state. (Kleingeld, 2012, pp.2, 15, 20, 21, 26, 28, 31, 33, 187) This connection entails that being a citizen of a republican state aligns with the cosmopolitan ideal of perpetual peace, since republican states and their citizens are inclined to promote freedom and perpetual peace for the stability of their own state as well as others. (Kleingeld, 2012, p.31)

Kant's understanding of patriotism is aimed at working to improve one's own state through laws and legislation and to reform the conditions, rather than the promotion of nationalistic ideals. It is being committed to the ideals and the constitution of the state. The state in question may not necessarily be the state of one's birth, but it can also include states where one has immigrated to or naturalized in. (Kleingeld, 2012, pp.20-21) This is an important distinction as it differs from the current, more nationalist understanding of patriotism, which often emphasizes the promotion of one's own state, especially of birth or of ethnic connection, over others. An understanding of patriotism that is compatible with cosmopolitanism can shed

light on the immigration and integration policies of Germany in the following chapters. For instance, the decision to invite guest workers in the country was a decision to improve Germany's economic and social conditions after the war; hence might be interpreted as a sign of patriotism. The invitation of guest workers would be a way to improve the conditions of the host state. On the other hand, some thinkers may argue that improving one's own state requires more strict regulations on immigration as they may hold the view that it creates new and complex problems for the host state. I will discuss these perspectives in the following chapters.

According to Kant, patriotism requires holding a cosmopolitan world view, rather than a nationalist one. This stance contrasts with the more mainstream view of patriotism today, where many people who identify as patriots believe that their state should be more homogeneous and that their culture needs to be protected from outside influences. For example, nationalists in many European states often support the view that their culture is more civilized and superior compared to others, arguing that it should be protected from outside influences. This belief often leads to discrimination where patriotism is misconstrued as shielding one's own state from different cultures. Kant, however, would disagree with this form of nationalist patriotism as it does not align with his cosmopolitanism and would undermine the welfare of others who are not a member of one's own state.

Kant's cosmopolitanism, which is integral to his moral theory and political philosophy, is also the basis of his concept of world citizenship which has political, economic and cultural dimensions. He elaborates on establishing a cosmopolitan condition with necessary arrangements for a global institution that would lead to world citizenship for individuals, a global community. (Kleingeld, 2012) Kant states that

There is ... cause to conceive, subordinate to the concept of public right, not only constitutional right, but also international right (*ius gentium*). Since the earth is not an endless surface but a finite, contained surface, the two together inevitably lead to the idea of right of a state of peoples (*ius gentium*) or cosmopolitan right (*ius cosmopoliticum*). (Kant, 2006, p.111, MdS 6:311)

The individual becomes a citizen of the world by becoming a citizen of a particular state, which in turn is facilitated by the state's membership in a league of states.

Therefore, one does not need to choose between being a citizen of a particular state and being a world citizen but rather may achieve both by being a member of a state.

For example, a German citizen is also a citizen of the European Union because they are a citizen of a state that is a member of the European Union. According to Kant, the way to be a citizen of the world is through being a citizen of a legitimate state.

Hence, patriotism and cosmopolitanism are not mutually exclusive, on the contrary a necessary condition for each other.

It is also important to note that world citizenship is not limited to a privileged group of individuals who have the ability to travel and live in different parts of the world. Rather, it is about recognizing that all human beings belong to the world, as the lands on this planet are shared by all of humanity. This means that the idea of world citizenship is inclusive and applies to all people, not just a select few.

Kant's moral philosophy suggests that all rational beings are part of a moral community, and this community transcends all other communities. Fellow human beings share a common morality and are united under an overarching community that is governed by moral laws. Being a world citizen requires seeing fellow human beings as a part of this shared common moral community which is a fundamental aspect of cosmopolitanism. (Kleingeld, 2012, p.17).

Here, I would like to emphasize that I am not confusing Kant's moral philosophy with his political philosophy or use them interchangeably. I believe that

his moral and political philosophy are inherently interconnected. He ties the two in “Toward Perpetual Peace”, stating that

Morality in itself belongs to the practical sphere, in the objective sense, as the totality of the unconditionally commanding laws according to which we ought to act. It is therefore obviously inconsistent, after having acknowledged the authority of this concept of duty, to want to say that one cannot carry out one’s moral duties. For if this were so, the concept of duty would altogether disappear from the realm of morality (*ultra posse nemo obligatur* [no one is obliged beyond what is possible]). Therefore there can be no dispute between politics as the applied doctrine of right and morality as a theoretical doctrine of right (and hence no dispute between theory and practice), unless one were to regard morality as a universal doctrine of prudence, that is, to regard it as a theory of maxims according to which one selects the most effective means to attain ends to one’s own advantage, that is, to deny that morality exists at all. (Kant, 2006, p.94, ZeF 8:370)

Kant’s cosmopolitanism is closely connected to his conception of freedom in this way, as freedom is at the core of Kant’s moral philosophy. Moral cosmopolis is more important than arbitrary borders and countries. As freedom is at the heart of his moral philosophy, this also makes freedom, especially external freedom, an important part of his political philosophy, especially cosmopolitanism.

As human beings are ends in themselves<sup>3</sup>, this moral cosmopolis is a community of equals. This reflects Kant’s egalitarian approach to the concept of cosmopolitanism. While he includes all human beings in this moral cosmopolis, his views on race and gender are not necessarily in line with this egalitarian approach. Kant’s views on race evolved over time, and in his later works, he took a more progressive stance on issues of race and colonialism. (Kleingeld, 2007) However, it is important to note that despite this, his attitude towards women remained problematic throughout his body of work. Although we consider Kant more egalitarian than some of his contemporaries, he kept his belief that women are

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<sup>3</sup> “Now I say: a human being and generally every rational being *exists* as an end in itself, *not merely as a means* to be used at the pleasure of this or that will; rather, it must in all its actions, whether those are directed towards itself or also to other rational beings, always be considered *also as an end*.” (Kant, 2019, p.41, G 428)

naturally inferior to men throughout his life even though he changed his position on race from his earlier works.<sup>4</sup> The question remains whether we can count Kant more egalitarian than his contemporaries only because he did not distinguish among men or he was less egalitarian because he considered at least half the population of the world inferior, while some of his contemporaries saw women intellectually equal to men. (Kleingeld, 2012, p.18)

These discriminatory views are often at the basis of discussions such as Miller's (2022) who claimed that according to Kant, not every human being is equal, even though Kant said moral community is a community of equals. This is an example of Kant's writings and Kantian principles being in conflict. For the purposes of this thesis, I will make a distinction between the two while evaluating what Kant would have said about immigration, specifically from Turkey to Germany, in the following chapters. Although he sees all human beings as ends in themselves and thinks they share the moral cosmopolis; his political philosophy differentiates human beings and what their rights and duties are as political subjects. According to Kant,

Only the ability to vote qualifies one for citizenship. Yet this ability assumes the independence of the citizen among the people, who is not merely part of the commonwealth but a member thereof, which is to say, wishes of his own volition to be an acting part of the same in community with others. The latter quality makes the distinction between the active and the passive citizen necessary, even though the latter concept seems to stand in contradiction with the explanation of the concept of the citizen as such.—The following examples can serve to address this difficulty: the journeyman of a merchant or artisan, the servant (who does not stand in service of the state), minors (*naturaliter vel civiliter*), all women, and anyone at all whose existence is preserved (through food and protection) not by their own means but through arrangements of others (except that of the state), do not possess civil personhood, and their existence is mere inherence, as it were.— (Kant, 2006, pp.113-114, MdS 6:314)

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<sup>4</sup> For further discussion, see Kleingeld, P. (2019). On Dealing with Kant's Sexism and Racism. *SGIR Review*, 2(2), 3-22.

For Kant, the defining feature of citizenship is the right and ability to vote. This draws a line between active and passive citizens based on their independence and whether they have a right to vote to engage in political processes within their states. Passive members of a state do not have the right to vote due to their dependency on others for their livelihood. Due to the differentiation between active and passive citizens, the right to vote, the right to migrate, the right to stay, etc. are not equally granted to all human beings but rather they depend on conditions like gender, citizenship status, etc. These differences on the political rights and duties of humans led to debates on whether immigrants should have similar rights to those of the host state's citizens and whether immigrants should have a path to citizenship. I will further discuss in the following chapters.

## 2.2 External freedom

Freedom is a significant aspect and the basis of Kant's moral theory and political philosophy. Kant believes that all individuals have a natural and equal right to external freedom. This freedom should be safeguarded by a system in place that would ensure the freedom of every individual to exist with the freedom of others. This condition is unattainable in a state of nature, which is why it is essential for every person who interacts with others to be a member of a state.<sup>5</sup> Individuals are not

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<sup>5</sup> "Experience teaches us of the maxim of the violence and maliciousness of human beings, who, before external compulsive legislation is in force, feud with one another. But it is not experience, and hence not some fact, that makes public coercion through laws necessary. However good-natured and righteous one might imagine them to be, implicit a priori in the idea of reason of such a (nonjuridical) condition is the notion that, before a public legal condition can be established, individual people, peoples, and states cannot be secure against violence from one another, due specifically to the right of each to do what he believes is right and good and not be dependent on the opinion of others. Hence the first principle that one must decide upon if one is not to renounce all concepts of right is the following: one must emerge from the state of nature in which each follows only his own thoughts and unite oneself with all others (with whom one cannot avoid interacting) in subjecting oneself to public external coercion through laws, and hence enter into a condition in which what is to be recognized as his own is legally established and secured by sufficient power (a power that is not his own, but rather an external one), which is to say, that one should, above all, enter into a civil condition." (Kant, 2006, pp.111-112, MdS 6: 312)

protected from the threat of violence from others in the state of nature, where there is no system with the power to enforce justice and laws. (Kleingeld, 2012, pp.28-29)

In order to protect external freedom, one needs to be a member of a state.

Kants states that,

The greatest problem for the human species to which nature compels it to seek a solution is the achievement of a civil society which administers right universally. Nature's highest intent for humankind, that is, the development of all of the latter's natural predispositions, can be realized only in society, and more precisely, in a society that possesses the greatest degree of freedom, hence one in which its members continually struggle with each other and yet in which the limits of this freedom are specified and secured in the most exact manner, so that such freedom of each is consistent with that of others. (Kant, 2006, p.8, IaG 8:22)

Kant believed that external freedom cannot exist in a state of nature, as there are no laws to protect it from the actions of others. Therefore, he advocates for the establishment of a republican state where individuals give up some of their freedom to a representative government that will protect their freedom from the intervention of other individuals. In a republic, people delegate their power to representatives who act on their behalf. These representatives are tasked with protecting the rights and freedom of the members of the state.<sup>6</sup>

A republican state, for Kant, embodies a civil society that maximizes freedom of its members and applies justice universally. The difference between a republican state and a despotic state is that in a republican state, the rights of the citizens are protected, and the people have a sense of motivation to fulfil their duties because

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<sup>6</sup> "Yet every true republic is and can be nothing other than a representative system of the people, meant, in the name of the people, and through all citizens in their unity, to ensure its rights by means of its representatives (deputies). But as soon as a head of state as a person (be it the king, aristocratic class, or the entire people, the democratic union) also lets itself be represented, the united people does not merely represent the sovereign, rather it is itself the sovereign. For in it (the people) is found the origin of the supreme authority from which all rights of individuals as mere subjects (particularly as officers of the state) must be derived. (Kant, 2006, p.137, MdS 6:341)

their relationship with the state is not just based on self-interest, but rather a togetherness of common purposes to protect their rights. (Kleingeld, 2012, pp.29-30)

The argument for patriotism is also relevant in this context. In a republican state, citizens have specific responsibilities toward their own state that they do not have toward other states. Local patriotism is necessary because one has a special relationship with the legislation they participate in shaping and the fellow citizens with whom they share the same laws, rights and duties. However, this does not mean that local patriotism is above cosmopolitanism because limiting one's duty towards others to only their fellow citizens is not above one's duty toward their republic as an institution of justice. While an individual's fellow citizens do not inherently hold more value than other people in the moral cosmopolis, for justice to function and thrive the republican state, citizens must work together. (Kleingeld, 2012, p.32) Kant describes that,

A state (*civitas*) is a union of a number of people under laws of right. To the extent that these are laws that are a priori necessary, that is, as long as these follow from the concepts of external right per se (i.e., are not statutory), the form of this state is the form of the state as such, that is, the state according to the idea of how the state should be according to pure principles of right, and which serves as the guiding standard (*norma*) and internal measure of every actual union in a commonwealth. (Kant, 2006, p.112, MdS 6:313)

In a republican state, laws must be derived from fundamental concepts of external rights with a commitment to universal principles of justice. Kant argues that republics are inherently more peaceful than despotic states because citizens have a say in whether the state goes to war. Since citizens would have to bear the burden of war themselves, they are less likely to vote in favor of it.<sup>7</sup> (Kleingeld, 2012, p.33)

Kant states that

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<sup>7</sup> This claim neglects to consider the impact of ideology and populism, which can incite individuals in a republican state to engage in warmongering. These forces have the potential to manipulate public sentiment, driving individuals toward aggressive policies and undermining the principles of peace that are foundational to a republican state.

Besides the purity of its origin, that is, its having sprung from the pure source of the concept of right, the republican constitution also offers the prospect for the desired consequence, namely, perpetual peace. The reason for this is as follows: if (as must be the case in such a constitution) the agreement of the citizens is required to decide whether or not one ought to wage war, then nothing is more natural than that they would consider very carefully whether to enter into such a terrible game, since they would have to resolve to bring the hardships of war upon themselves (which would include: themselves fighting, paying the costs of the war from their own possessions, meagerly repairing the ravages that war leaves behind, and, finally, on top of all such malady, assuming a burden of debt that embitters the peace and will never be repaid [due to imminent, constantly impending wars]). (Kant, 2006, p.75, ZeF 8:351)

According to Kant, republican states would foster world-wide justice, freedom and perpetual peace, as cosmopolitanism and civic patriotism go hand in hand in republican states. They are more inclined to strive for the cosmopolitan goal of perpetual peace as it also increases the stability of the state. In turn, as it enhances the conditions of their own republics, members of the state tend to have more cosmopolitan views to strive for perpetual peace. (Kleingeld, 2012, pp.33, 65-66)

Despotic states, on the contrary, may easily declare war to other states, since the head of the state does not carry the burden of the war.<sup>8</sup> A state, for Kant, is

...either republican or despotic. Republicanism is the principle by which the executive power (the government) of a state is separated from the legislative power. Despotism is the principle by which the state executes, on its own authority, laws that it has itself made. Under despotism the public will is therefore treated by the monarch as his individual will. (Kant, 2006, p.76, ZeF 8:352)

According to Kant, by establishing a republican form of government, the relationship between the state and other states would be peaceful and cooperative especially

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<sup>8</sup> “By contrast, in the case of a constitution where the subject is not a citizen of the state, that is, in one which is not republican, declaring war is the easiest thing in the world, because the head of state is not a fellow citizen, but rather the owner of the state, and hence forfeits nothing of his feasts, hunts, summer residences, court festivals, and such things due to the war. The head of state can decide to wage war for insignificant reasons as a kind of game for amusement and can, for the sake of decency, indifferently leave its justification up to his diplomatic corps, which always stands ready for such tasks.” (Kant, 2006, p.75, ZeF 8:351)

within the framework of an alliance, a league of states. He explains international right and puts forward his views on league of states as follows:

The elements of international right are: (1) that states, considered in their external relations with one another (like lawless savages), are by nature in a nonjuridical condition; (2) that this condition is a condition of war (where might is right), even if not an actual war and actual perpetual feuding (hostility), feuding which (in that both do not want to have it better), 10. "People" is here used not in the nationalist but in the political sense of the term although none is treated wrongly by the other, is in itself wrong in the highest degree; and that the states which neighbour one another are obligated to emerge from this state of war; (3) that a league of states according to the idea of an original social contract is necessary, not to intervene in the domestic differences of one another, but to protect one another against attacks from the outside; (4) that the association must imply no sovereign power (as in the civil constitution), but rather only a cooperation (federalism), an alliance that can be broken off at any time, and thus must be renewed from time to time,—this is a right that is subsidiary to another, original right, namely, the right to prevent the fall into the condition of real war between the states ( foedus Amphictyonum)." (Kant, 2006, pp.139-140, MdS 6:344)

When states leave the state of nature which is also a state of war, Kant argues that they should form a league of states. This league should not interfere in the domestic affairs of its members but provide mutual protection against warfare.

A league of states is also necessary for freedom of individuals as well as peace among states. While being a member of a state is a necessary condition for an individual's freedom, it is not sufficient since states themselves may be in a state of nature. Hence, coexisting in a world where states are at peace with each other is also necessary, not only for peace among states but also to ensure the freedom of the individuals within states. This condition can be achieved through the establishment of a league of states.

However, there are examples that contradict the peacefulness and cooperation of the states in such a league. Although today many states have more social rights for their own citizens than other time periods in their history, in the international arena there are many instances where they keep their interests and enhance their economic

power by investing in conflicts and wars among others. It is possible that Kant did not foresee the effects of capitalism and the technological advancements in warfare in his historical account regarding the development of states. When republican states promote or benefit from war in other states, it brings into question whether they are just states, even though they are governed by self-legislation and protect their citizens' human rights. It also raises the question whether this makes them responsible for the individuals' suffering from these decisions and in turn, whether they should accept the entry of those individuals into their states.

This brings us to the discussion around immigration and its possible effects on the host state. There are debates about the potential impact of immigration, especially of people emigrating from despotic states, on the human rights and individual freedoms in republican states. Skeptics of immigration, especially when it is in large numbers, may argue that the influx of individuals from states with different forms of governments may slow down or even reverse the progress towards protecting human rights and individual freedoms that have been made in the host states. Kant's historical idea of the development of states suggests a view that states, in time, by themselves would improve in terms of human rights and freedoms and turn from despotic states into just states. Kant suggests that,

... it is a basic principle of moral politics, for example, that a people ought to unite itself into a state in accordance with the ideas of freedom and equality as the sole concepts of right, and this principle is not based on prudence, but rather on duty. Now political moralists may argue against this, however, by speaking of the natural mechanism of a mass of people who enter into society with each other, a mechanism which refutes these principles and thwarts their intent, or they may seek to disprove them by citing examples of badly organized constitutions from both ancient and modern times (for example, by citing democracies without a representative system), but their arguments do not deserve any attention. This is so primarily because such a pernicious theory itself leads to the evil that it foresees, putting the human being in a class together with the other living machines that are attributed only the awareness that they are not free beings, in order to make them in their own

judgment the most miserable of all beings in the world. (Kant, 2006, pp.101-102, ZeF 8:378)

In this case, the question of what Kant's stance would be on the potential regression of rights and freedoms in a republican state due to a large number of immigrants is pertinent. According to Kant, the ideal is for every state to have the ability to make decisions for themselves, which in turn raises the question whether to grant citizenship and voting rights to immigrants. Even if there is a temporary setback due to the inclusion of a large number of immigrants, it can be argued that the host state will start to improve again toward the goals of a republican state in the long term.

This is similar to the Kant's optimistic view on despotic states which have the potential to turn into republican states in the future. Kant portrays human history as a continuous evolution towards freedom and justice. The strive to become a just state does not necessarily need to be linear in a continuous upward progression, but rather it can have inconsistent progress as long as a "seed of enlightenment" remains.<sup>9</sup>

Furthermore, the ideal is not the improvement of one specific state alone but the improvement of peoples on a global scale. Whether immigrants should have a right to vote is an important question as it relates to the concept of self-legislation.

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<sup>9</sup> "Yet if one may assume that nature itself does not progress without a plan and ultimate intention even in the exercise of human freedom, then such an idea could become useful indeed; and although we are too shortsighted to understand the secret mechanism of nature's organization, this idea may nonetheless serve as a guiding thread with which to describe an otherwise planless aggregate of human activities, at least in the large, as a system. For if one begins with Greek history—through which every other older or contemporaneous history has been passed on to us, or at least must be certified; if one traces up until our time its influence on the formation and deformation of the Roman state which swallowed up the Greek state, and the Romans' influence on the barbarians who in turn destroyed them, and if one episodically adds to this the history of the states of other peoples, the knowledge of which has gradually been passed down to us from these enlightened nations specifically: then one will discover a regular course of improvement in the constitution of the state in our part of the world (which is likely to provide all others with laws at some future point). By furthermore paying heed in all instances only to the civic constitution and its laws and the relations among states, to the extent that both served for some span of time to elevate and extol peoples (and with them the arts and sciences) through the good that they contained, but which, due to the flaws contained in them in turn collapsed, though in such a way that a seed of enlightenment always remained which developed further through each revolution and prepared a subsequent, even more greatly improved stage." (Kant, 2006, p.15, IaG 8:29- 8:30)

Immigrants are not given the right to be citizens at least for a considerable amount of time even if they are accepted in the land of a state they did not originate from.

However, this raises concern since immigrants have no rights to have a say in the republican state, hence the laws they are governed by in the land they currently live, even when their lives and well-being may depend on it. There are different permanent residency and citizenship policies in different states and much debate on how involved immigrants should be.

For instance, within the European Union, citizens of EU states can vote in local elections in the state where they reside, even if they are not the citizens of that particular state. This leads to a big difference between citizens of a non-EU state and an EU state regarding the right to vote. For example, a Turkish citizen who has lived in Berlin for many years do not have a say in the local elections in Berlin that would impact their life. However, a French citizen who lived in Berlin for a shorter period of time would have that right. This shows that the issue of immigration is not only between the host state and immigrants but also very dependent on the state those immigrants emigrate from. As I will further discuss, immigrants, in this case, are not evaluated by their individual circumstances but rather which state their citizenship is issued by. Kleingeld (2012) suggests that arbitrary conditions such as skin color would be an illegitimate reason to deny entry to foreigners. while she discusses what cosmopolitan right entails.<sup>10</sup> (p.79) Citizenship status of an individual may be

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<sup>10</sup> “But it would be reasonable to reply that discriminatory rules that keep groups of foreigners out by law for the mere reason that they have a certain skin color, for example, would disregard these foreigners’ right to try to establish contact. For if they are rejected a priori on arbitrary grounds, their right to attempt to establish contact is entirely empty. A distinction between legitimate and illegitimate reasons for refusing requests should be drawn in terms of the actions and proposals of the foreigners in relation to a state’s own legitimate goals, rather than being based on an arbitrary, irrelevant characteristic. A law that discriminates on the basis of skin color would be illegitimate, while a law that forbids persons from entering the country to sell opium or plunder its natural resources would not. The line between legitimate and illegitimate reasons for rejection may be quite hard to draw in practice, but the distinction is essential in order to preclude the hospitality rights of certain groups from being rendered empty by arbitrariness and prejudice.” (Kleingeld, 2012, p.79)

considered as an arbitrary criterion in this sense, as it may cause discrimination. This line of thinking can be extended to the right to enter, to stay, to vote and to citizenship. This also bring us to the principles of Kantian egalitarianism.

### 2.3 Egalitarianism

Another aspect of Kant's moral philosophy is his perspective on egalitarianism. According to Kant, every rational being has the capability to have insight for the "categorical imperative"<sup>11, 12</sup> Humans are capable of distinguishing between right and wrong and should respect other humans as moral agents themselves.<sup>13</sup> Kleingeld (2012) suggests that Kant advocates for a moral duty to consider the well-being of fellow humans through a non-paternalistic approach. As long as they are morally defensible, one should be guided by the ends of others rather than imposing what they consider as good when considering the well-being of others. One should refrain from helping others in a paternalistic way. (Kleingeld, 2012, pp.18-19)

The reason why Kant finds paternalistic states undesirable can also be found in his views on egalitarianism. Members of a republican state have a say in what is good for themselves, unlike despotic states where the head of the state determines the rules in a paternalistic way. Kant believes in the importance of patriotism so that the community in which one lives can have freedom, equality, and the ability to govern itself through laws that are created and agreed upon by its members. For Kant, the

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<sup>11</sup> "... there is just one categorical imperative, and it is this; *act only on a maxim that you can also will to become a universal law.*" (Kant, 2019, p.35, G 421)

<sup>12</sup> For duty has to be a practical, unconditional necessity of action; it must hold for all rational beings (to whom alone an imperative can apply), and *only in virtue of so holding* be a law also for every human will." (Kant, 2019, p.39, G 425)

<sup>13</sup> "The will is to be thought of as a capacity to determine itself in action *in conformity with the representation of certain laws.* And a capacity of this sort can only be found in rational beings. Now, what serves the will as the objective ground of its self-determination is the end; and this *end*, if it is given by reason alone, must be equally valis for all rational beings. By contrast, the *means* is merely that which makes an action possible, the effect of which is the end." (Kant, 2019, p.41, G 427)

difference between paternalistic and patriotic governments lead to despotic and republican states in that order.<sup>14</sup> Kant defends that a republican state is the ideal since a state should be governed by law rather than a despotic ruler. Kant states that

A government that also legislates would be designated a despotic government, in contrast to a patriotic one (*regimen civitatis et patriae*), by which is meant not a paternalistic government (*regimen paternale*), which is the most despotic of all (in treating citizens as children), but rather one in which the state itself (*civitas*) treats its subjects as if they were members of a family, but also as citizens, that is, according to laws of their own independence, and in which each is in possession of himself and not dependent on the absolute will of another either next to him or over him. (Kant, 2006, p.16, MdS 6:317)

Kant's egalitarian principles can be applied in the context of immigration and integration policy. The well-being of immigrants as moral agents should be considered by the host state as they should be guided by the perspective that immigrants are ends in themselves. Additionally, rather than what the host society considers as good while considering their well-being; the needs, values, and views of immigrants should be taken into account as every rational being has the capability to have insight for the "categorical imperative".

The topic of immigrants' right to representation within the host state is a subject of ongoing discussion in contemporary concerns around immigration. The issue of whether immigrants should be granted the right to citizenship and under what conditions, is a significant matter that pertains to the rights of a substantial portion of contemporary societies, particularly those with a significant immigrant

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<sup>14</sup> —A government that would be established on the basis of the principle of benevolence toward the people, as a father vis-à-vis his children, that is, a paternalistic government (*imperium paternale*) would be the greatest imaginable despotism (a constitution that nullifies all freedom of the subjects, who thus have no rights). Such a government is one where the subjects, as dependent children, cannot decide what is useful or damaging to them and are required to behave merely passively. How such passive citizens should be happy depends only on the judgment of the head of state, and his willing them to be so would be merely due to his kindness. Not a paternalistic, but rather only a patriotic government (*imperium non paternale, sed patrioticum*) is the one which can be conceived for human beings who are capable of rights, and also the only one that can be conceived for a benevolent ruler. (Kant, 2006, pp.45-46, GTP 8: 291)

population such as Germany which is the case study of this thesis. Immigrants are subject to the laws of the host state, yet often lack representation in decision-making processes. Kant states that,

This dependence on the will of others and inequality in no way stand in opposition to the freedom and equality of them as human beings, who together constitute a people. On the contrary, only under the conditions of freedom and equality can a people become a state and enter into a civil constitution. Yet not all are entitled by the same right to the ability to voice consent in this civil constitution, that is, to be a citizen and not merely a fellow subject of the state. For the right to manage the state as active members, the right to organize it, and the right to participate in the introduction of certain laws do not follow from their due claim to be treated by all others in accordance with the laws of natural freedom and equality as passive parts of the state. Rather, from the latter follows only that, whichever kind of positive laws they might give their assent to, these must not contradict the natural laws of freedom and the equality, appropriate to this freedom, of all individuals among the people. Namely, such laws must not contradict the right to work one's way out of the passive condition into the active condition. (Kant, 2006, p.114, MdS 6:315)

Here, Kant suggests that individuals who are considered passive subjects of a state—such as women in Kant's era and non-citizen immigrants in contemporary society—should not encounter laws in the host state that conflict with their potential right to become active citizens.

Before discussing the rights and duties of individuals and states, I would like to briefly mention O'Neill's (2010) claim, strongly influenced by her reading of Kant, that obligations (duties) take precedence over rights. In her article "Rights, Obligations, Priorities", O'Neill (2010) claims that prioritizing obligations over rights provides a more comprehensive understanding of ethical behavior and societal relationships. She states that the perspective of obligations offers a wider and more justified view of normative social bonds compared to rights. Viewing ethics from the perspective of obligations centers the primary question around what each individual ought to do, whereas focusing on rights emphasizes what each individual ought to

receive or claim.<sup>15</sup> She believes that the emphasis on rights often lead to vague assertions, such as claiming rights to various necessities like free speech, food, health, and association. These vague assertions do not clarify who should fulfill these rights and for whom, while emphasis on obligations provides greater clarity about the rights and what actions they entail.<sup>16</sup> (O'Neill, 2010, pp.164-166)

As in the case of perfect duties, imperfect (wide) duties, although it is not specific how these duties should be fulfilled, are of great moral importance. By focusing on obligations (even wide duties), one can adopt a broader and less one-sided view of morality. While O'Neill acknowledges that a theory of obligations may not encompass the entire domain of morality, she contends that it allows for a more comprehensive articulation than a rights-based approach. (O'Neill, 2010, p.167). She emphasizes her view stating that:

...how can 'rights to health' and 'rights to food' and the like be universal perfect rights if we cannot specify what must be done by whoever bears the corresponding duties, to whose performance right-holders are said to be entitled? Yet we cannot specify who those obligation bearers are without assuming a specific socio-economic system that provides a determinate allocation of tasks. Are claims about such rights, then, more than proleptic rhetorical gestures? Or do they perhaps invoke special rights that correspond to special perfect obligations and arise out of specifiable relationships and transactions? That would leave those without the necessary relationships and transactions without any rights. (O'Neill, 2010, p.167)

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<sup>15</sup> "To put matters broadly, before turning to some more specific issues, if we focus on obligations we see the primary question of ethics as 'What ought each of us do?', whereas if we treat rights as fundamental we see the primary question as 'What ought each of us get?' The perspective of rights privileges recipience and claiming; the perspective of obligations privileges acting and providing." (O'Neill, 2010, p.164)

<sup>16</sup> "The rhetoric of rights lends itself all too easily to vague substantival claims: we can speak of rights to free speech and food, to health(!) and association, and we can formulate suggestive phrases such as 'right to a liveable climate', 'right to clean air', 'right to potable water', and 'cultural rights'. Unfortunately this way of thinking shows nothing about who should do what for whom: it is rhetorically impressive, if one likes that sort of thing, sometimes politically useful, but practically indeterminate. I believe that while claim rights must have correlative obligations, there will be greater clarity about those rights and what they demand if we start from the perspective of obligations." (O'Neill, 2010, p.166)

In this context, the immigrant's rights, such as the right to enter, stay, or obtain citizenship, lack clarity regarding the responsible parties for addressing these rights. Conversely, the duty of beneficence addresses the question of who is tasked with fulfilling these duties, although the specifics of how this duty should be fulfilled or to whom it should be directed remain uncertain since duty of beneficence is a wide duty.

In "Toward Perpetual Peace", Kant discusses the rights and duties of states toward foreigners and individuals' rights and duties toward foreign states.<sup>17</sup>

According to Kant, acceptance of refugees is crucial for perpetual peace because these individuals would suffer greatly if they were not granted permission to enter the host state. However, traders, tourists and immigrants are bound by the host state's decision whether they can enter to their land since their rejection would not result in their demise (or death, depending on the translation). Regarding refugees, the need is more obvious, however, who determines the level of negative impact for prospective immigrants and what constitutes "demise" still need to be answered. The question remains whether demise refers only to the threat to people's lives or if it includes other kinds of hardships such as economic and political hardship or the lack of social rights in one's own state that does not necessarily threaten one's physical health. I will address this question in the following chapter since I believe the debate between Reinhardt (2022) and Miller (2022) regarding Kant's perspective on immigration sheds light on this matter.

In this chapter, I laid the groundwork for evaluating immigration by presenting Kant's accounts of cosmopolitanism, patriotism, and external freedom. In

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<sup>17</sup> For further details, see Kant, I. (2006). "Toward Perpetual Peace ." In *Toward Perpetual Peace and Other Writings on Politics, Peace, and History*, by Immanuel Edited by Kleingeld, P. New Haven and London: Yale University Press.

the following chapter, I explore the debates between open and closed border theories to understand the nuanced criteria for the inclusion and exclusion of immigrants at the state borders. Understanding whether Kant was an advocate of open borders or supported closed-border theories is important for the debate on what he might have said about immigration in today's world. His philosophy supports a form of hospitality that respects both the rights of individuals and the states, addressing concerns for state integrity and cosmopolitan obligations. This is reflected in the discussions on contrasting interpretations by Reinhardt and Miller in the following chapter.



## CHAPTER 3

### KANT AND OPEN BORDERS VS CLOSED BORDERS: CONTRASTING REINHARDT AND MILLER'S ACCOUNTS

Before discussing Reinhardt and Miller's contrasting views on what Kant would have said about immigration, I believe it is important to address the distinction between open border and closed border theories.

#### 3.1 Open border vs. closed border theories

One of the supporters of closed borders, Wellman (2008), in his much-debated article "Immigration and Freedom of Association", proposes that freedom of association entails respecting the rights of individuals and groups to refuse to associate with others, which also includes states' right to reject outsiders.<sup>18</sup>

In his view, freedom of association gives states a right to close their borders and exclude immigrants. He suggests that states are not obligated to let asylum seekers enter even when the asylum seekers are in a dire situation and need safety. (Wellmann, 2008). He opposes the view that sheltering political injustice victims in one's own state is the sole solution. He proposes that even asylum seekers may be assisted by exporting justice, for instance, wealthier cultures could aid foreigners in

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<sup>18</sup> "In my view, autonomous individuals and legitimate states both have rights to autonomy. This means that they occupy morally privileged positions of dominion over their self-regarding affairs. Such a position can be outweighed by sufficiently compelling considerations, of course, but in general people and states have a right to order their own affairs as they please. Freedom of association is not something that requires an elaborate justification, then, since it is simply one component of the self-determination which is owed to all autonomous individuals and legitimate states. As a consequence, I think that there is a very natural and straightforward case to be made in favor of freedom of association in all realms. Just as one need not explain how playing golf is inextricably related to the development of one's moral personality, say, in order to justify one's right to play golf, neither must one show that one's membership in a golf club is crucial to one's basic interests to establish the club members' right to freedom of association. And if no one doubts that golf clubs have a presumptive right to exclude others, then there seems no reason to suspect that a group of citizens cannot also have the right to freedom of association, even if control over membership in a country is not nearly as significant as control regarding one's potential spouse." (Wellmann, 2008, p.114)

need. Hence, they do not need to open their borders to asylum seekers. (Wellmann, 2008)

Wilcox (2014) replies to Wellmann in her article “Do duties to outsiders entail open borders? A reply to Wellman” by stating that Wellmann accepts that wealthy states have egalitarian duties toward foreigners in need even though he denies that this duty does not include open borders. Wilcox (2014) believes that there are cases where opening borders is the only way to fulfill state’s egalitarian duties or exporting justice would be an inappropriate way to relieve the state from these duties.<sup>19</sup> She argues that Wellmann’s suggestion to export justice is suitable only in an ideal world which is far away from today’s conditions. In today’s world, inequality, triggered by unfair economic initiatives and agreements, causes immigration. She believes we need to address immigration in current, immediate conditions and what justice demands is open borders. (Wilcox, 2014)

Also, in his response to Wellmann, Blake (2012) in his article “Immigration, Association, and Antidiscrimination” refuses Wellmann’s claim that freedom of association would bring about the state’s right to exclude immigrants in any case. While Blake agrees with Wellmann that freedom of association is relevant to immigration, he rejects the conclusion that freedom of association would lead to the justification of closed borders. Blake argues that freedom of association is not a standalone right, but part of a complex set of rights that require moral judgment. While acknowledging the value of freedom of association, Blake contends that it does not necessarily entail Wellman’s conclusion of excluding even desperate asylum seekers. Blake presents a nuanced view of political rights, suggesting that they

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<sup>19</sup> Wilcox gives the example of The Border Industrialization Program between the USA and Mexico. For further details and examples, see Wilcox, S. (2014). Do duties to outsiders entail open borders? A reply to Wellman. *Philosophical Studies*, 169(1), 123-132.

should be understood within a framework of equal concern and respect for individuals. He argues that freedom of association would not lead to blanket exclusions of immigrants, especially in cases where it would violate other fundamental rights or principles of equality and justice.<sup>20</sup> (Blake, 2012)

Another response to Wellmann comes from Fine (2010) in her article “Freedom of Association Is Not the Answer”. She believes that Wellman’s argument lacks a justification for the state’s territorial rights, which is necessary for Wellmann’s claim that states have a right to exclude others from their territory. Merely appealing to freedom of association is insufficient in this regard. (Fine, 2010) She states that Wellmann’s claim does not only exclude prospective members from the political community but also prospective residents. This raises the question whether states have a right to control who settles in that territory besides controlling who becomes a member of the political community. She argues that even if there is justification to claim settlement in a particular territory, it does not justify the state’s right to exclude immigrants from settling there. (Fine, 2010)

David Miller, who would also fall into the category of closed border theorists, opposes open borders theorists and their interpretation of Kant’s cosmopolitan right. He opposes open borders stating that

Traces of this view [open borders] can be found in the writings of Kant, whose claim that “all nations stand originally in a community of land” entails that a state can only vindicate its right of jurisdiction over a particular territory if it complies with the principles of “cosmopolitan right.” This does not require it to gain the actual consent of the citizens of other states. It does, nevertheless, imply granting them certain rights, in particular the right to enter into commercial relations and to travel for that purpose. (...) however, this by no means entails a permanent right to residence; nor does it even entail a strict right of entry since Kant grants the citizens of the receiving society permission to turn the stranger away so long as they do not treat him with hostility. So on this view jurisdiction is only conditional on a general willingness to allow outsiders to establish contact for commercial purposes.

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<sup>20</sup> For examples, see Blake, M. (2012). Immigration, association, and antidiscrimination. *Ethics*, 122(4), 748-762.

In Kant's hands at least, joint ownership of the world translates into something far less than a demand that borders should remain fully open. (Miller, 2016, p.42)

He furthermore objects open border theorists by claiming that the concept of common ownership of the earth may justify crossing borders in cases of necessity but that does not entail a general right to immigrate. He also emphasizes that although the borders do not always need to be kept closed, states should decide their own immigration policies. Through these policies, states can decide which prospective immigrants to include or exclude. (Miller, 2016, pp.56-57)

The debate between open border and closed border theories shows us how nuanced the criteria for the inclusion and exclusion of immigrants can be. Most of the time the positions held by both open border and closed border theorists do not fall on the extremes such as anti-border views or completely closed borders but rather somewhere in between. I believe the main difference is that while closed border theorists prioritize the integrity of the states and their rights to decide which immigration policy they would implement, open border theorists hold a view that is more in line with cosmopolitanism with less strict border regulations than closed border theorists offer. For open border theorists, the welfare of human beings at the borders of another state takes priority over current laws of the host state regarding the matter.

Whether Kant was an open border or a closed border theorist depends on how we interpret Kant's views on cosmopolitanism, hospitality and integrity of states. In order to further evaluate and understand Kant's position on immigration, I will look at Reinhardt's (2022) and Miller's (2022) accounts on what Kant would have said about immigration. I believe these two accounts represent those who understand Kant's position on hospitality regarding refugees and immigrants in an inclusive

manner, and others who believe his position is restricted to only refugees whose lives are in immediate danger.

### 3.2 Reinhardt and Miller's accounts of what Kant would have said about immigration

Reinhardt (2022) in her article "A Right to Migrate? On The Virtue of Productive Disharmony" contends that Kant's position on immigration is characterized by a state of productive disharmony. She does not think that Kant would align with open borders theorists, nor he would advocate for closed borders. Kant's account can be interpreted as a suggestion for cross-border freedom of movement, and he offers the necessary arguments to support the notion of providing unconditional protection for refugees. Nevertheless, he does not assume the existence of an inherent right to migrate. (Reinhardt, 2022)

The distinguishing factor between the open and closed border theories is in their underlying theoretical foundations. One approach asserts the individual's right to migrate, while the other emphasizes the nation state or political community's right to exclude. According to Reinhardt (2022), the account put forth by Kant does not present a supportive stance towards the concept of open borders. Contrarily, he emphasizes the justifiability of closing borders and asserts that individuals do not possess a right to immigration. Nevertheless, he also does not advocate for the notion of closed borders and an inherent right to exclude with regards to political communities. Kant places significant practical importance on a substantial degree of immigration across national borders, asserting that every person possesses the entitlement to present oneself to the host state. (Reinhardt, 2022)

The concept of cosmopolitan right encompasses all types of cross-border engagements, including trade, travel, pilgrimages, and intellectual and cultural exchanges, as long as they involve the movement of individuals across borders. In *Toward Perpetual Peace*, Kant states that

...hospitality (a host's conduct to his guest) means the right of a stranger not to be treated in a hostile manner by another upon his arrival on the other's territory. If it can be done without causing his death, the stranger can be turned away, yet as long as the stranger behaves peacefully where he happens to be, his host may not treat him with hostility. It is not the right of a guest that the stranger has a claim to (which would require a special, charitable contract stipulating that he be made a member of the household for a certain period of time), but rather a right to visit, to which all human beings have a claim, to present oneself to society by virtue of the right of common possession of the surface of the earth. Since it is the surface of a sphere, they cannot scatter themselves on it without limit, but they must rather ultimately tolerate one another as neighbors, and originally no one has more of a right to be at a given place on earth than anyone else. (Kant, 2006, p.82, ZcF 8:358)

According to Kant, cosmopolitan right involves the practice of refraining from acts of hostility towards individuals who immigrate to foreign territories, as well as immigrants refraining from acts of hostility by those already in the host state. (Reinhardt, 2022)

Reinhardt (2022) claims that, for Kant, the facilitation of cross-border movements and international interactions plays a crucial role in fostering greater interconnectedness among humanity and establishing universal peace. However, this is not a right to migrate but a right to present oneself and visit the host society. In order to stay, a certain kind of contract would be needed. According to Kant, cosmopolitan right serves the purpose of not only preventing hostile rejection by those seeking to enter a foreign state, but also safeguarding against the visitor's misuse of rights in another state. Reinhardt (2022) also emphasizes that what Kant had in mind while putting forward this aspect was due to colonialism he witnessed during his time. He does not align with open-border theorists because one's visit

should not be used as an occasion for oppression or exploitation. He realized the dangers of a right to open borders as it might have also justified the colonial expansion of European states. (Reinhardt, 2022)

The most important distinction of Reinhardt's account is on the definition of the German word *Untergang*. She suggests that Kant's cosmopolitan right allows for wide refugee protection. Kant, in his work "Toward Perpetual Peace", writes that "hospitality ... means the right of a stranger not to be treated in a hostile manner by another upon his arrival on the other's territory. If it can be done without causing his death, the stranger can be turned away,...) (Kant, 2006, p.82, 8:358). However, the phrase "without causing his death" in the original work in German is "ohne seinen Untergang"<sup>21</sup>. (Kant, 2014) Although some translations and interpretations of Kant suggested that *Untergang* refers only to death, Reinhardt believes this is a wider term. She suggests that Kant would have used the word *Tod* (death) instead of *Untergang* as he did so in many other occasions. Therefore, *Untergang* (ruin or demise) does not only mean death but other hardships as well. She argues that *Untergang* encompasses more than just the physical demise of an individual or the peril posed to their life and physical well-being. Rather, it encompasses the potential ruin to the moral and psychological essence of a person. (Reinhardt, 2022)

The question still remains: other than death, what does it mean for a person to lose what makes them a person? For Kant, being a moral person is to have the freedom under moral laws as a rational being. Individuals, according to Kant, have both a moral and a psychological personality. Reinhardt (2022) explains that the former is the practical freedom that allows them to act morally, while the latter is the

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<sup>21</sup> For the German version, see Kant, Immanuel. (2014). Zum ewigen Frieden Ein philosophischer Entwurf. Project Gutenberg. Retrieved April 21, 2024, from <https://www.gutenberg.org/files/46873/46873-h/46873-h.htm>

continuous awareness of oneself in both thought and perception. Hence, according to Reinhardt, the loss of accountability and the inability to recognize one's own thoughts would result in the *Untergang* of a person. This leads to Reinhardt's inference that the perfect duty not to turn somebody away does not only entail someone's death or serious bodily harm but also their moral and psychological personalities being under threat. (Reinhardt, 2022) The examples for an individual's moral and psychological personality being under threat may include but not limited to violations of human rights, women's rights, LGBTQIA+ rights, political affiliations, religious persecution, persecution due to thought crimes, economic hardship, hunger, unemployment, etc.

On the other hand, the duty not to turn somebody away refers to individuals. The question is whether this still applies when there is an influx of immigrants to a specific country. Reinhardt (2022) suggests that it can be questioned whether the state is not obliged to accept large numbers of immigrants when the sheer number of immigrants puts the host states' people in danger similar to the immigrants. She gives the example of a very small country, facing a large number of immigrants may not have the space to accommodate them without putting both the immigrant and the host society in danger. However, she suggests that according to Kant, this still would not make way to turn somebody away because that one specific person "would be one too many". (Reinhardt, 2022) This is due to Kant's two negative duties in the cosmopolitan right. The first duty is to not be hostile and the second one is not to turn somebody away if this leads to their *Untergang* (demise). Reinhardt claims that these duties still hold regardless of the number of refugees (or immigrants). (Reinhardt, 2022)

Furthermore, Reinhardt points out that Kant's account of moral universalism challenges the current debate on open and closed borders. Reinhardt states that

While on the one hand Kant grants political communities the right to reject others, as his discussion of European colonialism demonstrates, he argues on the other hand for far-reaching rights not to be turned away. The non-refoulement rule entailed in his formulation of Cosmopolitan Right does not only refer to dangers to life and limb, but also to threats of impairing one's moral and psychological self under a given situation. Kant's account, thus, does not map onto the current debate, but leads to interesting results with powerful implications for the concrete design of justified migration regimes and immigration policies. (Reinhardt, 2022, p.176)

Kant advocates moral universalism and rights for not to be turned away in a wider sense but also grants political communities the right to reject others, such as in the case of European colonialism. His cosmopolitan right, which includes the notion of non-refoulement, underlines that states can turn away foreigners only if it does not lead to their demise, considering not only dangers to physical but also mental and psychological well-being. Reinhardt (2022) thinks this entails a commitment to some policy of non-refoulement.

Non-refoulement is a key concept to determine the relationship between states and refugees and asylum seekers. Owen (2020) in his book *What Do We Owe to Refugees?* finds the norm of non-refoulement, a crucial aspect of refugee status, requiring states not to return individuals to places where their basic rights are endangered. He suggests that

The norm of non-refoulement is the distinguishing feature of the general status of refugeehood. It places the state into which an individual seeking refugee status crosses under a strict duty not to return that person to any territory where her basic rights are at risk. This duty persists as long as the individual remains entitled to that status. This does not entail that refugees have a right to asylum, sanctuary or refuge in the state to which they make application; states may come to any of a range of reasonable agreements with each other concerning how best to protect refugees, including ones in which the state that processes the claim to refugeehood is not that which provides, for example, asylum." (Owen, 2020, p.68)

According to Owen (2020), while the non-refoulement rule does not grant refugees a right to asylum, it establishes a fundamental default condition that prioritizes protecting refugees' rights over the fair distribution of responsibility among states. This prioritization is essential to ensure that states fulfill their collective responsibility for refugee protection. By upholding non-refoulement, states acknowledge their obligation to safeguard refugees' rights while allowing flexibility for cooperative agreements to determine how this responsibility is shared. Thus, non-refoulement strikes a balance between state sovereignty and human rights, promoting the legitimacy and effectiveness of refugee protection. (Owen, 2020, pp.68-70)

Reinhardt (2022) believes that the non-refoulement rule is entailed in Kant's cosmopolitan right. She also maintains that Kant is not an open borders-theorist who believes that immigrants have an unrestricted right to immigrate but advocates for a duty not to treat others with hostility and not to turn away those in danger. This approach provides a basis for wider refugee protection and immigrant rights without giving individuals an inherent right to migrate.

Miller (2022), on the other hand, focuses more on the integrity of legitimate states. He emphasizes the need to consider the practical implications for democratic states in Europe and other parts of the world that are facing a large influx of immigrants. He focuses more on what Kant would have said in the current situation, rather than what he had already said in his time. He believes that Kant would hold a more restrictive position on immigration than Reinhardt (2022) suggests. (Miller, 2022)

Miller notes that Kant views on immigration was limited in scope because immigration as we know it was not present in his time. Immigration then mostly consisted of individuals or small groups moving across borders, rather than as a

state-regulated practice it is today. Now, host states control their borders and have laws and policies such as visas that determine who is allowed to enter. (Miller, 2022)

Miller (2022) also emphasizes that Kant did not see everyone as equal. Kant categorized citizens into active citizens with voting rights and passive citizens without. Due to this specific point, he concludes that Kant would not have a problem with immigrants not having rights to be put on the path to citizenship. Miller (2022) proposes that Kant's viewpoint does not perceive any inherent issue in including a majority of passive people, such as women as I indicated above, within the state without granting them voting rights. He concludes that, according to Kant, the determination of immigrants' eligibility for the right to vote and the specific circumstances under which they would qualify would fall within the authority of the currently elected legislative body. (Miller, 2022)

Miller, as Reinhardt, also believes what Kant meant by *Untergang* is important for the discussion on immigration. However, he opposes Reinhardt's wider definition by claiming that it is translated to English as death or destruction. He believes that there is no evidence of Kant meaning moral and psychological personalities being under threat by *Untergang*. (Miller, 2022)

Miller (2022) also opposes Reinhardt interpretation of Kant regarding mass migration. He claims that the individual who has arrived at a country's border lacks the entitlement to demand food, shelter, and other necessities, unless their hosts benevolently extend them. This lack of entitlement means that the individual can establish a permanent residence solely with the approval of the inhabitants of the host state. Miller (2022) thinks that the idea that refugees are owed protection due to human rights which includes right to shelter, healthcare, etc. may be very expensive to fulfill for the host states. Miller (2022) believes that Kant would think it is

permissible to give rights to immigrants if the host state decides to do so but it is hard to prove that Kant would think these rights would be required from the host state. (Miller, 2022)

However, I believe given conditions of the refugees or immigrants facing *Untergang*, even with Miller's narrower definition, it would not be plausible to expect them to fend for themselves. People emigrating from their states of origin in the face of *Untergang* may not have the resources to provide for themselves in the state they want to immigrate to. Kant's moral philosophy and his views on cosmopolitanism and hospitality would lead to the interpretation that host society would have a duty of beneficence<sup>22</sup> to take care of the people who are not able to do so. However, the duty of beneficence is a wide duty, and there is considerable flexibility in determining how states should fulfill it.

On the other hand, Kant did not see partiality as a problem. He did not think we should maximize total happiness or that there is a right answer to who we should help and when. Utilitarianism has a very demanding view on the duty to care whereas Kant's approach does not specify who or when to care as duty of beneficence is a wide duty. He holds the view that individuals can decide whom or when to help.

However, if we are to follow O'Neill's (2010) claim, as I mentioned in the previous chapter, duties should be prioritized over rights, the duty of beneficence may take precedence over a state's right to its territories, even when the former is a wide duty.

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<sup>22</sup> "*Beneficence* is a duty. If someone practices it often and succeeds in realizing his beneficent intention, he eventually comes actually to love the person he has helped. So the saying "you ought to love your neighbor as yourself does not mean that you ought immediately (first) to love him and (afterwards) by means of this love do good to him. It means, rather, *do good* to your fellow human beings, and your beneficence will produce love of them in you (as an aptitude) of the inclination to beneficence in general)." (Kant, 1996, p.162, MdS 402)

Since Kant thinks that cosmopolitanism and local patriotism are supported by each other, the republican state should behave as an institution of justice toward individuals regardless of their citizenship. Miller (2022) believes that it is hard to prove that Kant would think that the rights mentioned above would be required from the host state. Kant also mentioned different types of reasons why an individual may arrive at a country's border including trading, pilgrimage, etc. I believe if we interpret Kant's views on the host state's duties in the framework Miller (2022) suggests, it is more probable to infer that Kant referred to individuals who already have the resources to provide for themselves in another country rather than other types of immigrants. This implies immigrants who already have enough means to take care of themselves or have on-demand professions that would pay well in the host state. This approach excludes people who involuntarily immigrated, namely people who had to escape their state of origin due to persecution, scarcity or other reasons that affect their moral and psychological well-being.

This interpretation is due to Miller's (2022) focus on Kant's belief in the integrity of states, as he emphasizes that Kant's conception of the state is not merely instrumental but also has a distinct moral personality. This pertains not only to the political structure of the state, but also to the character of those whom it governs. Here, Miller (2022), focuses on the challenges multiculturalism would bring. He supposes that if Kant experienced the immigration phenomenon in today's world, he would have to consider "large scale immigration involving people who are culturally and/or ethnically and/or racially different from the members of the society they are entering." (Miller,2022, p.183) He suggests that

The societies that have experienced mass immigration have become multicultural, to a greater or lesser extent. This is not to say that beforehand they were culturally homogenous – clearly there were already internal cultural differences between social classes, between generations, and so forth.

But the multiculturalism that immigration produces is more challenging, I believe, because it raises bigger questions about the identity of the whole society. It also creates new political challenges; the incomers may have different education and health care needs from the majority and also different cultural requirements and aspirations.” (Miller, 2022, pp.183-184)

Miller (2022) believes multiculturalism challenges the identity of the whole society.

As immigrants may have different educational, religious and health care related needs from the host state, the question is whether the host state should provide them. He believes that Kant would suggest if immigrants had different cultural values and needs from the host society, it is not a problem for them to provide for themselves and follow their values and practices in private, however the state is not obliged to provide any adjustments for them to be able to do so. (Miller, 2022)

As Miller (2022) thinks large number of immigrants may put a particular host society at risk, he suggests a solution for immigration in the light of Kant’s concept of league of states. He proposes an association that consists of states that regulate immigration flows primarily on a regional scale. This would make refugee protection a collective task shared among states, covering vetting asylum applications and housing qualified individuals. Membership in this association would be voluntary, allowing member states to opt out if they feel burdened by immigration. (Miller, 2022)

While establishment of a league of states aimed at coordinating the management and oversight of immigrant and refugee affairs may be necessary, it is important to acknowledge that such an arrangement may inadvertently lead to a state evading its sense of duty towards immigrants. Although the concept appears to align with Kantian principles of cosmopolitanism and perpetual peace, the option to withdraw from this league of nations raises concerns regarding the moral duty to prioritize the freedom and justice for individuals on a global scale.

In the debate between Reinhardt (2022) and Miller (2022), I find Reinhardt's arguments pertaining to Kant's perspective on immigration to be considerably more convincing. Especially on the discussion surrounding the meaning of *Untergang*, the German definition of the word and what it entails is more reliable rather than its English translation as Reinhardt (2022) also emphasized that Kant used *Tod* elsewhere when he specifically wanted to mean death.

Furthermore, Kant believes that local patriotism needs to be aligned with cosmopolitanism, as limiting one's duty towards others solely to fellow citizens falls short of one's duty towards the republic as an institution of justice. One's own fellow citizens do not inherently hold more value than other people, but for justice to thrive, citizens must work together. (Kleingeld, 2012) This also brings us to the understanding that Kant does not put the stability of one state above humanity in general. The well-being of immigrants or potential immigrants should not be sacrificed for the stability of one's own state. Hence, immigration and integration policies should be implemented as such.

In order to further discuss Miller's (2022) interpretation on Kant's views on hospitality and why it may create problems in today's conditions, I would like to evaluate Kant's view on hospitality more in detail in the following section.

### 3.3 Hospitality

Hospitality in Miller's (2022) interpretation of Kant is not a positive but a negative term. Miller believes that Kant does not mean that individuals are always welcomed in foreign territories, he rather means that individuals should not be met with hostility when they enter foreign territories. The states have the right to reject foreigners in their land in a non-violent way. People do not automatically have a right

to be welcomed in another state. (Miller 2022) This perspective can be interpreted to mean that Kant's position would not be welcoming immigrants or travelers by default. People in these two categories need the approval of the state they try to enter which is similar to visa processes in place today. Individuals have the right to present themselves for entry, and their acceptance or rejection is left to the discretion of the state they are applying to. However, this creates a disproportionate inequality between the citizens of certain states and others in today's world unlike Kant's time when visa application and practices were not common. Depending on the agreement between countries, not every citizen has to present themselves to every state they want to enter as travelers. There are certain states that give their citizens strong passports. For instance, a German passport holder does not need to apply for a visa to enter Turkey as a tourist, while a Turkish passport holder is required to apply for a visa to visit the Germany. This process involves submitting a significant amount of personal information and can be a long and undignified process. This leads to a significant disparity between citizens of different states. While the holders of certain states' passports can travel without much restriction and without advanced planning, others do not have this advantage as they must navigate potentially costly visa processes and may be denied entry.

This is also the case when immigrants apply for a residency permit. The conditions differ greatly. While a German citizen's application and acceptance process for residency is much different and easier in Turkey, a Turkish citizen needs a lengthier and a harsher process when they apply for a residency permit in Germany. Also, EU passport holders have the right to move mostly freely across EU borders, while others do not have the right to do so. It is obvious that there are many reasons behind these differences in terms of social, economic, and cultural differences among

states that affect the citizens of these states. Kant may not have foreseen a big influx of immigrants and high demand to move to certain countries in the world as Miller (2022) suggests. The ability or the want of so many people to travel to different states was not something he had to consider. Although colonialism was present in his time and he gave his account on the host state's right to accept or reject foreigners in the light of colonialism, he might not have necessarily think of the implications of this account on the needs and rights of immigrants in today's world.

Furthermore, for Kant, human beings have the capacity and a wide duty to be sympathetic to the feelings and sufferings of others and they have a duty of beneficence. Applying this line of thought to immigrants, we could argue that Kant would likely agree that if individuals who want to immigrate to another state, especially because their physical and but also their moral and psychological well-being is at stake, the host state's members should show beneficence towards these immigrants.

Given Kant's moral and political philosophy in general and his views on cosmopolitanism, freedom, hospitality, and republican states, a more nuanced understanding of his potential perspective on immigration is attainable. While his views on hospitality and cosmopolitanism can be considered conflicting due to different interpretations, I believe we can conclude that host states have certain duties towards immigrants who face *Untergang* if they are rejected entry. I consider Reinhardt's (2022) interpretation of *Untergang* in a wider sense -including ruin or demise of moral and psychological nature- to be more convincing as Kant used another word *Tod* rather than *Untergang* when he specifically meant only death. I also believe this wider interpretation is more aligned with Kantian principles.

In the following chapter, I will discuss the case of immigration from Turkey to Germany from the 1960s to now and the integration policies during this time, in the light of Kant's works and Kantian principles. In order to do so, I will first give a historical account of immigration from Turkey to Germany from the 1960s to today.



CHAPTER 4  
IMMIGRATION FROM TURKEY TO GERMANY:  
FROM THE 1960S TO TODAY

In this chapter, I will first give a historical account of the waves of immigration from Turkey to Germany in the last six decades. There are different types of immigration from Turkey to Germany from the 1960s to today.

Abadan-Unat (2017) states that especially in the twenty-first century these categories are most commonly used<sup>23</sup>: temporary migrant workers, highly skilled migrants, illegal or undocumented migrants, refugees, as defined by the United Nations 1951 Refugee Convention<sup>24</sup>, asylum seekers, who cross borders to seek protection but do not meet the criteria set out in the 1951 convention, forced migrants, including populations forced to migrate due to environmental disasters, migrants arriving through marriage or family reunification and returning migrants. These categories illustrate the diverse nature of migration movements and the various legal and social considerations associated with them. (Abadan-Unat, 2017, pp.304-307)

While various forms of immigration have occurred throughout history in different ways, I will highlight four distinct waves of immigration from Turkey to Germany, categorized as guest worker recruitment, family reunification, refugees and asylum seekers and the new wave of immigration from Turkey. They are categorized based on the predominant factor driving migration during specific periods. I will

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<sup>23</sup> For detailed explanation of the categories of immigration, see Abadan-Unat, N. (2017). *Bitmeyen Göç: Konuk İşçilikten Ulus-Ötesi Yurttaşlığa* (3 ed.). Istanbul, Turkey: Istanbul Bilgi Üniversitesi Yayınları.

<sup>24</sup> For further details see <https://www.unhcr.org/media/convention-and-protocol-relating-status-refugees>

especially focus on the guest worker immigration and the new wave of immigration from Turkey to Germany, comparing the historical and political circumstances under which these two immigration waves occurred. After providing the historical context, the questions I aim to address in this chapter is whether states bear responsibilities towards immigrants regarding their integration, a duty to let the ways open for them to support themselves so that they can meet their needs and establish pathways to permanent residency and citizenship.

#### 4.1 History of immigration from Turkey to Germany

Today, the Turkish diaspora in Germany makes up the country's biggest diaspora. The exact numbers are unknown due to naturalization and various other social and political factors. There are different generations of people emigrating from Turkey for decades, according to The Federal Statistical Office of Germany the number is 1,487,110 as of 2022.<sup>25</sup> This number, of course, does not include those who have a German passport, so the numbers of those who are a part of the Turkish diaspora are estimated to be much higher. The precise figure remains uncertain, but it is certain that those of Turkish descent, regardless of their citizenship status, constitute the most significant diaspora population in Germany.<sup>26</sup>

In the previous decades, there have been multiple waves of immigration from Turkey to Germany, driven by various factors. I will categorize the immigration waves into four periods, acknowledging that there are nuances, blurs and overlaps

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<sup>25</sup> See, <https://www.destatis.de/EN/Themes/Society-Environment/Population/Migration-Integration/Tables/foreigner-place-of-birth.html>

<sup>26</sup> According to Abadan- Unat (2017), there are three elements that determine the perception of an ethnic or religious group as a "diaspora": sense of identity, organization, and meaningful ties with the homeland. Another characteristic of diasporas is that the statuses of migrants, refugees, and undocumented workers are determined by law, while being a member of a diaspora is a voluntary choice. (Abadan- Unat, 2017, pp.269-270)

within these categories. These four categories are not only chronological, but they also represent the different reasons and circumstances that caused immigration at those specific periods. For the purposes of this thesis, my main focus will be on the guest worker recruitment wave and the new wave (skilled worker immigration) due to the differences in circumstances and conditions of their immigration and the changes in immigration laws between these two periods.

#### 4.1.1 Guest worker recruitment wave (1960s-1970s)

The first and significant wave of immigration from Turkey to Germany in the twentieth-century happened during the 1960s and 1970s. After the World War II, there was an economic boom in West Germany and the newly built industries needed workers more than German citizens at the time can provide. Due to this need, the German government at the time decided to invite guest workers to the country. The reason behind the new laborers being called guest workers is they initially thought that every worker would come for a couple of years and then leave the country. The jobs would be temporary and this would not give the government the responsibility to manage long-term settlements for the guest workers. If they stayed only for two years, they would not need to integrate and they would not need to be considered in regulations and laws in the long term.

However, the idea of a guest worker turned out to be unrealistic in this case. As people settled more and more into their new place of residence, they started to demand more rights and freedoms. One of the main reasons why rotating the labor force every few years was not realistic is that it was not to the benefit of the industry either. They spent time training the workers when they arrived, however, according

to the rules, they had to leave once they were in their prime. So, the factory owners and industry leaders demanded the government to change the rules.

#### 4.1.2 Family reunification wave (1970s-1980s)

Once it was realized that the guest workers were here to stay, the family reunification process started. Guest workers started bringing their families to Germany as well, initially their spouses, children and other significant family members. These family members joined the already established Turkish communities but also extended them. Families are more diverse and more complicated than individuals. This created new concerns such as integration of spouses and the education of children. They were suddenly in a state whose language they did not speak, whose customs and traditions they did not know, whose laws they were not aware of. The need for childcare and issues regarding the schooling of children also arose in this period.

#### 4.1.3 Refugee and asylum seekers (1980s-1990s)

Especially after the 1980s coup and further conflicts in the following years, the social and political unrest in Turkey caused many to seek refuge in Germany due to political reasons. The number of asylum seekers from Turkey increased as they escaped political persecution and human right violations.

#### 4.1.4 The new wave: skilled worker immigration (2000s-present)

The so-called new wave of immigrants from Turkey to Germany mostly has come to Germany due to economic, political and educational reasons. Most individuals and families who move to Germany already have a university education or come here to get a university education. The employment opportunities and the relative economic

stability of Germany attracts the highly skilled labor and qualified employees.

Additionally, while economic reasons are prominent in the new wave of immigration, many people still emigrate due to political persecution. Also, many new immigrants consider human rights and freedom a reason to migrate. Another attractive reason for immigration is that there is already an established Turkish community in Germany.

In the preceding sections of this thesis, I've examined Kant's theoretical stance on immigration in general. Here, I delve into the history of *Gastarbeiter* (guest workers) migrating from Turkey to Germany, analyzing how Germany's immigration and integration policies resonate with Kant's writings and Kantian principles. It is important to note here that, there are two perspectives through which we can assess what Kant would have said on the *Gastarbeiter* program and subsequent waves of immigration from Turkey to Germany. One approach involves interpreting Kant's writings as exegesis and evaluate the *Gastarbeiter* program according to what he already said about freedom, cosmopolitanism, relationship between individuals and states and their respective duties and rights. The other approach entails speculating on what would have Kant said under the given circumstances, drawing from his moral and political philosophy and its core principles. Due to Kant's lack of explicit commentary on modern immigration, I believe the latter (Kantian principles) will provide a more comprehensive framework for evaluating contemporary policies and practices.

#### 4.2 The guest workers

The emergence of a Turkish community in Germany originated as a result of labor policies implemented in the Federal Republic of Germany following the World War II. In the aftermath of the war, the West German government initiated a series of

temporary labor agreements with several states. The individuals who migrated for work purposes were commonly referred to as *Gastarbeiter*, which translates to guest workers. This phrase was employed to differentiate them from the previously used term *Fremdarbeiter* (foreign workers), and also to underscore the temporary nature of their planned stay. A significant proportion of these immigrant laborers were employed in occupations that required limited training or lacked specialized skills. (Vierra, 2018, p.2) They resided in communal living arrangements, such as dormitories called *heim*, and some expressed the intention to return to their states of origin upon fulfilling their contractual obligations and others aimed to extend the duration of their employment contracts. (Vierra,2018, p.2) (Abadan-Unat, 2017, p.44)

In 1961, the construction of the Wall effectively stopped East Germans from migrating from East Germany. As a result, the West Germany sought to address its labor needs by turning to Turkey, resulting in a significant number of individuals from Turkey seizing the opportunity to work in Germany. The recruitment endeavors of German companies and the assistance by the Turkish government contributed to the emergence of Turkish guest workers as a substantial portion of the foreign worker community in West Germany. During the period from 1960 to 1974, a significant number of Turkish citizens immigrated to West Germany in search of employment opportunities. By 1972, guest workers from Turkey had become the most prominent national group among the guest workers in the country. (Vierra, 2018, pp.2-4,26-27)

The *Gastarbeiter* recruitment of Germany coincides with Kant's views on patriotism on Germany's part. As I discussed before, Kant's understanding of patriotism is aimed at working to improve one's own state through laws and legislation and to reform the conditions. In order to meet the need for employees in

the growing German economy after the war, Germany needed foreign workers. The process of rebuilding the West German economy after the end of the World War II necessitated a substantial workforce which could not be met by the West German citizens. West Germany turned to East German immigrants at first. However, when the East German government constructed the Berlin Wall, the utilization of foreign employees on a temporary basis was seen as a solution to address the labor needs. Turkey's advantageous foreign policy was further enhanced by its participation in the North Atlantic Treaty Organization (NATO) and its geopolitically strategic position in the Cold War. This resulted in increased links between Turkey and West Germany. (Vierra, 2018, pp.24-25)

Regarding its participation in the West Germany's guest worker program, the Turkish government also had expectations. Turkey aimed to curb population growth while increasing labor export, with public sector officials deciding to regulate individual initiatives. Simultaneously, the growing demand for workers from West German employers led to a rapid increase in both the foreign population in West Germany and immigration flow from Turkey. (Abadan-Unat, 2017, p.44) The Turkish government reasoned that while the temporary migration of unskilled and rural employees would benefit Turkey's economy by lowering unemployment, the return of recently skilled people would improve the state's industrialization and modernization processes. (Vierra, 2018, pp.24-25)

This cooperation between Turkey and Germany can be understood as an instance of states engaging in cooperative efforts for mutual benefit and the advancement of their respective interests. Kant's ideas on the relationship of different states for the peace and prosperity of the world may be considered an important factor in the relationship between Germany and Turkey during the Gastarbeiter

Recruitment Program. His ideas on the league of states guides us to evaluate the cooperation between states for peace in different parts of the globe. The consequences of this cooperation resulted in a big Turkish diaspora in Germany and changed the host state and society in the following years. The cooperation between Germany and Turkey - also the Ottoman Empire- was present before but the Gastarbeiter Recruitment Program started a different era in terms of the relationship of these two countries.

The practice of employing foreign labor to address labor shortages in Germany was not a novel phenomenon. Germany has a historical precedent of using migrant workers, extending from Polish women involved in sugar beet harvesting in eighteenth-century Prussia to the coerced use of forced and enslaved laborers in concentration camps during the Third Reich, which informed the restrictive and temporary features of the Gastarbeiter Program. (Vierra, 2018, p.23)

Throughout its history, Germany, as a host state, has often found itself compelled to open its borders to immigrants from different states, in response to its labor needs. This led them to accept immigrants who can supply this demand. The *Gastarbeiter* program that was implemented in the 1960s and 1970s is aligned with local patriotism as it was envisioned to benefit both states. However, whether it aligns with Kant's views of cosmopolitanism is up to debate. The criteria regarding who can enter the territory of the host state and under which conditions was determined by the host state Germany. On the other hand, the temporary nature of the immigration process largely stemmed from Germany's reluctance to identify itself as an immigration country. If the immigrants stayed in the host state temporarily, there would be no need to implement integration policies since the immigrants were supposed to return to their state of origin. However, as history showed us time and

again, human beings are not only a workforce, but they will also have their own needs, values, practices and cultures.

The global economic events starting from 1973 significantly altered the approach towards foreign labor migration. The oil embargo during 1973-74 resulted in a big increase in oil prices, causing economic problems and rising unemployment in Europe. As a response Germany enacted the *Anwerbestop* (recruitment stop). As a result, recruitment of new workers was suspended, and existing foreign workers were encouraged to return to their home countries. (Abadan-Unat, 2017, p.47) West German businesses agreed to the ban on hiring new guest workers, but they were unwilling to dismiss their current foreign employees. They were concerned about losing their trained foreign workforce. As a result, they requested to extend labor contracts of the guest workers. (Vierra, 2018, p.33)

This is an example of a conflict between interests within the host state. While the governing body which represents the will of people through elections in a republican state made regulations for the return of the guest workers, the companies who hired these guest workers needed them to stay. Kant proposed that laws are to be upheld or changed according to the emerging needs for the republican state with the purpose of improving the conditions within the state and fostering freedom and cosmopolitanism. In this case, the needs of the companies were in conflict with the decisions politicians made. The demand from the companies that needed their trained workers to stay and the question whether the host state can prepare for a permanent immigrant community in large numbers had to be considered. I believe Kant would not disagree with the implementation of a guest worker program as long as the host state and the immigrants agreed to the conditions. However, it is important to evaluate if the working and living conditions for guest workers should also prioritize

the well-being of immigrants since their moral and psychological well-being as well as physical health needed to be maintained.

By the 1980s, West Germany faced economic challenges such as rising inflation and unemployment. To encourage return migration, the government offered cash incentives to workers, prompting foreign residents to return to their countries of origin. However, not all foreign workers wanted to leave. The West German government sent mixed messages about their residency since the *Anwerbestopp* (recruitment stop). (Vierra, 2018, p.51) Also, for Turkish immigrants, returning to Turkey in the 1970s and 1980s meant returning to a country afflicted with political, economic, and military conflict. Political instability led to a military coup in 1971, and political activities were kept under control until 1982. Economic problems in Turkey, intensified by these political conflicts led to inflation and unemployment. (Vierra, 2018, pp.50-55) These conditions led to family reunification, which I will further detail in the following section, creating a more established immigrant community that invested in their future in West Germany.

In order to discuss the implications of Kant's perspective on the recruitment stop, it is necessary to revisit the discourse around the circumstances under which host states have a duty to refrain from turning immigrants away. This once again brings us to the discussion surrounding the interpretation of *Untergang*. As it was discussed by Reinhardt (2022), *Untergang* also includes psychological and economic hardships in the wider understanding of the term. In the years following the *Anwerbestopp*, most of the Turkish immigrants believed their life in Turkey would be disadvantageous due to the political instability and economical decline in their state of origin. Given that they had already formed a living environment and community in Germany, their return would be a considerable challenge. Their moral and

psychological well-being would be at stake. A Kantian position, under these conditions, would be that since the immigrants had already entered and lived in Germany, and for many of them, their return would threaten their well-being, the host state is not supposed to force them to leave Germany just because their contracts ended, or they are currently unemployed.

However, the situation in West Germany was also not ideal. Turkish immigrants faced legal obstacles to entrepreneurship. Their residency permits often prevented Turkish residents from owning a business, thus many early business owners paid a German citizen to act as owners. (Vierra, 2018, p.55) Another aspect of the obstacles faced by the immigrant community was language learning. At the time, many households with two Turkish parents spoke Turkish at home. The adjustment to a German-speaking educational system, especially for the second-generation immigrants was difficult and left them at a disadvantage position in comparison to their German speaking peers. (Vierra, 2018, p.81)

In 1974, the federal government also banned foreign youth who immigrated after that year from receiving work permits, requiring them to wait five years before applying for employment and apprenticeship positions. This prevented them from obtaining legal job training and employment, and sometimes employer prejudice prevented them from obtaining apprenticeships. (Vierra, 2018, p.132) This policy created a big disadvantage for many immigrants who came to Germany in the 1970s. While they were accepted to reside in the host state, they did not find the opportunity to provide a livelihood and fend for themselves as they did not have the right to work. While immigrants came to Germany with the expectation to have better economic and social conditions, this inevitably led to unemployment or working illegally under disadvantaged conditions.

I believe even though Kant would not object to the implementation of temporary work visas or visas without work permits (such as student visas) in principle, a question still arises: are such restrictions on work rights and conditions legitimate? During this period mentioned above, due to unemployment, Turkish immigrants' livelihoods were in jeopardy. There were limitations imposed by their *Gastarbeiter* or family reunification visas, which prohibited them from owning businesses. When individuals are granted entry into a state, even if it is temporary, there is an implicit expectation that they should be afforded the opportunity to meet their basic needs, including the ability to work. However, the imposition of limitations on work rights hinders immigrants' capacity to fend for themselves and maintain their needs. This issue holds particular relevance within a Kantian framework. According to Kantian principles, granting someone the right to stay within a state implies a negative duty not to impede their ability to cater to their essential needs. Therefore, visas with restrictive work conditions may be seen as conflicting with Kantian principles.

As I have examined in the previous chapter, Miller (2022) has a more restrictive perspective on Kant's views on immigration. He interprets Kant's perspective so that the individual who arrived at a state's border, lacks the entitlement to demand food, shelter, and other necessities, unless their hosts benevolently extend these provisions. (Miller, 2022) However, people emigrating from their state of origin may not have the resources to provide for themselves in the state they want to immigrate to, especially if they are not legally able to do so. Kant's moral philosophy and his views on cosmopolitanism and hospitality would lead to the interpretation that host state would have a duty to at least not prevent them to earn a living to take care of their needs. Considering the principles of Kantian

cosmopolitanism, it is plausible to argue that the republican state should behave as an institution of justice toward individuals regardless of their citizenship.

Because West Germany had seen the Turkish immigrants as temporary at first and did not see Germany as an immigration country, integration efforts were neglected for a long time, resulting in diminished rights for immigrants. As the numbers of immigrants from Turkey increased, the need to establish a community also did. To cater to the needs of the immigrant community, it was necessary to build enterprises such as supermarkets offering Turkish products, as well as cultural establishments that resonated with the everyday experiences of Turkish immigrants. However, due to restrictions on ownership rights, immigrants resorted to legal loopholes to overcome this barrier. As immigrants increasingly interacted with the West German host society, the interpretation of Kantian principles may imply that their overall welfare would enhance the societal harmony and justice in the state they resided. The increasing presence of Turkish immigrants necessitated the adjustment of laws and regulations to accommodate the evolving societal dynamics. In a subsequent section of this chapter, I will further discuss the topic of integration and its correlation with Kantian principles.

The unification of West and East Germany played a significant role in the lives of Turkish immigrants in the 1990s. The construction of the wall sparked a labor crisis, which resulted in the influx of Turkish *Gastarbeiter* to West Berlin. The fall of the wall significantly altered the political and economic landscape of the reunified state, impacting the sense of belonging within the Turkish-German community. As a result of the unification of West and East Germany, Turkish immigrants experienced a big impact from economic uncertainty and unemployment. With arrival of ethnic German workers into the labor market, immigrants from

Turkey began losing the incentives that initially drew them to Germany and kept them there. (Vierra, 2018, p.194) The influx of East German workers to former West Germany led to ethnic Germans having priority over non-ethnic workers. Although the immigrants were already in Germany for a considerable amount of time and contributed to the economic reconstruction and development of the country, ethnic Germans had precedence over them right after the wall fell.

Kant's perspective distinguished patriotism from nationalism, suggesting that the former did not necessarily entail the exclusionary characteristics associated with the latter. Therefore, whether the inclination towards giving priority to ethnic Germans over Turkish immigrants is aligned with Kantian cosmopolitan principles remains a subject of debate. On one hand, a newly united country faced the task of generating opportunities for former East Germans, whose political and economic system differed from that of the newly united state. On the other hand, more experienced Turkish immigrants found less opportunities for employment when ethnic Germans from East Germany needed jobs. This inevitably led to societal conflict and deepened the sense of otherness felt by immigrants. Kantian principles of justice and egalitarianism may be extended to suggest that a just state should not prioritize giving jobs, which determines who can meet their need to essential needs such as food, shelter, etc., to those of a certain ethnicity. Kant did not necessarily advocate for equal rights for all subjects within a state, as in the case of passive subjects. He might not necessarily oppose imposing certain restrictions on immigrants' working conditions, especially if the state and the individual agreed upon the criteria. However, as highlighted earlier in this section, if these restrictions hinder immigrants from meeting their essential needs, Kantian principles would also be in conflict with such policies.

In the 1970s, family reunification was granted, contingent upon one spouse working in Germany and having a suitable residence to accommodate the other family members. (Abadan-Unat, 2017, p.158) The family reunification period was an important sign that immigrants were not in Germany only temporarily but rather planned to stay. Politicians at the time saw family reunification as unintended and undesirable consequences of their initial decision to admit foreign workers to address temporary labor shortages. They believed this would result in the growth in the numbers of permanent immigrants and loss of control on immigration. (Gonzalez-Ferrer, 2007, p.11)

The German government enacted measures in the 1970s to limit immigration of family members, including a decree prohibiting initial work permits for foreigners who arrived after the recruitment stop. These changes aimed to discourage foreign workers from bringing their families to Germany. On the other hand, changes were introduced to modify the eligibility criteria for monthly allowances for children (*Kindergeld*). Under the new rules, foreign workers in Germany would only receive increased *Kindergeld* for children residing in Germany. This measure created an incentive for foreign workers to bring their children and spouses to Germany. (Gonzalez-Ferrer, 2007, p.14)

Another deciding factor for immigrant workers to choose to bring their families to Germany was the widespread unemployment and political instability in their home state of Turkey. While many aspired to return to their state of origin, this uncertainty prompted them to bring their families to Germany and postpone their return until retirement. (Abadan-Unat, 2017, p.50)

While laws and contractual obligations required guest workers to leave their families initially, their eventual stay in Germany necessitated the need to reunite with

their families. Kant's duty of beneficence, as a wide duty, does not specify whether it should be applied to specific instances, such as family reunification. However, as human beings are a part of a moral cosmopolis which is a community of equals, it would be unjust to expect immigrants to stay away from their spouses and children indefinitely or stay single during their stay in the host state, while citizens of a state have the right to marry and have children.

#### 4.3 The new wave

The term new wave is used to describe the most recent influx of immigrants from Turkey to Germany. They are mostly highly educated professionals or academics who wanted to emigrate from Turkey due to political and economic reasons. Based on an interview conducted by Ozcurumez and Yetkin Aker (2016), Germany was chosen as the preferred destination by high skilled workers due to its quality of life, job prospects, higher income potential, and perception of Germany as a safe place. (pp.68-69) The findings suggest that in the 2000s, highly skilled Turkish citizens primarily migrated due to economic, social, and political factors. Specifically, they tended to immigrate to Germany for work experience abroad or educational opportunities. This was often facilitated by potential social connections in the destination state. Social networks played a crucial role in their choice of destination. The large Turkish diaspora in Germany played a positive role in influencing their decision-making process. They believed these networks helped reduce the economic, social, and psychological costs immigration would bring. (Ozcurumez and Yetkin Aker, 2016, pp.68-69)

According to a need assessment report done by Puduhepa<sup>27</sup> (2018), the so-called new wave immigrated to Germany mainly due to the political and economic situation in Turkey recently. The desire for a secure and better life for both themselves and their children led them to immigrate to Germany, with expectations of improved living standards and safety. The main problems faced by the recent immigrant were mostly housing, bureaucracy, healthcare, education, social services, access to the job market, and legal matters. (Puduhepa, 2018)

The historical, social, and political context in which the guest worker immigration in the 1960s and 1970s and the new wave of immigration, especially since 2010s from Turkey to Germany, differ noticeably. In the 1960s and 1970s, guest workers were primarily brought to Germany to address labor shortages and were often recruited for manual labor and were subject to temporary contracts, with limited rights and opportunities for integration. Conversely, the new wave of immigrants experienced a shift in immigration patterns and motivations. Factors such as political and economic challenges in Turkey have contributed to a diverse influx of immigrants, including skilled workers, academics, highly educated professionals.

Furthermore, changes in immigration laws and policies over the years have also shaped the experiences of these two immigrant groups differently. While guest workers were initially brought in under temporary labor contracts, the new wave of immigrants may have access to different visa categories, residency permits, and integration programs, reflecting evolving approaches to immigration and integration in Germany.

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<sup>27</sup> Puduhepa – Women’s Initiative for Solidarity is a nonprofit organization, founded by women who immigrated to Germany, established in Berlin in 2018. For more information, see <https://puduhepa.org/>

To discuss Kant's views and Kantian principles concerning the two distinct waves of immigration, I aim to center my analysis on two main topics: citizenship rights and integration.

#### 4.4 Citizenship rights

Prior to the year 2000 obtaining German citizenship was difficult due to the country's ethnic descent system, which required proving various qualifications and overcoming bureaucratic decisions. The government pushed for reform, which included the option of citizenship based on birth, to allow citizenship without proof of German ancestry. (Vierra, 2018, p.204) However, bureaucratic hurdles remained, and children born to foreign parents in Germany now gained temporary citizenship if certain residency criteria were met. Children born in Germany to foreign parents automatically received temporary German citizenship if at least one parent has legally resided in Germany for eight years, including three years with a permanent residency permit. These children also inherited the citizenship of their parents and had to choose one citizenship when they reached the age of 23. Dual citizenship was not permitted, requiring naturalized citizens, including Turkish immigrants, to relinquish their original passports. This requirement, along with a sense of not fully belonging, deterred many Turkish immigrants from pursuing German citizenship. (Mueller, 2006)

I discussed before that Kant's position on the relationship between patriotism and cosmopolitanism is aimed at working to improve one's own state through laws to reform the conditions, rather than the promotion of nationalistic ideals. The state in question may not necessarily be the state of one's birth, but it can also include states where one has immigrated to or naturalized in. In order to have a say in laws,

immigrants are required to be citizens. German state's ethnic descent system in the past, prevented immigrants from becoming citizens to engage in civic institutions that shaped their lives. Kant's works show that foreigners have a right to present themselves to the host state and a right to stay if their *Untergang* awaits them if they are not accepted. Kant's writings do not directly tell us if immigrants should eventually have citizenship rights. So, I will employ the Kantian principles and argue what Kant would have said in regard to the conditions of immigrants from Turkey to Germany in the previous and current century.

Kant would likely find temporary visas acceptable, especially if individuals voluntarily consented to the conditions. Temporary visas offer individuals the opportunity to present themselves, engage in trade, and offer their skills for work, aligning with Kant's views on the relationship between states and foreigners. The notion of a *Gastarbeiter* program could be considered legitimate if participants already consented to its conditions. However, issues arise when temporary immigrants intend or need to stay longer, leading to concerns about permanent residency and citizenship rights.

Over time, a moral obligation for a path to citizenship may arise, especially if individuals have been a part of the host state for a long time and formed strong ties within the host society. Kant might argue that excluding family reunification from a *Gastarbeiter* program could be morally wrong, as it prevents individuals from fully participating in family life, which is essential for human flourishing. According to Shell (2016), the key attributes of a citizen include freedom, equality, and self-reliance for Kant.<sup>28</sup> (Shell, 2016, p.13) She argues that the qualification for

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<sup>28</sup> "The essential attributes of a citizen, according to Kant, are (1) "freedom" in the sense of obeying no law other than one to which one has consented; (2) "equality" in the sense of regarding no one among the people as superior to oneself in moral capacity to bind others; and (3) "self-reliance" or

citizenship for Kant is based on the capacity to vote, which presupposes self-sufficiency. To be a citizen means not only being a part of the community but also an active member who participates in decision-making with others based on their own will. This distinction between active and passive citizens arises because active citizens engage in the political process, while passive citizens do not. (Shell, 2016, p.14)

Kant might argue that individuals who have lived in a society for a certain amount of time should acquire certain rights, including the right to permanent residency and a path to citizenship. The question arises as to whether residing within a society for a prolonged period should entail citizenship rights. Analogous to the legal concept of common law marriage or the principle of squatters' rights, the notion suggests that sustained presence in a societal situation prompts rights similar to those earned through extended occupation.

This also aligns with the principle of fairness and the idea that individuals who contribute to a society should have a say in its laws. Although Kant did not object to the active and passive citizens, he also emphasized the importance of ensuring that passive citizens have the opportunity to transition to active status without encountering legal barriers. His advocacy for this transition required (state-supported) education so that active citizens rationally understand their own affairs and the civic institutions they participate in. (Shell, 2016, pp.18-19) I believe Kant's thoughts on creating opportunity for passive citizens to transition to active citizens support the argument that he would not object to immigrants eventually gaining citizenship rights. Especially in today's world, since most states grant every citizen above a certain age and capacity the right to vote.

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"self-subsistence" in the sense of owing one's preservation to one's own "rights" and "forces" as member of the commonwealth." (Shell, 2016, p.13)

As understanding one's own affairs and civic institutions they participate in is an important aspect of Kant's citizenship requirements, Kant might support a language requirement for citizenship, since it demonstrates an individual's ability to communicate and understand the political structure of the state. Having citizenship means one has the right to vote and become a part of the political community, so it may require stronger standards than permanent residency.

One question regarding citizenship rights of immigrants pertaining to their children born in the host state is whether birthright grants entitlement to citizenship. Within Kantian principles of cosmopolitanism and freedom, individuals inherently possess the right to claim to be a member of a state. However, the acquisition of citizenship may be contingent upon various factors, including citizenship status of parents (whether they are stateless or already are a citizen of a state). States may have a moral and legal duty to provide citizenship to individuals who are stateless, thereby lacking legal recognition and protection.

On the other hand, for instance, if a child is born in Germany to Turkish citizens, the child automatically acquires Turkish citizenship by virtue of the parent's Turkish citizenship. Germany already imposes residency requirements, mandating that parents have resided in the state for at least eight years (planned to be reduced to five years) to qualify for citizenship for their children born in Germany. The question remains whether Germany bears an obligation to grant citizenship to children of immigrants, especially considering their pre-existing citizenship status. I believe this question brings up the issue of dual citizenship and what Kant's views on the matter would be.

An aspect of discussion regarding citizenship is the right to have dual citizenship. For a long time, Germany's laws did not let Turkish immigrants to have

dual citizenship after the age of 23 even if they were born in Germany to parents who are Turkish citizens. To be a German citizen, an immigrant from Turkey had to give up their Turkish citizenship. Some chose to do so, while others did not. There is a multitude of reasons that correspond to the number of individuals. However, one of the reasons, aligned with Kantian principles, is that some immigrants chose to become German citizens to improve the state they lived through laws and to reform the conditions, hence improve their own lives and communities. On the other hand, one reason they did not give up their Turkish citizenship was an idea of belonging. Due to ethnic, religious and cultural differences and the problems regarding integration policies, an important part of immigrants did not see themselves as German, even on paper. However, most of the reasons why immigrants chose one passport over another has a collection of complicated reasons ranging from economic and political to personal.

The question whether Kant would support the requirement to give up one's citizenship to their state of origin for naturalization is a matter of interpretation as his views on citizenship are complex. I believe Kant would oppose the idea of dual citizenship, viewing it as conflicting allegiances. Individuals would have the right to vote in two different states and those states may sometimes be in conflict. In this case, it would be unclear to which state the allegiance of the individual belongs. One solution to this conflict would be to give permanent residents the right to vote in local elections. This is the case for citizens of the European Union states when they reside in a state different from the state they hold a citizenship. However, the citizens of non-EU states such as Turkish citizens do not have that right. Even if permanent residents were allowed to vote in local elections, the result of the federal elections hold a greater degree of importance regarding the laws and regulations that affect

their lives. I believe giving immigrants the right to vote only in local elections is not a sufficiently satisfactory alternative to the advantages dual citizenship would bring.

Even though I concur that Kant would oppose the notion of dual citizenship, in today's globalized world, where individuals have strong ties to multiple countries, the issue becomes more complex. Unlike Kant's time, due to ease of communication and travel, immigrants keep their connections to their state of origin even if they plan to spend the rest of their lives in the state they immigrated to. Especially those who still have economic and societal connections and who plan to return to their state of origin at some point in their lifetime, would be affected by the laws and regulations of both states. Many Turkish immigrants spend their retirements in Turkey, while some choose to stay mainly due to familial connections and some spend half of the year in Turkey and the other half in Germany. (Kaya, 2019)

Various reasons, including the one mentioned above, created a need in Germany to change its immigration and citizenship laws. According to the Federal Government's (*Bundesregierung*) website, the naturalization rate in Germany is below the European Union average and 14 percent of people living in Germany do not have a German passport. A new citizenship law has been drafted to change this situation. Multiple citizenship will be allowed, required period of residence in Germany will change from eight to five years, children born in Germany will be granted German citizenship if one parent has been residing in Germany for more than five years with a permanent residency permit and former guest workers will only be required an oral language proficiency without the necessity to take a naturalization

test.<sup>29</sup> These changes also show that there is a necessity to allow dual citizenships in the twenty-first century.

#### 4.5 Integration: the immigrants and the host society

Turkish immigrant community initially consisted of individuals who were single and unaccompanied workers. However, over time, the group evolved to include various demographics, different ethnic groups and political affiliations. The Turkish community in Germany gave rise to a parallel society (*Parallelgesellschaft*), wherein individuals of Turkish descent lead their daily lives with limited integration into German areas and society. On the opposite of the spectrum lie those whose sole affiliation with the immigrant population is limited to having a Turkish origin name. However, a significant portion of individuals of Turkish descent residing in Germany are somewhere in between. (Vierra, 2018, p.239) Especially subsequent generations of immigrants grapple with questions regarding their sense of belonging, identity, and cultural affiliations, navigating between labels of being German or Turkish. Many find themselves constrained within binary categories imposed by both their home and host societies, leading to a sense of being trapped in these predefined roles. (Kaya, 2019, pp.32-33)

The integration of Turkish workers immigrating to Germany is inseparable from the broader context of German history. Similarly, Germany's postwar story is affected by the profound influence of the *Gastarbeiter* and their ethnic minority communities. Throughout various phases of history, the Turkish-German community

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<sup>29</sup> For more information, see <https://www.bundesregierung.de/breg-de/aktuelles/modernisation-citizenship-law-2254382>

has been shaped by the unfolding events, circumstances, and ideologies within Germany. (Vierra, 2018, p.228)

The *Anwerbestopp* and subsequent policy changes presented guest workers with the dilemma of either permanently departing or extending their stay, while also incentivizing them to relocate their families to join them. The introduction of family reunification laws initiated a sequence of events that led to the formation of a new Turkish-German community, while also presenting a range of practical and ideological obstacles to German society. (Vierra, 2018, p.229) The economic recession experienced during the 1980s and the social disruptions resulting from the reunification of Germany had significant consequences for Turkish immigrants, leading to unemployment and raising doubts about their sense of belonging in a unified country. The increase in unemployment rates and a sense of uneasiness among ethnic Germans created an opportunity for right-wing populists and extremists to propagate their discriminatory views. Germany's prevalent problems were attributed to immigrants. (Vierra, 2018, p.229) Furthermore, members of the Turkish diaspora in Germany, face another challenge of otherness in their relationship with Turkey and Turkish citizens living in Turkey. Turkish migrants who reside in Germany are labelled with designations that have paternalistic connotations or stereotypical names with negative connotations that emphasizes their otherness. (Kaya, 2019, pp.96-97)

According to a survey conducted by Hoffman, et al. (2020)<sup>30</sup>, members of the Turkish diaspora community express a perception of substantial discrimination directed towards them in their host state of Germany. A significant number of respondents believe that such discrimination negatively impacts their career

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<sup>30</sup> For further information see, <https://feps-europe.eu/wp-content/uploads/downloads/publications/turkishdiaspora-report-final.pdf>

opportunities. Opinions vary regarding whether the government of the host state treats the Turkish diaspora equitably in comparison to the majority community. (Hoffman, et al., 2020, p.5) Some of the survey's respondents express feeling at home in their host state and that the Turkish community should be more connected to the non-Turkish community, while some believe that the Turkish community should maintain its separate identity. Those with citizenship view life in the host state more positively than those without. This shows that citizenship is seen as a key indicator of integration. (Hoffman, et al., 2020, p.6)

In assessing the necessity of integration for Kant, I would like to make a distinction between civic and cultural integration, as I believe he would approach them differently. Here, it is important to consider Kant's views regarding the structure and function of the state. Unlike the concept of a melting pot where diverse cultures blend, Kant would find it acceptable for different parallel societies to coexist within a state. However, this coexistence should not compromise civic integration. I believe a Kantian perspective would require civic integration, so that the individuals within the host state understand and participate in the political sphere. To achieve this, prioritizing language proficiency and education to ensure that citizens understand the laws, regulations, and workings of the republic would be essential.

While Kant might have not objected to parallel societies within a state, the notion of ghettoization raises questions about social cohesion and justice. Kant might not inherently object to the existence of ghettos as they may have been common in his time, but modern concerns arise regarding discrimination and inequality. From a Kantian perspective, ghettoization perpetuates inequality and can trap certain groups, such as Turkish immigrants, in a constant disadvantageous position. This perpetuation of inequality is problematic. Ghettoization intensifies societal

inequalities and undermines the principles of justice. It raises questions about the justness of a state that allows such divisions.

Moreover, Kant may advocate for civic integration as a means to address these issues. By actively participating in political institutions, individuals can learn about and contribute to the functioning of the state, promoting social cohesion and justice. Therefore, while Kant may not outright reject the existence of parallel societies, he would likely emphasize the importance of civic integration in order to foster a just and cohesive society.

Kant's concept of patriotism focuses on improving one's own state through laws rather than promoting nationalistic ideals. According to Kant, one's own state does not necessarily refer to the state of one's birth or origin but can also be the state where one has immigrated to or become naturalized. So, in terms of integration and living harmoniously immigrants and host society need to work hand in hand as this is a reciprocal process. Integration policies and practices is the responsibility of not only the immigrant but even more so of the host society as they are the essential law makers.

I think, as a part of civic integration, the path to citizenship is significant. Integration is linked to citizenship in that sense, as it fosters a sense of belonging and grants individuals the right to participate in the democratic process by voting and influencing laws and regulations. This connection between integration and citizenship underscores the importance of facilitating immigrants' inclusion into the societal fabric of their host states. Prospective changes in immigration and citizenship laws reflect a deliberate effort to enhance integration.<sup>31</sup>

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<sup>31</sup> “The draft law seeks to provide incentives for integration, rather than creating obstacles and requiring people to have lived in Germany for a very long time. The required period of residence in Germany is to be decreased from eight to five years, or even to three years for individuals who have

## CHAPTER 5

### CONCLUSION

Throughout this thesis, I explored Kant's views on cosmopolitanism and freedom to interpret his potential stance on various waves of immigration from Turkey to Germany since the 1960s. Despite Kant's lack of explicit commentary on modern immigration, his principles provide a valuable lens for evaluating contemporary policies and practices. Given Kant's extensive moral and political philosophy, particularly his insights on cosmopolitanism, freedom, hospitality, and republican states, a more nuanced understanding of his potential perspectives on immigration is attainable.

In the second chapter, I established the theoretical framework by providing Kant's accounts of cosmopolitanism, patriotism, and external freedom. Kant's principles of cosmopolitan right and non-refoulement highlight the importance of allowing individuals to present themselves at state borders without hostility, though not necessarily granting them the right to stay. This perspective underscores the moral obligations of host states to consider the physical, moral, and psychological well-being of immigrants. The differentiation between active and passive citizens in Kant's philosophy, and the resulting disparities in political rights, raises critical questions about the inclusivity and fairness of immigration policies. I argue that Kant's emphasis on freedom and cosmopolitanism provides a framework for evaluating the ethical responsibilities of states towards immigrants, advocating for policies that balance state integrity with universal moral duties.

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achieved an outstanding level of integration." Retrieved from <https://www.bundesregierung.de/breg-de/aktuelles/modernisation-citizenship-law-2254382>

In the third chapter, I explored the debates between open and closed border theories to understand the nuanced criteria for the inclusion and exclusion of immigrants at the state borders. While Kant was not an open-border advocate, his philosophy supports a form of regulated hospitality that respects both the rights of individuals and the states, addressing concerns for state integrity and cosmopolitan obligations. This is reflected in the discussions on contrasting interpretations by Reinhardt and Miller which highlighted the complexity of Kant's potential views on immigration under current conditions. Reinhardt's broader interpretation of *Untergang* to be interpreted as not only death but also moral and psychological demise suggests that Kantian philosophy could support more expansive duties towards immigrants that extend beyond mere survival to encompass overall well-being. Applying Kant's duty of beneficence to modern immigration issues suggests that states should extend support to immigrants not only for their survival but for their moral and psychological well-being. In contrast, Miller's emphasis on the integrity of states highlights the ongoing tension between open and closed border theories. I claim that Reinhardt's interpretation of Kant's writings concerning the moral obligations of host states to consider the physical, moral, and psychological well-being of immigrants is more plausible since it aligns with Kantian principles in a more comprehensive sense.

In the fourth chapter, I provided a historical overview of immigration from Turkey to Germany, focusing on the *Gastarbeiter* program and the new wave of skilled workers. This evaluation revealed how Germany's initial reluctance to see itself as an immigration country and subsequent integration policies impacted Turkish immigrants. The challenges faced by these immigrants, including legal obstacles, economic hardships, and the insufficient integration efforts, highlight the

need for policies that align with Kantian principles of freedom, cosmopolitanism and his views on republican states that promote justice. The chapter also discussed the significance of family reunification policies and the evolving dynamics of immigration from Turkey to Germany.

In assessing the historical and current immigration waves from Turkey to Germany, it becomes evident that Kantian principles could be seen as aligning with policies that not only facilitate integration but also respect the autonomy and moral agency of immigrants. The necessity of civic integration emerges as a key theme regarding the right to vote and citizenship. While Kant might have envisioned a society where different cultural identities coexist, he would likely insist on the importance of civic integration to ensure that members of state understand and engage with the political and legal structures of the state.

Ultimately, this thesis argues that a Kantian approach to immigration, especially immigration from Turkey to Germany in this thesis's case, would likely support a framework that balances the integrity of states with the needs of immigrants, advocating for policies that are just and supportive of cosmopolitanism. Interpreting Kant's ideas in a contemporary context, it is clear that Germany's efforts in immigration and integration could be more closely aligned with these principles. Such alignment would safeguard the moral obligations toward immigrants and the integrity of states would be protected without neglecting the duties of the host state towards immigrants. This alignment is particularly crucial in fostering a society that respects Kant's vision of cosmopolitanism, where individuals, irrespective of their origins, are seen as part of a universal moral community with shared rights and duties.

In conclusion, while Kant's direct views on modern immigration remain a matter of interpretation and further debate, the principles derived from his philosophy provide a foundation for evaluating and guiding current and future immigration and integration policies in Germany and beyond. I believe that Kant's philosophy, especially his moral philosophy, when interpreted through a broader lens, suggests a more welcoming approach to immigration. This perspective can inform more inclusive and effective immigration policies, contributing to a more just and cosmopolitan world.

The historical context of immigration from Turkey to Germany, combined with a Kantian framework, provides a unique perspective on the responsibilities of host states. I argue that Kant's moral and political philosophy offer valuable insights for addressing contemporary immigration challenges, advocating for policies that uphold the dignity, rights, and well-being of immigrants while maintaining the stability and integrity of host states.

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