

## Kant on Freedom of Thought

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### KANT AND CENSORSHIP

Kant is a famous proponent of academic freedom of expression, freedom of communication, and freedom of thought.<sup>1</sup> He differentiated himself from Hobbes by affirming that subjects should be granted freedom of

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<sup>1</sup>Kant's works are cited according to the volume and page numbers of the Prussian Academy edition of Kant's works (*Akademie-Ausgabe*): *Kants Gesammelte Schriften*, abb. AA, 29 vols., ed. Königliche Preussische Akademie der Wissenschaften, Reimer, Berlin 1900–1922, De Gruyter, Berlin 1922–2009. Unless stated otherwise, quotations are from I. Kant, *Practical Philosophy*, trans. and ed. M.J. Gregor, Cambridge University Press, Cambridge 1996. The titles of Kant's works in AA are abbreviated as follows: KpV, *Kritik der praktischen Vernunft*, AA, Vol. 5, 1788/1913 (“Critique of Practical Reason” in the English edition); ANT, *Anthropologie in pragmatischer Hinsicht*, AA, Vol. 7, 1798/1917; MS, *Die Metaphysik der Sitten*, AA, Vol. 6, 1797/1914 (“The Metaphysics of Morals”); TP, *Über den Gemeinspruch: Das mag in der Theorie richtig sein, taugt aber nicht für die Praxis*, AA, Vol. 8, 1793/1927 (“On the Common Saying: This May Be True in Theory But It Does Not Apply in Practice”); SF, *Der Streit der Fakultäten*, AA, Vol. 7, 1798/1917. English translation in I. Kant, *The Conflict of the Faculties*, trans. M.J. Gregor, Abaris Books, New York 1979; ZeF, *Zum ewigen Frieden*, AA, Vol. 8, 1795/1927 (“Towards Perpetual Peace”); WA, *Beantwortung der Frage: Was ist Aufklärung?*, AA, Vol. 8 1784/1927 (“An Answer to the Question: What is Enlightenment?”); WDO, *Was heisst: sich im Denken orientieren?*, AA, Vol. 8, 1786/1927.

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speech as the “sole palladium of people’s rights”<sup>2</sup>; he stressed the necessary connection between the freedom to *communicate* one’s thoughts to others and freedom of thought, arguing that prohibiting the exchange of thoughts and ideas amounts to undermining individuals’ freedom to think.<sup>3</sup> With the famous injunction *sapere aude!* Kant defended not only responsibility for one’s own beliefs and judgments but also the central importance of public discourse, in which independence in thought (*Mündigkeit*) could be developed and exercised.<sup>4</sup> He distinguished between a private and a public use of reason and argued that the state should not punish the latter.<sup>5</sup> Finally, Kant also grounded the right to communicate one’s thoughts to others in the fundamental innate right in the *Metaphysics of Morals*, suggesting that expressing one’s thoughts to others is a fundamental human right.<sup>6</sup>

As these examples illustrate, Kant offers a number of arguments for freedom of expression. Although these are independent arguments, which cannot be reduced to a single argument,<sup>7</sup> they seem not only to form a consistent whole, but also to mutually support each other.<sup>8</sup> Peter Niesen sees a strength in the diversity of Kant’s arguments for freedom of expression and speech and argues that this makes his approach more *versatile* than other theories on offer. For instance, Kant’s account of freedom of the pen can be seen as anticipating the republican literature on freedom of expression,<sup>9</sup> which justifies the right to free speech by reference to the role it plays for political association and the common good. The connection between freedom of expression and innate right is also promising, providing a fundamental human right to free speech along the lines of the liberal individualistic tradition. To protect the right of expression is to protect the autonomy of individuals, not only a necessary means to a common political aim, as the former argument may suggest.<sup>10</sup>

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<sup>2</sup>TP, AA 8:304.

<sup>3</sup>WDO, AA 8:144.

<sup>4</sup>WA, AA 8:35.

<sup>5</sup>WA, AA 8:38.

<sup>6</sup>MS, AA 6:238.

<sup>7</sup>M. Davis, “Kant’s Fourth Defense of Freedom of Expression,” *The Southern Journal of Philosophy* 21 (1), 1983, p. 13.

<sup>8</sup>This interpretation is defended by P. Niesen, *Kants Theorie der Redefreiheit*, Nomos, Baden-Baden 2014.

<sup>9</sup>Ibid., Ch. 2.

<sup>10</sup>SF, AA 8:6–7.

However, Kant *himself* became a victim of censorship in his late years as a result of the edict—issued in 1788 by the king’s minister, Johann Christoph von Wöllner—that initiated censorship of religious texts in Prussia. The problems that Kant had with the authorities began in 1792 upon the publication of the second essay that was to make up *Religion within the Boundaries of Mere Reason*. The essay was rejected by the “Immediate Examination Commission,” led by G.F. Hilmer and J.T. Hermes. The commission was directly responsible to Frederick William II, and was established in 1791 to counteract the supposed “laxness” of the Berlin Superior Consistory of the official Lutheran Church in limiting the impact of rationalist religious publications.<sup>11</sup>

Frederick II the Great, King of Prussia for most of Kant’s life (1740–1786), was an enlightened yet absolutist monarch, known for the motto: “*Argue as much as you will and about whatever you will, but obey!*”<sup>12</sup> He was said to have no interest in religious orthodoxy, as long as subjects did their duty as subjects. However, his successor Frederick William II (1786–1797) introduced the above-mentioned censorship practices, which compromised the autonomy of the universities and considerably limited the freedom of academic thinkers.

While it is widely accepted in Kant scholarship that the religious edict of 1788 constituted an unjust limitation on academic freedom and an attempt to stop the enlightenment movement (Kant being the very personification of the idea of enlightenment),<sup>13</sup> Ian Hunter has rejected this traditional view by arguing that the purpose of the religious edict was in fact not to impose a religious creed on individuals, but to achieve religious toleration through a system of regulated public confessions. For this, it was necessary to “prevent particular forms of theological innovation and proselytising, to the extent that these threatened the confessional balance.”<sup>14</sup> Due to its transcendental and a priori character, many scholars thought that Kant’s philosophical theology had no implications for positive confessional theology. In his revisionist approach, however, Hunter argues that Kant’s theology could be rightly

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<sup>11</sup>I. Hunter, “Kant’s *Religion* and Prussian Religious Policy,” *Modern Intellectual History* 2 (1), 2005, p. 2, footnote 2.

<sup>12</sup>WA, AA 8:37.

<sup>13</sup>I. Hunter, in “Kant’s *Religion*...,” op. cit. p. 2, attributes the first such interpretation to W. Dilthey back in 1890.

<sup>14</sup>Ibid.

regarded as a “way of life” and therefore as an “unsettling public intervention in a concrete religious and political culture.”<sup>15</sup> Instead of being anti-enlightenment, the religious edict was an instrument for maintaining religious peace. The censoring of Kant’s works would thus be “the unintended and peripheral by-product of a broad and long-standing Prussian *Religionspolitik*,” according to Hunter.<sup>16</sup> Kant was well aware of the atrocities of the seventeenth-century wars of religion. As Anna Tomaszewska has argued, Kant thought that religious differences were deeply divisive. His strategy to overcome this divisiveness was to “dilute” the shared moral content of diverse confessions into a “rational religion” that all could endorse.<sup>17</sup> In this way, Kant’s position would be inconsistent with the sort of political secularism that would allow religious pluralism in the public sphere.

In this article, I will not attempt to settle whether the Prussian authorities were correct to regard Kant’s philosophical theology as a threat to public peace. I will concentrate instead on the ambiguous way in which Kant dealt with the prohibition to publish on religious matters and the way he seemed to openly acknowledge a *reservatio mentalis* in the Preface to the *Conflict of the Faculties*. Although this attitude seems compatible with what Kant has to say about academic freedom, the public use of reason, and state interference, it seems to stand at odds with fundamental aspects of his moral theory.

While the censors approved the first essay of Kant’s *Religion within the Boundaries of Mere Reason*, published in Biester’s *Berlinische Monatsschrift*, they censored the second essay for being incompatible with Biblical doctrines. Kant was able to sidestep the prohibition by publishing the work in Jena. The first edition of the *Religion* appeared in Königsberg in 1793. In October 1794, the king himself intervened:

First, our gracious greetings, worthy, most learned, dear and loyal subject! Our most high person has long observed with great displeasure how you misuse your philosophy to distort and disparage many of the cardinal and

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<sup>15</sup>Ibid., p. 5.

<sup>16</sup>Ibid., p. 4.

<sup>17</sup>A. Tomaszewska, “Kant’s Reconception of Religion and Contemporary Secularism,” *Roczniki Filozoficzne* 64 (4), 2016, pp. 125–126.

basic teachings of the Holy Scriptures and of Christianity; how you have done this particularly in your book *Religion within the Boundaries of Mere Reason*, as well as in other shorter treatises. We expected better things of you, as you yourself must realise how irresponsibly you have acted against your duty as a teacher of youth and against our paternal purpose, which you know very well. We demand that you give at once a most conscientious account of yourself, and expect that in the future, to avoid our highest disfavour, you will be guilty of no such fault, but rather, in keeping with your duty, apply your authority and your talents to the progressive realisation of our paternal purpose. Failing this, you must expect unpleasant measures for your continuing obstinacy.

With our favourable regards.

Berlin, 1st. October 1794

By special, most gracious order of His Majesty

Woellner

Kant's answer to this letter, which he published together with the letter four years later in the Preface of the *Conflict of the Faculties* is surprising in many ways.<sup>18</sup> As a "teacher of the youth," he stresses that he always strictly separated religion from scientific matters. The textbook he used in his lectures was Baumgarten, not the Bible. Further, his *Religion* was neither aimed at nor is accessible to the general public, but only to academic circles. One must thus distinguish between the academic discourse, within academic circles, and the discourse aimed to instruct the uneducated masses. The latter is the task of public teachers and has as its object the religion of the country. It is only the instruction of the masses, *not academic discourse* that should be subject to the control and sanctions of the government. This point reflects Kant's distinction between a private and a public use of reason, made earlier in *What is Enlightenment?*

While Kant famously defended the freedom of the pen in *Theory and Practice* as "the sole palladium of people's rights" (*das einzige Palladium der Volksrechte*) to argue for academic freedom of expression

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<sup>18</sup>I. Kant, *The Conflict of the Faculties*, trans. M.J. Gregor, op. cit., pp. 11–19.

and publication,<sup>19</sup> it is important to note that in his reply to the king he does not appeal to a similar rights argumentation. Instead, his argument stresses the fact that his writings are *inaccessible to the masses*. The absence of rights rhetoric in Kant's letter is noteworthy. One could consider Kant's move a careful, prudential attempt to avoid the king's disapproval. Elsewhere, such conduct from a head of state had been expressly identified with despotism.<sup>20</sup> However, Kant's silence in regard to freedom of the pen could also suggest that he did not conceive it as a basic civil right, but merely as a means by which loyal subjects can inform the ruler of mistakes she is not aware of. In other words, freedom of the pen would not be a fully fledged right of free speech but a mere right of petition.<sup>21</sup> This means that it ought to be subordinated to loyalty to the constitution and obedience to authority. This interpretation seems to be supported by the very meaning of the word "palladium" ("*palladion*" in Greek). A *palladion* was the name used for the devotional picture of the goddess Pallas Athena, meaning a holy object which offers *protection*. By analogy, freedom of the pen is also supposed to be "holy," offering protection to the people, presumably because they would be informing the head of state of the impact of her policies on the rights and well-being of the people, and thus playing a beneficial role for the "paternal purpose" of the state, to use Woellner's expression. Attempts to instill fear in the monarch, by arguing that freedom of the pen would cause unrest, were heavily criticised by Kant as instilling in the head of state "mistrust of his own power" or "even hatred of his own people."<sup>22</sup> This suggests that

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<sup>19</sup>"Thus freedom of the pen – kept within the limits of esteem and love for the constitution within which one lives by the subjects' liberal way of thinking, which the constitution itself instills in them (*and pens themselves also keep one another within these limits, so that they do not lose their freedom*)—is the sole palladium of the people's rights. For to want to deny them this freedom is not only tantamount to taking from them any claim to a right with respect to the supreme commander (according to Hobbes), but is also to withhold from the latter whose will gives order to the subjects as citizens only by representing the general will of the people—all knowledge of matters that he himself would change if he knew about them *and to put him in contradiction with himself*" (TP, AA 8:304, italics A.P.W.).

<sup>20</sup>See e.g. WA, AA 8:38–40.

<sup>21</sup>See T. Mertens, "How to Read Kant's Metaphysics of Morals? A Conversation with My Student," *Studi Kantiani* 29, 2016, pp. 11–29.

<sup>22</sup>"But to instill in a head of state concern that unrest in the state might be aroused by [the subjects'] thinking independently and aloud is tantamount to awakening in him mistrust of his own power or even hatred of his people" (TP, AA 8:304).

the problem with disregarding freedom of the pen is not that it violates a civil right, but that it reveals an attitude incompatible with the “dignity” (*Würde*) of a head of state. Having addressed the king’s concerns about his teaching, Kant continues:

Regarding the second point – not to be guilty in the future of (as I am charged) distorting and disparaging Christianity – I believe the surest way, which will obviate the least suspicion, is for me to declare solemnly, *as Your Majesty’s most loyal subject*, that I will hereafter refrain altogether from discursing publicly, in lectures or writings, on religion, whether natural or revealed.<sup>23</sup>

Taking into account Ian Hunter’s revisionist account of the religious edict, it is also possible that Kant was expressly addressing the rationale of the edict in promoting public peace. Kant’s theory would thus be one of those religious sects which would undermine the publicly recognised three main confessions of Prussia by proposing a rationalist religion. By emphasising the academic character of his writings, Kant is clearly attempting to deny its influence on public religious practice.

However, as Karl Vorländer has remarked, many readers of Kant were struck by what seemed to be a *reservatio mentalis* on Kant’s part: the calculated ambiguous way in which Kant expressed his commitment not to publish on religious matters as valid only as long as the monarch lived.<sup>24</sup> Kant himself openly acknowledges this subterfuge. In a footnote added to this passage of his reply to the king, Kant adds: “This expression, too, I chose carefully, so that I would not renounce my freedom to judge in this religious suit forever, but only during His Majesty’s lifetime.” Kant thus consciously phrased his oath in such a way that it was valid only as long as the king was alive.

One may think that although Kant observed “the letter” of the oath, he nevertheless seemed to have violated “the spirit” of the commitment by “bending” his own words. This conduct seems incompatible with Kant’s categorical prohibition of lying in his ethical writings. He also condemns the practice of mental reservation, adopted by Jesuits,

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<sup>23</sup>SF, AA 7:10, italics A.P.W.

<sup>24</sup>K. Vorländer, *Immanuel Kants Leben*, ed. R. Malter, Felix Meiner, Hamburg 1974, p. 189.

in *Perpetual Peace*, which leads to peace treaties being formulated in an ambiguous way, in order to allow later distortion of the content of the agreement.<sup>25</sup> Further, and perhaps more worryingly, Kant's tone gives the impression that he was *proud* of his cunning strategy. This stands at odds with his notorious defence of obedience to authority, which committed him to dismissing a right to revolution, and making freedom of academic expression conditional on loyalty to the constitution, as suggested in the previously discussed "palladium passage" of *On the Common Saying*.

In the next section, I will argue that we can make good sense of Kant's attitude: there are aspects of Kant's theory which not only excuse such behaviour, but positively entitle Kant, or indeed any author, to such conduct when facing censorship of their works. These aspects, I will show in the next section, are his conception of the duty of truthfulness as involving some latitude in the degree of disclosure and his views on freedom of thought and communication, and on justified state interference in academic speech, to which the section "[Freedom of Thought as Freedom to Think with Others](#)" is dedicated. I will conclude with the formulation of Kant's conception of freedom of thought.

#### RESERVATIO MENTALIS AND THE LATITUDE OF THE MAXIM OF TRUTHFULNESS

Kant is famous for his *unconditional* condemnation of lying, that is, telling an untruth with the intent to deceive. While in the *Groundwork* Kant follows tradition in regarding a lie as a violation of a duty in regard to *another person*, in the Doctrine of Virtue he introduces the idea of lying as a violation of a duty *against one's own person for the first time in a published work*.<sup>26</sup> The idea is that lying causes *dishonour* to the agent.<sup>27</sup>

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<sup>25</sup>ZcF, AA 8:385.

<sup>26</sup>There are suggestions in his lectures that lying should be reinterpreted as a violation of a self-regarding duty. See S. Bacin, "The Perfect Duty to Oneself Merely as a Moral Being," in A. Trampota, O. Sensen and J. Timmermann (eds.), *Kant's Tugendlehre, A Comprehensive Commentary*, De Gruyter, Berlin 2013, pp. 245–268.

<sup>27</sup>MS, AA 6:429.

Lying makes the liar dishonourable in her own eyes due to her deliberate choice to adopt a maxim she cannot possibly declare to herself and her conscience.<sup>28</sup> Every external lie must thus be reduced to an inner lie. In both cases, lying is wrong regardless of whether it causes harm.<sup>29</sup>

The ethical perspective, however, must be distinguished from the juridical perspective. The juridical domain focuses on external freedom and more specifically on *wrongs*, i.e. violations of rights. Kant has two juridical arguments against lying. From the juridical perspective, a lie will either harm a *specific* person (for instance, by violating her rights) or, if no one in particular is harmed, wrong humanity in general (*Unrecht überhaupt*). Unlike ethics, the juridical domain does not take into account the quality of the agent's maxim.

The greatest violation of a human being's duty to himself regarded merely as a moral being (the humanity in his own person) is the contrary of truthfulness, lying (*aliud lingua promptum, aliudpectore inclusum gerere/To have one thing shut up in the heart and another ready on the tongue*).<sup>30</sup> In the doctrine of right an intentional untruth is called a lie only if it violates another's right; but in ethics, where no authorisation is derived from harmlessness, it is clear of itself that no intentional untruth in the expression of one's thoughts can refuse this harsh name.<sup>31</sup>

The opposite of lying in the ethical domain is the commitment to a *maxim of truthfulness* (*Wahrhaftigkeit*). Dangerously close to lying is the practice of *mental reservation* (*reservatio mentalis/Vorbehalt*). A mental reservation is an utterance expressed in an ambiguous way in order to allow the speaker to "reinterpret" her commitment later on to suit her own purposes. In *Perpetual Peace*, Kant identifies *reservatio mentalis* with the casuistry of "spurious politics." This amounts to the political practice of "formulating public pacts in expressions that, as occasions arise,

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<sup>28</sup>S. Bacin, "The Perfect Duty to Oneself Merely as a Moral Being," op. cit., p. 252.

<sup>29</sup>MS, AA 6:429.

<sup>30</sup>Sallust, *The War with Catiline*, 10.5., trans. M.J. Gregor, in I. Kant, *Practical Philosophy*, op. cit., p. 552.

<sup>31</sup>MS, AA 6:429.

can be interpreted to one's advantage as one wants"<sup>32</sup> in a way that "can match the best Jesuit school." *Reservatio mentalis* in this case is clearly a mark of *dishonesty*.

Nevertheless, Kant did not believe that we are morally required to say the *whole* truth when this can be done without lying. The commitment to a maxim of truthfulness allows a certain *latitude*: as long as the agent remains sincerely committed to uttering only what she knows to her best knowledge to be true, she does not have to disclose everything she knows. In this case, the *reservatio mentalis* would be a form of *reticence*: a permissible means of avoiding a duty that becomes too demanding for the agent. When silence is not possible, say, because one is being coerced into an answer, latitude allows agents to reconcile their commitment to truthfulness to other duties such as the avoidance of harm to others and oneself, and even to protect her permissible prudential interests if complete disclosure would render the agent vulnerable to the malice or violence of other agents. The agent would be allowed to use her practical wisdom (*Klugheit*) to decide how much to disclose in such a way that she can avoid lying while preserving her other ethical commitments and personal integrity. She would not be deceiving her interlocutor, but relying instead on her lack of attention or perception in order to protect herself and/or others. A famous example was the advice given by Kant to the young Maria von Herbert. The Austrian noblewoman wrote a letter to Kant, despairing after being abandoned by her lover after she disclosed to him sensitive details of her past. She believed morality required her not to keep any such secrets.<sup>33</sup> Kant argued that one has a duty *not to lie*, but not necessarily to tell anything that would be *imprudent* for her

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<sup>32</sup>"Such a spurious politics has its casuistry to match the best Jesuit school—the *reservatio mentalis*, formulating public pacts in expressions that, as occasions arise, can be interpreted to one's advantage as one wants (e.g., the distinction of the *status quo de fait* and *de droit*); the probabilismus, subtly detecting evil intentions in others, or even making the likelihood of their possible superior power a rightful ground for undermining other, peaceful states; finally the *peccatum philosophicum* (peccatillum, bagatelle), taking the devouring of a small state to be an easily pardonable trifle if a much larger state gains by it, to the supposedly greater good of the world" (ZeF, AA 8:385).

<sup>33</sup>I. Kant, *Briefwechsel*, Brief 614, von Fräulein Maria von Herbert, 1793. Retrieved from <https://korpora.zim.uni-duisburg-essen.de/kant/briefe/614.html> on Jun 20, 2017. See also A. Pinheiro Walla "Virtue and Prudence in a Footnote of the Doctrine of Virtue (VI: 433n.)," *Jahrbuch für Recht und Ethik* 21, 2013.

to disclose. Kant develops this view in his distinction between *reticence* and *candour* in the Doctrine of Virtue of the *Metaphysics of Morals*:

Between truthfulness and lying (which are *contradictorie oppositis*) there is no mean; but there is indeed a mean between candour and reticence (which are *contrarie oppositis*), since one who declares his thoughts can say only what is true without telling the whole truth. Now it is quite natural to ask the teacher of virtue to point out this mean to me. But this he cannot do; for both duties of virtue have a latitude in their application (*latitudinem*), and judgment can decide what is to be done only in accordance with rules of prudence (pragmatic rules), not in accordance with rules of morality (moral rules). In other words, what is to be done cannot be decided after the manner of narrow duty (*officium strictum*), but after the manner of wide duty (*officium latum*). Hence one who complies with the basic principles of virtue can, it is true, commit a fault (*peccatum*) in putting these principles into practice, by doing more or less than prudence prescribes. But insofar as he adheres strictly to these basic principles he cannot practice a vice (*vitium*), and Horace's verse, *insani sapiens nomen habeat aequus iniqui, ultra quam satis est virtutem si petat ipsam*, is utterly false, if taken literally. In fact, sapiens here means only a judicious man (*prudens*), who does not think fantastically of virtue in its perfection. This is an ideal which requires one to approximate to this end but not to attain it completely, since the latter requirement surpasses man's powers and introduces a lack of sense (fantasy) into the principle of virtue.<sup>34</sup>

The upshot of this argument is that while one can never be *too virtuous*, that is, there is never an *upper limit* to how much one can do in moral matters (Kant has in mind *imperfect duties*, which command the realisation of certain moral ends which can never be fully achieved in our finite lives), one can nevertheless be *imprudent while being virtuous*. Imprudence is not necessarily morally required; in fact, morality *allows* agents to reconcile their *permissible* prudential interests with moral requirements by providing a *latitude* within the compliance of certain duties. Latitude "appears" when strict compliance would turn human virtue into "fantastic" virtue, that is, an ideal of virtue that is wholly unrealistic given our human condition and limitations. In the case of truthfulness, latitude creates a "leeway" within which the agent can choose how much to disclose, as long as she remains committed to the maxim of truthfulness.

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<sup>34</sup>MS, AA 6:434.

Although moral requirements can become quite demanding depending on external circumstances, there is in principle no inherent conflict between moral requirements and our *permissible* non-moral interests. Such conflicts are usually contingent ones. Practical judgment enables us to reconcile imperfect duties and our permissible non-moral interests in our lives. There is no duty to pursue a fantastic ideal of virtue.

It is clear that Kant recognised a *perfect* obligation to obey authority. It is also clear, given Kant's views on freedom of thought and academic freedom, that he regarded what was asked of him as an *unjust* imposition (I will reconstruct Kant's views on freedom of thought and of the pen in the next section). However, Kant's legal theory does not identify the substantive justice or injustice of a particular law or policy with the legitimacy of political authority itself. Historical governments are more or less imperfect instances of an ideal we are gradually attempting to approximate over many generations: the ideal republic (*respublica noumenon*). If substantive justice were a requirement of state legitimacy in Kant's account, no existing state would be legitimate. Kant's requirement of legitimacy is thus a minimal one, compatible with different historical instantiations and levels of progress: a government must have a representative *public* character. It is omnilaterally binding by virtue of the idea of a *united will of all* which is brought about by public representation.

As I will elaborate in the next section, enlightenment is an end every human being must seek. It can be understood as an *imperfect duty*, since it is an *end* we must adopt and can only promote to a limited extent in the course of our lives (some individuals more than others and in different ways). In contrast, obedience to authority is a *perfect duty*. I will argue that a *just* government (1) will never demand immoral actions from its citizens and (2) will not impose unjustified constraints on external freedom (for instance, on academic freedom). However, an imperfectly just state may *de facto* impose (1) and (2) on its subjects. In Kant's legal theory, there is a duty to obey such a government unless, I will argue, it demands an *immoral* action. The agent would thus be justified in engaging in civil disobedience but must be prepared to take punishment for resisting this unjust demand. The scenario I have in mind is the famous Anne Boleyn example of the Doctrine of Method of the Second Critique. An upright person is required by the prince (Henry VIII) to give false testimony against an innocent person, who will then

be condemned to death (Anne Boleyn). In Kant's example, the agent refuses to comply despite threats of loss of life and even high costs to her family.<sup>35</sup>

Since promoting and seeking enlightenment would be an imperfect duty, it is permissible to *postpone it* so that it does not collide with other perfect obligations. Therefore, if the king required Kant not to publish on religious matters, Kant, as a loyal subject of his majesty, *must* obey. However, it is important to note that Kant was seventy years old when he received the king's letter in 1794, and that the king was twenty years younger than Kant. Kant was thus prepared never to write on philosophical theology again. Nevertheless, Kant's *reservatio mentalis* shows that he had the *hope* things would end up otherwise. In fact, Frederick William II would die in 1797 at age fifty-three.

Unlike Baumgarten, who recognised the idea of a lie of necessity (*Notlüge*) to save one's own life, Kant ruled out a permission to lie regardless of the nature of the circumstances.<sup>36</sup> He also rejected the notion of right of necessity accepted by his natural law predecessors such as Grotius and Pufendorf. Necessity thus gives rise neither to permissions, nor to rights. Nevertheless, I will argue that latitude may play an *analogous* role to the lie of necessity, with the advantage that, with luck, one would be able to protect oneself without violating moral commitments.

In the next section, I will argue that although Kant did not think he had a right to disobey legal authority, the king was nevertheless denying him and all others a fundamental right: the *freedom to think*. Because this right was being unjustly denied by political authority, Kant saw himself justified in restricting himself to the *letter* and not to the *spirit* of the oath.

## FREEDOM OF THOUGHT AS FREEDOM TO THINK WITH OTHERS

Thinking for oneself means seeking the supreme touchstone of truth in oneself (i.e., in one's own reason); and the maxim of always thinking for oneself is ENLIGHTENMENT .... To make use of one's own

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<sup>35</sup>KpV, AA 5:277–278.

<sup>36</sup>S. Bacin, "The Perfect Duty to Oneself Merely as a Moral Being," *op. cit.*, p. 248, footnote 21.

reason means no more than to ask oneself, whenever one is supposed to assume something, whether one could find it feasible to make the ground or the rule on which one assumes it into a universal principle for the use of reason. This test is one that everyone can apply to himself; and with this examination he will see superstition and enthusiasm disappear, even if he falls far short of having the information to refute them on objective grounds.<sup>37</sup>

Thinking for oneself is an *ideal* for Kant. It is something we must strive towards and seek to approach as much as possible, as it may never be fully realised. But what exactly is thinking for oneself? Philosophers before Kant have identified the ideal of enlightenment with the acquisition of knowledge in a theoretical sense. It means acquiring genuine knowledge, free from superstition and the imposition of religion and following correct methods. Originally, enlightenment was thus an epistemic project.<sup>38</sup> In contrast, enlightenment for Kant is not merely theoretical; it presupposes a specific attitude and has an essentially *practical* character.<sup>39</sup> Thinking for oneself requires the courage and strength to liberate oneself from the domination of others in matters of thought, and daring to make use of one's own understanding. Above all, thinking for oneself presupposes the willingness to take *responsibility* for one's beliefs and ideas. As Kant notes, it is much easier and more comfortable just to let others tell us what to think and do, since thinking for oneself requires intellectual effort and being fully responsible for one's opinions and behaviour. This is why thinking for oneself is compared to achieving *majority* (*Mündigkeit*), while the person who is unwilling to think for herself can be considered a *minor* when it comes to her own beliefs and conduct. Enlightenment for Kant is a form of progress, based on what he takes to be the vocation of human beings: freedom, i.e. autonomy (you cannot separate the two concepts in Kant's conception; they go hand in hand). Enlightenment is thus the way human beings can evolve from dependent children into fully responsible, autonomous adults, in the strict sense, not merely biologically. This growth is not only intellectual;

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<sup>37</sup>WDO, AA 8:146–147, footnote.

<sup>38</sup>See J. Locke, *An Essay Concerning Human Understanding*, ed. P.H. Nidditch, Oxford University Press, Oxford 1975, Bk. 1, Ch. 2, which introduces the idea that knowledge must be an achievement of the subject herself and should not be taken over from others.

<sup>39</sup>See R. Brandt, *Immanuel Kant—Was bleibt?*, Felix Meiner, Leipzig 2010, p. 178.

it requires the willingness to live up fully to one's vocation as a human being.

Although thinking for oneself is central, enlightenment in Kant's conception is not an individual task. It is ultimately a collective enterprise. One swallow does not make a summer and a few isolated enlightened individuals do not bring about an enlightened society. As Reinhard Brandt observed, an enlightened individual would be an isolated manifestation, which may not make any particular impact on others and on society. If enlightenment is to become a *driving social force*, it must be socially embedded, and this presupposes legal institutions which can if not positively promote, then at least *not forbid* the collective process and culture of enlightenment. In this way, enlightened individuals can gradually become the rule rather than an exception.<sup>40</sup>

In Kant's view, enlightenment requires three stages: to think for oneself; to think while adopting the perspective of others; to think at all times in unity with oneself.<sup>41</sup> Thinking for oneself is thus merely the *initial* moment of enlightenment. It corresponds to the category of substance in Kant's table of categories, and to the Ulpian formula *honeste vive* (which is rendered by Kant as *be a rightful human being!*). Thinking for oneself is to lay the foundations for the autonomous subject of thought and action, as opposed to being uncritically led by the opinions and guidance of others. Thinking for oneself is thus the first step towards autonomy in thought, as opposed to the heteronomy implicated in the (non-)use of one's own understanding. The second stage requires the ability to enter a relationship with another, in which the subject takes up another's perspective to understand her thinking. This corresponds to the category of causality and to the second Ulpian formula *neminem laede* (*harm no one!*). The third and final stage presupposes the former two. It means thinking in unity with oneself while at the same time being able to think with others. It corresponds to the category of interaction or community (*Wechselwirkung*), and to the third Ulpian formula *suum cuique tribue* (*give each what is theirs!*). The sequence of those stages is relevant, they are not interchangeable. The last stage is a synthesis of the former two, and thus requires the first two steps in their respective order.

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<sup>40</sup>Ibid., pp. 185–190.

<sup>41</sup>KpV, AA 5:294, and ANT, AA 7:200.

Enlightenment as a collective enterprise is only possible through a public culture of reflection and judgment. This is necessary for thought to be free of ideology and fabricated myths, and for public discussion and exchange of ideas to be possible. Neither the church nor the government must hinder this public culture. During the reign of the enlightened monarch Frederick the Great, Kant noted that although they did not yet live in an enlightened age, they lived in an age of enlightenment (i.e., a time in which the conditions of enlightenment were made possible).<sup>42</sup> Because he respected freedom of expression, Frederick the Great enabled the development of a lively academic scene. As Kant notes, although private individuals ought to obey the law (in their public roles and social functions), they nevertheless must be allowed the freedom to express their thoughts and exchange ideas as academics. The government can benefit from their advice, and thus should not regard freedom of thought and of the pen as a threat to political order. In *A Letter Concerning Toleration*, Locke argued for freedom of thought on the basis of the pluralism resulting from thinking. No one really knows whether she has true beliefs; this is why tolerance is necessary.<sup>43</sup> In contrast, in *What is Enlightenment?* Kant argues that an enlightened prince (*Fürst*) would decline the arrogant name of tolerance (*den hochmüthigen Namen der Toleranz*), and see it as his or her *duty* to accord individuals true freedom in religious matters.<sup>44</sup>

Kant thinks that the purpose of thought is the search for truth. We cannot think correctly unless we bring the process of thinking closer to truth as a regulative ideal. This will involve respecting the rules of thought, which are none other than the rules of reason itself. This

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<sup>42</sup>WA, AA 8:40.

<sup>43</sup>“But let us grant unto these zealots, who condemn all things that are not of their mode, that from these circumstances arise different ends. What shall we conclude from thence? There is only one of these which is the true way to eternal happiness. But, in this great variety of ways that men follow, it is still doubted which is this right one. Now, neither the care of the common-wealth, nor the right of enacting laws, does discover this way that leads to heaven more certainly to the magistrate, than every private man’s search and study discovers it unto himself” (J. Locke, “A Letter Concerning Toleration,” in I. Shapiro (ed.), *Two Treatises of Government and A Letter Concerning Toleration*, Yale University Press, New Haven and London 2003, p. 229).

<sup>44</sup>WA, AA 8:40.

process of self-correction and improvement in the thought process is only possible in community with others. The exchange of ideas with an academic purpose is the way of achieving correctness in thinking and ultimately—the ideal of thinking for oneself. Freedom of communication (*Mitteilungsfreiheit*) is the condition for freedom of thought. Because freedom of thought requires the community with others, denying the possibility of an exchange with others is the same as denying the freedom *to think*.

Enlightenment is thus only possible in a society which treats individuals in a way that is consistent with their *rational vocation* as human beings. Ideally, this will be a society with a representative system, with division of powers and equal legal status for each citizen. The process of enlightenment will thus inevitably lead to a specific form of political constitution: a *republican constitution*. Enlightenment thus makes political progress possible through gradual reforms which may require the work and insights of several generations.

Anyone trying to hinder the progress towards greater autonomy in the ethical and legal domains can be regarded as violating the vocation of humanity. Kant thus attempts to reconcile respect for political authority and the preservation of fragile existing political organisations with the idea that humanity must be allowed to make progress in their insights, and towards better political institutions.

#### CONCLUSION: *CAESAR NON EST SUPRA GRAMMATICOS*

One can now make better sense of Kant's apparently immoral *reservatio mentalis* when promising to Frederick William II never to write on philosophical theology again. It must be emphasised that Kant could not be certain if he would outlive the king; in fact, the opposite was probable, given Kant's advanced age at the time. Obedience to authority thus came at a high price, and Kant was prepared never to publish on religion again during his own lifetime. However, although the king had the legitimate authority to restrict Kant's freedom of the pen according to Kant's own theoretical standards, such a demand was nevertheless incompatible with the higher vocation of humanity. Kant's *reservatio mentalis* was thus an attempt to reconcile both duties.

Efforts to shield religious beliefs and practices from scrutiny and criticism for all times make the progress of humanity impossible in matters of truth, and this is something no rational being can willingly deprive

herself of. The monarch should not place herself above the experts by attempting to control and hinder the achievement of better knowledge. What a people cannot impose on itself should not be imposed on a people.<sup>45</sup> A people could not rationally choose to be deprived of making progress in matters of thought and truth. Since the monarch imposed an unjust demand, it was not only permissible, but indeed *required* to regard such an unjust imposition as expiring with its author. One may need to postpone enlightenment, but no one has a duty to renounce it for oneself and for posterity.<sup>46</sup>

I have argued that Kant's use of the latitude of disclosure compatible with the commitment to a maxim of truthfulness can be seen as a way to follow the perfect duty to obey a comparatively unjust, historically contingent authority while maintaining the commitment to the moral end of enlightenment. This is a non-ideal scenario; in an ideal republic, there would be no need for state interference in academic freedom. But until we have arrived at something close to the ideal *respublica noumenon*, moral agents must help themselves with all permissible means available.

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<sup>45</sup>TP, AA 8:304.

<sup>46</sup>WA, AA 8:39.