

# Republicanism Without Republic. Kant's Political Philosophy in its Historico-Systematic Context

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Est igitur [...] res publica res populi,  
populus autem [...] coetus multitudinis  
iuris consensu [...] sociatus.<sup>1</sup>

The essay assesses the character, extent and limits of Kant's republican commitments in political philosophy in a twofold perspective. Historically, Kant's recourse to republican political principles is placed in the context of the early modern discourse about forms of rule and types of government in general and about the relative merits of monarchical and republican constitutions in particular. Systematically, Kant's political republicanism is tied to his philosophy of law in general and to his account of public law in particular. Throughout the paper argues for a non-republican republicanism in Kant that imports basic features of modern republican theory and practice into a juridico-political context marked by enlightened monarchical absolutism and by an anti-revolutionary conception of political history. Section 1 opens with reflections on the timeliness and

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<sup>1</sup> Cicero, 1993, p. 52; *De re publica*, Bk. 1, Sect. 39; English translation in Cicero, 1999, p. 18: "[...] the commonwealth is the concern of a people, [...] an assemblage of some size associated with one another through agreement on law [...]." While this is the classical definition of the Roman Republic from the perspective of one of its staunchest defenders, Cicero's (fragmentary) dialogue on the commonwealth was not available to Kant and his contemporaries, but rediscovered only in the early nineteenth century. On the availability, transmission history and use of the passage in question in earlier times, see Kempshall, 2001. — Wherever practical, references to passages in primary sources from antiquity and the early modern period will include, in addition to a citation by the pagination of the edition or editions listed in the bibliography, an indication of the cited passage(s) by book, or book and chapter, or section, of the original edition, as indicated in most modern editions and translations of the work in question. Throughout, quotations provided omit any emphasis contained in the original or its translation.

untimeliness of political philosophy and then sketches the career of republican thought in classical antiquity. Section 2 follows the trajectory of modern republican thought from Machiavelli to Montesquieu. Section 3 outlines the normative nature and the jural character of republicanism in Kant. Section 4 details the distinct political profile of republican rule in Kant.<sup>2</sup>

## 1. Republics Greek and Roman

Philosophy, especially political philosophy, is its time disclosed in thought. While not reducible to the contingent circumstances of its origin (“context of discovery”), philosophical thought, no matter how austere and abstract its claim to truth and its mode of validity (“context of justification”), is deeply informed by the particulars and idiosyncrasies of its time, but also by its seeming essentials and apparent universals, all of which it at once mirrors and molds, reflects and refracts, by means of the looking glass that is critical thought. Hegel, who was one of the first to stress the timeliness of seemingly timeless thought, also knew though how to render philosophy’s timeliness itself timeless, how to dehistoricize philosophy’s historicity — by inscribing into present philosophy, including present political philosophy, the entirety of its antecedent conditions and earlier presuppositions, which, according to Hegel, brought the philosophical present about as an evolving accomplishment over time, through time and by means to time.

While Kant does not yet participate in Hegelian anti-historicist historicism of thought and reality, his thinking is historical, if not historicist, in leaving behind earlier positions and established preconceptions in a move that not so much dismisses and disregards past philosophical thought, as that it reaches beyond it by combining contrary insights and reconciling earlier oppositions in a complexly conceived original synthesis. The chief example of Kant’s summative strategy — of at once preserving and overcoming previous philosophy — is the breaching of the “critical path” (Kant, 1998 [a] and [b]; KrV,

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<sup>2</sup> With its combined focus on the systematic and historical dimensions of republicanism in Kant’s political philosophy, the essay seeks to steer a middle course between ahistorical analytic republicanism (Pettit, 1997) and historical contextualist republicanism (Pocock, 1975). For an extension of the essay’s focus onto Kant’s historical and systematic successors, J. G. Fichte and G. W. F. Hegel, see Zöller, 2015.

B 884/A 856)<sup>3</sup> as a third, superior alternative to the seemingly exclusive dualisms of dogmatism and skepticism, of rationalism and empiricism and of intellectualism and sensualism.

A similar pattern of search and rescue can be observed in Kant's political philosophy (the latter term a recent coinage unfamiliar to Kant and his contemporaries), which retrieves and reconciles the earlier opposition between monarchism and republicanism in political rule that had divided modern philosophy from Machiavelli through Montesquieu. To be sure, in the historical assessments of monarchical and republican rule the distinction between the two types is not schematic and strict but involves complex concepts laden with extended political history and varied practical experience. In addition, the very terms, "republic" and "monarchy," undergo significant change and dramatic development over the course of their use and reuse in the politico-philosophical discourse from classical antiquity to modern times. Accordingly, Kant's harmonious handling of the dogmatic divide between monarchism and republicanism is both historically situated and systematically innovative. While not being overly explicit and very detailed in tracing its lineage, Kant's principal positions in political philosophy are informed by past and present political thought as well as past and present political developments.

To begin with, Kant's politico-philosophical thought is steeped in the twin traditions of natural law (*ius naturae*) and the social contract (*pactum sociale*). In line with the former, Kant maintains the praeterpositive status and function of the basic moral and legal norms that are to shape and limit any positive laws and regulations. In accordance with the latter, Kant maintains that all government is to be based not on some preexisting authority (whether religious or secular) but on the, if not explicit, then implied or at least presupposed agreement of the citizens-to-be. But Kant is also conversant with the relative openness that the accounts of natural law and the social contract show for a whole range of governmental systems to be established on their basis. In particular, the early modern traditions of natural law and the social contract regularly consider the various types of rule

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<sup>3</sup> The *Critique of Pure Reason* is cited by the original pagination of the second (definitive) and the first edition of the work ("B" and "A," respectively), as indicated in most modern editions and translations, including Kant, 1998 (a) and (b).

distinguished by Greek political philosophy, viz., monarchy, aristocracy and democracy.<sup>4</sup>

To be sure, in the early modern double tradition of natural law and the social contract the consideration of alternative political systems typically remains abstract and general. Moreover, neither the political rule by the people themselves (direct democracy) nor the political rule by a titled nobility (hereditary aristocracy), which form part of the Greek typology of governments, can be considered a political reality in early modern Europe, where the people and the nobility alike are, for the most part, integrated into a centralized monarchical system of government.<sup>5</sup> Given the complex character of modern monarchy, the latter cannot be identified with the pre-modern monarchical type of government envisioned in the Greek typology of constitutions either. In sum, then, none of the three Greek-style types of government, or their corresponding defectives modes (despotism, oligarchy, ochlocracy), could be made to match the prevailing modern political realities.

Yet while modern monarchy has no precedent, much less model, in the political theory and practice of classical antiquity, the other constitutional archetype traditionally opposed to monarchy in general and to modern monarchy in particular, viz., the republic, goes back to classical antiquity and claims continuity from its ancient origins to its most modern manifestations. To be sure, the republican tradition does not begin in Greek political life and Greek philosophical reflection on the latter, but in the political history of ancient Rome and in the thinking of philosophically inclined politicians and historians about its peculiar political profile. From a Greek perspective informed by the distinction between monarchical, aristocratical and democratic types of rule, Rome's complex constitution, which evolved after the expulsion of the kings and prevailed until the installation of absolute imperial rule, presented a regime type not easily accommodated by existing schemata.

To a Greek-trained outside observer, as exemplified by the historian Polybius (Polybius, 2010, p. 372; Bk. 6), the secret of Rome's success as a flourishing and prosperous political entity, apparently not subject to the vicissitudes of the short-lived and rapidly changing constitutions of the Greek city-states, lay in Rome's mixed constitution

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<sup>4</sup> See G. Achenwall, *Juris naturalis pars posterior complectens jus familiae, jus publicum et jus gentium*, Göttingen, 1763, Bk. 3, §110, reprinted in Refl, 19: 377f.

<sup>5</sup> While not a standard monarchy, the Holy Roman Empire, which occupied most of the center of medieval and early modern Europe, consisted largely of a loose confederation of relatively independent monarchical regimes in the form of ecclesiastical and secular principalities.

that blended and balanced elements of all three basic constitutional types. To be sure, already earlier Greek political philosophy, chiefly Aristotle (Aristotle, 1998, p. 175; Bk. 6, Ch. 1), had identified a mixed constitution's superior potential for political stability and longevity over any of the pure constitutional types. But typically the recommended constitutional mix involved aristocracy (or oligarchy) and democracy, construed socio-economically as the blending of the rule of the rich with that of the poor (Aristotle, 1998, p. 116; Bk. 4, Ch. 9). By contrast, in the case of Rome, as assessed *à la grecque* by Polybius, the mixture comprised all three constitutional types — with the consuls representing the monarchical element, the senate the aristocratic element and the people (through its tribunes) the democratic element.

While Polybius' Greek-based account of Rome's constitution proved quite influential for the Roman political self-interpretation, it did not directly influence the self-definition of Rome as a republic. After all Polybius' account, in addition to being Greek in thought was also Greek in language. The Greek coinage used by Polybius to designate the Roman constitution was "*politeia*," a technical term derived from the Greek word for the city-state, for the city *qua* state (*polis*). Since Aristotle the term and concept of *politeia* had oscillated between the formal meaning of a constitution in general (Aristotle, 1998, p. 75 and 77; Bk. 3, Ch. 6 and Ch. 7), regardless of its specific type, and the material meaning of an aristo-democratically mixed constitution explicitly endorsed by Aristotle (Aristotle, 1998, p. 115; Bk. 4, Ch. 8). Transposed into Roman political reality and Latin political terminology and conceptuality, the Roman *politeia*, as portrayed by Polybius became, first, the *civitas* in the general sense of the body political made up by its citizens (*civis*, plural *cives*) and, second, the *res publica* denoting both Rome's constitutive commitment to the political pursuit of the common good (*res commune*) and to the cause of the people (*res populi*). In the Roman writers — political historians as well as philosophers — the linguistically and semantically novel term and concept of the *res publica*, while applying in the first instance to the Roman Republic, was equally extended to other political entities, provided they were not ruled monarchically, much less tyrannically or despotically, but with an eye for common concerns. Such was even the case with Rome's arch-enemy, the commercial

“republic” of Carthage in North Africa, whose population was of Phoenician extraction.

But the wider meaning of the Latin terms, “*civitas*” and “*res publica*,” extended not only beyond the political borders of the Roman Republic. It even reached beyond the era of the Roman Republic into Rome’s (early) Imperial period. With the main institutions of the Roman republican constitution still in existence, if not in full functioning, chiefly among them the senate, there could still be the occasional reference to the ever-expanding Roman Empire as a *res publica*. To be sure, there were also many instances in which Imperial Rome was characterized — and criticized — for its lack of the institutional and moral traits that had distinguished Rome in its heyday as a true, “free” *res publica* (*res publica libera*).<sup>6</sup> That a substantial continuity could be perceived between Republican and Imperial Rome was due to two features characterizing the Republic and the Empire, respectively, and establishing a twofold affinity between Rome’s seemingly opposed constitutional identities. On the one hand, the Roman Republic had been from early on an ever-evolving empire and, to that extent, an imperial Republic. After initially expanding throughout middle Italy, the Republic successively invaded, occupied and annexed large parts of transalpine Europe, the Iberian peninsula, sub-Saharan Africa, the Balkans and the Near East. In the process, the Republic became a global empire of an increasingly heterogeneous population united by the ever more widely extended political device of Roman citizenship increasingly granted to former enemies and previously vanquished people.

On the other hand, the eventual consolidation and concentration of Roman Imperial power under a single ruler (*Imperator*, Emperor) never congealed into an outright monarchy and the institution of royal rule. Augustus’ founding vision for Rome’s imperial future envisioned the new ruler to be a first (*princeps*) among (senatorial) equals, and even the more despotic of his successors did not seek, much less attain, kingly status. To be sure, underneath its (post-)Republican veneer, the Roman Empire, especially in later Antiquity, very much resembled the one-person rule historically associated with kingship, albeit mitigated by the remnants of patrician and popular power. Royal rule came about only in the two successor empires to (West) Rome, viz., East Rome

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<sup>6</sup> A chief critical analyst of Imperial Rome from the perspective of the Republic is Tacitus, especially in the *Histories* (Tacitus, 2009). On Tacitus’ sustained juxtaposition of the two Roman constitutions, see Fontana, 1993.

(Byzantium, renamed Constantinople; today's Istanbul) and the Frankish Empire along with its medieval successor states, the Kingdom of France and the Holy Roman Empire (of the German Nation). The East Roman rulers soon styled themselves, in pseudo-Greek and crypto-Oriental fashion, as kings with a court (*basileus*), while the Frankish rulers installed themselves as kings on the move from one palatine residence to the next (*rex Francorum*) and transformed the Roman military and political office of the *Imperator* into a dynastic title (*Kaiser*), coined after the family name of a statesman of the late Republic who never held an office outside of Rome's Republican constitution, Gaius Iulius Caesar.

While the extent of continuity and discontinuity between the Roman Republic and the Roman Empire was a matter of controversy, there was one issue that emerged early on in the philosophical historians of Imperial Rome as a criterion for republican rule, viz., freedom or liberty (*libertas*), understood negatively as being free from domination and positively as being one's own master. Before taking on a generally political and specifically republican sense, *libertas* had been a legal term designating the status of a freeman (*liber*), as opposed to someone living in servitude (*servitudo*) and standing under some else's dominion (*dominatio*). By transposing the concept of liberty from the sphere of private law, involving single individuals, to that of public law, involving the collective citizenry of a body politic, freedom *qua* liberty became the hallmark of life under the Republic at the very moment of the latter's demise or destruction (*res publica amissa*) (see Strunk, 2016). But it could be argued that Rome had lost its subsequently idealized republican liberty, along with the latter's requirements of civic virtue and public service, well before the actual replacement of Republican by Imperial rule. In particular, Montesquieu, assessing the causes of Rome's greatness and decline from the vantage point of the eighteenth century, argued that the essentially Empire-building politics of the Roman Republic already contained the seed for Rome's eventual decline and fall not just from its former freedom but eventually also from its gained greatness (Montesquieu, 1965).

## 2. Republics Specific and Generic

The ambiguous status of the Republic in Roman political history, which oscillates between a quite specific, chronologically limited constitutional form and the generic and variable constitutional condition of the collective citizenry, also informs the heritage of republican thought in later political theory and practice. With the advent of monarchical rule in the European successor states to the Roman Empire, established in the wake of the Barbaric Invasions of late Antiquity, the republican ethos of caring for the common good becomes detached from the Polybian mixed constitution and instead associated with monarchical rule, to the extent that the latter is essentially concerned with the overall well-being of the commonwealth. In particular, the monarchies of medieval Europe typically feature representative bodies (“estates”) institutionally involved in the governance of the realm and concerned with the particular interests of the social (and economic) constituent elements of the body political (“gothic government”; see Zöller, 2021 [d]). To be sure, the quasi-republican entitlements (“liberties,” “privileges”) of political representation and civil liberty initially are granted only to a powerful elite able and willing to challenge and check the monarch, but eventually — in early modern times — extended, in various ways, to other parts of the citizenry under the guise of generalized entitlement (“natural rights,” “popular representation”).

In addition to the quasi-republican political profile behind much of medieval and modern monarchical rule, a decidedly anti-monarchical form of republicanism emerges in late medieval and early modern times, informed by the civic ethos of the Roman Republic and animated by the principal rejection of royal rule as illegitimate and unjust. The particular political context for early modern neo-republicanism (“civic humanism”; Baron, 1966) is the phenomenon of independent, “free” city republics in Northern Italy. To be sure, the medieval and early modern republics, chiefly among them Venice and Genoa, are small in territory and commercial in nature. Accordingly, the empires which these modern republics build and maintain over extended periods of time, are trading networks rather than military and political forms of rule. Also those republics are typically aristocratic, with a local self-styled patrician elite from the ranks of the upper *bourgeoisie* systematically excluding the rest of the population from political participation.



Similar republican structures can be observed in the independent, “free” and “Imperial” trading cities of Holy Roman Empire, whose citizen-burghers recognize no local ruler but only the ultimate, though largely ceremonial and symbolic political authority of the Emperor residing in far-away Prague or Vienna. Further republican regimes from late medieval and early modern times include the federative non-monarchical political systems of Switzerland (*Confoederatio Helvetica*) and the Dutch Republic (“United Provinces of the Netherlands”). Finally, a short-lived republican-style regime obtained in Britain under Oliver Cromwell (“The Protectorate” or “Commonwealth”) during the English Civil War, which though was effectively a militarily based dictatorship without parliamentary control.

The terminological and conceptual manifestation of the twofold history of republican political reality after Rome — one generic, one specific — is equally dual. On the one hand, there is the generic reference to the “commonwealth” (Hobbes, 1996, p. 114; Pt. 2, Ch. 18), even the “republic” (*république*; Bodin, 1576; 1; Bk. 1, Ch. 1),<sup>7</sup> for any body politic concerned with citizens’ life under laws detailing what is permitted, prohibited and allowed — an essentially jural conception of civic life focusing on equitable laws and their fair application. On the other hand, there is the specific reference to the republic in the narrow sense, opposed to other political systems and considered uniquely, even exclusively, suited to affording its citizens a genuinely “free way of life” (*vivere libero*) that is also the only specifically “political way of life” (*vivere politico*) (Machiavelli, 1996, p. 60f.; Bk. 1, Ch. 25; Machiavelli, 2005, p. 378f.). On this outlook all governments can be divided into republican and monarchical regimes (“republics and principalities”; *republiche, principati*; Machiavelli, 2005, p. 7; Ch. 1.; Machiavelli, 2005, p. 805). To be sure, the exclusive linkage between life in a republic and a life in freedom, as maintained by Machiavelli and other early modern defenders of the republican way of life, is challenged by their monarchically inclined contemporaries — famously and notoriously so by Hobbes, who deems a citizen of the self-proclaimed “free” Italian city-republic of Lucca to have no “more liberty, or immunity from the service of the commonwealth there, than

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<sup>7</sup> The pertinent passage is not contained in the modern English selective translation of Bodin’s *De la république* in Bodin, 1992.

in Constantinople,” the latter being the proverbial site of oriental despotism (Hobbes, 1996, p. 143; Pt. 2; Ch. 21).

The wider and the narrower meaning of “republic,” and the primarily jural and the predominantly political sense, respectively, associated with them are brought together in a comprehensive and comparative perspective by Montesquieu in his monumental *Spirit of the Laws* (1748). In order to adapt the ancient Greek constitutional typology of monarchical, aristocratic and democratic regimes, along with their defective variants of tyrannical, oligarchic and ochlocratic rule, to the realities of modern European statehood, Montesquieu distinguishes between monarchical, republican and despotic governments (Montesquieu, 1989, p. 21-30; Bk. 3, Ch. 1-11). While the former two (monarchy, republic) take up the Machiavellian dualism of principalities and republics, the latter one provides a generic designation for the formerly distinguished deficient regimes, all of which are marked by the absence of a key features that, in turn, unites monarchy and republic: rule according to established laws.

In making the rule of law the defining feature of good government, regardless of its manifest mode as a monarchy or a republic, Montesquieu has removed the privilege of freedom from republics and extended it to monarchies, which — on his assessment — are no more, and no less, prone to degeneration into despotism than republics old and new (“unfree republics”; Montesquieu, 1989, p. 162; Bk. 11, Ch. 6). More precisely, the freedom afforded to its citizens by lawful republican and monarchical regimes alike is “political freedom,” understood as the “security” of one’s person and one’s possessions under the rule of law (Montesquieu, 1989, p. 157; Bk. 11, Ch. 6). Moreover, political freedom or liberty in the eminent sense of participation in political rule can be found, so Montesquieu, not only in the ancient republics but also and equally, if not more, so in modern constitutional monarchies that afford to (a certain segment of) the citizenry the active participation in government through popular election and elected delegation of one sort or another (Montesquieu, 1989, p. 159; Bk. 11, Ch. 6). In that regard, Montesquieu singles out the constitution of England, which is supposed to have “political liberty” as its very purpose (Montesquieu, 1989, p. 156; Bk. 11, Ch. 5).

By including republican government as one of the three basic types of rule, in addition to monarchical and despotic rule, Montesquieu not only reconfigures the ancient Greek constitutional typology in view of the legal and political developments of monarchical rule unbeknownst to the ancients (Montesquieu, 1989, p. 166-168.; Bk.11,

Ch. 7 and 8). He also departs from the Polybian interpretation of the (Roman) republic as a mixed constitution. Under the newly introduced heading “republic” Montesquieu distinguishes further between aristocratic and democratic republics, with the former assigning political power to a smaller and the latter to a larger part of the population (Montesquieu, 1989, p. 10; Bk. 2, Ch. 2). Viewed against the background of the aristocratic and democratic pure types of the republican constitution, the ancient political practice of combining monarchical, aristocratic and democratic elements seems to Montesquieu most realized in modern, “moderate” monarchies, as exemplified by the constitution of England, to which Montesquieu devotes a detailed functional analysis (Montesquieu, 1989, p. 156-166; Bk. 11, Ch. 6). In particular, Montesquieu notes the differential allocation of governmental tasks between the crown (“the Prince”), the Upper House (“the body of the nobles”) and the Lower House of Parliament (“the body [...] chosen to represent the people”) (Montesquieu, 1989, p. 157, 160; Bk. 11, Ch. 6).

But Montesquieu does not leave it at the creative reinterpretation of the Greco-Roman constitutional typology with regard to modern European monarchy in general and the English constitution in particular. He goes on to introduce a novel analysis of government in terms of three specifically different basic political functions, termed “powers” (*pouvoirs*), that overreach the different constitutional types and serve to identify and assess the particular set-up and mode of operation in any kind of government. That Montesquieu chooses an extensive analysis of the “Constitution of England” for introducing his differential conception of political powers is due to the fact that the English constitution, on Montesquieu’s analysis, exhibits the three powers most clearly in their institutional and personal distribution (“separation”), while most other forms of government past and present fuse or confuse two of the three or even all three basic political powers.

The three political powers, as introduced by Montesquieu in the context of the English constitution, are the “legislative power,” the “executive power” and the “power of judging” (Montesquieu, 1989, p. 156f.; Bk. 11, Ch. 6). All three powers involve laws obtaining in a given polity or between several such polities. The first power consists in the making, changing or abolishing of (positive) laws, either temporarily or permanently (“for a time or for always”; Montesquieu, 1989, p. 156; Bk. 11, Ch. 6). The second power is exercised over international affairs

under supranational law (“law of nations”; Montesquieu, 1989, p. 156; Bk. 11, Ch. 6; translation modified)<sup>8</sup> and concerns matters of war and peace, diplomacy and national as well as international security. The third power is exercised over matters depending on the law code of a given state (“civil law”; Montesquieu 1989, 156; Bk. 11, Ch. 6; translation modified) and involves the punishment of crimes and the settling of (private) disputes. Montesquieu also characterizes the third power as the “executive power over the things depending on civil law” (Montesquieu, 1989, p. 156; Bk. 11, Ch. 6; translation modified), as opposed to the second power as the “executive power over the things depending on the law of nations” (Montesquieu, 1989, p. 156; Bk. 11, Ch. 6; translation modified), thereby stressing the genuine power exercised by jurisdiction that exceeds the mere subsumption of given cases under given laws.

In his comparative and critical analysis of the constitution of England, Montesquieu deems it essential that the giving and the enacting of the laws are not united in a single person or a single political body. He regards it as equally important that the power of judging be kept separate from both the legislative power and the executive power. For when the executive power and the legislative power are not separated, tyranny looms large (“tyrannical laws,” “execute[d] tyrannically”; Montesquieu, 1989, p. 157; Bk. 11, Ch. 6). Moreover, when the judiciary power is merged with the legislative power, legislation risks becoming arbitrary, because the judge is simultaneously the lawmaker. Finally, when the judiciary is fused with the executive power, the judge’s power can become oppressive. Accordingly, the extent and manner of separation between the three basic political powers in a given polity can be used to assess the kind and amount of freedom (“liberty”) afforded by that polity’s constitution. The liberty in question (“political liberty”) consists, according to Montesquieu, in a citizen’s freedom from fear, specifically from having to fear the (unrightful) intrusion by another citizen (Montesquieu, 1989, p. 157; Bk. 11, Ch. 6).

On Montesquieu’s critical assessment, contemporary England is distinguished by the institutional separation of all three political powers and a resulting high degree of liberty for its citizens. To be sure,

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<sup>8</sup> The modern translations of Montesquieu and Kant used throughout the essay, while being generally faithful to the French and German originals, sometimes sacrifice accuracy to readability. In a number of those cases (always indicated as such), the translations quoted have been modified for expository purposes.

Montesquieu is concerned not only with the three political powers being institutionally separated but also with controlling each other (“check”; Montesquieu, 1989, p. 160; Bk. 11, Ch. 6) and with functionally working together (“move in concert”; Montesquieu, 1989, p. 164; Bk. 11, Ch. 6). In addition, Montesquieu’s praise of the English constitution for the extent of freedom it affords is not unqualified. In particular, Montesquieu notes the consequences of the English political system, with its dualism of the crown’s executive power and the bicameral parliament’s legislative power, on the individual independent (“free”) citizens, who support different sides of the political power structure, thus introducing a climate of conflict and faction into English civil society, to the point of creating an atmosphere of apprehension and agitation (“terrors of the people”; Montesquieu, 1989, p. 326; Bk. 19, Ch. 27).

Compared to the sustained separation of all three political powers to be found in England’s constitutionally limited monarchy, the modern monarchies of Continental Europe typically exhibit, on Montesquieu’s assessment, the joining of the legislative and the executive powers in the hands of the dynastic ruler (“prince”) and his ministers. But Montesquieu’s considers it a mitigating circumstance that in such unlimited, “absolute” monarchies the third power — that of judging — is generally left to (trained professionals from among) the people (“subjects”), a circumstance that leads him to consider modern monarchical government altogether tempered (“moderate”). According to Montesquieu, in modern absolute monarchies, chiefly in absolutist France, national pride (“glory”), rather than liberty, serves as the purpose of the monarch, of the state and of the citizens alike. Yet for Montesquieu the very pursuit of such glory can furnish an equivalent substitute for liberty (“spirit of liberty”) that results in as much civic satisfaction (“happiness”) in absolute monarchies as liberty would furnish in a differently organized, constitutional monarchy (Montesquieu, 1989, p. 166; Bk. 11, Ch. 7). Finally, Montesquieu considers the complete personal union of all three political powers in the hands of a single absolute rule, such as the sultan in the Ottoman Empire (“the Turks”), a despotic extreme form of government (“atrocious despotism”) (Montesquieu, 1989, p. 157; Bk. 11, Ch. 6).

No less harsh is Montesquieu’s judgment about the fate of (political) liberty in modern-day, essentially aristocratic republics (“Italian republics”; Montesquieu, 1989, p. 157; Bk. 11, Ch. 6), chiefly

among them Venice, where Montesquieu finds all three powers united in the hands of the same narrow segment of the population (“hereditary aristocracy”; Montesquieu, 1989, p. 158; Bk. 11, Ch. 6), with the result “that there is less liberty than in our [Continental European] monarchies” (Montesquieu, 1989, p. 157; Bk. 11, Ch. 6). On Montesquieu’s assessment, the relative merits of republics and monarchies have undergone a complete reversal in modern times. Once considered the sole seat of political freedom, republics have shown themselves to be the sites of instability and unfreedom, while modern monarchies, whether absolute or constitutional, have emerged as the providers of security and liberty. In addition, Montesquieu regards a republican constitution, whether democratic or aristocratic, as unsuited in principle to the governance of the extended territorial states of modern times (Montesquieu, 1989, p. 125; Bk. 8, Ch. 17), which he considers best ruled by monarchs and their magistrates, but checked and balanced by representative bodies of the nobles and the people, whether as regularly convened estates or as standing bicameral parliament.<sup>9</sup>

### 3. Republics Platonic and Kantian

After Montesquieu’s circumspect reevaluation of the relative strengths and weaknesses of aristocratic or democratic republics, on the one side, and modern, institutionally moderated or constitutionally balanced monarchies, on the other side, republicanism becomes at once a thing of the past and the future. A political fossil from Roman antiquity, complete with the aura of expansion and empire but also the *haut goût* of decline and fall, the republic serves simultaneously as the vision for a post-monarchical reordering of the modern polity. Futural republicanism first takes shape in Rousseau’s philosophical vision of an egalitarian republic expressive of the sovereignty of the people and governed by the general will (Rousseau, 1999, p. 56-58; Soc. Contr., Bk. 1, Ch. 7). Modern republicanism then takes to the political stage with the twin republican revolutions of the later 18th century that turn existing monarchical regimes into democratic republics — a short-lived change in revolutionary France and a long lasting and far reaching development in revolutionary North America that, instead of imitating

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<sup>9</sup> For Montesquieu’s consideration of federal republics as a way of bringing republican rule to larger territories, see Montesquieu, 1989, p. 131-133; Bk. 9, Ch. 1-3.

the “petty Republics of Greece and Italy” (Hamilton, 2003, p. 35; #9), creates an ingenious federative republic of increasingly Continental scope and global significance (see Zöllner, 2018).

An alternative route to the futurization of the modern republican polity is taken by Kant, who turns the republic from a past, present or future reality into a counterfactual norm (“idea”) that is to inform the original institution and the ameliorative development of the body politic. In the process, the republic becomes interiorized and unreal. Linguistically speaking, the republic as a real political form is being replaced by republicanism as an ideal political norm. The systematic *locus* for Kant's republican political philosophy is the philosophy of law, more specifically the pure principles of public law (*ius publicum*) as the universal framework for establishing positive laws governing private and civic life in the polity. On Kant's outlook, politics normatively conceived consists in the inventive application of law's universal principles (“metaphysical first principles”; Kant, 1996, p. 365; MS, AA 6: 205) to the sphere of socio-civic experience guided by specifically political principles, such as the “representative system” affording legally mandated civic freedom and equality under conditions of a populous body politic (Kant 1996, p. 614; VRML, AA 8: 429).

Kant's published philosophical pronouncements on the status and function of the republic date from the 1790s, hence are contemporaneous with the revolution in France, and are to be found chiefly in *On the Common Saying* (1793; Kant, 1991, p. 61-92; TP, AA 8: 273-313), *Toward Perpetual Peace* (1795; Kant, 1996, p. 315-351; ZeF, AA 8: 341-386), *The Metaphysics of Morals* (1797; Kant, 1996, p. 363-603; MS, AA 6: 203-493) and *Conflict of the Faculties* (1798; Kant, 2012, p. 239-327; SF, AA 7: 1-116). Earlier work that bears on politico-philosophical issues includes two occasional pieces in the philosophy of history from the 1780s, *Idea for a Universal History With a Cosmopolitan Purpose* (1784; Kant, 1991, p. 41-53; IaG, AA 8: 15-31) and *Conjectures on the Beginning of Human History* (1786; Kant, 1991, p. 221-234; MAM, AA 8: 107-123). Kant's detailed work on the juristic foundations of politics, eventually published in Part Two of the late *Metaphysics of Morals*, the *Metaphysical First Principles of the Doctrine of Right* (Kant, 1996, p. 363-506; RL, 6: 203-372), is largely anticipated, by some thirteen years, in the only preserved student transcript of Kant's lecture course on natural law, *Naturrecht Feyerabend*, from 1784 (Kant, 2016 [b], p. 66-230 [German text on odd

numbered pages]; Kant, 2016 [a], p. 73-180; see Zöller, 2017).<sup>10</sup> Further material in political philosophy in general and republican political thought in particular can be found in the parts of Kant's *Nachlass* containing his marginalia in and his notes on a contemporary standard textbook on natural law (Refl, AA 19: 323-613; selections in Kant, 2016 [a], p. 1-72).

But even before the outbreak of the French Revolution and outside the context of political philosophy and the philosophy of law, the term and the concept of “republic” (*Republik*) figure prominently in Kant's revolutionary epistemology of the *Critique of Pure Reason* (1781; 1787), where they serve as a prime example for a concept of reason (“idea”) with practical import in orienting and motivating human willing and acting. To be sure, Kant's initial example of a practical idea is the idea of “virtue” (*Tugend*), understood as the perfect model (“archetype”) ever to be approached and never to be reached by human ethical efforts (Kant, 1998 [a] and [b]; KrV, B 371f./A 314f.). Historically and linguistically, Kant traces ideas in general and practical ideas in particular to Plato (Greek *idea, eidos*; German *Idee*; English *form*). While Kant does not share Plato's ontological conception of ideas (“archetypes of things themselves”), he agrees with the Platonic notion that cognition is not exhausted by conceptualizing “appearances” (*Erscheinungen*) but essentially includes ideas, which, in principle, exceed all (possible) experience and yet serve as the criterion for the latter's ever-greater extension (KrV, B 370f./A 313f.; see Zöller, 2011).

The hermeneutic maxim underlying Kant's specifically epistemological appropriation of Plato,<sup>11</sup> according to which an interpreter who critically compares an author's thoughts on a given subject may be able to “understand him even better than he understood himself” (KrV, B 370/A 314), also serves him in his decidedly modern reading of the “Platonic republic” (*Platonische Republik*) (KrV, B 372f./A 316f.). Following the Platonico-Kantian view of the essential function of ideas, including practical ideas, for orienting and motivating any and all cognitive and conative efforts, Kant rejects the customary relegation of Plato's portrayal of the ideal city-state (*politeia*) to the

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<sup>10</sup> The German edition of *Naturrecht Feyerabend* contained in Kant, 2016 [b], together with an Italian translation, is more reliable than the work's original publication in V-NR/Feyerabend, 27, 2/2.

<sup>11</sup> For a sustained reading of Plato's dialogues in their entirety from a Kantian epistemological perspective, informed by early twentieth-century Marburg-school neo-Kantianism, see Natorp, 1994.



realm of fantasy or fiction (“dream of perfection [...] only in the idle thinker’s brain”). In particular, Kant takes issue with the standard dismissal of Plato-Socrates’ postulated pairing of political function and philosophical knowledge (“a prince will never govern well unless he participates in the ideas”) as “ridiculous,” “useless” and an outright “impracticability” (KrV, B 372f./A 316). By contrast, Kant maintains that Plato’s ideal republic is a “necessary idea which one must make the ground not merely of the primary plan of a state’s constitution but of all the laws too” (KrV, B 373/A 316).

But not only does Kant, in the *Critique of Pure Reason*, endorse the formal function of the “Platonic republic” as the essential yardstick of all possible political practice. Kant also draws on Plato for defining the very content of the ideal republic. To be sure, Kant’s interpretation of the “Platonic republic” is decidedly modern (and Kantian) in its emphasis on a feature that is virtually absent from Plato’s *Republic*, viz., freedom. For Kant freedom is involved in everything that is practical in nature (“what rests on freedom”; KrV, B 371/A 314f.; see also B 828/A 800) and in which ideas exercise causality (“become efficient causes”; KrV, B 374/A 317). The Kantian contrast between “the theoretical,” which concerns the determination of objects, and “the practical,” regarding the determination of the will, is entirely alien to Plato — and to ancient thinking in general.

Beyond the generic role of freedom *qua* causality *sui generis* involved in all practical ideas, the *Critique of Pure Reason* attributes a special form of freedom to the practical idea of the (Platonic) republic. Here the gap between the Platonic precedent and the Kantian reconstruction is even more glaring. For Kant identifies Plato’s republic with a “constitution providing for the greatest freedom according to laws that permit the freedom of each to exist together with that of others” (KrV, B 373/A 316). Not only is such a definition entirely absent from Plato’s work. Its emphasis on freedom in general and on equitably assured freedom in particular is also completely alien to Platonic political thought — and to ancient political thinking altogether. While ancient political philosophy typically defines a polity’s constitution in terms of rule and by reference to who exercises the rule (one, a few, many), Kant’s redefinition of the republic makes freedom in general and civically conditioned freedom in particular the focus of a body politic’s basic constitution.

Where the ancients explicitly addressed freedom in the political sphere (Greek *eleutheria*, Latin *libertas*), the concept, along with its opposite (“unfree”), was borrowed from the sphere of private, rather than public legal relations — between master and slave — and consisted primarily in the negative freedom from rule by a foreign or domestic lord (Greek *despotes*, Latin *dominus*), whose rule would reduce free citizens to enslaved subjects. By implication, the rule sought by the ancients under the title “free” was self-rule in its most general form, regardless of the particulars for selecting or determining the physical or moral person of the ruler. By contrast, Kant’s (re-)definition of the “Platonic republic” in terms of enabling and assuring everyone’s equal freedom relocates the element of organized rule (government) from the level of the ruler to that of the (meta-)rules for the ruling and the ruler (“according to laws”), effectively introducing the specifically modern conception of the rule of law into the very definition of a republic.

But not only is Kant’s freedom-focused definition of the ideal republic foreign to ancient political philosophy, whether Greek or Roman. The Kantian republic is also a novelty in the context of modern political philosophy. To be sure, freedom *qua* liberty figures prominently in most modern accounts of law and government, from the “liberty of subjects” in relation to the sovereign ruler and to the absoluteness of the laws in Hobbes (Hobbes, 1996, p. 139-148; Part 2, Ch. 21) through an individual’s liberty as an inalienable, “natural right” in Locke (Locke, 1988, p. 269-278; Sec. Treatise [Bk. 2], Ch. 2) to Montesquieu’s exclusive assignment of “political liberty” to the English constitution as the latter’s very purpose (Montesquieu, 1989, p. 156; Bk. 11, Ch. 5) and Rousseau’s assurance that under the social pact previously naturally free human beings “remain as free as before” (Rousseau, 1994, p. 55; Soc. Contr., Bk. 1, Ch. 6). Yet for Kant liberty, understood as everyone’s equal freedom, is not an exceptional feature of a body politic, or a pre-political essence to be preserved under civil conditions, but the primary purpose of a polity (“republic”) to be pursued and maintained throughout in law and politics.

Moreover, the Kantian republic is distinguished from ancient and earlier modern models through the absence of a materially specified end of the body politic, typically the common civic good or the well-being of the collective citizenry. In the pertinent passages of the *Critique of Pure Reason* Kant explicitly rejects the notion that the ideal republic should have the “greatest happiness” of the citizens, however defined, as its end, instead suggesting that the general or maximal well-being of the polity is not a political end of its own but the inevitable effect of

achieving the polity's primary purpose, viz., to enable everyone's lawful freedom (KrV, B 373/A 316). Kant's rejection of a teleological conception of the republic along eudaimonist lines is as radical a change in political philosophy as his analogous anti-eudaimonist turn in ethics is. That the two moves occur together and almost simultaneously (in the early 1780s) should come as no surprise, given the systematic proximity of ethics and law, including politics, both in ancient practical philosophy and in modern natural law. In particular, Kant's novel philosophy of law and politics, as adumbrated in the *Critique of Pure Reason* and developed in *Natural Law Feyerabend* (1784), and his novel ethics, as presented in *Groundwork of the Metaphysics of Morals* (1785), share the general trait of being based on a first principle, rather than on an ultimate end, which, moreover, has a purely formal character, devoid of any specific content.

While it may be exegetically problematic to claim the formal first principle of law and the formal first principle of ethics to be numerically identical and to consist in the supreme practical principle ("categorical imperative"), the first principles of the two domains — (juridical) law and ethics — share a structural feature that serves, in specifically different ways, as the yardstick for required legality and mandated morality, respectively. This structural feature is the very form of law or "lawfulness" (*Gesetzmäßigkeit*) as such — a meta-norm that becomes the requirement of universalizable individual freedom in the case of (juridical) law and the requirement of universalizable particular maxims in the case of ethics.<sup>12</sup> Given the decidedly anti-teleological, outright non-material and purely formal principle of law (and politics) in Kant, as already indicated in the *Critique of Pure Reason* and developed in his subsequent work in the philosophy of law and politics, it should come as no surprise that the very establishment of such a Kantian-style polity ("republic"), along with the decision to enter into it and remain within it, are not matters of prudent choice and open decision but an unconditional obligation ("categorical imperative"; Kant, 1996, p. 461; MS, AA 6: 318).

With its focus on the freedom of each and every one and its abstraction from any material ends, the republic as defined by Kant

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<sup>12</sup> On Kant's distinction between generic "lawfulness" (*Gesetzmäßigkeit*), specifically legal lawfulness or "legality" (*Legalität*) and specifically ethical lawfulness or "morality" (*Moralität*), see Kant, 2016 (a), p. 81–86 and Kant, 2016 (b), p. 82–92 (German original on odd numbered pages). See also Zöllner, 2020 (a).

might be seen to attest to a proto-liberalism along Lockean lines that instrumentally reduces civil society to providing “safety and security” to the individual citizen, in particular with regard to the “preservation of property” (Locke, 1988, p. 329; *Sec. Treatise [Bk 2], Ch. 7, Sect. 94*). Yet Kant’s insistence on the mutuality of freedom and on the lawful exercise of freedom (“according to laws”) suggests not so much a “possessive individualism” (Macpherson, 1962) but rather a certain civicism underlying Kant’s pseudo-Platonic republic. To be sure, the Kantian republic’s eminently formal constitution lacks the Roman republican orientation toward a civically conceived common good and the neo-Roman cultivation of a political ethos of “civic humanism.” Still Kant’s ideal republic of equally free citizens can be seen to preserve the traditional republican concern with civic solidarity. To be sure, in Kant the former ethico-civic culture of committed republicans has been replaced by the juridico-civic culture of law-abiding citizens. But Kant’s residual awareness of the extrajural, quasi-ethical dimension of life in the “Platonic republic” under its Kantian rereading shows in his confidence that “[t]he more legislation and government agree with this idea, the less frequent punishment will become” (*KrV, B 373/A 317*), until finally the coercive nature of law and politics will fall away entirely and find their functional substitute in what Kant eventually, in a different context, was to term free “self-coercion” (Kant, 1996, p. 513; *MS, AA 6: 381*; see Zöller, 2021 [c])

#### 4. Republics Real and Simulative

Kant’s further writings in the philosophy of history, the philosophy of law and political philosophy from the 1780s and 1790s continue the formal focus on freedom, combined with equality, and the methodological focus on the normative nature of law and politics from the presentation of the “Platonic republic” in the *Critique of Pure Reason*. The ideal status of a republican constitution now figures under the appellations “republic in the idea,” “true republic” and “pure republic” (Kant, 1996, p. 480f.; *MS, AA 6: 340f.*; see Zöller, 2020 [b]), and even the reference of such a republic to Plato is occasionally retained (Kant, 2012, p. 306; *SF, AA 7: 91*). Throughout the later writings Kant emphasize the primarily jural, rather than political, character of the body politic under conditions of “law” (*Gesetz*) and

“right” (*Recht*). The “state” (*Staat*)<sup>13</sup> so envisioned is a society in a “civil state” (*bürgerlicher Zustand*), based on the institution of “public justice” (*öffentliche Gerechtigkeit*) (Kant, 1996, p. 450f.; MS, AA 6: 306). The outright identification of the ideal state of law and right with a republic takes the latter term in its broad sense (“*res publica latius dicta*”; Kant, 1996, p. 479; MS, AA 6: 338). Kant continues the established practice of using the formerly specific term “republic” for any state concerned with public matters (*res publica*), subject to the further requirement that the state convey this concern through the strict rule of law.

A significant modification of the original definition of the “Platonic republic” from the *Critique of Pure Reason* — one which builds on another doctrinal feature of the first *Critique* — is the coinage “*res publica noumenon*,” along with the contrasting term, “*res publica phaenomenon*” (Kant, 2012, p. 306; SF, AA 7: 91), construed along the lines of the first *Critique*'s distinction between appearances and things in themselves in general and between “*causa phaenomenon*” and “*intelligible ground*” in the critical cosmology of the Transcendental Dialectic in particular (KrV, B 573/A 545). The distinction between a noumenal and a phenomenal republic further follows Kant's distinction in his critical ethics between the human being considered as a purely rational practical being (“*homo noumenon*”) and that same human being viewed as a sensorily affected practical being with a constitutively compromised rationality (“*homo phaenomenon*”) (Kant, 1996, p. 395; MS, AA 6: 239). Analogously, Kant distinguishes with regard to the body politic (“state”) between the latter's pure and perfect form and its factual realization in any number of constitutions past and present. Systematically speaking, the distinction between the singular ideal republic *sensu strictu* and the plural real republics *sensu lato* marks the point of entry for Kant's political philosophy of history, which traces the trajectory of civil society across time and space in anticipation as well as approximation of an ultimate perfect state.

The Platonically inspired distinction between ideal and real republics introduces a dual perspective into Kant's political thinking in general and his republican political thought in particular. From an idealist perspective, informed by the a priori rational conceptions (“ideas”) of “innate right” (Kant, 1996, p. 393; MS, AA 6: 237),

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<sup>13</sup> On the distinction between “state,” “condition” and “republic” in Kant, see Zöllner, 2021 (b).

“original contract” (Kant 1996, 480; Kant 1900, 6: 340) and “public justice” (Kant, 1996, p. 450; MS, AA 6: 306), a state’s constitution “ought to be republican” in the threefold sense of (1) the individual freedom of the members of society, (2) their lawful subjection to a single common legislation and (3) their civil equality with each other (Kant, 1991, p. 99; ZeF, 8: 349f.). From a realist point of view, informed by human history’s record of preference for one’s own person and the desire to dominate others, a state’s constitution is largely a matter of circumstance and at best an object of ameliorative development by means of careful changes (“reform”; Kant, 1996, p. 465 and Kant, 2012, p. 308; MS, AA 6: 322 and SF, AA 7: 93), based on the rulers’ increasingly better insights and undertaken at their initiative (“from above”) (Kant, 2012, p. 307; translation modified; SF, AA 7: 92). Kant’s dual outlook on the state, oscillating between an idealist understanding of law and a realist view of politics, makes Kant at once a radical, even a revolutionary, in his juridico-political apodictic demands and a moderate, at most a reformist, in his judicious expectations regarding policies and politics.

Particularly instructive for Kant’s subtle stand on republican principles and political practice is his response to the French Revolution, which first turned absolutist France into a constitutional monarchy and soon thereafter, though for a brief period only, into a republic of the democratic kind, to cite Montesquieu’s typology. The proverbial tripartite motto of the French Revolution — “*liberté, égalité, fraternité*” — occurs in Kant as three principles constituting together the “civil state” (*bürgerlicher Zustand*): the “freedom of every member of society, as a human being,” the “equality of the same with everyone else, as a subject” and the “independence [*Selbstständigkeit*] of each member of a commonwealth, as a citizen” (Kant, 1991, p. 74; translation modified; TP, AA 8: 290). With regard to the first principle, establishing the universal human (“innate”) “right to freedom” (*Recht der Freiheit*; Kant, 1991, p. 74; TP, AA 8: 291), Kant stresses the “patriotic” (Kant, 1991, p. 74; TP, AA 8: 291) mindset of free citizens, who regard and treat the commonwealth as an entrusted inheritance and a mandated legacy, thus invoking both the Roman republican tradition and the recent neo-Roman republican ideology of the French revolutionaries.

With respect to the second principle, maintaining the “uniform equality of the human beings as subjects in a state,” Kant stresses — again in line with French neo-republican thought (this time in its decidedly *bourgeois* orientation) — that the equality of the citizens

before the law may well go together with “the utmost inequality of [...] possessions” (Kant, 1991, p. 75; TP, AA 8: 291). The claimed compatibility of civic equality and economic inequality is pushed even further by Kant's third republican principle, which makes a citizen's political status — as defined by involvement in legislation (“co-legislator”; Kant, 1991, p. 77; TP, AA 8: 294) — dependent on the socio-economic status of not being financially dependent on others, but owing one's livelihood to one's material possessions or one's professional training (Kant, 1991, p. 77-79; Kant, 1996, p. 458f.; TP, AA 8: 294-297; MS, AA 6: 314f.). While rejecting aristocratic privilege and civic inequality in favor of human universalism and civic egalitarianism, Kant's republicanly minded political theory, just as revolutionary France's republican political practice, embraces a stratification of republican life reminiscent of the differential political sociology of the Roman republic.

While Kant's later juridico-political philosophy, especially his jurally cast republicanism, draws its inspiration from the French revolutionary events, Kant insists on the strict illegality of the French revolutionary changes in government that first restrained and then dethroned the monarch, before trying him for treason and executing him together with his immediate family. According to Kant, there is absolutely no “rightful resistance” (Kant, 1996, p. 463; translation modified; MS, AA 6: 320) against a lawful sovereign, even if the dethronement could be viewed as a “voluntary abdication” under the “pretext” of an “emergency right” (*Notrecht, casus necessitatis*) (Kant, 1996, p. 464n; translation modified; MS, AA 6: 320n). Much less is there, according to Kant, the “least right” to punish the dethroned monarch for his “previous administration” (Kant, 1996, p. 464n; MS, AA 6: 320n). But Kant concedes that a politically successful revolution, having resulted in a pacified and stabilized republic (“new order of things”), acquires its own legitimacy and legality, which therefore mandates everyone's lawful obedience (Kant, 1996, p. 465; MS, AA 6: 322f.). Accordingly, for Kant, the main effect of the French Revolution is not its eventual emulation in other monarchically constituted states, but the “mode of thinking” (*Denkungsart*; Kant, 2012, p. 302; SF, AA 7: 85) it instills in outside observers, such as Kant and his compatriots, on two political points: that a people's right to give itself a civil constitution is not to be inhibited by foreign military intervention of the kind the coalition of European monarchs had mounted against

revolutionary France; and that the “republican constitution, at least according to its idea,” is the only rightful constitution for a people (Kant, 2012, p. 302; translation modified; SF, AA 7: 85f.).

The shift in standpoint on France’s republican revolution — from that of an active participant to that of an engaged onlooker — also affects Kant’s general outlook on the possibility of republican regime change. In particular, the concession that the sought-after republican constitution should come about “at least according to its idea” conveys Kant’s conviction that, for the time being and quite possibly for a long time, monarchical (or princely) government is the rule for most of the civilized world. Under those circumstances, Kant envisions a constitutional arrangement that endows the existing monarchical regime form with features derived from the constitution of the ideal republic. In particular, Kant draws a distinction, with regard to the formal legal set-up of the state (in terms of public law), between a state’s outward constitutional type (“form of state,” *Staatsform, forma imperii*) and that same state’s *modus operandi* (“mode of government,” *Regierungsart, forma regiminis*) (Kant, 1996, p. 479f.; Kant, 1991, p. 100f.; Kant, 2012, p. 304; translation modified; MS, AA 6: 338 and 340; ZeF, AA 8: 353; SF, AA 7: 88). While the former classification ranges over the traditional constitutional types defined by the (natural or legal) person of the ruler (monarchy, aristocracy and democracy), the latter distinction covers the alternative between a “despotic” way of governing, marked by inherently selfish and ultimately private political pursuits on the part of the ruler, and a “republican” (Kant, 1991, p. 101; ZeF, AA 8: 352) or “patriotic” (Kant, 1996, p. 460; MS, AA 6: 316f.) manner of governing, exercised in the interest of the citizenry at large and in accordance with the rule of law.

The Kantian idea that republican government consists not in a particular constitutional type, such as the Polybian mixed government, but in the mode or manner in which a given constitution, including a monarchical one, is enacted, is part of a more general modern attempt, most prominently present in Montesquieu, to disengage republican principles of government — chiefly the rule of law and the avoidance of corruption of power — from their exclusive claim by aristocratic or democratic republics and to associate them, equally if not more so, with the political realities of constitutional or moderate monarchies. In particular, Kant’s distinction between form of state and mode of government has its antecedents in the efforts of early modern political philosophy to relate the newly developed theory and the newly emerging practice of the sovereign monarchical state to established



views on the advantages of mixed or moderate government. Particularly instructive in this respect is the pathbreaking work of Jean Bodin on the status and function of supreme political power (sovereignty) in governments of all kinds, *Six Books on the Commonwealth* (French edition 1576; Latin edition 1586). Bodin distinguishes, with regard to a commonwealth or the republic broadly construed (*république, res publica*), between the latter's stately form (French *état*, Latin *status*), which may be monarchic, aristocratic, democratic or mixed out of two or three of them, and the way the republic is governed (French *gouvernement*, Latin *gubernatio*).<sup>14</sup>

While in Bodin and Montesquieu, the public law distinction between "rule" (as to type) and "government" (as to mode) and the possible combination of monarchical rule with non-monarchical government serves to legitimate modern monarchy as a functional substitute for the increasingly outdated ancient or early modern republics, Kant utilizes the distinction to justify, for the time being, monarchical regimes in the erstwhile absence of actual republican institutions and constitutions. In the process, the republic as a specific political entity turns into republicanism as a fundamental political mind-set on the part of rulers ("spirit"; Kant, 1996, p. 480; Kant, 2012, p. 306; MS, AA 6: 340; SF, AA 7: 91). Such a republican spirit is supposed to animate or inspire what is and remains, at the literal level ("letter"; Kant, 1996, p. 480; MS, AA 6: 340), a monarchy, even an absolute monarchy, as in the case of Kant's own country, Prussia under Frederick II (Kant, 1991, p. 101; ZcF, AA 8: 352). The republican governmental spirit sought by Kant turns on the fictive construction of the monarch giving only laws and regulations to which the collective citizenry, had it been consulted, would have and could have agreed ("intrinsically popular laws"; *innere Volksgesetze*; Kant, 2000, p. 226; translation modified; KU, AA 5: 352; "spirit of the laws of freedom"; *Geist der Freiheitsgesetze*; Kant, 2012, p. 306; translation modified; SF, AA 7: 91). Kant's particular concern under contemporary conditions of the anti-revolutionary wars of the coalition of European monarchs, is the authorization of military funding by a population

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<sup>14</sup> Bodin, 1576, p. 233; Bodin, 1586, p. 189; Bk. 2, Ch. 2. The chapters in which the distinction between "state" and "government" is drawn and drawn upon are not contained in the modern English translation in Bodin, 1992.

deeply affected by the wars' direct and indirect impact on society and the economy (Kant, 1991, p. 100; ZeF, AA 8: 351).

But not only does Kant's simulative, so to speak pneumatic, republicanism, as encapsulated by the political maxim, "to rule autocratically [Kant's preferred term for what would usually be called "monarchically"],<sup>15</sup> yet to govern republicanly" (*autokratisch herrschen, [...] republikanisch regieren*; Kant, 2012, p. 306; translation modified; SF, AA 7: 91), explicitly endorse absolute monarchical rule, provided it is enlightened about principles of right. He even goes so far as to criticize limited, "constitutional" monarchy, in the form of the English constitution, for its secretly absolute character ("unlimited monarchy," "absolute monarch"; Kant, 2012, p. 305f. and 306n; SF, AA 7: 90 and 90n) in view of the ways in which the monarch's ministers unduly influence parliamentary decisions ("corruption"; Kant, 2012, p. 306; translation modified; SF, AA 7: 90). Conversely, Kant castigates the short-lived militarily based dictatorship of Oliver Cromwell during the "Commonwealth" interlude in British royal rule (1649-1660) as nothing but a "despotic republic" (Kant, 2012, p. 307n; SF, AA 7: 92 note). In Kant's frank assessment, the manifest form of a state as a republic is neither necessary nor sufficient for assuring the republican character ("spirit") of its government.

Kant's sober skepticism about the effectiveness of constitutional monarchy in the case of contemporary England is symptomatic for the systematic challenges to the republican requirements in their simulative as well actual forms of realization. For Kant, the principle of republican government ("republicanism") consists, formally speaking, in the "separation [*Absonderung*] of the executive power (of the government) from the legislative one" (Kant, 1991, p. 101; translation modified; ZeF, AA 8: 352). While the general principle of distributing — of balancing and binding — political power among different bodies of government goes back to Locke (Locke, 1988, p. 324f.; *Sec. Treatise [Bk. 2], Ch. 7, Sect. 88*) and Montesquieu (Montesquieu, 1989, p. 137; *Bk. 11, Ch. 6*), Kant's makes it a defining feature of the republican mode of government. Far from narrowing the reach of republicanism, Kant's redefinition widens the scope of the republican principle. For Kant, any government functioning along definitional republican lines — whether by the real separation of political powers, as in a constitutional

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<sup>15</sup> See MS, AA 6: 338f.; see also Zöller, 2021 (a).

monarchy, or by its simulation, as in a moderate, “enlightened,” absolute monarchy — can be considered republicanly governed.

But as the other English case cited by Kant, Cromwell's Commonwealth, shows, a self-styled republic may well be non-republican, according to Kant's definition of the term. According to Kant, this is especially true for democratically constituted republics (“democracy”), which place all political power in the hands of the people and therefore amount to a form of “despotism” (Kant, 1991, p. 101; ZeF, AA 8: 352). The democratic-despotic mode of government of the “so-called ‘republics’” (Kant, 1991, p. 102; ZeF, AA 8: 353) that Kant has in mind is the direct democracy of late fifth-century Athens, in its interpretation as mob rule (“ochlocracy”; Kant, 1996, p. 479 note; MS, AA 6: 339 note). By contrast, Kant maintains, as a corollary to the republican principle of the separation of powers, the “representative system,” if not in actual reality then at least through a setup that is “in accordance with the spirit of a representative system” (Kant, 1991, p. 101; translation modified; ZeF, AA 8: 352).

The representation envisioned by Kant to assure non-despotic conditions of government is, in the first instance, *executive* representation, as opposed *legislative* or parliamentary representation, which Kant discusses in a second step (“representative system of the people”; Kant, 1996, p. 481; translation modified; MS, AA 6: 341). Executive representation consists in the sovereign ruler of the state, which — depending on the circumstances — may be a prince, a circle of nobles or an entire people, delegating the executive power to a separate body, the “government” (*Regierung*) in the narrow, executive sense, which Kant also calls, with a term derived from the recent French republican constitution, the “directorate” (Kant, 1996, p. 460; MS, AA 6: 316). For Kant executive representation is an essential feature of any non-despotic, “republican” system of government, regardless of the monarchical, aristocratic or democratic form of the state in question. To be sure, the degree of separation and the character of the representation between the sovereign ruler and the executive government can vary widely, depending on the amount of discretion and the extent of independence left to the governing body.

In addition to executive representation, Kant's republican political philosophy recognizes and recommends legislative representation, more specifically the legislative representation of the people. As a republican requirement, popular legislative representation

involves two essential features: the participation of the people in the legislative process in the first place, and their inclusion by means of representation in the second place. While the first requirement (popular participation) builds on ancient democratic practices of self-rule, the second requirement (popular representation) employs an institution unknown to the ancient world and developed in medieval and modern Europe under the guise of estates and parliaments (see Zöller, 2021 [d]). For Kant the justificatory basis of popular legislative participation resides in the very nature of the legislative power as the source of all right and law, which only the “concurring and united will of all,” or the “universally united popular will,” by means of which each one legislates over all and all legislate over each one, can accomplish consistently, without privileging or disadvantaging anyone (Kant, 1996, p. 457; translation modified; MS, AA 6: 314).

To be sure, the political freedom qua legislative participation postulated by Kant might be granted only simulatively, hence fictitiously, and even if really exercised, might be limited to a part of the people only, one suitably qualified for participation in political matters. In Kant’s own country, Prussia, the “enlightened” absolute monarch, Frederick II, ruled over a largely agrarian land still stuck in late-feudal manorialism with no popular political participation, even at the local level, coupled though with a modern executive in the form of a professional bureaucracy and army. Under those circumstances, Kant, his contemporaries and their successors had to draw their inspiration for a popular share in legislative power from outside — from revolutionary France, from reformist England and eventually from democratic America.

In each of those historical cases, just as in Kant’s contemporaneous theorizing about those matters, popular participation took the form of a “representative system of the people,” devised “in order to manage, in the name of the people, the people’s rights [...] through of their delegates (deputies)” (Kant, 1996, p. 481; translation modified; MS, AA 6: 341). Kant qualifies the called-for popular legislative representation with the indication of being the hallmark of “any true republic” (Kant, 1996, p. 481; MS, AA 6: 341), suggesting that in less than perfect republics, perhaps even in pneumatically republican monarchies or democracies, the delegates of the people might be so selected as to not represent everyone’s rights, at least not equally so. By contrast, a true republic would represent everyone’s rights (and interests) in a spirit of civic solidarity characteristic of the

ancient republican ethos and its latter-day equivalent of modern republican principles of law and politics.

While Kant leaves the details of the “representative system of the people” unaddressed, the contemporary Continental practices of legislative delegation would suggest not general and open elections but the deputation of groups of individuals representing kinds of occupation and socio-economic interests (“estates,” “factions”). Moreover, the segment of the people selected for being represented and for doing the representing would be only a minuscule part of the population. The non-democratic, if not outright anti-democratic intent of the legislative representation through “estates” (*Stände*) is still palpable in Hegel’s *Elements of the Philosophy of Right* (Hegel, 1991, p. 339-352; §§300-314; translation modified), published almost a quarter of a century after Kant’s political works in the wake of the Napoleonic and post-Napoleonic reorderings of Europe. It would be yet another decade after Hegel’s death (1831), and almost half a century after Kant’s works in political philosophy, before Continental Europe took note of the democratic revolution in North America, chiefly in its portrayal by Tocqueville (Tocqueville, 2002), and engaged in its own, mostly failed, democratic and republican revolutions.

Still today Europe’s democratic republics, largely the result of revolutions at the beginning of the twentieth century, exist alongside a good number of remaining constitutional monarchies, most of them quite popular in the term’s formal as well as informal meaning. Europe’s modern monarchies and modern republics share the main features of Kantian republicanism: the rule of law, the separation of political powers, the representative legislative participation of the people. The European monarchies and the European republics differ though from each other in their construal of sovereign power, whether residing in a hereditary monarch or in the people collectively considered. To a Kantian republican, the absolute distinction granted to a single personal ruler, typically along with that of dynastic relatives and perhaps an allied nobility, would run counter to the fundamental principles of human freedom and civic equality. Moreover, under the premise of the republican origin of civil society in a (real or ideal) public pact of the people, the recognition of, much more the subjection under, a personal sovereign, however implicit and tacit an act, would involve voluntary self-degradation to a condition “in which the subject [*Untertan*] is not a citizen [*Staatsbürger*]” (Kant, 1991, p. 100;

translation modified; ZeF, AA 8: 351). Be that as it may, the real threat for republicanism today, posed in Europe and worldwide, is not modern monarchism but political authoritarianism with its insidious undermining of the separation of powers and the rule of law — the classical case of despotism, as defined and despised by Kant.

## References

- ARISTOTLE. *Politics*. Trans. C. D. C. Reeves, Indianapolis/Cambridge, Hackett, 1998.
- BARON, H. *The Crisis of the Early Italian Renaissance. Civic Humanism and Republican Liberty in an Age of Classicism and Tyranny*. 2 vols, rev. ed., Princeton, Princeton University Press, 1966.
- BODIN, J. *Les Six Livres de la République*. Paris, Jacques du Puys, 1576.
- BODIN, J. *De Republica libri sex*. Latine ab autore redditi, Paris, Jacques du Puys, 1586.
- BODIN, J. *On Sovereignty. Four Chapters from The Six Books of the Commonwealth*. Ed. and trans. J. H. Franklin, Cambridge, Cambridge University Press, 1992.
- CICERO. *Der Staat*. Latin and German, ed. and tr. K. Büchner, Munich, Artemis & Winkler, 1993.
- CICERO. *On the Commonwealth and On the Laws*. Ed. J. E. G. Zetzel, Cambridge, Cambridge University Press, 1999.
- FONTANA, B. "Tacitus on Empire and Republic," *History of Political Thought*, 14, 1993, 27–40.
- KEMPSHALL, M. S. "De re publica 1.39 in Medieval and Renaissance Political Thought", *Bulletin of the Institutes of Classical Studies* 45, 2001, Supplement 76, "Cicero's Republic," 99–135.
- HAMILTON, A., MADISON, J. and JAY, J. *The Federalist*. Ed. T. Ball, Cambridge, Cambridge University Press, 2003.
- HEGEL, G. W. F. *Elements of the Philosophy of Right*. Ed. A. W. Wood and trans. H. R. Nisbet, Cambridge, Cambridge University Press, 1991.
- HOBBS, T. *Leviathan*. Ed. J. C. A. Gaskin, Oxford/New York, Oxford University Press, 1996.
- KANT, I. *Gesammelte Schriften*, ed. Prussian Academy of Sciences and successors, Berlin, later Berlin/New York, Reimer, later De Gruyter, 1900–.
- KANT, I. *Political Writings*. Ed. H. R. Reiss, trans. H. B. Nisbet, 2nd ed., Cambridge, Cambridge University Press, 1991.
- KANT, I. *Practical Philosophy*. Trans. and ed. M. J. Gregor, Cambridge, Cambridge University Press, 1996.
- KANT, I. *Critique of Pure Reason*. Trans. and ed. P. Guyer and A. W. Wood, Cambridge, Cambridge University Press, 1998 (a).
- KANT, I. *Kritik der reinen Vernunft*. Ed. J. Timmermann, Hamburg, Meiner, 1998 (b).
- KANT, I. *Critique of the Power of Judgment*. Ed. P. Guyer and trans P. Guyer and E. Matthews, Cambridge, Cambridge University Press, 2000.
- KANT, I. *Religion and Rational Theology*. Ed. and trans. A. W. Wood and G. di Giovanni, Cambridge, Cambridge University Press, 2012.

- KANT, I. *Lectures and Drafts on Political Philosophy*. Ed. F. Rauscher and trans. F. Rauscher and K. R. Westphal, Cambridge, Cambridge University Press, 2016 (a).
- KANT, I. *Lezioni sul Diritto naturale (Naturrecht Feyerabend)*. German original and Italian transl., ed. N. Hinske and G. Sadun Bordoni, Milano, Bompiani, 2016 (b).
- LOCKE, J. *Two Treatises of Government*. Ed. P. Laslett, Cambridge, Cambridge University Press, 1988.
- MACHIARELLI, N. *Discourses on Livy*. Trans. H. C. Mansfield and N. Tarcov, Chicago/London, University of Chicago Press, 1996.
- MACHIARELLI, N. *The Prince*. Trans. and ed. P. Bondanella, Oxford, Oxford University Press, 2005.
- MACHIARELLI, N. *Tutte Le Opere*. Ed. P. D. Accendere, 2nd ed., Firenze/Milano, Bompiani, 2018.
- MACPHERSON, C. B. *The Political Theory of Possessive Individualism. Hobbes to Locke*. Oxford, Oxford University Press, 1962.
- MONTESQUIEU, C. *Considerations on the Causes of the Greatness of the Romans and Their Decline*. Trans. D. Lowenthal, New York, The Free Press, 1965.
- MONTESQUIEU, C.-L. *The Spirit of the Laws*. Ed. A. M. Coulter and B. C. Miller, trans. H. S. Stone, Cambridge, Cambridge University Press, 1989.
- NATORP, P. *Platos Ideenlehre. Eine Einführung in den Idealismus*. 2nd, enlarged edition of 1921, Hamburg, Meiner, 1994.
- PETITT, P. *Republicanism. A Theory of Freedom and Government*. Oxford, Oxford University Press, 1997.
- PLATO. *The Republic*. Ed. G. R. F. Ferrari and trans. T. Griffith, Cambridge, Cambridge University Press, 2018.
- POCOCK, J. G. A. *The Machiavellian Moment. Florentine Political Thought and the Atlantic Republican Tradition*. Princeton, Princeton University Press, 1975.
- POLYBIUS. *The Histories*. Trans. R. Waterfield, Oxford, Oxford, University Press, 2010.
- ROUSSEAU, J.-J. *Discourse on Political Economy and The Social Contract*. Trans. C. Betts, Oxford, Oxford University Press, 1999.
- STRUNK, T. E. *History after Liberty. Tacitus on Tyrants, Sycophants, and Republicans*. Ann Arbor, University of Michigan Press, 2016.
- TACITUS. *The Histories*. Trans. K. Wellesley, London, Penguin, 2009.
- TOCQUEVILLE, A. *Democracy in America*. Trans. and ed. H. C. Mansfield and D. Winthrop, Chicago, University of Chicago Press, 2002.
- ZÖLLER, G. "Der negative und der positive Nutzen der Ideen. Kant über die Grenzbestimmung der reinen Vernunft," in *Über den Nutzen von Illusionen. Die regulativen Ideen in Kants theoretischer Philosophie*. Ed. B. Dörflinger and G. Kruck, Hildesheim/New York, Olms, 2011, 13-27.



ZÖLLER, G. *Res Publica. Plato's "Republic" in Classical German Philosophy*. Hong Kong, Chinese University Press, 2015 and Albany, State University of New York Press, 2015.

ZÖLLER, G. "'Allgemeine Freiheit.' Kants *Naturrecht Feyerabend* über Wille, Recht und Gesetz," in *Zum Verhältnis von Recht und Ethik in Kants praktischer Philosophie*. Ed. Bernd Dörflinger, Dieter Hüning and Günter Kruck, Hildesheim/New York, Olms, 2017, 71–88.

ZÖLLER, G., "Law and Liberty. Immanuel Kant and James Madison on the Modern Polity," *Revista de Estudios Kantianos* 3, 2018, 1-13.

ZÖLLER, G., "'Right Rests Solely on Freedom.' The Historical and Systematic Significance of Kant's *Natural Law Feyerabend*," in *Kants "Naturrecht Feyerabend." Analysis and Perspectives on Kant's "Natural Law Feyerabend"*, ed. Gianluca Sadun Bordoni and Annika Schlitte, Berlin and Boston, De Gruyter, 2020 (a), 33–50.

ZÖLLER, G. "'[W]ahre Republik.' Kants legalistischer Republikanismus im historischen und systematischen Kontext," in *Kants Metaphysik der Sitten. Der Zusammenhang von Rechts- und Tugendlehre*, ed. Jean-Christophe Merle and Carola Freiin von Villiez, Berlin/Boston, De Gruyter, 2020 (b).

ZÖLLER, G., "Autocracy (*Autokratie*), autocratic (*autokratisch*)," in *The Cambridge Kant Lexicon*, ed. Julian Wuerth, Cambridge, Cambridge University Press, 2021 (a), 52–54.

ZÖLLER, G., "State (*Staat*)," in *The Cambridge Kant Lexicon*, ed. Julian Wuerth, Cambridge: Cambridge University Press, 2021 (b), 412–414.

ZÖLLER, G., "'(D)ieser wechselseitig entgegengesetzte Selbstzwang.' Kant über ethische Freiheit," forthcoming in *Kant und die Tugendethik*, ed. D. Hüning and G. Kruck, Hildesheim/New York, Olms, 2021 (c).

ZÖLLER, G., "'Participation of the People Through Its Deputies.' Montesquieu, Kant and Hegel on German Freedom" forthcoming in *Graduate Faculty Philosophy Journal*, 42, 2021 (d).

**Abstract:** The essay assesses the character, extent and limits of Kant's republican commitments in political philosophy in a twofold perspective. Historically, Kant's recourse to republican political principles is placed in the context of the early modern discourse about forms of rule and types of government in general and about the relative merits of monarchical and republican constitutions in particular. Systematically, Kant's political republicanism is tied to his philosophy of law in general and to his account of public law in particular. Throughout the paper argues for a non-republican republicanism in Kant that imports basic features of modern republican theory and practice into a juridico-political context marked by enlightened monarchical absolutism and by an anti-revolutionary conception of political history. Section 1 opens with reflections on the timeliness and untimeliness of political philosophy and then sketches the career of republican thought in classical antiquity. Section 2 follows the trajectory of modern republican thought from Machiavelli to Montesquieu. Section 3 outlines the normative nature and the jural character of republicanism in Kant. Section 4 details the distinct political profile of republican rule in Kant.

**Keywords:** republic, republicanism, monarchy, state, government, representative system, Plato, Machiavelli, Hobbes, Montesquieu, Kant.

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