

## CHAPTER 3

# High Modernities

### 3.1 – Hobbes’ Invention of Modern Freedom

The fourth-century scholiast Sopatros recalls that the entrance of Plato’s Academy bears the injunction ἀγεωμέτρητος μηδεὶς εἰσίτω<sup>307</sup> [*ageōmetrētos mēdeis eisitō*], nobody ignorant of geometry shall enter. Sopatros also duly explains this legendary objective correlative<sup>308</sup> to Plato’s appreciation of geometry: ignoring

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<sup>307</sup> The text by Sopatros is part of a scholium to a speech by Aelius Aristides, in *Aristides*, W. Dindorf ed. (Leipzig: G. Reimer, 1829), vol. 3, 464.

<sup>308</sup> Plato’s choice of recently invented geometry as a model for merely cognitive operations hardly seems to fit Eliot’s definition of the objective correlative as a formula for an emotion: yet, Plato’s relegation of emotions to a lower level of reality is itself highly emotionally charged. See *supra*, note 37.

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geometry means not being equal, that is to say, not being just, 'because geometry observes equality (ισότης, *isotēta*) and justice.'<sup>309</sup>

We may reasonably doubt that Hobbes shares Sopatros' ethical appreciation of geometrical equality, which the very Plato most probably ignores,<sup>310</sup> and which is only to be revived by socialist utopias. If we are to believe Aubrey, Hobbes' awakening to the call of geometry rather follows a procedural path, which is as simple as it is revealing:

Euclid's Elements lay open, and 'twas the 47 *El. libri* 1. He read the proposition. *By G-*, sayd he (...) *this is impossible!* So he reads the Demonstration of it, which referred him back to such a Proposition; which proposition he read. That referred him back to another, which he also read. *Et sic deinceps*, that at last he was demonstratively convinced of that trueth. This made him in love with Geometry.<sup>311</sup>

In dejected<sup>312</sup> seventeenth-century Europe, which is devastated by wars of religion, Hobbes is not the only thinker who seeks solace in the certainty of geometrical procedures: such is the fascination of natural philosophers with Euclid that texts which range from physics to philosophy, and from law to politics are construed *more geometrico*, that is, following the demonstrative method of Euclidean geometry.

<sup>309</sup> ἡ γὰρ γεωμετρία τὴν ἰσότητα καὶ τὴν δικαιοσύνην τηρεῖ [*hē gar geōmetria tēn isotēta kai tēn dikaiosynēn tēreī*], in *Aristides*, 464.

<sup>310</sup> For sure, we may at least register Plato's association of geometrical equality with perfection: for example, in *Timaeus* 33b the sphere is presented as the most perfect geometrical form because of the equal distance of all its points from the centre.

<sup>311</sup> John Aubrey, 'A Brief Life of Thomas Hobbes, 1588–1679' [1681], in *id.*, *Aubrey's Brief Lives*, O. L. Dick ed. (London: Secker and Warburg, 1950), 150.

<sup>312</sup> In his genealogical sketch of the metaphor of the sphere in Western thought, Borges depicts the seventeenth century as '*desanimado*,' dejected. In 'La esfera de Pascal,' *Obras Completas I*, 638. Eng. trans. Borges, 'Pascal's sphere,' in *id.*, *Selected Non-Fictions*, Eliot Weinberger ed. (New York: Viking, 1999), 353.

This path is opened by the new physics: for Galileo, the book of the universe 'is written in the language of mathematics, and its characters are triangles, circles and other geometrical figures.'<sup>313</sup> Twenty-eight years later, Hobbes, who, according to Aubrey,<sup>314</sup> in the meantime befriends Galileo in Florence, devises an astounding definition of freedom:

LIBERTY, or FREEDOME, signifieth (properly) the absence of Opposition; (by Opposition, I mean externall Impediments of motion;) and may be applied no lesse to Irrationall, and Inanimate creatures, than to Rationall.<sup>315</sup>

Hobbes' conflation of the animate and inanimate spheres takes further Galileo's construction of the physical world as an assemblage of geometrical bodies. In particular, Hobbes generalises the Galilean principle of inertia,<sup>316</sup> according to which the removal

<sup>313</sup> 'Egli [il libro dell'universo] è scritto in lingua matematica, e i caratteri son triangoli, cerchi, & altre figure Geometriche,' in Galileo Galilei, *Il Saggiatore* (Roma: Giacomo Mascardi, 1623), 25. Eng. trans. (excerpts) in Stillman Drake, *Discoveries and Opinions of Galileo* (New York: Doubleday & Co., 1957), 238, modified translation.

<sup>314</sup> 'When he [Hobbes] was at Florence, he contracted a friendship with the famous Galileo Galileo [sic].' In Aubrey, *Brief Lives*, 157.

<sup>315</sup> Hobbes, *Leviathan*, 107 (2.21).

<sup>316</sup> Galileo first formulates this principle in his August 14, 1612 letter to Mark Welser: 'e però rimossi tutti gl'impedimenti esterni, un graue nella superficie sferica, e concentrica alla terra, sarà indifferente alla quiete, & à i mouimenti verso qualunque parte dell'orizzonte: & in quello stato si conseruarà, nel qual una volta sarà stato posto,' all external impediments removed, a heavy body on the spherical surface concentric with the Earth will be indifferent to rest and to movements toward any part of the horizon, and it will remain in the state in which it has been put. In Galileo Galilei, *Istoria e Dimostrazioni intorno alle Macchie Solari e loro Accidenti* (Roma: Giacomo Mascardi, 1613), 50. Eng. trans. in Galileo Galilei and Cristoph Scheiner, *On Sunspots*, Eileen Reeves and Albert Van Helden trans. (University of Chicago Press, Chicago, 2010), 125. There is an uncanny similarity between Galileo's construction of the indifference of horizontal motion as a middle term between upward and downward motion and Calvin's treatment of ἀδιάφορα [*adiaphora*], indifferent things as a middle term between good and evil ones. As Borges puts it, '[q]uizá la historia universal es la historia de la diversa entonación de algunas metáforas,' perhaps universal history is the history of the various intonations of a few metaphors. In Borges, 'La esfera de Pascal,' in *id.*, *Obras Completas I*, 638. Eng. trans. *id.*, *Selected Non-Fictions*, 151.

of external impediments would allow a body to move (or rest) indefinitely.<sup>317</sup> This principle turns upside down, so to speak, ancient and medieval physical theories, which explain motion as the result of the intervention of either natural or violent forces.<sup>318</sup>

In Galilean physics – and even more so in its Newtonian reformulation – the condition of either rest or uniform motion of a body is prior to its alteration as a result of external interventions: in a similar way, Hobbesian freedom precedes the obstacles that may impede the path of her bearer. Hobbes insists on the external nature of these obstacles:

But when the impediment of motion, is in the constitution of the thing it selfe, we use not to say it wants the Liberty; but the Power to move; as when a stone lieth still, or a man is fastned to his bed by sicknesse.<sup>319</sup>

Hobbes' absolute separation of internal and external factors allows him both to operate an absolute distinction between freedom and power, and to formulate an entirely negative definition of freedom. Moreover, as he gathers under the same category of bodily movements physical and political phenomena,

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<sup>317</sup> 'When a Body is once in motion, it moveth (unless something else hinder it) eternally,' writes Hobbes in *Leviathan*, 4 (1.2). Galileo never states the principle of inertia in a general form, such as the 1644 Cartesian formulation: '*unamquamque rem, quatenus est simplex & indivisa, manere quantum in se est in eodem semper statu, nec umquam mutari nisi à [sic] causis externis.*' Everything, insofar as it is simple and undivided, remains, as far as it is left to itself, always in the same state and never changes except by external causes. In René Descartes, *Principia Philosophiae* (Amsterdam: Louis Elzevir, 1644), 54 (2.37).

<sup>318</sup> In the text that we call *Physics*, Aristotle constructs the distinction between natural and violent motion: the notion of *impetus*, which may be traced to the sixth-century thinker John Philoponos, then suggests the possibility of a temporary shift of balance between the two kinds of motions.

<sup>319</sup> Hobbes, *Leviathan*, 107 (2.21).

his notion of freedom applies to human relations a universal rule of physical reality.

We may compare Hobbes' assimilation of human intercourses to mere physical interactions with Aristotle's universal generalisation of the human dichotomy between ruler and ruled. In the latter case, Aristotle naturalises a human relation of domination by extending its effect over the whole cosmos, which he thus anthropomorphises.<sup>320</sup> On the contrary, Hobbes reifies, as it were, human dealings, which are construed on the model of the interaction of bodies in the new physics.<sup>321</sup>

By producing his novel concept of human freedom as a necessarily imperfect instance of the inhuman model of the inertial condition, Hobbes reiterates with a different content the previous theological construction of human freedom as the necessarily imperfect replica of its divine archetype.

Moreover, the similarity between the new physicalist and the old theological construction of freedom is not limited to structural analogy. According to Galileo's mouthpiece Salviati, the human knowledge of mathematical propositions, such as those which ground the new physics, is as absolute as the divine one.<sup>322</sup> In this

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<sup>320</sup> Hobbes himself blames 'the Schools,' that is, Aristotelian Scholasticism, for 'ascribing appetite, and Knowledge of what is good for their conservation, (which is more than man has) to things inanimate, absurdly.' *Ibid.*, 4 (1.2).

<sup>321</sup> 'Life it selfe is but Motion,' *ibid.*, 29 (1.6).

<sup>322</sup> [D]i quelle poche, intese dall'intelletto humano, credo che la cognizione agguagli la diuina nella certezza oggettiva, 'I believe that the cognition of those few ones [geometrical and arithmetical propositions] that are understood by the human intellect is equal to the divine cognition in objective certainty. In *Dialogo sopra i due Massimi Sistemi del Mondo* (Firenze: Giovan Battista Landini, 1632), 96. Eng. trans. *id.*, *Dialogues Concerning the Two Chief World Systems, Ptolemaic & Copernican*, Stillman Drake trans. (Berkeley: University of California Press, 1970), 103, modified

regard, human understanding is only *extensiuè*,<sup>323</sup> that is, extensively inferior to its divine model.

Salviati insists that such a consideration does not diminish at all divine knowledge, just as god's omnipotence is not limited by the acknowledgement – already made by Aquinas – of the irreversibility of past events.<sup>324</sup> We saw that within Scholastic speculation *potentia ordinata*, the ordered power of god, is not limited but coherent with its determined scope: in an analogous manner, in the new sciences, the unsurpassable certainty of mathematical propositions sets the conditions for creator and creatures alike.

Yet, the freedom of the creatures to act is constrained not only by their limited knowledge, but also by their very plurality. As Hobbes conceives of freedom as the ideal removal of all external impediments, he understands human interactions only as reciprocal limitations: and because his ideal inertial condition is unattainable, he transposes it into the imaginary past of the original state of nature, where the very unconstrained liberty to act of each and every human being becomes an obstacle to the activity of the others.

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translation. Salviati expresses Galileo's position in the contemporary debate on the status of mathematical demonstrations, which are variously understood as inferior, equal or superior to the syllogistic demonstrations of natural philosophy.

<sup>323</sup> *Ibid.* Eng. trans. *ibid.*

<sup>324</sup> *Queste son proposizioni comuni (. . .) che punto non detraggono di maestà alla diuina sapienza, sì come niente diminuisce la sua onnipotenza il dire, che Iddio non può fare, che il fatto non sia fatto,* these are common propositions, which do not detract from the majesty of divine wisdom, just like saying that God cannot undo what is done does not diminish his omnipotence, *ibid.* Eng. trans. *ibid.*, modified translation.

Similarly to Aquinas,<sup>325</sup> Hobbes acknowledges this liberty as the fundamental right of self-preservation<sup>326</sup>: nevertheless, whilst Aquinas, in good Aristotelian fashion, makes this plurality of rights naturally converge towards the common good, for Hobbes the common good is pursued through the voluntary devolution of individual rights to the sovereign, similarly to the legend of the Roman *lex regia*.<sup>327</sup>

The resulting Commonwealth ‘is *One Person, of whose Acts a great Multitude, by mutual Covenants one with another, have made themselves every one the Author* (...) And he that carryeth this Person, is called SOVERAIGN.’<sup>328</sup> Hobbes suggests that the Catholic church, or the ‘Kingdome of Darknesse, may be compared not unfitly to the *Kingdome of Fairies*’:<sup>329</sup> however, his own Leviathan too seems to revive the medieval tradition of mystical bodies by conflating in a new national shape a legal fiction of Roman Imperial jurisprudence and the anthropomorphic representation of papal power.

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<sup>325</sup> ‘[Q]uelibet substantia appetit conservationem sui esse secundum suam naturam,’ any substance desires the conservation of its own being according to its nature, in Aquinas, *Summa Theologiae* 1–2.94.2 co. Aquinas’ principle is not derived from Aristotle, but it rather extends to all entities the Stoic notion of ὁρμή [*hormē*], or impulse towards self-preservation. According to Chrysippus, this impulse is common to all animals, and it relies on οἰκείωσις [*oikeiōsis*], the recognition and appreciation of that which is literally at home, that is, appropriate to oneself. See Diogenes Laertius 7.85.

<sup>326</sup> ‘THE RIGHT OF NATURE, which Writers commonly call *Jus Naturale*, is the Liberty each man hath, to use his own power, as he will himselfe, for the preservation of his own Nature,’ in Hobbes, *Leviathan*, 64 (1.14).

<sup>327</sup> We may observe that whilst the legal fiction of Vespasian’s jurists relies on the Roman people’s political entitlement, which in Republican times they share with the Senate (*Senatus Populusque Romanus*, abbreviated as SPQR), Hobbes’ political fiction evokes the yet unacknowledged political entitlement of the people.

<sup>328</sup> Hobbes, *Leviathan*, 88 (2.17).

<sup>329</sup> *Ibid.*, 386 (4.47).

Moreover, Hobbes' freedom is unmanageable because it is unlimited, so that its voluntary renunciation appears as reasonable. It is not difficult to recognise the striking similarity of such a reasonable surrender to Hobbes' own submission to the compelling power of Euclid's geometrical demonstrations.<sup>330</sup> This compelling power of rational procedures is understood by Hobbes – and by not a few of his fellow natural philosophers – as the natural solution to the contemporary civil and religious conflicts.

### 3.2 – Freedom and Revolution

A notable exception to seventeenth-century natural philosophers' instrumental acceptance of rational compulsion is the Spinozan recovery of the Platonic identification of virtue, knowledge and goodness with blessedness: in the closing proposition of his *Ethica*, Spinoza turns upside down Hobbes' instrumental submission to necessity:

Blessedness is not the reward of virtue, but virtue itself. We do not enjoy blessedness because we keep our lusts in check. On the contrary, it is because we enjoy blessedness that we are able to keep our lusts in check.<sup>331</sup>

It is probably not by chance that the Spinozan notion of blessedness appears to be modelled on the practice of political freedom as a reward to itself: the seventeenth-century Dutch democratic

<sup>330</sup> Aristotle already witnesses a similar will to submission in the shape of a reasonable surrendering when he quotes the Pythagorean Philolaos, who is probably happy to admit that εἶναι τινὰς λόγους κρείττους ἡμῶν [*einai tinas logous kreittous hēmōn*], some arguments are too strong for us. In Aristotle, *Eudemian Ethics* 1225a.

<sup>331</sup> '*Beatitudo non est virtutis praemium, sed ipsa virtus; nec eadem gaudemus, quia libidines coercemus, sed contra quia eadem gaudemus, ideo libidines coercere possumus.*' In Baruch Spinoza, *Ethica* 5.42, in *id.*, *Opera*, C. Gebhardt ed. (Heidelberg: Carl Winter-Verlag, 1925), Band 2, 592. Eng. trans. *id.*, *Ethics* in *id.*, *Complete Works*, Michael L. Morgan ed. and trans. (Indianapolis: Hackett Publishing Company, 2002), 382.



experience surely also inspires Spinoza's sardonic observation that 'there is nothing more difficult than to take away freedom from men [sic] to whom it has once been granted.'<sup>332</sup>

It would be difficult to imagine anything more distant from Spinoza's stance than Luther's admonition to German rebel peasants not to mix spiritual freedom with bodily and property issues, and this matter becomes urgent in seventeenth-century England too, as local commoners take religion seriously enough to demand the practical application of evangelical principles. By pitting common freedom against particular freedom, and common preservation against self-preservation, Winstanley recasts the Biblical definition of freedom as the common enjoyment of the earth:

There are two root[s] from whence laws do spring. The first root you see is common preservation (...): and this is the root of the tree magistracy, and the law of righteousness and peace (...). The second root is self-preservation (...). And this is the root of the tree tyranny, and the law of unrighteousness.<sup>333</sup>

Though Winstanley's attack on the notion of self-preservation challenges both the Scholastic tradition and its Hobbesian recasting, it does not escape their theological framework. Far less radical English authors instead request to limit the power of the king by recovering Gaius' Roman notion of self-determination, which they transpose into the concept of right as a limitation to the arbitrary power of

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<sup>332</sup> '[N]ihil difficilius, quam libertatem hominibus semel concessam iterum adimere.' In *Tractatus Theologico-Politicus, Opera*, Band 3, 74. Eng. trans. *id.*, *Theological-Political Treatise* in *id.*, *Complete Works*, Michael L. Morgan ed. and trans. (Indianapolis: Hackett Publishing Company, 2002), 438.

<sup>333</sup> Gerrard Winstanley, 'The Law of Freedom in a Platform,' in *id.*, *Winstanley: The Law of Freedom' and Other Writings*, Christopher Hill ed. (Cambridge: Cambridge University Press, 1983), 315–16.

the sovereign. The contrast between Roman emperors and senators is revived in seventeenth-century English parliamentary debates, and the Roman phraseology of freedom and slavery is deployed to articulate the notion of freedom as absence of dependence.<sup>334</sup>

The attacks on absolute monarchy eventually find their champion in Locke, who also brings to the new-born individual, as it were, the gift of a whiff of incense, which puts on hold his [sic] freedom to commit suicide as a violation of god's ownership of all creatures.<sup>335</sup> Locke's appeal to god's ultimate jurisdiction over his products is just one in an endless series of theological recoveries. More than that, and also following Toulmin's suggestion,<sup>336</sup> we should rather speak of a series of theological filiations, because early modern constructions of nature as the objective realm of facts just shift the focus of enquiry from the object of heated (and deadly) theological clashes, that is, the Christian god, to god's product, namely, the created world.<sup>337</sup> It is then not surprising that theology lurks, as Schmitt reminds us,<sup>338</sup> also behind notions apparently beyond suspicion, such as that of the general will.

<sup>334</sup> See Quentin Skinner, 'A Third Concept of Liberty,' *Proceedings of the British Academy* 117 (2002), 237–68.

<sup>335</sup> Locke clearly expresses this notion whilst arguing about slavery: 'For a Man [sic], not having the Power of his own Life, *cannot*, by Compact, or his own Consent, *enslave himself* to any one,' in John Locke, *Two Treatises of Government*, Peter Laslett ed. (Cambridge: Cambridge University Press, 1988), 284.

<sup>336</sup> See Stephen Toulmin, *Cosmopolis: The Hidden Agenda of Modernity* (New York: Free Press, 1990).

<sup>337</sup> We may say that early modern thinkers transcend divisive denominational theology by means of a renewedly ecumenical theology of nature, which is spearheaded by the two new Galilean sciences (the forebearers of the science of materials and kinematics respectively).

<sup>338</sup> See Carl Schmitt, *Politische Theologie. Vier Kapitel zur Lehre von der Souveränität* (Berlin: Duncker & Humblot, 1922), Eng. trans. *id.*, *Political Theology: Four Chapters on the Concept of Sovereignty*, George Schwab trans. (Cambridge, MA: MIT Press, 1985).

Actually, the notion of *volontez generales*,<sup>339</sup> general wills, enters the philosophical debate as a proper theological conception, because Malebranche devises it to describe the motivations of god's actions, when these actions follow the general laws that god himself established. By contrast, Malebranche has recourse to the notion of god's *volontez particulieres*,<sup>340</sup> particular wills, in order to explain the rare occurrence of miracles.

Montesquieu, who admires Malebranche as a charming writer,<sup>341</sup> mentions *volonté générale*<sup>342</sup> as the general will of the State, whilst theorising the tripartition of legislative, executive and judiciary powers<sup>343</sup>: political liberty, that is 'the right of doing whatever the law permits',<sup>344</sup> can only be secured by this separation of state functions. Yet, Montesquieu also specifies that '[i]n a state, that is to say in a society where there are laws, liberty can consist only in the power of doing what we ought to will, and in not being

<sup>339</sup> Nicolas Malebranche, *Traité de la nature et de la grâce*, in *id.*, *Œuvres complètes*, vol. V (Paris: Vrin, 1976), 32. Eng. trans. *id.*, *A Treatise on Nature and Grace* (London: John Whitlock, 1695), 25.

<sup>340</sup> *Ibid.* Eng. trans. *ibid.* See also *Premier Eclaircissement*, *ibid.*, 147–148. Eng. trans. *First Explication*, *ibid.*, 160–161.

<sup>341</sup> 'Si le Père Malebranche avoit été un écrivain moins enchanteur,' if Father Malebranche had been a less charming writer, in Charles de Secondat Montesquieu, *Discours sur les motifs*, in *id.*, *Œuvres complètes*, Tome 1 (Paris: Gallimard, 1949), 57.

<sup>342</sup> '[N]'étant, l'un que la volonté générale de l'Etat,' one [the legislative power] being no more than the general will of the state, in Montesquieu, *De l'Esprit des Loix*, Tome 1, 247 (11.6). Eng. trans. *id.*, *The Spirit of the Laws*, vol. 1, 218.

<sup>343</sup> 'Il y a dans chaque Etat trois sortes de Pouvoirs, la puissance Législative, la puissance exécutrice des choses qui dépendent du Droit-des-gens, & la puissance exécutrice de celles qui dépendent du Droit Civil.' In every state there are three sorts of power: the legislative power, the executive power in respect to things dependent on the law of nations, and the executive power in regard to matters that depend on the civil law. *Ibid.*, 244 (11.6). Eng. trans. *ibid.*, 215, modified translation.

<sup>344</sup> 'La Liberté est le droit de faire tout ce que les Loix permettent.' *Ibid.*, 241 (11.3). Eng. trans. *ibid.*, 213, modified translation.

constrained to do what we ought not to will.’<sup>345</sup> This slightly disquieting definition may appear to recast the paradoxical convergence of freedom and necessity.

We saw that such a convergence first appears in Western thought as the Stoic collapsing of individual action and universal natural rules.<sup>346</sup> However, though Montesquieu does not underrate the influence of natural factors, he understands the obligation imposed on citizens by law as the result of a specific legal arrangement rather than of a universal rule whatsoever: hence, the phrases ‘what we ought to will’ and ‘what we ought not to will’ simply denote the specific content of laws.

Citizens are not only free to do what is permitted by law, but, depending on the political constitution, they may also choose their legislators. According to Montesquieu, the historical practice of democracy has shown that most citizens are able to choose their representatives, but, for the most part, they are not competent enough to be elected<sup>347</sup>: hence, they share in the expression of the general will only by proxy, so to speak.

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<sup>345</sup> ‘*Dans un Etat, c’est-à-dire, dans une Société où il y a des Loix, la liberté ne peut consister qu’à pouvoir faire ce que l’on doit vouloir, & à n’être point contraint de faire ce que l’on ne doit pas vouloir.*’ *Ibid.* Eng. trans. *ibid.*, modified translation.

<sup>346</sup> It may be argued that the Platonic Socrates first affirms the convergence of personal and general good: nevertheless, Socrates is not specifically concerned with personal freedom, and he rather describes himself as subjected to his *daimon*. As previously recalled, the problem of personal autonomy only emerges with the reduction of the Greek citizen to the subject of Hellenistic kingdoms.

<sup>347</sup> ‘*Comme la plupart des Citoyens, qui ont assez de suffisance pour élire, n’en ont pas assez pour être élus; de même le Peuple, qui a assez de capacité pour se faire rendre compte de la gestion des autres, n’est pas propre à gérer par lui-même.*’ As most citizens, who have sufficient ability to choose, have not enough ability to be chosen, so the people, who are capable of calling others to an account for their administration, are incapable of conducting the administration themselves. In Montesquieu, *De l’Esprit des Loix*, Tome 1, 15–16 (2.2). Eng. trans. *id.*, *The Spirit of the Laws*, vol. 1, 14, modified translation.

In 1755, seven years after the publication of *De l'Esprit des Loix*, Diderot follows Montesquieu and retorts to the *raisonneur violent*,<sup>348</sup> the violent reasoner – a thinly veiled representation of Hobbes – that ‘the question of natural rights is far more complicated than it appears to him; that he sets himself up as both judge and advocate, and that his tribunal may be incompetent to pronounce on this matter.’<sup>349</sup> Diderot then appoints as competent court the whole human species, because, he argues, the general good is the only passion of humankind,<sup>350</sup> whose general will is always good<sup>351</sup> and never wrong.<sup>352</sup>

I just recalled that Montesquieu adopts the expression ‘general will’ – which Malebranche previously attributes to god – in order to describe the mundane and specific general will of the state. Diderot radicalises Montesquieu’s mundane shift by appealing to the general will of humanity regardless of any human institution. Given such a radical deconstruction of both divine and human authorities, Rousseau endeavours to produce a renewed body politic.

Rousseau’s ideal body politic obeys neither god nor the sovereign, but only itself, because ‘obedience to a law which we prescribe to

<sup>348</sup> Denis Diderot, ‘Droit naturel,’ in *Encyclopédie, ou Dictionnaire Raisonné des Sciences, des Arts et des Métiers* (Paris: Briasson, David, Le Breton, Durand, 1755), vol. 5, 115–116, 116. Eng. trans. *id.*, *Diderot: Political Writings*, J. Hope Mason and R. Wokler eds. (Cambridge: Cambridge University Press, 1992), 17–21, 19, modified translation.

<sup>349</sup> ‘[Q]ue la question du droit naturel est beaucoup plus compliquée qu’elle ne lui paroît; qu’il se constitue juge & partie, & que son tribunal pourroit bien n’avoir pas la compétence dans cette affaire.’ *Ibid.* Eng. trans. *ibid.*

<sup>350</sup> ‘[L]e bien de tous est la seule passion qu’il ait,’ the good of all is the only passion that it [humankind] has, *ibid.* Eng. trans. *ibid.*, modified translation.

<sup>351</sup> ‘[L]a volonté générale est toujours bonne,’ *ibid.* Eng. trans. *ibid.*, 20.

<sup>352</sup> ‘[L]a volonté générale n’erre jamais,’ *ibid.* Eng. trans. *ibid.*, modified translation.

ourselves is freedom.<sup>353</sup> This is indeed a notable theoretical step, which produces a new notion of freedom.

Rousseau inherits from previous speculation the theological idea of 'moral freedom, which alone makes man [sic] truly the master of himself'<sup>354</sup>; yet, he puts this moral freedom to work in a new theoretical space, where the human collective can freely flourish:

As long as several men [sic] in assembly consider themselves to be a single body, they have but one will which is concerned with their common preservation and general well-being. In this case, all the forces of the State are vigorous and simple and its principles are clear and luminous; there are no embroilments or conflicts of interests; the common good clearly reveals itself everywhere, and it requires only good sense to be perceived.<sup>355</sup>

On the one hand, it is not difficult to recognise in Rousseau's unified social body, similarly to Hobbes' Leviathan, another unwitting avatar of the mystical body of medieval juridical theology.<sup>356</sup> Unlike the Leviathan though, Rousseau's body politic

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<sup>353</sup> '[L]'obéissance à la loi qu'on s'est prescrite est liberté.' In Jean Jacques Rousseau, *Du contrat social* (Amsterdam: Marc Michel Rey, 1762), 39 (1.8). Eng. trans. *id.*, *The Social Contract and The First and Second Discourses*, Susan Dunn ed. (New Haven: Yale University Press, 2002), 167, modified translation.

<sup>354</sup> '[L]a liberté morale, qui seule rend l'homme vraiment maître de lui,' *ibid.* Eng. trans. *ibid.*

<sup>355</sup> 'Tant que plusieurs hommes réunis se considerent comme un seul corps, ils n'ont qu'une seule volonté, qui se rapporte à la commune conservation, & au bien-être général. Alors tous les ressorts de l'Etat sont vigoureux & simples, ses maximes sont claires & lumineuses, il n'a point d'intérêts embrouillés, contradictoires; le bien commun se montre par-tout avec évidence, & ne demande que du bon sens pour être apperçu.' *Ibid.*, 232–233 (4.1). Eng. trans. *ibid.*, 226, modified translation.

<sup>356</sup> See Henri de Lubac, *Corpus mysticum. L'Eucharistie et l'Église au Moyen Âge*, 2nd ed. (Paris: Aubier, 1949). Eng. trans. *id.*, *Corpus Mysticum: The Eucharist and the Church in the Middle Ages*, Gemma Simmonds with Richard Price and Christopher Stephens trans. (London: SCM, 2006).

revives the self-governing practice of Italian communes, as represented by Baldus' mystical body of the citizenry. This practice of self-determination is then somewhat recovered after the Reformation in the city of Genève,<sup>357</sup> of which Rousseau himself is a citizen.<sup>358</sup>

However, whilst actual self-governing practices rely on ongoing negotiations, Rousseau's bold gesture erases this space of mediation by equating freedom and obedience through the identity of the body politic.<sup>359</sup> As Joseph de Maistre detects with his usual malevolence, 'there is something equivocal if not erroneous here, for the people which *command* are not the people which *obey*.'<sup>360</sup> Because the same collective body is at once the lawmaker and the legal subject, this immediate reflexivity forces the collective into the role, in the words of Menander and Terence, of *heautontimoroumenos*,<sup>361</sup> or self-punisher.

Both Stirner and Marx will soon recognise in this internalisation of control the moral and political burden of the Reformation. Rousseau's extraordinary equation of obedience and freedom not

<sup>357</sup> We may well consider Genève as Calvin's headquarters.

<sup>358</sup> During his life, Rousseau habitually signs his books as Jean Jacques Rousseau, *citoyen de Genève*, citizen of Genève.

<sup>359</sup> Rousseau does not think of an *always* homogeneous totality: '*Pour qu'une volonté soit générale, il n'est pas toujours nécessaire qu'elle soit unanime.*' That a will may be general, it is not always necessary that it should be unanimous. In *Du contrat social*, 51 (2.2). Eng. trans. *id.*, *The Social Contract*, 171.

<sup>360</sup> '*Il y a sûrement ici quelque équivoque s'il n'y a pas une erreur, car le peuple qui commande n'est pas le peuple qui obéit.*' In Joseph de Maistre, *De la souveraineté du peuple* (Paris: Presses Universitaires de France, 1992), 91. Eng. trans. *Study on Sovereignty*, in *id.*, *The Works of Joseph de Maistre*, Jack Lively ed., (London: Allen & Unwin, 1965), 93–129, 93.

<sup>361</sup> ἑαυτὸν τιμωρούμενος [*Heauton timōroumenos*], the self-punisher, is the title of both a comedy by Menander and its Latin recasting by Terence.

only transfers this internalising process from the personal to the social sphere, through the metaphor of the body politic: his new equivalence also reconfigures the relation of freedom with necessity, which since the Stoics grants the convergence of individual choices and universal laws.

Nevertheless, as Rousseau replaces necessity with the common good, he transcends the deterministic horizon of the Stoics: moreover, as his notion of common good is not theologically determined, he also escapes Christian teleology. Rousseau's appeal to the general well-being reiterates Marsilius' recovery of the Aristotelian political horizon, which he pushes beyond Aristotle and Marsilius' excisions, towards the radical identification of the whole people with itself.

However, regardless of the actual feasibility of this ambitious task,<sup>362</sup> the Platonic and Aristotelian notion of mastery still shapes Rousseau's theoretical framework: 'Just as nature gives every man [sic] an absolute power over all his bodily members, the social contract gives the body politic an absolute power over all its human members.'<sup>363</sup> Here the Platonic absolute command of the soul over the body is transposed into the language of natural philosophy, and it is then deployed, in good Aristotelian fashion, as a metaphor for political relations.

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<sup>362</sup> Rousseau himself is aware of the problem: '*il n'a jamais existé de véritable Démocratie, & il n'en existera jamais,*' there never has existed, and never will exist, any true democracy. In Rousseau, *Du contrat social*, 148 (3.4). Eng. trans. *id.*, *The Social Contract*, 201.

<sup>363</sup> '*Comme la nature donne à chaque homme un pouvoir absolu sur tous ses membres, le pacte social donne au corps politique un pouvoir absolu sur tous les siens,*' *ibid.*, 60 (2.4). Eng. trans. *ibid.*, 174, modified translation.



We may recall that Aristotle conceives of political relations as the variety of arrangements among *eleutheroi*, the free male citizens. Because, according to Aristotle, the exercise of command over these free male citizens is not justified by nature, political constitutions may vary broadly. Rousseau's wider notion of free citizens affords him a wider constituency than Aristotle's: however, his evaluation of different political arrangements similarly relies on expediency.

Kant deeply admires Rousseau, who would probably be perplexed by the reason adduced by his Prussian follower: 'After Newton and Rousseau, God is justified.'<sup>364</sup> Kant specifies in the same note that the merit of Newton and Rousseau is the discovery of the underlying order of physical and moral matters respectively: whilst after Newton 'comets run in geometrical courses',<sup>365</sup> Rousseau is credited with the recovery of humans' 'deeply hidden nature.'<sup>366</sup>

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<sup>364</sup> 'Nach Newton u. Rousseau ist Gott gerechtfertigt.' In Immanuel Kant, *Bemerkungen zu den Beobachtungen über das Gefühl des Schönen und Erhabenen*, AA 20, 2nd ed. (Berlin: Reimer, 1942), 59. Here is the whole note in English: 'Newton saw for the very first time order and regularity combined with great simplicity, where before him disorder and [a] poorly matched manifold was found; and since then comets run in geometrical courses. Rousseau discovered for the very first time beneath the manifold of forms adopted by the human being the deeply hidden nature of the same and the hidden law, according to which providence is justified by his observations. Before that the objections of Alfonso and Manes still held. After Newton and Rousseau, God is justified, and henceforth Pope's theorem is true.' In Immanuel Kant, 'Remarks in the Observations on the Feeling of the Beautiful and Sublime,' in *id.*, *Observations on the Feeling of the Beautiful and Sublime and Other Writings*, P. Frierson and P. Guyer eds. and trans. (Cambridge: Cambridge University Press, 2011), 65–202, 104–105.

<sup>365</sup> '[L]aufen Cometen in geometrischen Bahnen.' *Ibid.*, 58. Eng. trans. *ibid.*, 104.

<sup>366</sup> '[D]ie tief verborgene Natur.' *Ibid.* Eng. trans. *ibid.*, 105.

We may say that in the previously quoted 1765 note, Newton and Rousseau personify, so to speak, Kant's double concern with natural science and morals. Kant himself recalls how the reading of Hume's objections to metaphysical concepts interrupts his 'dogmatic slumber' in both fields: as a matter of fact, the Lutheran Pietist Kant cannot bear Hume's atheist dismissal of both the god-given individual identity and the likewise god-given universality of non-mathematical knowledge.<sup>367</sup> However, rather than appealing to traditional theological arguments, Kant reacts to the Humean threat by mobilising his twin tutelary theorists.

In the late seventeenth century, Newton constructs absolute space and time as abstract containers of the whole reality and immediate expressions of the Christian god.<sup>368</sup> A hundred years later, in a move that resembles the Lutheran internalisation of religion, Kant has the human subject internalise Newtonian space and time as abstract frames of all possible experience.<sup>369</sup> Kant defines internalised space and time as the conditions of possibility for human

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<sup>367</sup> As Weber recalls, 'the mere worldly respectability of the normal Reformed Christian (. . .) was felt by the superior Pietist to be a second-rate Christianity.' In Max Weber, *The Protestant Ethic and the Spirit of Capitalism*, T. Parsons trans. (London: Routledge, 2001), 83. See David Hume, *A Treatise of Human Nature*, 3 vols (London: John Noon/Thomas Longman, 1739–40).

<sup>368</sup> '[T]here is a Being incorporeal, living, intelligent, omnipresent, who in infinite Space, as it were in his Sensory, sees the things themselves intimately, and thoroughly perceives them, and comprehends them wholly by their immediate presence to himself,' in Isaac Newton, *Opticks* (London: W. and J. Innys, 1718), 345. See also *id.*, *Isaac Newton's Philosophiae Naturalis Principia Mathematica*, Alexandre Koyré and I. Bernard Cohen eds. (Cambridge: Cambridge University Press, 1972).

<sup>369</sup> See the section on *Transscendentale Ästhetik* (Transcendental Aesthetics) in Kant, *Kritik der reinen Vernunft*, second edition (hereinafter B), AA 3, 2nd ed. (Berlin: Reimer, 1911). Eng. trans. *id.*, *Critique of Pure Reason*, P. Guyer and A. W. Wood eds. and trans. (Cambridge: Cambridge University Press, 1998).

knowledge: they 'do not belong to the reality of things, but only to our representations.'<sup>370</sup>

Kantian space and time are no longer assimilated to god's apparatus of sense as in Newton, but they become the forms of human sensibility. These forms are ideal in a sense that Kant calls *transscendental*,<sup>371</sup> transcendental, because it precedes and allows all possible experience. Such transcendental quality grants at once the identity of the knowing subjects and the immediate universalisation of their knowledge as the effect of their common knowing tools.

Kant considers also freedom in a transcendental sense:<sup>372</sup> *transscendentale Freiheit*,<sup>373</sup> transcendental freedom, is a causality alternative to that of the laws of nature.<sup>374</sup> Similarly to the Aristotelian immobile moving,<sup>375</sup> transcendental freedom is a necessity of

<sup>370</sup> 'Raum und Zeit nicht zur Wirklichkeit der Dinge, sondern nur unserer Vorstellungsart gehören.' Note added by Kant on his copy of the first edition of the *Kritik der reinen Vernunft* (hereinafter A) at page 37. In Kant, AA 23 (Berlin: Reimer, 1955), 24.

<sup>371</sup> Kant, A 12. In AA 4, 23. Eng. trans. *id.*, *Critique of Pure Reason*, 133.

<sup>372</sup> 'Freiheit im transscendentalen Verstande,' in Kant, B 475, AA 3, 309. Eng. trans. *ibid.*, 485.

<sup>373</sup> *Ibid.* Eng. trans. *Ibid.*

<sup>374</sup> 'Die Causalität nach Gesetzen der Natur ist nicht die einzige, aus welcher die Erscheinungen der Welt insgesamt abgeleitet werden können. Es ist noch eine Causalität durch Freiheit zu Erklärung derselben anzunehmen nothwendig.' Causality in accordance with laws of nature is not the only one from which all the appearances of the world can be derived. It is also necessary to assume another causality through freedom in order to explain them. *Ibid.*, 308. Eng. trans. *ibid.*, 484.

<sup>375</sup> In order to avoid the *regressus ad infinitum* (infinite regression) of the causal chain, Aristotle postulates the necessity of an origin to all motion, τὸ πρῶτον κινεῖν ἀκίνητον [*to prōton kinoun akinēton*] (*Met.* 1073a), which William of Moerbeke rightly translates as *primum movens immobile*, that is, first immobile moving (being *kinoun* a present participle, and *akinēton* in the neuter gender). Whilst Aquinas follows this translation, other authors use the definition of *motor immobilis*, that is, immobile mover (in the masculine gender): see, for example, Duns Scotus, *In VIII libros Physicorum Aristotelis quaestiones, et expositio, quaestio* 8.2.6 and *quaestio* 8.3.1.

reason,<sup>376</sup> and by acting in parallel to natural causality,<sup>377</sup> it grants the ongoing possibility of practical freedom.<sup>378</sup>

Kant takes the opportunity to address practical freedom in his answer to the question ‘What is Enlightenment?’<sup>379</sup> This famous answer may be understood as a recasting of Luther’s argument about freedom of conscience in terms of the free use of rational thought.<sup>380</sup> At first, Kant’s reversed adaptation of the Lutheran distinction between inner and outer man to the public and private sphere respectively may appear puzzling: Kant claims the freedom

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<sup>376</sup> For Kant, the necessity of reason also transcends the personal sphere and becomes political: ‘*Eine Verfassung von der größten menschlichen Freiheit nach Gesetzen, welche machen, daß jedes Freiheit mit der andern ihrer zusammen bestehen kann, (nicht von der größten Glückseligkeit, denn diese wird schon von selbst folgen) ist doch wenigstens eine nothwendige Idee.*’ A constitution providing for the **greatest human freedom** according to laws that permit **the freedom of each to exist together with that of others** (not one providing for the greatest happiness, since that would follow of itself) is at least a necessary idea. In Kant, B 373, AA 3, 247. Eng. trans. *id.*, *Critique of Pure Reason*, 397.

<sup>377</sup> ‘(. . .) ob Freiheit der Naturnothwendigkeit in einer und derselben Handlung widerstreite, und dieses haben wir hinreichend beantwortet, da wir zeigten, daß, da bei jener eine Beziehung auf eine ganz andere Art von Bedingungen möglich ist als bei dieser, das Gesetz der letzteren die erstere nicht afficire, mithin beide von einander unabhängig und durch einander ungestört stattfinden können.’ (. . .) whether freedom and natural necessity in one and the same action contradict each other, and this we have answered sufficiently, when we showed that since in freedom a relation is possible to conditions of a kind entirely different from those in natural necessity, the law of the latter does not affect the former; hence each is independent of the other, and can take place without being disturbed by the other. *Ibid.*, 377. Eng. trans. *ibid.*, 545, modified translation.

<sup>378</sup> ‘*Es ist überaus merkwürdig, daß auf diese transscendentale Idee der Freiheit sich der praktische Begriff derselben gründe,*’ it is especially noteworthy that it is this **transcendental** idea of **freedom** on which the practical concept of freedom is grounded. *Ibid.*, 363. Eng. trans. *ibid.*, 533.

<sup>379</sup> See Immanuel Kant, ‘Beantwortung der Frage: Was ist Aufklärung?’, originally printed in 1783 in the *Berlinische Monatsschrift*.

<sup>380</sup> In chapter II I recalled Luther’s double thesis of ‘The Freedom of a Christian’: ‘A Christian is a perfectly free lord of all, subject to none. A Christian is a perfectly dutiful servant of all, subject to all.’

to make 'public use of one's reason.'<sup>381</sup> Yet, the Kantian freedom in public is very close to the liberty of the Lutheran inner man, because Kant redefines the public sphere as the virtual space of scholarly debate: in this space, individual freedom is as unrestrained as in the Lutheran individual conscience.

However, it is Rousseau's equation of freedom with the obedience to a self-imposed rule that allows Kant to give expression to transcendental freedom as a universal moral law, whose categorical imperative is: 'Act as though the maxim of your action were to become, through your will, a universal law of nature.'<sup>382</sup>

It is not difficult to recognise in such a famous Kantian statement a rationalisation of the Christian Golden Rule: 'In everything do to others as you would have them do to you.'<sup>383</sup> The Kantian reformulation of evangelical law substitutes the Golden Rule's horizontal connection between the subject and the other subjects – who are assimilated to the former's perspective<sup>384</sup> – with the vertical connection to the universal moral rule.<sup>385</sup>

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<sup>381</sup> 'Der öffentliche Gebrauch seiner Vernunft.' In Kant, 'Beantwortung der Frage: Was ist Aufklärung?,' AA 8, 2nd ed. (Berlin: Reimer, 1923), 33–42, 37. Eng. trans. *id.*, 'An answer to the question: What is enlightenment?' In *id.*, *Practical Philosophy*, Mary J. Gregor ed. and trans. (Cambridge: Cambridge University Press, 1996), 11–22, 18.

<sup>382</sup> '[H]andle so, als ob die Maxime deiner Handlung durch deinen Willen zum allgemeinen Naturgesetze werden sollte.' In Kant, *Grundlegung zur Metaphysik der Sitten*, AA 4, 421. Eng. trans. *id.*, *Groundwork of the Metaphysics of Morals*, 31 (modified translation). Similarly to the Platonic Good, the Plotinic One, and Eriugena's Christian god, the Kantian moral imperative has no specific content, but it is 'ein leeres Gedankending,' an empty thought-entity (B 475, AA 3, 309), as Kant writes in regard to transcendental freedom.

<sup>383</sup> Matthew 7.12, *New Revised Standard Version*.

<sup>384</sup> One may wonder whether we rather deserve some kind of Diamond Rule: do to others as they would have you do to them.

<sup>385</sup> Kant's verticalisation of morals is analogous to Luther's verticalisation of religion.

In order to define the character of the will as ‘supreme law-giver’,<sup>386</sup> Kant gives new life to the Stoic interpretation of the classical term *autonomia*, that is, autonomy: ‘Autonomy [*Autonomie*] of the will is the property the will has of being a law to itself (independently of every property belonging to the object of volition).’<sup>387</sup> Eighteen centuries after Dio, and thirteen centuries after Augustine, Kant puts to work the Rousseauan freedom as self-imposition in order to give a new solution to their old dilemma: how to reconcile the freedom of the individual will with the universal order of things.

By making absolute the divide between produced and received norms, Kant also revives in moral terms the classical Greek opposition between acting and being acted upon: in order to express the latter condition for a moral subject, Kant deploys the term *Heteronomie*,<sup>388</sup> heteronomy, which is probably his coinage. However, Kant’s notion of heteronomy also includes the subjection to one’s interests and principles, and in general, to means that are not also universalizable ends.<sup>389</sup>

The Kantian individual subject is autonomous inasmuch as he<sup>390</sup> thinks and wills in universal terms. If we compare this

<sup>386</sup> ‘[O]berst gesetzgebend,’ in Kant, *Grundlegung zur Metaphysik der Sitten*, AA 4, 432. Eng. trans. *id.*, *Groundwork of the Metaphysics of Morals*, 40.

<sup>387</sup> ‘Autonomie des Willens ist die Beschaffenheit des Willens, dadurch derselbe ihm selbst (unabhängig von aller Beschaffenheit der Gegenstände des Willens) ein Gesetz ist.’ *Ibid.*, 440. Eng. trans. *ibid.*, 47 (modified translation).

<sup>388</sup> The term ‘heteronomy’ is construed, on the model of its counterpart ‘autonomy,’ by conjoining the Greek words ἕτερος [*heteros*], other (of two), and *nomos*, law. *Ibid.*, 433. Eng. trans. *ibid.*, 41.

<sup>389</sup> Whilst Kant recasts the Aristotelian dichotomy of doing and suffering in moral terms, he also recovers Stoic universalism by requiring his autonomous individual to act as a universal legislator.

<sup>390</sup> The Kantian reasoning subject is a male one. For example, within the household the absence of conflict results less from reciprocity than from the hierarchical complementarity of gender roles, so that, according to Kant, the pair should be governed

formulation with Augustine's description of all our wills as thoroughly known to god,<sup>391</sup> we may detect a paradigmatic shift from the horizon of god's personal foreknowledge to the modern universal order of things: Kant constructs morals on the injunction to participate in this universal ordering.

The key to Kant's construction may be found in an article published a few years later, in 1793: there, Kant boldly states that 'man [sic] thinks of himself by analogy with the Deity'<sup>392</sup> when considering the effort to realise 'a world in keeping with the moral highest ends.'<sup>393</sup> As god's will is always in accord with reason, inasmuch as the human subject pursues the same accord, he is not only following the universal moral law, but he is acting as a veritable law-maker.

There is a certain grandiosity in the Kantian moral appropriation of Rousseau's equation of freedom with self-imposition: if compared to Galileo's contention that human beings share the same divine understanding of mathematical propositions, Kant's claim to universal law-making pushes the human sharing with god beyond mere knowledge, and well into the realm of practices.

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by the understanding of the man and the taste of the wife. See Immanuel Kant, *Bemerkungen zu den Beobachtungen über das Gefühl des Schönen und Erhabenen*, AA 20, 1–192. Eng. trans. *id.*, *Observations on the Feeling of the Beautiful and Sublime*, Goldthwait J. T. ed. and trans. (Berkeley: University of California Press, 1960).

<sup>391</sup> See *supra*, note 221.

<sup>392</sup> '[D]enkt sich der Mensch nach der Analogie mit der Gottheit,' in Kant, 'Über den Gemeinspruch: Das mag in der Theorie richtig sein, taugt aber nicht für die Praxis' (On the common saying: that may be correct in theory, but it is of no use in practice), AA 8, 279. Eng. trans. *id.*, *Practical Philosophy*, 283, modified translation.

<sup>393</sup> '[E]ine Welt, den sittlichen höchsten Zwecken angemessen.' *Ibid.* Eng. trans. *ibid.*

We may anticipate here that Adorno, who is well aware of the 'grim path of Lutheran duty,'<sup>394</sup> to quote Berlin, argues that the Kantian subjects are free 'in so far as they are aware of and identical with themselves; and then again, they are unfree in such identity in so far as they are subjected to, and will perpetuate, its compulsion.'<sup>395</sup>

We may also consider Hegel's critique of Fichte's hyper-Kantian stance: it is the very attempt to attain absolute freedom from heteronomy that leads to absolute compulsion.<sup>396</sup> However, in order to fully appreciate this critique, we need to step down from the rarefied abstractions of German idealism towards the actual revolutionary statements of freedom, to which Kant (and Hegel) wants to give theoretical expression.

The American and French revolutions institutionalise liberty's foundational status.<sup>397</sup> Unfortunately, the more freedom arises as

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<sup>394</sup> Isaiah Berlin, *The Roots of Romanticism* (London: Chatto and Windus, 1999), 94.

<sup>395</sup> Theodor W. Adorno, *Negative Dialectics*, E. B. Ashton trans. (New York: Continuum, 1973), 299.

<sup>396</sup> See Georg Wilhelm Friedrich Hegel, *Über die wissenschaftlichen Behandlungsarten des Naturrechts, seine Stelle in der praktischen Philosophie und sein Verhältnis zu den positiven Rechtswissenschaften*, in *id.*, *Werke* (Frankfurt: Suhrkamp Verlag, 1970), Band 2, 434–530. Eng. trans. *id.*, *Natural Law: The Scientific Ways of Treating Natural Law, Its Place in Moral Philosophy, and Its Relation to the Positive Sciences of Law*, T. M. Knox. trans. (Philadelphia: University of Pennsylvania Press, 1975).

<sup>397</sup> Whilst the specific freedom of women is not acknowledged by the new revolutionary institutions, Olympe de Gouges claims it publicly in her momentous 1791 *Déclaration des droits de la femme et de la citoyenne*, Declaration of the rights of woman and the female citizen: '*La Femme naît libre et demeure égale à l'homme en droits.*' Woman is born free and remains equal to man in rights. See Olympe de Gouges, *Déclaration des droits de la femme et de la citoyenne*, Emanuèle Gaulier ed. (Paris: Mille et une nuits, 2003). Eng. trans. in John R. Cole, *Between the Queen and the Cabby: Olympe de Gouge's Rights of Woman* (Montreal and Kingston: McGill-Queen's University Press, 2011), 30–34.



the banner of constituent<sup>398</sup> political powers, the more it is constrained within a network of limitations. Apparently, this is just a side-effect of the extraordinary reversal of horizon that changes the role of law from the formulation of what is permitted to the delimitation of what is forbidden. Nevertheless, one may suspect that the very narrative of the transition from authoritarian to democratic institutions is above all a theoretical weapon of the new progressive constituent powers, in their struggle to replace previous constituted powers.<sup>399</sup>

This suspicion is soon to be raised: in the next chapter, I will show how German thinkers push to the limit the modern concept of freedom, and in so doing they reveal it as a mere hyperbole,<sup>400</sup> which can be realised either as absolute compulsion or in the absence of others.

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<sup>398</sup> The twin notions of *pouvoir constitué*, constituted power, and *pouvoir constituant*, constituent power, are developed by Emmanuel-Joseph Sieyès in *Qu'est-ce que le Tiers état?* (Paris: 1789). Eng. trans. *id.*, *What is the Third Estate?* M. Blondel trans. (London: Pall Mall Press, 1963).

<sup>399</sup> Nietzsche observes: '*Die liberalen Institutionen hören alsbald auf, liberal zu sein, sobald sie erreicht sind: es gibt später keine ärgeren und gründlicheren Schädiger der Freiheit, als liberale Institutionen. (. . .) Dieselben Institutionen bringen, so lange sie noch erkämpft werden, ganz andre Wirkungen hervor; sie fördern dann in der Tat die Freiheit auf eine mächtige Weise.*' Liberal institutions stop being liberal as soon as they have been attained: after that, nothing damages freedom more terribly or more thoroughly than liberal institutions. (. . .) As long as they are still being fought for, these same institutions have entirely different effects and are actually powerful promoters of freedom. *Götzen-Dämmerung: Streifzüge eines Unzeitgemässen* § 38; <http://www.nietzschesource.org/#eKGWB/GD-Streifzuege-38>; Eng. trans. *id.*, *The Anti-Christ, Ecce Homo, Twilight of the Idols, and Other Writings*, 213.

<sup>400</sup> Heller and Fehér contend that 'the freedom of Marxian communism is the freedom of liberalism realized in full and for everyone' in Agnes Heller & Ferenc Fehér, *The Grandeur and Twilight of Radical Universalism* (New Brunswick, NJ: Transaction Publishers, 1991), 198. If this holds true, Marx simply boasts to realise the liberal hyperbole.