

## KANT AND REVOLUTION

– Rafał Wonicki –

**Abstract:** Based on Kant’s political thought, this article deals with the relationship between a ruler’s power and freedom, law and morality. The assumed external freedom is to be guaranteed to individuals by a valid political authority (sovereign); however, the authorities do not have to obey the law, which means that the freedom of citizens is threatened. Thus, a tension appears between the freedom of the individual and obedience to an unjust law. From an authority’s perspective, peace is more important than moral development, and from a moral perspective, the rule of law is less important than ethical perfection. This leads to the question of whether revolutionary changes to the system can be justified on the basis of Kant’s assumptions, as some liberal interpretations of Kant’s thought propose. In this article, I argue that although the revolutionary moment is possible within Kant’s political philosophy, it is in a different place than most liberal authors point out and has no link to the common understanding of revolution.

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### Introduction<sup>1</sup>

In his work on political philosophy, Kant presents the relationship between freedom and power (understood as state authority) in a way that is problematic for liberal thinkers who want to improve their theory in order to retain the possibility of a revolutionary change in authority under certain conditions; however, the external freedom postulated by Kant can only be protected by securing the rights of citizens by a sovereign power. Thus, the existence of a political ruler possessing a legal means of coercion becomes a guarantee of external freedom while excluding revolutionary change. But what should citizens do when a sovereign breaks a contract, thereby jeopardizing the implementation of their freedom? In such a situation, moral conduct encounters an obstacle in the form of the obligation to obey authority and law even if they are unfair. This leads to a supposed contradiction. From the perspective of state power, peace is more important than moral

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development (inner freedom), and from the perspective of morality, the rule of law is less important than ethical perfection. The absolute duty to respect the law (derived from morality) therefore poses difficulties because citizens cannot act (revolutionarily) against an unjust sovereign. On the one hand, morality ensures that the political order is consistent with universal law (enabling the implementation of internal freedom), but on the other hand, it demands that no violence be used against immoral laws. This situation raises an important question regarding what citizens can do if the sovereign is unfair and cannot be opposed.

When examining how Kant and his contemporary liberal interpreters answer this question, I first show how Kant describes internal and external freedom (1) and how freedom relates to public law and sovereign power (2), to illustrate that Kant rejects the possibility of legitimizing the revolution (3) and to assess how contemporary liberal interpreters of Kant – in this case referring mainly to Korsgaard’s interpretation<sup>1</sup> – try to moralize the law to minimize the rigor of prohibiting revolution (4). Finally, Kant’s proposals for non-revolutionary change are analyzed (5, 6).

## 1. External and internal freedom

In *The Metaphysics of Morals* Kant claims that

The positive concept of freedom is that of the ability of pure reason to be of itself practical. But this is not possible except by the subjection of the maxim of every action to the condition of its qualifying as universal law. For as pure reason applied to choice irrespective of its objects, it does not have within it the matter of the law; so, as a faculty of principles (here practical principles, hence a lawgiving faculty), there is nothing it can make the supreme law and determining ground of choice except the form, the fitness of maxims of choice to be universal law. And since the maxims of human beings, being based on subjective causes, do not of themselves conform with those objective principles, reason can prescribe this law only as an imperative that commands or prohibits absolutely. In contrast to laws of nature, these laws of freedom are called moral laws. As directed merely to external actions and their conformity to law they are called juridical laws; but if they also require that they (the laws) themselves be the determining grounds of actions, they are ethical laws, and then one says that conformity with juridical laws is the legality of an action and conformity with ethical laws is its morality. The freedom to which the former laws refer can be only freedom in the external use of choice, but the freedom to which the latter refer is freedom in both the external and the internal use of choice, insofar as it is determined by laws of reason.<sup>2</sup>

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<sup>1</sup> Korsgaard (1996a; 1996b).

<sup>2</sup> Kant (1996c): 375–376 (6: 214). I quote Kant’s writings according to *The Cambridge Edition of the Works of Immanuel Kant*, P. Guyer, A.W. Wood (eds.), 16 vols., Cambridge University Press. I also add the pagination according to the German edition of Kant’s *Gesammelte Schriften* (Königlich Preussischen Akademie der Wissenschaften, Berlin).

Based on this quotation, we might say that Kant understands freedom in two ways. On the one hand, he speaks of an internal concept of freedom, and on the other, of an external one. The first is related to Kant's ethical considerations. He recognizes that our free will is autonomous and that this autonomy allows us to act in accordance with the universal law. As a result, the idea of internal freedom in Kant's theory is related to the idea of the autonomy of the will and to the formula of the categorical imperative,<sup>3</sup> which is the basis of all actions of rational beings. In turn, external freedom is governed by public law that is supported by a legal compulsion arising from the hypothetical contract of all rational people as legislators. In this way, they create the rule of law (*Rechtsstaat*) sanctioning coercion. Thus, coercion within the limits of the law is justified because for Kant, it concerns punishment for committing previous lawlessness and violating the limits of others' freedom.<sup>4</sup> Kant therefore links this type of freedom to the legal contexts. These two freedoms are distinguished and separated from each other by their own spheres of action. At the same time, it is from the point of view of the internal concept of freedom that we can understand the external one.<sup>5</sup> The action of state power – from this perspective, understood as the protection of freedom by coercive law, would therefore be dictated by a moral goal: a good life; however, this is not the case. The sphere of state's rights described in the first part of the metaphysics of the moral (doctrine of right) and its rational justification is independent of the doctrine of virtue (the sphere of morality) because the state exists to ensure the protection of external freedom (and property) and not to please society nor to consider moral development, as in the classical theories of Plato or Aristotle. Therefore, we can treat the doctrine of right as a sphere of reflection independent of the sphere of the doctrine of virtue.<sup>6</sup>

If this is the case, we should return to our original question, breaking it down into important points. Even when the law is unjust, are citizens obliged to obey it? Can an unjust sovereign destroy the civil status by his actions and push citizens back into the anarchy of the state of nature? Is a revolution not permissible even when it acts in the name of universal law? If the spheres of individuals' morality and civic interaction were consistent and morality took precedence over politics,<sup>7</sup> the answer to these ques-

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<sup>3</sup> Kant (1998): 97 (4: 450).

<sup>4</sup> Kant (1996c): 388 (6: 232).

<sup>5</sup> The first is related to perfect and non-perfect duties that are fulfilled by individuals in the name of internal motivation to act morally, and external freedom is related to perfect duties and thus provides the community with the rules necessary for coexistence, the breaking of which may result in the disintegration of the community. Thus, these rules need to be secured by legal coercion.

<sup>6</sup> Kant (1996c): 384 (6: 220). See also: Höffe (2006): 81–86. According to the classical reading, Kant's philosophy of law is an integral part of critical moral philosophy and the concept of law (*Recht*). The theoretical validity of the concept of law results from transcendental freedom (Dulckeit 1973) or depends on moral philosophy (Kersting 1983). Others reject this view and believe that law can be studied independently of Kant's moral philosophy. This is for example Pogge (2002) and Willascheck (1997). My position, in turn, refers to the interpretation of Hoeffe (1994), who considers Kant neither a legal moralist nor a legal positivist. From this perspective some moral norms need to be justified by coercive law (i.e., punishment for theft), however not all moral norms should be protected by public law (for example according to Kant committing suicide is immoral but should not be prohibited by coercive sanction of the public law). Readers may find more about the relation also here: Guyer (2002); Pippin (1999).

<sup>7</sup> Kant (1996b): 338–339 (8: 370–371). In understanding notion politics, I follow Kant's short description that politics is a doctrine of right put into practice (Kant 1996b: 338 [8: 370]).

tions should be yes. After all, in *The Metaphysics of Morals*<sup>8</sup> and in *Perpetual Peace*,<sup>9</sup> Kant postulates that people have the right to live in a republican system and (according to Rousseau) one that allows for the realization of the rational freedom of everyone. As he writes,

A constitution established, first on principles of the freedom of the members of a society (as individuals), second on principles of the dependence of all upon a single common legislation (as subjects), and third on the law of their equality (as citizens of a state) – the sole constitution that issues from the idea of the original contract, on which all rightful legislation of a people must be based – is a republican constitution.<sup>10</sup>

This right results from people's obligations towards themselves to lead a good and dignified life. Therefore, citizens should adhere to the conditions of coexistence due to their own humanity. In turn, this would mean that the duty of ethics takes precedence over the duty of obedience to state regulations. Consequently, when the sovereign does not obey the law permanently, it seems that a revolution should be possible, yet, this position runs counter to our initial determination of the separation of ethics and politics, and Kant vehemently opposes the claim that a revolution could be morally legitimized.

## 2. Sovereign power and opposition to revolution

To determine whether there is actually a contradiction between the sovereign power as a necessary condition for securing the law and the freedom that is the aim of this law and in this way to obtain an answer to whether Kant allows revolution as a means of securing freedom, I begin with a reconstruction of the role that Kant ascribes to the state.

Kant recognizes that to change their disadvantage and to emerge from a state of nature like anarchy and lawlessness, individuals enter into an "original contract" – a social contract – that establishes a political community. This contract,

(*called contraaustus originarius or paaum sociale*), as a coalition of every particular and private will within a people into a common and public will (for the sake of a merely rightful legislation), be presupposed as a fact (as a fact it is indeed not possible).<sup>11</sup>

The contract establishes both the state and the civil society. Kant explains that such a contract is a concept of practical reason that reflects the necessary rules of community life (freedom, equality, independence of its citizens).<sup>12</sup> This imaginary hypothetical contract obliges every legislator to enact the law as if it might have been a result of the united will of the entire nation and

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<sup>8</sup> Kant (1996c): 455 (6: 311).

<sup>9</sup> Kant (1996b): 322–324 (8: 350–353).

<sup>10</sup> Ibidem: 322 (8: 350).

<sup>11</sup> Kant (1996d): 296 (8: 297).

<sup>12</sup> Ibidem: 291 (8: 291); Kant (1996b): 322 (8: 350).

to bind every legislator to give his laws in such a way that they could have arisen from the united will of a whole people and to regard each subject, insofar as he wants to be a citizen, as if he has joined in voting for such a will.<sup>13</sup>

The law that does not meet these two conditions is to be considered unjust.

The contract creates a state that secures people's freedom and property. It also enables moral development. Thanks to the state, the law takes an institutional form, and the authority guarding the law has real strength that ensures the validity of the law. It is the concept of mutual assurance of the right to freedom and its enforcement that is the basis of Kant's argument that entering into the social state is considered a human duty. Thus, only in a state under the rule of authority constituting public law is it possible to satisfy the requirement of claiming rights to legitimate coercion.<sup>14</sup> This law applies to doing things that are permissible in the public sphere without falling into the anarchy of the state of nature. In this fashion, the doctrine of right shows the legitimate use of coercion in a certain way to preserve personal freedom, private property, and the integrity of states. At the same time, it defines the way in which the state fulfils these goals, i.e., it determines the scope and role of the sovereign authority which is to regulate external freedom among citizens.

From Kant's perspective, the sovereign state becomes conceptually inseparable from citizens, which means that citizens cannot act against themselves because "only the general united will of the people, can be legislative."<sup>15</sup> A sovereign state understood in this way is the necessary institutional embodiment of public law and a manifestation of a legitimate legal state. According to Kant,

the power within a state that gives effect to the law is also unopposable (*irresistible*), and there exists no rightful commonwealth that can hold its own without a force of this kind that puts down all internal resistance, since each resistance would take place in conformity with a maxim that, made universal, would annihilate any civil constitution and eradicate the condition in which alone people can be in possession of rights generally.<sup>16</sup>

Kant, therefore, recognizes that the will of the people is a voice that must be taken into account by anyone who issues laws. It is the guardian of the privileges of the legislature: what the people cannot enact for themselves, the sovereign legislator cannot do to the people.<sup>17</sup> We can understand this sentence in a way that the concept

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<sup>13</sup> Kant (1996b): 296–297 (8: 297–298).

<sup>14</sup> Kant (1996b): 290 (8: 289).

<sup>15</sup> Kant (1996c): 457 (6: 314).

<sup>16</sup> *Ibidem*: 298 (6: 299). Because the republican legislative power represents the "united will of the people," we must rule out the possibility of causing any injustice since republican legislation is an extension of the will of its citizens. This means that if a government wants to maximize the external freedom of its citizens, it must represent their will. The republic prevents the decline of the right to liberty, and the republican government acts as a unifying factor for citizens, and it is thanks to its existence that the rule of law is created and maintained for the benefit of all citizens.

<sup>17</sup> *Ibidem*: 298 (6: 299).

of the universal legislative will constitutes the duty of the authority to act as if the law actually resulted from the universal will of the people; however, for Kant, it is only the sovereign, by virtue of the powers vested in him, who has the right to decide what laws are in force in the state. Therefore, the legislator cannot be mistaken as to the compliance of the public law (*Gezetz*) with the idea of the universal right (*Recht*) (after all, he has the original contract as a measure at hand); moreover, even when the sovereign breaches this contract (which, of course, is only an imaginary idea as to the legitimate rules that should apply in the lawful republic), citizens are not entitled to such a possibility of resistance as to respond to force with force.<sup>18</sup>

On the one hand, we can understand the rule of law as reflecting the universal law to the extent that it secures freedom and equality for all citizens. From this perspective, sovereignty and citizens are equally subject to this law because everyone

unite[s] itself with all others (with which it cannot avoid interacting), subject[s] itself to a public lawful external coercion, and so enter[s] into a condition in which what is to be recognized as belonging to it is determined by law and is allotted to it by adequate power (not its own but an external power); that is, it ought above all else to enter a civil condition.<sup>19</sup>

On the other hand, Kant argues that the sovereign, for example the governor or regent of the state, due to his/her special function as the guarantor of the legal order (and also because the people themselves, as the sovereign, cannot be their own governor at the same time)

has only rights against his subjects and no duties (that he can be coerced to fulfill). Moreover, even if the organ of the sovereign, *the ruler*, proceeds contrary to law, for example, if he goes against the law of equality in assigning the burdens of the state in matters of taxation, recruiting and so forth, subjects may indeed oppose this injustice by *complaints* (*gravamina*) but not by resistance.<sup>20</sup>

What if coercion becomes illegal? Does the sovereign, breaking the basic principles of the original contract, not return us to the state of nature, from which, as Kant himself says, we have the right, even using force, to bring people out?

### 3. Kant's arguments against the revolution

Let us then present Kant's arguments against the legality of revolution. Kant argues that recognizing the right to revolution would give people the freedom to judge the actions of rulers and to change them. Therefore, it would mean that people could question or even replace sovereign power; nonetheless, if a man is to coexist with others in the state, there must be, within the limits of the law, the highest authority that unites the will of

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<sup>18</sup> Kant (1996d): 297 (8: 298) and further.

<sup>19</sup> Kant (1996c): 456 (6: 312).

<sup>20</sup> Ibidem: 462 (6: 319).

the people, and the granting of the right to revolution would increase opponents of power, which means that the sovereign could no longer be considered the “head” of the state and therefore the sole guarantor of law. Hence, Kant affirms that the legal right to revolution is self-contradictory and rejects it. The nature of sovereignty, according to Kant, lies in the fact that it cannot be shared. If the sovereign power were shared, who would then decide who is right in the dispute between the people and the sovereign? Without a final authority above which there is no higher one – the sovereign to settle the dispute – the ways of resolving it cease to be legitimate.<sup>21</sup>

Kant also recognizes that legitimate conditions, unlike the state of nature, are possible only when individuals are governed by the sovereign. Any state that expresses this overall legislative power will be better than no state. This reasoning is justified by Kant with the premise that legitimate conditions require the centralization of the means of coercion and that the state is the only institution that can implement and enforce the mutual rights of citizens by coercion. Thus, only unity within the framework of the general legislative will issued by a sovereign organ of the state allows people to join the political society at all and to have any rights granted to themselves (or public property), and to enjoy their inherent freedoms in relationships with others.<sup>22</sup> It means that for Kant, a rebellion against a ruler is a rebellion against the will of the general public. It strives to remove the foundation of the law, and as such, it is incompatible with man’s most important duty to become and remain a citizen.

A person who calls for resistance to state authority undermines the very idea of law. By his/her – even morally righteous – action, he/she denies the common ground of the state, putting his/her subjective sense of justice above the law and questioning the sovereignty of power as an expression of the general legislative will.<sup>23</sup> Such a person, wishing to remove the sovereign, cancels the legal status of him/herself as co-legislator and withdraws the entire community back to the state of nature. Without a sovereign, there is no legal status and no strength that could guarantee the justice and freedom of citizens.<sup>24</sup> For Kant, this also means that the people who are calling for a revolution do not understand the nature of the social contract, claiming that it is a historical act from which they could depart; however, because the social contract is only an idea of reason that sets the moral boundaries of sovereign power, that itself determines how these boundaries are to be interpreted because there is no other independent contractual consent which citizens can invoke.<sup>25</sup> Kant writes that

the reason a people has a duty to put up with even what is held to be an unbearable abuse of supreme authority is that its resistance to the highest legislation can never be regarded as other than contrary to law, and indeed as abolishing the entire legal constitution. For a people to be authorized to resist, there would have to be a public

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<sup>21</sup> Kant (1996d): 298–299 (8: 300).

<sup>22</sup> Ibidem: 307 (8: 311), 326 (8: 355).

<sup>23</sup> Kant (1996c): 463 (6: 320).

<sup>24</sup> A similar view is expressed by Wolfgang Kersting (1992).

<sup>25</sup> Kant (1996c): 461 (6: 318); Kant (1996d): 296 (8: 297). At the same time, this does not apply to all citizens but mainly to philosophers, who, using their reason for public purposes, have the right to discuss and convince the authorities about institutional changes. See: Kant, *The Conflict of the Faculties* (1996a).

law permitting it to resist, that is, the highest legislation would have to contain a provision that it is not the highest and that makes the people, as subject, by one and the same judgment sovereign over him to whom it is subject. This is self-contradictory, and the contradiction is evident as soon as one asks who is to be the judge in this dispute between people and sovereign (...).<sup>26</sup>

No matter how unfair the government (sovereign) is, citizens do not have the right to revolution against such state power according to Kant because it guarantees them greater stability than the anarchy of the state of nature.

#### **4. Liberal moralizing the law in the name of legitimizing a revolution**

Kant's prohibition on revolution has inspired many responses. Firstly, classical studies evaluating Kant's approach to revolution focused on the inconsistency between his denial of a right to revolution and his endorsement of the French Revolution.<sup>27</sup> Another group of studies has signaled inconsistencies between Kant's juridical and virtue position.<sup>28</sup> In a well-known and often discussed analysis of Kant's approach to the problem of revolution written by Beck, he claims that Kant classified fighting with injustice as an imperfect duty, and he argues that Kant's view on revolution might be described as an example of Kant's incapacity to deal with conflicting duties.<sup>29</sup> Another work written in a liberal spirit is a work of H. S. Reiss, who claims that Kant's theory of justice provides a justification for revolution itself,<sup>30</sup> focusing on Kant's optimism about historical progress. In more contemporary interpretations of Kant's political writings, readers may find even stronger views subjugating the doctrine of the right to the doctrine of virtue and creating more space for the justification of revolution. I have in mind mainly Byrd and Hruschka<sup>31</sup>. They hold that any state that is not established as a republic fails to deserve obligation. I discuss these approaches because they conflict with Kant's position that one must obey even very imperfect rulers,<sup>32</sup> and second, they do not answer clearly how exactly citizens should judge the matter and why it does not contradict Kant's theory of authority. In general, supporters of the above-mentioned approach struggle with the difficulty because their view might be seen as incompatible with Kant's claim that the state's authority must not depend on private judgments. In Kant's view, the state can only defend equal rights and obligations if its authority is above the citizens, as I wrote in previous sections. If citizens are free to judge whether a policy is just or unjust, it renders the state's authority vulnerable to disobedience on the part of citizens. Also, neither of these studies addresses what I think is the central issue for rejecting revolution, namely that violence is the immoral and unpredictable consequence of the revolution. My own position is similar to that of Flikschuh, who shows how Kant's no right to revolution follows as a corollary from

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<sup>26</sup> Kant (1996c): 463 (6: 320).

<sup>27</sup> Henrich (1976): 359–365; Beck (1971): 411–422.

<sup>28</sup> Hill (2000): 200–237.

<sup>29</sup> Beck (1978).

<sup>30</sup> Reiss (1956).

<sup>31</sup> Byrd, Hruschka (2010).

<sup>32</sup> Kant (1996d): 290–298 (8: 290, 299).



his public morality of Right<sup>33</sup> or Waldron's approach of power;<sup>34</sup> however, I focus on developing my own argument against revolution based on the differentiation between revolution and evolution as well as between inner and external revolutions in the final sections of the article.<sup>35</sup> Below, I develop further a critique of an emblematic example of a liberal interpretation of the justification of revolution within Kant's writings – it is the approach of Korsgaard, who tries to soften Kant's ban on revolution.

According to liberal interpreters of Kant's political thought (e.g., Alen Rosen), if we want to stand for the moral right to revolution, we must, to some extent, abandon the distinction between the doctrine of virtue and the doctrine of right and moralize the law. In this way, we do not appeal to the legal right to rebellion, but rather persuade changes in political power in cases of injustice and as a result, from the perspective of morality, we legitimize the revolution, which Kant also rejects because in his opinion the maxim of consenting to a revolution cannot become a universal law. If everyone claimed the right to change authority by force, putting themselves in the role of sovereignty, this would lead people back to a state of anarchy.<sup>36</sup>

Following the path of moralizing the law as an attempt to allow a revolution, some commentators, such as Korsgaard, who want to eliminate the possibility of tyranny, claim that Kant's theory of the state and law must in some way include forceful action against the state, at least in certain extreme cases. They interpret Kant's moral writings in such a way that within the framework of Kant's assumptions (deontological ethics), the thesis about the prohibition of a revolution is weakened or considered incoherent to the whole system.<sup>37</sup> Especially in a state where there is an unjust law, the positive realization of external freedom and the protection of private property, which is the goal of the state, are difficult. Taking such cases into account, Korsgaard claims that when state justice procedures are used against its objectives, justice is distorted. In her opinion, this distortion creates tension in Kant's political theory between the procedural element of justice (law) and its purpose (morality). Given that the aim of justice is to protect the rights and freedoms of all, Korsgaard considers that this aim should be pursued by respecting the legitimate public law. If an individual respects an unjust law, he or she becomes complicit in the violation of laws by the authorities. If a person defends the universal law contrary to the applicable law established by the sovereign, he or she neglects his/her duty to obey the authorities. Therefore, when a sovereign violates the universal law and the social contract, the virtuous man finds himself in a situation where it is difficult to act properly. In this case, we are faced with the necessity of violating precisely what we aim to protect – the lives of others and the order and security guaranteed by the state

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<sup>33</sup> Flikschuh (2008).

<sup>34</sup> Waldron (2006).

<sup>35</sup> The relationship between evolution and revolution in Kant's approach to history has been analyzed in the literature in various ways. The idea of moral development in history is criticized, for example, by Pauline Kleingeld (1995). Katrin Flikschuh (2008) also analyzes this issue from a similar perspective. A supporter of evolution in history as a principle that guarantees peace is, for example, Bernd Ludwig (1997). Lea Ypi (2010) or Howard Williams (1992) approach the issue more comprehensively because they focus more on politics itself as an evolutionary process. Earlier the distinction between revolution and evolution has been developed also by such authors as Nicholson (1992) or Booth (1986).

<sup>36</sup> Kant (1996d): 300 (8: 301).

<sup>37</sup> Arntzen (1996): 424.

authority. Korsgaard recognizes that due to the moral obligation to respect fundamental rights and to protect autonomy, if a sovereign does not fulfill its original contract, people, contrary to Kant's view, have the right to revolution in the name of protecting human rights and freedoms.<sup>38</sup> Her argument for revolution therefore offers a moral answer to the legal problem. It is based on the idea of treating the duties of justice as individual moral virtue to fill the gap between two elements of Kant's metaphysics of morals: the doctrine of right and the doctrine of virtue. It assumes that right and virtue complement each other based on the common goal of human rights and freedoms. This makes it possible to classify both dimensions and indicates an approach in which the principles of public law are considered moral principles. Thus, in moral dilemmas, such as the conditions under which a revolution is launched, where there is a conflict between moral actions and obedience to political authority, it places morality above the law: despite the legal obligation of obedience, a "moral" revolutionary has the right vocation to act for the protection of human rights and freedoms. This, therefore, leads to conclusions that are different from Kant's for the legitimacy of the revolution, and the reason for this seems to lie in a different interpretation of the relationship between the doctrine of right and the doctrine of virtue. For Kant, these two dimensions of action complement each other but are not identical. External freedom sets out the necessary minimum conditions for a secure coexistence, and internal freedom can only exist in the state on a permanent basis.<sup>39</sup> The overall Korsgaard's strategy therefore seems unjustified.<sup>40</sup> By shifting the problem of

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<sup>38</sup> Korsgaard (1997).

<sup>39</sup> With the liberal reading of Kant, we are bound by the common will to look after the interests of all based on the common good, which is equality before the law. Therefore, liberals may argue that a total ban on revolution is not an option when this obligation is violated, such as when the law systematically excludes certain groups from equal treatment or when the government becomes an instrument of oppression more than a guarantee of individual rights. Then, these authors usually say that we have an unconditional duty of justice to oppose or change an unjust state. Such a consequential reading of Kant allows liberals to justify a revolution to eliminate an immoral and illegitimate regime. In part, it is also connected with the experience of the Second World War, the Holocaust, and genocide, i.e., the phenomena of the 20<sup>th</sup> century, which Kant did not encounter in his time.

<sup>40</sup> It is because Korsgaard strongly combines the duty of justice with the duty of virtue. However, if she cannot find arguments for revolution from the perspective of justice, it will be problematic to establish it based on virtue. She also bases her conclusion that citizens should make an exception from categorical imperative to not killing on the fact that Kant praises the enthusiasm of the observers of the French Revolution. She also seems to equate the moral possibility of disobeying a tyrant with the moral justification of revolution. However, it is not so simple. First of all, if we accepted that the categorical imperative permits revolution, we would also have to reject the categorical imperative that forbids killing others. Secondly, even referring to Kant's criteria it is not always clear when the behaviour of state authority stops being acceptable. Thus, although in Kant's approach we can indeed justify the moral refusal to exercise laws contrary to the categorical imperative, we still do not know whether we have the moral right to change power by violence. As Guyer describes his thinking, "The overthrow of an existing state, even if in the hope of greater justice and not merely greater happiness, can never be an immediate transition to a better-constituted state, but is always a reversion to a condition of lawlessness. From such anarchy a better state might arise, but then again it might not." (Guyer 2006: 287). It would be contradictory, then, for citizens to come back to the lawless state of nature in the name of juridical states. What citizens can do without any doubt, based on Kant's reason, is a passive refusal to obey immoral policies like slavery. As such, Korsgaard's suggestion that we can never bypass the moral law from a Kantian perspective seems to be implausible. For more arguments in the same spirit see Reiss (1956); Waldron (1996); Howard (1983); Holtman (2002).

political obedience to the field of morality, it treats this issue as a question of the moral autonomy of the individual in the face of oppressive governments. The revolution in this way becomes a question of internal freedom in the area of the political community.

## 5. The tools of political change in Kantian approach

Let us examine Kant's understanding of the revolution and consider whether there is any possibility of legitimizing it in a different way. Although he shows why people should not rebel against the state (identified through sovereign power), Kant does not claim that citizens should always obey the state. This allows for passive civil disobedience in the form of a veto:

no active resistance (by the people combining at will; to coerce the government to take a certain course of action, and so itself performing an act of executive authority) is permitted, but only *negative* resistance, that is, a *refusal* of the people (in parliament) to accede to every demand the government puts forth as necessary for administering the state.<sup>41</sup>

It implies that the legislative authority cannot dictate or prescribe any positive action by the executive and that its exercise of resistance is only negative. Furthermore, Kant does not deal clearly enough with the situations that are opposed to morality in his political writings. As readers we can only guess what elements fall within the scope of the passive disobedience by collecting various excerpts from Kant's ethical writings. Hence, if a ruler tells us to deprive ourselves of our lives, to lie – forcing us to violate our duties fully towards ourselves and others – then Kant recognizes that we might oppose the ruler, but he says nothing that allows to turn this opposition into an armed revolution or rebellion. These are situations that do not – in spite of anything – entitle us to resort to violent means. Although citizens still cannot actively resist, they are not to be blindly obedient, as expressed in Kant's idea of freedom of the pen:

A nonrecalcitrant subject must be able to assume that his ruler does not *want* to do him any wrong. Accordingly, since every human being still has his inalienable rights, which he can never give up even if he wanted to and about which he is authorized to judge for himself, while, on that assumption, the wrong that in his opinion is done to him occurs only from the supreme power's error or ignorance of certain consequences of his laws, a citizen must have, with the approval of the ruler himself, the authorization to make known publicly his opinions about what it is in the ruler's arrangements that seems to him to be a wrong against the common-wealth. For, to assume that the head of state could never err or be ignorant of something would be to represent him as favored with divine inspiration and raised above humanity. Thus *freedom of the pen* – kept within the limits of esteem and love for the

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<sup>41</sup> Kant (1996c): 465 (6: 322).

constitution within which one lives by the subjects' liberal way of thinking, which the constitution itself instills in them (and pens themselves also keep one another within these limits, so that they do not lose their freedom) – is the sole palladium of the people's rights.<sup>42</sup>

It is worth emphasizing at this point that Kant does not completely reject the revolutionary action as such and its effects. Revolutions happen, and Kant cannot deny this. If a revolution is successful (even though there is no legal or moral consent to it), citizens have a duty to obey the new authority as they obeyed the old one.<sup>43</sup> The new authority has the right to rule. Kant also regarded the effects of the French Revolution and the people's enthusiasm for it as a sign of progress. The witnesses were enthusiastic about the news of the French Revolution, in his opinion, not because it was legitimate but because it aimed to create a civil society (and the rule of law). This enthusiasm will have an impact on future generations.<sup>44</sup> The issue of the prohibition of the revolution becomes even more complicated when we look at some passages from the *Metaphysics of Morals*. It seems that Kant believed that the French Revolution, understood as a change in the political system, was legitimate because the King of France was sovereign until the National Assembly was called to represent the people. At that time, the right of sovereignty (of authority) was transferred to the people, even if the king's intention was only to temporarily transfer power to the people's assembly to solve the financial problem and then regain power;<sup>45</sup> however, after the transfer of sovereignty, he no longer had any right to restrict the assembly's activities. This clearly illustrates that Kant understood the difference between rebellion and revolution and the transfer of power and elections. If the transfer of power is carried out by peaceful means, according to the law, the people as a sovereign power can name the entire government together with the king. Without this mechanism, such a change is immoral and illegal. We can therefore assume that Kant limited the concept of revolution to armed rebellion or rebellion against power, and it is precisely such a revolution that is morally and legally impossible for him. After this distinction and limitation, we can say that two types of revolutions are envisaged by Kant's theory. First, "peaceful" revolutions, understood as evolutionary qualitative changes, e.g., the transition from one system to another with the consent of citizens and authorities. These are morally and legally permissible. Second, prohibited violent revolutions that deviate from the latter and which are neither morally nor legally allowed.

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<sup>42</sup> Kant (1996d): 302 (8: 304). Kant understood freedom of the pen in a way that only philosophers or let's say intellectuals – so people who are well educated – have a right to discuss public issues in order to influence the ruler.

<sup>43</sup> As Kant writes, "Moreover, once a revolution has succeeded and a new constitution has been established, the lack of legitimacy with which it began and has been implemented cannot release the subjects from the obligation to comply with the new order of things as good citizens, and they cannot refuse honest obedience to the authority that now has the power." Kant (1996c): 465 (6: 323).

<sup>44</sup> See more: Ypi (2014).

<sup>45</sup> Kant (1996c): 481 (6: 342).

We may say, in referring to Kant, that

...political wisdom, in the condition in which things are at present, will make reforms in keeping with the ideal of public right its duty; but it will use revolutions, where nature of itself has brought them about, not to gloss over an even greater oppression, but as a call of nature to bring about by fundamental reforms a lawful constitution based on principles of freedom, the only kind that endures.<sup>46</sup>

While he sees aspects of internal moral change, he also appreciates the value of the French Declaration of the Rights of Man and the Citizen (1789). For Kant, the ideal is state power that meets the expectations of the citizens and reforms itself, as it happened in Prussia during the times of Frederick the Great.

Generally, Kant's hope for slow evolutionary changes is seen in many parts of his texts. For example in *An Answer to the Question: What is Enlightenment?*, he writes that

a public can achieve enlightenment only slowly. A revolution may well bring about a falling off of personal despotism and of avaricious or tyrannical oppression but never a true reform in one's way of thinking; instead, new prejudices will serve just as well as old ones to harness the great unthinking masses.<sup>47</sup>

What is also worth mentioning is that although Kant rejects a so-called "external" revolution that is linked with violence and dependent on external conditions,<sup>48</sup> he accepts and even supports the moral revolution of thinking and behaving:

So long as the foundation of the maxims of the human being remains impure, cannot be effected through gradual reform but must rather be effected through a *revolution* in the disposition of the human being (a transition to the maxim of holiness of disposition). And so, a "new man" can come about only through a kind of rebirth, as if it were a new creation.<sup>49</sup>

It shows that the rigor of Kant's attitude towards revolutions should be properly understood. Revolution needs to be understood as a change in the perception of human interaction. It initiates the change in our thinking and moral assessment, and consequently it allows a political order to change with time: this is the safe and accepted way of reforming a political community. From this perspective, it is possible to interpret Kant's reservations concerning resistance to the state as a necessity to obey the sovereignty that guarantees, in accordance with the original agreement, a stable system of the rule of law.<sup>50</sup> Power is the power of the law – the rule of law – so it is not governed by the people or the sovereign but by the law (the constitution) to which citizens are subject. If

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<sup>46</sup> Kant (1996b): 341 (8: 373).

<sup>47</sup> Kant (1996f): 18 (8: 36).

<sup>48</sup> Kant (1996e): 152 (6: 122).

<sup>49</sup> *Ibidem*: 92 (6: 47).

<sup>50</sup> A similar theme appears in Waldron's article (2006).

a sovereign violates this law, it can be revoked; even so, revolution as a violent rebellion is still not morally permissible in this case.<sup>51</sup>

If Kant builds a certain ideal of the state, the question can be asked whether we can legitimately defend the conclusion allowing for a violent revolution when this ideal is not actually implemented. As discussed, such revolution is an action that Kant rejects; however, as Heiner Klemme rightly points out in his introduction to the Polish translation of "*O porzekadle (On the Common Saying)*,"<sup>52</sup> Kant, when considering the different forms of the state, classifies them according to the possible mutual relations between freedom, state authority, and law. Analyzing the mutual references and arrangements of these values in relation to each other, he distinguishes four possible situations: the republican state, despotism, anarchy, and the most interesting state of barbarism. Kant does not discuss them all in detail, focusing mainly on the necessity of creating a republican state governed by law. To create such a state, we need the law, which is an element that connects and at the same time limits freedom and state power. The rule of law (*Rechtsstaat*) exists in republics – where there is a separation of the legislature from the executive – and in despotism (including democracy) – where there is no such separation; still, both systems prevent a return to a state of nature, which is a state of anarchy, a situation in which there is no rule of law. In the case of the republic, we have a state in which freedom and power are governed by law. In the case of despotism, we have a state in which power and law reign over freedom. In both cases, an armed revolution is not morally or legally admissible due to the respective regimes' value in comparison to anarchy.

Nevertheless, we still have two options. The first is the above-mentioned state of anarchy, in which freedom rules over law and power. This, similarly to the Hobbesian state of nature and a state of war, makes a revolution understood as a rebellion against power logically impossible. There is no ruler in this state, and there are no citizens who can rebel against the sovereign. The last possibility, admittedly outlined by Kant in *Anthropology from a Pragmatic Point of View*<sup>53</sup> but not developed, is power over freedom and law. In fact, in such a state, there is only power understood as force or violence, and this is what Kant calls savagery or barbarism.<sup>54</sup> This state is something between anarchy as

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<sup>51</sup> For a revolution to be at least morally justified, it should be possible to identify a country that does not meet this criterion (e.g., a mafia or a totalitarian state). But then, do we still have to deal with the state, or do we rather find ourselves back in the state of nature, i.e., a war between everyone? If we are still dealing with a state, the appropriate reaction for Kant is still political dialogue or passive resistance and not an armed revolution.

<sup>52</sup> Klemme (1995): XLVI, XLVII.

<sup>53</sup> Kant (2007a).

<sup>54</sup> *Ibidem*: 331 (7: 227). See more: Ripstein (2009): 325–352. Also, Ripstein develops the difference between barbarism and revolution, see: Ripstein (2009): 348–350. I agree with him that Kant's concept of barbarism is important for understanding his position on revolution, because many examples that are often cited, like Korsgaard's reference to Nazi Germany, in Kant's own classification are more conditions of barbarism than conditions of a state. Kant defines barbarism as a situation where there is only force with neither freedom nor law. As such, barbarism cannot be understood as a kind of a united will or rightful condition. Consequently, people who want to leave the state of nature and create a legitimate state can rightly oppose barbarism. However, based on Kant's description the creation of a state out of a condition of barbaric violence is not a revolution. It is just the creation of a state where there was none before. It might be considered a pivotal point in Kant's reasoning that reveals the limits of his moral approach and opens up the possibility to find more convinced justification for a violent fight against an authoritarian system outside Kant's thought.

boundless freedom and the civil state as a state of law. It cannot be a state of law because it is solely the violence of one dominant will of the person usurping the ruler's power. It is a type of power based on force and coercion, power which is essentially the will of the one who subjugates others with violence. Although in practice such a situation is, according to Kant, impossible (power is always some kind of mutual relationship between the ruler and the subjects, and at least some legal elements structuring the order in such a community can be found), it seems logical that this state allows for an armed revolution based on violence. This is because from the perspective of Kantian normative assumptions, the ruler is not a sovereign in such a case, and the citizens cease to be citizens because they live in neither a republican nor a despotic type of state. Therefore, there is also no legal prohibition against revolution. What remains is the only possibility, in accordance with Kant's moral rules, to defend oneself and to leave this strange quasi-state of nature, even by using violence and entering the state of law. Revolution understood in this way is possible when there is no state or law and when power is not sovereign. At this point, there is a fundamental doubt as to whether we can still talk about a revolution at all, which is only possible in the context of the existence of the state and power. It seems that the hypothetical possibility of a legitimate violent revolution in Kant's system is only admissible if there is no state and law and in the situation between the state of nature and the legal state; however, we are then no longer dealing with a revolution but with a moral necessity to establish the legal state and enter the civil state, even with the use of coercion.

## 6. The idea of progress in history and the relationship of power and freedom

Kant, depriving citizens of their right to revolution and realizing at the same time the existence of the tension between freedom and power as well as the historical and contingent perspective of people, tries to alleviate this tension by introducing the idea of progress in history. He says,

History which concerns itself with the narration of these appearances [RW concept of the freedom of the will], however deeply concealed their causes may be, nevertheless allows us to hope from it that if it considers the play of the freedom of the human will *on the large*, it can discover within it a regular course; and that in this way, what meets the eye in individual subjects as confused and irregular yet in the whole species can be recognized as a steady progression through the slow development of its original predispositions.<sup>55</sup>

Based on the idea of progress in history and the idea of perpetual peace, Kant can show that a certain optimal shape of the relationship between power and freedom and politics and ethics is achievable, although it is an idea that we will only approach. After all, from the perspective of perpetual peace, in the final situation, the doctrine of right and the doctrine of virtue will be reconciled, and the tension between them, often

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<sup>55</sup> Kant (2007b): 108 (8: 17).

leading to wars or revolutions, will be overcome. Hence, we have the description of ideal relationships and the path that leads to these ideal relationships. Without summarizing the details of Kant's entire project of historiography, I show why he can reject the idea of revolution based on his historiographical solutions.

According to Kant, to achieve perpetual peace guaranteed (*garantiert*) by nature, humanity should fulfill three regulatory ideas: states should take the form of republics, republics should create a federation of states, and people in mutual relations should act in accordance with the cosmopolitan law of universal hospitality.<sup>56</sup> Moreover, adopting this perspective means that we do not have to act militarily against immoral authority. Rebellion, as I have shown, would bring us back to the state of nature. It would also cause our action to be inconsistent with the formula of a categorical imperative and therefore immoral. However, if we follow Kant and recognize that there is progress in history, then we have no reason to oppose immoral power violently. Nature itself will bring us, at least to some extent, to better (based on equal recognition) legal relationships, and we do not have to unnecessarily endanger our and others' lives while violating the principles of categorical imperative.

From the perspective of individual experiences, people do not have to acknowledge the plan of nature outlined by Kant, where there is compatibility between freedom and power. Therefore, Kant needs to convince people to his approach by finding elements in some events that could constitute a convenient and sufficient argument for perpetual peace and progress in history. He finds such an empirical substitute for proof in the enthusiasm after the French Revolution. This is not a praise of the revolution itself but an appreciation of the spirit of freedom that it left behind. It is the phenomenon of this global enthusiasm that in his opinion allows us to show that the regulatory idea of progress in history is not only purely speculative, and, at the same time, it allows us to reject the necessity and moral legitimacy of the violent revolution.

Simultaneously, Kant treats the elements listed at the beginning of section 6 – the republican system, the federation of nations, and the cosmopolitan hospitality – as necessary stages without which one cannot speak of the progress of law in history.<sup>57</sup> From the point of view of Kantian historiography, these stages unite right with virtue and freedom with power, which, from the perspective of people, may seem contradictory. Thus, the teleological concept of Kant's history does not require the moral and legal idea of a revolution against the state. On the contrary, the progress of mankind is guaranteed by peaceful mechanisms (although revolution and war can contribute to the progress of law). While revolution and war may be part of nature's plan to get closer to the perfect law, they are not necessary conditions for their implementation.<sup>58</sup> Therefore, they are still legally and morally not allowed not only because we cannot predict their moral effects but also because the progress of law in history, as practical reason tells us, sooner or later will lead to the overthrow of tyrants and the existence of republican

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<sup>56</sup> Kant (1996b): 328–331 (8: 358).

<sup>57</sup> The resources that are necessary for progress to be made are not only in human power. Rather, they depend on “what human nature will do in and with us to force us onto a track we would not readily take of our own accord” (Kant 1996d: 307 [8: 310]).

<sup>58</sup> Ibidem: 338–346 (8: 370–8: 380).



rights in the intrastate sphere and world peace in the international sphere. At the same time, by examining the guiding thread of history described by Kant, i.e., the natural and universal laws that are realized in history, it can be said that nature makes it possible to achieve eternal peace for a man, but he must strive for this perpetual peace to achieve it. Nature helps people implement moral demands in a way that equips them with the means to achieve perpetual peace. Kant considers such means to be trade or war and even the nature of man himself, which he describes as unsocial sociability.

Guarantees of nature are also permanent, which means that a person can improve law and political institutions because the obstacles are impermanent and contingent. After all, a guarantee of nature, as a practical guarantee, although necessary, is by no means a sufficient condition for effectiveness;<sup>59</sup> anyway, this is the regulatory idea of practical reason, and the progress in history is not determined and still depends on human activity.<sup>60</sup> We can say after Bernd Ludwig that nature in Kant's theory leads man to the threshold where he receives the means by which his moral duties can be fulfilled.<sup>61</sup>

To sum up all considerations, it should be stated that Kant's concept of republicanism rejects the idea of revolution which for him is identical to illegal opposition. At the moment of revolution, the community is overwhelmed by violence, and the state falls into lawless anarchy, causing destabilization and preventing permanent coexistence. In Kant's eyes, then, any resistance and revolution are wrong. Revolutionary force, even if it is progressive, destroys the continuity of the state order and therefore cannot be morally justified. Revolutions, although they do happen in practice, are always unlawful and immoral according to Kant's reasoning, even when they bring positive effects; however, some Kant interpreters, in the name of values valid today, such as human rights, and in the name of creating rules that will not allow the horrors of World War II to recur, try to interpret the political element of his theory in such a way that the right to revolution is possible. These interpretations, as I show in referring broadly to the example of the Korsgaard theory in point 4 in this text, violate the theoretical structure of Kant's *Metaphysics of Morals*. On the other hand, despite Kant's firm dissuasion from rebelling, one should not be surprised by such attempts at Kant's liberal interpretation. As I point out, there is some revolutionary potential in Kant's considerations. The state is in Kant's theory, as Höffe claims, a second-level institution, and therefore it should pursue the first-level goals to which it has been called, such as freedom, equality, and civic independence.<sup>62</sup>

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<sup>59</sup> Ludwig (2010): 91–92.

<sup>60</sup> Even if domestic disputes do not force countries to comply with universal law, war, trade, and different religions will from the outside because according to the law of nature, each country in its neighbourhood encounters a different, hostile state, which forces both parties to improve their internal organisation to resist more effectively. The tendency towards war therefore forces people to create permanent legal structures. In turn, their willingness to trade allows them to establish transnational cooperation and discourages war. Also, natural factors, such as language and religious differences, limit the possibility of an effective territorial expansion of states. According to Kant, this protects humanity in three ways. States will strive to stabilise their mutual international relations, none of them will be able to create a despotic global state at the same time, and due to mutual trade relations, they will want to limit each other's war operations. See: Kant, *Perpetual Peace*, Appendix I (Kant 1996b: 338–346 [8: 370–8: 380]).

<sup>61</sup> Ludwig (2010): 97.

<sup>62</sup> Höffe (1994): 189.

The liberals reply, albeit in opposition to Kant, that if the state does not pursue these goals, resistance cannot be ruled out as a means of enabling citizens to restore proper state action. From this perspective, the key issue is not whether citizens are allowed to oppose unjust power but what means of such opposition are morally acceptable.

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