TOWARD “FREE TRADE” FROM KANT’S COSMOPOLITAN IDEAL

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Dedication

This dissertation is dedicated to my parents Deng, Qiubai & Xia, Fulian
Abstract

My dissertation aims to present a coherent Kantian justice in terms of Kant’s publicity principle. The theoretical construction arises from inquiries about the case of China’s soybean market shift after its accession to the WTO, and holds the practical aims of diagnosing injustices and prescribing individuals’, states’ and global institutions’ responsibilities in rectifying injustices. Specifically, I advocate for publicity as negotiable consent, which could entail active citizenship and moral politicians. By appealing to publicity as negotiable consent, I argue that the Chinese soybean case involves injustice, and provide corresponding expansions of Kant’s cosmopolitan right, republicanism, and a federalism of free states as conditions for justice.

The puzzling relationship between the WTO and federalism of free states suggests the need to address connections between trade liberalization and cosmopolitan ideal. By appealing to the I-Ching, I present the dynamic balance of Yin and Yang as a model for the interaction between capital and labor in the context of global justice. The interdependent yin-yang indicates that the discrepancy between theoretical predictions from the WTO and empirical evidence in the Chinese soybean case has resulted from the WTO’s neglect of mobility differentiations among the factors of production. At the end of my dissertation, an appropriate capital-labor relation prescribed by yin-yang leads to practical suggestions for the WTO. Emphasizing a mixture of bottom-up and top-down restrictions, both “publicity as negotiable consent” and yin-yang energize an account of Kantian justice as a dynamic theory which is continually responding to the uncertain, complicated, but practical issues.
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1. Introduction

China was a major producer and net exporter of soybeans before the 1995/96 marketing year (MY); since 2003, however, China has become the largest soybean importer, with declining domestic production and soaring imports. China imported 21.4 million metric tons (MMT) of soybeans during the 2002/2003 MY and became the largest soybean importer in the world. In subsequent years, its imports have continued to rise, with an import of 28.7 MMT in 2006/07, 37.8 MMT in 2007/08, 41.1 MMT in 2008/09, 50.3 MMT in 2009/10, 52.3 MMT in 2010/11, and 57.5 MMT in 2011/12 (appendix 1). The US Department of Agriculture (USDA) estimates that China will import 61 MMT soybeans during July 2012 to 2013 (USDA August 2012 “Soybeans: World Supply and Distribution”). Its soybean imports accounted for approximately 53.10%, 57.97%, 58.93%, and 63.81%, and estimated 64.24% of global soybean imports in 08/09, 09/10, 10/11, 11/12, and 12/13 MYs, respectively (based on data from FAS USDA “Soybeans: World Supply and Distribution;” also see figure 1). Its net trade in soybeans has gone from a positive to negative number since 1995/96. Its net trade in 2006/07, 2007/08, 2008/09, 2009/10, 2010/11, and 2011/12 was -28.28 MMT, -37.4 MMT, -40.7 MMT, -50.2 MMT, -52.1 MMT, and -57.3 MMT, respectively (see fig. 2). From MY 1982/83 to MY 1994/95, China’s soybean self-sufficiency ratio (SSR) was higher than 100%. Since MY 1995/96, China’s SSR has continued to decline. China’s soybean SSR in 2006/07, 2007/08, 2008/09, 2009/10, 2010/11, and 2011/12 was 34.77%, 26.40%, 27.63%, 23.00%, 22.45%, and 19.08%, respectively (see fig. 3).
Figure 1: Top Global Soybean Importers and Exporters 2008/09-2012/13


Figure 2: China’s net trade in soybeans 1980/10-2012/06 and USDA forecast for 2012/2013

Source: US Department of Agriculture (USDA), Production, Supply, and Distribution (PS&D) database. Note: Net Trade=exports-imports. Data are for October-September market years. The above net trade is calculated from USDA data (See appendix 1).
Figure 3: China’s soybean self-sufficiency ratio (SSR) and Import Dependency Ratio (IDR) for Marketing Year 1980/81 to Marketing Year 2012/2013

Note: Import Dependency Ratio (IDR) = \[\frac{\text{imports}}{\text{production + imports - exports}}\] * 100
Self-sufficiency ratio (SSR) = \[\frac{\text{production}}{\text{production + imports - exports}}\] * 100
Above IDR and SSR are calculated from USDA data (see appendix 1).

The dominance of foreign soybeans in China is partially due to its accession to the World Trade Organization (the WTO). The stated purpose of the WTO is to promote the ideal of “free trade” by reducing international trade barriers. In order to join the WTO, China agreed to implement tariff cuts, allow private enterprises to participate in trade activities, and eliminate nontariff barriers. As a result, the Chinese government lowered the soybean tariffs from 114 percent to 3 percent in the middle 1990s (Tuan, Fang & Cao, USDA; FAS “oilseeds”), thus providing a golden opportunity for giant foreign food companies to dominate China’s market. With the sharp change in the soybean market in China after joining the WTO, a series of critical questions arise: How does this market change affect the lives of soybean farmers in China? Do the farmers in exporting nations
really benefit from Chinese farmers’ losses? Is there injustice here? If so, where does responsibility for it lie? What responsibility is there to rectify such injustice, and how do we fulfill it?

In order to address these questions, I draw on Immanuel Kant’s essay *Perpetual Peace: A Philosophical Sketch* and on the Chinese classic the *I-Ching (Book of Changes)*. In *Perpetual Peace*, Kant sets up conditions for international relations and the relations among peoples to achieve the moral ideal of “a universal and lasting peace.” Among others, Kant’s ideal of cosmopolitanism (citizens of the earth), as the condition for peaceful relationships between domestic and foreign citizens, has become the source of ongoing debates about the appropriate relations between morality and political actions. These debates often focus on international adoption, immigration policy, and regulation of multinational institutions. The concept of cosmopolitanism also figures in a full understanding of the relationship between “free trade” as a moral ideal and the WTO. In addition, Kant’s rich understanding of moral requirements as sensitive to varying human relationships is relevant to the China soybean case, which involves multiple relationships, such as domestic and foreign citizens, domestic and foreign states, and states and the WTO. Unlike Kant’s philosophy, the *I-Ching* focuses more on bilateral relationships. One of its main themes is the dynamic balance of *Yin*—a defensive/weaker force—and *Yang*—an aggressive /stronger force. This provides an innovative model for the interaction between capital and labor in the context of global justice. The analysis of the *I-Ching*, therefore, can substantially contribute to the Kantian theory of ideal global order from an oriental perspective.
Different from many research studies on the WTO that focus on its abstract and aggregate effects, this dissertation is greatly enriched by individual experiences gained from in-depth interviews with soybean farmers in China and the United States, which is one of largest soybean exporting countries. I interview different types of Chinese and American soybean farmers to get a micro view of a current soybean market. Real stories are reliable ways to understand the lives of individual farmers, and are also powerful examples to explain the influences of the WTO policy upon them.

To investigate the influences of the WTO policies upon American and Chinese farmers, I conducted pilot interviews in the summer of 2009 in MengjiaTun Fengshou Cun, a village in Northeast China and 800 miles from Beijing. In August and September of 2009, I visited five farms in Walnut Grove, Minnesota and interviewed seven farmers who had various production operations, such as organic or conventional farms, and economic conditions, such as being organic and conventional farms, landowners or renters. The interviewees discussed that it has become more difficult for Chinese farmers to sell their own soybeans in recent years, and as a result, they are less willing to grow soybeans than American farmers. The results of the interviews also show that Chinese farmers, who are restricted by their limited resources, are more vulnerable to the “free” market because they have fewer options to actively improve their small family farms. When facing stronger competitors in the market, these farmers usually give up and grow other low-profit crops, or find work in the city. After obtaining a comprehensive understanding of the lives of farmers in both countries and the influence of the WTO rules, I find that what the WTO calls “equal treatments of products beyond national
boundaries” is not as the WTO promises, “equal treatments for locals and foreigners.” Different resources and characteristics that locals and foreigners have had always make their competition lean towards the one who has the comparative advantage.

However, the interviewees also noted that soybean farmers in the United States do not really benefit from Chinese farmers’ losses. The benefits are highly restricted by big grain companies. The soaring costs of farmland, machinery, seeds, fertilizer, and other chemicals make US farmers’ margins tighter, increase the risks, and make it more difficult to earn profits. Farmers have little bargaining power with the big companies, and are pessimistic about the future of farming. A 67-year-old Minnesota farmer complained that the farming is no longer free because of the unfair relationship between farmers and the big companies.

Just as the grain companies benefit unjustly from American soybean farmers, the current WTO agreements are unfair to countries with less capital, for example, most developing countries, because lowering developing countries’ trade barriers enlarges developed countries’ advantages in global trade. As for global trade, most developed countries’ comparative advantages are capital, while developing countries’ advantages are cheap labor. However, capital is superior to “cheap labor” in its trans-spatio capacity. While billions of dollars of capital can be wired from developed countries to anywhere within seconds, the transfer of human capital from developing countries to developed countries is strictly restricted by national boundaries. That is also why giant food companies can easily restrict American farmers, have a monopoly in some developing
countries’ soybean markets, such as China and India, and unfairly benefit from Chinese or Indian soybean farmers’ losses.

However, these facts are different from the ideal of “free trade” that the WTO advocates and argues will ensure that trade flows as freely as possible, will allow each country to concentrate on its strengths, and will serve the well-being of all its members. In *Perpetual Peace*, Kant sets up publicity test and other moral principles as conditions for a just policy (appendix 2). Thus, I apply his principles to China’s soybean case to evaluate the WTO policies in chapter 2. “*All actions affecting the rights of other human beings are wrong if their maxim is not compatible with their being made public.*” Many scholars interpret the publicity standard either as the sub-principle of Kant’s universal principle of justice or as the mirror image of his categorical imperatives. I argue that these interpretations underestimate the value of the publicity principle for bridging the disagreements between moralities and polices like those I believe are present in the Chinese soybean case. My richer reading of the principle rests on discussions of general and negotiable consent. I use Kant’s distinction between the political moralist and the moral politicians to explore the possibility that a politician is sometimes obligated to advance moral ideals. I also provide evidence gleaned from interviews with both Chinese and American soybean farmers and conclude, by arguing that, using a Kantian analysis, the Chinese soybean case has indeed involved injustice.

After revealing the injustices in the case of Chinese soybeans, I separately analyze the responsibilities of individuals, states, and global institutions to address such injustices. Kant sets up cosmopolitan rights as a condition for peaceful relationships
among domestic citizens and foreigners (the third definitive article), republicanism as a condition of the internal peace for each state (the first definitive article), a federation of free states as a condition of the external peace among states (the second definitive article). Correspondingly, in my dissertation, I evaluate individuals’ responsibilities through cosmopolitan rights in chapter 3, states’ responsibilities through republicanism in chapter 4, and the WTO’s responsibility through the federation of free states in chapter 5. As to how to fulfill these responsibilities, my dissertation also presents practical suggestions for institutional reforms accompanied by a philosophical justification.

The conclusions of my dissertation are not intended to be limited to China’s soybean markets, or to soybean farmers impacted by the WTO but aim to rectify global injustice elsewhere as well. Farmers in China and the United States are more similar than one might expect. Their individual experiences under the WTO rules are unique, but they also have many commonalities. Thus, this research involves questions related to the domestic and also the world prospects.

The scholastic outcomes of this project are keys to future theoretical discussions regarding Kant and the I-Ching. My analysis of Kant’s *Perpetual Peace* in the context of the WTO opens up a new theoretical space for the ongoing discussion of Kant’s cosmopolitan ideal and globalization. In addition, introducing the *I-Ching*, a classic Chinese philosophy, into the domain of contemporary global justice and developing a conversation with the western classics are this project’s innovations.
2. Kant’s Publicity Principle

2.1 Introduction

How does the change in the Chinese soybean market affect the lives of soybean farmers in China? Do farmers in exporting nations really benefit from Chinese farmers’ losses? Is there injustice here? In order to address these questions, this chapter draws on Immanuel Kant’s publicity principle, which aims to bridge the disagreements between moralities and policies. After rejecting “publicity as mutual knowledge” and “publicity as general consent,” I provide my interpretations of this principle in terms of “publicity as negotiable consent” to produce a set of conditions for a just policy. At the end of this chapter, I conclude, by arguing that, on a Kantian analysis, the Chinese soybean case has indeed involved injustice.

2.2 Publicity principle

2.2.1 Publicity principle as a condition for just policies

In the second appendix to *Perpetual Peace* (PP), Kant introduces his publicity principle as the condition for just public policies, and claims, “all actions relating to the rights of others are wrong if their maxim is incompatible with publicity” (PP 8: 381). Many scholars interpret the publicity standard either as a sub-principle of Kant’s universal principle of justice or as the mirror image of his categorical imperatives. I believe that these interpretations underestimate the independent value of the publicity principle for bridging morality and policies.

Kant explicitly uses this publicity principle to evaluate laws, public institutions, and individual behaviors. In the first appendix to PP, Kant describes the disagreement
between moralities and policies. Then in the second appendix, he introduces the publicity principle as a means of harmonizing moralities and policies. Kant seems to claim that when solely based on the natural mechanism of self-interest or prudence, the goal of justice cannot be achieved (Paul Guyer *Kant on freedom, law, and happiness*). Thus, there is a need to impose the publicity condition upon policies and individual behaviors to approach justice. Because “the volitions of all individuals to live in a lawful constitution in accordance with principles of freedom (the *distributive* unity of the will of *all*) is not adequate to this end” of moral ideals (PP 8: 371), and because the powerful agents will not voluntarily bring about justice, “to be in accord with this [the universe end of the public] (to make the public satisfied with this condition) is the proper task of politics” (PP 8: 386).

In addition, the evidence for the significance of the publicity principle is strengthened by the resemblance between implications of the principle and historical environments in Kant’s period. The resemblances might show Kant’s awareness of the need to apply the publicity principle to widespread devastation and destruction from many unjust policies. To explain this principle’s implications, Kant lists several concrete examples. In one case, “one of these states [which belong to a free federation of different states] has promised another something, whether it be assistance or cession of certain territories or subsidies and the like,” is it right for the state to break the promise for its own welfare? As to another, Kant asks “if a neighboring power that has grown to a formidable size (*potential tremenda*) arouses anxiety, may one assume that because it *can* oppress it is also going to *will* to do so, and does this give the less powerful a right to
(united) attack upon it, even without first having been injured by it?” Regarding the third Kant queries “if a smaller state, by its location, separates the territory of a larger one, which needs this [continuous] territory for its preservation, is the latter not justified in subjugating the former and incorporating it?” (PP 8: 384) Since the above cases were all existent in modern European war, Kant might have been referring to some historical wars when he wrote these cases. In particular, Königsberg was occupied by the Russians from 1758 to 1762 after the Prussian army’s defeat in the Battle of Gross-Jägersdorf against the Russians during the Seven Year War (Kuehn 112). Kant also experienced the Russians’ departure in 1762, when Peter III of Russia “entered into an alliance with Prussia to declare war on Denmark (a traditional enemy of Holstein),” and later “Catherine took over power in a coup d’etat” (Kuehn 126). The political changes in Königsberg might have aroused Kant’s attention to the publicity condition and its implications for policies.

Based on its independent role of bridging moralities and policies, its necessity for human progress toward certain moral ideals, and its practical implications for concrete politics, I claim that the publicity principle is an appropriate standard to evaluate the Chinese soybean market shift after China joined the WTO, and the WTO’s impacts on individual farmers.

2.2.2 Practical interpretation

Kant presents the publicity principle as a “negative test” to detect “what is not right toward others” in the domain of both ethical actions and juridical actions. In Kant’s brief explanations, “publicity” means “declar[ing] openly” as opposed to “ke[eping]
secret” or “publicly acknowledge[ing],” while the incompatibility with publicity means “frustrating my own intention” or “defeating its own purpose” (PP 8: 381-382).

Kant apparently believes that this principle is easy to apply, and illustrates its applications in examples of “the right of a state” and of “the right of nations.” As to “the right of a state,” he testifies to the injustice of rebellion, in the way that the maxim of “throw[ing] off the oppressive power of a so-called tyrant” would defeat itself if the maxim “were publicly acknowledged” (PP 8: 382). In this case, he is not defending any of the tyrant’s oppressive powers, but is stressing that using extralegal force to gain authority weakens the supremacy of law, and thus threatens or defeats the condition of establishing the state and the existence of the state. The head of the state, granted by the conditions of establishing civil contracts, is assumed to have “enough power to protect each one among the people against others” as well as “the right to command the people” (PP 8: 383). The head of the state does have the duty to protect each individual against others, and his failure would deprive him of the right to give the orders. However, the head of the state’s failure to fulfill his duty does not grant the people the right to use extralegal forces to overthrow the ruler’s authority because in the broader context, to use forces outside the legal order is to go against the conditions of establishing the state. Similarly, if “the people’s rebellion should succeed,” the head of the state is not allowed to “start a rebellion for his restoration” (PP 8: 383).

As for cases concerning the right of nations, Kant claims that a state or head of state’s maxim of betraying a previous promise in order to further its own state’s interests is wrong in terms of the publicity principle because general acknowledgment of this
maxim would defeat the purpose of being a part of an international association and the purpose of self-preservation. “Every other would naturally either shun him or unite with others in order to oppose his pretensions” (PP 8: 384). Kant also argues that a state’s maxim of voluntarily attacking another state to avoid potential attacks upon itself is wrong because “willing to make [this maxim] known” would easily arouse attacks upon itself, and defeat its own purpose of “political prudence.” He further argues that a larger state’s maxim of “subjugating” the smaller state to expand its own territory is wrong because the purpose would become “impractical by its openness” (PP 8: 384).

Through these examples, Kant seems to address the agent’s inability to achieve its purpose if it publicizes its secret maxim. Under this interpretation, the publicity test could be as follows: an action relating to the right of other human beings is wrong if the agent would not be able to act on his maxim to achieve his own purpose in the world in which it was “publicized.”

2.2.3 “Publicity as mutual knowledge”

The practical feature of Kant’s publicity principle is simplified by David Luban’s “usefulness” principle of interpreting this principle: “interpret it in the most plausible way, but also in the way most likely to preserve its usefulness” (Luban 171). Kant’s own examples about the practical implementation of the publicity principle guide us to understand “usefulness” as “the easy implementation in practical cases.” “To preserve its [publicity’s] usefulness,” Luban argues for “publicity as mutual knowledge” in terms of its public character and easy implementation. “Mutual knowledge” is that “X is public if everyone knows X and everyone knows that everyone knows X.” To illustrate Luban’s
interpretation, I apply “publicity as mutual knowledge” to the debate of punishing an innocent. Suppose the justification of the practice of punishment is grounded in its deterrent effect. Then, if everyone knows the maxim of punishing an innocent to maintain its deterrent effect and everyone knows that everyone knows the maxim of punishing the innocent, the deterrent effect of punishment as well as the legitimacy of the practice of punishment would fade. Thus, deterrence, as the purpose of punishing the innocent, cannot pass the “publicity as mutual knowledge” test.

As to its practical implications at an institutional level, mutually knowing legal doctrines and rules or their maxims can be derived requirements from “publicity as mutual knowledge.” Because of the indeterminacy of maxims of legal doctrines or rules, the weaker version of such a publicity principle could emphasize information transfer. The knowledge about legal doctrines or laws flows from legal experts or politicians to the general public. Thus, disclosure of hidden information, or transparency of laws are required by “publicity as mutual knowledge.”

Although “publicity as mutual acknowledgement” is relatively easy to implement, mutual acknowledgment is not sufficient to identify an unjust action. It is true that “publicity as mutual knowledge” could hinder the purpose of an unjust maxim, especially in cases of deception and cheating, since the efficacy of deception or cheating depends upon their maxims being unknown. Similarly, increasing general public knowledge of legal doctrines or rules, such as food safety laws or regulations of genetically modified food, could effectively constrain some unjust policies. However, such public restriction
originating from “publicity as mutual knowledge” fails to defeat the purposes of unjust maxims in many cases.

“Publicity as mutual acknowledgement” fails to identify some unjust “coercion,” especially when the coencer is placed in a dominating position. Although there is no clear agreement about the definition of coercion, we generally agree that some types of coercion are decisively unacceptable. Coercion does not necessarily lead to physical injuries, but it works on the will of victims. The specific circumstance constructed by the coercer largely restricts the victim’s options. The victim has to obey the coercer’s intention which sometimes would threaten the victim’s moral commitments, such as loyalty, honesty, friendship, or dignity. Otherwise, possible injuries from the victim’s non-compliance would necessarily threaten his/her fundamental living, including both his/her self-preservation and the well-being of the beloved. Given this, the victim’s acceptance of a certain choice does not truly reflect the victim’s will, even in those situations where the victim explicitly signs the “contract” or “voluntarily” follows the coercer’s proposal. “Victims cannot agree with a coercer’s fundamental principle or maxim, which denies them the choice between consent and dissent” (O’Neill Construction of Reason 113). For example, in Sophie’s Choice, when the mother confronted the “choiceless” choices, her actual decision about sacrificing one of her children to save the other does not reflect her desire of taking care of both kids. Such coercion imposed on the will of a person is wrong in the way that the “offer” provided by the coercer undermines the victim’s ability to make an independent decision, since it deprives the victim of the opportunity of making a choice from his/her own will.
Similar to the “request” given by the coercer, some social arrangements are organized in such a way that some people involved have no possibility of rejecting them. Slavery is wrong because slaves, who are substantially restricted by the arrangement, have neither the resources nor the opportunity to negotiate for their own status. A metaphor to illustrate such a type of unacceptable coercion is that A, B, and C are defining the scopes and limits of rules governing A, B, C, and D in a meeting, but D is prohibited from “attend[ing] the meeting.”

As to above unacceptable coercion, knowing their unjust maxims does not easily defeat the practical efficacy of such an unjust maxim, since the practical destruction of some unjust polices largely relies on power differentiation among agents but less on the wills. Think again about the Anglo-Dutch, Thirty Years, Seven Years, or Russo-Swedish wars. If a state has supremacy over other states, disclosing its unjust maxim of attacking other states could hardly influence the fulfillment of its purpose, and thereby military intervention could pass the “publicity as mutual knowledge” test. However, as the safety valve of justice in a non-ideal society, the “publicity” test must diagnose unacceptable injustices, such as military intervention, slavery, and economic “slavery.” Therefore, there is a need for a richer notion of “publicity” than “mutual acknowledgment” to recognize injustices that happen in a context of disparities in powers and strengths.

2.2.4 Publicity as general consent

A richer notion of “publicity” as the criterion of justice does not beg the question. One way to approach “publicity” as a negative test of diagnosing injustices in the real world is to distinguish unjust oppression from legitimate coercion. Following the social
contract tradition, Kant affirms that the source of authority should come from the united will of the people, which is a normative standard of distinguishing legitimately coercive arrangements and policies from unjust coercion:

The act by which a people forms itself into a state is the *original contract*. Properly speaking, the original contract is only the idea of this act, in terms of which alone we can think of the legitimacy of a state. In accordance with the original contract, everyone (*omnes et singuli*) within a *people* gives up his external freedom in order to take it up again immediately as a member of a commonwealth, that is, of a people considered as a state (*universi*). And one cannot say: the human being in a state has sacrificed a *part* of his innate outer freedom for the sake of an end, but rather, he has relinquished entirely his wild, lawless freedom in order to find his freedom as such undiminished, in a dependence upon laws, that is, in a rightful condition, since this dependence arises from his own lawgiving will. (MM 6: 315-316)

A public law that determines for everyone what is to be rightfully permitted or forbidden him is the act of a public will, from which all right proceeds and which must therefore itself be incapable of doing wrong to anyone. ... This basic law, which can arise only from the general (united) will of the people, is called the *original contract*. (TP 8: 294-295)

The original contract means that legitimate rules or laws should receive the “general consent” from individuals or from member states of a federative association of states. “The legislative authority can belong only to the united will of the people … only
the concurring and united will of all, insofar as each decides the same thing for all and all for each, and so only the general united will of the people, can be legislative” (MM 6: 313-314). Since “each decides the same thing for all and all for each,” the general united will of the people is not the actual will of the majority or the mighty, which merely reflects a group of persons’ considerations. As “a public will,” the general united will is not a multitude of private wills either, which individually aims to increase personal interests. Instead, “the general united will of the people” presupposes idealized reasoning, which hypothetically decides the laws. The reasoning behind “the general united will of the people” must not be private, but it must be a public one, which is maximally accessible to others and is widely shared among all. Such reasoning neither relies on dogmatic attachment to certain traditions or ideologies, nor on the satisfaction of subjective preferences. Like an impartial and idealized legislator making laws, the general united will of the people decides the rightful coercion for all, which would be generally agreed on by individuals. Given this analysis, it is plausible to connect general consent with the publicity test, since Kant’s emphasis on the “self-legislation” of members of a society or of a federative association of states grants “publicity as general consent” as the key to distinguish legitimate coercion from unjust coercion. For example, a policy or a behavior with deceptive features would be disapproved by an impartial and idealized agent. Such disapproval of deception is evident in Kant’s own illustrations of the publicity test, such as a state’s violation of the previous treaty. Similarly, Kant asserts that rebellion is wrong, because rebellion violates the general consent to giving the ruler authority, and drives the state back to the state of nature.
Since the assessment of specific polices or behaviors by Kant’s publicity principle requires predicting the general approval or disapproval of people, “publicity as general consent” risks sacrificing usefulness or ease of application. Although emphasizing the actual agreement, Rousseau’s awareness of the limits of general will alerts us to some possible limitations of Kant’s general united will of the people, especially considering the gap between idealized standards and the imperfect world. First, the indeterminacy of the general united will always poses a challenge to the assessment of specific policies or behaviors, which is why a small state where it is easy for people to gather together and know each other is an ideal setting for the implications of general consent. The close and interpersonal relationships make the united will more easily determined and more motivated to act. Second, such an idealized “legislative” process has the implication that “publicity as general consent” requires a high degree of equality in ranks and fortunes. Inequality in power and wealth challenges the realization of the united will, which presupposes the equal impact of the laws upon each person. For example, a traffic law would be generally supported given that everyone is equally constrained by a traffic law.

Both of above limitations are violated in the Chinese soybean case, and both challenge the application of Kant’s publicity principle for contemporary global issues. The complexity of the global community intertwined with multileveled and multifaceted arrangements obscures the united will among citizens and foreigners. Further, the united will can be blurred by disparities in power and impaired capacities.
2.2.5 Publicity as negotiable consent

If the publicity principle entailed by the united will is a practical test for the Chinese soybean case, then our interpretation of Kant’s publicity principle must respond to those limitations of the united will that are presented in the Chinese soybean case. Considering the indeterminacy of the general united will and the prevalence of inequalities in the real world, I borrow some ideas from informed consent in bioethics, and take Onora O’Neill’s negotiable consent as a necessary expansion of Kant’s publicity principle in contemporary society. O’Neill’s notion of genuine consent is that “if those affected by a given set of arrangements that could in principle be changed can in fact refuse or renegotiate what affects them, their consent is no mere formality, but genuine, legitimating consent” and that “if they cannot but ‘accept’ those arrangements, their ‘consent’ will not be legitimate” (Bounds of Justice 163). The underlying assumptions of “negotiable consent” are compatible with the general united will of the people, including the legitimacy of an arrangement originating from the will of the people, the advocacy of the self-legislation of the people. Moreover, required by “publicity as negotiable consent,” granting individuals the possibility of rejecting an arrangement is necessary for such an arrangement to gain its legitimacy in a non-ideal world. Compared to the indeterminate account of “publicity as general consent,” a negative test implied by “publicity as negotiable consent” is more capable of guiding us to diagnose a certain structure of coercion as wrong.

Consider again the cases of unacceptable coercion we have discussed before. As presupposed, the notion of consent involves respect for the consenter’s ability to make an
independent choice. However, in contradiction with such an assumption, coercion like the one in *Sophie’s Choice* or slavery shows a lack of respect for the consenter’s abilities to make choices. Since the notion of consent as a two-way process that involves the process of request and consent, any notion of consent that eliminates the prospective consenter’s possibility of refusing the request is internally inconsistent. Thus, the internal inconsistency in “choiceless” coercion reveals the wrongness of such coercion, which needs to be identified through a richer interpretation of the publicity principle.

As a prerequisite for the notion of consent, possible negotiation first highlights the relational connection between a consenter and the one who proposes an offer. To illustrate such “negotiable consent,” take employment relationships. According to negotiable consent, if employees or employers could refuse or renegotiate a contract, then their consent is a legitimating one. It is true that employees or employers can always rearrange their preferences or needs in terms of the shift of supply and demand. However, similar to the mother who is facing the “choiceless choice” in *Sophie’s Choice*, some people choose their jobs not because those jobs are desirable, but because the external circumstances restrict them to limited options between “taking that job” or “being unemployed.” For them, sometimes, those undesirable jobs even threaten the fundamentals of their lives, such as their health, self-esteem, personal dignity, or mental fitness. Sad stories about meatpacking workers in the United States, for example, remind us the prevalence of “coerced” employees. To correct circumstances where coercion may exist, “publicity as negotiable consent” requires that employment relationships have opportunities for employees to negotiate with employers. Under such a condition, the
notion of negotiable consent is not merely the unilateral transfer of information, or the consenter’s simple acquisition of knowledge, but it necessarily implies dynamic interactions between consent-related agents.

Since the notion of negotiable consent, at an institutional level, covers multiple relationships, such as the general public and politicians and citizens and laws, the relationships must be addressed in two-way directions that are beyond the unilateral transfer of information.

Further, possible negotiation or refusal as an indication of dynamic interactions is a necessary part of the notion of consent. As discussed before, the possibly internal inconsistency of actual consent in the case of coercion calls for at least a negative test to guarantee the internal coherence of the notion of consent. Possible negotiation or refusal could be a necessary indicator of appropriate requirements needed for the publicity principle, and an inseparable component of the notion of general consent in a non-ideal society, since a genuine negotiation or refusal beyond merely formal agreement requires consent-related agents’ reflective endorsement, rational reflection, or other active characteristics or capacities.

To genuinely honor the notion of consent, “publicity as negotiable consent” poses a mixture of bottom-up and top-down restrictions. It does not limit itself as a one-directional consent, neither merely as a particular agent’s consent, nor merely the fully rational being’s hypothesis. On the bottom-up direction, politicians’ decisions should be assessed by particular agents. In most circumstances, the deprivation of particular agents’ possibilities in deciding their own lives through the “choiceless coercion” disproves
specific actions or institutional arrangements. As for the top-down restriction, particular agents’ rational desires could be evaluated by the extended considerations of the whole. Such an account of “publicity as genuine/negotiable consent” could combine advantages and mitigate disadvantages of “actual consent” and “hypothetical consent.” “The problems of the defeasibility and indeterminacy of [actual] consent, of ideological distortions and self-deception, and of impaired capacities to consent are all forms of one underlying problem” (Construction of Reason 108). To avoid the above problems and extend individuals’ cognitive limitations, “publicity as genuine consent” does not require individuals’ actual acceptance to justify each policy. On the other hand, hypothetical consent always presupposes some set of “rational desires,” which is hard to determine. A thick set has the risk of “overriding the actual dissent of others, coercing them in the name of higher and more rational selves who would consent to what is proposed” (Construction of Reason 109), and a thin one might be too weak to ground the specific content of legitimate coercion. Compared to “publicity as general consent,” “publicity as negotiable consent” provides a more determinate diagnosis of “choiceless” coercion as injustice.

The public-politicians relationship not only promotes individuals’ abilities and possibilities to dissent or consent but could also generate moral requirements on legislators and politicians. Since politicians are usually placed in relatively dominant positions in the law-making process, the morality of politicians is required to eliminate the unacceptable coercion and to maintain either the united will or the genuine notion of consent. Specifically, “publicity as negotiable consent” requires legislators’
considerations of individual’s practical situations, say, taking individuals’ particular abilities, preferences, needs, and desires into account when they assess or determine possible policies. An ordinary person is not merely a small number in an unemployment report, which influences the political future of a politician. However, the politician should recognize their agency roles of reflecting the general will, which includes their abilities of reasoning from particular agents’ perspectives. When politicians are making policies to promote the general will, they SHOULD ask themselves the 1st group questions: would a farmer in xxx accept it? Would a K-12 teacher in xxx accept it? Would a worker in xxx accept it? Why or why not? If the answer is no, or the answer is indeterminate, they should ask the 2nd group questions: Could a farmer in XXX have other “reasonable” choices after the implementation of the specific policy? Could a K-12 teacher in XXX have “reasonable” choices after the implementation of the specific policy? Does an individual have a chance to legitimately revise the policy? If the question is no, then this policy is unjust.

In sum, my formulation of the publicity principle is as follows: An action affecting the right of other human beings is wrong if (1) the agent could act on his maxim to achieve his own purpose in a world in which it was mutually known; (2) the action is not compatible with other human beings’ general consent in certain lawful conditions; or (3) the action cannot be negotiated or refused by those human beings who are impacted by this action. In addition, this publicity principle specifically requires politicians to treat moral ideals as ends in themselves.
2.3 Applications of the publicity principle to the Chinese soybean case

Although Kant claims that this is an \textit{a priori} principle, this does not exclude the possibility of applying the publicity principle to the practical context. Kant just implies that the standard of this principle could be discovered by reason itself rather than empirical experience, and could be adopted by all.

Some scholars point out that the influence in the food chain system of national governance has been decreasing, while the global governance, such as regulations of the WTO, is becoming stronger. Since there is a strong causal connection between the WTO and the lives of individual farmers, the publicity principle is applicable in the case of Chinese soybeans. One of the WTO’s fundamental principles, National Treatment, is interpreted as that “imported and locally-produced goods should be treated equally—at least after the foreign goods have entered the market” (wto.org “Understanding the WTO: Principles of the trading system”). To assess the legitimacy of the WTO principles, say, National Treatment, a series of questions could be asked from the perspective of the publicity principle: would a soybean farmer in China accept it? Would a soybean farmer in an exporting nation accept it? Could a farmer in China have other “reasonable” choices after the implementation of the specific policy? Could a soybean farmer in America have “reasonable” choices other than accepting the specific policy? Does an individual farmer have a chance to legitimately revise the policy? To answer these questions from the perspective of farmers, I introduce real stories from two farmers.\textsuperscript{8}

Wang You, a 68-year-old farmer who lost his wife and son, lives by himself in Mengjia Tun Fengshou Cun, a nearby village of Harbin, Heilongjiang province in
Northeast China. He farms a hectare (15 mu) of corn. Like most farmers in this village, Wang You used to plant high profit vegetables to support the nearby Harbin City. However, when Harbin’s vegetable market opened in 1998, Mengjia Tun’s farmers had to face strong challenges from those dealers who brought vegetables from the south to the Harbin market. Unfortunately, professional dealers have more resources to effectively deal with the market change than individual farmers. For example, if there is an eggplant shortage in Harbin market, one phone call from those dealers could transfer eggplants in the south to Harbin in one night. However, Wang You’s eggplants might be rotten because of the low demand for eggplants three weeks ago. Wang You, like other farmers in this village, is upset about his weaker position in this competition and is no longer planting vegetables to sell, even though growing vegetables could bring much higher profits than corn. Wang You planted soybeans several years ago, but soybean’s unstable prices drive him to choose planting corn, which comes with more guarantees and higher production.

Although Wang You is clear about his competition with professional vegetable dealers, he does not recognize that his unsatisfactory experience of growing soybeans is related to another competition, a competition between Chinese soybean farmers and several giant multinational food companies, such as Archer Daniels Midland, Bunge, Cargill, and Louis Dreyfus. The general result of this global competition is that since 2003, China has become the largest soybean importer with declining domestic production and soaring imports, even though China was a major producer and net soybean exporter until 1995. The dominance of foreign soybeans in China is mainly due to the giant
multinational corporations, that control major soybean processing plants within China after its accession to the WTO.

Wang You, who has been deeply impacted by the WTO’s free trade policies, does not know about such impacts but passively accepts his limited choices and vulnerabilities. He has years of experience growing vegetables and wants to grow them to receive higher profits. His land is also suitable for vegetables. However, his choice is not determined by his ability and his wish, but it is rather circumscribed by disparities in resources and power between him and other competitive agents in the market. Just like his competition with vegetable dealers, his limited powers and resources place him in an extremely weak competitive position with big companies. Without a truck, he cannot transport his product to other places outside his village; thus, he has to passively wait for dealers to collect it. Yet, the agents with strong powers and resources are playing more effective roles in markets. For example, with strong financial support, the big companies’ cost of transporting soybeans from the United States to China’s eastern and southeastern coastal provinces (its main soybean crushing plant areas) is even cheaper than the cost of shipping soybeans from Wang You’s village. The agent with dominant powers can even control the market. For example, “Cargill has set up 34 wholly owned companies and joint ventures in 20 provinces in China. Projects range from soybean crushing in Guangdong to corn deep processing in Jilin and animal feed production in Sichuan” (Cargill.com “2008 Cargill release”). For those Cargill soybean-processing companies, absorbing Cargill’s own soybean is one of their main responsibilities. The result is “the increased market concentration and control by a few firms at any stage of the food
system, from the production of seed through the retailing of the final product” (Deblonde, De Graaff, and Brom 99-118). Facing the big companies’ dominance, Wang You is deprived of the ability to use his means to pursue his own ends and loses the sovereignty of his own land.

Figure 4: US soybean exports to China 1994-2011 (in Thousands of dollars)

Harold Hewitt, a 67-year-old American farmer in Walnut Grove, Minnesota, shares 2,500 acres of farmland with his son Michael who is 43. Harold grows 50% soybeans and 50% corn. The soybeans he plants are from genetically modified seeds (Roundup Ready). His grandfather, his father, and father-in-law all farmed. He said he has never had a largest farm, but he has not had the smallest either. He is tired of being forced to treat farming as a business, which he has tried to do, and is planning to quit farming. He has complicated feelings about quitting, since farming has also been his life.
As for his farming business, he receives revenues annually in the harvest season. In order to get a paycheck to cover his living including his health care insurance, he has to purchase expensive seeds, fertilizer, farm machinery, and sometimes farmland. He feels vulnerable in his relationship with big corporations, such as seed and fertilizer companies. He complains that farmers have no power in bargaining with those companies: “they [those companies] try to decide how much we could pay and still make a living.” He is pessimistic about the future of farming, and predicts “farming and land are going to the big corporations that way. Just like chicken went to big corporations, and pork went to big corporations.”

Although Harold is clear about the big companies’ purpose of controlling farmers, he is not able to bargain with them and is forced to enter into dependent relationships with them. He has limited choices for which companies to work with because of the dominance of several companies in seeds, fertilizer, and machinery. In addition, he has to purchase seeds, fertilizer, and machinery from those companies; thus, it is impossible for him to farm 2,400 acres without cooperation with those companies. Suppose Harold refuses to buy fertilizers, then he has to make his own fertilizer, which requires extensive labor and is usually impossible for 2,400 acres. Similarly, it is impossible for him to finish harvesting without large machinery, since it has become very difficult for him to find extra labor to work in his farm recently. It is also impossible to borrow others’ machinery during the harvest season since everyone wants to finish harvesting in a short time. Thus, he has purchased seeds and fertilizer and updated his machinery from large companies. After entering into dependent relations with those companies, he has no rights
against them but prays for their generosity. If he saves some seeds for the next year, it is highly possible that inspectors will visit him, and he will receive a serious legal warning from seed companies. To cover millions for the cost of seeds, fertilizer, and machinery, Harold has to expand his farmlands. However, his expansion further deepens his dependency on those companies, which is similar to debtors’ relationships with creditors, and potentially causes the risk of going out of business.

Wang You and Harold, who have been deeply impacted by the WTO’s free trade policies, either do not know such impacts or do not have capacities or chances to negotiate or refuse those impacts, but passively accept their limited choices and vulnerabilities. According to the publicity principle I formulated, the WTO’s free trade policies fail to provide conditions for less powerful persons to negotiate or refuse those policies that have deeply impacted or controlled their lives. According to the above Kantian analysis, I conclude, dramatic market change in the case of Chinese soybeans does signal that some kind of injustice has occurred.

3. Individuals’ responsibilities

3.1 Introduction

To analyze individuals’ responsibilities to address the above injustices, I introduce Kant’s cosmopolitan right as a condition for peaceful relationships among domestic citizens and foreigners. Kant famously advocates that a cosmopolitan right of universal hospitality is one necessary condition for perpetual peace, and presents its implications for colonialism, refugee rights, and the right to visit. To comprehensively understand Kant’s cosmopolitan right limited to hospitality, I illustrate that there is a
tension between an account of the state’s role in protecting private property and the demands of universal hospitality that are a part of Kant’s account of international justice. In particular, a strong right to exclude others from private land seems to legitimize locals’ denial of asylum rights. A possible response to such tension is that Kant’s account of international justice should prioritize property rights rather than cosmopolitan right. To refute such a response, I use the example of global food insecurity to point out the fact that a strong exclusive property right tends to leave benevolence as one of few solutions to food access problems, but such a charity paradigm fails to touch the root cause of food insecurity. Instead of taking property rights as grounds for Kant’s account of international justice, I suggest Kant’s distinctions between passive and active citizens in the *Doctrine of Right* as an approach to global justice. The transformation from passive to active citizens decreases the gap between the theoretical demanding that the source of authority should come from the united will of people and practical limits that we are all constrained by some unjust policies. Under those distinctions, Kant’s cosmopolitan right is compatible with active world citizenship, which can be exemplified by contemporary food movements, such as the contemporary international peasant movement La Via Campesina (LVC). Through the fullest realization of freedom, one becomes an active world citizen, who is able to recognize and act on substantial obligations of international justice.

3.1.1 Cosmopolitan right limited to hospitality

It is true that national boundaries divide locals and foreigners with different national interests, that physical distance weakens their emotional ties, and that the
complexity of global arrangements makes it challenging to trace individuals’ responsibilities. However, these obstacles cannot eliminate our interaction as creatures of the earth. The increasing connection between locals and foreigners, largely due to the development of technology, tends to transform the earth into a “universal” or “global” community. Similar to the butterfly effect, “a violation of right in one place on the earth is felt in all” (PP 8: 360). Thus, we must seriously inquire into the appropriate relationships between foreigners and locals. Kant saw this as a pressing question for his own time, and it is all the more so in ours.

To achieve peaceful relationships between locals and foreigners, Kant claims, a cosmopolitan right limited to universal hospitality is necessary. Hospitality as opposed to hostility is the required attitude for both locals and foreigners.

*Hospitality* means the right of a foreigner not to be treated with hostility because he has arrived on the land of another. The other can turn him away, if this can be done without destroying him, but as long as he behaves peaceably where he is, he cannot be treated with hostility. (PP 8: 358)

At first glance, Kant’s cosmopolitan right seems simply to be part of a moral code, endorsing the virtue of friendliness. However, Kant explicitly emphasizes that hospitality toward foreigners is within the category of right rather than virtue, and presents specific implications of this right for international relations. These implications include Kant’s rejection of colonialism, his distinctions between a *right to visit* and a *right to be a guest*, and his discussion of a right to asylum. Together, these discussions indicate that Kant’s cosmopolitan right is a robust one that places demands and
restrictions on individual actions and state policies rather than a mere encouragement of global friendship.

Concerning imperialist intrusion or colonialism, Kant argues that it is inhospitable and thus unjust for Europeans to conquer lands inhabited by natives, because this treats inhabitants as though they are nothing. This rejection of colonialism is consistent with Kant’s claim that the cosmopolitan right entails only a right to visit and not a right to be a guest. A right to visit only grants the right to “present oneself for society,” and “belongs to all human beings by virtue of the right of possession in common of the earth’s surface” (PP 8: 358). Take, for example, a stranger who enters my community playground, and requests to play. The right to visit would grant this visitor the right to be at my community playground providing she behaves peaceably, without endangering or threatening my community members. Because human beings share the earth together, I should not immediately brandish a stick, treating the stranger as an enemy. Absolutely forbidding anyone’s visit to my community fails to acknowledge connections between myself and strangers, and the right to visit entailed by the cosmopolitan right is necessary for the exercise and progress of peaceful relations between locals and visitors. “In this [cosmopolitan] way distant parts of the world can enter peaceably into relations with one another, which can eventually become publicly lawful and so finally bring the human race ever closer to a cosmopolitan constitution” (PP 8: 358).

Kant stresses peaceful relations between foreigners and locals, though he never grants visitors the same rights as locals. The cosmopolitan right does not entail the right to be a guest, which involves “a special beneficent pact” “making him [the visitor] a
member of the household for a certain time” (PP 8: 358). For example, I can legitimately refuse a stranger’s request to stay in my house for a week, because this request involves privileges not granted a mere visitor. Similarly, originally sharing the earth with native inhabitants grants European visitors the right to visit in native inhabitants’ lands but not a right to become a permanent visitor.\footnote{11} Colonialism, by contrast, unjustly demands that visitors be accorded the same or even more rights than locals, thus it is wrong for European visitors to colonize natives’ lands. As with the rejection of an unwelcome stranger who claims himself to be the owner of my house and coercively orders me to be his servant, locals should publicly deport inhospitable foreigners. Kant illustrates this last statement by praising Japan and China for rejecting some European visitors (PP 8: 359).

Finally, Kant acknowledges an exception to the cosmopolitan right. “The other can turn him [the visitor] away, if this can be done without destroying him” (PP 8: 358). But this still leaves a strong right in place. Suppose someone asks to stay in your house because he has serious health issues which require immediate shelter. In this situation, the irreplaceable value of humanity arguably requires me to open the door and allow this person to stay in my home. Similarly, the cosmopolitan right requires a state not to refuse refugees or asylum-seekers if those rejections will cause their destruction.

\subsection{3.1.2 Property rights and the cosmopolitan right}

Since some contemporary commentators have taken Kant’s private rights, especially property rights, as grounds for Kant’s general approach to political philosophy,\footnote{12} in this section, I briefly explore the connection between property rights and
the cosmopolitan right. My aim is not to fully develop the connection, but only to show a possible incompatibility between exclusive property rights and the cosmopolitan right.

Originating from the conditions of relative scarcity and a freedom from mutual interference, the right to property grants me the exclusive use and possession of external objects with which to pursue or achieve my ends. Through my acquisition of an external object, I have special privileges to physically and intelligently control, use, sell or transfer this object, and the right to coercively prohibit someone else’s use or possession of my object. My acquisition of my garden changes others’ use of this garden from permissible to forbidden. It is wrong for anyone interfere with my legitimate use or possession of my garden without my permission. I am entitled to those privileges of being a property owner, and this entails certain constraints upon the actions of others.¹³

Most commentators reconstruct Kant’s justification of the right to property on the basis of freedom. Interference with my legitimate possession violates my freedom, and is therefore unjust. “That is rightfully mine (meum iuris) with which I am so connected that another’s use of it without my consent would wrong me” (MM 6: 245). Though it is a limitation of freedom, the coercive enforcement of the right to property is consistent with the freedom from interference. Arthur Ripstein summarizes the legitimate coercion which is permitted by the right to property as the right to hinder the hindrance of freedom. Your act of taking my sandwich without my permission wrongfully deprives me of the means I have to pursue my aim of not being hungry. No matter whether you accidentally destroy my sandwich, or you are hungrier than I am, your action is still wrong because it violates my external freedom, which is the capacity to independently set and pursue my own ends.
To regard another as a free being is to treat him as a person who can independently make a choice for himself. This is directly contrary, for example, to slavery which violates slaves’ external freedom and deprives them of their distinctive status as persons. Thus, as the protective prohibition of wrongs, “a constraint on the entitlement of that person to use the thing (possession) or make it unusable (use)” \((\text{Force and Freedom 79})\) is central to the right to property.\(^{14}\)

Are Kant’s property rights, especially as framed by Ripstein, compatible with the assumptions supporting cosmopolitan right?\(^{15}\) Because of the potential for a number of conflicts, some have seen an inconsistency between exclusive property rights and the more inclusive implications of the cosmopolitan right. In the case of a person who wants to put a shade fence on his land, for example, Ripstein claims that the landowner has the legitimate right to “put up a tall ugly fence” to prevent neighbors from seeing his beautiful landscape, because property rights in land exclude others’ use or possession of the owner’s land \((\text{Force and Freedom 102})\). Similarly, the presence of strangers in my community playground in some sense limits my ability to pursue my ends, because strangers might damage equipment, or their actions might limit my freedom to play on the equipment in the way I want. Thus, it would seem that in the international case, I can legitimately forbid a stranger’s visit, even when the stranger faces life-threatening risks.\(^{16}\)

On the side of the cosmopolitan right, however, a stronger right to exclude appears unacceptable because such exclusion could delay cosmopolitan progress. Cosmopolitan right supports interaction across borders between “inside and outside” to achieve peace, but the model of “mine or yours” deepens the distance between “insiders”
and “outsiders,” which makes international interaction difficult. Suppose that B needs something for survival, say food, shelter, or medicine, while C owns a sufficient amount of the needed items. Accepting a strong property right, we tend to agree that it is legitimate for C to reject B’s request to address his needs. However, such a rejection by C would ignore that fact that B dwells together on the earth with him and would permanently deprive B of the capacity to be a co-member in the global community. Therefore, the rejection discussed above, granted by property right, is incompatible with the assumption of cosmopolitan right that human beings are inclusively born to be “citizens of the earth” (PP 8: 358). In addition, possible consequences of C’s rejection may involve continuous hatred or alienation between B’s and C’s families. Enforced by a legal system, then, the right to property could delay cosmopolitan progress. Similarly, a strong right to exclude others from privately held land legitimizes locals’ denial of asylum rights by granting owners permission to make decisions about how to use their land. Yet, this denial conflicts with the cosmopolitan right’s support of asylum or refugee rights. Thus, such potential conflicts present a significant challenge for the compatibility of distinct elements of Kant’s political theory.

### 3.2 Property rights, international justice, and global food insecurity

Identifying a tension between cosmopolitan right and exclusive property rights opens an interpretation: Kant’s account of the international justice should prioritize property rights rather than the cosmopolitan right. In this section, I will take the case of global food insecurity to reveal the difficulties of prioritizing property rights in international justice. I argue that a strong exclusive property right tends to leave
benevolence as one of few solutions to food access problems, but such a charity paradigm fails to touch the root cause of food insecurity.

The depiction of the Hassans presented by Runge, Senauer, Pardey, and Rosegrant offers an insightful view into global food insecurity:

Meet the Hassans. The Hassans live in Bangladesh, a country of some 128 million people about the size of the state of Wisconsin, which is one of the poorest countries outside of Africa. Eighty percent of Bangladeshis live, like the Hassans, in small agricultural villages ... The Hassan household includes a husband of 59, a wife of 44, two sons ages 14 and 11, and a 7-year-old granddaughter. An elderly invalid aunt also lives with them ... Mr. Hassan pulls a rickshaw in a nearby village market ... This is the family’s main source of income; there is no surplus from the farm ... the family’s yearly cash income is a little less than $400, mostly from the rickshaw, which accounts for nearly three-quarters. Their major asset is the land, valued at about $917. Other assets include metal utensils ($10), a radio ($31), jewelry ($6), a wall clock ($5), the rickshaw ($42), and a large tree ($10). They have no bank account; household earnings are kept at home. Sometimes they have to borrow ... In one month, household costs were $39. Food accounted for just over half these costs-rice accounted for 64 percent of food expense, fish for 11 percent, and vegetables for 12 percent. No meat or dairy products were purchased ... The Hassan family are so far below their RDAs [Recommended Daily Allowance] that they suffer from chronic energy deficiency. ... Mr. Hassan recently suffered a fever, leaving him unable to work for five days. Now the
family must borrow money or sell assets, perhaps even their land, to make ends meet. (Runge, Senauer, Pardey, and Rosegrant 1-5)

Like Hassans, 850 million people, accounting for 13% of the population in the world during 2006-2008, are food insecure.¹⁷ In that they “lack access to sufficient amounts of safe and nutritious food” and are “not consuming enough for an active and healthy life” (fao.org “2011 Hunger Report”). Even in the United States in 2010, “48.8 million people lived in food-insecure households” (usda.gov “Food Security in the United States: Key Statistics and Graphics”). What would be an appropriate response to the Hassans from me, an ordinary resident in the Midwestern United States with a yearly income of around $16,000?

With respect to strong property rights, my inaction toward the Hassans does not “wrongfully depriv[e] them of a means they already have” (Ripstein 77). Different from using their rickshaw without their permission or stealing their radio, my inaction does not violate their property rights. Second, my inaction does not fail to “provide them with a means” to pursue something granted by a pre-existent contract, since there is no agreement at all between me and the Hassans. Third, my inaction does not force the Hassans to pursue any end they have not set for themselves. Not violating their external freedom, my inaction does not constitute a wrongdoing to the Hassans, according to the view of Ripstein. Harms the Hassans suffer, say their malnutrition or illness, do not affect the status of my inaction as long as my inaction does not interfere with their independence/freedom.
Even my positive actions, say, dumping $400 of food leftover from a party, cannot rightly constrain my property rights. In the case of growing mushrooms in the shadow of a neighbor’s garage, Ripstein illustrates that although the garage owner’s action of “taking down the garage” destroys “my mushroom,” “I do not have a right that you provide them [mushroom] with what they need to survive, or that you protect them from things that endanger them apart from your activities” (102). Then, it would seem that persons like the Hassans, could not justifiably acquire any goods or resources from me to satisfy their basic nutritional needs, except with my permission.

Further, people like the Hassans have no right to violate my property rights either. The Hassans have no right to use or destroy the means I already have, or to force me to pursue any end I have not set for myself. That is to say, undernourished people have no right to use my money without my permission. As Ripstein explains in the case of the shadow fence, neighbors have no legitimate right to see the landowner’s beautiful landscape, the landowner has the legitimate right to “put up a tall ugly fence” to prevent neighbors from seeing his beautiful landscape because property rights in land exclude others’ use or possession of the owner’s land. Similarly, my right to control my possessions, say, money, excludes other people’s use or possession of my properties.

My right to acquire and control my possessions has priority over the Hassans’ right to food access, just like Hassans’ right to control their possessions has priority over my right to food access. With such recognition, benevolence becomes one of the few solutions to food access problems. Beyond strict obligations, benevolence is within the category of Kant’s imperfect duties, which allows agents with subjective inclinations to
have certain latitude in choosing different actions. Recipients are not entitled to anything as a right or a matter of desert from benefactors. Similar reasoning could dismiss/reject the right of asylum and claim it to be a “free and generous gift” for asylum seekers, because my property rights have priority over their rights to live. Even if possible harms would be produced by the rejection of their requests, such harms do not give them a right to be present in my territory. However, such statements are contradictory to Kant’s cosmopolitan rights.

Further, such a charity paradigm is a limited solution to food insecurity, since it fails to touch the cause of food insecurity. Without retrospective perspectives, charity tends to perceive the Hassans’ malnutrition as “individual misfortunes that simply befall some unlucky people” (Heldke “Food Security: Three Conceptions of Access—Charity, Rights, and Coresponsibility” 215). Similar to a disability, such individual misfortunes do not originate from particular agents’ misbehaviors. However, contemporary food insecurity, especially in the Global South, is mainly caused by historical interactions among states and global institutions in the global food system. Caused by massive borrowing and high interest rates, the debt crisis of a country might lead to the resulting higher food prices, which undermines the ability of the poor to access needed food (Norton 410). “In Zambia, for instance, per capita debt was more than $700, which was twice the average annual income. In Mozambique, the debt was four times the country’s gross national product.” (Thurow and Kilman 139) Money donated to those debt crisis countries by philanthropists was not effectively used for the poor, but was largely transferred to the western banks or western creditors.
The charity paradigm also mistakenly suggests the same moral status between agents who cause food insecurity and other agents. In the case of a corporation polluting the water supply, for instance, Thomas Pogge claims that charity that asks all corporations to show their generosity ignores the wrongdoer’s duty to compensate for its past behavior (“A cosmopolitan perspective on the global economic order” 92-109). Along with agricultural industrialization, the global food system has entered a “corporate food regime,” in which the influence of national governance has been decreasing, while multinational corporations are growing in power and affluence (Fairbairn 29). The monopolization of multinational grain companies dominates the entire global food system including suppliers of seeds, fertilizers, pesticides, processing and retailing. “In the last quarter of 2007, as the world food crisis was breaking, Archer Daniels Midland’s earnings jumped 42%, Monsanto’s by 45%, and Cargill’s by 86%. Mosaic Fertilizer, a subsidiary of Cargill, saw profits rise by 1,200%” (Shattuck, Annie, Holt-Gimenez, Eric 421). However, “between 2007 and 2008, the number of undernourished was increased by 8 percent in Africa” (fao.org “The State of Food Insecurity in the World 2011”), since the poor are always the most vulnerable in the face of the soaring food prices. Ignoring causes of a disease is ineffective to treat a disease. Similarly, dismissing those causal factors of global food insecurity, charity is a limited solution to global food insecurity. 23

3.3 Active citizens and cosmopolitan right

Instead of taking property rights as grounds for Kant’s account of international justice, I will highlight Kant’s distinctions between active and passive citizens in the *Doctrine of Right* as a different approach to justice. Under those distinctions, Kant’s
cosmopolitan right is compatible with active world citizenship, which can be exemplified by contemporary food movements, such as the contemporary international peasant movement La Via Campesina (LVC).\textsuperscript{24}

### 3.3.1 Passive citizens and active citizens

In the *Metaphysics of Morals*, Kant presents an account of active citizens. I first point out that Risptein’s account of freedom as the ground for property rights or other rights differs from “freedom” in Kant’s account of active citizens. Different accounts of “freedom” reflect a different emphasis on the relations between the law and rights. Ripstein stresses that juridical law is necessary for freedom as well as rights, while Kant’s account of active citizenship highlights citizens’ active powers in making laws.

Ripstein recognizes that we have to interact with others in a society, where someone might interfere with my choice. He believes that individual’s innate freedom in Kant’s political philosophy is not Kant’s conception of moral autonomy, but “independence from being constrained by another’s choice” which governs relations between persons. Granted by the principle of humanity, everyone is entitled to having means and setting ends. Embodied in the interaction with others, individuals are free in that they set and pursue purposes of their own. “Independence requires that one person not be subject to another person’s choice.” “You are independent if you are the one who decides which purposes you will pursue” (Ripstein 14-15). To consistently enjoy individual freedom, all persons must receive the same and mutual restrictions from a rightful condition, which includes legislative, executive, and juridical powers as the public authority. “[Kantian independence] is not a good to be promoted; it is a constraint
on the conduct of others, imposed by the fact that each person is entitled to be his or her own master” (Ripstein 15). Therefore, an elaborated legal system is necessary to guarantee individual freedom as “independence from being constrained by another’s choice,” and makes rights possible and secure. Ripstein’s account of freedom is close to “external freedom,” which describes “the freedom of spatio-temporal bodies to move,” or the freedom of “external actions,” since both Ripstein’s account of freedom and the external freedom do not impose requirements on agents’ inner states. Take property rights as an example. Ripstein claims, “the conceptual requirements of private right—the security of possession, clear boundaries between ‘mine and thine,’ and the acquisition of property—cannot be satisfied without a public authority entitled to make, apply, and enforce law” (23). A set of laws, including rules to decide disputes, is necessary for juridical beings to determine the rightful boundaries of their actions and to independently make their choices from other private agents’ spatio-temporal interference. To be externally free is to follow juridical standards.

However, the conception of freedom in Kant’s active citizens differs from Ripstein’s account of freedom. In the *Metaphysics of Morals*, Kant describes “independence, equality and freedom” as three features of active citizens,25 who are “fit to vote.” None of three features is a natural qualification for being active citizens, since everyone is able to make a transformation from passive to active regardless his/her economic background, social status, and gender.26 “Anyone can work his way up from this passive condition to the active one” (MM 6: 315). A citizen’s freedom is “the attribute of obeying no other laws than that to which he has given his consent” (MM 6:
313). Similar to Ripstein’s understanding, freedom here is also derived from assumptions that we have to interact with others in a civil society, and we are constrained by laws. However, from Ripstein’s perspective, I am free because I am a juridical being who follows the laws; while from Kant’s active citizen, I am free because I am a “good” legislator who participates in the law making. Such an account of active citizenship at least sets up certain requirements for the internal incentives, since merely external incentives from the laws cannot drive me to participate in the legislative progress.27

Further, I suggest that “being fit to vote” presupposes active citizens’ moral end of contributing to the community, whose domain is larger than the one of a personal purpose. Since we are not isolated creatures, there are certain connections among us, which make us a whole. However, any individual in a community is not the master of another individual; thus, nobody can take his/her own personal purposes as the laws determining other individuals. To make the mutual interaction possible, individuals should recognize the idea of a community, which is a whole of those parts. As a part which constitutes the whole, I must recognize my contribution to the whole. In a civil society, we all equally receive the protection of the laws, which reflect the unity of a community; therefore, we as members of the community must contribute to lawmaking with considerations for the community not merely my personal purpose. With above inner recognition, active citizens perceive themselves no longer as passive followers but “legislators” of the community. That is why Kant claims that the source of the laws is “the united will of people.”
3.3.2 Active citizens and the cosmopolitan right

Since the cosmopolitan right presupposes the moral consideration from the perspective of the whole human beings, Kant’s account of active citizenship is compatible with his cosmopolitan right. Although there is no central authority in the global community, the increasingly casual connections between foreigners and strangers form a sense of global community, in which each individual mutually influences every other through multilevel arrangements. Thus, the part-whole relationship described in Kant’s active citizens is applicable in the global domain. On the other side, due to the lack of central authority in the world community, the authorization of the cosmopolitan right must originate from human beings’ inner motivation. With those shared assumptions, including the existence of causal arrangements among individuals, individuals’ freedom as the source of authority of any right, the popularity of unjust arrangements calling for the moral consideration of the whole, and individuals’ active responsibilities in promoting the general community, the cosmopolitan right could entail active world citizenship, which becomes a good source to handle the tension between property rights and the cosmopolitan right.

Here are several features of active world citizens:

1. Inner perceptions: recognize interconnections among foreigners and locals; recognize the interdependence of part-whole relationships; understand an individual’s substantial role in promoting the world; respect others as co-members in the global community

2. Aims: promote the global community
3. Actions: work on the behavior toward the general will

4. Capacities: develop capacities and skills to make a positive step for the world

Active world citizens not only recognize their obligations in the world community but also improve their capacities for promoting global justice. With the recognition of interconnections among foreigners and locals, active world citizens realize that respecting foreigners’ cosmopolitan rights is part of the process of realizing their own freedom. With consciousness of being equal “legislators” along with foreigners, an active world citizen is able to consider interdependence between the whole human beings and global arrangements, in which I am a part, and the effects of global arrangements in determining some foreigners’ living. Thus, choosing fair trade from the global South or using recyclable bags, are not meant to be my detriment, but to gain my freedom of being an active world citizen in the planet. Similarly, the aim of being hospitable toward foreigners or allowing refugees’ temporary presence is to achieve the general will of the world. With capacities of understanding a general will, locals realize that being hospitable to foreigners is not only good for all human beings, but also the way to support foreigners’ basic living and their roles of being humans in the world community. Because rejecting refugee’s requests might permanently damage their freedom as human beings and eliminate their possibility of becoming active world citizens, the cosmopolitan right as the realization of active citizenship generates refugee rights. Then, being hospitable toward foreigners is no longer to be seen as the loss of MY possessions caused by an action at a moment, but as the gradual progress of approaching global justice and enlightening myself.
3.3.3 Kantian active world citizenship and global food insecurity

In this section, I will rethink global food insecurity case again to illustrate Kantian active world citizenship as an attractive approach to global justice. The complexity of the global food system provides a challenge to food security, a security which is caused by multiple problems, ranging from farmers’ dependence on corporations to consumers’ lack of control over their food choices. Reforming one part of the system does not substantially change people’s chronic food insecurity. By contrast, active world citizenship, which flexibly connects multi-faceted or multi-leveled problems, is a more promising solution to global insecurity. Active world citizenship can be exemplified by contemporary food movements, such as the contemporary international peasant movement La Via Campesina (LVC). Representing 200 million farmers, LVC “comprises about 150 local and national organizations in 70 countries from Africa, Asia, Europe and the Americas” (“La Via Campesina: the International Peasant’s Voice”). It launches public debates about global food issues, and initiates global campaigns for small farm oriented agriculture. Take the Brazilian state of Mato Grosso as an example to explain LVC. Wittman introduces those problems the state of Mato Grosso has faced:

The central Brazilian state of Mato Grosso has long been an extractivist, export-oriented economy, transitioning from diamonds, timber, cattle, and sugarcane to being the “soybean export capital of the world,” achieved in the mid-1990s after investment by international and national agribusiness in the development of soybean varieties that could survive local ecological conditions. Food security is an issue in the region; with arable land dominated by export commodities, food
for local consumption is often trucked in from coastal Brazil. ... [In 2003], Sorriso had 475,000 hectares planted in export-oriented soybean, with only 18,000 hectares planted in subsistence crops including rice, beans, and cassava root, while an estimated 85 percent of fruits and vegetables were imported from outside the region. (Wittman 815)

To counter the agri-business’ dominance in this region, LVC’s member organization in Brazil, the Movimento dos Trabalhadores Rurais Sem Terra (Landless Workers Movement, or MST) with more than 1.5 million members promotes face-to-face relations between producers and consumers by establishing farmer’s markets, initiating community supported agriculture (CSA) programs, and delivering farmers’ foods to residents. MST’s local distribution of food network does not betray requirements of active world citizenship, because its goal is to promote sustainable agriculture globally by adopting a community initiative approach. Such a regional approach naturally mobilizes people’s participation in the project of global food security, and stimulates citizens to be active. “A participant in the march [of MST], who had also worked for many years on an agri-business plantation, remarked about the ‘great transformation in his life – a great opening’ in the way that he viewed changing forms of production and consumption relations in his community” (Wittman 815-816).

Such a grass-roots and regional approach also interacts and coordinates its activities with other regions or agents, such as intellectuals, agricultural technicians, consumers, agrarian organizations, universities, non-governmental organizations (NGOs), and governments. “In February 2009, the Ecuadorian legislative assembly passed a Food
Sovereignty Law that regulates the agricultural, fishing, and forestry sectors” (Wittman 815). Those legislative changes, ongoing international dialogues and grassroots mobilization promoted by LVC do show the possibility of Kantian active world citizenship in reshaping global issues and achieving cosmopolitan rights.

3.4 Conclusion

If we understand Kant to take the right to hold and control private property as a central function of any just state, I argue there is a tension between the account of the state’s role in protecting private property and the demands of universal hospitality in his account of international justice. Kant’s distinctions between active and passive citizens could be an approach to global justice. Under such distinctions, Kant’s cosmopolitan right is compatible with active world citizenship, which is the fullest realization of freedom. As an active world citizen, one is able to recognize and act on substantial obligations of international justice. Such active world citizenship, exemplified by contemporary food movements, shows a potential to rectify causes of global food insecurity.

4. States’ responsibilities

4.1 Introduction

As for domestic justice, Kant sets republicanism as the requirement of governments. Defined as the division of legislative, administrative, and juridical branches, Kant’s republicanism aims to guarantee citizens’ independence, freedom, and equality and prevent despotism. Friedrich Schlegel criticizes that merely legal division of the three powers is not sufficient to guarantee citizens’ independence, freedom, and
equality or prevent despotism, and therefore he challenges Kant’s republicanism as an appropriate means for preventing injustice. Schlegel’s criticism not only rightly points out the gap between the legal division of three branches and ideal republicanism, but that such a gap indicates that a state’s well-defined legal system does not sufficiently reflect a state’s responsibility in the Chinese soybean case. To respond to Schlegel’s doubts, I present two arguments that elaborate on Kant’s republicanism, which could include active citizens and moral politicians other than the legal division of three branches. The first one negatively argues that Kant’s republicanism, as merely the legal division of three branches would bring internal inconsistency to the conception of republicanism. The second positively argues that the gap between the legal division of the three branches and the ideal republicanism does not originate from the “gulf” between a particular will and the general will described by Schlegel, but from the vague overlap between a particular will and the general will. This argument also calls for the expansion of Kant’s republicanism as focusing on three divisions of branches.

4.2 “The civil constitution in every state shall be republican.”

In the first definitive article of Toward Perpetual Peace, Kant sets up republicanism as the required form of government. In terms of the form of governments, especially constitutional forms, Kant classifies autocracy, aristocracy and democracy into two groups: republican and despotic. Republican government separates the executive power from the legislative power, while despotic governments, including democratic and aristocratic governments, involve “the high-handed management of the state by laws the
regent has himself given” (PP 8: 352). Kant believes that republican government can best fulfill his requirements about states.

In *Metaphysics of Morals*, Kant explicitly advocates for the separation of legislative, executive and juridical powers within a state. “Every state contains three *authorities* within it, that is, the general united will consists of three persons (*trias politica*): the *sovereign authority* (sovereignty) in the person of the legislator; the *executive authority* in the person of the ruler (in conformity to law); and the *judicial authority* (to award to each what is his in accordance with the law) in the person of judge (*potestas legislatoria, rectoria et iudiciaria*)” (MM 6: 313).

One way to understand the necessity of a republican government to correct injustices is to look at the three defects in the State of Nature regarding the concept of right, as suggested by Arthur Ripstein. Without public authority, a right cannot be acquired, enforced, or determined in the state of nature. Correspondingly, legislative, executive, and juridical branches of government are formed to separately solve these defects. Not only is it conceptually compatible with the concept of right, the republican government like a triangle has a stable structure to prevent despotism.

Take a property rights, for example. Following Ripstein’s understanding of the structure of property rights as “mine or yours,” acquisition of an object entails normative coercion upon others. My acquisition of land excludes others’ usage of my property. However, in the state of nature, such an acquisition comes from my “unilateral choice”; therefore, it is arbitrary. As a free person, no one should be restricted from possessing or controlling an object due to another individual’s arbitrary purpose. Otherwise, the
former’ subordination to the latter’s arbitrary choice is justified. However, such acquisition of a right from a “unilateral choice,” which entails an individual’s arbitrary subordination to another, contradicts the necessary components of the concept of right, such as individuals’ freedom, equality, and independence. Therefore, acquisition of a right requires public authorities, say, rules or laws, to reflect the general will.

“Appropriation, as the act of a general will giving an external law through which everyone is bound to agree with my choice” (MM 6: 258). Correspondingly, the legislative branch in a republican government authorizes an individual’s private possession of certain objects from the considerations of all; therefore, it is “omnilateral authorization.” This authority of the legislative branch is why Kant claims that the legislative authority should reflect “the general united will of the people.” Similarly, without public authority, there is no assurance that one would secure one’s entitlement if he or she acted on his or her obligations, since others might fail to comply with their obligations entailed by acquired rights. Accordingly, acquired rights are arbitrarily enforced by force in the state of nature, and such private enforcement of rights sometimes subordinates an individual to another’s will. Thus, to secure rights, a public executive authority established in a civil society is necessary in that it offers individuals the needed assurance to comply with their obligations. As to the indeterminate applications of rights in the state of nature, the juridical branch of a republican government is designed to resolve disputes in particular cases over specific applications of laws on the behalf of everyone.
Kant describes the relationships among the three authorities by stating that they “coordinate with one another” and they are “subordinate to one another” (MM: 6: 316). Without the help of others, each authority cannot fully complete its distinct role of promoting the general will. However, because they complement each other, no branch has higher authority over the others; each authority has its own principle and irreplaceable dignities. For example, the legislative branch does not have the authority to execute punishments or rewards. Kant uses analogies to illustrate republicanism’s separation of the three authorities. In one analogy, he considers the three branches as three moral persons in office: a legislator, a supreme ruler, and a judge. They help each other in dealing with certain cases without comprising their own dignity. If the same moral person is allowed to occupy the same two positions, the whole system runs the risk of reflecting merely the private will of certain groups. In contrast, republican government, as the union of political autonomous individuals, is able to reflect the general will of the people by separating these three authorities.

4.3 Friedrich Schlegel’s criticism of Kant’s republicanism

In the Essay on the Concept of Republicanism occasioned by the Kantian tract “Perpetual Peace,” Friedrich Schlegel claims that Kant’s republican government has the risk of being despotic. Republican government is originally designed for the satisfaction of the general will. By contrast, despotism is designed for the satisfaction of particular groups’ will, which has a greater chance of overriding citizens’ rights of being free, equal, and independent. Kant believes that the division of three powers is an efficient way to prevent despotism because the constraint placed upon one power by the others can
lessen the risk of forming a dominating interest group, which conjoins powers from at least two branches.

However, Schlegel claims that merely legal separation of three powers does not guarantee the prevention of despotism. “The legislative, executive, and judge are indeed completely distinct political persons, but it is physically possible that one physical person could unite these distinct political persons” (98). Schlegel’s point is that the separation of political positions does not exclude a situation in which one interest group occupies main positions among legislative, executive, and juridical powers. The government under that situation only reflects the particular will of a powerful interest group rather than the general will. Such a possible failure of a republican government is derived from the empirical fact that it is always possible for an individual to act on his or her own particular will over the general will. Not only is it possible for an individual to act on his or her own particular will, but the psychological barriers to act on the general will are as big as “the gulf” between a particular will and general will, which substantially challenges the accomplishment of the general will.

To further illustrate “the gulf,” Schlegel describes several types of freedom: “the minimum of civil freedom,” “the medium of civil freedom,” and “the (unattainable) maximum of civil freedom.” Kant’s legal equality as “having the equal right in facing the law” is categorized as the minimum of civil freedom. The medium of civil freedom is “the right to obey no external laws other than those which the (represented) majority of the nation has really willed and the (supposed) universality of the nation could will” (96-98). Defined as “the right to obey no external laws except those to which the individual could
have given his consent,” Kant’s civil freedom is the maximum of civil freedom, as the necessary condition for a state to guarantee equal rights and duties for all citizens. Schlegel describes Kant’s conception of freedom as “an ideal,” since it presupposes individuals’ adequate incentives for taking the general will as their particular will. However, in an empirical world, not all citizens have such incentives, thus Schlegel believes that Kant’s concept of freedom is unattainable. Further, Schlegel challenges the possibility of republican governments because of the unattainability of maximum of civil freedom, which is necessary for republicanism.

4.4 Responses to Schlegel’s criticism

Whether the possibility of acting on a particular will over the general will successfully challenges the attainability of a republican government is a doubtful claim. However, I think Schlegel rightly points out the gap between the legal division of the three branches and the ideal republicanism. Such a gap reminds us that a state’s well-elaborated legal system might not sufficiently reflect a state’s responsibility in the Chinese soybean case. One way to respond to Schlegel’s doubts is to elaborate Kant’s republicanism, which besides the legal division of three branches could include active citizens and moral politicians. On the one hand, considering Kant’s republicanism merely as the legal division of the three branches would bring internal inconsistency to the conception of republicanism. On the other hand, the gap between the legal division of the three branches and the ideal republicanism did not originate from the “gulf” between a particular will and the general will described by Schlegel, but from the vague overlap
between a particular will and the general will, which also calls for the expansion of Kant’s republicanism as the three divisions of branches.

4.4.1 Schlegel’s criticism of Kant’s republicanism and the Chinese soybean case

Schlegel’s worries about the possibility of Kant’s republicanism being despotic and the gap between republicanism being limited to the legal division of powers and the ideal republicanism are not empty claims. Along with the well-elaborated legal division of three powers, lobbying is prevalent in modern societies. As for the soybean industry, different interest groups are continually battling in multiple and multilevel legislative processes. Not to mention that there might be a considerable amount of dark secrets behind the current legislative process. Several short passages on the webpages of CorpLife America and the Minnesota Soybean Growers Association may reflect the tip of the iceberg.

CropLife America Legislative Achievements on Federal Issues:

**Clean Water Act (CWA)**
- CropLife America worked closely with USDA and Secretary Vilsack, as well as with House and Senate Agriculture Committees, to communicate to EPA the impacts of the Sixth Circuit Court’s ruling in *National Cotton Council v. EPA* on American agriculture.
- The CLA Government Relations Department led a coordinated effort to reach out to the stakeholder community impacted by this ruling, including agriculture commodity organizations and non-agricultural entities.

**Oceans 21**
The Government Relations Department has taken the lead on behalf of the agriculture community, addressing concerns with the proposed H.R. 21 (“OCEANS 21”) as introduced by Rep. Sam Farr (D-CA). The legislation is designed to implement a national oceans policy, which would have a significant impact on inland regulated activity in the name of protecting ocean ecosystems. At a minimum, OCEANS 21 would create an ESA-like regulatory program across all federal agencies to address “ocean health,” and would also codify a version of the precautionary principle in federal statute.
• CLA met with Rep. Sam Farr during our Winter Board Meeting and Legislative Rally, and were assured that the legislation was not intended to affect agriculture. CLA subsequently met with Rep. Sam Farr to continue the conversation and ensure that this well-intentioned legislation does not negatively impact agriculture as an unintended consequence. (croplifeamerica.org)

Recent-success-stories:
Through the efforts of MSGA [Minnesota Soybean Growers Association] and its allies, Minnesota became the first state in the nation to pass legislation requiring a two percent biodiesel in the state’s diesel fuel supply. Since that time, new legislation has been enacted that will bring the state’s mandated use from 5 percent (May 1, 2009) to 10 percent (2012) and finally 20 percent (2015.)"
ASA [American Soybean Association] and state associations convinced Congress to pass legislation authorizing more than $2.2 billion for the construction and upgrading of locks and dams on the upper Mississippi and Illinois Rivers, and are currently pushing for congress to provide the monetary resources so the project can get underway. With 70% of soybean exports moving through these waterways to the Gulf, modernizing this infrastructure is key to maintaining US soybean farmer competitiveness in international markets.
In 2005, MSGA successfully lobbied for a Level III Biocontainment facility on the University of Minnesota St. Paul campus. Construction on the facility was complete in 2007 and it was officially commissioned for cutting edge research in 2008. MSGA is now actively pursuing full funding for the USDA-ARS soybean genomics position currently housed at the University of Minnesota (mnsoybean.org “recent-success-stories”).

The moral value of lobbying is not my concern in this chapter, but it is hard to deny that some laws have been deeply influenced by lobbyists. The controversial debates about GMO labeling or seed patents to a certain degree reflect power struggles of different interest groups and demonstrate how interest groups influence legislative processes. The power struggles presented in lobbying industries can possibly drive a well-elaborated republican constitution to pass a law that largely reflects a certain group’s interests. Under that situation, although no official occupies two branches at the same time, the mutual restrictions among the three branches become weaker in preventing despotism. The possible failure to prevent despotism could further threaten the
accomplishment of a legitimate government’s fundamental functions, including solving deficits in the state of nature and approaching the general will in a civil society. Thus, the prevalence of lobbying activities in contemporary societies brings Schlegel’s worries about Kant’s republicanism to life. The formation of lobbying industries itself either reveals the difficulty of accomplishing legal republicanism or the unattainability of the ideal republicanism in an empirical world. Bearing in mind these worries, I can at a minimum claim that a state’s responsibility in dealing with injustices in the Chinese soybean case should not be limited to constructing a well-elaborated three branches of government, since republicanism limited to the legal division of three branches is not sufficient to prevent despotism.

4.4.2 The internal inconsistency of republicanism limited as three divisions of power

If a state’s responsibility in dealing with injustices in the Chinese soybean case is limited to constructing well-developed three branches, the fulfillment of such a responsibility cannot effectively prevent despotism, as described in previous paragraphs. Further, if the formation of three branches is a republican government’s ultimate function, such a concept of republicanism has the risk of being internally inconsistent. Such republicanism creates a dilemma for itself: on the one hand, it is possible for it to become despotic; on the other hand, through the laws it places coercion upon every individual within the state. It leaves the question of why a free person should accept the coercion from despotic laws unanswered. The legitimacy of a republican government presupposes our obligations to exit the state of nature and to establish a state. The
creation of a republican government is justified because it is a means to resolve those
deficits in the state of nature, to protect our innate right to freedom, and to realize the
general will. Here, I am not criticizing the legal construct of the three branches, since a
tripartite model is a better structure to approach the above goals than one without the
division of branches. However, merely emphasizing a legal structure’s restrictions on
individuals ignores the assumption that people’s will in choosing a state entails and so
justifies the state’s obligation of passing the laws on behalf of the whole. Thus, the
internal inconsistency of republicanism limited as the separation of three branches urges
us to look for a version of Kantian republicanism that demonstrates its respect for
omnilateral authority in establishing rights and for individuals’ role as being co-
legislators in reforming laws.

4.4.3 The vague overlap between a particular will and the general will

The possible inconsistency of republicanism limited as the separation of the three
branches negatively calls for the expansion of Kantian republicanism. To positively
construct an expanded conception of republicanism, I will reexamine Schlegel’s
discussion about a particular will and the general will. Schlegel indicates that the gap
between the legal division of the three branches and the ideal republicanism lies in the
“gulf” between a particular will and the general will. One way to understand such a gulf
is to describe a particular will and the general will as opposites of each other. Under the
gulf model, an individual’s action is motivated either by a particular will or the general
will but not both. Kant’s republicanism seems to highlight that individuals sometimes act
on their particular wills; therefore, people have the obligation to exit the state of nature
and create a public authority, which restricts individuals’ interference upon others’ rights through laws. Schlegel as a representative of a German Romanticism, not only recognizes the gap between a particular will and the general will, but also highlights the possibility for individuals to act on the general will over a particular will through emotions rather than legal coercion. Here, I will present a different model to show the vague overlapping between a particular will and the general will by borrowing some ideas about the electron cloud model from Physics.

Recall the scenario with building an ugly fence in my yard. The ugly fence in my yard will destroy the view of my neighbor and indirectly decrease the price value of my neighbor’s house. The decreasing value of my neighbor’s house will shrink the average housing price in my community, which as a whole influences the price value of my house. With these considerations, I give up the idea of building an ugly fence in my yard. Is my action motivated by a particular will of promoting the value of my house or the general will of boosting the whole community? In order to answer this question, we need to identify the exact reason in the moment of decision, just like plotting a path for electrons around a nucleus. According to the Heisenberg Uncertainty principle, it is impossible to define the exact position of an electron considering its rapid speed, and therefore the position of an electron in its orbital is described by a probability distribution. Similarly, it is difficult to know the exact reason for an action in the moment of decision considering it changes from moment to moment, and will cannot be fully categorized by a pure particular will or a pure general will. I am not denying the possibility of acting on a pure particular will or a pure general will. However, most of the
time wills behind actions are vague overlaps between a particular will and the general will. That is to say, for most people in most situations, the mixture of the general will and a particular will drive their actions. Then, it cannot be said, with any certainty, the precise percentages of a particular will and the general will due to their mixture. What we can say is the likely reason, which is the overlapping motivation behind an action. Like a cloud with dense and thin spots, a particular will is dominant in some moments, while general will is more noticeable at other moments. The determinant or recessive status of the general will or a particular will is subject to a different set of considerations, such as need, emotions, duties, and relationships. Merely taking legal coercion as the force to drive individuals’ behaviors ignores the complexity of human motivation, which can be reflected in the vague overlapping model between a particular will and the general will.

4.4.4 The expansion of Kant’s republicanism

The complexity of the relationship between the general will and a particular will calls for something beyond legal forms of constitutions. Such complexity includes the indeterminate division between the general will and a particular will, a considerable amount of influential indices and the rapid shift of human motivations. Each individual’s behavior at a specific moment, like a miniature magnet pointing in random directions, features arbitrariness. However, similar to the phenomena of atoms together creating small groups each of which points in the same direction,38 individuals in close distance to one another strongly influence each other and might share a certain pattern in behavior. An external force applied to this domain could temporarily disturb the order within a group, which will be quickly restored within a new domain. Here, I am only briefly using
magnetic domain theory to illustrate that interpersonal influences could form a sense of unity for a set of individuals, and I suggest that Kant’s republicanism takes such interpersonal influences into account. Specifically, Kant’s distinctions between passive and active citizens, and *moral politicians* and *political moralists* could be good accounts of interpersonal influences in correcting injustices through institutional reforms.

As to the importance of interpersonal influences in approaching the general will of a group, a family as a small-scale group provides a simple example to illustrate such influences. The influences among family members range from diet choices, life principles, and even political ideas, which all gradually shape a sense of unity within a family. I am not declaring that family members are “clones” of each other, since family members both positively and negatively influence each other. However, the interpersonal influences over time increase the strong or weak sense of unity among family members, which corresponds to the general will of the family. It is true that each member’s recognition and promotion of such a general will does not guarantee the continuation of the family. However, a member’s indifferences to the family will necessarily drive a family to collapse in the long run, since other members will be correspondingly affected in different degrees. Comparatively, legal restrictions and protections of family relationships alone are not the key forces that sustain the family. The change of laws influences but does not determine those family relationships. If it is true that an individual’s motivation for behavior is largely the vague overlapping between the general will and a particular will, then at least in family relationships, an individual’s recognition
or participation in the general will in this very small group is strongly influenced by other members’ attitudes and behaviors.

Although a state as a large-scale group presents a far more complicated interpersonal as well as institutional relationship than those within a family, nobody can deny that individuals influence each other proportionally within a state. An individual’s motivation behind a specific behavior, such as whether it leans to the general will or a particular will, is vaguely influenced by others’ cumulative impacts on this person’s acceptance and resistance to the laws and the person’s awareness of legal rights and punishment. Thus, we cannot deny the importance of interpersonal influences in recognizing the general will and preventing despotism within the state.

One way to address the importance of interpersonal influence in approaching the general will is to expand Kant’s republicanism with Kant’s notions of active citizens and moral politicians. Kant makes distinctions between active\textsuperscript{39} and passive citizens and distinctions between the political moralist and the moral politician. According to his distinction between active and passive citizens, an active citizen can recognize the general will, consider the general will, and act on it. Then, many environmentalists are active citizens, since they choose the general will of “having a sustainable earth” as their particular wills, and voluntarily use recyclable bags, classify garbage, or advocate for a green earth. For many of them, their behaviors are not driven by legal punishment and rewards but by perceptual shifts about the relationship between human beings and the earth. This conjecture could be confirmed by a considerable amount of campaigns organized by environmentalists against laws. As to their perceptual shifts, there is no
need to go into detail about whether those shifts were generated by an instant self-awakening or gradual influences from friends, family friends, teachers, or the media. Just as white light is not nothingness but the combination of many types of color, even those self-awakening changes are inevitably colored by others’ influences. For some environmentalists, their commitment to promoting sustainability on the Earth, through spreading the overlapping parts with their personal flourishing, has been gradually internalized as their personal commitment to justice.

Considering the possible convergences between promoting social justice and personal flourishing, the state is required to provide conditions for citizens to be active. As indicated before, the process of internalizing the general will as a particular will is inevitably colored by others’ positive or negative influences. Such interpersonal influences run the risk of brainwashing. However, there are fundamental differences between being active citizens and being brainwashed. However, if an individual, without any personal understanding or reflection, acts on certain ideals that are influenced or taught by parents, a teacher, a friend, an official, the state authority, or the media, then this individual is not an active citizen, but a dependent follower. To genuinely promote active citizenship, the state needs to avoid those actions that will violate citizens’ independence, fairness, and equality.

Taking those considerations into account, I suggest at least two actions the state should address to promote active citizens and to approach genuine republicanism. The first is that everyone is entitled to education. Education is a crucial way to improve citizens’ abilities in comprehensively understanding issues, critically evaluating external
information, practically solving specific issues, voluntarily participating in the legislative process, and effectively preventing injustices. It shapes individuals’ inner perceptions about the self, others, and the community, and plays a fundamental role in transforming individuals from being passive followers to active citizens. It can also help citizens to form, choose, and evaluate laws more independently, without being brainwashed. These independent capacities are necessary for citizens to gradually revise the unjust laws and to approximately reflect the “united will of the people.” The requirements of active citizens could also involve citizens’ actual actions of making positive steps for the community, while education further provides necessary skills and knowledge for citizens in dealing with practical issues. Thus, citizens’ transformation from passive to active ones requires the state provide educational opportunities for its citizens.

The second action the state should address is that everyone is entitled to political participation. The state is required to offer appropriate conditions for citizens to actively participate in lawmaking. In a very narrow sense, political participation refers to voting rights. Since “anyone can work his way up from this passive condition to an active one” (MM 6: 316), being able to vote as a representation of citizens’ active attributes presupposes having an opportunity available for anyone to vote. In a wider sense, political participation includes citizens’ involvement in a wide range of political activities, including publicly expressing their opinions, exchanging ideas and information in civilized debates and decision making in politics, holding non-violent protest, and organizing practical activities to correct injustices. Correspondingly, the state should
provide conditions that permit citizen-wide participation and debate about practical issues and laws.

As representatives of the people and the actual implementers of the united wills, politicians should have stricter requirements for their decision making than ordinary citizens. Political life along with professional jobs, family relationships, friendships, and hobbies collectively contribute to personal flourishing. It is not wrong for an ordinary citizen not to act justly as long as he/she acts legally. However, similar to a doctor’s responsibility to patient, “being politicians” presupposes politicians’ responsibilities in promoting the general will through making and implementing laws. Thus, all politicians are required to promote the general will and prevent despotism. Such professional responsibility is necessary for the progress of reaching the general will because of the insufficiency of institutional divisions of power discussed in previous paragraphs.

Kant’s distinctions between two types of politicians could be a good resource to indicate politicians’ professional responsibility. In Appendix I of Perpetual Peace, Kant criticizes the political moralist but supports the moral politician. The distinction between the two is that the former treats “the problem of the right of a state, the right of nations, and cosmopolitan right” as “a mere technical problem.” That is to say, issues about fundamental rights are used by political moralists merely as tools to achieve their private purposes, such as an electoral success. The latter considers those rights issues as “a moral problem” out of duty (PP 8: 377). In other words, a moral politician takes morality itself as an end, and works on behalf of the whole. Kant believes that the political moralists’ behaviors “make improvement impossible and perpetuate, as far as they [political
moralists] can, violations of right” (PP 8: 274). The political positions grant politicians the power of making and implementing laws, which fundamentally affect the lives of ordinary people. If politicians merely aim to seek the satisfaction of certain interest groups or individuals, their professional behaviors driven by this motive betray the general public’s trust, and violate the fundamental rights of citizens and states, such as equality. The prevalence of political moralists in the long term along with decreasing public trust, practically disburses the stable status of a state, and theoretically threatens the state’s legitimacy. By contrast, moral politicians recognize their special duties as representatives of the public, and accordingly work for the people. This type of politician is a positive supplement to the progress of preventing despotism and approaching republicanism. Combining the requirements of active citizens and moral politicians, the state is required to provide enough powers for citizens to evaluate whether certain politicians are political moralists or moral politicians and powers to call for all political moralists’ resignations.

Two possible objections to this “expanded republicanism” can be presented. The first objection is the efficiency concern: citizens’ active evaluation of polices or politicians will delay implementation of the law. My initial response to this objection is that the speed of our contemporary society is too fast, not too slow. The chicken grows too fast; our lunch time is too short; the stock market changes too fast; the internet runs too fast. It might not be a disaster to be slow. A more direct response is that this “expanded republicanism” does not require citizens to evaluate every policy or every politician all the time. Citizens’ evaluation of policies or politicians aims to guarantee
government’s representation of the united will of its citizens and to restore the trustworthiness between citizens and its government. In an emergency, government should use the rule of thumb to make an immediate judgment to save lives. For example, when the country is facing an earthquake, tsunami, or nuclear plant leakage, there is no need to have town hall meetings to ask for individuals’ consent. Providing conditions for active citizens to act on the general will, the “expanded republicanism,” highlights active citizens’ role as “legislators” in preventing despotism.

The second objection is concern for over-demanding. There might be two ways to understand this over-demanding concern. 1) It is over-demanding for citizens to be active citizens, which presupposes they have sufficient knowledge or ability to recognize the general will and make plausible judgments. These requirements are over-demanding. 2) It is over-demanding for a government to provide opportunities for citizens to become active. Being an active citizen with certain moral motives, say, acting on the general will, is a completely private choice. It is over-demanding for the government to intrude on an individual’s private realm.

My response to the first concern is that the moral requirement for politicians is not over-demanding, since politicians’ decisions substantially influence individual citizens’ lives. The moral status of politicians is necessary to prevent despotism and to guarantee republicanism. Other citizens have the choice whether to cultivate their moral freedom or actively act on the general will. As to the second concern, there are differences between providing opportunities for citizens to be active and forcing citizens to be active. Citizens’ voluntary choice of being active does not contradict with a government’s
responsibilities for providing related opportunities. For example, it is an individual
citizen’s choice whether to vote, but the fact that some citizens do not vote is not a
legitimate excuse for abandoning the voting system. Further, depriving citizens’
opportunities for being active, say, eliminating the voting system, betrays a republican
government’s requirement of representing the united will of citizens.

4.5 Republicanism and Cosmopolitanism

Since a state is not an isolated in the world, it inevitably interacts with other
states. As indicated in chapter 3, a cosmopolitan right does not merely impose
requirements upon individuals, but also requires states to maintain peaceful relationships
with other states. Reconsider Kant’s criticism about European colonialism violating
cosmopolitan right, and his endorsement of China and Japan’s protectionism against
European colonialism. “China and Japan ... have wisely[ placed restrictions on them].”
By contrast, without appropriate protectionism, in East India, European colonialism led to
“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” (PP 8: 359). Then, a state, on the one hand, is required by cosmopolitan rights to
maintain peaceful relationships with other states. On the other hand, a republican state is
required to advocate citizens’ freedom, equality, and independence. If colonialism brings
one country flourish; which to a certain extent advocates its own citizens’ freedom,
equality, and independence; would the country’s colonialism be supported by
republicanism? Similarly, facing limited domestic resources, would a state’s attacks on
other countries be supported by republicanism? As for the soybean cases, would a state’s
economic expansion along with the loss of other countries be supported by republicanism? If all of the above are permitted by republicanism, does it reveal that there are fundamental conflicts between cosmopolitanism and republicanism?

First, I do not think there are fundamental differences between the relationships between individuals and the ones between states. It is true that limited resources might lead to endless conflicts between nations. It is true that economic wars for oil, land, or food split the world into parts and impede cosmopolitan progress. However, it is also the case that fellow citizens are battling for money, jobs, or neighborhoods. These barriers to peaceful relationships between foreigners and fellow citizens, such as a scarcity of resources, are also possible causes of conflicts between fellow citizens.

Further, I argue for the compatibility between cosmopolitanism and republicanism based on their similar foundations and justifications. As indicated in chapter 3, the deduction of cosmopolitanism is not merely from external freedom; internal freedom is also necessary to derive cosmopolitanism. Correspondingly, with recognition of the general will of human beings, active world citizens who act on the general will are necessary for the progress of cosmopolitanism. Similarly, the deduction of republicanism is not merely from the legal division of legislative, administrative, and juridical powers, and advocating citizens’ freedom, independence, and equality is necessary to derive republicanism. Correspondingly, by increasing the overlap between the general will and the particular will, active citizens who are able to act on the general will of states are necessary for the progress of republicanism. In order to prevent despotism, republicanism
requires the moral status of its politicians. Similarly, cosmopolitanism criticizes any states’ colonialism or exploitation of any other states.

In addition, both cosmopolitanism and republicanism presuppose interactive relations between individuals. Cosmopolitanism is based on interactive relations between foreigners and locals, such as sharing the Earth together. Regardless of different nationalities or religions, being members of such complicated and multilevel relations are bounded by cosmopolitanism to maintain peaceful relationships with foreigners. Similarly, republicanism is based on interactive relations between fellow citizens, such as sharing the same federal taxation or sharing the same federal administration. Originally from the social contract, individuals voluntarily give up certain liberties to be bound by the same legal system. Republicanism bounds members to a shared legal system that supports fellow citizens’ freedom, equality, and independence.

Even sharing similar foundations and justifications with republicanism, cosmopolitanism never requires individuals to treat foreigners the same as fellow citizens. Kant explicitly mentions that cosmopolitan right only infers a right of resort rather than a right of a guest. Some differences between republicanism and cosmopolitanism do allow partial treatment between fellow citizens and foreigners. Differences lie in that fellow citizens share more visible and tractable legal systems, which provide better opportunities for citizens to recognize interactive relations with fellow citizens, to identify the general will of the state, to know how to act on the general will, and to implement specific actions for the general will. For example, sharing the same taxation system, individuals can foresee the transfer of some of their income to
welfare systems, which might lead to individuals’ having more incentives to support
government transportation, public education, art and science, or low-income citizens. Thus, on
the one hand, citizens might realize their positive impacts on the whole welfare system.
Without individual contributions, the whole welfare system would collapse. On the other
hand, citizens might also realize the impacts of the welfare system on themselves. Not
only have most citizens enjoyed the benefits of public transportation or other public
goods, such as fresh air, the welfare system provides a guarantee for basic necessities for
its citizens, such as unemployment assistance or food stamps for low-income families.

Further, the interactive relations between citizens and a shared legal system within
a state reinforce fellow citizens’ interactive relations. Because of the interactive relations
between fellow citizens, my next-door neighbor, even someone with whom I have never
talked with before, is no longer a stranger, but a potential “co-legislator” and actual “co-
benefit-recipient” of the shared system, such as local light-rail construction, housing
prices of the neighborhood, the closure of the neighborhood public school, and the crime
rate of the neighborhood. Similarly, suppose Alice is an America citizen in Minnesota. A
stranger in Minnesota to her is no longer an irrelevant individual, but a fellow citizen who
has the capacity to vote and decide who will be the president, senators, congresswomen
or men, or other politicians. All of the chosen politicians together design complicated
legal systems, which directly or indirectly influence both Alice’s life and the life of that
stranger in Minnesota. Thus, flourishing one region of the country will influence another
region of the country, while violating individuals’ freedom, independence, and equality in
one region of the country will inevitably influence another region of the country. The
Internet boom in the late 20th century, although it started in Silicon Valley, stimulated the whole economy of the United States, while the mortgage crisis of several years ago, although originating in Wall Street, brought the economy of the whole nation into a recession.

However, because some global institutions are too big to be understandable, global institutions are missing in certain fields, or global causal relations are too complicated to be traceable, interactive relations between citizens and foreigners are relatively invisible compared to interactive relations between fellow citizens. Thus, it is more difficult for the government or individuals to increase the overlapping parts between either the individual’s particular will and the general will of human beings or the particular will of a state and the general will of human beings. As indicated in previous paragraphs, there are no fundamental differences in interactive relations between citizens and foreigners and relations between fellow citizens, but the differences lie in the fact that the latter shares more concrete and perceivable legal systems while the former shares more complicated and obscure systems. Such differences are similar to the illusion we have perceived from visible and invisible pollution. Burning plastic materials will spread polluted air throughout one-mile ranges of regions, and residences that absorb the “non-natural” air would notice this pollution. It is relatively feasible for me to identify the pollution of burning plastic materials; however, it is quite a challenge for anyone merely using his or her nose, hands, or eyes to identify that nuclear leakage occurred 30 miles away. Thus, invisible pollution easily leaves us with an illusion of being pollution free.
Similarly, obscure global institutions sometimes leave us with an illusion that we are irrelevant to foreigners.

Even when active world citizens recognize the general will of human beings, there are far fewer opportunities available to act on the general will of the human beings than for active citizens to act on the general will of the state. Take the pollution example again. It is easy for an individual to implement concrete actions to stop burning plastic, but it is much hard for an individual to stop the meltdown of a nuclear plant. Similarly, it is relatively easy for an individual to vote the preferred candidate to reform domestic policies, but it is much harder for an individual to find a feasible way to stop global poverty, global warming, or global economic exploitation.

The obscurity of shared global systems and the shortage of opportunities for individuals to act on the general will of human beings bring more challenges to the progress of cosmopolitanism than that of republicanism. Since both cosmopolitanism and republicanism yield gradual progress, the uneven development of those two progresses might appear to lead to inconsistency and actual conflicts between the general will of human beings and the general will of a state. Generally, the progress of cosmopolitanism is far behind the progress of republicanism. Thus, one of the ways to stimulate the progress of cosmopolitanism is to reform global institutions. Global institutions need to provide more opportunities for individuals to become active world citizens, such as making those global institutions more transparent (visible) to the general public, or offering more opportunities for individuals to participate in the legislative progress of global policies.
5. Global Institutions’ responsibilities

5.1 Introduction

Suppose there is a game, whose rules encourage cheating and penalize honest behavior. It is absurd to blame the players for their intentional cheating in the game, since the structure of the game creates an incentive to cheat. Suppose the mayor of a town announces, “Everyone in this town should join the hunger games, whose object is to kill others; the punishment of not playing the game is death sentence.” Suppose another mayor claims, “you are welcome to join the hunger games in our town, and you will be honored for winning the tournament.” Who should be held responsible for the nasty, poor, and brutish results from the hunger games in both towns? The question of whether the winners should be criticized for their perfectly “legal” and rational actions in those games is debatable, but most people would agree that the designer and executor of these games bears the main responsibility, and the “evil” rules should be eliminated. Although the hypothetical examples above exaggerate tensions between “being perfectly legal” and “morally indefensible” using several oversimplified rules, the tensions remind us that in order to mitigate injustices in Chinese soybean cases, we cannot ignore discussions about the World Trade Organization’s authority and obligations. In this chapter, I focus my attention on Kant’s federalism of free states as a requirement of global institutions and its implications for the Chinese soybean case. I argue that the WTO seems to be a voluntary federation, but as the Chinese soybean case illustrates, this federation has despotic features, which undermine its legitimacy. Thus, we require a remedy for despotism beyond the one Kant suggests. By appealing to the I-Ching, I introduce such a remedy.
Specifically, I summarize similarities between and *yang* and capital and between *yin* and labor, and use *yin* and *yang* to explain the discrepancy between theoretical predictions from the WTO, which sees a non-zero-sum game in global trade liberalization, and empirical evidence in the Chinese soybean case. The interdependent *yin-yang* indicates that such a discrepancy has resulted from the WTO’s neglect of mobility differentiations among the factors of production. At the end of my dissertation, an appropriate capital-labor relation prescribed by *yin-yang* leads to three practical suggestions for the WTO.

5.2 Kant’s federalism of free states

In *Perpetual Peace*, Kant presents the conditions of international justice, which require the creation of a cosmopolitan law beyond moral context. “It [a condition of war] involves the constant threat of an outbreak of hostilities even if this does not always occur. A condition of peace must therefore be *established*; for suspension of hostilities is not yet assurance of peace” (PP 8: 349). Consider the phenomena of atoms together creating magnetic domains. In each domain, a group of atoms are like many miniature magnets pointing in the same direction. However, in separating the magnetic domains, the domain wall becomes a relatively unstable area since it is influenced and constrained by different domains. Similarly, the formation of pluralistic states from their historical condition with shared language or cultures threatens the stable relations among states, since each state is obligated to act on the behalf of its citizens. Individuals’ moral compliance with the negative duty of not acting with hostility toward foreigners cannot eliminate possible conflicts among states either, since treating everyone in a perfectly equal manner is hardly acceptable for most people, especially considering the unclear
overlap between a particular will and the general will. In order to achieve the moral ideal, say, the perpetual peace in the world, Kant believes that a positive cosmopolitan law regulating external relations of states must be formed. One way to understand such a positive common authority is the creation of a state of nations (also translated as a world republic) with coercive powers, in which each state transfers part or full authority to the global governance.

However, in other passages, Kant explicitly advocates for a federalism of free states (also translated as a voluntary federation of states) rather than a state of nations:

In accordance with reason there is only one way that states in relation with one another can leave the lawless condition, which involves noting but war; it is that, like individual human beings, they give up their savage (lawless) freedom, accommodate themselves to public coercive law, and so form an (always growing) state of nations (civitas gentium) that would finally encompass all the nations of the earth. But, in accordance with their idea of the right of nations, they do not at all want this, thus rejecting in hypothesi what is correct in thesi; so (if all is not to be lost) in place of the positive idea of a world republic only the negative surrogate of a league that averts war, endures, and always expands can hold back the stream of hostile inclination that shies away from right, though with constant danger of its breaking out. (PP 8: 357)

Some scholars criticize Kant’s inconsistency or Kant’s withdrawal of his a world republic plan.\textsuperscript{41} In agreement with Pauline Kleingeld,\textsuperscript{42} I am inclined to interpret a federalism of free states as a realistic step toward a world republic and as the respect of
the principle of non-interference among international rights. Several assumptions behind Kant’s advocacy of a federalism of free states are worthy of noting here.

The first assumption is Kant’s disanalogy about a state of nature among states and the state of nature among individuals. The reason Kant addresses the disanalogy between two types of states of nature is to avoid the strict analogy, which ignores the complexity of international relations and multilevel authority. For example, with 150 member countries, the organizational structure of the WTO is a system of complexity. The WTO administers a system of the trade agreements negotiated by its members, including the General Agreement on Tariffs and Trade (GATT), the General Agreement in Services (GATS), and the Agreement on Trade-related Intellectual Property Rights (TRIPs).

“Total World Trade in goods, services, and intellectual property stood at US$6.8 trillion (thousands billion) in 1999, of which services and intellectual property accounted for some US$1.4 trillion” (Lamy 1). For member countries of the WTO, each government not only has to negotiate with other member countries but also has to face domestic pressure from various interest groups, such as import-competing industries, export-competing industries, and infant industries. In addition, the WTO allows countries to form an alliance to negotiate with other member countries, such as the EU. These alliances further increase the complexity of distributing the appropriate authority in multilevel, such as state-citizens, states-states, insider states-alliances, outsider states-alliances, states-global institutions, alliances-global institutions, citizen-global institutions, and states and global institutions. Such complexity of international relations and multilevel authority introduces a challenge to the construction of a positive
cosmopolitan law. Checks and balances between legislative, executive, and juridical powers, might be effective in an isolated state, but it is much harder to fulfill in a global institution or a federation of states. Separating powers above the national level requires a widely accepted agreement about the nature and existence of such powers, which is hard to achieve. In constructing a separate power above the national level, which is different from the state of nature among individuals, we face the challenge of the internal sovereignties of states. Despite his commitment to cosmopolitan rights, Kant recognizes the difficulties inherent in reconciling international sovereignty and national sovereignties, and the possibility of creating “a universal monarchy” if international sovereignty is forcibly imposed.

In addition, even if each state agreed to build an independent power beyond the national level, it is still hard to guarantee the independence and impartiality of the international legislative, executive, or judicial powers. In an isolated state, having elected representatives and no position shared among the three powers are precautions taken to help ensure the independence of the three powers. However, elected representatives of nations, especially the legislators, would still need to face their responsibilities for their own countries, which might drive their actions towards their national interests. Because of their legitimate national interests, even elected representatives would find it hard to separate partial judgments from international or supranational issues. Adding new powers above national powers to check developed countries’ despotic tendencies is unlikely to succeed, because it is hard for nations to agree on the new power’s existence, and because it is hard to guarantee the new power’s independence from national interests.
Thus, it is unrealistic to expand Kant’s separation of legislative, administrative, and judicial powers, to the world republicanism in the context of complicated international relations. That is why in presenting his picture of international relations, he advocates for a voluntary federation, not a coercive world government.

However, rejecting the strict analogy does not ignore similarities between reforming a civic society in the state of nature among people and establishing a positive cosmopolitan law among states. The second assumption behind Kant’s advocacy of the free federation of states involves Kant’s strong belief in the principle of non-interference, which originates from Kant’s social contract tradition. According to the social contract tradition, the authority of the state lies in an individual citizen’s voluntary consent with the state. That is why Kant describes the state as the united will of individuals. Similarly, the authority of certain world governance must lie in an individual state’s voluntary agreement. Ignoring or overriding an individual state’s authority in global governance is similar to overriding an individual’s liberty within a state. It is illegitimate for the state to advance one’s advantage without that person’s consent, since it violates his or her liberty. Similarly, it is illegitimate for some international or supranational authority to intervene in some nations’ internal authority or internal affairs.

Recognizing the fact that not all states are willing to join some federations of states, say, a federation advocating cosmopolitan rights, Kant explicitly rejects using coercion to force unwilling states to join in a state of states. Similar to coercing someone to sign certain contracts, forcing any state to join in a state of states violates the state’s inner sovereignty, which originates from its citizens’ will. Even if the state is despotic or non-
democratic, or a non-republic, its citizens still have a choice to either overturn the state or maintain the current regime. Additionally, the external authority’s coercion hardly leads to the suspension of the state from being despotic, but instead leads to fierce resistance from the insiders toward the outsiders, such as arising nationalism, or restless civil conflicts within the state.

Another important reason for Kant to value the inner sovereignty of a state is to avoid the risk of a despotic world republic. Aware of the disparity of power among different states, Kant worries about a world republic functioning as another type of colonialism, which he strongly rejects. European colonialism had lured a considerable number of western people under the mask of liberating indigenous people. In the twenty-first century, it is still hard for a world citizen to identify actual trade liberation from obscure economic imperialism, or the genuine world democracy from hidden battles among different political groups.

However, holding a league of nations or the non-interference principle does not necessarily withdraw the plan of a state of nations. Instead, Kant intends to address the gradual progress from a federalism of free states to a state of states. Like seeds that begin to sprout, a federalism of free states might expand its scope, and gradually encompass more voluntary states into the federation. The ideal goal is to gradually achieve a state of states. “Distant parts of the world can enter peaceably into relations with one another, which can eventually become publicly lawful and so finally bring the human race ever closer to a cosmopolitan constitution” (PP 8: 358). I think the seeming “inconsistency” between Kant’s advocating both a federalism of free states and a state of states reinforces
my interpretation of cosmopolitanism as the gradual realization of active citizens. Because cosmopolitanism involves certain requirements about a person’s inner freedom/moral freedom, such as recognizing the general will of human beings, or acting on the general will of the human beings, not everyone is an active world citizen now. The state or even philosophers cannot force a person to be an active world citizen, but it can provide sufficient opportunities for them to become active citizens, such as more public discussion about global policies, or more institutional channels for citizens to understand and participate in the legislative progress of global policies.

In a sum, the purpose of this league is to “preserving and securing the freedom of a state itself and of other states in league with it” (PP 8: 356). In addition, Kant claims that this voluntary federation of states, unlike a world government, does not require states to “subject themselves to public laws and coercion under them (as people in the state of nature must do” (PP 8: 356). The reason he advocates for a federalism of free states rather than a world government is his recognition of the unwillingness of people in some states to join a world government. Forcing such states to submit to a coercive power implemented by a world government will violate the autonomy of the people in those states and the independent internal sovereignty of those states. Kant also realizes that without independent internal sovereignty of states, a world government might turn to “soulless despotism,” in which “one power overpower[s] the rest” (PP 8: 367), and “the laws are made and arbitrarily executed by one and the same power” (PP 8: 352 trans by H.B. Niset). Thus for perpetual peace, it is necessary to guarantee people’s political autonomy and the independent internal sovereignty of states.
In summary, the argument in favor of a federalism of free states includes:

1. The strong analogy between establishing the state among people and establishing a world republic among states ignores the complexity of international relations and multilevel authority.
2. We ought to respect an individual state’s internal authority, which strongly connects with an individual citizen’s autonomy.
3. A world republic has the risk of being a despotic state of states.

Therefore, we should choose a federalism of free states as the realistic approach to a world republic.

5.3 The federalism of free states and the WTO

To respond to the injustices presented in the Chinese soybean cases diagnosed by Kant’s publicity principle, I will assess the legitimacy of the WTO by appealing to Kant’s federalism of free states and seek the WTO’s obligation in correcting global injustices. First, I will point out the puzzling relationship between the WTO and Kant’s federalism of free states. On one hand, some WTO policies and procedures seem to demonstrate respect for the internal authority of states. Accordingly, it seems that the WTO could pass Kant’s requirement of being a federalism of free states with its international relations. On the other hand, the history and design of the WTO, along with some of its procedures, show it has a despotic structure, which disqualifies it as a federalism of free states.
5.3.1 Is the WTO a federalism of free states?

The WTO seems to satisfy the conditions of being a *federalism* of free states in that some WTO policies and procedures seem to respect the internal authority of states. Pascal Lamy, the former Director General of the WTO, states the distinction between the world government and global governance are that “governance generates common rules, whereas government commands political will ... global governance would be an heir to Kant’s *cosmopolis*, whereas a -world government would equate with a giant Leviathan” (41). Unlike the world government, which generally requires the transfer sovereignty to a world political center, the WTO’s global governance is “a decision-making process based on permanent negotiation, and exchange of agreements and the rule of law.” Although the WTO’s dispute settlement mechanism performs certain juridical function of protecting the principle of free trade and implements sanctions of domestic regulations, the debate about whether the WTO should be constitutionalized at least illustrates that the current system of the WTO is a looser league compared to the European Union. The legitimacy of the WTO still largely lies in its multilateral trading negotiations and agreements, which aim to respect the autonomy of the states within the international relations, and to promote non-discrimination. Since trade only happens with an agreement between a seller and a buyer, those multilateral trading agreements do not require the essential sacrifice of the internal authority of states.

Responding to the disparity in power among states, Lamy claims that the WTO is based on “the principle of the equal representation of individual members, regardless of size, power or contribution to the organization.” Different from other institutions, in
which provide each member voting rights proportional to its size, power or contribution to the organization, the WTO holds that “all members have a right to representation in all of the WTO’s governing bodies ... all decisions are taken by consensus on the basis of a ‘one government, one vote’” (47). Supported by the principle of non-discrimination, such equal opportunity to vote seems to “empower developing countries in the multilateral negotiation process” (47). To manifest its equal membership, the WTO prioritizes rules of the “most favoured nation” and “national treatment,” and provides preferential treatment for developing countries through the rule of “special and differential treatment.” The WTO also provides “institutional flexibilities to address different members’ needs,” such as enabling Chinese Taipei, Hong Kong, European Communities as separate entities. In addition, developing countries have a chance to “form certain negotiating groups to coordinate their positions” (Lamy 49), such as the G-20 an alliance of developing countries on agriculture, the G-33 of developing countries and the African Group—the group of the least developed countries. From above reasons, it seems that the WTO is an institution close to Kant’s federalism of free states proposed by Kant.

5.3.2 Is the WTO a despotic institution?

It is true that Kant’s voluntary federation of states as being a realistic step toward normative cosmopolitan ideal does not necessarily exclude the existence of despotic features of the federation, since a practical institution is always faces a certain amount of practical difficulty with global governance, such as unclear accountability in distant and multi-level authorities. However, recall that Kant supports a league of nations rather than
a state of nations partly because of the latter’s higher risk of being despotic or a world monarchy. Thus, it is still worth considering whether the WTO has despotic features.

I will first concentrate on its accession requirement, and point out some despotic features from its history and design. According to article XII of GATT, “accession must be agreed between the applicant and the WTO members.” Thus, as part of the process of WTO accession, China had to develop bilateral negotiations with any of the WTO members that requested them. As of February 2000, China had concluded negotiations with 21 WTO members, including the United States. Bilateral agreements are made for the WTO members to enhance their market access in the applicant country. For example, the US-China bilateral agreements requires the Chinese government to offer “full trading and distribution rights for US firms in China,” reduce tariffs for US priority agriculture products from 31.5% to 14.5% by 2004 and “limit subsidies for agricultural production to 8.5% and end export subsidies on agricultural products” (uschina.org “Summary of US-China Bilateral WTO agreement”). After concluding the bilateral negotiations, the WTO’s 142 members approved China’s entry into the WTO on December 11, 2001. In 2000, Agriculture Secretary Dan Glickman predicted that “China's participation in the World Trade Organization will result in at least $2 billion per year in additional US agricultural exports” (USDA.gov “news release”).

The design and history of the WTO could help us to further understand the creation of the accession policies and reveal its despotic structure. One despotic feature of the WTO is the developed countries’ role as both game makers and game players in this system. The WTO was originally created by those developed countries, and the General
Agreement on Tariffs and Trade (GATT) was negotiated by developed countries. “From the 1960s, the round [of GATT] were essentially managed by the European Community and the United States, with a little help from some of their industrialized-country friends. The developing countries were largely ignored as player” (Ostry 58). Prompted by the situation that “US [agricultural] exports to the European Community diminished and the European Community’s heavily subsided [agricultural] exports flourished and even penetrated the US market” (Ostry 59), the US initiated the Uruguay Round of negotiations in 1986, which involved more participating countries, concluded the creation of the WTO and expanded issues ranging from goods to intellectual property, services and investment. Ostry indicates American MNEs’ key role in forming the WTO:

American MNEs played a key—perhaps even the key—role in establishing the new global trading system [the WTO] ... The US service sectors were world leaders and the same was true in investment and technology. American MNEs controlled 40 percent of the world’s stock of foreign investment at the outset of the 1980s and the US technology balance of payments was well over US$6 billion when every other OECD country was in deficit ... The US Advisory Committee for Trade Policy and Negotiations (ACTPN), in cooperation with other US business groups, undertook the task of convincing European and Japanese corporations to lobby for the new issues. ... In the case of intellectual property, the US group, called the Intellectual Property Rights Committee (IPC), worked through the Union of Industries of the European Community and the Keidanren in Japan ... [In
a sense,) an intellectual property agreement [was] drafted by US legal experts.

(Ostry 59-60)

According to the history of the Uruguay Roundtable and establishing the WTO, the WTO is the game created by developed countries, especially the United States to satisfy its multinational enterprises’ interests. Sylvia Ostry described the Uruguay Roundtable as “a single undertaking” by the United States and the European Community. “The outcome was seriously unbalanced” (59-60). Developing countries must accept the whole package of WTO rules if they want to play this game. It was a choice for those developing countries between either taking it entirely or leaving it at all. “As one of the Southern participants was reported to have said, ‘TRIPS was part of package in which we got agriculture’” (Ostry 59-60). In addition, the outcome of the Uruguay Round table requires governments’ positive actions (particularly developing countries) to substantively upgrading their domestic regulatory and legal systems.44

Such institutions are similar to Kant’s despotic governments, where “the laws are made and arbitrarily executed by one and the same power.” As to a despotic government, Kant argues that it only reflects the ruler’s will but not the general will, because of the ruler’s overwhelming power. Under a despotic government, individuals’ rights cannot be protected. Similarly, because of developed countries’ overwhelming powers compared to those of developing countries, the WTO to a large extent reflects developed countries’ will but not the general will of participants, and developing countries’ rights are inevitably at risk because of disadvantages.
As Kant worries, this despotism can easily become “a universal monarchy,” where a single power “has overruled the rest.” The initial example of China’s soybean market reflects developed countries’ despotic powers and gives us reason to share Kant’s worry about a universal monarchy. Thus, a puzzling statement about the WTO and a voluntary federation of states could be made: it seems that the WTO satisfies basic conditions of being a federalism of free states, but with some despotic features, which threatens the legitimacy of the WTO from the internal perspective.

5.4 Publicity Principle and the WTO

To clarify the puzzling relationships between the WTO and Kant’s league of states, I will reintroduce Kant’s publicity principle to diagnose the legitimacy of the WTO, and seek convergence between theoretical demands and practical construction of global institutions. In chapter 2, I highlight the relationship between the WTO and individual farmers who are deeply affected by the WTO policies, and argue that there are injustices presented in Chinese soybean case by appealing to Kant’s publicity principle. My expansion of Kant’s publicity principle rests on the notion of negotiable consent. Negotiable consent as the implication of respecting individual positive freedom indicates people’s “legislative authorities,” but also entails active citizenship. Since the publicity principle is also applicable in international relations, I will discuss the appropriate relationship between the state and the WTO as a federalism of free state, and reassess the legitimacy of the WTO.

In order to run the publicity test, we should ask several questions about the relationship between individual states and global institutions: 1) Would states want to join
the WTO if they had predicted situations similar to the Chinese soybean case? 2) Does the WTO provide a genuine opportunity for individual states to refuse or negotiate its laws?

### 5.4.1 Would states want to join the WTO if they had predicted similar situations like the Chinese soybean case?

As to the first question, we could derive a positive answer from comparative advantage theories. As the most popular theories relating to trade liberation or the WTO rules, the comparative advantage theories justify the WTO’s aims of flourishing human beings in the long run through trade liberation. However, I will point out a discrepancy between comparative advantage theories and empirical evidence.

According to the classical notion of trade, “If two countries ... could trade [with] each other, they could concentrate on what each one does best” (Hoekman and Kostecki 109-110). For example, farmers exchange grain for fish with fisherman. Thus, market liberation should be a win-win situation, which would be supported by each country.

Accordingly, it is necessary to establish a binding mechanism in enforcing each player’s cooperation. Lacking a central enforcement mechanism, the decision outcome of such non-cooperative games will turn to zero-sum game (Pareto-optimal), in which “no party can be better off without another party knowing that is being made worse off” (qtd in Hoekman and Kostecki 109). Thus, according to comparative advantages theories, having a global institution that provides an enforcement mechanism in liberating trade, similar to establishing a government in the state of nature, is necessary to efficiently avoid pareto-optimal and reach equilibrium of win-win games through a series of
negotiations.

However, the enlarged disparity among nations empirically challenges the implication of comparative theories in the current global economy. The deepening integration among countries through trade, financial flows, and investment challenges the original comparative advantages theories. Juan Somavia summarizes comparative advantages theories’ predications about the global labor market:

According to theory, labour-intensive sectors should shrink in developed countries and skill-and/or capital-intensive industries should expand, while developing countries should—in line with their relative abundance of unskilled labour—experience growth in labour-intensive sectors. Such progress will hurt low-skilled workers in industrialized countries and lead to rising inequality, whereas increased demand for labour in developing countries should first and foremost benefit unskilled workers, with a positive impact on inequality. (Somavia 139)

Juan Somavia, Director-General of the International Labour Organization, points out that one of the unexpected phenomena of liberation is that “trade destroys firms in all sectors that are unable to withstand the increased competitive pressure” (139). “Thus we can observe that, within the same sector, some firms expand while others are closing down and laying off workers” (139). In addition, the increased “wage inequality between low-skilled and high-skilled labour,” the increased “sensitivity of labour demand to wage changes,” and “the mere possibility to relocate production can be used as a credible threat to weaken workers’ resistance to wage reductions. The structural shift in bargaining power can have repercussions for the functional distribution of income between capital
and labour, tilting it towards the former, and thus further contributing to greater income inequality.” “The interaction between trade, foreign direct investment and technological change and their consequences for wage inequality” and “greater wage differentials between low-skilled and high-skilled workers” redistribute the gains from winners to the losers. “A one-size-fits-all approach to trade liberation is ill equipped to take account of these country-specific factors” (Jansen and Lee 140). The further result of a more liberalized global market might deepen smaller countries’ further dependencies on larger countries or even multinational corporations.

Would states still want to join the WTO if they had predicted the discrepancy between comparative advantage theories and empirical evidence? It is true that to answer this question requires highly technical calculations of the balance between different sectors of production, which probably only a small group of professionals could provide. However, it does not imply that ordinary people cannot make a reasonable judgment about the legitimacy of a global institution. As I indicate in chapter 2, most people would agree the wrongness of “choiceless coercion,” which would be proved by “publicity as negotiable consent,” since the notion of “negotiable consent” inherently disproves those choices from “choiceless coercion.” Similarly, the voluntary feature of a federation of states prescribed by Kant confronts those “voluntary” choices with the “choiceless coercion.” Thus, if the WTO is legitimate, it should eliminate a situation where a state’s participation in the WTO is determined by limited options between “joining in the WTO with certain trade-off” and “being isolated by the rest of global economy.”

Different from the United Nations’ universal membership, the WTO is more
selective club. The creation and implementation of its rules and laws are exclusive to the outsider. Although the WTO’s exclusiveness can promote its efficacy and limit free riders, those strict conditions of accession, including trade openness, are primarily used as bargaining tools to gain market access for the WTO incumbent members. “Observers have noted the prevalence of WTO-plus commitments whereby applicant countries agree to undertake liberalization, administrative, and other commitments that go beyond the obligations of WTO member countries” (Davis and Wilf “Joining the Club: Accession to the GATT/WTO”). As Davis and Wilf indicate, the process of its membership expansion from a small pool size to the current larger size involves the WTO’s “asymmetric bargaining structure” between members and applicant members:

Nonmember countries acceding through the WTO Article 12 have a longer list of required agreements to negotiate (including GATS, TRIMS, and TRIPS) before gaining WTO membership. Further, trade rounds under the WTO are no longer associated with negotiating entry of applicants, which means that there are few opportunities for reciprocity during WTO Article 12 negotiations. Pelc (2011) highlights how this asymmetric bargaining structure shapes WTO accession negotiations as applicants are forced to make concessions while members do not change their commitments concurrently. (“Joining the Club: Accession to the GATT/WTO”)

It is true that even facing the high price of admission, applicant states still voluntarily request membership. One of reasons behind their decision to apply is to avoid the disadvantages of being nonmembers. “In the early years of GATT countries such as
Japan faced clear discrimination as non-members and applied for membership to gain MFN treatment.” Being an outsider makes a state ineligible for the high level of certainty for trade cooperation protected by institutional constraints. “Accounting for more than 90% of world trade” (wto.org), the WTO’s dominancy in the global economy will leave non-members in extremely isolated and vulnerable positions compared to the 155 members. Since the notion of trade inherently involves trading parties, being isolated from international trade partners will necessarily make a state’s international trade impossible. Under this situation, a state’s decision to join the WTO with a high price of admission and relatively weak bargaining powers is still a preferred choice compared to the one of being isolated from the vast majority of global markets. Such a structure of available choices for the WTO non-members does reveal the WTO accession process shares some despotic features with “choiceless coercion,” which would be disapproved by the publicity principle.

5.4.2 Does the WTO provide the genuine opportunity for individual states to refuse or negotiate its laws?

For some countries, a main benefit of being a WTO member is the opportunity to participate in international trade policy-making. The WTO claims that every member country has one vote against an agreement. However, not all countries especially poor countries have enough money to support sufficient staff in Geneva, and have the capacity to hire enough legal experts to actively participate in the corresponding meetings or dispute settlements (Ostry 61). “One WTO official said: ‘we set up a Subcommittee with a Chair and a Secretary who turned up for the first meeting on the trade needs of
LDCs [least developed countries]. No LDCs came. No developed countries came. No one came. Not one country showed up”’ (Ostry 61). Ostry concludes that, “the lack of resources and capacities in poor countries virtually eliminates policy choice and participation.” In addition, “the legal culture of the WTO is, by and large, American ... one can safely assume the number [of the legal experts in LDCs’ Geneva missions] are very small or even non-existent ... None of the poor African countries participates either as complainant or as respondent in WTO dispute settlement cases [from 1995 to 2005]” (64-65). The United States appeared 79 times as complainant and 89 times as respondent from 1995 to 2005, and EC appeared 69 times as complainant and 55 times as respondent (wto.org “Chronological List of Dispute Cases”). Ostry analyzes that both the absence of legal services at home or Geneva and the shortage of money to hire private lawyers directly leads to poor countries’ lack of participation in the WTO meetings or dispute settlements (Ostry 64-65). In addition, “political costs—threats by richer countries to reduce development aid or to remove trade preferences—may also be very powerful deterrents to initiating a WTO dispute or rejecting a threat of retaliation” (Bown and Hoekman 65).46 Thus, the equal opportunity of the WTO rule-making for its member is empirically undermined by economic and political disparities among states.

5.4.3 Publicity Principle and a federalism of free states

Since a federalism of free states as a gradual process of realizing a cosmopolitan ideal inevitably involves membership expansion, the despotic features described above rejected by the publicity principle do threaten Kant’s federalism of free states as an appropriate condition of global justice. The process of membership expansion always
involves the relationship between incumbent members and applicant members, which is not sufficiently emphasized in Kant’s federalism of free states. The asymmetrical relationships enforced by the WTO’s exclusive membership club restrict applicant states’ opportunities of refusing to enter into this league. The lack of opportunity to refusing to enter into this league undermines the legitimacy of the WTO’s coercive authority, which disrespects the internal authority of applicant states through imposing strict accession conditions. However, as the WTO claims, the trade policy reforms even sometimes enforced by “choiceless coercion” are necessary platforms for the continuation of trade cooperation and the existence of the league. If this is so, then the necessary coercion required by a federalism of free states/ a voluntary federation of states will undermine the voluntary feature of the league, which reflects its respect for the internal authority. Then, the notion of a federalism of free states has the risk of being internally inconsistent. It is true that Kant leaves a large room for interpretation of the voluntary federation of states as well as its distinctions from a world republic. With regard to the above discussion, I can at least claim that Kant’s optimism about a league of nations overlooks the possible “choiceless coercion” that happened during the federation’s membership expansion, which might undermine a federalism of free states as a gradual process to approximately approach the normative ideal of a world republic.

One possible response is that the WTO’s coercive powers betray Kant’s requirement of a federalism of free states being a loose league without coercive powers. Someone might claim that such federalism does not involve the transfer of any internal authority of participant states to global institutions, and accordingly the WTO is not a
federalism of free states prescribed by Kant. I agree with Kleingeld’s rejection of the possible existence of such a loose league without any coercive power, since “right and coercion are intrinsically connected.” “It remains unclear how a court [could function] without any power to impose sanctions and enforce its rulings” (Kleingeld Kant and Cosmopolitanism 52).

5.5 Free Trade and Cosmopolitan ideal

As for the above worries about the WTO, another response is that strict membership conditions imposed by the WTO are intended to be for common interests between applicant states and current members, and therefore, are justified. Some people believe that market liberation or the ongoing global economic interactions positively stimulate the gradual progress of perpetual peace, since the increasing interdependence among different states leads to less chance of war. In addition, such a commercial expansion is able to reinforce interdependence among states, which not only prevents possible conflicts among states but also motivates the gradual progress to perpetual peace, or other cosmopolitan ideals. If it is so, then states’ “choiceless choices” of joining the WTO should be advocated in order to approach the cosmopolitan ideal in the long run. Similarly, Petersmann (“The WTO Constitution and Human Rights”) argues for the compatibility between economic freedom and the fundamental human rights, and advocates the constitutional reforms of the WTO,47 which should integrate individuals’ economic rights and human rights into the WTO’s rule of law. Petersmann believes that the legitimacy of such a proposal lies in the protection of individuals’ economic rights as well as basic human rights. Such reasoning may justify the WTO’s coercive regulation of
domestic markets, since trade liberalization as THE tool to respect individuals’ economic rights should be the inherent objective of the WTO.

It is possible that such a paternalistic reasoning would be rejected by Kant, considering his objections to paternalism. However, it does open an important question of whether trade liberalization is an appropriate principle to approach cosmopolitan ideal. To reach a comprehensive assessment of the above question, I need to explain the discrepancy between the theoretical prediction of the comparative advantage theory and empirical evidence drawn from the Chinese soybean market shift. It is difficult to provide such an explanation from the perspective of publicity principle. Thus, in the following section I introduce the notion of change from the I-Ching, and use the interactive relationship between yin-yang to explain such a discrepancy.

5.5.1 The I-Ching and cosmopolitanism

The key idea of the I-Ching is changing or dynamism, which indicates that each entity should not be isolated as a static unit. Similar to “the succession of the seasons,” an individual’s life or the progress of the society is not a simple linear movement but a cyclical movement, which “includes all levels in all dimensions” (Wilhelm Change: eight lectures on the I-Ching 19). The opposite of such a change is a standstill, because it is impossible to conceive any absolute immobility. “As for [the Dao of] change, when one process of it reaches its limit, a change from one state to another occurs. As such, change achieves a free flow, and with this free flow, it lasts forever” (Xici zhuan, part II, 2). Wang Bi states, “If change is allowed to flow freely, it will never be exhausted. This is why it can last forever” (Lynn 78). Another opposite of change is rigidism or
separation. The notion of change highlights the necessity of dynamic interaction among different forces in driving development.

Such a dynamism advocated by the *I-Ching* could be an appropriate approach to address global justice and a good supplement to Kant’s cosmopolitan project. As I indicate in previous chapters, those exclusive models, such as the strong notion of private properties, the rigid legal representation of republicanism as the division of three powers, and a federation with an exclusive membership, are not sufficient to diagnose injustices and approach Kant’s cosmopolitan ideal. Those insufficiencies might indicate possible tensions between the strong notion of separation and Kant’s cosmopolitan ideal and the call for the expansion of Kant’s cosmopolitan project.

As the opposite of separation, rigidism and immobility, the notion of change advocated in the *I-Ching* aims to explain patterns of changing processes. Specifically, each hexagram in the *I-Ching* illustrates certain developmental processes: each line with a different position in a hexagram represents a particular situation at a specific moment. Responding or repelling relationships (“congruent and incongruent relationships”) among those lines constitute a unity of different moments. As I discussed, global injustices, like food insecurity, are not at a standstill, and the plausible analysis of injustices cannot ignore their causes. By incorporating both spatial and temporal dimensions, hexagrams in the *I-Ching* might comprehensively illustrate the evolving process of global injustices.

In addition, by revealing organic relationships between forces in different qualities, say, *yin* and *yang*, the notion of change introduces a general principle to guide a net of relationships, which are features of complicated contemporary society. One of
The biggest challenges to Kant’s cosmopolitanism project is the complexity of the contemporary society. Kant describes different requirements based on various relationships, ranging from the one between fellow citizens and foreigners, citizens and the state, and the state and the state. However, in such a complicated society, more relationships are worthy of notice, such as those between labor and the land, between labor and money, between active citizens and passive citizens, between active citizens and politicians, between politicians and the legal system, between active citizens and the legal systems, and between domestic sovereignty and global governance. With such complexity, contemporary society calls for a more fundamental principle that not only considers the ranging contexts with the extended scopes, but also provides general guidance within such complexity. The wide range of implications of interactive relationships between Yin and Yang could be a good resource to investigate the general requirement for the above net of relationships.

5.5.2 Yin-Yang and the Chinese soybean case

In the I-Ching, an interdependent relationship between yin (the broken line - -) and yang (the solid line —) is described as the main source of change. Based on similarities between yang and capital and between yin and labor, I use the hexagram Qian (乾) to explain the growth of soybean imports in China.

Yin is usually symbolized as passive elements. Yang is usually symbolized as active elements. Just like the polarity relationship between “above and below,” where above and below are not isolated but are interrelated in harmony, the relationship between yin and yang is “the relationship of correspondence” (H. Wilhelm 24). “The
reciprocal process of *yin* and *yang* is called the Dao” (Lynn 53). To illustrate interactions between *yin* and *yang*, the I-Ching creates eight trigrams (three *yin* or *yang* lines) and sixty-four hexagrams (six *yin* or *yang* lines).

For example, with an upper trigram Qian (☰) and a lower trigram Qian (☰), the hexagram Qian (乾 also called “The Creative”) describes the accumulation of an aggressive power through the metaphor of a dragon’s movement.

Hexagram I: *Qian* 乾

First Yang: A submerged dragon does not act.

Second Yang: When there appears a dragon in the fields, it is fitting to see the great man.

Third Yang: The noble man makes earnest efforts throughout the day, and with evening he still takes care; though in danger, he will suffer no blame.

Fourth Yang: Hesitating to leap, it still stays in the depths, so suffers no blame.

Fifth Yang: When a flying dragon is in the sky, it is fitting to see the great man.

Top Yang: A dragon that overreaches should have cause for regret.

All use Yang lines: When one sees a flight of dragons without heads, it is good fortune (Lynn 129-141). The first (or lowest) line shows that the dragon hides itself because of its weak power at the beginning. Lacking the restrictions from *yin*, the force *yang* multiplies rapidly. To make sure that the knowledge from the I-Ching can be easily recognized and understood by the general public, the power development of *yang* is described as the movement of a dragon, which experiences stages of “appearing in the field,” “[being] active and vigilant all the day,” “leaping up but still in the deep,” and
“[flying] on the wing in the sky” (Legge). Like a flying dragon, the force *yang* eventually gains the maximum energy but “exceeds the proper limits” in the sixth (or the top) line where the dynamic equilibrium among forces is disturbed. “A state of fullness ... should not be indulged in long.” That is to say the aggressive force without any restrictions is unstable and is at a high risk of destroying itself. Thus, to avoid the over-strong unstableness, *Yin* is required to increase its powers to regulate *Yang*. The peaceful and harmonious status, described in the *I-Ching*, is in the hexagram Tai (☶ Peace) with a lower trigram Qian (☰) and an upper trigram Kun (☷). As explained in the *Tuan*, “[in Tai] there will be good fortune with progress and success” because of the free and smooth communication between heaven and earth (*Yin* and *Yang*). However, when *Yin* is extremely aggregated without restriction, as described in the sixth (top) line of the hexagram Kun (☷ Receptive), a violent fight between *Yin* and *Yang* will occur, resulting in injury to both. To re-achieve the harmonious relationship, *Yin* and *Yang*, this set of complimentary opposites, is required to change again. Accordingly, a continuous and dynamic progress of events or the universe is driven by those changes of *Yin* and *Yang*.

There are several similarities between *yang* and capital and *yin* and labor. For example, *yin* is usually symbolized as “the mare,” the mother, and Earth. Like the mother who gives birth to a new life, labor is the actual producer of the production. In contrast, *yang* is usually symbolized as “the dragon,” the father, and Heaven. Similar to *yang*’s aggressive power, capital is the major driving force of the productivity development. Like *yin-yang*, the coexistence of capital and labor is necessary for production. Each labor
makes its unique contribution to the production, while the growth of the production
would be delayed without the flow of capital.

Some similar features between *yang* and capital can be summarized as follows:

1. Similar to *Yang’s* masculine strength, capital is a powerful means to promote
   production.
2. Similar to *Yang’s* far-reaching feature, capital is involved in all social
   relations and commercial activities.
3. Similar to *Yang’s* actively changing feature, the creation of abstract credit
   helps capital transcend the earlier barter exchange.
4. Similar to *Yang’s* dynamism, the transfer of capital is easy and fast.
5. Similar to *Yang’s* aggressive power, capital is the major driving force of the
   development of productivity.

Some similar features between *yin* and labor can be summarized as follows:

1. Like the mother, labor is the actual producer of the production.
2. Compared to *yang*, *yin* seems to be weak. Similarly, workers have weaker
   positions than capital in controlling production.\(^52\)
3. Different from *Yang’s* aggressive power, *yin* is always described as being
   defensive. In most cases, employment is determined by the existence of
   capital or investment.
4. In the global exchange, the flow of labor is highly restricted by national
   boundaries or other factors, while capital takes advantages from its super
   mobility.
Based on above similarities, I use the hexagram Qian (乾) to identify several successive stages of soybean import growth in China.

1). The stage before trade liberalization

As the home of the oil crop, China has cultivated soybeans for 5,000 years, and had been a major producer and net exporter of soybeans prior to the 1995/1996 year. Before trade liberalization, restrictions on international trade and capital flows suppress capital mobility. Walker explains the “mobility of capital” in the way that “capital may use location as a strategy against labor, local development becomes more dependent on outside capital” (“Two Sources of Uneven Development”). Within relatively isolated markets, the labor-intensive soybean production has supported a wide range of soybean usage for the ancient Chinese no matter whether they were poor or rich (Huang; Tan). The small-scale family farming largely constituted China’s self-sufficiency in soybeans until 1995 (see fig. 3).

2). The early stage of trade liberalization

Under its accession agreement with the WTO, China’s tariffs on soybean, soybean meal, and soybean oil has been reduced to 3%, 5%, and 9% respectively (fsa.usda.gov, “Oilseeds”). These trade liberalization policies largely release restrictions for capital flows. Like “a submerged dragon,” Yang’s actively changing feature is about to emerge. Within international trade, the transfer of capital becomes easier and faster. Easy electronic transfer of capital between banks facilitates capital’s super mobility, which leads to capital’s advantageous role in international production. Compared to imported soybeans from large-scale and capital-intensive production methods, domestic
soybeans from small-scale family farms have some inherent disadvantages, such as higher production costs and a lower rate of oil extraction, resulting in it being less popular among soybean processing plants in China. The cost of transporting soybeans from the northeast (its main soybean production areas) to eastern southeastern coastal provinces (its main soybean crushing plants areas) within China by rail is comparable or even higher than the cost of shipping them directly from the United States (Tuan, Cheng Fang, and Zhi Cao). On the other hand, some advantages of domestic soybeans over imported GM soybeans, including the high protein rate and being non-transgenic, have not been explicitly recognized in the market.

In addition, like “a submerged dragon,” transnational agribusiness firms used good services and the reasonable prices of imported soybeans to attract domestic crushers’ interests at the early stage of liberalization. The growth of soybean imports at this stage brought a high soybean crushing margin, a strong indicator of profitability for crushers, and stimulated the expansion of China’s downstream soybean oil processing industries. Around 18% of the soybeans in China were used for crushing during the 1980s, but 40.18% were used in 1990/91, 74.00% in 2003/04, and 84.46% in 2011/12 (see fig.5).
Figure 5: Soybean use in China 1980/10-201274/06 and USDA forecast for 2012/2013

Note: Crush use percentage = (Crush/domestic consumption)*100
Food use percentage = (Food use/domestic consumption)*100
Feed Waste percentage = (Feed Waste/domestic consumption)*100
Above percentages are calculated from USDA data (See appendix 2).

3). Mergers and acquisitions of competitors

The booming development of domestic soybean crushing industries in China was halted by the “2004 Chinese soybean crisis.” Schneider describes “2004 Chinese soybean crisis” in the following passages:

Chinese Prime Minister, Wen Jiabao, made a trip to the US and promised to send delegates the next year to purchase agricultural products, primarily ‘non-strategic’ soy and cotton. The monthly average soybean future price on the Chicago Board of Trade (CBOT) at the time of Prime Minister Wen’s visit was $7.70 USD per bushel. In March and April of 2004, when Chinese buyers arrived in the US to make the bulk of soy purchases as per the previous agreement, the
price of soybeans had skyrocketed to $9.82 and $9.89 USD per bushel respectively. Average April prices in 2003 and 2005 were $6.04 and $6.23 USD per bushel respectively, so the almost $10 USD per bushel price was an anomaly.

When deliveries and payments came due from the Chinese buyers in June, July and August of 2004, the price of soybeans had tanked to $5.93 USD per bushel. Rather than incur losses from the radically different per-bushel price at the time of purchase and the time of delivery, many Chinese importers defaulted on their contracts. Angry traders took the case to arbitration at GAFTA (Grain and Feed Trade Association) in London. Because price fluctuations are perfectly legal under the international pricing system based on CBOT futures, but defaulting on trade contracts is not, the final ruling was against the Chinese crushers. They were required to fulfill their contracts and pay for soy shipments at the abnormally high March and April prices. A Chinese Academy of Science study estimated that Chinese crushers overpaid for this soy by a margin of at least $1.5 billion USD. (Schneider “Feeding China’s Pigs”)

Because of the unexpected price drop, most Chinese crushing plants were facing a dilemma: either go bankrupt or receive an investment from foreign companies. “ADM, Bunge, Cargill and Louis Dreyfus bought over 70 percent of the shut-down Chinese Crushers, and Singapore-based Wilmar also increased its market share at that time” (Schneider). After the 2004 soybean crisis, the amount of Chinese crushing plants dropped from 1,000 to around 90, 64 of which and 85% of crushing capacities were controlled by foreign companies in 2006 (Liu, Yang). As to the foreign companies, their
control of China’s processing capacities guarantee the sale of their own soybeans but also further impede China’s domestic soybeans distribution and production, which is why the foreign companies continued making large investments in China’s soybean processing industries when the soybean crushing margin was low or negative (JCIASCMC, Bloomberg).

The “2004 Chinese soybean crisis” also illustrates the asymmetric mobility between capital and labor. Sharing Yang’s far-reaching feature, capital flows everywhere, from production, processing, distribution, to selling. However, even with domestic trade, the flow of labor across different sectors, or across geographical boundaries is still restricted by many factors, such as the demand of certain jobs, requisite skills, and geographic memberships. As for the demand of jobs, employment is usually determined by the existence of capital. That is to say capital to a large extent creates the demand for certain types of jobs. Then, similar to yin’s defensive features, labor is passively waiting for a new employment opportunity in most cases. The low profit of farming stimulates the migration of a considerable number of Chinese farmers to other sectors of production, such as manufacturing. With global exchange, such asymmetric mobility becomes larger. The labor flow is highly restricted by national boundaries or other factors, while capital takes advantages from its super mobility.

4). Monopolistic competition

Multinational corporations’ monopolistic control over of processing industries progressively monopolizes their advantageous positions in the upper levels of goods and resources. Just like “a flying dragon in the sky,” the giant corporations are maximizing
their powers with a high level of concentration in either processing industries or production, and are able to manipulate the competitive market and even exploit consumers.

Labor’s vulnerable position has largely been exacerbated by globalization because of mobility differentiations between capital and labor. Granted by global trade liberalization, the freedom to choose domestic or foreign labors largely empowers the owners and controllers of capital. Then, large transnational corporations with the large-scale mass production and the highly intensive capital investment are able to take advantage of both efficiencies of scale and declining wage costs. However, the existence of unemployment in developed countries and the shortage of “collective bargaining” for occupations in developing countries all indicate that labor does not take comparable advantages from the increasingly “monopolistic competition” in the global market.

For example, as “the largest importer of soybeans in China,” Wilmar International Limited (Wilmar) is “the leading oilseeds crusher” in China.” As of 31 December 2011, its China subsidiaries had 50 oilseeds crushing plants in China, and its associates had 14 crushing plants in China (Wilmar Annual Report 2011). With growing domination of upstream production and processing, giant international agribusinesses are controlling the downstream consumption. Wilmar is “the largest producer of consumer pack edible oils with approximately 50% market share” in China. In 2011, its market share of consumer pack edible oils in China is increased by 5% from the previous fiscal year (Wilmar Annual Report 2010-2011). Its Arawana brand 金龙鱼 is the most competitive consumer pack edible oils brand in China. In FY 2011, its annual revenues in China reached US
$21.7 billion, a 36.4% increase from the same period in 2010 (see fig. 6). Its global net profit is $1 billion in FY 2011 (see fig. 7).

Having a 16.4% ownership interest in Wilmar International Limited (Wilmar), Archer Daniels Midland (ADM)’s net sale profit is US $620 billion and its net profit is US $19 billion in FY2010 (ADM “Annual Report 2011”). Its daily processing capacity is “66 thousand tons of corn,” “95 thousand tons of oilseeds,” and “28 thousand tons of wheat.” It process “20% US corn, 20% US soybean and 30% US wheat” (“ADM in China”). As to the total oilseeds processing, its sales and operating profit in FY 2010 reaches US $26.7 billion (see fig. 8).

Figure 6: Wilmar International Limited’s revenues in People’s Republic of China (PRC) 2005-2011

Figure 7: Wilmar International Limited’s net profit 2005-2011

Wilmar International Limited’s net profit 2005-2011 (US$ million dollars)


Figure 8: Archer Daniels Midland (ADM)’s sales and operating profit in total oilseeds processing (in millions of dollars)

Note: Total Oilseeds Processing includes crushing, origination, refining, packing, biodiesel&other.
5). The unstable future

Similar to Yang’s actively changing feature, the creation of abstract credit helps capital transcend the earlier barter exchange. The monetary innovation of credit provides less restriction to the accumulation of capital, because abstract credit is able to create new capital based on “negotiable papers.” With this new feature, capital multiplies much more rapidly in the liberalized global trade. However, if the aggressive power “[only] knows how to advance but not know how to retreat, knows how to preserve life but not how to relinquish it, knows how to gain but not how to lose,” the disaster would come from “the exhaustion of resources” (Lynn 139). That is why “a regretted dragon” would follow “a flying dragon.” Confucius explained the reason for regret is that “one might be ... lofty yet lack support from the general public, or lack assistance from virtuous and wise men.” This statement seems to indicate that if multinational corporations ignore the demands of smaller sized competitors for survival, stressed labors for respectable jobs, unsatisfied consumers for healthy and affordable food, then unstable statuses that might destroy themselves will follow, such as restless conflicts from the scarcity of resources and hopeless tension from collapsed trustworthiness. The 2008 financial crisis has already indicated that capital’s despotic powers without any restrictions would defeat itself. Similarly, the large-scale food safety problems and massive destruction of natural resources, which both originate from a greed for profits, cast a shadow on the features of the human species. The soaring grain prices driven by the current 2012 US drought is starting a series of chain reactions in the China food system, including “higher costs for
animal feed,” possible skyrocketing prices of edible soybean oil, food inflation of a wide range of products, and social unrest (Pierson, *Los Angeles Times*).\(^{56}\)

### 5.5.3 Yin-Yang and trade liberalization

Based on the above analysis, I argue that theoretical predications from the WTO, which sees a non-zero-sum game in global trade liberalization ignores mobility differentiations among the factors of production, such as land, capital, skilled and unskilled labor, and technological capacities. Since my interest is in analyzing China’s soybean case, I will focus on the exchanges between nations rather than within a nation. According to trade comparative theories, countries’ comparativeness of different sectors at the global level is determined by its production factors. Generally, developed countries’ comparative advantages are capital, while developing countries’ are cheap labor. Then, abstractly, the trade model between developing countries and developed or industrialized countries is that developed countries exchange money for cheap labor, while developing countries exchange labor for money. Absent external obstacles, a perfect free exchange between nations is predicated by traditional economists to be advantageous both to the exchanging parities as whole and to each separately. The theories assert that there would be an increase of labor-intensive workers in developing countries and an increase of skilled/capital intensive workers in developed countries after trade liberation. On the average, the increasingly complicated international division of labor from trade liberation would benefit all involved *because* it would effectively increase the overall production.
From another perspective, countries’ exporting-competing sectors or import-competing sectors also illustrate the competitiveness of different sectors. China’s shift from exporting to importing soybean after agricultural liberalization shows that China’s loss of comparative advantage in soybean plantings because trade liberalization promotes the growth of highly productive multinational corporations in foreign markets. It is true that the loss of agricultural competitive advantage relocated million of Chinese farmers from their family land to urban cities as free flowing labor, such as workers in manufactured factories. It is also true that China became the country with the largest number of factories in world after the trade liberalization and the third largest merchandise trader. However, similar to its agricultural sectors, China’s manufacturing sectors also face the challenge of the expansion of highly productive plants and a shrinking of the smaller-sized plants. As a result, foreign-invested enterprises account for more than half of its merchandise exports. More observed realities show the expansion of highly productive producers, such as giant corporations, which destroy the smaller producers that range from labor-intensive industries to capital-intensive industries. The tendency of big corporations to dominate any sector differs from traditional theories’ assertions about reshuffling the labor market across sectors. According to the *World Investment Report 2012 (WIR 12)* provided by the United Nations Conference on Trade and Development (UNCTAD), global foreign direct investment (FDI) “rose by 16 per cent in 2011 to $1,524 billion.” “Cross-border M&As [merger and acquisition] rose 53 percent in 2011 to $526 billion.” Transnational Corporations’ profits continue to increase from 2010 to 2011 (Figure 1.8 *WIR12*). According to *WIR11*, “[transnational
corporations] TNCs’ production worldwide generated value-added of approximately $16 trillion in 2010, about a quarter of global GDP. Foreign affiliates of TNCs accounted for more than 10 percent of global GDP and one-third of world exports” (UNCTAD). The flow of FDI has largely shaped the structure of both the local and global labor markets. “The share of global employment in agriculture has continued to fall. The share of industrial employment has remained constant. ... The share of employment in services increased throughout the world” (ILO& WTO Trade and Employment). In its Global Employment Trends 2012, International Labour Office (ILO) estimates that “the world faces a challenge of creating 600 million jobs over the next decade” to “maintain social cohesion,” but ILO’s baseline projection is not encouraging. It predicates “a total of 200 million” unemployed in 2012, “rising to 206 million by 2016.” Those increases in the unemployment rates, deterioration in employment quality along with the Chinese soybean case show that trade liberation is a win-lose policy rather than a win-win game, as it is described by traditional economists.

5.5.4 Suggestions for the Chinese soybean case

An appropriate relationship between Yin and Yang is described in the hexagram Tai (Tai) [peace] (Lynn 205). “Those above and those below interact perfectly, and their will becomes one. The inner trigram is Yang and the outer trigram is Yin.” “Originally Qian [as Heaven] is above, and Kun [as Earth] is below, but when one obtains the hexagram Tai, one finds that the former has descended, and the latter has risen” (Tuan zhuan) (Lynn 205).
The hexagrams *Tai* might indicate that the priority of the labor market to the trade market for stable societies could be derived from an appropriate interaction between *yin* and *yang*. Improving labor standards, controlling the unemployment rate, providing reasonable unemployment benefits, starting intensive job security legislation, and granting collective bargaining rights are all more important to the stability and happiness of the whole society than the increase in GDP or a trade surplus.

Three possible suggestions for the WTO or the trade liberalization based on the interactive relationships between *Yin* and *Yang* can be presented:

1. The most practical: regulating capital investment from developed countries to developing countries.

2. The second most practical: migrating a certain quota of labor as the condition for exchange of a certain amount of foreign investment.

The most ideal but least practical: liberalizing the global labor market along with the liberalization of the trade market. The general idea behind these three suggestions is to achieve a relative balance between capital and labor, such as the equal degree of mobility between capital and labor, or to correct the current dominance from capital over labor either from its super mobility or other aggressive features. In order to achieve the desirable, peaceful and interactive status described in the Hexagram *Tai*, two general directions for the global trade market are followed: first, granting labor the relatively equal mobility or other advantages as capital; second, regulating capital with similar restrictions as labor.
The ideal situation is to achieve conditions of the complete/perfect mobility of capital and of labor within the nation or across nations. With the perfect degree of mobility for both labor and capital, the global market might have a chance to resemble the model underneath comparative advantage theories and to reach ideal equilibrium where effects from the capital investment from developed countries to developing countries would naturally be balanced by effects from the migration of labor. This ideal model based on the perfect mobility of capital and of labor is also compatible with the well-accepted assumption behind globalization or cosmopolitanism that integration, rather than isolation, will promote peace. National boundaries might be blurred by largely intensive interactions between foreigners and locals, and accordingly more global norms about social policies, labor standards, human and animal rights, environmental concerns or global consumers’ preferences might be naturally demanded and widely accepted. Such a global structure might be closer to Kant’s cosmopolitan ideal of perpetual peace constructed. However, considering the current world political structures and historical heritage of national identities, I have to admit tremendous obstacles to this suggestion, which is far from practical at this moment.

Based on similar reasons, a less radical suggestion is to allow developing countries to hold liberalizing developed countries’ labor market in exchange for a condition of liberalizing their own trade markets. The increased efficiency advocated by trade liberalization inevitably leads to some individuals being worse-off. Merely controlled by the market, some individuals have to give up their life-long skills to start new professional preparations as the result of their battles with TNCs. The shrinking
agricultural employment and the increasing global unemployment rates reflect the free
market’s disrespect of individual’s unique contribution to the production and the market’s
zeal for capital accumulation. Although migration could destroy individuals’ attachments
to their homelands or local communities, granting workers the right to migrate at least
could provide some opportunities for those workers to use and develop their skills and to
receive certain incomes. There still remain huge wage disparities between workers in
developing countries and those in developed countries. The asymmetrical openness of
current trade policies and migration polices during globalization (Faini, “Trade
Liberalization in a Globalizing World”) would not help decrease the global wage
inequalities, but only further TNCs’ monopolistic control in natural resources by taking
advantages of both lower labor costs and cheaper raw materials. Take US immigration
policy for example. The current annual cap on the H-1B visa category is 65,000
(uscis.gov). H-1B visas grant nonimmigrant aliens the right to work in America. It aims
to attract high-skilled workers, and therefore it generally requires a bachelor’s degree
(dol.gov). Considering developing countries’ disadvantages after trade liberalization, the
WTO could allow countries to introduce labor migration policy into its multilateral or
bilateral negotiations. That is to suggest that during the multilateral or bilateral
negotiations, if some developed countries want to enter some developing countries’
markets; such as goods, service, or financial markets; those developing countries would
be allowed to offer the condition of allocating certain quantities of labor to the developed
countries as bargaining terms. A common objection to labor migration is that migrating
workers would take the native workers’ jobs. However, loosening restrictive immigration
policies might not necessarily be a zero-sum game, since liberalizing the labor market has
the chance of developing individuals’ talents and creating jobs.

If the above suggestion still faces tremendous practical obstacles, such as arbitrary
decisions of officials or calculation difficulties (Hoekman and Kostecki 150), more
regulation of foreign direct investment (FDI) in the context of the WTO is the third
suggestion. For example, developing countries or even developed countries are allowed
to link tariffs or direct taxes to foreign capital entering their countries. Since the easy
flow of FDI has largely facilitated the expansion of multinational corporations in the
global realm, more regulations about cross-border investment are needed to correct
injustices. Setting restrictions on the flow of capital across nations is relatively effective
way to mitigate capital’s current dominance over general global labor, and to restore the
general balance between capital and labor in the global market. Considering the
possibility of tax competition, those regulations call for a wide range of cooperation from
nations. It will not substantially disturb a foreign investor’s incentives, because the flow
of capital is the driving force of the economy. Returning a certain share of foreign profits
to the domestic economy not only ensures a sufficient investment to stimulate the market,
but also provides some basic security for domestic economies to further their production
of commodities or improve domestic labor markets.

6. Conclusion

The implications of my dissertation are not limited to China’s soybean markets or
soybean farmers impacted by the WTO. Farmers in China and the United States are more
similar than most people expect. Their individual experiences under the WTO rules are
unique but have many elements in common. Their vulnerability and lack of independence when facing “choiceless coercion” from multinational corporations impose the urgency of inquiring about individuals’, states’, and global institutions’ obligations in rectifying injustices, both in local and global domains.

To answer above questions comprehensively, we cannot ignore possible connections and tensions within various types of relationships, ranging from theory and practice, freedom and authority, the insiders and the outsiders, individuals and the state, the state and the state, and domestic and global governance. An appropriate response calls for a constructive convergence of these tensions, such as those between ideal theories and empirical limitations, individuals’ freedom to choose and be constrained, individuals’ natural inclination to a particular will and their obligations to obey the general will, the state’s internal sovereignty and its interaction with other states.

One way to approach cosmopolitan ideals, say, a peaceful earth is to identify those barriers in having regard for individual behaviors, public policies and institutional designs. By setting boundaries among individuals, the creation of property rights, legislative, administrative, juridical powers, and global institutions do help us live cooperatively. However, is acting legally equal to acting justly? An individual’s rigid dependence on laws without any reflection undermines the legitimacy of those authorities, which are granted by the united will of individuals. In addition, considering the complexity of practical issues in the changing world, any legal system, no matter how well-defined, inevitably faces institutional defects, which leads to its insufficiency of diagnosing injustices.
Not limited to revealing the limitations of passive dependence on legal systems, my dissertation also aims to construct a coherent Kantian justice in terms of his publicity principle. After revealing those insufficiencies of “publicity as mutual knowledge” and “publicity as general consent” in identifying injustices, I advocate for publicity as negotiable consent, which poses a mixture of bottom-up and top-down restrictions. By appealing to publicity as negotiable consent, we could provide the corresponding expansions of Kant’s cosmopolitan right, republicanism, and a federalism of free states.

Specifically, negotiable consent as the implication of respecting individual freedoms indicates people’s “legislative authorities,” but also entails active citizenship. Increasingly interdependent arrangements between foreigners and strangers in the Chinese soybean case call for the need to expand active citizenship to the globalized community. As a condition for appropriate relationships between foreigners and strangers, cosmopolitan rights are compatible with active world citizenship, which flexibly connects multi-faceted or multi-leveled problems. Similar to the insufficiency of the strong exclusive notion of property rights as the ground of international justice, Kant’s republicanism limited to merely the legal division of the three branches is not sufficient to prevent despotism, considering the prevalence of lobbying industries, and therefore, it challenges Kant’s republicanism as an appropriate condition of the internal peace. The complexity of human motivations, say, the vague overlap between a particular will and the general will, calls for the consideration of interpersonal relations as an expansion of Kant’s republicanism, which could include active citizens and moral politicians. With those shared assumptions, cosmopolitanism as active world citizenship
and expanded republicanism are compatible in Kant’s political philosophy. However, because of asynchronous development of active citizenship and active world citizenship, global governance is needed to approach the external peace of states. Correspondingly, Kant advocates a federalism of free states/ a voluntary federation of states rather than a world republic as a realistic stage in preventing despotism. The WTO is such a league of states, but as the Chinese soybean case illustrates, this federation has despotic features. By reintroducing Kant’s publicity principle to diagnose the legitimacy of the WTO, I argue that the WTO’s exclusive club membership and strict accession conditions possibly undermine the legitimacy of a federalism of free states/voluntary federation of states with regards to its membership expansion.

A more comprehensive convergence between theoretical demands and practical construction of the WTO should address connections between trade liberalization and the cosmopolitan ideal. It is difficult to provide an explanation from the perspective of the publicity principle about the discrepancy between theoretical predictions from the WTO, which sees a non-zero-sum game in global trade liberalization, and empirical evidence in the Chinese soybean case. By appealing to the I-Ching, I present the dynamic balance of Yin (a defensive force) and Yang (an aggressive force) as an innovative model for the interaction between capital and labor in the context of global justice. The interdependent yin-yang indicates that such a discrepancy has resulted from the WTO’s neglect of mobility differentiations among the factors of production. At the end of my dissertation, an appropriate capital-labor relation prescribed by yin-yang leads to practical suggestions for the WTO.
An analysis of the *I-Ching* can substantially augment the analysis of the Kantian theory of justice, since the introduction of *yin-yang* could further our comparisons between a division model and a more inclusive pattern. It could also derive similar implications with publicity as negotiable consent for global justice because of some shared structural features, such as emphasizing two dimensional interactions. Specifically, Kant’s cosmopolitanism as active world citizenship is compatible with an individual development prescribed by the *yin-yang* relationship. As described in the *I-Ching*, an individual development is not rigidly following certain “external, normative principle that imprints itself upon [individual],” but an active progress, which is spontaneously taken place by an individual’s inner tendency. During such progress, the distinction between external freedom and internal freedom are diminishing. This type of individual development is similar to Kant’s account of active citizenship, in which he advocates for an individuals’ gradual progress of participating in political activities. Being active, individuals are not merely motivated by external sanctions, but by the mixture of external and internal freedoms, which include individuals’ inner recognition of the general will and freedom to choose and act on specific ideas. Similarly, the *I-Ching* does not force individuals to follow external rules, but indicates a guideline from which we naturally grow and mature.

As to the public-politician relationship, “publicity as negotiable consent” not only promotes individual’s abilities and possibilities to dissent or consent, but could also generate moral requirements on legislators and politicians. Specifically, “publicity as negotiable consent” requires legislators’ considerations of individual’s practical
situations, say, taking individuals’ particular abilities, preferences, needs, and desires into account when they assess or determine possible policies. Similarly, the ultimate goal of an individual development in the *I-Ching* is a gentleman’s commitment to politics and actual participation in political decision making. For example, the general principle of hexagram *Qian* also illustrates the development of a gentleman (*Junzi*): “He fosters his virtue by being loyal and trustworthy; he keeps his task in hand by cultivating his words and establishing his sincerity” (Lynn 135). Being conscious, responsible and reflective, a gentleman (*Junzi*) advocated by *yin-yang* would be supported by Kant’s requirements about politicians being moral politicians.

A classic Chinese story about King Yu, a representative of gentleman (*Junzi*), illustrates a possible convergence between active world citizens and moral politicians. As to the river dispute among several regions, it is common to build a dam to control water, but King Yu managed the flood using a different approach, which could be supported by active world citizenship and moral politicians.

During the time of Yao, the waters overflowed and flooded the Central States. Snakes and dragons dwelled there. The people had nowhere to settle. On lower ground, they made nest in trees; on higher ground, they made dwellings in caves. ... Yu were directed to bring order to it. He dredged the earth from the rivers and guided the water to the sea. He drove the snakes and dragons away and banished them to the marshes. The water flowed between the channels, making the Yangtze, Huai, Yellow, and Han rivers. When the flooding had receded, and attacks by animals had been eliminated, only then did the people live on the
plains. But after Yao and Shun passed away, the Way of the sages decayed. Cruel rulers arose one after another, destroying homes to make ponds, so that people had nowhere they could rest. They made people abandon the fields so that they could be made into parks, so that the people could not get clothes and food. Evil doctrines and cruel practices also arose. As parks, ponds, marshes, and swamps became more numerous, the animals returned. By the time of Tyrant Zhou, the world was again in complete chaos.” [Mengzi 3B9]

Bo Gui said, “I excel even King Yu in water management.” [Under Bo Gui’s guidance, a state had built dams to redirect the flow of rivers.]

Mengzi replied, “You are mistaken, sir. In water management, King Yu followed the Way of Water. For this reason, King Yu had the Four Seas as his reservoir. But you only have neighboring states as your reservoir. Opposing the course of the water is what led to the ‘overflowing waters.’ The ‘overflowing waters’ were the flooding waters.” [Mengzi 6B11]

Although the story about King Yu is full of mystery and the ecosystems related to water resource management is full of complexity, at least a simple indication of this story can be made: King Yu could be an ideal active world citizen, who strives to achieve the general flourishing of all human beings rather than to merely promote a particular state’s interest. On the other hand, as a model of politicians, King Yu does inspire generations of Chinese, including Confucius, to participate in political activities.

The advocacy of active citizens and moral politicians does not undermine the importance of legal systems, but instead highlight individuals’ critical assessment of laws.
and their active ability of revising unjust laws. The progress of rectifying global injustices related to trade liberalization, especially within the context of a zero-sum game indicated by yin-yang, requires the deep integration among individuals, politicians, and legal systems. The correspondence among those aspects constitutes the cosmopolitan progress, which can be illustrated by human organ’s contribution to the wellness of a whole body. The human body is the whole of numerous body systems and organs. The coordination among those systems or organs constitutes the whole body. Each system/organ positively or negatively impacts each other. A problem in one organ will lead to a deterioration of other organs, or even death. For example, “swallowing problems can lead to malnutrition, respiratory problems, tooth decay, nasal regurgitation, and compromised health” (Blake and Harkins 76). That is why each system or organ is responsible for the whole healthy body. Similarly, individuals’ active participation, politicians’ inspiring role, and well-developed legal systems are indispensable to genuinely approach the cosmopolitan ideal.

The need for deep integration of above aspects can be reaffirmed by the Chinese soybean case. In response to the shift in the Chinese soybean market, in 2011, a high-protein soybean specialized farmer cooperative (黑龙江省讷河市优质高蛋白大豆种植专业合作社联合社) was formed in Nehe City, Heilongjiang Province. Among 446,000 farmers cooperatives in China, with 30,000,000 member farms till the end of June, 2011, Nehe high-protein soybean farmer cooperative (also called Shibajia 十八嘉联合社) is a voluntary federation of 18 farmer cooperatives, with 16 director members, 8 staff, 7,560 member farms, and 28,720 soybean farmers. Farmer cooperatives in China are regulated
by the Law of People’s Republic of China on Specialized Farmers Cooperatives, which were implemented in 2007.

According to its article 3 among 56 articles,

(1) Their members are mainly farmers; (2) They aim to serve their members, working for the common interests of all the members; (3) The members join the cooperatives voluntarily and are free to withdraw from them; (4) The members are equal in status and democratic management is practiced; and (5) Profits are to be distributed mainly in proportion on the volume (amount) of the transactions effected between the cooperatives and their members. (china.org.cn )

Complying with the same law, farmer cooperatives vary largely in accordance with their operational, management, governance structures and distribution policies. Although farmer cooperatives are designed to enhance small-scale farmers’ market competitiveness, numerous factors could lead to farmers’ disinclination to join cooperatives, ranging from farmers’ limited knowledge of cooperatives, indeterminate revenues, disparities in powers between large shareholders and small shareholders, and the lack of leadership to the incidence of corruption. These are reasons why only 78 out of around 200 cooperatives in Nehe City are still operating. As a profitable farmers cooperative, Nehe high-protein soybean farmer cooperative (Shibajia) with total 196.800 mu lands and the total production of 30,000 tons, has successfully reduced costs by 2754,000 RMB for its members at the beginning of 2011 by lowering the number of middlemen (Zhu 朱). The cooperative has registered “Shibajia” as a trademark for their high-protein non-GM soybeans, in order to form a distinct market from the one
dominated by imported GM soybeans. The success of Shibajia affirms my conjecture that large-scale capital investment could bring market competitiveness to cooperatives. However, as illustrated in the case of Chinese soybeans, the governance of large-scale organizations has the risk of being despotic considering the limitations of legal systems in a changing and complex world. In addition, the accumulation of profits along with the large scalization could bring the increasing gap between large shareholders and small share holders, which is a key challenge to the appropriate distribution within cooperatives. Thus, even for the lower level governance, say, farmers cooperatives, there is a dilemma between scalization and governance, which calls for deep integration among individuals, politicians, and the laws, as I recommended to global governance.

By emphasizing two dimensional interactions, both “publicity as negotiable consent” and organic relationships between yin-yang, enrich an account of Kantian justice in the way that deep integration among individuals, politicians, and the laws is required to rectify contemporary injustices and to approach cosmopolitan ideal. Such deep integration energizes Kant’s political philosophy as a dynamic theory which is continually responding to the uncertain, complicated, but practical issues.
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Francis C.Tuan, C. F., and Zhi Cao China's Soybean Imports Expected to Grow Despite Short-Term Disruptions.


Solomon, A. "China's WTO accession to significantly boost U.S. agricultural exports ".


Appendices

Appendix 1: China’s oilseed soybean production, supply and demand 1980/10-2012/06 and USDA forecast for 2012/2013 (Thousand Metric Tons)

<table>
<thead>
<tr>
<th>Year</th>
<th>Area Harvested</th>
<th>Production</th>
<th>Imports</th>
<th>Exports</th>
<th>Net Trade</th>
</tr>
</thead>
<tbody>
<tr>
<td>1980/81</td>
<td>7,226</td>
<td>7,940</td>
<td>540</td>
<td>143</td>
<td>-397</td>
</tr>
<tr>
<td>1981/82</td>
<td>8,024</td>
<td>9,325</td>
<td>530</td>
<td>110</td>
<td>-420</td>
</tr>
<tr>
<td>1982/83</td>
<td>8,419</td>
<td>9,030</td>
<td>30</td>
<td>320</td>
<td>290</td>
</tr>
<tr>
<td>1983/84</td>
<td>7,567</td>
<td>9,760</td>
<td>0</td>
<td>800</td>
<td>800</td>
</tr>
<tr>
<td>1984/85</td>
<td>7,286</td>
<td>9,695</td>
<td>0</td>
<td>1,080</td>
<td>1080</td>
</tr>
<tr>
<td>1985/86</td>
<td>7,718</td>
<td>10,590</td>
<td>280</td>
<td>1,260</td>
<td>980</td>
</tr>
<tr>
<td>1986/87</td>
<td>8,295</td>
<td>11,614</td>
<td>190</td>
<td>1,750</td>
<td>1560</td>
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<tr>
<td>1987/88</td>
<td>8,445</td>
<td>12,184</td>
<td>208</td>
<td>1,482</td>
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<tr>
<td>1988/89</td>
<td>8,120</td>
<td>11,645</td>
<td>33</td>
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<td>9,710</td>
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<tr>
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<td>150</td>
<td>300</td>
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<tr>
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<td>125</td>
<td>1,100</td>
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<tr>
<td>1994/95</td>
<td>9,222</td>
<td>16,000</td>
<td>155</td>
<td>394</td>
<td>239</td>
</tr>
<tr>
<td>1995/96</td>
<td>8,127</td>
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<td>795</td>
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<td>2003/04</td>
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<tr>
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<td>9,591</td>
<td>16,350</td>
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<td>2008/09</td>
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<tr>
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<td>59,500</td>
<td>250</td>
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Appendix 2: China’s soybean consumption 1980/10-2012/06 and USDA forecast for 2012/2013 (Thousand Metric Tons)

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Supply</th>
<th>Crush</th>
<th>Food Use Dom. Cons.</th>
<th>Feed Waste Dom. Cons.</th>
<th>Domestic Consumption</th>
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<tr>
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<td>1,523</td>
<td>6,092</td>
<td>722</td>
<td>8,337</td>
</tr>
<tr>
<td>1981/1982</td>
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<td>6,092</td>
<td>718</td>
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<tr>
<td>1982/1983</td>
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<td>1,612</td>
<td>6,449</td>
<td>679</td>
<td>8,740</td>
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<tr>
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<td>1,662</td>
<td>6,647</td>
<td>651</td>
<td>8,960</td>
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<td>1,724</td>
<td>6,193</td>
<td>698</td>
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<td>5,690</td>
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<td>1987/1988</td>
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<td>5,450</td>
<td>722</td>
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<td>4,375</td>
<td>5,347</td>
<td>747</td>
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<td>1989/1990</td>
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<td>3,695</td>
<td>4,682</td>
<td>744</td>
<td>9,121</td>
</tr>
<tr>
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<td>3,903</td>
<td>5,060</td>
<td>750</td>
<td>9,713</td>
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<td>1991/1992</td>
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<td>3,389</td>
<td>4,617</td>
<td>750</td>
<td>8,756</td>
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<tr>
<td>1992/1993</td>
<td>10,450</td>
<td>4,486</td>
<td>4,850</td>
<td>814</td>
<td>10,150</td>
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<tr>
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<td>5,585</td>
<td>1,145</td>
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<td>7,470</td>
<td>5,570</td>
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<td>14,073</td>
</tr>
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<td>5,750</td>
<td>1,059</td>
<td>14,309</td>
</tr>
<tr>
<td>1997/1998</td>
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<td>8,450</td>
<td>5,912</td>
<td>1,110</td>
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<tr>
<td>1998/1999</td>
<td>22,020</td>
<td>12,607</td>
<td>6,212</td>
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<td>1999/2000</td>
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<td>6,180</td>
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<td>18,900</td>
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<td>1,575</td>
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<td>20,250</td>
<td>6,500</td>
<td>1,560</td>
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</tr>
<tr>
<td>2002/2003</td>
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<td>26,540</td>
<td>7,000</td>
<td>1,750</td>
<td>35,290</td>
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<td>2003/2004</td>
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<td>34,375</td>
</tr>
<tr>
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<td>45,302</td>
<td>30,362</td>
<td>8,000</td>
<td>1,850</td>
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</tr>
<tr>
<td>2005/2006</td>
<td>49,367</td>
<td>34,500</td>
<td>8,200</td>
<td>1,740</td>
<td>44,440</td>
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<tr>
<td>2006/2007</td>
<td>48,373</td>
<td>35,970</td>
<td>8,500</td>
<td>1,650</td>
<td>46,120</td>
</tr>
<tr>
<td>2007/2008</td>
<td>53,023</td>
<td>39,518</td>
<td>8,600</td>
<td>1,700</td>
<td>49,818</td>
</tr>
<tr>
<td>2008/2009</td>
<td>59,390</td>
<td>41,035</td>
<td>8,700</td>
<td>1,700</td>
<td>51,435</td>
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<tr>
<td>2009/2010</td>
<td>72,873</td>
<td>48,830</td>
<td>8,850</td>
<td>1,750</td>
<td>59,430</td>
</tr>
<tr>
<td>2010/2011</td>
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<td>55,000</td>
<td>9,100</td>
<td>1,850</td>
<td>65,950</td>
</tr>
<tr>
<td>2011/2012</td>
<td>85,558</td>
<td>59,800</td>
<td>9,200</td>
<td>1,800</td>
<td>70,800</td>
</tr>
<tr>
<td>2012/2013</td>
<td>86,608</td>
<td>63,400</td>
<td>9,300</td>
<td>1,818</td>
<td>74,518</td>
</tr>
</tbody>
</table>

Source: USDA, Production, Supply, and Distribution (PS&D) database
Data are for October-September market years.
## Appendix 3: China’s trade policy in soybeans

<table>
<thead>
<tr>
<th>Year</th>
<th>Policy</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>In the middle of the 1990s</td>
<td>Tariff</td>
<td>China bound its tariff for soybeans at the rate of 3%, soybean meal at 5%, and soybean oil at 13% in order to join the WTO.</td>
</tr>
<tr>
<td>2001</td>
<td>Export subsidies</td>
<td>As a WTO member, China agreed to eliminate export subsidies.</td>
</tr>
<tr>
<td>2006</td>
<td>TRQ</td>
<td>China eliminated a tariff-rate quota (TRQ) system and state-trading to establish to establish a &quot;tariff-only&quot; import regime.</td>
</tr>
</tbody>
</table>

Source: Economic Research Service, USDA  

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Value</td>
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<td>50,657</td>
<td>414,476</td>
<td>410,554</td>
<td>273,508</td>
<td>358,735</td>
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<tr>
<td>Year</td>
<td>2000</td>
<td>2001</td>
<td>2002</td>
<td>2003</td>
<td>2004</td>
<td>2005</td>
</tr>
<tr>
<td>Value</td>
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<td>1,012,486</td>
<td>995,837</td>
<td>2,888,802</td>
<td>2,328,833</td>
<td>2,249,009</td>
</tr>
<tr>
<td>Year</td>
<td>2006</td>
<td>2007</td>
<td>2008</td>
<td>2009</td>
<td>2010</td>
<td>2011</td>
</tr>
<tr>
<td>Value</td>
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<td>4,118,030</td>
<td>7,259,964</td>
<td>9,195,743</td>
<td>10,817,076</td>
<td>10,480,952</td>
</tr>
</tbody>
</table>

Source: US Department of Commerce, United States Census Bureau, Foreign Trade Statistics
Quotations from Kant are cited from *Kants gesammelte Schriften*, ed. Royal Prussian Academy of Sciences (Berlin: Georg Reimer, later Walter de Gruyter & Co., 1900-) by volume and page number. The translation of *Toward Perpetual Peace* (hereafter PP) is from *Practical Philosophy*, trans. and ed. Mary Gregor (Cambridge: Cambridge University Press, 1996), 311-352; *The Metaphysics of Morals* (hereafter MM) is also from *Practical Philosophy*, 353-604; *On the common saying: That may be correct in theory, but it is of no use in practice* (hereafter TP) is from *Practical Philosophy*, 273-311.


4 As to the first case, it was very common for states to sign peace treaties to temporarily end the hostilities and later break the treaties for individual state’s interests, such as the Peace of Augsburg (1555) broken by Thirty Years’ War, or the Treaty of Stolbovo (1617) between Sweden and Russia broken by the Great Northern War (1700-1721). It also happened that a state that joined the coalition first in the war changed its side later, such as Russia, which changed its side in Seven Years’ war (1754-1763). One historical example similar to the second case is the first Anglo-Dutch War. By the middle of the 17th century the Dutch had the largest mercantile fleet in Europe and dominated the European trade. To stop the Dutch’s dominance in European trade, the English Parliament passed the first of the Navigation Acts in 1651, and began attacks on Dutch merchant shipping in 1652. The third situation could be illustrated through the Russo-Swedish Wars from the middle of 16th century to the beginning of 19th century. The war was aroused by both Russia and Sweden’s motivation to fight for territories around the Baltic coast.

5 History Professor Eric Weitz from the University of Minnesota, Twin Cities, has conjectured that Kant was thinking about the Thirty Years War when he wrote those cases.


7 See Kyla Ebels-Duggan’s forthcoming article “Kant’s Political Theory” in *Philosophy Compass* for literature on Kant’s political theory.

8 Wang You’s stories are based on my interview with him in July 2009; Harold’s stories are based on my interview with him in September 2009.

9 Heilongjiang province is China’s biggest soybean producing province. See USDA’s chart about Chinese soybean growing regions: Chinahttp://www.usda.gov/oce/weather/pubs/Other/MWCACP/Graphs/chi/chisoy.gif
The cosmopolitan right binds relationships between citizens and foreigners. The playground example aims to illustrate the cosmopolitan right by an ordinary example, but is not the exact exemplification of the cosmopolitan right.


See, for example, Westphal’s discussion about the necessity of the right to property in the justification of our membership in political states, “A Kantian justification of possession,” in *Kant’s Metaphysics of Morals: Interpretative Essays*, 89-110.

“Any special privileges (the right to use, to sell, or to manage the thing, the right to the capital value of it) result merely from the right to hold back others from a certain behavior-that is, it results from the right to make a certain use exclusively.” See Bernd Ludwig’s discussion of exclusive property rights, “Whence Public Right? The Role of Theoretical and Practical Reasoning in Kant’s Doctrine of Right” in *Kant’s Metaphysics of Morals: Interpretative Essays*, 174-180.

Kant especially discusses the property right in land. In *Metaphysics of Morals*, he presents three propositions about the land property (MM 6: 262).

When introducing cosmopolitan right in *Perpetual Peace*, Kant sometimes shares similar language to the one of property right in *Metaphysics of Morals*, where he distinguishes original community of land, a private community, residing on land, being in possession of land(MM 6: 251). For example, in *Perpetual Peace*, when he justifies the right to visit from cosmopolitan right, he claims that “[the right to visit], to present oneself for society, belongs to all human beings by virtue of the right of possession in common of the earth’s surface” (PP 8: 358). Further, rooted in the context of “visiting foreign lands and peoples” (PP 8: 359), cosmopolitan right presupposes the inside-outside distinction and the model of “mine or yours.” Besides, like property right binding rightful relations between persons, cosmopolitan right regulates relations between foreigners and locals. Thus, it is worthy to investigate connection between Kant’s property right and cosmopolitan right.

Ripstein does mention the right to necessity, which might grant foreigners asylum rights when they are in the life-threatening situations.

Food insecurity should consider distinctions between chronic and transitory situations. Here, persistent and absolute food insecurity is my main concern.

Kant classifies duties into perfect duties and imperfect duties in *Groundwork of the Metaphysic of Morals* (G) and *Metaphysic of Morals* (MM). In *Groundwork*, Kant distinguishes perfect duties and imperfect duties by the formula of universal law (G421) and the formula of the end in itself (G429). In both *Doctrine of Right* and *Doctrine of Virtue* in MM, Kant provides distinction between perfect duties and imperfect duties. In *Doctrine of Right*, Kant distinguishes duties of right /juridical duties as perfect duties and duties of virtue/ethical duties as imperfect duties by the possibility of “external lawgiving”(6: 239). In *Doctrine of Virtue*, Kant subdivides duties of virtue into perfect duties and imperfect duties. Under any of above distinctions, benevolence is an imperfect duty.

Charity can be motivated by different rationale, such as humanitarian, political, and economic concerns. The charity model I formed here is the one based on humanitarian grounds.

There are a lot of philosophical discussions about the demandingness of benevolence, which is not the topic for this chapter.
In 1998, Jamie Drummond successfully convinced Bono to participate in Jubilee campaign to relieve the debt burden of Africa. Bono’s path from charity to justice not only illustrates the limitation of charity model, but also shows the power of individuals in changing the world. “In May 1998, Jubilee organized 80,000 people into a human chain surrounding the summit meeting of the heads of state of the leading economies known as the Group of 8, or G8, in Birmingham, England … They did the same thing the next year, at the G8 meeting in Cologne, Germany. World leaders at that summit promised to write off 90 percent of poor-country debt and a portion of debt due to the international financial institutions, such as the World Bank.” See, Thurow, Roger and Kilman, Scott (2009), “We can do something.” in Enough: Why the World’s Poorest Starve in an Age of Plenty, New York, NY: Public Affairs.

“Two companies, Archer Daniels Midland and Cargill, capture three-quarters of the world grain trade. Chemical giant Monsanto controls 22.4% of the global proprietary seed market. In the United States, one company controls 40% of the fluid milk supply; four companies control 85% of beef packing; and five companies control about half the retail grocery market.” See, Shattuck, Annie, Holt-Gimenez, Eric’s “Moving from Food Crisis to Food Sovereignty,” Yale Human Rights and Development Law Journal, vol. 13, (2010), 421.

In addition, charity paradigm fails to address inevitable connections between people in rich countries and those poor in other countries. Some scholars also criticize that charity perpetuates unequal relationships between benefactors and recipients.

At the World Food Summit in 1996, LVC lunched the notion of food sovereignty, “the right of peoples to healthy and culturally appropriate food produced through sustainable methods and their right to define their own food and agriculture systems.” See “La Via Campesina: the international Peasant’s Voice,” (accessed Oct 10, 2011) Although there are conceptual differences between food security and food sovereignty, it is still plausible to discuss the model of LVC as an approach to food insecurity, a situation in which hundreds of million people are chronically malnutrition.

Kant also presents a slightly different version of citizenship in part 2 of Theory and Practice. In this chapter, I only investigate The Metaphysics of Morals version of citizenship in sections 43-49 of the “Doctrine of Right.”

Kant notoriously provides several examples about active and passive citizens. For example, children, domestic servants, the woodcutter, the Indian blacksmith, and women are passive citizens, while civil servants, school teacher are active citizens. We have to recognize Kant’s social and economic limitations as being in 18th century Prussia. Jacob Weinrib presents a charitable interpretation about Kant’s mature account of citizenship, which does not “exclude women-or any other class of persons (with the exception of children, who are excluded on the basis of their dependency).” See Weinrib’s “Kant on Citizenship and Universal Independence,” Australian Journal of Legal Philosophy, 33, (2008), 14.

A “good” legislator is the one who satisfies three features of active citizens. Together with the requirement of “equality,” every citizen should recognize the equal role of being state legislators between him/her and others. “Equality” as legal equality also implies that all citizens are equally constrained by the same legal authority without exception. In addition, every independent citizen should form the consent to legal authorities in terms of his/her own reason rather than others’ coercion, brainwashing, or deception.

Ronald Beiner adopts terms “high-liberal” and “low-liberal” interpretations of citizenship to explain Kant’s conception of citizenship, and suggests Kant’s citizenship is the one between “high-liberal” and “low-liberal” views. According to “low-liberal” view, “politics is conceived as an instrumentality for securing a system of laws that allow each of us to get on with our individual purposes without unnecessary interference by the state, and citizenship is simply the title assumed by all those who participate in this arrangement.” Ripstein’s account of freedom is close to such a “low-liberal” view. However, Kant’s
account of active citizenship in MM at least to certain degrees challenges such a “low-liberal” account. See Beiner’s “Paradoxes in Kant’s Account of Citizenship,” Kant and the Concept of Community, volume 9, NAKS Studies in Philosophy, (2011), 209-210.

29 At the World Food Summit in 1996, LVC lunched the notion of food sovereignty, “the right of peoples to healthy and culturally appropriate food produced through sustainable methods and their right to define their own food and agriculture systems.” See “La Via Campesina: the international Peasant’s Voice,” (accessed Oct 10, 2011). Although there are conceptual differences between food security and food sovereignty, it is still plausible to discuss the model of LVC as an approach to food insecurity, a situation in which hundreds of million people are chronically malnutrition.

30 Some scholars describe LVC as advocating protectionism. In perpetual peace, Kant did praise China and Japan’s protectionism as a response to colonialism. LVC’s community initiative approach is a response to multinational agri-business’ dominance. Kant’s cosmopolitan right is also compatibility with the partiality toward fellow citizens, considering Kant’s distinctions between the right to visit and the right to resort. Thus, I do not think LVC contradicts with Kant’s cosmopolitan right.

31 Arthur Ripstein reconstructs three arguments from Kant’s political writings to explain defects of the state of nature: the assurance argument, the unilateral choice argument and the determinacy arguments. Ripstein argues “the three arguments generate three independent but coordinate branches of government.” See, Ripstein Force and Freedom: Kant's legal and Political Philosophy, 173.

32 Thomas Pogge states that the legislative branch has ultimate authority over other branches, because the legislative authority “decides how to institute executive and judicial agencies.” Such an interpretation describes Kant’s separation of governmental powers as “an extra-legal demand on the sovereign that it should confine itself to general legislation while delegating administrative and judicial decisions about particular cases to executive and judicial officers and agencies.” See, Pogge, “Cosmopolitanism and sovereignty,” Ethics, 103 (1992): 48-75.

33 In another analogy, Kant parallels the separation of governmental powers with the structure of logic. “These are like the three propositions in a practical syllogism: the major premise, which contains the law of that will; the minor premise, which contains the command to behave in accordance with the law, that is the principle of subsumption under the law; and the conclusion, which contains the verdict (sentence), what is laid down as right in the case at hand” (MM 6: 313). Under this analogy, the major premise is making the law. The minor premise is executing the law. The conclusion is that “judicial imposes the verdict regarding right and wrong on each individual case in accordance with law” (MM 6: 313).

34 Similarly, if the second premise and the third premise is the same in the practical logic, the verdict has a risk of being unsound.

35 A despot government is the type where the ruler or its executive power does not subordinate to juridical or legislative authorities. “Democracy” is criticized by Kant as despotic, because the people occupy the position of both executive and judicial powers at the same time.

36 “CropLife America -- the trade group for Dow Chemical Co., DuPont, Monsanto Co. and other pesticide makers -- aims to influence dozens of measures, from safe food and drinking water rules to toxic chemical regulations and antiterrorism laws. The organization in the last three months of 2010 significantly ramped up persuasion efforts. CropLife America in that period spent nearly $751,000 on lobbying, a 58 percent increase from a year earlier.” ---- “Pesticide Industry Ramps Up Lobbying in Bid to Pare EPA Rules” http://www.nytimes.com/gwire/2011/02/24/24greenwire-pesticide-industry-ramps-up-lobbying-in-bid-to-
“[According to Schlegel], a genuinely pure concept of the state should not depend on the assertion that people will act against the law, because it is not conceptual necessity that they will.” See Pauline Kleingeld’s “Kant and Novalis on the development of a cosmopolitan community,” Kant and Cosmopolitanism: The Philosophical Ideal of World Citizenship, 151-153.

Nature is an amazing miracle. I believe that further understanding of magnetic domains from physics will help us develop an interesting vision about the self, others, community, and the society. With limited knowledge of Physics, I will not go to any details about the connections between physics and philosophy in my dissertation. I appreciate my friend Ehua Fan’s generous help in understanding the amazing theories.

At least two interpretations can be presented here about active citizens and freedom. The social autonomy model illustrates that being an active citizen in the state embodies its autonomy or self-legislation. Active citizens only are obedient to the law which has prescribed for them. The independence-model illustrates that active citizens are independent from others’ coercion.

Kant does recognize the complexity of human motivations, and therefore imposes “acting legally” as the requirement of citizens to avoid the indeterminacy of those psychological factors. My position is that we should positively include those psychological influences into the account of justice, since individuals are inevitably affected by interpersonal relationships.

See James Bohamn’s article “The public spheres of the World Citizens” and Jurgen Habermas’ “Kant’s idea of perpetual peace, with the benefit of two hundred years’ hindsight” about the public discourse.

In the article “Approaching perpetual peace: Kant’s a defence of a league of states,” Pauline Kleingeld argue against the inconsistency charge of Kant’s a league and states and a world republic by explaining the former as the realistic approach to the latter.

Here I take H. B. Niset’s translation to explain despotism. “Despotism prevails in a state if the laws are made and arbitrarily executed by one and the same power, and it reflects the will of the people only in so far as the ruler treats the will of the people as his own private will.” See Kant Political Writing pp. 101. Mary J. Gregor’s translation about this sentence is as follow: “Despotism is that of the high-handed management of the state by laws the regent has himself given, inasmuch as he handles the public will as his private will” (PP 8: 352).

“The South side of the deal would require a major institutional upgrading and change in the infrastructure of most Southern countries. Such changes take time and cost money” (Ostry 59).

“There was very little participation by the African countries in the Uruguay Round because of both of the lack of secretariat staff in their Geneva delegations and the lack of coordination and expertise at home. The situation in Geneva has not improved very much … It has been estimated that the WTO councils, committees, working parties, etc. involve over 2,800 meetings per year- which is impossible for the poorer countries to attend.” (Ostry 61).

“An example of political deterrence is provided by a former US trade official, who argued that in an African capital that ‘the US might withdraw food aid were the country’s Geneva representatives to press a WTO complaint.’” See Bown and Hoekman, “WTO dispute settlement and Missing Developing Country cases: Engaging the Private Sector,” pp. 65.
In “Human Rights in the WTO: whose rights, whose humanity, comments on Petersmann,” Howse claims that Petersmann’s notion of “constitution” as a vague term needs further expansion. However, in Petersmann’s proposal, EU is a kind of model with which EU parliaments give citizens powers. In addition, Petersmann links the constitutionalization of the WTO with “democratic participations.”

“易穷则变，变则通，通则久。”《系辞下》第二章 (Deng 440).

“一阴一阳之谓道。”《系辞上》，第四章 (Deng 406).

乾：元，亨，利，贞。
初九：潜龙，勿用。
九二：见龙在田，利见大人。
九三：君子终日乾乾，夕惕若，厉，无咎。
九四：或跃在渊，无咎。
九五：飞龙在天，利见大人。
上九：亢龙有悔。
用九：见群龙无首，吉。(Deng 1-12)

“Qian [Pure Yang] has the nature of the horse, Kun [Pure Yin] that of the ox … Qian [Pure Yang] works like the head, Kun [Pure Yin] like the stomach” (Shuogua, 8-9).

Qian [Pure Yang] is heaven, thus it corresponds to the Father, and Kun [Pure Yin] is Earth, thus it corresponds to the Mother.

Qian [Pure Yang] is Heaven, is round, is the sovereign, is father, is jade, is metal, is coldness, is ice, is pure red, is a fine horse, an old horse, an emaciated horse, a piebald horse, is fruit of the tree.

Kun [Pure Yin] is Earth, is mother, is cloth, is a cooking pot, is frugality, is impartiality, is a cow with calf, is a great cart, is the markings on things, is the multitude of things themselves, and is the handle of things. In respect to soils, it is the kind that is black” (Shuogua, 10-11).

“乾，健也。坤，顺也。” “乾为马，坤为牛。” “乾为首，坤为腹。” “乾，天也，故称乎父。坤，地也，故称乎母。” “乾为天，为圆，为君，为父，为玉，为金，为寒，为冰，为大赤，为良马，为老马，为瘠马，为驳马，为木果。坤为地，为母，为布，为釜，为吝啬，为均，为子母牛，为大畜，为文，为众，为柄，其于地也为黑。”《说卦传》第七章到第十一章 (Deng 518-522).

“The reassertion of the prerogatives of capital in and a decline in workers’ ability to control both the supply and demand for their labor.” See G. K. Ingham, Capitalism (Cambridge; Malden, MA: Polity, 2008), pp. 100.


Another popular oil brand in China is Douweijia 豆唯家, which is controlled by Bunge.

“亢之为言也，知进而不知退，知存而不知亡，知得而不知丧。其为圣人乎?知进退存亡而不失其正者，其唯圣人乎?” (Deng 500).

“[US soybean] prices have risen about 40% since [2012] January to more than $16 a bushel” (Pierson, Los Angeles Times).
57 “泰，小往大来，吉，亨。则是天地交而万物通也，上下交而志同也。内阳而外阴，内健而外顺。”《象传》(Deng 261).

58 Although Kant presents the cosmopolitan right as the restriction to both individuals and states, I will limit my discussions in the individual level in this chapter. Thus, I will not directly address the river dispute among different countries, say, the water crisis in Africa, the Nile River dispute, or the Jordan River dispute, but refer to the water dispute among individuals in general.

59 The case of Nehe high-protein soybean farmer cooperative (Shibajia) was introduced by Ma Martin, Yu, Duo and Wang, Zhe. The unpublished report written by Yu, Duo and Wang, Zhe from their field trip to Nehe City helps me to further my understanding about farmer cooperatives.