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# Storia e Politica

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FLAVIO SILVESTRINI

WEAPON OF MASS DISTRACTION: KANT AND THE  
«MENDACIOUS PUBLICITY» OF BRITISH GOVERNMENT

1. *Publicity, revolution and war*

As it is well known, the transcendental juridical criterion of *publicity* is introduced by Kant in the *Appendix* of the second edition of *Perpetual Peace* (1796). In this text, the form of *publicity* becomes a procedure for establishing the validity of any claim to right founded a priori in reason, firstly «to recognize at once the falseness (i.e. unrightfulness) of the claim (*pretensio iuris*) in question, as if by an experiment of pure reason» (Kant 1991c: 125). This passage logically derives from the first part of the *Appendix*, in which Kant emphasizes the necessary agreement between politics and (legal) morality, i.e., the ability that politics must have to act in accordance with universal principles of right.

From this statement, Kant derives the first transcendental formula of public right, made explicit by the maxim: «all actions affecting the rights of other human beings are wrong if their maxim is not compatible with their being made public» (*ivi*: 126). The negative version of *publicity* is used by Kant to logically and legally counter erroneous arguments in the field of internal, international and cosmopolitan right and to submit concrete cases to the judgment of pure (legal) reason. For the internal order of the State, it becomes clear that the principle of non-contradiction of the Constitution, by conferring public authority on a true sovereign power, is the most effective way of applying the test of *publicity*: «according to this principle, the people, before establishing the civil contract, asks itself whether it dares to make public the maxim of its intention to rebel on

certain occasions» (*ibidem*)<sup>1</sup>. Since the people want to create a sovereign power that founds the state through the original constitutional contract, they cannot at the same time reveal the intention of being able to destroy the sovereign himself, which would make the constitution self-contradictory. If the two options were made public, we would have two sources of legitimate power over the same political community, one contrasting the other, so that the injustice of rebellion derives «from the fact that if the maxim upon which it would act *were publicly acknowledged*, it would defeat its own purpose» and in order not to fail its scope, «this maxim would therefore have to be kept secret» (*ivi*: 127).

After having applied the negative formula of *publicity* to international law as well, Kant resolves the central question of this *Appendix* and establishes that the sovereign is bound to submit politics to legal (non-ethical) morality. In this process, the role of the philosopher emerges: if he is allowed to express himself freely and make his maxims public, leaders would have the ability to see the gap between their political decisions and universally valid legal principles. However, the «subterfuge of a secretive system of politics» lies precisely in preventing the public consciousness of the maxims of power. What Kant formulated in *the second Supplement*, which logically precedes the *Appendix*, has now acquired a functional value: after disapproving of the possibility of kings philosophizing or, worse, of philosophers to rule as kings, since political and philosophical virtues cannot coexist in the same person, it is not desirable that governments «force the class of philosophers to disappear or to remain silent, but should allow them to speak publicly» (*ivi*: 115). Thus, a symbiotic relationship would be created between the

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<sup>1</sup> On Kant's critical approach to the alleged right of resistance and revolutionary law see the classic work by Beck (1971: 417), devoted to analyse Kantian writings of the 1790s, demonstrating that «a legal right to rebel is self-contradictory and a moral right to rebel is unjustifiable»; see also Scheffel (1982: 180-182), according to whom, while the absolute denial of the people's right to revolution agrees with positivist authors, Kant's arguments follow a completely different development: his assertion that the people, since a legal subject authorized to hypothetically question the sovereignty of the state, does not exist outside the sovereign will of the state itself, is only the final step in his multilevel critique of the right to rebel.

two figures, so much so that this relationship is essential to both of them in order to support their respective affairs. Without the philosopher's guidance, the sovereign would remain ignorant of the universal principles of right and could not adopt them in public action by improving politics; without the power of the state, the activity of the philosopher would fall under the mere domain of speculation, without becoming public or having practical consequences. Kant is convinced that the right to express alternative ideas on policies is the only source of progress in the civil community, as long as this does not exceed the right of resistance; even absolute sovereigns would be willing to welcome proposals for improvement<sup>2</sup>.

In the following passages, Kant also deals with an affirmative formulation of *publicity*: «all maxims which *require* publicity if they are not to fail in their purpose can be reconciled both with right and with politics» (Kant 1991c: 130). Only the positive version of the principle can demonstrate that politics is fundamentally consistent with the objectives of public law, thus eliminating any people's distrust against the maxims of power (through their *publicity*)<sup>3</sup>. The ultimate goal of right, namely the

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<sup>2</sup> This statement is deeply connected to the central role that Kant confers, even in political processes, upon 'public reason', see, on this, Keienburg (2011: 23-27), but it is also worth mentioning the extensive work by O'Neill (2015), particularly the second part devoted to the role of public reason in determining the relationship between authority (of the State) and autonomy (of the individual). In a synthetic way, but with very similar conclusions, see Ameriks (2016); while for an accurate reconstruction of how categorical imperatives and principles of law can at all be combined under the form of universality, see, recently, Hirsch (2017: 70-93).

<sup>3</sup> García-Marzá (2012) shows how the two formulations of publicity proposed in *Perpetual Peace* are not only interdependent on each other on the basis of republican institutional progress but also assume the concept of "trust". Thus, the transparency of institutions, in order to satisfy the collective need for justice, is empirically detected on the trust placed by the people in the entire republican system. Laschet deals with publicity as a «principle of communication» between morality and politics, that is, the way in which politics «can publicly enact the criteria for legitimizing a practical choice» (see Laschet 2014: 311-312, translation ours). Baum's analysis is also remarkable, as it concludes that «publicity is the only possible and necessary a priori criterion found in reason», so that the maxims of action and the action itself, can and must be judged in terms of legality» (see Baum 2009: 391, translation ours). For its ability to connect politics and universal principles of law, *publicity* turns first formulation of the categorical imperative into juridical-political terms, creating a new link be-

pursuit of peace, clearly emerges in international affairs. Only a legal condition between states is admissible, since it is the way to move from private to public right in their relations, as it happens exiting the state of nature of individuals. The federal association of the states seems to be the reliable lawful arrangement, not only its sole objective «is to eliminate war», but it's the only legal condition that can be reconciled «with their freedom» (Kant 1991c: 129). Therefore, the agreement between politics and morality is possible only under a federal union (given according to a priori legal principles), and *political prudence* (*Klugheit*) should have *legal wisdom* (*Weisheit*) as its basis to the greatest extent, without which all its mistakes are folly and disguised injustice. Any international politics that does not deal with federalism breaks the link with legal principles and, if made public, shows only the effect of a mere empirical prudence, is therefore incompatible with the general purpose of public law, that is peace<sup>4</sup>.

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tween moral and civil life, so that: «in comparison to the universalization of categorical imperative, *Publizität* does not imply the possibility to universalize the maxims of our will, but through an a priori of the reason gives a normative relevance to pluralism in political debate, because only through that there is a possible connection between the principle of morals with the politics», see De Vita 2021: 84). As means of procedures, respectively related to ensure conformity to Morality (*Moralität*) of intentions and to Legality (*Legalität*) of actions, *categorical imperatives* and *publicity* shares the same formal structure, particularly as their conclusions are drawn regardless of whether they produce an actual advantage, by following them (see on this, recently, Wagner 2019). Dealing with the possibility of sharing our practical maxims, the transcendental principle of public right becomes, in Kantian theory, «the juridical equivalent of the moral condition of universalizability» (Shell 1980: 172), or provides an earthly, feasible version also of the central idea of the original contract, «as a kind of down-to-earth 'political' categorical imperative» (Lipping 2020: 116). Similarly, *publicity* implies a corrective function, by which only through public procedures it is possible to obtain the adequacy of political norms and practices to universalized criteria of justice (see Clinger 2017). But, as underlined by Zinkin, the attitude of acting revealing to our fellows our practical maxims, what we know is right, is a accessible way for shaping public opinion but also for improving human morality, so that Kantian *publicity* «can connect morality and politics, the ideal and the real» and can be regarded as «a political act as well as a moral one» (Zinkin 2016: 255).

<sup>4</sup> One of the most influential interpretations of the doctrine of publicity theorized by Kant in Perpetual Peace was given by Habermas as early as his *Strukturwandel der Öffentlichkeit* (1962). In the developments of Habermas' theory, Kantian publicity has become even more influential, as in the theory of

Kant has already dealt with the question of peace in connection with the republican constitution in the *first definitive article* of *Perpetual Peace*. On the one hand, he has shown how republicanism embodies a form of government capable of protecting the three legal principles of *freedom* as a human being, *dependence* as a subject, and *equality* as a citizen, since it mirrors the idea of the original contract. On the other hand, in legal terms, the republican constitution is the only one that guarantees this outcome, as it gives citizens the responsibility to decide, through public procedures, whether they should run the risks of a war. What happens in an absolute state, of course, is the opposite, for the autocratic ruler, as the owner of the state, has no qualms about choosing war, the consequences of which he does not directly suffer, and can keep his subjects unaware of the maxims of his actions.

In *Perpetual Peace*, *publicity* informs the procedures for pursuing coherence between politics and right, aligning the goal of the former - the possibility for all subjects to live a happy life granting mutual freedoms - with that of the latter, the universal recognition of individual rights and peace. Revolutions and wars are, in this sense, inconsistent with the principle of *publicity*, for only national and international politics capable of concealing their own maxims can assert themselves through such means, which work only when employed in a purely empirical manner, as both are unfit for any legal form.

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deliberative democracy based on the discourse ethics, where public opinion plays an active role in the formation of democratic will. The Frankfurt philosopher developed the Kantian idea that publicity (as a public sphere) can fill the gap between moral reason (morality) and practical norms of the state (politics). The transcendental principle of public right judges whether a political act or a law is just, becoming a necessary prerequisite for the legitimacy of public norms: in particular, an (international) law is just only if it can be made public without hindering its application, implying issues that Kant already addresses in the preliminary articles, such as the prohibition of secret diplomacy (see Habermas 1976 and 1996). On the theoretical continuity of the two German philosophers, focused on publicity, see recently what Trenz states: for Habermas: «the public sphere thus simultaneously allows the emancipation of society and creates social order by allowing individuals, in the Kantian sense, to relate to the rules of morality» (Trenz 2023: 129).

## 2. *Corrupting publicity: British politics on revolution and war*

Many arguments Kant employs to show how publicity should work in relation to internal and international law are also influential in the author's critical approach to British government and constitution. The fracture between right and politics that occurs in a revolution, to which Kant applies the negative formulation of publicity in *Perpetual Peace*, that is, the impossibility of considering the right to rebellion as legal and legitimate, had already been questioned in the *Common saying* (1793). In the section devoted to reconciling theory with practice in the field of public law, Kant emphasizes the illogic of ascribing a «coercive right» to the people against the head of state, since the constitution cannot at the same time establish the sovereign, to whom the people are logically subordinate and to whom they owe their existence as a political entity, and grant them the right to resist him with the power to create an alternative sovereign. The inner contradiction involved in undermining the full sovereignty of the State clearly emerges, «thus the people can never possess a right of coercion against the head of state, or be entitled to oppose him in word or deed» (Kant 1991b: 83).

The practical confirmation of this theory deals with the British case, as the British “constitution” makes «no mention of what the people are entitled to do if the monarch were to violate the contract of 1688» (*ivi*: 83-84). If the fundamental charter were to explicitly establish a norm allowing the given power to be challenged, it would fall into an internal contradiction. Although, at this moment, Kant has not yet developed the negative formulation of *publicity*, it is clear that he is willing to apply its logical method to analyse this problematic issue in British constitutional history. Only secrecy could allow popular resistance to coexist with the creation of the sovereign in the unwritten British “constitution”; otherwise, they would have been contradictory within a fundamental written charter<sup>5</sup>.

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<sup>5</sup> The fundamental question in the *Common Saying*, as far as the contradictions of the British system are concerned, is certainly the impossibility of reconciling 'Revolution' and 'Constitution' in juridical-formal terms: «in other words revolutions cannot be constitutional. Yet, because the appearance of constitutionality is important for the legitimacy of a revolutionary regime, resort can be made to

Like all political acts that are far from right, any revolution can be judged positively or negatively only with hindsight, depending on whether it was successful, and therefore not according to a priori legal criteria and independently of its empirical consequences. Precisely in order to avoid the consequences of a possible failure, the English revolutionaries, according to Kant, «*invented* the notion of a voluntary abdication by the monarch they forced out, rather than claim a right to depose him (which would have made the constitution self-contradictory)» (Kant 1991b: 84). With regard to the issue of (blocking) *publicity*, this example represents a further step: the English revolutionaries not only obscured the question of the right to resistance, which is implicit in a political settlement born of rebellion, but, to prevent the constitutional order from sinking into internal contradiction, they created the patently false public narrative of a voluntary abdication of the sovereign James II Stuart, whom they in fact forced to flee under the threat of violence. From the government which covers the maxims of its own actions, a case analysed with the first negative formulation of the *publicity*, and which is helpful in demonstrating the incompatibility of the right to resistance within a state constitution, one can find the publication of false maxims in order to justify political actions in the eyes of the people as in presumed compliance with legal principles. A narrative construction that has clearly succeeded, since the falsification of reality feeds the illusion of the British people that they live under a free regime, so much so that «they hold it up as a model for the whole world» (*ivi*: 83).

The legal critique of the right of resistance is definitely accomplished with the *Doctrine of Right* in *The Metaphysics of Morals* (1797). Although presented in the form of a general legal theory, it proves to be deeply influenced by the analysis of the British system already carried out in the *Common Saying*. As for the question of renouncing the throne, Kant here adds that even in this case no right to sovereignty is attributed to the people: they «might at least appeal to a supposed *right of necessity* (*casus necessitatis*) as an excuse for the people's action in

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the fiction that the constitution permitted unconstitutional acts or to other» (see Hopton 1982: 57).

forcibly dethroning the head of state», but «they can never have the slightest right to punish him for his previous administration» (Kant 1991d: 145n). The actors of the events change, from the founding revolutionaries to the more comprehensive (English) people, but the question of how to construct a public narrative to disguise the revolutionary origin of the state remains the same, with even more profit. In order to demonstrate that the denial of the right of resistance is unconditional, Kant also applies it to a revolutionary government that has successfully overthrown the previous sovereign and against which, as should have been the previous one, the people do not automatically gain a right to resist. The analysis of the eighteenth-century British government still seems influential: the illegal origin of the constitution, which arose from a revolution, does not make the right of the people to resist legally acceptable or recognizable, as this would mean perpetuating the fracture between politics and right.

As in *Perpetual Peace*, Kant assumes that the only way to make *publicity* effective within a system that is still formally non-republican is to guarantee philosophers the right to express their ideas. This is the case of the *moral politician*, who rules as if the people could give their assent to public decisions, and the philosopher's advice becomes an indispensable resource in this presumed process of awareness. In the essay on the philosophy of history, answering the question *Is the human race continually improving?* (1797)<sup>6</sup>, Kant points out another case in which *publicity* is prevented from testing the rightness of public power maxims, dealing, once again, with British reality. As a premise, according to the schema of the first and negative formulation of the principle, «a ban on publicity» prevents the general development of a nation by impeding «popular enlightenment [*Volksaufklärung*]» (Kant 1991e: 186, AA VII: 89), that is «the public instruction of the people upon their duties and rights towards the state to which they belong» (*ibidem*). The

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<sup>6</sup> As well known, the text should have been published in the *Berliner Blätter* in 1797, but in October of the same year it was banned by the censors, who saw it as an apology for the Revolution. It was published during the autumn of the following year, only after the death of Frederick William II, as the second part of *The Conflict of Faculties* (see, for a political framing of this text, Kellner 2022).

freedom of thought and opinion of philosophers represents, as we have seen, the only way for the people above all to learn the duty of obedience but also to present their demands for legal progress towards the established authority. The recommendation already proposed in *Perpetual Peace*, according to which it was advisable for sovereigns to allow philosophers to express their ideas in order to publicize the generally accepted maxims on politics, is taken up synthetically here.

But the obstruction of publicity can also affect a system that seems to have found, in parliament, a constitutionally acceptable limit to the sovereign's authority. The corrupted British system would in fact replicate the dynamics of any other unlimited government, in which the sovereign can act as an «absolute monarch» and decide, unfettered, to plunge a people into war. Once again, the object of criticism is the «illusion [*Vorspiegelung*]» of the British people of living under a «limited monarchy [*eingeschränkte Monarchie*]» (*ibidem*, AA VII: 90) while actually subject to the arrogance of an unlimited ruler. Unlike the case of a mere despotism, or in general of any form of government which must conceal the maxims of its actions so as not to reveal its contradictions, Kant seems to identify an entirely new form (and much more difficult to disclose) of unlimited government.

There is strong evidence to support the negative Kantian view of the British government. He recalls the fundamental and practical consequence of any republican constitution, in which the final decision to go to war no longer belongs to an unlimited sovereign but to the people: «now the monarch of Great Britain has waged numerous wars without asking the people's consent. This king is therefore an absolute monarch, although he should not be so according to the constitution» (*ivi*: 187)<sup>7</sup>. The real fea-

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<sup>7</sup> The ability of the people to decide about war and peace is the fundamental feature of a republican government, so that, as stated in the essay on human *Progress*, «this is the basis of Kant's criticism to British government», in order to demonstrate the unlimited ruling power of that monarchy (see Peres 2012: 249). Among the collected notes written in the last ten years of the century and published by Reicke (Kant 1889, I: 129) Kant affirms that «the English nation (*gens*) regarded as a people (*populus*) and looked upon side by side with other races is, as a collection of individuals, of all mankind the most highly to be esteemed. But as a state, compared with other states, it is the most destructive,

ture of the British government is that of an absolute monarchy, which can take the most serious public decisions without being accountable to anyone<sup>8</sup>. The essential question of the legal basis of the peoples' right to defend their rights is taken up again: the power to decide on peace (or war) is the projection of the right to life onto international relations. Just as the state must be able to protect the individual from his fellows in the political community, it must not put his life in danger by involving him in an unjust or aggressive war (to which he could not give his consent). Since *Perpetual Peace*, the popular right to impede war has been the cornerstone of the legal architecture of republicanism and one of the most valuable achievements of the transcendental principle of *publicity*.

But Kant, at this point, is willing to expose the real face of British absolutism while also denouncing its deception behind the appearance of free parliamentarism. As in his analysis of the British revolutionary "constitution", he examines not only the prevention of applying the test of *publicity* - here in the context of eliminating war and improving human civilization - but also another negative development, namely the corruption of this instrument of verification into one of falsification. In this

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high-handed and tyrannical, and the most provocative of war among them all» (translation ours). Dustdar (2007: 468) well describes what practices allowed the British monarch to control the political system, blocking any parliamentary power of opposition, particularly on war and peace; but on the relevance, through opposition of the English model for the development of the Kantian idea of sovereignty, see Jacquette (1996, particularly, pp. 124-125).

<sup>8</sup> Historians have recently pointed out that since the early eighteenth century, the Hanoverian dynasty on the British throne was inclined to involve the kingdom in continental wars and to protect its former German territories. But it was during the long reign of George III that the British kingdom was continually involved in the most important conflicts of the time: between 1744 and 1815, Britain and France were constantly at war, with the War of the Austrian Succession (1740-1748) serving as a precursor. This period was followed by Anglo-French battles in India and North America, culminating in the Seven Years' War (1756-1763), which Winston Churchill described as the "First World War". George III ascended the throne in 1760 with a promise to end the war and settle the growing British debt. The period following the Seven Years' War brought other conflicts, including the American War of Independence (1775-1783), which became a global conflict with France, as well as various quasi-wars and financial crises. The French Revolution and the subsequent rise of Napoleon led to two more decades of war between France and Britain and would complement the so-called "Seventy Years' War" (see, on this, Page 2015: 12-14).

sense, the government's ability to influence parliament is fundamental. What is new, compared to the two formulations of *publicity* already carried out in *Perpetual Peace*, is the way in which political authority can publicize an alternative truth about the form of government through «a mendacious form of Publicity [*eine lügenhafte Publicität*]» (Kant 1991e: 186, AA VII: 90)<sup>9</sup>. Procedures and institutions, conceived in theory to disclose the true maxims that support and justify government's actions, allow a public removal of the truth, creating the fake enactment of a regime based on freedom.

From the text on human *Progress* emerges a clear distinction between the *prohibition of publicity*, which removes the basic control over the maxims of power that philosophers can exercise towards sovereigns with discretion and respect, even while remaining formally under a despotic government, and a *corrupt publicity*, which not only conceals the maxims of power, but also replaces them with deceitful ones. The common opinion among the British people states «that their constitution is one which limits the will of the monarch through the two houses of parliament, acting as representatives of the people» (Kant 1991e:186). This view can be easily challenged by examining the way in which the relationship between the two institutions actually works: «yet everyone knows very well that the influence of the monarch upon these representatives is so great and so infallible that the aforesaid houses make no decisions except those which His Majesty wishes and recommends through his minister» (*ibidem*).

It is, indeed, the authority's ability to conceal this reality that is the focus of Kant's critique, since the utter influence that the monarch can exert on the representatives of the people is cleverly obscured by the contrasts that sporadically arise between him and them, «simply in order to furnish ostensible

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<sup>9</sup> A *mendacious publicity* proves even more dangerous than traditional despotism in preventing civil progress, «dissimulating its protection of entrenched interests»; so that Kant as the standard bearer of the publicity, becomes 'well aware that this ideal could be dissembled as a legitimately subjunctive, thus thwarting its role as a vehicle for social enfranchisement' (see Clarke 2000: 170).

proof of parliamentary freedom» (*ibidem*)<sup>10</sup>. To support this conclusion, Kant briefly refers to the difficult parliamentary path of the law to abolish the slave trade. This seemingly shows the parliament's ability to challenge the king's position, while it is precisely the influence of George III that shapes the parliamentary process of the act, which will not be passed until March 1807<sup>11</sup>. Thanks to the court's influence, it will be possible to delay the abolition of the slave trade for decades, despite the widespread sympathy for the abolitionist cause within civil society and among many influential members of parliament<sup>12</sup>.

The only consequence of the deceptive disagreements between the King and Parliament is that the British people are left with the «illusion» of being governed according to the principles of a progressive constitutional model that has nothing to do with the rest of Europe. The truth is quite different: the government secretly prevents any legal progress, and, at the same time, discourages the people from seeking «the true and right-

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<sup>10</sup> As noted by Maliks (2014: 122), dealing with the case study of British politics, Kant criticizes «two mistaken assumptions», related to the idea that the authority of the government relies on the principle of happiness, and on the terms of the original contract: «Kant finds evidence that no right to resist could be based on a contract in the 'Glorious' revolution of Great Britain of 1688. The English Parliament did not admit the contractual right of revolution because of the impossibility of constituting a counter-power to the sovereign, and pretended instead that the monarch had abdicated voluntarily».

<sup>11</sup> See, among others, Pares' classic work (1988) and more recently Dickinson (2011). Kant seems to have a thorough knowledge of George III's institutional attitude, on which recent historiography has shed even more light. For decades, the British king has proven to be a supporter, if not a tool, of the conservative majority of landlords. He prevented any radical changes: the abolition of the slave trade was the main political issue for nearly twenty years, both inside and outside Parliament, but the king was able to counter all attempts done on the part of abolitionists during the governments of William Pitt the Younger. Monarch's sons in the House of Lords, notably the Duke of Clarence, were the fiercest opponents of abolishing the slave trade in the early 1790s, and George himself made it clear on several occasions that abolition proposals would be detrimental to the national interest: these attitudes mobilized Peers and Commons to vote against them. On the controversial position of the British Crown regarding the initiatives to abolish the slave trade, see the well-documented article by Schwarz (2023).

<sup>12</sup> William Wilberforce was probably the parliamentary leader of the movement to abolish the Atlantic slave trade, who introduced a bill on this subject every year between 1789 and 1806. A detailed perspective on this charismatic figure, including his links to English public opinion, can be found in Hind (1987).

fully established constitution, for they imagine they have discovered it in an instance which is already before them» (Kant 1991e:186)<sup>13</sup>. In other cases of despotism, it is precisely the people's awareness of the legal situation to be improved that favours the development of constitutions, hopefully in harmony with politics, through reforms promoted by an enlightened sovereign, or in the uncertainty of revolutionary upheavals<sup>14</sup>. Otherwise, the British fictitious institutional architecture works so well that it has even distorted the transcendental legal principle of republican law, *publicity*, into a fraudulent means of despotic power, preventing the people from understanding the real political condition under which they are forced to live.

### 3. *British mendacious publicity as a countermodel for republicanism*

From the *Common saying* to the essay on *Progress*, it is evident that knowledge of the British model is the source with which Kant reads the dangerous consequences of a distortion of *publicity*, no longer used to support the legal purposes of republicanism, but to mask the violation of law, as in any despotic government. If the autocratic State can disseminate the self-portrait of a well-developed form of government, it is difficult for the people to dismiss this perception, debunking the inner contradictions of their political system. The British case shows how *publicity* can be transformed from a potential instrument for guaranteeing republican freedoms into a means of "mass distraction"; «mendacious publicity» serves not only to obscure the revolutionary roots of the British constitution, but also the ab-

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<sup>13</sup> According to Paulsen (1902: 352), Kant did not see in the British government a «parliamentary despotism» but only a «thinly veiled monarchical despotism» and yet had a very low opinion of this form of government.

<sup>14</sup> Any improvement in the legal system, as Taylor (2006: 568) explains, can only follow the path taken by an «enlightened leader», who certainly takes the first step toward republicanism and imposes the legal status of the subject not only in relation to his fellow subjects, but especially in relation to the authority of the state. Under a moral politician there's not the «form» but only the «spirit» of republicanism, while, as noted by Levinger (1998: 252), «the British monarchy, according to Kant, possessed the form but not the spirit of a representative system: though the 'illusion' of representation existed there».

solutist nature of the British government. According to Kantian theory, the two distortions of right are only seemingly contrasting, since the unconditional right of the people to resist the sovereign and the unlimited right of the sovereign to nullify any legal claim of the subjects result from the same disjunction between politics and legal principles, from the impossibility of applying the publicity test positively to the maxims of civil government. With the corruption of parliamentarism discussed in the essay on *Progress*, the issue becomes even clearer; not surprisingly, the paragraph is devoted to the difficulty of bringing out the maxims of human progress through their *publicity*. The mere silence of the philosophers is not further deepened here; rather, it is one of the most remarkable features of despotism, in its simplest form, as already discussed in previous writings. However, it is the false British republicanism that now attracts the author: in this system, any opposition that the British Parliament addresses to the government's proposals is only an intentional fiction to show how much dissent is permitted and, consequently, that the interests and rights of the people can be defended in view of progress. But the distortion is even more instructive, because it allows one to evaluate how the principle of the *publicity* is not at all effective when it is limited to political principles, which Kant himself defines as «secondary», «adaptive», of «mediation» of universal principles of right. *Representation* (not only in the legislature), as well as the *separation of powers* and the principle of the *majority*, serves to enact the idea of the republic into real instances of political life, in other words, to adapt the universal legal principles of republicanism into different historical constitutions. In the British regime, the representative institution is emptied of this role, leaving only the outward appearance of the republic, while preventing the implementation of legal principles and the possibility of the system's future development.

Kant is now willing to scrap this illusory surface: if parliament is entrusted with the functional task of verifying the legal compliance of politics through the transcendental principle of *publicity*, the mere existence of a parliament does not guarantee any of this. On the contrary, the public narrative of a parliament seemingly capable of challenging the actions of the sover-

eign can be used to conceal an authoritarian government. The representatives, subordinated to the will of the absolute monarch, instead of being the bulwark of the interests and claims of the rights of the people, play a supporting role not only to unlimited power, but also to unquestionable power. An appropriate approach to the British reality allows Kant to clarify fundamental relationships of the theory of republicanism, also involving the distinction between politics as an art and politics as a science. In the *Anthropology*, (1798) dealing with

the political artist, just as well as an aesthetic one, can guide and rule the world (*mundus vult decipi*) by deluding it through images in place of reality; for example, the freedom of the people (as in the English Parliament), or their, or their rank and equality (as in the French Assembly), which consist of mere formalities. However, it is still better to have only the illusion of possessing this good that ennobles humanity than to feel manifestly deprived of it (Kant 2006: 75).

Kant, once again, acknowledges the importance of the people's esteem and satisfaction with their government as the privileged way to avoid revolution, but he also emphasizes how this opinion can be skilfully distorted by public authority. Politics, before being a mere art of government, is a science, and should result in a proper combination of (theoretical) wisdom and (practical) prudence, capable of recognizing and applying universal legal principles to real contexts; *publicity* is the open test to verify that this process has really taken place in compliance with the form of right.

Kantian ability to uncover a false limited monarchy leads to recognize another form of unlimited monarchy: despotism disguised as republicanism. In fact, the eighteenth-century British kingdom shows that the monarch can act as an unlimited authority by refusing in practice even an elementary form of transparency, corrupting and controlling the Parliament as well as the Cabinet. This reality can work only under the veil of a well-thought-out lie, in which the people believe they have the supreme power to keep the sovereign under control through a parliament that guarantees their interests and rights and potentially has the power to oust a tyrannical authority from the throne. The British condition is quite different, as the Sovereign

can concentrate unlimited power in his hands, while Parliament serves merely as a transmission belt for his absolute authority<sup>15</sup>. However, treating the British constitutional case as a countermodel (rather than as a model, as the British people do) allows Kant to deal with the idea of the true republican parliament as an institutional check against absolutism, since it embodies the political and, above all, legal principles of republicanism.

It can be said that it is precisely the historical analysis of corrupt British parliamentarism that allows Kant to clarify what role parliament should play in an accomplished republican regime: to fulfil the function of *publicity*. Confirmation of this can be found in the almost textual resumption of parliamentary corruption that Kant analyses in the *Doctrine of right*, which, unsurprisingly, was written at the same time as the text on *Progress*, adding a precise recognition of the legal right of resistance through Parliament, in accordance with the criterion of *publicity*. In his mature legal work, Kant deals again with the impossibility of resisting the supreme executive, even in the event of a violation of the constitutional norm, since the people can at best possess a «purely legislative» power through their representatives. However, this situation is purely self-evident, so much so that this alleged parliamentary supremacy of the people «cannot conceal the underlying despotism successfully enough to prevent it becoming apparent in the means which the minister employs» (Kant 1991d: 144). MPs are easily corrupted by the system of appointments that the sovereign can manage through the government, so that they care much more about their private interest than the public one; finally, «the deputies, instead of offering resistance to the pretensions of the government, will always be ready to play into its hands» (*ibidem*). As in his critical attitude toward the British system,

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<sup>15</sup> On this subject, see what Bennington (2017: 131) says: «Kant asserts that this disguise of the true nature of the British Constitution is easily transparent: there is a veil in the sense of a deceptive covering, and it must be torn or pierced, so that the truth can be discovered. One can feel Kant's impatience, even anger, in the face of British deception: the British are proud to have already achieved a constitution in accordance with the transcendent principles of law. Well, we'd better refute them right away, and it won't be difficult».

Kant here describes the de facto public mystification of a political system:

A so-called 'moderate' political constitution [*gemäßigte Staatsverfassung*], as a constitution regulating the internal rights of the state, is therefore an absurdity. Far from harmonising with right, it is merely a clever expedient, designed to make it as easy as possible for the powerful transgressor of popular rights to exercise his arbitrary influence upon the government, disguising this influence as a right of opposition to which the people are entitled (*ibidem*, AA VI: 320).

In the perspective of republican publicity is the definitive confirmation that no active (parliamentary) resistance on the part of the people against the head of the state is permitted, since this eventuality would serve paradoxically, as in Great Britain, to conceal a new form of absolutism. A hypothetical framework of an unlimited sovereign right of the people, including the right to rebel, aims to hide the reality of an «absolute monarchy [*unbeschränkte Monarchie*]» (*ibid.*, AA VI: 320) that directly exercises all the powers of the state or controls them indirectly through corruption, eventually preventing any legal development. Thanks to the cross-references between the two excerpts from the essay on *Progress* and the *Doctrine of Right*, false British republicanism - which aims to grasp a subtle form of despotism - can be seen both as a «moderate constitution» in which the people must retain a right of active resistance against the sovereign, and as an «absolute monarchy», in which the head of state can effectively manage the representative system and rule the people with unlimited authority.

But Kant intends to draw a positive lesson from the British countermodel by emphasizing the essential role that parliament plays in facilitating republican *publicity*. Within the following rows of the *Doctrine of right*, he states that:

A constitution may be arranged in such a way that the people, through their representatives in parliament, are lawfully able to *resist* the executive power and its representative (the minister). This is known as a limited constitution [*eingeschränkte Verfassung*]. But even a constitution of this kind cannot permit any active resistance (i.e. an arbitrary association of the people designed to force the government to adopt a certain mode of action, and hence an attempt by the people

themselves to act as the executive power). The people may offer only a *negative* form of resistance, in that they may *refuse* in parliament to comply on all occasions with those demands which the executive says must necessarily be met for administrative purposes. In fact, if the people were to comply on all occasions, it would be a sure indication that they were decadent, their representatives venal, the head of the government a despot through his minister, and the minister himself a traitor to the people (*ivi*: 146, AA VI: 322).

*Representation and separation of powers* together configure the procedure by which the people can legally resist through parliament (since it represents their original legislative power and unity of will) the executive power, without claiming to constitute themselves as an executive “counterpower”. The «limited constitution [*eingeschränkte Verfassung*]» of this excerpt is clearly reminiscent of the «limited monarchy [*eingeschränkte Monarchie*]» in the essay on human *Progress*, but both contribute to the theoretical definition of a reliable republican system, which is based on the fundamental principles of law. But to be adapted to historical contexts, a republican parliament is required as the point of balance between the monarch and the people. Both writings address the consistent relationship between a theoretical approach to republicanism and a practical one. In the essay on human history, Kant proposes the well-known distinction between «*respublica noumenon*» and «*respublica phaenomenon*» (Kant 1991e: 187, AA VII: 91). The first describes the republican ideal, since it can only be thought of by universal legislative reason (that of the philosopher) and is based on the image of the original social contract: those who obey the public norm should be also its authors; the second represents the plural way to represent that model, to adapt it to reality, achievable only through the difficult experience of conflict and the genuine will to develop human coexistence, something that British constitutional reality prevents. In the *Doctrine*, Kant develops this difference as the connection between the «pure republic [*reine Republik*]» and the «true republic [*wahre Republik*]» (Kant 1991d: 139, AA VI: 341), which turns out to be the actual enactment of the former: «it is and cannot be anything other than a *representative system* of the people whereby the people’s rights are looked after on their behalf by deputies

who represent the united will of the citizens» (*ivi*:163). The passage that follows seems to provide the definitive description of the *republican transition*, still centred on the empowerment of the popular will, possible only through the empowerment of parliamentarism. When the «head of state in person», whether king, nobility, or the whole population, since three are the form of States, «also allows himself to be represented, the united people then does not merely represent the sovereign, but actually is the sovereign itself» (*ibidem*). It basically describes the return of «the supreme power», that «originally rests with the people», and from which derive all the rights of individuals as mere subjects, in particular «as state officials» (*ibidem*). Separation of powers is, therefore, definitely achieved, by rediscovering sovereign self-normative power of the people, proper to ideal original contract now within the limits of real constitutional parliamentarism: as it happens in a syllogism between the major and minor premise, so the sovereign legislator makes the law and the executor of the law has merely to give them practical consequences.

On closer inspection, the political principles of republicanism adapt to reality the legal principles that categorize this form of government, allowing the ideal of the republic to survive in non-ideal contexts. The juridical features of republicanism, firstly introduced in the *Common Saying*, are definitively recognized in the *Metaphysics*, where they are presented within a more refined legal doctrine. Yet even in this theoretical work, one can read the influential role of the analysis of British reality, resolutely addressed as a countermodel of republicanism, since there is no «legitimate *freedom* to obey» only approved laws, no «civil equality» before coercive rules, and, in particular, no «civil independence» from the arbitrary will of others among the people (cfr. *ibidem*).

#### 4. *Republican Publicity as Anti-War Dissent*

With the essay on *Progress*, it is now clear that *publicity* is no longer just a test of pure reason, as foreseen in *Perpetual Peace*, but is applied to reality with procedures and institutions guaranteed by a given constitutional charter and can be histor-

ically realized only through republican parliamentarism. The phase during which the philosopher plays the role of revealing to public authority the maxims of just politics can only be temporary; it begins when the enlightened monarch decides to grant philosophers freedom of thought and communication. True republicanism, however, is linked to the republican parliament, in which the guarantee that maxims of power are subject to public judgment depends not on the goodwill of the monarch, but on the inflexibility of public norms<sup>16</sup>.

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<sup>16</sup> As a matter of fact, Kant attribution of the *publicity* function to philosophers or, in projection, to Parliaments is a clear sign of distrust about the people's direct exercise of political power, as shown by his critique of the classical democracy provided in *Perpetual Peace*, because it violates the legal and political principles of republicanism by becoming, necessarily, a despotism (see, among others, on this issue, Marey 2018 and Caranti 2023, widening Kantian critical approach to liberal representative democracy too). The “popular” nature of Kant's republicanism must, therefore, be reconsidered on the basis of his explicit intention to recognize political rights of individuals as well as to mitigate the negative consequences of the people's (in)ability to immediately embody public reason, of participating to a practical philosophical discussion, or, as some scholars underlined, of the populist drifts of mass democracy; as stated by Church (2022: 5-6), centrist liberal democracy inspired by Kant «is better equipped to meet the challenges liberalism faces from populism than neo-Kantian views», including John Rawls; but see also Rostbøll (2023: 277), who suggests to discuss contemporary populism and its relation with democracy adopting «the publicity condition first suggested by Immanuel Kant and later expounded by John Rawls». All these Kantian arguments are strengthened when considering the Kantian critique of British government, where the Parliament is no more a means for supporting people in understanding of reality but for deceiving this. Furthermore, Kant, in the *Doctrine of Right*, describes the State as «a union of an aggregate of men under rightful laws» and adopts the term «sovereignty» exclusively for the legislative power in the state which «can belong only to the united will of the people» (Kant 1991d: 138-139). According to Shell, there is undoubtedly a conceptual or, at least, lexical development in Kantian legal mature work, regarding the theme of (popular) sovereignty, the type of representation connected to it and the term «republic», which seems to become definitively democratic and truly indebted to the settlement gained in France around 1790, with the role of the people respect to the creation of the National Assembly (and of Louis XVI as a new constitutional monarch). Finally, whereas Kant in *Perpetual peace* regards republic as a mere form of government, opposed to despotism, in the *Metaphysics* he recognizes republic as an accomplished form of state; similarly, while in 1795 «endorsed a ‘representative system’ [*repräsentatives System*] consisting in the separation of legislative and executive authorities (TPP, 8: 352), he now speaks of representation by *the people themselves*, or what he calls a ‘representative system of the people’ [*repräsentatives System des Volks*] (MM, 6: 341) whose conceptual demands

Another example of the historical fungibility between the public role of the philosopher and that of parliament is to be found in the evocative similitude that Kant draws in another essay included in the *Conflict of faculties*, where the philosophical faculty is represented as the left side of the parliament of knowledge. On the one hand, there are the so-called «higher faculties» that support governmental statutes «as the right side of the parliament of learning»; but as far as questions of truth are concerned, there should also be «an opposition party (the left side), and this is the philosophy faculty's bench» (Kant 2001: 261). Through a rigorous philosophical approach, the government can gain a solid understanding of the pros or cons of its policies. This does not mean that philosophers can modify or hinder the will of government decrees, otherwise they would be persecuted as dangerous to the state. Rather, thanks to their freedom of teaching, public opinion becomes aware of these «maxims which, if observed, must bring about a constant progress of both ranks of the faculties toward greater perfection, and finally prepare the way for the government to remove all restrictions that its choice has put on freedom of public judgement» (*ibidem*). It is, therefore, legitimate to foresee that, in its public role, one day the inferior faculty will overcome the superior one «not, indeed, in authority, but in counseling the authority» (*ibidem*). The government will find in the freedom of the philosophy faculty, and in the deeper knowledge that derives from it, «a better means for achieving its end than its own absolute authority» (*ibidem*).

It is a powerful image of the positive effects resulting from increasing *publicity*: where philosophers are allowed to behave as if they belong to the left of parliament in a republican government, their ability to dissent serves to broaden the perspective of decision-makers, with the obvious advantage for the latter of avoiding the negative consequences of absolutism, such as wars and especially revolutions, which would undermine their authority. The perspective seems even more impactful, if compared with what is written in the essay on *Progress*, in

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are, as we shall see, decidedly more complex. [...] Hence, as Kant concludes, it need not yield the reins of government to others in whom the 'spirit' of the original contract might not similarly prevail» (Shell 2025: 90-91).

which Kant points out the faults of the British system of liberties not in the very existence of a parliament, but in the fact that it is ready at any time to conform to the will of the monarch and thus to prevent any “leftist” attitude towards him, as a faculty of philosophy free to criticize and advise public authority would do.

Kant’s argument continues to revolve around the function of the *publicity*: an essential tool for assessing the coherence of political action with the universal principles of justice, which hardly seems trustworthy when entrusted to an institution that never dissents, as if the authority of the state could never commit injustice and mistakes. The central problem of republicanism is not the establishment of an infallible authority, but of an authority that can be legally criticized and is therefore capable of changing posture without causing revolutionary instability<sup>17</sup>. Rather, a much more subtle absolutism emerges when a form of government in which dissent could theoretically exist is never expressed or, when it is expressed, serves only to confirm the appearance of freedom on the part of the representatives (and therefore of the people). The British example, read as a countermodel, confirms that the representative system is necessary not only to make republicanism possible, but also to ensure that its procedures are effectively evaluated by the test of *publicity*. Parliament, whose activity in relation to the other powers must be constitutionally regulated, is the legitimate guarantor of the procedures of the *publicity*. Unlike the first stage of self-limitation of the absolute sovereign, who voluntarily submits his work to the maxims of the philosopher and follows his advice, a monarch (as executive power) is considered «limited» by the very existence of a constitutional power of critique, which Parliament may exercise in the name of the people,

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<sup>17</sup> As clearly stated by Vatter (2011: 764), the right to critique, of which the people should be entitled, is not dangerous to sovereign power, but is truly related with the legitimation of the given authority, as in the original social contract, so that «Kant’s right to critique must be exercised outside of one’s inner forum and its force depends on its ability to meet the consent of all others (considered as other potential judges) through discussion and review in an open and public fashion. The external forum of critique is that sphere of publicity which, according to Kant, grants the ultimate ground of the legitimacy of any public, positive law».

whose power should remain «purely legislative» (Kant 1991d: 144) since the social contract.

*Publicity* applied to political reality by an institution that does not know how to say “no” to power is not only useless, but becomes an instrument to deceive the public, greatly strengthening state authority while numbing the critical capacity of the subjects. It is no coincidence that Kant, starting from the contradictions of the unwritten “British constitution”, very carefully establishes the limits of legal parliamentary opposition, which must never become active resistance to the executive, but also recognizes the constitutional centrality of dissent. There can, of course, be a part of Parliament that agrees to what the government wants, but a critical component must also be expressed, since only in dissent do the reasons for change emerge, especially to improve the legal status of individuals.

What is stated in the *Conflict of Faculties* is echoed in the second supplement of *Perpetual Peace*, in which Kant, through a different combination of prudence and wisdom, distinguishes the role of the jurist from that of the philosopher. The task of the former «is merely to apply existing laws and not enquire whether they are in need of improvement» (Kant 1991c: 115). This is, of course, the public mission of the philosopher, in terms of the publicity of the government’s maxims, but it is, as it is well known, a development of the comparison between the «public» and «private use of reason», already known since the essay on the *Enlightenment* (1784) (cfr. Kant 1991a: 55-56). All these events are different ways of reporting the advent of *publicity*, and the passage from *Perpetual Peace* quoted above confirms the role of philosophers in disclosing the maxims of government on a central theme of republicanism: the quest for peace. The state should therefore «allow them to speak freely and publicly on the universal maxims of warfare and peace-making» (Kant 1991c: 115).

The link between *publicity*, republican parliamentarism, and peace becomes evident when Kant points out the opposite relationship between war and absolutism, reinforced by the unmasking of the corrupt British parliamentary system and its «mendacious publicity». Thus, in the *Metaphysics*, taking up the question already posed in *Perpetual Peace*, concerning the right

that the State has over its subjects to involve them in an aggressive war - using or endangering their properties and even their lives, so that it does not depend on their judgment whether they want to go to war or not – Kant resolutely answers by treating the citizen as a true «legislative co-member of the state», namely, that «he must therefore give his free consent through his representatives not only to the waging of war in general, but also to every particular declaration of war» (Kant 1991d: 167). As usual, republican *publicity* is measured by *who* makes the decision between peace and war, and *how* it is made; it is no coincidence that this is the most problematic feature of British politics, a system marked by false publicity that deprives public judgment of the power to prevent war. Kant uses this example to support a fundamental question of republicanism: the balance between *consent* and *dissent*, which theoretically encompasses the relationship between the *people* and the *king*, but which in practice results in constitutionally established procedures regulating the dialectic between the *parliament* and the *king*. On the one hand, as we have seen, in *Perpetual Peace* Kant establishes the natural link between the republican constitution and the purpose of the law, enduring peace, since «the consent of the citizens» (Kant 1991c: 100) is necessary to decide whether there should be war or not. But the British example in the essay on *Progress*, where the monarch actually decides on war by bypassing the consent of his subjects, not only shows the true nature of that constitutional settlement, but also serves to confirm that «the only intrinsically *rightful* and morally good constitution which a people can have is by its very nature disposed to avoid wars of aggression (i.e. that the only possible constitution is a republican one, at least in its conception)»<sup>38</sup>.

The Kantian conclusion is peremptory, since the British countermodel allows no margin of uncertainty: the only war legally compatible with the form of *publicity*, and therefore acceptable according to the principles of law, results from the people's pronouncement (through a republican parliament) to defend themselves against an aggression, responding with republican procedures to the violations of right that despotic states are always ready to commit, both within and outside

their borders. Such an eventuality can therefore only be envisaged in a historical phase of coexistence between republican and despotic governments, but which, in the long run, will disappear when all states have adopted republican constitutions. Only these can successfully prevent aggressive war and keep authority under the magnifying glass of *publicity*, since they allow, through parliaments, the legal opposition of the people to policies which violate the universal principles of human coexistence. When all peoples have become republics, even the possibility of defensive war will disappear, since there will no longer be an aggressive enemy (a despotism) against which to defend oneself: *publicity* will eventually have become the *modus operandi* of all the peoples of the world, implementing that form of legal universalism which is the ultimate goal of right, while inexorably approaching that condition «where a violation of rights in *one* part of the world is felt *everywhere*» (*ivi*: 107-108).

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*Abstract*

WEAPON OF MASS DISTRACTION: KANT AND THE «MENDACIOUS PUBLICITY» OF BRITISH GOVERNMENT

*Keywords:* Kant, Kingdom of Great Britain, Parliamentarism, Publicity, Republicanism.

The two formulations of publicity developed by Kant in *Perpetual Peace* are deeply indebted to the critical analysis of the British government that Kant conducts during the same period. Since the Glorious Revolution and throughout the eighteenth century, the British monarchy was able to deceive the people, with the support of a corrupt parliament, spreading a mendacious narrative about itself and the fundamental laws of the state. By showing how political power can convert publicity into a weapon of mass distraction, Kant outlines a realistic way to implement republicanism: genuine parliamentary publicity, in which representatives act as guarantors of the people, thereby helping to avert war and revolution, the two most treacherous fractures between politics and Right.

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