

RETHINKING THE AMERICAN EXCEPTION: KANT'S REPUBLICANISM AND THE FOUNDATION OF THE UNITED STATES

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Abstract: the few passages in which Kant deals with American independence make clear that he recognized the exceptional nature of this event. Kant's legal, political and historical thought must be read taking into account the context of late 18th century Europe. Nonetheless, the American example supported, by contrast, his perspective on European republicanism and, more broadly, on the path of mankind towards increased protection of individual rights and the construction of lasting peace. US independence should not be thought of as an outcome of revolution, but as the founding of a State, offering a new relation between noumenal and phenomenal republicanism, and thus not suitable to the European experience. Two paths reconciled under an overall perspective on the human progress.

Keywords: Kant – American Exceptionalism – Republicanism – United States of America – Federalism

Introduction

The relationship between Kant and the birth of the United States has received increasing attention in academic research in recent times; connections have been found between Kant's republicanism and the ideas of the Founding Fathers¹ as expounded in the Federalist Papers² and the Federal Constitution, or Bill of Rights³. However, explicit

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¹ On the marked tendency among scholars to find Kant «cited as an authority» in the words of the Founding Fathers more often «than the Declaration of Independence», see M. Zuckert, 1991, 138; on the Kant-Jefferson relationship and with particular regard to issues of progress and peace, see M.A. Holowchack, 2012, 184-99.

² The relationship that exists between Kant and Madison regarding the role of sovereignty in a future peaceful world system is emphasized by C. Fried (2019), who also notes the lack of historical evidence linking the two thinkers, but see also J. Bohman for a similar approach (2017). For a critical approach to

quotations⁴ directly linking the writings of the Prussian philosopher to those of the so-called «American Enlightenment» are lacking⁵.

Although he did not directly refer to American authors and texts, Kant paid attention to the events that led to the independence of the United States and was undoubtedly impressed by the extraordinary nature of those events. He anticipated Tocqueville's accurate analysis of American democratic society by a few decades, although it is Tocqueville who is commonly credited with the invention of American exceptionalism⁶. The Kantian reading of coeval American events was episodic knowledge and not an attempt to systematize a theory, but he used it for comparison, and often for contrast, to illustrate more effectively what had happened, and was still happening, in the Old World. Kant's historical-political attitude remained Eurocentric, and his writings at the end of the century interpreted and replied to the great issues that animated public debate in Europe: in particular in Prussia.

Kant and Hamilton as two of the main federalist thinkers of the 18th century, see the volume edited by Castaldi (2013), in particular the essays of J.P. Baratta, M. Forsyth and M. Mori.

³ On the theoretical affinity between early American constitutionalism and Kant's developing republicanism, see R.J. Sullivan (1989, 252-256). For a balanced comparison between Rawls' contractarianism, Kant's antipaternalism and American constitutionalism, particularly in the Declaration of Independence, see P. Guyer. According to Guyer, «Although there was no influence between Kant's political philosophy and the political philosophy of American constitutionalism, there is also no conflict between them, at least as reconstructed by Rawls» (P. Guyer, 2000, 285). According to Höffe's sceptical position, although «Kant was an enthusiastic supporter of the American independence movement [...] It is uncertain whether he was familiar with the first declaration of human rights, the Virginia Bill of Rights (1776)» (O. Höffe, 2006, 12).

⁴ From this perspective, W. Ossipow (2018) does not seem very persuasive in his attempt to trace «silent quotations» and «hidden sources» that connect *Perpetual Peace* to articles 10, 18 and 51 of the *Federalist* papers, written by Madison (under the pseudonym of Publius) through isolating single locutions and words, such as the Kantian expression «the people of angels». After all, the expression does not assume meaning in isolation, but only when connected to the moral problem that the Prussian philosopher had already been facing since the previous decade.

⁵ The difficulty of conceiving a unique political tendency during the Enlightenment was already highlighted at the end of the XVIII century, see Friedrich Carl von Moser, *True and False Political Enlightenment* (1792). Certainly, Kant was a prominent exponent of European Enlightenment, but his philosophical revolution is not exclusively, directly connected to the political revolutions of the time (American and French). Nevertheless, Kant was a keen observer of these events, and his theory may share similarities with that of the revolutionaries of the time. In this sense, it is appropriate to also review Reiss' assertions that focus on Kant's ambiguous attitude towards the revolution. He wrote that «[Kant's] Copernican revolution in philosophy not only took place in the interval between the American and French revolutions, but also expressed their spirit. [...] But if he is the philosophical champion of the ideas of 1776 and 1789, he is guilty of a curious discrepancy. His work has as its apex a political philosophy which sought to justify the ideas of the American and French revolutions, but which also explicitly denied any individual the right to rebel against established authority». However, Reiss also correctly acknowledges that «although Kant's political writings proper were all written after 1776, they were not an accidental by-product of his interest in the events of the American and French revolutions, but arose quite consistently from his critical philosophy» (H. Reiss, 1956, 179-180, but see also S.P. Ramet, 2019, 191, 197). Presently, it is our intention to present Kant's references to the events in America as exceptional events that could not be considered a political revolution, especially when compared to the European context.

⁶ For an overview of various interpretations and also for the critical revision of the term, see J.D. Wilsey, 2015.

According to Kant, American independence 1) should not be considered the result of a revolutionary process, but rather the founding moment of a federal state, somewhat similar to the overcoming of the «state of nature» that precedes the establishment of civil government; 2) represented a political model, resembling the republican ideal of coexistence between individuals and between states, opposed to the European path towards the realm of right and peace, which was fraught with uncertainties; 3) unquestionably constituted a historical example that lacked points of contact with the various stages that European history was supposed to have undergone; 4) helped, through Kantian institutional history of relevant European powers, to analyse realities elsewhere.

Foundation vs Revolution

The first reference to American events is found in the *Reflections on Anthropology*, in a note written sometime between 1776 and 1784⁷. Kant had probably first received information about the Declaration of Independence from Joseph Green, the most influential merchant in the English community of Königsberg. Kant's friendship with Green had begun a decade earlier, when they discussed the American revolts against the Stamps Act of 1765 and its hasty revocation by the English Parliament⁸. In the note, Kant blamed the British subjugation of America for creating a condition of «subjects of subjects» that Americans had to suffer: they were submitted to the power of an occupying State, Great Britain, prevented from establishing an autonomous government with a sovereign political body, and they were weighed down with the burden of another people's laws and exploitation in the form of taxes. In later writings, the Prussian thinker would define this condition «colonial»: a strict hierarchy established between the inhabitants of the colonies on the one hand, and the inhabitants of the motherland on the other⁹. In the essay *Perpetual Peace* (1795), Kant criticized the colonial policy of European powers sharply. They had performed a (military and) commercial occupation of territories that had still not been claimed by a sovereign state, denying indigenous peoples any rights of their own¹⁰. For the sovereign states, this was the most effective way of preventing the cosmopolitan spirit from spreading all over the world.

⁷ Here is the complete translation of note 697 in *Reflections on Anthropology* (AA, XV, 220): «In the recent history of England, their subjugation of America brings far back their cosmopolitan memory. They want: those should become subjects of subjects, and let the burden of the others be shifted onto themselves. It is not a question of good government, but of the way of government».

⁸ For details about the friendship between Kant and Green, see the excellent biography by M. Kuhn (2001, 155).

⁹ On this Kantian question, see A. Ripstein (2014), according to whom, Kant's arguments against colonialism were based on legal terms and focused on ways it was against the demands of the principles of right, in particular dealing with the problem of a just regulation of war under an international law.

¹⁰ I. Kant, 1991c, 106.

Cosmopolitanism meant that both individuals and states were free and had equal rights. Thus, there was a fundamental difference between such a predatory commercial expansion and a commercial expansion based on the principles of cosmopolitanism. In *The Metaphysics of Morals* (1797), the situation was analysed in very similar terms yet within the framework of the fundamental law of a people and the cosmopolitan right; conquest created the relation between «*mother state*» and «*daughter state*», in which the latter was degraded to a «*colony*» and its citizens to «*bondage*»¹¹. In effect, a foreign government had the «supreme *executive* authority over the colony»¹². Such was the relation that Great Britain had with Ireland, where a Parliament still existed, although it was not autonomous. The colony had to submit to the power (not directly to the law) of the occupying state, preventing the native population from building up an autonomous legal system. A certain difference had to be established between cosmopolitan right and an alleged «right to make a settlement on the land of another nation»¹³. While the former was a guarantee of the expansion of peaceful free trade, as the consequence of the right of the citizens of the world to enter a political community with any other, or all others, the latter had always been rooted in violence.

The passivity of individuals and peoples became the key concept for the correct interpretation of colonialism, since the inhabitants of the colonies were subject to a will in whose formation they could not take part and, above all, they were not treated as ends in themselves, but as means, used to serve the interests of the motherland.

The reference to the colonial condition of Americans in the note is significant, because in his other writings Kant had not developed such a clear critique of European colonialism. In *Idea for a Universal History with a Cosmopolitan Purpose* (1784), Kant stated, grounded in his progressive view of history, that the European continent was undergoing a regular process of constitutional development, and that it would «probably legislate eventually for all other continents»¹⁴. As has been emphasized by several scholars¹⁵, during those years, Kant still had a hierarchical perspective on human races. In numerous passages, he suggested that different races had different abilities in acquiring culture and improve their civilization. In the *Lectures on Anthropology* from 1781-82, he stated that only the white race «contains all incentives and talents in itself»¹⁶, while, in particular for the American situation, indigenous people were represented as lazy and incapable of progress, and negroes as able to «acquire only a culture of slaves»¹⁷. Kant, in

¹¹ I. Kant, 2017, 128, italics in the text.

¹² Ivi, 132.

¹³ *Ibidem*.

¹⁴ I. Kant, 1991, 52.

¹⁵ Some scholars have underlined Kant's repentance about his opinion on human races, especially on the civilizing role of European expansionism, during the 1790s; on this point see P. Kleingeld (2014) replying to R. Bernasconi's (2001) statement on the centrality of racial hierarchy in Kantian thought (but see, recently, O. Eberl 2019).

¹⁶ I. Kant, 2012a, 321.

¹⁷ Ivi, 303.

those years, assigned the cultural, political, and ultimately the historical, lead role in guiding humankind towards cosmopolitan civilization, to the white race. Non-white races, conversely, were destined to play a subordinate role, congruous with colonial rule and slavery. This condition, paradoxically, was the only way for them to take part in human progress, which was down to the initiative of the white.

Thus, the terms in which Kant deprecated the colonial condition suffered by (white) Americans become clearer. The root of the problem was not, at that moment, the fact that they were human beings, but that they belonged to the white race. For this reason, they could, and should, not be relegated to a colonial condition, excluded from the path of human progress, to which, moreover, they were making an admirable contribution.

Even more significant was Kant's second mention of the United States in a note in the margin of § 65 of the *Critique of Judgment* (1790). He reported «the case of a recently undertaken total transformation [*Umbildung* – AA, V, 375] of a great people into a state»¹⁸, which had led to a new «political organization [*Organisation* – AA, V, 375]», in other terms «the constitution of legal authorities» and even «the entire body politic»¹⁹. This process showed the relevance of the individual as part of a «whole»; a relationship ascribable to the fact of entering into a civil society with other individuals, and which is implemented through the social contract.

This passage of the third *Critique*, although not detailed, has often been interpreted by scholars as a reference to French revolutionary events²⁰. There are, however, clear hints that Kant was referring to recent events in the United States. The probable dating of the note is the first clue: the tormented and irregular path of the composition of the third *Critique*, as well as the fact that a footnote may have been added later, along with the general drafting of the treatise, is certainly not helpful to scholars. It is well known, however, that the section dedicated to the *Critique of the teleological force of judgement*, in which we find the note, engaged the author between the summer of 1788 and the beginning of 1790, while the first edition of the work, in which the note already appeared, was published in April of that year²¹. The American federal Constitution, which was accomplished on September 17, 1787, became effective on June 21 of the following year, with the ratification of New Hampshire (the ninth state to accept the document), while the first session of Congress was held on March 4, 1789. A few days before this, George Washington was unanimously chosen by the electors as the first President of the

¹⁸ I. Kant, 2008, 203.

¹⁹ Ivi, 203.

²⁰ According to S. Meld Shell (2009, 376), the term «organization» was unusual for the German and English political lexicon of that time, while it had spread to France through the work of Sieyès *What is the Third Estate?*, of which Kant was certainly aware. The statement is based on the two authors' deep, mutual awareness - so much so as to credit G.P. Gooch's (1920) hypothesis that the French politician may have invited the old Prussian philosopher to see the new organization of the French state after the revolution.

²¹ On the difficult accomplishment of the third *Critique*, see D. Dumouchel (1998). The work, completed in March 1790, would be published by Lagarde in April, with many errors, since from the beginning of the year Kant had proceeded with partial submissions of material.

United States, and on April 30 he was sworn in. The first revolutionary events in France only occurred in the summer of 1789, culminating in the Storming of the Bastille on the morning of 14 July. They did not lead to the founding of a new state, but to a deep constitutional break, which ended only on September 3, 1791 with the adoption of the French Constitution of 1791, more than a year after the note of the *Critique of Judgement* had been written.

If the chronological data already supports the hypothesis of a reference to the United States, the Kantian distinction between a revolutionary event and the founding act of a state confirms it. By reason of this fundamental distinction, Kant developed different readings of French and American experiences. In several passages written during the 1790s, he explicitly defined what was happening in France as revolutionary and continued to reject rebellion against the sovereign, since it would never bring justice or a stable legal-political order. In the quoted passage, Kant reported the foundation of a new political «organization», through which each individual in the community self-identified as a political actor, who could rule in a condition of equality with the other members of society. To him, the founding of a new state was a republican act in itself, for it was enacted by a people who intended to become subject to any foundational decision. As was made clear in *The Common Saying*, in *Perpetual Peace* and in *The Metaphysics of Morals*, such a founding act was the first, significant passage in the history of a political community, and it could only be a consequence of free choice. Indeed, founding a common sovereign power through the instrument of the social contract implied a deliberate renunciation of unrestricted natural freedom, in favour of entering into a legal condition where (mutual) freedoms were mediated by the means of positive law. Self-limitation of associated individuals was a form of public recognition of what ought to be defended through public enforcement. American events had not been revolutionary, since rebellion against authority always led to the dissolution of a constitution; that is, what organizes and holds together a political community. As opposed to a destructive process, the birth of the United States represented the creation of a new political body.

For the constitutional history of states, «organization» and «revolution» remained, in Kantian writings, essentially antithetical processes. In *The Common Saying* (1793), again criticizing the (il)legal effects of revolution, he confirmed that its first phase was always *destruens*: If «the hitherto existing constitution» had been dismantled, «a new commonwealth had still to be organised»²². Once again, the danger of rebellion was highlighted: The only foreseeable outcome was the return to «*status naturalis*, where all rights cease at least to be effectual»²³. Kant also highlighted that the intrinsic rationality of every revolutionary process was justifiable only in empirical terms, evaluating the effective change in the power structures within society. No principle of absolute justice can legitimize insurrection against the current system. An *a priori* judgment should refer

²² I. Kant, 1991b, 83n.

²³ Ivi, 82.

to values whose authority was independent of their application, but judgment on the outcomes of a revolution could only be *ex post*, so that the historically and politically successful rebellious project could also be approved as morally (legally) fair. The result was such a fragile determination of the criteria of justice that the same revolutionary event, if it had died out in defeat, would have been judged illegitimate²⁴.

Switzerland and the United Provinces were born out of a revolution, not through independence processes whereby their peoples had established themselves as political communities²⁵. Excluded from the list of revolutionary experiences, the independence of the United States could also not be considered a logical consequence of the revolutionary British juridical-political system. Even though, albeit at a secondary level, the thirteen colonies had originally been part of the British empire, their emancipation could not be regarded as a rebellion against a monarch violating the State's covenant – that would be a revolutionary act – but rather the founding act of a new political body, whose history began precisely at that moment.

Respublica noumenon and respublica phaenomenon

In the *Reflection on Anthropology* of the 1770s, the English «oppression» of Americans was considered incompatible with the «cosmopolitan vision». British politics in America could therefore be amended according to the criteria of the «art of government [*Regirungsart* – AA, XV, 630]». In this framework, it was possible to dichotomously oppose a government oppressive of liberties (the English one) to forms of government that were in harmony with the spirit of cosmopolitanism.

We have already seen how, in the 1790s, Kant linked the reflection on cosmopolitanism to the criticism of colonialism, but in referring, in the Note, to a specific type of government, he anticipated additional aspects of his subsequent republicanism. As he would later state in *Perpetual Peace*, cosmopolitan right, although only in a hypothetical dimension, was based on a condition of equal citizenship of every man. People could be equal before public norms that had exceeded the boundaries of the state and had become a worldwide condition. This firm belief was connected to Kant's fundamental distinction between «*forma imperii* [*Form der Beherrschung* – AA, VIII, 352]» and «*forma regiminis* [*Form der Regierung* – AA, VIII, 352]»²⁶. With the first, Kant intended the persons who held power – the supreme executive authority in the State –

²⁴ *Ibidem*. One of the clearest syntheses of the Kantian approach to revolution can be found in D. Cumiskey (2008), according to whom every revolution would be contrary to two fundamental features of a republican government: the publicity of decision-making and the displacement of sovereignty into the general will of associated citizens; it «involves the unilateral coercion of some citizens (namely, the members of the government) by other citizens (namely, the rebellious subjects)» (ivi, 231).

²⁵ I. Kant, 1991b, 82.

²⁶ I. Kant, 1991c, 101.

which could be in the hands of only one man (autocracy), of several persons (aristocracy), or the entire people (democracy). Much more relevant was the second characteristic, because it served to qualify a political regime. The relationship between ruler and the ruled was clearly intelligible through the opposition of despotic and republican regimes. While the former kept the ruled in a condition of intellectual and political minority, totally subjected to an imposed external will, the latter was able to implement the pure principles of right, aimed at transforming a political subject into an independent decision-maker²⁷.

In the quoted passage from the *Judgment*, Kant also described the American experience in terms of an expansion of political rights in the colonies, towards achieving full sovereignty of each people. The *citizen's* ability to play an active part in decisions concerning the community as a whole was reflected in the condition of being *subject* to those decisions. The legal defence of the principle of *independence* as a citizen in the political sphere, was thus connected to the homologous principles of *freedom* as a human being, and *equality* as a subject to common power. All together, these would be the basis of every republican state²⁸. Regarding the American case, individuals were not treated merely as «means» but, above all, as «ends». Kant's later argument that a combination of categorical imperatives and public law was possible only under a republican government was anticipated in this passage. The appropriate test of the morality of an action is stated in the second principle of the Categorical imperatives, which, generally, prescribed to «act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means»²⁹, and it was related to the possibility of universalizing the maxims of individual actions³⁰. Republican politics, among

²⁷ We agree with the direction of Kisilevsky's reading that, more than a connection to a hypothetical natural condition of freedom to which even state norms should be a substitute, the independence of the citizen is substantiated precisely in the legal regime: «Though people can have freedom of movement in the state of nature, their independence from the choices of others in the Kantian sense can be realized only under the rule of law [...] take freedom as independence to be essentially institutional and relational, and my approach is best understood in contrast to those who take Kant's notion of freedom to be something that people possess individually, outside of political institutions» (S. Kisilevsky, 2016, 43). This reading is specifically developed as a restriction of Ripstein's interpretation, which had identified the issue in the broader Kantian relationship between freedom, independence and the state (A. Ripstein, 2009).

²⁸ I. Kant, 1991b, 70-76. These principles, first presented in *On the Common Saying*, were partially rethought in *Perpetual Peace* as: «freedom» as men; «dependence» as subjects; «equality» as citizens (I. Kant, 1991c, 99). Finally, in the *Metaphysics of Morals*, Kant dealt with «the lawful freedom of obeying no other law than that to which he has given his consent; the civil equality of having among the people no superior over him except another person whom he has just as much of a moral capacity to bind juridically as the other has to bind him; the civil independence, [meaning] that he owes his existence and preservation, not to the choice of another among the people» (I. Kant, 2017, 100).

²⁹ I. Kant, 2012b, 80.

³⁰ With the transcendental criterion of publicity Kant succeeded in translating the form of the categorical imperative into a legal-political matter. See, on this issue, the broad analysis by Onora O'Neill (2015) and, more recently, P-A. Hirsch (2017) and K. Ameriks (2018). In a very impressive summary, to understand the differences, as well as the connection, between the categorical imperative and the criterion of publicity, or in other words between moral life and civil life, V. De Vita states: «In comparison to the universalization of categorical imperative, *Publizität* does not imply the possibility to universalize the maxims of our will, but

which the foundation of the United States could rightly be included, made this process of the internal forum an external, political act. Federal states were now governed by the rules of action established among, and for, a political community; moral indications were replaced by positive laws and the realm of free will by the government of the legal obligation. Finally, administration of justice, in a republic, does not concern the morality of intentions but the legality of actions. Just laws were rendered universal because they met the criterion of *Publizität*. In a republic, this guarantee was constitutionalized in the procedures of popular sovereignty, through which every individual defines, for everyone and for himself, what is permitted and prohibited by law, «for only towards oneself can one never act unjustly»³¹. As Kant explains, law is a mutual limitation of natural liberty to which everyone can freely give assent. Therefore, the perfect rule is the one in which we only obey our free will, as it was included in a public, political deliberation and expressed in the form of positive law. Full republican citizenship was measured by the extent to which it was possible for a member of the political community to be «co-legislator [*Mitgesetzgeber* – AA, VIII, 294]»³², not just a means, but as an end in himself: having the legal right to express free consent through his representatives³³.

Due to the special way in which individuals, or citizens were included in a collective organism, the American experience had presented «an association that is encountered more in the idea [*in der Idee* – AA, V, 375] than in reality [*in der Wirklichkeit* – AA, V, 375]»³⁴ in human history. Because, emulating an ideal condition, the foundation of the United States could not be compared with other realities. In this passage, Kant announced the duplication of his political thought in the ideal and the real dimensions of republicanism, which he applied during the following years to the analysis of the situation

through an *a priori* of the reason gives a normative relevance to pluralism in political debate, because only through that there is a possible connection between the principle of morals with the politics» (V. De Vita, 2021, 84). An earthly, actionable form of the categorical imperative is, therefore, according to Kant, decisively affecting the fundamental idea of the original contract: «as a kind of down-to-earth ‘political’ categorical imperative» (J. Lipping, 2020, 116). As much as Kant was concerned with making the analysis of law autonomous from ethics, he intended to keep the two spheres of human action connected, by elaborating «a political normativity that’s not just a kind of “applied ethics”» (C. Horn, 2016, 102).

³¹ I. Kant, 1991b, 77. As notably argued by M. Vatter (2011, 762), the political judgement of the people – in other words, a civil employment of reflective judgement - plays a fundamental role in defining the right republican relationship between individuals and power. With a similar approach, Caranti stated that «Kant gives the sovereign the last judgement with respects to the right of individuals only when considering positive law as an application of constitutional principles of justice from the perspective of determinative judgement. But Kant also teaches that the capacity of judgement has a purely reflective employment in which judgment is no longer compelled to serve as an instrument in presenting cases that fall under a given law, and is allowed to freely reorder the relations between individuals according to an idea of a republican constitution». In this sense, reflective judgement has the capacity to reconcile the tension towards pure principles, and the real dimensions of politics, since «it helps to adapt those principles to the degree of institutional progress a society has reached» (L. Caranti, 2019, 275)

³² I. Kant, 1991d, 158.

³³ As Ho-Won has effectively shown, the idea of public autonomy in Kant is resolved in the reconciliation of the figures of the co-legislator (*Mitgesetzgeber*) and the self-legislator (*Selbstgesetzgeber*), a connection that occurs within the republican relationship between citizen and people (J. Ho-Won, 2006, 62-64).

³⁴ I. Kant, 2008, 203.

in Europe. Each republic of the Old World would give a different historical declination of the *respublica noumenon* – dating heuristically to the Platonic ideal of *Politéia* – through an example of *respublica phaenomenon*. All states, at different times and in different ways, would thus improve their legal system, embodying in them the principles of republicanism. Each people would choose its own path to overcome the autocratic State, but all these practical attempts at achieving a republic would always have, as a regulatory ideal, the unique model of perfect republican life³⁵.

The historical projection of what had been, to the majority of jusnaturalist thinkers, only a logical expedient – the idea of an original contract on which the State is founded as the result of free and equal participation of all individuals that form the people – took the American experience beyond a merely theoretical (in the mind of philosophers), and not practicable (among the processes of politics), condition.

The ideal form of American republicanism was confirmed in the only passage in which Kant made explicit reference to the legal-political framework of the United States. At this point of the *Theory of Right* the author returned to the now ten years old problem of the relationship between internal and international republican constitutionalism. In the 1790s, as previously seen, Kant had distinguished the perspective of moral-juridical philosophy from that of political history: The separation between an ideal model and the real paths of republicanism involved the tripartition of public right which, originally set out in the essay on *Perpetual Peace*, would culminate in the treatise on legal theory.

In 1795, presenting the definitive articles for the creation of future eternal peace, Kant listed a) a republican constitution in each civil state; b) international law based on the free federalism of states and c) a cosmopolitan right limited to universal hospitality towards strangers³⁶. The empirical republics would gradually refine an internal and external system based on republican principles, without ever achieving the perfect model of a world republic. Moreover, the realization of the *cosmopolis* would have exceeded the internal laws of the political consortia as well as the laws that regulated their relations, since it would have created a universal citizenship spanning all individuals and territories.

Taking up the distinction between the ideal model and its negative surrogate (phenomenal republicanism) in *The Metaphysics of Morals*, Kant not only refined the reference lexicon but also discovered the exceptional nature of America with respect to that scheme. European states, during the 18th century, had laboriously embarked on an incipient republican system. They had begun the slow transformation of absolute governments towards the acknowledgement of republican rights. Concurrently, Europe

³⁵ L. Goldman (2012, 514) provides an interesting approach to the link between the ideal and the real in Kantian political theory. The teleological projection of history is read, by this scholar, as a hope of a better political future that is also realizable. He writes: «though teleological history is in the service of effectuating humanity's duty to seek justice and peace, the presumption of this historical schema is contingent upon the willingness of humans to strive for these ends. We may entertain hope if and only if we act in a manner that conceivably realize this progress».

³⁶ I. Kant, 1991b, 99, 102, 105.

was creating spaces of international mediation that, in the future, would allow the definitive elimination of war, rather than simply ending conflicts with a peace treaty. The «*phoedus amphycionum*» in *Perpetual Peace* became «permanent congress of states» in *The Metaphysics*³⁷. Joining the latter was to be free and permitted to every political community. As had happened in the assemblies of Staten-Generaal in The Hague, in these *fora* the whole of Europe had been «thought of as a single confederate state [*als einen einzigen föderirten Staat* – AA, VI, 350]»³⁸ making decisions valid for all its members. If in Europe the gathering of various states had been, and would remain, voluntary and at any time revocable, in America, «the association» of single states «is based on a constitution [*Staatsverfassung* – AA, VI, 351] and cannot therefore be dissolved»³⁹, because it is a process «analogous to that by which a people becomes a state»⁴⁰. This was the only possible way that «the idea of a public right of nations be realized»⁴¹ – considering an international system immune from war – because nations were able to legally settle their disputes. The legal-political outcome on the two continents in the eighteenth century were therefore different, due to the different interpretations of the relationship between the *ideal* and the *reality* of the republic.

In the European case, two distinctive dimensions of republicanism – the formal and the substantial – were destined to stay distinct forever, keeping in mind a model of perfect coexistence. In fact, it had been possible to place only the prodromes of international law and European justice, through the institution of a continental congress of states. The European process vividly represented the duplication of Kantian republicanism: the idea of the perfect republic, which ordered internal and international affairs in compliance with law and peace, was not – as political realists and detractors of human progress thought – «an empty figment of the imagination» but rather «an eternal

³⁷ I. Kant, 2017, 130.

³⁸ *Ibidem*.

³⁹ *Ibidem*.

⁴⁰ *Ibidem*. As some scholars, among others Bottici, have pointed out, the use of the so-called «domestic analogy» in Kant must be carefully circumstantiated, starting with the fact that there is a specific approach to international political life in Kant's theory: «[T]he proposal of a free federation of states, as well as his perplexities on the hypothesis of a world state, stems precisely from the awareness of the difference existing between states and individuals, i.e. from the fact that states already have a constitution. In this sense, the Kantian project cannot be charged with naively applying to the international realm the domestic model of social order» (C. Bottici, 2003, 399). From another point of view, the analogy between international law and the cosmopolitan condition is far more significant (see R. Burles, 2023, 509-511). Even if proposed as a weak form of juridification, as Kant admits in the *Idea for a Universal History with a Cosmopolitan Purpose* (1784), the international order is essential to the development of republican constitutionalism of the state in order to guarantee a stable peace and the universal protection of rights, and may thus be surrogate form of the cosmopolitan condition. The two paths overlap in historical development as different forms of popular sovereignty. Whether or not it is realistic to believe that the world will unite under a cosmopolitan constitution, Kantian political theory, nevertheless, describes the likely development of the «cosmopolitan disposition in all people» (P. Formosa, 2014, 56).

⁴¹ I. Kant, 2017, 130.

norm for all civil constitution whatever»⁴², aiming at eliminating war and protecting rights⁴³.

With the (republican) union of the American states, the ideal norm had actually occurred as a sovereign body upheld by a federal pact. In addition to the free confederation of states (in which they could preserve their sovereignty) provided for in the European system, the United States had constitutionalized a federal republic in which the intrastate protection of rights (the fundamental charters of the thirteen former colonies) harmonized with effective unitary protection at the interstate level, irrevocably limiting the political agenda of individual states on some issues of general interest to the Federation, regarded as subject to universal principles.

The exceptional history of the United States

As a unique political experience, the American case was ill-suited to support the reconstruction with which Kant read European history. This reconstruction was part of a teleological vision of mankind, whereby the irreversible force of nature imposed itself on politics in a perpetual moral, and legal, oscillation between good and evil; peace and war; sociability and unsociability. Certainly, there were some examples of good politics in human history, in which the rulers, as «moral politicians»⁴⁴, had chosen to support the general purpose of mankind as foreseen by nature. There could not be a single path suitable for all communities from the natural condition to political perfection, but all men (and all governments), within the limited potential of human earthly life, would eventually collaborate to realize a surrogate of the cosmopolitan condition. History, as the passage of epochs, became fundamental in this perspective to ensure «the changes of state» of politics: the evolutionary improvements of rights in human society. To leave the state of nature, a people had to decide to submit to the coercion, and «enter into a civil constitution [*staatsbürgerliche Verfassung* – AA, VIII, 310]»⁴⁵ through a social contract. If discords between individuals were not an impulse towards that choice, fear of external war would be the driving force for the initial constitution of a political community, since the proximity of one people to another, already politically developed,

⁴² I. Kant, 1991d, 187.

⁴³ The most exhaustive survey of the Kantian places where the relationship between war and right is dealt with in A. Ripstein (2021); in particular, this work is fundamental in order to understand the real scope of just war in Kant: while he rejected any use of war between republics, he admitted cases where it was legitimate between republics and despotisms. For a recent reading of Kant as a preceptor of the contemporary preventive war doctrine, see S. Meld Shell, (2005). On the other hand, some scholars refuse to include Kant in the tradition of the justification of war, whose coeval advocates criticised in *Perpetual Peace*: Kant would also try in his other works to point out the terms for constructing an order aimed at «end of war», believing that «the idea of just war belongs to an international system that is unjust overall» (H. Williams, 2012, 112).

⁴⁴ I. Kant, 1991c, 118.

⁴⁵ I. Kant, 1991, 49.

people forced it to «form itself internally into a *state* in order to encounter the other as armed *power*»⁴⁶. The relationship between political consortia formed as competing powers replicated that situation of insecurity which individuals had suffered in the state of nature, thus it would therefore lead all peoples, through a progressive «improvement in the political constitutions [*Verbesserung der Staatsverfassung* – AA, VIII, 29] of our continent»⁴⁷, to build a «cosmopolitan constitution [*weltbürgerliche Verfassung* AA, VIII, 307]»⁴⁸. This was the final result of a constitutional improvement, based on the specular recognition of the principles of republicanism both in internal juridical systems and in the international context. Certainly, the cosmopolitan condition for all mankind could not be that of a «world federal republic», but only its «negative substitute», as a realistic compromise, «of a gradually expanding league [*Bund*]» of sovereign states⁴⁹.

Seen from the perspective of this scheme, recent American history certainly appeared to Kant to be quite exceptional. All the discrete steps that were needed to reconstruct European history, in the case of the United States of America, were no longer distinguishable, or were readable in a single, relatively quick, constitutive process. It commenced with the Continental Association of 1774 and concluded with the Federal Constitution of 1787, after having passed through the intermediate steps of the approval of constitutions and declarations of rights by individual States. The United States had finally endowed themselves with an order that protected their peaceful relationship, within the bond of a «Republic of republics». A path towards republicanism that couldn't be replicated in the European reality. The American republic had manifested itself historically as a real phenomenon and not as mere theoretical speculation: Unlike phenomenal republicanism, and closer to the noumenal model, it had achieved this condition with almost indistinct intermediate steps, with a quick resolution of antagonism between elements. The United States were originally founded on a constitution capable of protecting right and peace between associated individuals as well as between associated states.

The American exception was based on the synthesis of the three political *cleavages* that, in «normal» (European) history, were settled, or would have been settled, through lengthy processes at differentiable times and, above all, following the terrible experience of conflict: the foundation of the first cell of the State with the rejection of natural condition; the overcoming of a Hobbesian Leviathan through a republican constitution; the creation of a system of States no longer anarchist but framed by rules issued in accordance with the spirit of republicanism.

By easing the tension between an ideal and real republic, American events called into question the distinction made in the *Idea* between «*Historie*» (AA, VIII, 29), a «merely

⁴⁶ I. Kant, 1991c, 112: (italics in the text).

⁴⁷ I. Kant, 1991, 52.

⁴⁸ I. Kant 1991b, 81.

⁴⁹ I. Kant, 1991c, 105.

empirical history»⁵⁰, and «*allgemeine Weltgeschichte*» (AA, VIII, 29), a world-history capable of detecting what was before (and above) human facts⁵¹. This distinction was theorized by Kant to find a double point of view on the course of human events, since narrowing the analysis to factual recognition meant giving in to historical-political empiricism, which was the main argument made by the detractors of human freedoms. According to these thinkers and politicians, no moral content could be found in human history, and politics was therefore independent of any limitation determined by universal and absolute legal principles. Conversely, it was necessary to mirror such events in a philosophy of history that could follow an *a priori* rule: the «leading strings» that illustrated the natural (and providential) purpose of mankind⁵². The main task of politics was, therefore, to support and not suffocate the rational nature of man through the instrument of right as a theoretical doctrine to be applied in concrete life.

American events continued to be difficult to situate for Kant, even when he forsook the deterministic approach to human history in his essay on human *Progress* (1797). He claimed that it was impossible to perimeter human history in terms of an intentional and predictable regression towards evil (moral terrorism) or progression towards good (eudemonism). Conversely, human acts were not a senseless succession of facts, unchangingly vacillating between benevolent and malevolent will (abderitism)⁵³. Although his theory of history was somewhat predictive, it was not in a strong sense. It considered that some emblematic events in the intricate course of human affairs – including, as seen above, the French Revolution – could assure that human relationships didn't deal merely with good and evil but were constantly progressing «from the worse to the better»⁵⁴. Human morality would never be completely oriented towards the search for what was good, and politics would often continue to operate in the opposite direction. In the future, however, all peoples would develop differing means of protecting rights and defending peace. Reduced to a single constitutional passage towards the

⁵⁰ I. Kant, 1991, 52.

⁵¹ As clearly underlined by J.T. Klein, the Kantian distinction between the two possible human histories is based on two methods of inquiry, but above all on two different objects of inquiry, relating to distinguishable notions of «man». The first studied concrete individuals contextualized in their interactions, the second humankind considered as a whole, the epicentre of a rational and moral development, so that «Human history can be regarded as an aggregate of factual accounts chronologically organized. These accounts consider what happened to man as a social, historical and cultural being, that is, man as a being rooted in an empirical context. On the other hand, the history of humanity refers only indirectly to man as an empirical being, its focus is the man as a being who, through their actions, can assign value to things, that is, man as a being who should and who can develop their rationality and morality. "Humanity" is not an empirical concept referring to a phenomenon, but a concept of the pure practical reason» (J.T. Klein, 2019, 2567). As M. Merseburger (2011, 209-210) points out, the second, mature Kantian theory of history was functional in explaining the course of human politics in terms of men's freedom of choice and the unpredictability of their behaviour. It is possible to identify an ultimate goal of humankind in the establishment of right and peace, but it is not possible to know with certainty the times and ways in which this condition will become effective for all humankind.

⁵² Ivi, 54.

⁵³ I. Kant, 1991d, 178-181.

⁵⁴ Ivi, 234.

acknowledgement of a common good, US political events were not open to further developments and, at this point, became useless in clarifying the course of political evolution in Europe. Certainly, they remained, like the much more uncertain (and imperfect) examples of republicanism carried out in the Old World, revelatory of an *esprit du temps* in recent history, which had ascertained the human propensity to overcome all types of autocratic government.

American independence, despite its exceptional nature, did not undermine Kant's theory of republicanism, which he had intentionally elaborated to understand European events. On the contrary, it served to corroborate, with clearer evidence that the tormented processes of European politics, the profound anthropological vision that republicanism presupposed. Each human being was actually able to organize himself according to reason - even if more for mutual convenience than for intrinsic morality - and, in the end, he would choose to live following the principles of right and in peace. Through this choice, the individual human being would agree to what nature had already planned as the ultimate goal of mankind as a whole.

The real history of Europe

Apart from his sporadic reflections on the United States, Kant focused on Europe: the future political constitution of the Old Continent was to become the example, «legislating eventually for all other continents»⁵⁵.

As noted by many scholars, Kant was forcibly involved in the European political struggle of his time, and the Prussian context clearly influenced the development of his political theory most during the 1790s⁵⁶. Frederick William II's Prussia actually suffered a notable setback on its path towards the recognition of rights when considering the season of reforms that had begun under the reign of his predecessor, Frederick the Great. To Kant, it was precisely the analysis of recent Prussian legal and political history that seemed a real example of a possible, phenomenal constitutional development: it was uncertain, bristling with contradictions, yet always tending towards the improvement of republican principles and institutions.

On the one hand, the analysis of the government under Frederick the Great is fundamental to understanding how the evolution of a constitutional regime is possible only under the auspices of a monarch, formally despotic, but genuinely willing to improve the coexistence of his subjects by recognizing (some) universal principles of law. The reforms carried out by Frederick the Great were a clear example of this enlightened

⁵⁵ I. Kant, 1991, 52, see *supra*.

⁵⁶ One of the most interesting contributions aimed at contextualising Kantian political philosophy, especially within the European revolutionary framework of the late 18th century, can be found in R. Maliks (2018). For the Prussian political-cultural context of the 1880s and 1890s and its suitability to Kant's political works, see I. Hunter (2012).

political attitude⁵⁷. As Kant first specified in *Common Saying*, this is the first impulse in the direction of republicanism, i.e. towards a form of government that proposes to replicate the idea of the original contract, in which those who submit to the public laws are also the decision-makers.

Kant wanted to clarify the difference between the autocrat who legislates in a despotic manner and the autocrat who operates according to the principles of republicanism, as if the people had given him their consent. The Prussian philosopher ascribed a fundamental role in the path towards republicanism to this transitional historical figure. It is, in fact, possible for even formally autocratic sovereigns to govern «in a republican way (not democratically), that is to treat the people according to principles which are in accordance with the ‘spirit of the laws of freedom’ (as a people of mature reason would prescribe them to itself), though, under the characters to be respected, their consent was not asked»⁵⁸. A republican constitution, in which the people decide for themselves, was not yet in place, but the monarch ruled in accordance with «the spirit of republicanism», as if the people could already be autonomous. It was clearly a praise of the evolutionary, not revolutionary, model that Kant had in mind as the only legal path to establishing a republican government.

If the relevance of Frederick the Great in Kant's analysis is well known, his successor, Frederick William II, whom Kant explicitly took us as a negative model of politics, was no less influential. The break under this ruler, especially on the initiative of his plenipotentiary minister Wöllner, was clear and took place through regressive policies aimed at restricting the freedom of conscience and at tightening State censorship⁵⁹. If the

⁵⁷ As is clear, Kant provides a reading of the Frederician government that serves his own purposes, carefully exalting some facts while remaining silent on others. A balanced reconstruction on the relationship between the two major protagonists of 18th century Prussia can be found in G. Cavallar (1993), who also intends to unveil Kant's implicit criticism of Frederick's policies. He states: «Kant was reluctant to criticize Frederick's rule directly. Kant's explicit statements on Frederick are positive, if not flattering. We are interested, however, in what Kant thought but did not dare to write» (ivi, 103). For the historical projection of Kant's thought, however, it is crucial to note the different attitude the philosopher had towards the rule of Frederick William II. He describes it as follows: «Frederick himself, if not in all ways an ideal monarch, was from Kant's perspective at the time an especially advantageous ruler [...] for historical progress, allowing for the possibility of political and moral reform from ‘below’ by ensuring civil order from above» (S. Meld Shell, 2009, 11). For the tension within Kantian juridical-political thought, between institutional reform and subjection to authority, see D. Jacquette (1996); on the practical connection between the pursuit of republican principles and political reform processes see C. Langer (1986); for the reformist profile of Kant's political project see Bo Fang (2014). As is well known, the first attempt to frame Kant's thought within an incipient 'bourgeois reformism' can be found in Iring Fetscher (1971).

⁵⁸ I. Kant, 1991b, 90. A process that, as Taylor effectively explains, could only follow the path shown by an ‘enlightened ruler’, who was responsible for the first step taken towards a republic, since it would be not only a political but also a moral duty for him (R.S. Taylor, 2006, 568).

⁵⁹ The government's main intervention was the *Religionsedikt* of July 1788, which aimed to severely limit the spread of new ideas in the field of religion; Especially those that could be included under «the deplorable label of the Enlightenment». It was precisely the heated controversy that this edict sparked within civil society that led the government to promulgate the *Censuredikt* a few months later (December 1788). The *Censuredikt* had been an attempt at tightening state intervention in this matter, shifting the focus from dangerous writings to dangerous people. In May 1791, a special *Immediat-*

real targets of these initiatives were the Prussian Enlightenment and its standard bearers⁶⁰, the attempt at restricting the areas of freedom that Prussian subjects had known under the previous administration would, in Kant's opinion, prove ineffective. Underlying this certainty was the new philosophy of history that Kant developed in his more mature years, which placed human politics within an overall history of mankind marked, above all, by the intentions of nature: «*Fata volentem ducunt nolentem trahunt*»⁶¹. If the republican politician, pursuing man's natural end, supported man's irresistible path towards universal right and peace, the reactionary politician could only hinder this process in the short term, while triggering those destructive dynamics (such as wars or revolutions) that would thwart his intentions and, eventually, cause a set-back on the road to republicanism. The republican constitution is not only «by its nature inclined to seek perpetual peace»⁶², it is also the only type of constitution that can avert the threat of revolution. Contrastingly, under «unjust coercion», men become «inclined to rebellion»⁶³.

The reference to the manifestations of dissent – even much more radical than Kant's – that had accompanied Wöllner's repressive measures was clear, but it was also a warning to the rulers who intended to follow in the footsteps of Frederick William by acting as a *political moralist*. The cause of revolution was not to be found in an irredeemably evil nature of men, but in the tendency of autocrats to suppress man's natural tendency to improve his own institutions, which, according to Kant, could obviate the morally imperfect nature of the individual. The Prussian censorship, in order to prevent the contagion of French revolutionary ideas, had tightened its grip on publications even further, blocking the publication of Kant's essay on *Progress*. According to the philosopher from Königsberg, this was the leading proof of how autocratic regimes were intrinsically the source of their own dissolution: By preventing the free and critical circulation of ideas, they ended up triggering those revolutionary processes from which, paradoxically, they would have wanted to be immune.

Both in the case of republicanism-oriented politicians and, indirectly, through the wars and revolutions initiated by governments wishing to continue operating autocratically, nature would run its course. Although ultimately marked by the years of

Examinationskommission, with direct royal dependence, was set up to counter undesirable writings more effectively, bypassing the old *Oberkonsistorium*. In June 1791, an official *Landeskatechismus* was finally drafted, which represented the last attempt by the government to establish the canons of orthodoxy against the laxity and relativism of the Consistory. For a contextualised analysis of these measures see M. Sauter, 2009.

⁶⁰ As Wöllner himself admitted, with his appointment in the summer of 1788 as Staats- und Justizminister and Director of the influential Geistliche Departement, the reckoning with the previous administration and the establishment of a «Generalkommando im Kampf gegen die Aufklärung» began in Prussia (see, on this topic, C. Stange-Fayos, 2016). The *Selbstdenker* and the *Aufklärer* quickly became responsible for the religious, moral, and not least, political crisis in contemporary Prussia.

⁶¹ I. Kant, 1991b, 92; 1991c, 111. The Latin quotation is from Seneca's *Moral Epistles, Ad Lucilium*, 107, 11.

⁶² I. Kant, 1991c, 104

⁶³ I. Kant, 1991d, 178.

Frederick William's illiberal government, the 18th century would be remembered in human history as «the age of enlightenment and the Frederick's century»⁶⁴ during which the Prussian people had known for the first time (and would never again forget) the autonomy of reason as the foundation of public autonomy.

As much as he criticised the supposedly anti-revolutionary Prussian policies, Kant had a complex view of the French Revolution. In truth, the Kantian reading of political revolution proceeds along two lines of inquiry: In a legal-political perspective, the premises and consequences of revolution (*Revolution*) are critically compared with the potential for reform (*Reform*) of the State, considering their respective capability to enact the principles of republicanism. In a broader view, however, the revolutionary event is placed in the more general progressive path (*Evolution*) that humankind unceasingly, and not infrequently against its own political will, travels to affirm a providential (natural) project of making law certain and perpetuating peace among men⁶⁵.

In the terms of legality and legitimacy, as has been noted above, every revolution represents a series of condemnable historical events, incompatible with the processes of republicanism. But under the perspective of the overall, higher philosophy of history and looking at the whole development of human civilization, it represented an indicator of the progress of the human spirit. This was because of the «enthusiasm» with which it was supported by the European public, but the «true enthusiasm is always directed exclusively toward the ideal, particularly towards that which is purely moral (such as the concept of right), and it cannot be coupled with selfish interests»⁶⁶.

While dealing with the unquestionable principles of legal reason in the *Metaphysics of Morals*, the judgment of the European public could only be synthesized in the feeling of abhorrence toward the horrendous murder of Louis XVI during the Jacobin phase of the French Revolution. With his essay on human *Progress*, Kant found a further, superior reason for particular historical facts – evaluating the spirit of the revolutionary events in the enthusiastic echo – in the ideal participation they aroused among the European public⁶⁷. This, however, can be explained only by the existence of «a moral disposition

⁶⁴ I. Kant, 1791a, 58.

⁶⁵ Kant's complex reading of the phenomenon of revolution has been the basis of profound scholarly disagreements. Not surprisingly, the ideological stance of commentators has had no small influence on the disagreements, especially in identifying Kant as the forerunner of later political trends. We merely mention, among the more balanced positions, alongside the classic Karl Vorländer (1912): Iring Fetscher (1974 and 1976) and Hans Reiss (1989). See also the text by André Tosel, *Kant révolutionnaire. Droit et politique* (1988), which is much more balanced than the title might suggest. See, in addition, the very recent work by Reidar Maliks (2022) with interesting developments on contextual dynamics through a circumstantial reading of Kantian theory (especially as regards French facts) and with an up-to-date bibliography on the topic.

⁶⁶ I. Kant, 1991d, 182-183, italics in the text. According to Batscha, Kantian confidence in a European public as vector for the future development of republicanism, became evident precisely after the favourable attitude toward the Revolution, which was commonly perceived as the first public act of bourgeois opinion now aware of its own, unyielding political centrality (Z. Batscha, 1981, 48-49).

⁶⁷ Of great influence on Kant's reflections was the attention that Prussian public opinion and magazines devoted to French revolutionary events. See U. Möllney (1992) for a historical reconstruction of this

within the human race», evidenced by a new «way of thinking» of men, who spiritually took sides where, in practice, two pure principles of legal reason were being fought for:

«Firstly, there is the right of every people to give itself a civil Constitution of the kind that it sees fit, without interference from other powers. And secondly, once it is accepted that the only intrinsically *rightful* and morally good constitution which a people can have is by its very nature disposed to avoid wars of aggression (i.e., that the only possible constitution is a republican one, at least in its conception)»⁶⁸.

Not veiled in the first point was the reference to what had just happened in Europe, with a front of various states engaged in fighting against France to avoid the spread of revolution. Among the earliest proponents of this alliance of states, in 1792, Frederick William II also joined Leopold II in the Declaration of Pillnitz on August 27, 1791, intimating to the new French revolutionary government that it must restore Louis XVI to the throne on pain of severe retaliation⁶⁹.

In real terms, the Revolution would have contributed very little to the establishment of an accomplished republican regime in France, especially after the excesses of the Jacobin phase. Nevertheless, it led the philosopher of history to verify how the political culture of republicanism, which required a public persuaded of the validity of fundamental legal principles, was now entrenched and, consequentially, it was possible to predict mankind's path to republicanism in a yet undetermined future⁷⁰.

While the French revolutionary experience pointed to ideal perspectives only from a meta-historical perspective, the English reality was held by Kant to be irreducibly opposed to republicanism. It exemplarily showed the fragile foundations of a system arisen from an illegal process. Going against an established view during the 18th century that identified the regime that emerged from the Glorious Revolution as an admirable

phenomenon. I. Fetscher (1976) was one of the first to show how the new philosophical reading of the revolution, proposed by Kant in his essay on human progress included in the *Contest of Faculties*, is much more likely to refer to the French Revolution than to the American one. Indeed, in this passage, Kant recalled the uncertainty of the outcomes of the revolution, while at the end of the 18th century, the grip of powers attempting to reverse the fortunes of the French republic to avoid further revolutionary contagion was tightening. Contrarily, the constitutional success of the American Revolution had, according to the author, practically been certified three years earlier, with the essay on *Perpetual Peace*, in which the American political system was presented as a model of federalism.

⁶⁸ Kant, 1991d, 182. This passage reveals Kant's preference for a revolution that is not practical (based on violence), but theoretical, in the way of pursuing legal and political forms of coexistence. This was, as has been pointed out, a further specification of the Enlightenment culture's shift from heteronomy to the autonomy of man (R. Brandt, 2015, 6-7): capable of identifying a general, final end to his own history (J. Kopper, 1993, 274).

⁶⁹ P. Burg (1988) notes that, in considering the French Revolution, Kant's difficult relationship with Frederick William II's government, as one of central counterrevolutionary initiatives in Europe, also plays a key role.

⁷⁰ According to Williams, even in his reading of an extreme phenomenon such as revolution, Kant favoured a moderate term such as «metamorphosis» of the political order, thus presenting himself to the reading public «as a point of orientation in the evaluation of the revolution in France. Through his defence of metamorphosis Kant presents himself, I conclude, as an advocate of radical political goals but employing non-radical means» (H. Williams, 2001, 694).

example of a constitutional monarchy⁷¹, the Prussian thinker underlined the inner contradictions that this system of government concealed, making it only seemingly well-suited for the legal principles of republicanism.

First of all, Kant challenged the assumption that the «British constitution» could be regarded as «the model for the whole world»⁷². This is connected to what the author later noticed in *Metaphysics* about the «absurdity» of the «so-called moderate constitution»⁷³, where a sovereign power, to counter the instituted supreme power of the state represented by the monarch, is legally recognized. On this point, Kant took up his arguments against revolution already elucidated in earlier works: Legal coercion of the sovereign by the people is unthinkable, since the people themselves can be instituted only by civil order, which is personified by the monarch himself, or by the first spark of a general will additional to individual wills. Already in the *Common Saying*, Kant logically (and legally) argued for the distinction between an «irreprehensible» and an «irresistible» public law. The first attribute indicated a norm that «is beyond reproach (i.e. irreprehensible) with respect to right»⁷⁴, because of the free consent of the people, but this fundamental condition carries with it «the authority to coerce» and the prohibition to resist, that is the irresistible «power of the state to put the law into effect»⁷⁵. There could be no legally consistent common entity without such a force suppressing all internal resistance, for it would take place according to a maxim that, if made universal, would nullify every civil constitution and eradicate the state's authority, under which only human beings can be in general possession of rights.

This critique of the British model helps to identify the true «limited constitution», that «contains a provision that the people can legally resist the executive authority and its representative (the minister) by means of its representatives (in parliament)»⁷⁶. Only a «negative resistance» was allowed as a form of legal resistance to the supreme executive power. While the English model theoretically prescribed to the people an active right of resistance, it really acted as a most effective authoritarian regime⁷⁷.

⁷¹ German territories' interest in the English government after the Glorious Revolution increased after 1714, when the Elector of Hanover became British sovereign, George I. Later on, the dissemination in German of the works of Voltaire (*Letters Concerning the English Nation*, 1733) and Montesquieu's *Spirit of the Laws* (1748) also played an influential role in increasing this interest (see on this J.L. Snell, 1976, 10-12).

⁷² I. Kant 1991b, 83.

⁷³ I. Kant, 2017, 105.

⁷⁴ I. Kant, 1991c, 81.

⁷⁵ *Ibidem*.

⁷⁶ I. Kant, 2017, 107.

⁷⁷ As shown by M.B. Levinger (2002, 33), «the British monarchy, according to Kant, possessed the form but not the spirit of a representative system: though the "illusion" of representation existed there». Linking the duty of obedience to a just law, i.e. one that satisfies the publicity test, to a correlative duty of disobedience to an unjust law, as Formosa has concluded, is based on the fact that «only laws that all people could possibly consent to are just. A law that is judged to fail such a test is unjust and does not, on my reading of Kant, thereby warrant obedience». However, the duty to disobey, as the author well notes, is never reflected in an «active right of resistance», but only in the capability of the citizenry to make its dissent heard through its representatives (P. Formosa, 2008, 170).

The illegal (revolutionary) roots of the «British constitution» was the inner reason of its contradiction, as the system failed in applying its supposed founding principles. In Great Britain, the public narrative framework of «limited monarchy» served ultimately to conceal the reality of an «absolute monarchy»⁷⁸. Kant was recalling the fundamental attribute of every republican constitution – that the extreme decision to go to war did not belong to an absolute sovereign but to the people – and pointed out that «the British monarch has conducted wars aplenty without seeking the consent for them. Therefore, this king is an absolute monarch who ought not to be one, of course, according to constitution»⁷⁹. The English political system, while it could not be considered an ideal model of republican constitutionalism, also failed as a phenomenal declination of this form of government, taking on the features of pervasive despotism⁸⁰.

The battle of ideas that Kant engaged in throughout his «political decade», served to mark a clear dividing line between republican and despotic government. However, the beginnings of a complete theory of the relationship of state power and individual freedom; of international system and peace, starting with the anthropological note of the 1770s, must bring the Kantian reader to (re-) consider the reflections that the author made on American independence.

Even when facing the reactionary and liberticidal pressures of which he was himself a victim during the reign of Frederick William II⁸¹, Kant confirmed that history was a constant improvement of the human condition in the direction of an unavoidable affirmation of republicanism: American events, despite their exceptional nature, could well confirm this belief.

⁷⁸ J. Kant, 1991d, 186.

⁷⁹ Ivi, 186-187n.

⁸⁰ In conclusion, «Kant observes that after the Glorious Revolution (1688) the British Government suffered from a disjuncture between its publicly acclaimed ideal of constitutional monarchy and the actual state of absolute rule. [...] Here Kant applies his theory of publicity's moral force to a concrete political example: a government can subvert its publicly legitimating ideal only under conditions of secrecy» (E.E. Haller, 1999, 55).

⁸¹ With the entry into force of the new *Censuredikt*, Kant slipped through the restrictive mesh of the Berlin Commission. After the second part of his *Religion within the Boundaries of Mere Reason* met the opposition of State censorship, he arranged to make use of university censorship, in order to publish all four parts of the work as a book. Two editions of *Religion* were published in the spring of 1793 and 1794. A few months later, it provoked a royal rescript against the author, most certainly written by Wöllner.

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