

## **The Value of Difference: Kantian Hospitality and Flikschuh's Rethinking of Nomadic Encounters**

*El valor de la diferencia: la hospitalidad kantiana y la reflexión de Flikschuh sobre los encuentros nómadas*

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### **Abstract**

In this essay I discuss the issue of Kantian hospitality and how Katrin Flikschuh's arguments in "Kant's Nomads: Encountering Strangers" offer us a framework for dealing with certain problems that seem to arise out of the Kantian account, namely, problems of dealing with cultures unlike modern liberal states, such as nomadic and indigenous communities. I look at some criticisms of Kant's position on hospitality and cosmopolitan right and on how Flikschuh's discussion helps to resolve these criticisms. I focus especially on her discussion of respectful interaction and openness in the course of encountering cultural others, encounters that inherently and positively contain a large element of unexpectedness.

### **Keyword**

Kant, Flikschuh, hospitality, cosmopolitan right, nomads, respect, difference

### **1. Introduction**

In "Kant's Nomads: Encountering Strangers" Katrin Flikschuh discusses the problem of dealing with cultures, such as nomadic and indigenous communities, who seem to be radically different from e.g., modern liberal states. Given Kant's general commitments in the Doctrine of Right to entering the civil condition and even to compelling others to enter it, ought nomadic peoples to enter such a condition and may others (i.e., settlers) compel them to enter it? As is well known, Kant himself, especially in the discussions of cosmopolitan right and hospitality, has definite strictures against exploiting indigenous nomadic cultures and these strongly suggest that we may not compel such peoples into a civil condition. The question, as Flikschuh raises it, is: why not? Kant may actually say so

but is this consistent with his arguing for the civil condition as the necessary condition of our lawful freedom, including the freedom to acquire property? Flikschuh's answers to these questions provide a framework for interacting with otherness and difference. In the following essay I will comment on Kant's discussion of hospitality<sup>1</sup> in *Toward Perpetual Peace* and the *Metaphysics of Morals*, and how Flikschuh's account allows us to deal fruitfully with the questions around different cultures. My focus will be on how her notion of interaction helps lay the groundwork for a Kantian account of respectful encounters with cultural and other differences. Such a genuine and respectful hospitality has less to do with comfort and kindness (though including these, of course) and more to do with opening ourselves up to others and the unexpectedness they bring.

## 2. Kant on Hospitality

In *Toward Perpetual Peace*, Kant outlines 3 definitive articles which he considers crucial for even the possibility of peace. The first concerns the internal constitution of a state which he says must always be republican and representative with a separation of powers. The second concerns the external relation of states to one another which Kant conceives of as a federalism of free states. The third concerns the relation between individuals from one state and other states which they want to visit, for, say, commercial reasons. This third article concerns the cosmopolitan right of individuals in other countries and Kant states that such right "shall be limited to conditions of universal *hospitality*."<sup>2</sup> A visitor to another country has the right not to be treated with hostility and Kant connects this with his Rousseauian position that originally the earth was held in common by all. What such a visitor does not have the right to is either to expect to be treated warmly as a guest in the country or to expect to settle in it, points that have given rise to criticism of Kant, especially in the light of questions concerning the reception of refugees, state-centeredness, and the possible exclusion of those who are "others" from this state-centric point of view.

In her essay, Katrin Flikschuh focuses the general question of hospitality into the specific discussion of whether nomadic peoples can, on the basis of universal freedom and its requirements for a civil condition, be required or even compelled<sup>3</sup> to enter the civil condition, in the way Kant outlines in the Doctrine of Right, where another's "lawless freedom" can be correctly construed as a threat to one's own freedom. Drawing on Karl

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<sup>1</sup> Much of this discussion was initially developed in a paper I gave at "Kant and Hospitality", the Fourth Annual Kant Conference at Memorial University, organized by Joël Madore and Scott Johnston, September 2016. The paper by Flikschuh came in part out of her keynote address given at the same conference on "The Moral Necessity of States."

<sup>2</sup> AA 8: 357, Gregor 328. All the translations are from Kant, *Practical Philosophy*, translated by Mary Gregor, in *The Cambridge Edition of the Works of Immanuel Kant* (Cambridge: Cambridge University Press, 1996).

<sup>3</sup> Compulsion or force appears in many aspects of Kant's system, including this central point about entering the civil condition. Such compulsion forms an important part of being part of civil society as Arthur Ripstein shows in analyzing both private and public right in Kant. See Ripstein (2009).

Ameriks' well-known model of regressive arguments<sup>4</sup>, Flikschuh constructs a recursive justification for Kant's political argument centered around the first-person experiences of nomadic peoples:

Given Kant's derivation of the duty of state entrance from the act of acquisition, and given his view of nomads as pastoralists who raise no private property claims to any particular portion of the lands they use, Kant cannot ascribe to them a duty of state entrance. So on my account, the Kantian duty of state entrance is less than universal in scope: its incurrance depends on a prior act of acquisition the commission of which is itself contingent.<sup>5</sup>

Flikschuh discusses the issue of acquisition in the context of the conditions of intelligible possession at some length and concludes that:

In sum, the argument proceeds from my acquisition of a given object as mine, to my reflexive acknowledgement of intelligible possession as the necessary albeit non-sensible condition of the rightfulness of my claim, to the duty of state entrance as the only condition under which intelligible possession is practically realizable. The important point to be emphasized here is the manner in which the argument tracks the reflexive reasoning of the property holder herself, showing her what her act presupposes (intelligible possession) and what, therefore, is morally required of her (entrance into the civil condition).<sup>6</sup>

Part of Flikschuh's point is not just that one ought not, therefore, to compel nomads into a civil condition. It is also that, absent the experience of acquisition, there is no intelligible basis for the nomads themselves, independently of compulsion, to enter this condition.<sup>7</sup> This, as we will see later, poses both the real challenge in a Kantian account of encountering strangers, as well as, paradoxically, the real possibilities in such encounters.

### **3. Are there fundamental problem with Kantian hospitality?**

According to several authors Kantian hospitality, while looking innocuous on the surface, conceals problems of exclusion and also of privileging the host country versus its so-called visitors. A recent paper by Jennifer Bagelman and Jennifer Vermilyea emphasizes strongly these problems as the negative side of Kantian hospitality, drawing upon Agamben, Derrida, and Foucault to show that hospitality is a concealed power relation which reduces the refugee, for example, to "bare life" and which constructs the "other" as potentially

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<sup>4</sup> In, for example, Ameriks, (1978).

<sup>5</sup> Katrin Flikschuh, "Kant's Nomads" forthcoming in *Con-Textos Kantianos* 5 (2017), p. 350.

<sup>6</sup> Flikschuh, "Kant's Nomads" p. 361.

<sup>7</sup> I have some worries about whether or not the nomads are really, in a genuine sense, outside of something approaching a civil condition; after all, they are genuine communities, not random individuals. Arguing this would require further discussion of the issue of property rights and their historical shape and whether Kant has a more general notion of community than the civil condition, though one more specific than, say, the kingdom of ends.

hostile especially for permanent settlement in the host country.<sup>8</sup> They conclude that such a “totalizing narrative” and its “tightly knit logic of hospitality and humanitarianism” reduces the refugee to “speechlessness, and devoid of agency.”<sup>9</sup> They further conclude that this reduction is rooted in Kant’s “state-centric logic” and a hospitality which seeks violently to know and contain its recipients.

More sympathetically, Nicholas Zavediuk argues that migration generally challenges restricting the rights of visitors to another country.<sup>10</sup> He claims that “Global migration destabilizes the logic of territorial sovereignty and international human rights.”<sup>11</sup> Drawing upon Benhabib’s criticism of an abstract approach to, for example, migrant workers in the U.S, Zavediuk opens up the possibility that we may need to reconfigure Kantian hospitality to allow the political interaction of citizens and non-citizens to avoid situations in which migrant populations are ruthlessly exploited with no recourse since they are not citizens. In an attempt to salvage both Kantian and Rawlsian political approaches, Zavediuk suggests that “migrant situations may create new public spheres where citizens and non-citizens together identify, deliberate, and take action on issues of common concern.”<sup>12</sup>

Both criticisms at face value seem legitimate enough, and Zavediuk’s criticism and solution have the distinct advantage of dealing with communities of migrants (or refugees) rather than single instances of persons who seem almost self-consciously to be outside a state. Nonetheless, genuine respect for otherness, as in the case of the nomads, should not exclude someone who is, by choice or otherwise, stateless (Bagelman and Vermilyea’s examples) and should certainly not exclude a community of people, just because they are not citizens, especially when they play an important role in the economy of a society. Although Flikschuh’s discussion picks up on the question of statelessness or refugees briefly at the end of section IV of the paper, she does not apply her analysis in detail to this kind of case, which may be even more intractable than the case of the nomads, who have some form of community. Can Kant’s system deal with a difference involving the rejection of state boundaries altogether? Flikschuh points out that “If property conflicts ensue, the duty of state entrance arguably becomes relevant.”<sup>13</sup> Although this point may still leave the case of the stateless person difficult to deal with, it would dovetail well with Zavediuk’s call for political interaction between communities which already interact closely at the economic level (migrants and their employers, for example, and the communities they reside in). The empirical interaction of migrants and the surrounding community cries out for an intelligible dimension of the kind Zavediuk, Benhabib, Rawls, Habermas, and Flikschuh subscribe to. What Flikschuh adds to this, as we will see eventually, is the aspect of open-endedness in the face of encounters of difference, something which may help in the cases Bagelman and Vermilyea are worried about.

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<sup>8</sup>Bagelman and Vermilyea (2012).

<sup>9</sup> Bagelman and Vermilyea (2012) 3.

<sup>10</sup> Zavediuk (2014).

<sup>11</sup> Zavediuk (2014) p.172.

<sup>12</sup> Zavediuk (2014) p. 177.

<sup>13</sup> Flikschuh, ‘Kant’s Nomads’, p. 363.

Flikschuh's discussion helps to make sense also of more positive approaches to Kantian cosmopolitanism. For example, Tracey Dowdeswell uses studies of specific communities the world over to show how individuals from many different cultures and communities enact a cosmopolitan approach to both individuals, their individual communities, and the community at large.<sup>14</sup> Dowdeswell's claim is that such embedded and diverse enactments, leading to what seem to be positive benefits for community and individual alike, show that Kantian cosmopolitanism, is neither Eurocentric, opposed to diversity, or unrealistic (quite a different charge, of course). It is, instead, universally applicable, compatible with and supportive of diversity, and, so far as it is enacted in actual communities with some success, is also realistic. Dowdeswell's argument is a specific application of the kind of thinking in Flikschuh's work<sup>15</sup>, and also in work by Pauline Kleingeld<sup>16</sup>, Sankar Muthu<sup>17</sup>, and Allen Wood<sup>18</sup>; all these authors defend, to different degrees, the compatibility of Kant's universalism and cosmopolitanism with diverse cultures, and indeed, the particular suitability of a relatively flexible universalism for such compatibility (Flikschuh and Muthu especially). And all of these authors in particular cite Kant's anti-colonialism in both "Toward Perpetual Peace" and *The Metaphysics of Morals*, with Muthu especially linking it to an anti-imperialism.

Dowdeswell's argument for cosmopolitanism as a good in many different communities seems a good starting point for defending Kant's cosmopolitan right in one sense, as a part of his cosmopolitanism generally and as showing the positive benefits of cosmopolitanism, including hospitality. However, the positive side of cosmopolitan right is also expressed in what might call a negative sense, which turns out to be a crucial aspect of cosmopolitan right, namely, its role in *restraining* those who can travel from one country to another, a restraint which actually has a definite positive side. Kant's remarks, as Kleingeld especially discusses, certainly apply to migrants, refugees, and other people with a claim to positive help, and he himself notes the issue of people landing on a shore in a shipwreck and their claims to hospitality. Nonetheless, his primary concern lies elsewhere, as many authors (including Flikschuh, Kleingeld, Muthu, Wood) have noted.

What is Kant's primary concern in the discussion of cosmopolitan right, both in *Perpetual Peace* and later in the *Metaphysics of Morals*? His concern is with those who intentionally and with agency go to other countries, for many purposes but, most frequently, for the purposes of commerce, a term Kant uses for both its evident economic meaning and its deeper meaning in the critical philosophy, as grounded in *interaction*. As Flikschuh rightly notes, the concern in *Perpetual Peace* is with the relation of visitors to other states rather than to communities such as nomadic peoples. However, as she also notes later in the article, the issue of *inhospitality* is what applies in both situations. Thus,

<sup>14</sup> Dowdeswell (2011).

<sup>15</sup> In "Kant's Nomads" specifically: for more general issues, including more detailed discussion of her method, see Flikschuh (2000).

<sup>16</sup> Kleingeld (2012).

<sup>17</sup> See especially Muthu (2003).

<sup>18</sup> Wood (1999).

after outlining the limitations on the right to hospitality, limitations criticized by, for example, Bagelman and Vermilyea, Kant makes a most interesting observation about such inhospitability in a well-known quotation:

If one compares with this the *inhospitable* behavior of civilized, especially commercial, states in our part of the world, the injustice they show in *visiting* foreign lands and peoples (which with them is tantamount to *conquering* them) goes to horrifying lengths. When America, the negro countries, the Spice Islands, the Cape, and so forth were discovered, they were, to them, countries belonging to no one, since they counted the inhabitants as nothing. In the East Indies (Hindustan), they brought in foreign soldiers under the pretext of merely proposing to set up trading posts, but with them oppression of the inhabitants, incitement of the various Indian states to widespread wars, famine, rebellions, treachery, and the whole litany of troubles that oppress the human race. (Ak. 8:359, Gregor 329)

This quotation is well-known for its anti-colonial point, something Kant goes on to develop in both this section and the corresponding section in the *Metaphysics of Morals*, including the discussion of the nomads. However, the point I want to emphasize is that he refers to the so-called *visitors*, the commercial states and their representatives, as behaving inhospitably, an odd term to use for those *visiting* rather than receiving. Why does he use the term? Because these visitors have violated the self-limiting which cosmopolitan right explicitly makes a condition of a hospitality which is universal and principled, not parochial and unreliable. This self-limiting seems to be an essential aspect which differentiates the cosmopolitan right of hospitality from being good to someone in any other, more beneficent sense.

Dowdeswell does comment that “we must not allow the definition of ‘hospitality as mere kindness to strangers or an interest in diversity to obscure the deepest meaning of the term, and its origins in the ancient custom of *hospitium*, which involve care and concern in meeting the needs of each person and welcoming them into our community (a definition better expressed by the modern derivations ‘hospital’ and ‘hospice’). (Dowdeswell 179) This certainly does justice to some of the content of hospitality, but more attention is needed for its *form*, a form which for Kant is linked to right and thus to something universal and necessary. His remarks on this point are often, even by sympathetic readers like Kleingeld, taken to be sparse, but what else could a purely formal, universal, and principled sense of hospitality as a *right* mean?

That is, hospitality should, on this model, be read less as receiving someone somewhere, in which case care and concern on the side of the host seems appropriate on a common-sense intuition. Rather, we should read Kantian hospitality as the universal form of interaction between persons, a form complicated by the introduction of the larger entities of either nations or other kinds of political community, and as Flikschuh shows, even more so in the case of the nomadic communities. If interaction rather than cordial reception is the issue, then whether one is the visitor or the visited is less the point. The

point is more that each owes the other a kind of reciprocal interaction which also involves limitation. This comes out clearly in Flikschuh's observations on the open-endedness of such interaction.

#### 4. Flikschuh: Interaction as a Model for Dealing with Difference

Interaction as a general Kantian model in the critical philosophy comes to us from the *Critique of Pure Reason*.<sup>19</sup> In the third Analogy of experience, we must presume interaction between objects such as the moon and the earth in order to perceive them in community and such interaction is defined as the moon and the earth causally influencing each other without one formally dominating the other. If domination is formally at hand, then we have one way causality in which one moment of time replaces another moment, swallows it up, as it were and does not preserve it, except as subordinate (the lead ball on the cushion in the Second Analogy). This is not interaction as yet but only a one-way street.

When causality is mutual, then we have interaction and community. The moon does not replace the earth or vice versa, but they exist in mutual definition. When someone goes to another country, he or she expects that mutual definition or recognition in form, though whether the content involves tremendous kindness or care or even an invitation to stay permanently, is not guaranteed, though it may be desirable. Conversely, he or she or as many as visit, may not conquer or misuse or colonize at will, since this is to impose one's causality without restriction or reciprocity, to make a relation of community and coordination (Kant's term) into a domination and a subordination. Again, whether the visitors will themselves behave with great kindness or helpfulness or generosity cannot be guaranteed through the mere right. What *can* be guaranteed as a norm, though perhaps only observed in the breach, is that these visitors *ought* to behave in a self-limiting way. When we keep in mind that Kant is thinking of possible exploiters, political and economic, it is hard not to agree with this demand for self-limitation and self-critique. He is not excluding or limiting refugees but excluding and limiting colonizers.

This sense of *commercium* as involving mutual conversation and respect is developed by Flikschuh as a solution to the problem we saw her raise early on in the essay, the problem of how one could interact in a contractual way when necessary, with people whose notion of property is highly divergent from a modern neo-liberal acquisitive model. This model, the normal basis for entrance into the civil condition for modern Europeans, does not make sense for those who, as Kant points out, have quite a different notion of property. His explicit directions to avoid exploiting such cultural difference may, as Flikschuh points out, be so general as to lack specific directions, even if, as she shows in the major argument of the article, that such directions are compatible on a first-person

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<sup>19</sup> I am indebted to Sarah Messer for discussions of her work on the third Analogy, especially the distinctions in the literature between strong and weak interaction in discussions of Kantian substance in his natural science, including his *Physical Geography* and the *Opus Postumum*.

recursive model with his conditions for entering the civil condition, i.e., those who have no experience of property acquisition are not subject to the need for the kind of civil society Kant proposes for managing such acquisition rationally. Granting that they are not, and that they should not be compelled into such civil society by the settlers, how does one eventually deal with inevitable interaction concerning property as land?

The answer to this is one of the most fruitful outcomes of Flikschuh's discussion. This is her construal of the issue as involving interaction, an important Kantian concern in his metaphysics, philosophy of science, ethics, and aesthetics, and its openness, something which differentiates him from, say, Leibniz.

In her concluding remarks Flikschuh points to the final intractability faced by her first-person reading.<sup>20</sup>

The implication of the proposed reading is of an irresolvable cultural stand-off between settlers and nomads: for the settlers the land should be acquirable at least in principle, whereas for the nomads it simply isn't. How does one resolve a conflict as intractable as this, where the position of one party is diametrically opposed to that of the other? What is perhaps particularly unsettling here – and this may tell against the proposed reading – is Kant's apparent unconcern to resolve it. The proposed reading has in effect left us on a cliff-hanger: according to it, the *Doctrine of Right* concludes with an admonishment to enter into contractual arrangements with those whose likely unfamiliarity with such arrangements we should nonetheless be mindful of. What sort of advice is this?<sup>21</sup>

She continues by pointing out that the advice Kant does give is essentially negative, what the settlers may not do, which, of course, also indicates the desired reciprocity of the interaction “but these remarks remain rather vague and open-ended: who knows whether the nomads will accept the offers and what will happen even if they do?”<sup>22</sup> However, the seeming pessimism of the remarks takes the lemons and makes lemonade: as Flikschuh indicates in the last paragraph of the paper, the vagueness, the open-endedness, the call to reciprocity in a negative sense, all culminate in the exciting possibilities of novelty and renewal.

She opens up slightly pessimistically, stating: “I believe that Kant cannot say what the nomads will or will not do or say. Only the nomads themselves can tell us. Kant has reached the end of his road.”<sup>23</sup> From this however, Flikschuh moves to the real insight, that in the encounters with real difference, we can insist on being right, dogmatically, or we can open ourselves up to the possibility of new approaches, perhaps even in understanding that our approach was, actually, not as

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<sup>20</sup> Flikschuh's discussion is firmly grounded in the first-person regressive approach, in distinction from a third-person approach, such as Louis-Philippe Hodgson's in Hodgson (2010). However, it seems to me that the open-ended aspect of interaction does not firmly depend on this and that the two approaches might be reconcilable, depending on how flexible and formal one takes Kantian freedom to be. Even from a third-person perspective, how freedom is instantiated in specific kinds of formality will still be a matter of judgment, both determinative and reflective.

<sup>21</sup> Flikschuh, “Kant's Nomads”, p. 365.

<sup>22</sup> Flikschuh, “Kant's Nomads”, *ibid.*

<sup>23</sup> Flikschuh, “Kant's Nomads”, *ibid.*



universal as we thought it: “now we find we have to think again.”<sup>24</sup> Her conclusion promises that what started as a puzzle ends up as an opportunity:

So while in one sense, the nomadic passage does mean that the *Doctrine of Right* has reached the end of its road – it cannot get the nomads into the civil condition for us – in another sense the passage affords a new beginning in that it invites us to try to make contact with peoples of whose existence we know as yet nothing and to offer to engage into commerce with them in the sense of the term intended by Kant, namely to engage in mutual conversation.<sup>25</sup>

Flikschuh’s arrival at this opportunity for mutual interaction, for conversation, for genuine unscripted *commercium*, though within a framework of mutual respect, gives us a broad sense of what it means to deal with otherness, in at least a formal way, a dealing which involves respect, mutual conversation, and, above all, though this is only implicit in her discussion, a commitment to *preserving* the otherness of the other rather than a swallowing-up into terms only we can understand.<sup>26</sup> This is genuine hospitality on a Kantian model. It follows from the central aspect of the possible interaction between settlers and nomads, the aspect of open-endedness, of unexpectedness, an unexpectedness which is left room for by the formalism of Kant’s principles.<sup>27</sup> Unlike the carefully fenced pieces of land which constitute at least some aspects of European bourgeois society, the wide open spaces which the nomadic peoples need for their way of life<sup>28</sup> suggest, by metonymy, the open-endedness and genuine respect with which more “fenced-in” peoples, e.g., settlers, members of modern urban society, etc., ought to treat those whose real differences in ways of life constitute both a conundrum and an opportunity for interaction.

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<sup>24</sup> Flikschuh, “Kant’s Nomads”, p. 366. This seems a thoroughly modernist stance on Flikschuh’s part and need not involve the denial of universality. It is simply that our universality turned out to be quite local.

<sup>25</sup> Flikschuh, Kant’s Nomads”, *ibid.*

<sup>26</sup> Such a commitment to open-ended interaction, sufficiently fleshed out, would respond to legitimate concerns such as Bagelman and Vermilyea’s and Zavediuk, and would make more formally Kantian the positive analysis in Dowdeswell also.

<sup>27</sup> The fundamentally unscripted though formally structured nature of these encounters with other communities suggests, of course, a need for a less firmly governed procedure of collective judging, for judgment reflecting rather than primarily determining. Although such indeterminacy is present in *Perpetual Peace*, it is more unclear how to apply it in the context of the Doctrine of Right, where determinacy and clarity play major roles. These issues are explored in Formosa, Goldman, Patrone eds. (2014). Goldman’s article in particular makes a number of important connections between aesthetics, teleology, and politics by situating them in the framework of reflective judgment and its principle of purposiveness in the third Critique.

<sup>28</sup> In European and North American terms such spaces might be represented by vanished common lands of various kinds.

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