**Putting Proximity in its Place**

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*Abstract*: Which role can physical proximity play in our thinking about the foundations of political community in a world where, due to political, economic and technological developments, we seem to live side by side with virtually everyone globally? This article interrogates this question in conversation with Kant’s political thought, where (enigmatically) proximity makes a prominent appearance both as a foundation of statehood and of cosmopolitan community. I argue that, as a scalar (rather than binary) criterion, the idea of proximity cannot serve as a *particularization principle* that guides us in carving up the world into peoples or territories. However, as a *regulative principle* it provides an appealing normative criterion for the internal constitution of existing states.While this is predicated on accepting Kantian conservatism about boundaries, the proximity-based state is structured in a way that deflates the normative significance of the very distinction between insider and outsider.

As many societies become ever more diverse, their citizens often have little in common in terms of values, worldviews and conceptions of the good on which they could rely in building something like a shared political project. Indeed, much of modern political theory has in a sense been concerned with the question what could unite a political community once appeals to a shared sense of ethnicity, culture, or religion are no longer available. One proposal, put forward by in particular by Kant and contemporary Kantians, draws on the idea of physical proximity. Taking its cue from Kant’s justification of state authority based on the mere fact that we “cannot avoid living side by side” (DoR 6:307)[[1]](#footnote-1) with each other, proponents of a proximity-based account of politics highlight that the most basic tie we (continue to) have with our fellow citizens is that they reside in our vicinity (e.g. Angeli, 2015; Stilz, 2009; Waldron, 2002; 2009; 2011). This model thus departs from traditional ways of thinking about the foundations of the state in terms of natural affinities (based on shared history, religion, ethnicity or identity) or along the lines of a voluntary association. Our lives are entangled with those of our fellow citizens by the mere fact that we live side by side and, hence, *regardless* of any pre-existing sympathies.

However, it is not clear at all which, if any, argumentative work proximity can do in a world where, due to political, economic and technological developments, we live (at least in some sense) side by side with virtually everyone globally (e.g. Simmons, 2016, Goodin, 2017). The aim of this paper is to approach this question by way of interrogating an interpretive puzzle that arises in Kant’s own discussion of proximity. My claim will be that the idea of proximity cannot serve as a *particularization principle* on the basis of which we could demarcate peoples or territories, but instead as a *regulative principle* guiding domestic constitutions.

The argument proceeds as follows. I start by laying out the basic puzzle motivating this article: in a world where people are basically dispersed across the globe, it is unclear which (if any) role the idea of physical proximity can play in our thinking about political community and authority, both in the state context and beyond. Interestingly, this puzzle is reflected in Kant’s own political thought, where proximity appears prominently as a foundation of both statehood and cosmopolitanism. Section 2 rejects the argument that proximity can serve as a *particularization principle*. On the basis of a gradual (rather than binary) criterion, it is impossible to show that there is a difference in kind (rather than degree) between proximity among co-citizens (justifying the state), on the one hand, and among everyone else globally, on the other. Instead, I suggest (in Section 3) that we think of proximity as a *regulative principle* that guides the internal arrangements of existing states. While this is predicated on Kantian conservatism about boundaries, the proximity-based state is distinctly outward-looking. The idea of proximity may not allow us to draw a line between insiders from outsiders (or between near and distant), but it pushes back against the normative significance of that very distinction.

1. **The proximity puzzle**

The idea of physical proximity has a long though rarely discussed pedigree in the history of political thought. It is particularly prominent across early modern accounts of political authority, where it is usually those living in each other’s vicinity whose situation is said to be most ‘inconvenient’ (to put it in Lockean terms) or even ‘intolerable’ (in Hobbesian terms) in the absence of a sovereign. This should hardly come as a surprise, for what these early theorists of modern statehood set out to defend is precisely a kind of authority that is exercised over contiguous pieces of land, i.e., territorially.

In Kant’s political theory, the idea of proximity also appears most prominently in the context of his justification of state authority. In the context of introducing the so called “postulate of public right”, he argues:

From private right in the state of nature there proceeds the postulate of public right: when you cannot avoid living side by side with all others, you ought to leave the state of nature and proceed with them into a rightful condition, that is, a condition of distributive justice. (DoR: 6:307)

This claim is generally taken to encapsulate Kant’s justification of a distinctly moral duty to enter the state. The thought is roughly the following (e.g. Byrd and Hruschka, 2010; Ripstein, 2009): individuals who coexist in a state of nature will be forced to impose on each other their interpretation of what their rights and obligations are. Yet, nobody among a number of moral equals has the requisite authority to unilaterally determine the terms of interaction. Hence, in order to interact justly they have to create an institution that, in making coercive laws valid for all, provides a public interpretation and enforcements of everybody’s entitlements in a way that is consistent with the moral standing of each. In other words, individuals living side by side with one another have an obligation to jointly submit to the state; in fact, they can even force everyone in their vicinity into it. Given that the state is consequently tasked to fulfil a specific kind of moral coordination function, let us call this the argument from *moral functionalism.*[[2]](#footnote-2)

Contemporary Kantians have been eager to adopt this model for contemporary purposes (e.g. Angeli, 2015; Stilz, 2009; Waldron, 2002; 2009; 2011). They seek to position a proximity-based model of the state in opposition to its two main rivals, voluntarist and affinity-based accounts. According to the former, we should think of the state as constituted by a consensual or even contractual relation of individuals who deliberately and willingly engage in a shared political project.[[3]](#footnote-3) According to the latter, the state serves as a vehicle for a pre-political group (such as a nation) defined by ascriptive characteristics that its members believe themselves to share, including language, traditions, religion or a common public culture.[[4]](#footnote-4) By contrast, the proximity-based state is thought of purely as a “jurisdictional project” (Blake, 2013, p.108) grounded in a general moral principle. Its proponents take this to be an appealing framework particularly in the context of modern diverse societies, where citizens often lack substantive ties or shared histories but find themselves sharing little more than the fact that they concurrently reside on a territory, such that they are even less likely to naturally converge on a shared interpretation of their rights and obligations.

Surprisingly, however, Kant appeals to the idea of physical proximity not only in the context of justifying the state but also in his cosmopolitanism. In introducing the domain of cosmopolitan right (*Weltbürgerrecht*), he argues that the pertinent entitlements

belong to all human beings by virtue of the right of possession in common of the earth's surface on which, as a sphere, they cannot disperse infinitely but must finally put up with being near one another. (DoR 6:355)

Similarly, in Perpetual Peace (8:358) Kant claims that a cosmopolitan constitution determines “what is mine and what is yours for a multitude of human beings […] living in proximity to one another”. The proximity-based community Kant presents in these passages is uncompromisingly global. In fact, the image of the earth’s circumference preventing us from getting away from each other once and for all counts among the most memorable ones within his political theory. The mere fact that we concurrently coexist on the earth’s spherical surface, Kant believes, puts is in a distinct kind of interdependence relation of “possible physical interaction” (DoR 6:352). What unites us with everyone else globally is neither our shared humanity (in Kant’s non-empirical sense) nor entanglements constituted by shared economic, social or communicative practices. What matters, instead, is a distinct spatial relation in which we stand merely by virtue of our coexistence within limited space.[[5]](#footnote-5) Kant seems acutely aware of the sense in which we live side by side not only with those immediately around us but with everyone else with whom we find ourselves on the finite spherical surface of the earth.

It would be idiosyncratic to characterise Kant as an early prophet of today’s hyper-globalised world. While he was certainly impressed by the rapidly growing opportunities for transportation, communication and trade of his time, the relevant interdependence relation (of ‘possible physical interaction’) is characterised as more akin to a quasi-metaphysical fact about the predicament humans find themselves on planet earth: we coexist side by side and have to work out shared solutions for shared problem. Yet, the tension Kant thus articulates is even more pronounced in our current world and, hence, raises a more fundamental question: which role, if any, can proximity play in a world where, due to political, economic and technological developments, there is a sense in which we live side by side with virtually everyone globally? In order to address this question, I will continue to take inspiration from the puzzle arising in Kant’s own thinking.

1. **Proximity as a particularisation principle**

On a fundamental level, the conceptual puzzle I developed in the preceding section concerns the spatial aspect of politics. How (if at all) can we draw on the idea of proximity in thinking about political community and authority, particularly in the context of geographically bounded states, given that it no longer seems clear who lives in our vicinity and who does not? According to the argument I will look at in the present section, the very notion of proximity contains the conceptual resources to solve this predicament. We can in fact distinguish, the argument goes, between those immediately around us (with whom we ought to enter a state) and everyone else with whom we merely find ourselves coexisting on the finite spherical surface of the earth. Hence, a proximity-based demarcation of particular states, jurisdictional domains and boundaries of membership is available. I will argue that the attempt to draw such a distinction fails, though in an instructive way.

Let us go a step back first. In the preceding section, I introduced Kant’s justification of the state as a version *moral functionalism*: according to this theory, a state is justified in exercising authority over a specified territory and set of individuals because of certain benefits it provides or a function it fulfils: enforce justice, define property rights, or provide public goods.[[6]](#footnote-6) I also contrasted the *moral functionalist* argument with *voluntarist* and *affinity-based* accounts. Now, notice that these two competitors can claim one decisive advantage: they have criteria built into them for telling apart insiders and outsider, such that we are in a position to draw boundaries around peoples and even territories. On the voluntarist account, those belong who take part in the (imagined) agreement to jointly submit to a coercive authority. On the affinity-based account, it is those who share the ascriptive feature that define the relevant nation, culture or ethnicity. Moral functionalism, by contrast, seems to lack a criterion on the basis of which we could decide *with regard to whom* and *where* a specified institution is supposed to fulfil the requisite function. Why, in other words, should France exercise authority over the French and control the particular territory of France, rather than over the Germans and German territory; assuming it would be equally capable of enforcing justice and providing public goods?

It is in this context, according the proposal presently under consideration, that the idea of proximity comes into play: it serves as a *particularisation principle.*[[7]](#footnote-7)The thought is that the idea of proximity can be ‘plugged’ into a functionalist justification of statehood. People living side by side with each other, the argument goes, are permanently exposed to conflicts about the meaning and scope of their rights, such that the need for a centralised coercive institution that mediates their interactions is particularly urgent. Hence, the distinction between insider and outsider can simply track the distinction between near and distant.

In Kant’s own argument, this thought is closely related to a specific focus on property rights. These rights are of special interest to Kant given that he takes them to be particularly prone to conflict due to their partly conventional nature. While people may plausibly agree, for instance, on the extension of each persons’ right to bodily integrity, they are much less likely to (reliably) converge on the exact nature and content of their rights over external objects of their choice. It is by virtue of this focus on property that Kant is bound to think about political authority in spatial terms from the outset: people living side by side must regularly settle competing claims over property and land, over how to delineate their plot of land from that of the adjoining owners and how to deal with common roads that serve to access their property.

Notice, however, that Kant importantly departs from Locke in construing the relation between property, authority and territory (Hodgson, 2011; Flikschuh, 2008).[[8]](#footnote-8) According to Locke, a prominent proponent of the *voluntarist* model, in the state of nature individuals have fully determined property rights they are unilaterally entitled to enforce. Given that differing interpretations of natural law make it more efficient to have standing laws that are universally known and coercively enforced, they voluntarily decide to enter the civil condition for reasons of convenience. Hence, *territory presupposes property*: when a state is formed, its territorial jurisdiction is established by the consent of the property holders who become its citizens (Miller, 2011). For Kant, by contrast, there are no full-blown property rights in the state of nature, given that individuals lack the requisite authority to unilaterally determine and enforce what they each consider their own. Consequently, *property presupposes territory*, i.e., a state with rights of jurisdiction over a particular area where its property regime is enforced.

Contemporary Kantians, I should add, tend to be wary of Kant’s property argument and hesitate to (exclusively) rely on it. In order to give the underlying idea a broader footing, they thus highlight that the lives of people who live side by side are enmeshed in a *variety* of interactions and interdependencies across different contexts, not just where property is at stake. As Jeremy Waldron puts it, “I buy apples from a neighbouring orchardist, but I also conflict with him over water-rights, and he objects to the chemicals I use in my garden and I send my children to work part-time as fruit pickers, and one of them wants to marry his daughter, etc.” (Waldron, 2009, p.11). The thought is that vicinities stand out as nodes of simultaneously occurring interactions, such that when neighbours disagree on one issue, cooperation on other issues may be jeopardized. Given that the result of one interaction has an impact on subsequent encounters, we need a stable and comprehensive legal framework (such as it is provided by the state) rather than an ad-hoc arrangement that deals with conflicts one-by-one. Put differently, the sense in which we are ‘proximate’ to those immediately around us (with whom we ought to share a state) is sufficiently distinct compared to those who are close to us in a looser, arguably less pressing sense (such that we do *not* have to share a state with them).

However, critics forcefully deny that we can draw precisely this line. They question whether physical proximity can serve as a proxy for the requisite kind of interdependence. A. John Simmons, for instance, claims that “who is a threat to whom […] depends on the personal characters and moral commitments of the persons involved; it depends on the offensive and defensive capabilities of the persons involved; it depends on the available technologies for delivering harm to distant others (which may actually make it *easier* to harm people at a distance than those who are physically nearby)” (Simmons, 2016, p.79; see also Simmons and Wellman, 2015, pp.173-177) rather than who lives in our vicinity. Hence, if we want to group people into sets according to entanglement and interdependence, physical proximity is simply not the way to go.

In a similar vein, Robert Goodin has (in a piece entitled ‘Proximity Principle, Adieu!’) forcefully articulated the worry that the idea of proximity may once have been a useful proxy for morally relevant features such as mutual affectedness but is no longer in a world where many of our interactions and interdependencies are increasingly mediated for instance by markets or virtual networks (Goodin, 2017). Times are gone when we could reliably assume to be most frequently impacted in the deepest and most wide-ranging way by those around us. To continue do so would be to embrace an outdated and problematically naïve form of political anthropology.

I believe that these critics do have a point: it is hard to deny that globalization processes put pressure on the correlation between interdependence and physical proximity. It is simply no longer the case (if it ever has been) that we are *only* affected by people in our vicinity. I am happy to concede that we need to acknowledge these changed circumstances by supplementing domestic law with juridical frameworks that go beyond the state. And so is Kant, for that matter, who recognises the cosmopolitan implications of his model of political community by arguing that domestic justice between co-citizens is to be complemented by justice between states (‘international right’) and all individuals globally (‘cosmopolitan right’) (DoR 6:311).

Notice, however, that these critics are usually after a more radical conclusion. They argue that physical proximity can do *no* work, such that the case for the territorial exercise of political authority as a whole is undermined.[[9]](#footnote-9) Goodin suggests, for instance, that who is bound by political decisions (and, hence, gets to have a say in them) should be entirely dependent on mutual affectedness in the relevant context. It is this further conclusion that I am less convinced of. For, the link between proximity and moral conflict has something quite fundamental going for it: the basic fact that humans are corporeal beings who overwhelmingly act and pursue their life-plans *somewhere*.[[10]](#footnote-10) Many of our most important plans, projects, and relationships are “located” (Stilz, 2013, pp.324-356; see also Moore, 2015) in the sense that they are intertwined with certain spatial arrangements, in particular with our location of dwelling.[[11]](#footnote-11) This holds for economic practices (that are often structured around a particular geography and climate) as much as for recreational (think of beaches and mountains), religious (think of the significance of specific places of worship) or social (think of the way in which many of our dearest relationships depend on the physical presence of other individuals) activities.

Given that humans are beings who live at (multiple and overlapping) places, a large number of their interactions will unavoidably be with those around them – those with whom they share the same roads, work places, parks or schools*.* In other words, shared geographies are a *fundamental* source of human enmeshment; more fundamental than other sources such as shared identities or religion, which are themselves deeply influenced by and embedded in a shared physical world that underlies them.[[12]](#footnote-12)

For that to change, the human life-form as a whole would have to radically transform in ways that go way beyond what we currently observe (or may even be able even envision). Even seemingly non-spatial networks through which humans increasingly interact, such as markets or the internet, are necessarily embedded in geographical structures and, in turn, have a profound impact on them. While markets rely on drawing material resources from places, the internet is spatially instantiated in huge infrastructural sites (so called server farms) with extraordinary energy consumption; to think of the pertinent forms of interaction as fully ephemeral or de-spatialised would be to mystify them (Jurkevics, 2019).

Consequently, there is, and continues to be, something special about the frequency, range, depth and certainty of our interactions with those immediately around us. This is the case at least to an extent that allows us to assume a rough correlation between proximity and interdependence. And insofar as political authority should track the range of interaction and interdependence, there is a good case to be made for a territorial form of political organisation, i.e., a standing mechanism of conflict solution that exercises its authority across a contiguous piece of geographical space. In other words, given that the frequency, range, depth and certainty of our interactions is likely to decrease with distance, in determining who we ought to enter the state with, we should start with those immediately around us and proceed ‘outwards’.

However, this only gets us part of the way: all we have shown is *that* we must organize political entities territorially (rather than on the basis of some other principle). But can we actually draw on proximity also in order to demarcate particular states and jurisdictional domains? Some contemporary proponents of this idea are confident that we can go this further step as well. Jeremy Waldron, for instance, provides a fictional genealogy where boundaries are presented as emerging naturally as organically growing ‘clusters’ of people gradually approach one another. Given that geographical factors like the unequal distribution of resources on earth attract people unevenly to different locations, Waldron (2011, p.10) assumes that “humans are not spread out evenly across the face of the earth, but clustered together in a plurality of distinct localities”. Boundaries then emerge almost naturally as these organically growing clusters gradually approach one another. This path dependency accounts for a difference in kind (rather than degree) regarding frequency of interaction among insiders on the one hand, and across boundaries on the other.

There is certainly a hypothetical world in which this criterion would help us draw boundaries and consistently discriminate between insiders and outsiders; for instance, a world composed of small islands each capable of supporting human life but separated by wide expanses of sea, such that interactions across communities would be relatively rare (Miller, 2016, pp.861/2). However, in a scenario *without* clearly demarcated vicinities, the narrative does not really get us very far. In a world such as ours, that is to say, where people are almost continuously dispersed over the planet’s surface, the justificatory purchase of Waldron’s genealogy remains very limited. It is simply not the case that I *necessarily* continue to be more entangled with a co-citizen at the far end of the territory than with my foreign neighbour who lives just across the border, only because our ancestors were part of the same ‘cluster’.

Oliviero Angeli thus opts for an alternative strategy. He supplements physical proximity with an appeal to what he calls “legal proximity” (Angeli, 2015, p.49), which is said to arise once boundaries are drawn and the respective addressees of the law cleared up. The thought is that shared subjection to the law increases entanglement so much that an in-kind distinction between insiders and outsiders is (retroactively, as it were) warranted.

Now, on one possible reading of this argument, all the work is done by an *institutional* fact rather than a *spatial* one: as proximity is reduced to a “juridical fiction” (Angeli, 2015, p.46), the fact that people actually live physically side by side becomes virtually irrelevant. Of course, it is correct that once we share not only land, but also a jurisdiction, we become entangled in new ways; jurisdictions lead to new shared institutions and laws which in turn shape culture and political geographies in ways that pull us closer together. Yet, this leaves us with an infinite regress problem, for our criterion for boundary drawing (i.e., shared institutions) requires that we first draw boundaries (i.e., determine who shares these institution). We have avoided the problem that physical proximity, as a scalar or gradual rather than a binary property, is not a suitable particularisation principle only at the price of begging the question altogether.

But maybe this underestimates the subtlety of Angeli’s argument. There is a different reading that actually puts him much closer to what I am going to argue. Notice that Angeli also speaks of territories as “intelligible maps” (Angeli, 2015, p. 48) that classify human relations of proximity in space, which are otherwise difficult to pin down consistently. On this view, physical proximity provides something like a conceptual framework for making sense of existing jurisdictions rather than a particularization principle that demarcates their boundaries in the first place. Indeed, Angeli speaks of a “*de facto turn* in Kant’s legal thinking” from carving up the world into states, to reflecting on the “legitimacy of these states as institutions already in place” (ibid.).

That said, I worry that Angeli stops short of systematically reflecting on the normative implications of such a shift or indeed on the role left to play for proximity within his territorialized vision of human proximity. While he briefly acknowledges the “inherent cosmopolitan feature” (Angeli, 2015, p. 52) of the proximity principle,[[13]](#footnote-13) states’ exclusive authority within a specific geographical area, as the very condition of legal coherence within single communities, remains largely unaffected. Angeli thus seems to lack the conceptual resources to address or even unpack the fundamental tension between the domestic and the global perspective, which is at the heart of the proximity-based framework and hence of this article.

1. **Proximity as a regulative principle**

In the preceding section, I rejected the idea that proximity can serve as a *particularization principle*. In the contemporary world, there is no way to draw boundaries between insiders and outsiders and, hence, around jurisdictional domains, based on who lives in our vicinity. Where does this leave us? A plausible conclusion is that a proximity-based account of politics necessarily leads to a strong version of global government or even a world state. If there is no principled way to distinguish between the near and the distant, the political institution ultimately called for must include every individual across the globe.

Kant himself famously rejects this conclusion.[[14]](#footnote-14) In a remarkable departure from his earlier endorsement of a world state in essays such as *Idea for a Universal History with a Cosmopolitan Intent*, in his mature political writings he vindicates a loose and “voluntary league” (PP 8:356) among states (international right) and a right to be treated hospitably for non-citizens abroad (cosmopolitan right, DoR 6:353). Neither of these domains of right beyond the state is enforced by a coercive institution, neither can be brought about by force. Interpreters have been at pains ever since to come to terms with Kant’s scepticism about world government. The arguably most prominent among a number of reasons is that a fusion of states would be either ineffective or dangerous (e.g. Flikschuh, 2010). On the one hand, the idea is that a world state would just be too big in size so as to effectively govern and protect its citizens (DoR 6:350). On the other hand, Kant worries that a hegemonic global empire in the form of a “universal monarchy” would be likely to turn into a “soulless despotism” (PP 8:367). Absorbing all subsidiary political units such that it is freed of any checks on its power, the peace such an institution creates would be that of a graveyard.

Interestingly, we find some of these considerations reflected in contemporary political theorists’ scepticism about the world state. They are similarly worried about the likely nature of a global coercive institution, in particular about the possibility of democratic self-government on such a large scale (e.g. Miller, 2010; Maus, 2015). Indeed, the focus of contemporary conceptions of global citizenship often remains confined to the legal protection for individuals within a global human rights regime rather than extending citizens’ rights to participate in political decision‐making (e.g. Habermas, 2014). The empirical fact, moreover, that no supranational institution accountable to citizens’ formal influence have thus far been established beyond the scale of the European Union (where this is the case at most in a weak form) seems to confirm these worries.

While I do not have the space to scrutinize these arguments in detail, I will proceed on the assumption that there is indeed a plausible case to be made for organizing our political world as a structure of autonomous, bounded, spatially defined jurisdictional units. The claim I would like to put forward in the present section is that the idea of proximity can still serve an important reflexive function even in the domestic context, namely as a *regulative principle* that guides the internal constitution of existing states. I should be forthright that this is predicated not just on rejecting the world state, but on setting aside the boundary question as such and taking jurisdictional domains as given. As I have indicated in the preceding section, Kant’s version of moral functionalism lacks an account of what Anna Stilz (201, p.27) “foundational title”, i.e., an answer to the question “what, if anything, gives a particular set of people a special claim to live in a given area, including the right to establish a state that governs and controls that space?”.[[15]](#footnote-15) If we are willing to bracket this question or help ourselves to independent argumentative resources in order to answer it, the idea of proximity can play an intriguing role in normatively structuring domestic constitutions.

I will once again take my cue from Kant in order to unpack this idea. Regulative principles play a central role in Kant’s philosophical thinking more generally, where they are distinguished from constitutive principles (e.g. Hanna, 2017). The latter articulate norms that *constitute* some rational activity or practice, while the former contain norms internal to that activity or practice that *guide* or *regulate* it. The underlying idea that the norm applying to something depends on the nature of that thing is deeply intertwined with a thorough anti-foundationalism that underpins Kant’s philosophy as a whole (e.g. Ameriks, 2000; O’Neill, 1992). Rather than first principles, Kant usually starts from within certain experiential contexts (such as the experience of objects outside of us in his epistemology, or the consciousness of moral obligation in his ethics) and proceeds, from there, to ask how these are possible; he recursively vindicates presuppositions of that which we are already in some way committed to. In other words, for Kant the form of insight, and of moral insight in particular, is reflexive.

How does this idea play out in the context of his political theory? There, the distinction between constitutive and regulative levels of analysis concerns the nature of a given institution – what constitutesit as a juridical entity – on the one hand, and the regulativestandards internal to it (with which we are to bring that institution in conformity), on the other (Weinrib, 2016, pp.46-65). The thought here is that the very rationale for bringing about political authority has standards for its exercise built into it. Put differently, the criterion for the just exercise of public authority is not inferred from some external moral standard but inheres the rationale for its establishment.

This political anti-foundationalism is not just a by-product of Kant’s wider philosophical commitments.[[16]](#footnote-16) It is closely intertwined also with his specific view of political change and progress. Recall that we do not to start from a blank slate (going on to sketch institutional blueprints) but ask for regulative principles underlying existing institutions; principles against which they can then be held to account. The implication is that political progress is understood as a process in the course of which an institution is gradually brought in line with its own underlying principles.[[17]](#footnote-17) This radical reformism also explains Kant’s notorious scepticism concerning resistance and revolution. For, by taking justice in her own hands, the revolutionary looks for a quick fix where there is none to be had: in pursuing a violent shortcut rather than going the painstaking way of gradually reforming the legal order in line with its own underlying principles, she destroys the prospect of a just order altogether.

Notice that, in thinking of proximity as a *regulative principle,* we shift the relation between a general principle and its particular instantiation. The prevalent view, laid out in the preceding section, is that Kant starts with the argument from moral functionalism and goes on to ask, from there, how to carve up the world, that is, which particular institutions should fulfil the requisite moral function with regard to a particular set of individuals and over a specified territory. By contrast, following the argument of the present section, he starts with particular institutions and asks for their underlying (regulative) principles. In other words, the idea of physical proximity is (part of) the answer to the question how a given state’s claim to a right to rule over its subjects can be vindicated. It can be vindicated, Kant argues, only insofar as we think of that particular state as fulfilling a general moral function (with regard, of course, to particular piece of land and a subset of people). The reflexive insight that it is *mere proximity* which connects us to our fellow citizens (rather than the fact that we ‘chose’ to associate with them in some way, or that they are ‘like us’ in some respect) then guides the internal constitution of the state. I have already indicated that for this argument to get off the ground, we have to effectively bracket the boundary question. If we are willing to bite this bullet, the idea of proximity can serve to guide the internal constitution of an institution whose jurisdictional boundaries we take as given.

In the remainder of this section, I would like to push back against the impression that this gives the proximity-based framework a fundamentally and indeed irredeemably conservative character.Recall that the relevant regulative principle asks us to design and reform the state’s constitution, institutions and policies in a direction that reflects the idea of a mere jurisdictional project tasked to fulfil a moral coordination function at a particular place and time. Concretely, this entails that the state’s institutions are to be made more accessible and accountable to outsiders. In other words, we end up with the notion of an outward-looking state, one that is to be opened up from within. The Kant-inspired conception of a proximity-based state is that of a distinctly *cosmopolitan state*.

Let me illustrate this abstract idea with the help of three examples, partly drawn from Kant’s own discussion. They respectively pertain to the principles of *admission*, *inclusion* and *deliberation* that characterise the proximity-based state. First, on the level of admission, notice that such a state would not require and, hence, not possess an (unconditional) authority to exclude outsiders from entering its territory. For, barring exceptional circumstances, its moral coordination function can be fulfilled regardless of whom happens to be physically present in its jurisdiction. Indeed, Kant himself grants to every person a cosmopolitan “right to visitall regions of the earth” (DoR, 6:353) (if not to stay permanently or settle)[[18]](#footnote-18) and to be treated hospitably wherever they arrive, based on the idea that mankind originally possesses the earth in common. Contemporary authors have drawn on this claim, for instance, to defend states’ obligation to grant refugees a right to freedom of pass-through movement (Owen 2014).

Second, the proximity-based state is characterised by a principled openness to newcomers not only on the level of admission but also in relation to inclusion and political membership. In this respect, the relevant question is who constitutes ‘the people’ to whose “united will” Kant ascribes the “legislative authority” (DoR 6:313) to make laws. In other words, who should participate in the practice of collective self-legislation aimed at replacing individuals’ dependence on each other’s private wills with mutual dependence on public laws?[[19]](#footnote-19)

The answer must be everyone who finds themselves permanently side-by-side with each other, such that they are bound to be particularly entangled and permanently exposed to conflicts that need to be settled by law.[[20]](#footnote-20) Given that there is no other relationship or sentiment legitimising, grounding or underlying the mere circumstance of being present somewhere on a continuous basis, everyone who resides on the territory of a democratic state should be granted full citizenship. In so doing, we formally acknowledge that they belong to the self-governing polity and take part in our shared attempt to create just relations among a plurality of interconnected individuals. In Kant’s cosmopolitan state, the mere fact of physical proximity grounds a case for naturalisation.[[21]](#footnote-21)

Finally, the proximity-based state would also open up domestic decision-making processes to the influence of outsiders. The thought is that foreigners can claim to beincluded in a decision-making process (or have their legitimate interests impartially considered) particularly if they can reasonably expect to be affected by it,[[22]](#footnote-22) or at least to be granted a type of “communicative membership” (Niesen and Owen, 2014**)** that allows them to effectively voice their concerns and engage with the opinion-formation of political members and their representatives. For instance, Anna Stilz has recently argued that the use and management of certain global system resources (the loss or degradation of which would jeopardize all of humanity), such as forest carbon sinks, should be subject to deliberation, cooperation and decision-making in international institutions. These ideas can equally draw on Kant’s robust defense of a cosmopolitan right to communicate across borders (DoR 6:353) and to engage in the public use of reason as a “member of the society of world citizens” [*Weltbürgergesellschaft*]” (WIA 8:37), i.e., regardless of membership and affiliation.

Much more could be said about the nature of the proximity-based state, which in important respects turns out to have a cosmopolitan character. My main point, however, was to attenuate the ostensibly conservative implications of the framework I have advocated. While we may not be able to draw boundaries between insiders and outsiders on the basis of proximity, we are led to take a deflationary perspective on that very distinction. In other words, a proximity-based approach to politics focuses on reassessing the normative significance of boundaries rather than redrawing them.

**Conclusion**

The aim of this paper was to make some headway concerning the significance of physical proximity in our thinking about political authority and community, both in the state context and beyond. In order to do so, I took inspiration from a predicament we find in Kant’s political theory: how can physical proximity figure prominently in his justification of the state if there is an important sense also in which we live ‘side by side’ with everyone else globally? Rejecting attempts to employ proximity as a *particularisation principle* that serves to carve up the earth’s surface into specific territories and the pertinent people, I argued that we should understand it as a *regulative principle* that provides a criterion how states should be internally organised, urging us to transform states in a more inclusive direction. While the proximity principle cannot draw a line between near and distant, its implications for domestic politics go some way in deflating that very contrast.

Hence, I take the proximity-based model of the state to be an attractive alternative to traditional ways of thinking about the foundations of the state in terms of natural affinities (based on shared history, religion, ethnicity or identity) or along the lines of a voluntary association. For, a normative model according to which we are united with our fellow citizens by the mere fact that we live side by side, such that our lives are profoundly entangled *regardless* of any pre-existing sympathies, seems particularly timely as many societies become ever more diverse.

Moreover, the proximity-based perspective invites us to problematise the very dichotomy between statism and cosmopolitanism, which has for long served as an organizing criterion in debates on global justice. First generation cosmopolitans thought of state sovereignty effectively as an obstacle to the realisation of global justice, which they conceived of as demanding just relations between individuals globally. Recent internationalists, by contrast, have returned to the morality of statehood. Their main idea is that states are to be respected as sovereign agents by virtue of the moral coordination function they play in relation to their own subjects. In arguing for an implementation of cosmopolitan principles on the domestic level such that we get a distinctly outward-looking state, the proximity-based model sidesteps a rather unhelpful dichotomy that has plausibly contributed to what is often conceived as a theoretical stasis in the pertinent debates. It thus provides the most coherent theoretical foundation for a cosmopolitanism “from below” (Niesen, 2012) that reminds us of cosmopolitan transformative potentials *within* the modern state rather than focusing exclusively on institutional ways of transcending it.

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1. All references to Kant refer to the volume and page number of the Prussian Academy edition, published at Cambridge University Press under the editorship of Allen Wood and Paul Guyer. Abbreviations used are DoR (Doctrine of Right) and PP (Perpetual Peace). [↑](#footnote-ref-1)
2. Stilz (2009) was the first to characterise Kant’s argument in “functionalist” terms. [↑](#footnote-ref-2)
3. This is defended by proponents of the Lockean tradition of political thought, such as Simmons (1979). [↑](#footnote-ref-3)
4. For similar definitions, see Miller (1995, pp.22-25) and Tamir (1993, p.66). [↑](#footnote-ref-4)
5. This argument has recently been very popular among Kantian cosmopolitans (e.g. Pinheiro Walla, 2016; Flikschuh, 2000, pp.144-179; Niesen 2007). [↑](#footnote-ref-5)
6. See Stilz (2011). [↑](#footnote-ref-6)
7. For a critique of recent attempts to particularise Kant’s account through appeal to argumentative resources other than proximity, see Miller (2016). [↑](#footnote-ref-7)
8. I am grateful to an anonymous reviewer for urging me to clarify this. [↑](#footnote-ref-8)
9. Notice that even if we concluded that we cannot frame the relevant *problem* in spatial terms, we may still have (pragmatic) reasons for a territorial solution (to do for instance with efficiency of territorially bounded institutions). [↑](#footnote-ref-9)
10. On the “sense of place” as a central aspect of human existence, see Malpas (2008). [↑](#footnote-ref-10)
11. An anonymous reviewer has suggested to me that not many, but *all* of our life plans are located because we cannot escape being always in place even if our activities are divided over multiple locations at once or move around. Notice, however, that from the fact that *we* have to be somewhere in order to pursue our life plans somewhere, it does not follow by necessity that all of our life-plans themselves are tied to a specific place (although it appears likely that they *overwhelmingly* are). For instance, the life-plans of a member of the young, urban, well-educated middle class with high mobility and a cosmopolitan outlook or of someone who “lives in a cookie-cutter suburb, telecommutes, and needs only fibre optic cable and an internet connection to feel at home”? (Stilz, 2014b, p.208) are likely to be less bound to a particular place than those of a dairy farmer. [↑](#footnote-ref-11)
12. See Jurkevics (2019, p.11), who speaks of the “principle of inhabitation*”.* Jurkevics helpfully points out that the case for territorial jurisdiction does not rule out (and is compatible with) other types of jurisdiction, such as “personality-based” jurisdiction. [↑](#footnote-ref-12)
13. Angeli mentions the “internationalization of legal relations, its ultimate objective being the establishment of a cosmopolitan law” (Angeli, 2015, p. 52). [↑](#footnote-ref-13)
14. Some interpreters maintain that *were he to have been consistent*, Kant should have drawn the conclusion that the world state is ultimately called for, given that (e.g. Hodgson, 2012). [↑](#footnote-ref-14)
15. Of course, this leaves open the option to draw on additional conceptual resources to answer the boundary question. All I am saying is that the idea of proximity will not do the job. [↑](#footnote-ref-15)
16. This point is nicely made in Meckstroth (2015). [↑](#footnote-ref-16)
17. Kant’s theory of political change and progress has been read along similar lines by Meckstroth (2015), Ellis (2005) and Weinrib (2016). [↑](#footnote-ref-17)
18. We can understand Kant’s restriction of this right as essentially an anti-colonial move, intended to prevent Europeans from ‘civilising’ stateless peoples by simply settling in their vicinity and forcing them into the civil condition (Kleingeld 2012, Niesen 2007). [↑](#footnote-ref-18)
19. While Kant clearly endorses a republican ideal according to which the addressees of the law are simultaneously their authors, it remains contested to which extent he actually envisioned the practice of law-making as a genuinely democratic one. Sceptics remind us in particular that he allows the general will to be represented by a monarch (Flikschuh, 2012; Byrd and Hruschka, 2010, p.186). [↑](#footnote-ref-19)
20. I develop this argument in more detail in AUTHOR REF. [↑](#footnote-ref-20)
21. For arguments in the migration literature that reach a similar conclusion (although via different routes), see for instance Carens (2013), Shachar (2009), Song (2016). [↑](#footnote-ref-21)
22. Along these lines, proponents of the *all-affected* principle (Goodin, 2016; Warren, 2017), have argued that all those affected by a collective decision should be included in its making, such that the demos is in principle ‘unbounded’. My (less radical claim) is that we should include outsiders in domestic decision-making processes while maintaining a territorial form of political organization. [↑](#footnote-ref-22)