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*Faculty of Opposition. The University
and the Public Use of Reason in “Der Streit der Fakultäten”*

1. *The university as a factory*

According to current encyclopedias¹, the university is no longer a republic of scholars enjoying institutional autonomy and academic freedom, as it used to be. The so-called neoliberal university is more and more like a business, organized according to an internal hierarchy and permeable to the interests of external actors, ranging from the state to private funders. But the transition from a system of «decentralized organized anarchies» to a complex of «penetrated hierarchies» is not just a late modern process: it is deeply rooted in the early modern period.

At the beginning of his last published work, *The Conflict of the Faculties* (1798), Kant himself presents the university as organized like a factory, with a division of labor that apportions the complex of knowledge by grouping professors into faculties². Their community, however, is autonomous, for “only scholars can pass judgment on scholars as such”³. This idea, for Kant extemporaneous but not bad (AK VII, 017), brings together two historically and institutionally different concepts:

1. the medieval community university, autonomous⁴ as part of a

¹ Ivar Bleiklie, *New Public Management or Neoliberalism, Higher Education*, in *Encyclopedia of International Higher Education Systems and Institutions*, Springer, 2018, doi:10.1007/978-94-017-9553-1_308-1.

² Kant's debt to Adam Smith is evident (*The Wealth of Nations*, edited by E. Cannan, 1776-1937, <https://standardebooks.org/ebooks/adam-smith/the-wealth-of-nations,I.I>). See Samuel Fleischacker, *Values behind the Market: Kant's Response to the 'Wealth Of Nations*, «History of Political Thought», XVII, 1996, 379-407.

³ Immanuel Kant *The Conflict of the Faculties*, translated by M. Gregor, Abaris Book, New York 1979, 23.

⁴ Jean-Luc De Meulemeester, *Quels modèles d'université pour quel type de motivation des acteurs? Une vue évolutionniste*, «Pyramides», XXI, 2011, <https://journals.openedition.org/pyramides/804> 261-89. Jacques Le Goff, *Pour un autre Moyen Âge: temps, tra-*

legally pluralistic⁵ system that reported to the universal but distant authorities of church and empire;

2. the modern bureaucratic university, whose political-economic regime is controlled by the state⁶. The university in which Kant worked was becoming «like a factory», a bureaucratic organization of professionals for the purpose of training efficient officials and obedient subjects under the control of a cameralistic government. Professors were hired on the basis of merit and eloquence, modestly paid but highly honoured, and granted a certain amount of freedom for the sole purpose of making them more productive⁷. When Weber, in the second decade of the last century, described the rationalization that was transforming the German university into an enterprise of state capitalism populated by proletarianized researchers deprived of control over the means of production⁸, he was not reporting the beginning of a new process, but rather a station on a long march.

A decade after *Der Streit der Fakultäten*, Wilhelm von Humboldt's reform transformed the Prussian university "into one of the powers of the state, endowed with its own specific position and protected autonomy, like the judiciary, within the overall political system."⁹ But when Kant was writing, the conflict was not only of the faculties, but *within* the faculties. How can a professor, who is a civil servant under the government, do research in the service of truth? Conversely, why should the government fund scholars who serve the truth, even against its interests

vail et culture en Occident: 18 essais, Gallimard, Paris 2013, "Les universités et les pouvoirs publics au Moyen Age et à la Renaissance", II.

⁵ Paolo Grossi, *A History of European Law*, translated by L. Hooper, 1st edition, Wiley-Blackwell, Chichester (UK)-Malden (MA) 2010, part 1.

⁶ Paolo Prodi, *Università e città nella storia europea*, in Id. *Università dentro e fuori*, Il Mulino, Bologna 2013, §1.

⁷ William Clark, *Academic Charisma and the Origins of the Research University*, The University of Chicago Press, Chicago 2006, 12 ff.

⁸ Max Weber, *Wissenschaft als Beruf*, Duncker & Humblot, München und Leipzig 1919, 5, https://de.wikisource.org/wiki/Wissenschaft_als_Beruf.

⁹ Prodi, *Università e città nella storia europea*, §4. Humboldt's plan, however, was only partially and precariously implemented. See Robert D. Anderson, *European Universities from the Enlightenment to 1914*, Oxford Scholarship Online, 2010, <https://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198206606.001.0001/acprof-9780198206606-chapter-4> and Fritz K. Ringer, *The Decline of German Mandarins*, Harvard University Press, Cambridge (MA) 1969.

and purposes? And why should an employee enjoy the special freedom that we would call "academic freedom"?

The Conflict of the Faculties is a posthumous response to a cabinet order sent privately to Kant four years earlier by the late Prussian monarch Friedrich Wilhelm II Hohenzollern, or rather (according to Kant) his minister Johann Christoph von Wöllner¹⁰. Kant had circumvented Prussian censorship by publishing *Religion within the Limits of Mere Reason* after receiving its imprimatur in the Duchy of Sachsen-Weimar from the dean of the Philosophy Faculty of Jena. Formally, his conduct was not illegal. However, the order reprimanded Kant for misusing his philosophy by distorting and disparaging some basic teachings of the Christian religion¹¹ and for behaving irresponsibly in his role as a teacher of youth, i.e. as a university professor, and threateningly urged him to conform to the educational intentions of the crown (AK VII, 6).

Kant had privately defended himself against the accusations of the cabinet order with two arguments:

1. as a teacher of youth, i.e., as a university professor, he had always remained within the limits of his discipline, and had adopted common philosophical books – such as Baumgarten's – that did not deal with Christianity and the Bible; after all, one of the fundamental purposes of his critical philosophy was precisely to draw the boundaries within which reason can legitimately make its claims (AK VII, 007).
2. as a «teacher of the people» (*als Volkslehrer*), his essay on religion was so closed and unintelligible to the public that it could only be understood by scholars in university faculties (AK VII, 008).

The first argument concerns the institutional role of the professor in the bureaucratic spirit of the modern university: Kant appeals to widespread professional practices and disciplinary divisions with which he agrees, albeit on philosophical grounds rather than administrative compliance.

¹⁰ See Mary Gregor, *Introduction to Immanuel Kant, The Conflict of the Faculties*, 1979 (SdF).

¹¹ As Daniela Tafani remarks (*Religione e diritti civili: la questione ebraica in Kant*, «Studi kantiani», XXII, 2008) Kant could be accused of violating Article 8 of the *Edict, die Religions-Verfassung in der Preußischen Staaten betreffend*, which prohibited the teaching of deistic and naturalistic theories.

The second argument concerns the public use of reason: rather than claiming its freedom, Kant obliquely and elusively attempts to minimize its impact by stating that his text is intelligible only to a very few scholars. And yet, if Kant had really wanted to speak to the few, he would have circulated his manuscripts only among his colleagues, without bothering to circumvent censorship in order to print them. Once published, a book, whether easy or difficult, circulates through the hands of anyone who can read it¹².

As the very elusiveness of Kant's answer reveals, the friction point of the university, conceived as a factory under government control, is a crucial legacy of the modern scientific revolution: the publicness of researchers' work¹³. Again, why should a collective organization, whether political, religious, or economic, pay employees who are empowered to publicly criticize the ideologies and theories it professes?

2. The Enlightenment essay: officials *or* scholars?

In the *Answer to the Question: what is the Enlightenment?*, Kant's main concern was not the freedom of universities or of university professors as privileged employees *within* this particular institution, but the emancipation of all those who are capable of learning *from* the institutions to which each of them belongs. The freedom to make public use of reason, to speak as scholars to a public of readers, is connected to a vocation [*Beruf*] to think for oneself that calls every human being and not only university professors (AK VIII, 036)¹⁴.

¹² Plato, *Phaedrus*, 275d-e.

¹³ Paolo Rossi, *The Birth of Modern Science*, Blackwell, Oxford 2001, II.5.

¹⁴ In 1783, Minister Karl Abraham von Zedlitz had acquitted Pastor Johann Heinrich Schulz, who was accused of holding heterodox ideas as a scholar, on the grounds that it was sufficient that he did not profess them as a preacher: "The author may defend the philosophical-speculative statements contained in the book to the public for whom the book is intended, but the people who make up his congregation are not called and have no vocation [*Beruf*] to examine and judge them. (Gisbert Beyerhaus, *Kants 'Programm' der Aufklärung: aus dem Jahre 1784*, 1921, 16, <https://doi.org/10.1515/kant.1921.26.1-2.1>) The public of readers here is an *élite*, distinct from the community of simple believers. Kant reverses the thesis of the Prussian minister by using the same vocabulary (Daniela Tafani, *Il palladio dei diritti del popolo. La libertà di stampa come contropotere in Kant e negli scritti rivoluzionari*, «Bollettino telematico di filosofia politica», 2021, <https://commentibfp.sp.unipi.it/daniela-tafani-il-palladio-dei-diritti-del-popolo-la-liberta-di-stampa-come-contropotere-in-kant-e-negli-scritti-rivoluzionari>, §4).

Specific collective organizations develop and apply some form of knowledge, and therefore need officials who are capable of reasoning. But this use of reason is "private", that is, incomplete or defective, because officials must limit their reasoning to what the institutional mechanism requires. They can, of course, criticize their own organization or disagree with some of its principles, but only, so to speak, outside of working hours, when they put on a scholarly robe to address everyone.

But in so far as this or that individual who acts as a part of the machine also considers himself as a members of a complete commonwealth or even of the cosmopolitan society [*Weltbürgergesellschaft*], and thence as a man of learning who may through his writings, address a public in the truest sense of the word, he may indeed argue, without harming the affairs in which he is employed for some time in a passive capacity (AK VIII, 37)¹⁵.

Kant dissociates¹⁶ the "public" from the state. But his examples of private use, which concern not only the branches of state administration but also the churches, point to a more radical dissociation: whoever speaks as a scholar speaks as part of the whole commonwealth, or even of the cosmopolitan society. But the commonwealth, the *res publica*, is here set in opposition to the current government of the state, and the society of world citizens is an ideal horizon that is not institutionally structured and therefore free of hierarchies.

Before its modern domestication, the medieval university was a corporate yet international place, open to all strata of society¹⁷. Kant, however, without looking back, prefers to locate scholarly freedom in an ideal realm that is distinct from the limited and circumscribed but historically concrete realm of the university, or rather its medieval past. The commonwealth and the society of world citizens have no administration and no officials: and because they are indeterminate, anti-institutional, ideally universal, they are a space of discussion open to all because of their very virtuality. The freedom of the public use of reason is for everyone who has the courage and the energy to learn, no matter what office imprisons them. This is precisely why the public use of

¹⁵ Immanuel Kant, *Political Writings*, translated by H.B. Nisbet, Cambridge University Press, Cambridge 1989, 56.

¹⁶ John Christian Laursen, *The Subversive Kant: The Vocabulary of 'Public' and 'Publicity'*, «Political Theory», XIV, 1986, 584-603.

¹⁷ Le Goff, *Les universités et les pouvoirs publics au Moyen Age et à la Renaissance*, cit.

reason is always potentially in tension with every kind of institutional knowledge¹⁸.

The distinction between the public and the state is only a special case of a more general distinction between the public and the institutional. It is no coincidence that Kant presents this distinction using the example of a non-governmental organization, the church¹⁹, both to discuss the position of the official who is institutionally bound by doctrines he does not share, and to ask within what limits an institution can bind its members to doctrines they would not choose for themselves. The two questions posed sequentially in the essay on the Enlightenment are two sides of the same coin: to what extent can knowledge be institutionalized without violating the autonomy of reason, and thus of knowledge itself?

I. If we take persons one by one, distributively, the contrast between the public use and the institutional or private use of reason manifests itself as a conflict of conscience. A clergyman, acting as a teacher within the church of which he is a minister, makes a private use of reason: as such, he must inform its members of the doctrines of the church that employs him. As a scholar, however, he must remain free to publish writings that contradict them. But what if he disagrees not with marginal and incidental parts of his church's doctrine, but with fundamental articles of faith? Kant suggests that such a situation should cause him to resign (AK VIII, 38): why should he remain part of an institution whose principles he does not share?

If the friction between institutions and research were only experienced within the boundaries of conscience, the problem of the researcher's freedom would only be ethical and personal, rather than political and collective. There are institutions in which I cannot remain, if I am honest with myself. Politically, however, these institutions would remain unchallenged or, better, their eventual disintegration would depend only on a fortunate convergence of individual deliberations leading to mass resignations. The only freedom here is the ethical freedom of leaving an institution for reasons of con-

¹⁸ Tafani, *Il palladio dei diritti del popolo*, cit., §3.

¹⁹ The semi-ecclesiastical character of medieval universities (Stefan Collini, *What Are Universities for?*, Penguin Books, London 2012, 2.II), which was reflected in the status of professors, could also have been a historical basis for extending Kant's argument.

science, not the legal and political freedom of trying to change it while remaining in it.

II. If freedom within institutions were only an individual and ethical matter, the domain of knowledge would be divided into an institutional, restricted domain and an extra-institutional, unrestricted domain. The former, however, would be historically existing and externally visible, while the latter would be internal and mostly virtual or imaginary²⁰, alive only in a twilight zone of public dissent on marginal issues (at least where officials were involved). Most importantly, internal dissent within institutions would not be possible: the insiders would obey and publish their insubstantial criticisms elsewhere, and the true dissenters would be ethically obliged to leave. For Kant, however, freedom within institutions is also a political matter:

But should not a society of clergymen, for example an ecclesiastical synod or a "venerable presbytery" (as the Dutch call it), be entitled to commit itself by oath to a certain unalterable set of doctrines in order to secure for all time a constant guardianship over each of its members, and through them over the people? (AK VIII, 38-39)²¹

Can an ecclesial community legitimately deliberate to maintain a particular doctrine in perpetuity? According to Kant, such deliberation would "violate the sacred rights of mankind" because it would deprive future generations of the same right to discuss and think for themselves by which the previous generation arrived at the doctrine. If the legitimacy of collective decisions rests on the freedom of internal discussion, to deny it to future generations is to delegitimize the community that made them.

In general, "to test whether any particular measure can be agreed upon as a law for a people we need only ask whether a people could well impose such a law upon itself" (AK VIII, 38-39); "something which a people may not even impose upon itself, can still less be imposed on it by a monarch; for his legislative authority depends precisely upon

²⁰ Bill Readings, *The University in Ruins*, Harvard University Press, Cambridge (MA) 1996), 50-60. Not surprisingly, Kant does not mention Klopstock's much criticized *deutsche Gelehrtenrepublik* (Francesca Di Donato, *Comunicare la cultura: il dibattito sulla repubblica delle lettere nell'Illuminismo tedesco*, «Bollettino telematico di filosofia politica», 2011, <https://btftp.sp.unipi.it/it/2011/12/francesca-di-donato-comunicare-la-cultura-il-dibattito-sulla-repubblica-delle-lettere-nellilluminismo-tedesco/>).

²¹ Kant, *Political Writings*, cit., 57.

his uniting the general will of the people in his own” (AK VIII, 39-40). What a church cannot do, *a fortiori* cannot be imposed by the state, and still less by a university.

Although Kant seems much more interested in defending freedom *from* institutions, his Enlightenment essay also contains a powerful argument for freedom *within* institutions, albeit shrouded in an issue of ecclesial politics: a community whose legitimacy depends on consensus can only partially and temporarily limit the (private) use of reason within itself. Kant’s Enlightenment is more than a virtual and indeterminate attitude²²: for it challenges the legal and political legitimacy of the very institutions of the private use of reason.

Institutions, whether governmental or not, that do not include the legal conditions for their own discussion and revision are simply illegitimate, even more so when they claim to be based on a choice made freely and legally in the past. There must be political alternatives: human beings are more than machines (AK VIII, 42).

Thus, to the question, “Why should the government fund scholars whose research may contradict its interests and purposes?” we must add a question that is not only ethical but also political: how can a bureaucratic research institution controlled by the state be legitimized not only scientifically but also politically?

3. Der Streit der Fakultäten: officials *and* scholars?

3.1. *Conflict and war*

The secret article that Kant added as a second supplement to the 1796 edition of the *Perpetual Peace* anticipates the topic of the conflict of the faculties, by explaining why states should grant philosophers freedom of speech on the «conditions under which public peace is possible» (Ak VIII, 368).

²² Michel Foucault, *Dits et écrits*, Gallimard, Paris 1984, IV, 562-78 <https://foucault.info/documents/foucault.questcequeLesLumieres.fr/>) instead reads the Kantian Enlightenment as «une attitude, un éthos, une vie philosophique où la critique de ce que nous sommes est à la fois analyse historique des limites qui nous sont posées et épreuve de leur franchissement possible», making everyone able to accommodate themselves in any institution (see for example Bashar Sunkara, *Can We Criticize Foucault?*, «Jacobin», 2014, <https://jacobinmag.com/2014/12/foucault-interview/>).

The jurist, who has taken as his symbol the scales of right and the sword of justice, usually uses the latter not merely to keep any extraneous influences away from the former but will throw the *sword* into one of the *scales* if it refuses to sink (*vae victis*)²³. Unless the jurist is at the same time a philosopher, at any rate in moral matters, he is under the greatest temptation to do this, for his business is merely to apply existing laws, and, not to enquire whether they are in need of improvement. He acts as if this truly low rank of his faculty were in fact one of the higher ones, for the simple reason that it is accompanied by power (as is also the case with two of the other faculties). But the philosophical faculty occupies a very low position in face of the combined power of the others. Thus we are told, for instance, that philosophy is the *handmaid* of theology, and something similar in relation to the others. But it is far from clear whether this handmaid bears the torch before her gracious lady, or carries the train behind. (Ak VIII, 369)

In Kant's university, the Faculty of Philosophy, which housed basic research²⁴, was an inferior faculty that prepared students for the higher studies of theology, law, and medicine. The former, we would say today, was "self-referential" and "self-serving"; the latter, on the other hand, was in the service of the state and related to it²⁵.

The Faculty of Law, wielding the governmental sword, is both bureaucratically stronger and scientifically weaker. Like Brennus, it may have the last word, but for that very reason it has no scientific authority, because the reasons of reason are not those of the sword, even when it comes to determining whether the scales are rigged or not.

It is not by chance that the question of war brings out the conflict of faculties. In order to overcome war as a means of settling international disputes, it must first be recognized that although there are wars that are, or seem to be, sadly necessary, there can be no just wars in which one side is right and the other is wrong²⁶: the very use of force dele-

²³ "Livy" o "Titus Livius", *Ab urbe condita*, <http://data.perseus.org/citations/urn:cts:latinLit:phi0914.phi0015.perseus-lat2:48.9>.

²⁴ Encompassing both historical knowledge (history, geography, philology and the humanities, natural sciences) pure rational knowledge (pure mathematics and pure philosophy, the metaphysics of nature and of morals) (SdF, Ak VII 28),

²⁵ Charles E. McClelland, *State, Society and University in Germany: 1700-1914*, Cambridge University Press, Cambridge 1980, 66.

²⁶ Kant reverses the position of one of the founders of modern international law, Alberico Gentili, for whom *Bellum iuste geri utrinque* (*De Jure Belli Libri Tres*, 1877, <https://archive.org/details/dejurebellilibri00gent>), I.VI), because war is justified by the sovereign reason of the states.

gates the resolution of the dispute no longer to law, but to force, as in an ordeal²⁷. The faculties in the service of the government, with their borrowed sword, will make the interest of the government, which may well be that of war²⁸, and devise arguments in favor of its *ius ad bellum*. It takes independent scholars who, unlike philosopher-kings, are far from power and free to make public use of reason to say that the only just war is the war that ends forever.

Calling an article that actually demands that philosophers be allowed to speak freely and publicly “secret” is an ironic device for claiming (and using) freedom of speech while seemingly asking for permission. Since «it may seem humiliating for the legislative authority of a state, to which we must naturally attribute the highest degree of wisdom, to seek instruction from subjects», the stratagem of keeping this article secret may be advisable (Ak VIII, 369). This article should therefore be «objectively» public, since it belongs to public law, but «subjectively» it can be kept secret. But in order to listen to philosophers in secret, Kant explains, it is enough to let them speak freely. Thus, objectively, the contradiction will be resolved, for philosophers, once they have gained freedom of speech, will be able to publish in their books even the subjectively secret articles, possibly as supplements, as in the *Perpetual Peace*.

It is not prudence [*Klugheit*] that is at issue, but wisdom [*Weisheit*, *sapientia*]²⁹: the philosophers are not secret advisors to the prince because of some alleged worldly practice, but scholars who speak in public and can be heard by everyone. With a twist: in 1796, these scholars can also be professors at the inferior faculty of a cameralistic university, where reason is supposed to be put to a very private use.

3.2. A “privatized” reason?

The introduction to *The Conflict of the Faculties* (Ak VIII, 17) describes a cameralistic university: like a factory, it is organized into small companies called faculties, to which professors belong as public teachers, according to a division of labor established by the government; it grants ranks recognized by all, in imitation of noble titles, and enjoys a

²⁷ *Zum ewigen Frieden*, VI preliminary article (Ak VIII, 346-347).

²⁸ Especially if the state’s constitution is structured in such a way that those who decide to start a war do not bear the burden of its consequences (Ak VIII, 351).

²⁹ Giuliano Marini, *Figure di uomo politico tra sapienza e prudenza. Considerazioni sulla prima appendice al progetto kantiano per la pace perpetua*, 2001, <https://doi.org/10.5281/zenodo.12786521>.

certain autonomy justified in an instrumental sense («only scholars can pass judgment on scholars as such»).

Moreover, scholars are classified according to an articulated social distribution of knowledge:

1. Scholars
 1. university scholars (incorporated)
 2. independent scholars:
 1. academicians
 2. solitary
2. Literati (officials or technicians of knowledge)
3. People (uncultivated)

Outside of the university corporation, there are independent scholars who gather in academies that deal, like workshops, with sections of the knowledge complex. There are also solitary amateurs who live in a kind of knowledge in the state of nature, not subject to public norms and rules.

The literati, on the other hand, are officials or technicians of knowledge who have attended university but work in the service of the government for purposes other than science. Their expertise, which depends on the work of scholars, must include at least empirical and practical knowledge of the statutes of their office. These officials, who may be clergymen, magistrates or physicians, are disciplined by the government because they have a legal influence on the people, and the theoretical content of their work is subject to the censorship of the faculties. Their power, therefore, is only executive and their use of reason is only private or limited because they address uncultivated people [*Idioten*], in a relationship similar to that between the laity and the clergy (Ak VIII, 18).

To sum up, the literati and a good part of the scholars are included in specific collective organizations. Only the uncultured people and the isolated amateurs are left out and seem to be directly related to the cosmopolitan society. But if being a scholar is mostly connected with belonging to institutions concerned with learning itself, how will an effectively free public use of reason remain possible for them?

3.3. *The conscience of the clerks*

Kant emphasizes that the naming and subdivision of the faculties does not depend on the advice of scholars, but on the choice of the government (Ak VIII, 18). The faculties whose field of study enables

the government to influence the people in a lasting way are called superior, because they are concerned with the motives that cause people to act (Ak VIII, 18-19). The faculty whose only interest is knowledge is called inferior. In other words, disciplinary divisions and their hierarchy are not primarily a matter of science, but of management and power: over the body, through medicine; over the state, through law; and over the soul, through theology.

Accordingly, the government sanctions the teachings of the higher faculties, which are thus given additional, extra-scientific authority. Professors, by the contract they sign when they are hired, agree to teach according to what the government prescribes (Ak VIII, 19). A contract ensures legal control over the choice of others with respect to certain acts³⁰. Thus, science at the service of the state, and, we might add, at the service of other organizations such as churches, corporations, or political parties, seems legitimate if there are professors who are willing to freely sign a contract to teach its doctrines.

On the other hand, the government must not usurp the role of the professors by claiming to research and teach in their place: if it were to enter the scientific debate, it would expose itself to the criticism of the scholars, to the detriment of its authority. In a footnote, Kant praises the same British constitution he criticizes elsewhere precisely because it conceals the true holder of sovereignty (Ak, VII, 90; Ak VIII, 303): if the monarch's speech from the throne is to be considered the work of his ministers, the dignity of the former is not tainted by the errors it may contain, exposed to the scrutiny of parliament (Ak VII, 19n). Likewise, the higher faculties play a "ministerial" role: they teach doctrines sanctioned by the state, but under their scrutiny. Kant seems to accept the principle of state science, but only on the condition that it is not the state, if not nominally, but the university that evaluates science. Moreover, state-sanctioned doctrines can only be taught by professors under contract, with their consent.

The professor who teaches a state-sanctioned doctrine under contract is not required to sell his conscience. According to the Enlightenment essay, a clergyman may continue to exercise his ecclesiastical function only if his disagreement with the Church's doctrine concerns marginal matters; but if his disagreement is deeper, he would be better off resigning (Ak VIII 38). Religious conscience, like scientific integri-

³⁰ Immanuel Kant, *Metaphysik der Sitten*, Ak VII 247.

ty, is non-negotiable and cannot be given away by contract, provided, of course, that "ministerial" scientists have the will and the strength to follow its voice.

3.4. *A faculty that does not serve*

Even if we were to believe, without being able to see, that the consciences of the professors employed in the higher faculties were upright and truthful, their ministerial science would have no public guarantees.

Therefore, it is absolutely essential that the learned community at the university also contain a faculty that is independent of the government's command with regard to its teachings; one that concerns itself with the interests of the sciences, that is, with truth. (Ak VII, 19-20)³¹

The cameralistic university was a university in the service of the state; therefore, the lower faculty, which did not serve any of the utilities of interest to the state, was at issue. But a dispute between faculties on the basis of utility is for Kant a structurally illegitimate conflict, «by reason of its form» (Ak VII, 29-32).

Those who seek only utility ask the scholars for operational answers to their problems (Ak VII, 30-31), not caring whether they are sound and what they are based on, but only that they work. They are similar to the clients of magicians and soothsayers, who are only interested in divination and healing and take their alleged magic for granted. Their position seems strong: they can afford to ask applied scientists to solve questions that they themselves pose. Moreover, as patrons and masters, they can avoid criticism, refrain from studying for themselves, and delegate the effort to problem-solvers in their service. But their cognitive passivity makes them theoretically superstitious and practically minor. They are superstitious because they rely on knowledge they believe in and whose professors they can order around but are unable to understand and demonstrate. They are also minor because they refuse to reason for themselves.

When minority and superstition afflict not only individuals but also states, the very legitimacy of their power and the knowledge they control is in jeopardy (Ak VII 31-32). For if everything is a question of utility, or rather of the utility that the strongest claims from time to time,

³¹ Kant, *Conflict of Faculties*, cit., 27-9.

why should we believe the witch doctors in the service of power? And if power seeks only its own usefulness, why should we obey it, except by force, as long as it is able to wield it?

This would be inevitable if the university were made up only of clerks and did not house scholars in the exclusive service of the interest of truth and with the freedom to publicly oppose “ministerial” professors (Ak VII 30): therefore, any regime that aspires to a legitimacy not based exclusively and precariously on force must recognize and protect the freedom of scholars who do not serve.

3.5. *Faculty of opposition*

What are the general conditions for a legitimate cognitive claim? We cannot hold a claim to be true simply because we are commanded to do so: not only is this morally impermissible, but we cannot even do it subjectively (AK VII 27). The autonomy of reason cannot be circumvented: to accept an idea as true, we must be convinced of it through reasoning and debate. Therefore, the general conditions for a legitimate cognitive claim, since they involve the autonomy of reason and the freedom of its public use, are also political.

The rank of the higher faculties (as the right side of the parliament of learning) supports the government’s statutes; but in as free a system of government as must exist when it is a question of truth, there must also be an opposition party (the left side), and this is the Philosophy Faculty’s bench. For without its rigorous examinations and objections, the government would not be adequately informed about what could be to its own advantage or detriment (Ak VII, 35-36)³².

On September 11, 1789³³, the French Constituent Assembly split between left and right when, in the debate over the king’s veto over legislation, the monarchists in favour of an absolute veto moved to the right of the president, while those in favour of a suspensive veto moved to the left. At stake was the power of the king’s government against the power of the people’s representatives. With this episode in mind, the contemporary readers of Kant could well understand what he meant: a free university is structurally opposed to the government and, in a

³² Ivi, 57-9.

³³ *Discussion sur la sanction royale, lors de la séance du 11 septembre 1789* https://www.persee.fr/doc/arcpa_0000-0000_1875_num_8_1_4968_t2_0610_0000_4

republican regime, must have the same rank and protection as the parliamentary opposition.

The opposition of the faculty does not only take place in the university lecture hall, but also directly in front of the people. In the second part of *The Conflict of the Faculties*, dealing with the Faculty of Law, Kant seems to deny this (Ak, VII, 89). However, the obliquity of his language is rather similar to that of his response to Frederick William II's cabinet order.

Enlightenment of the masses is the public instruction of the people in its duties and rights vis-a-vis the state to which they belong. Since only natural rights and rights arising out of the common human understanding are concerned here, then the natural heralds and expositors of these among the people are not officially appointed by the state but are free professors of law, that is philosophers who, precisely because this freedom is allowed to them, are objectionable to the state, which always desires to rule alone; and they are decried, under the name of enlighteners, as persons dangerous to the state, although their voice is not addressed confidentially [*vertraulich*] to the people (as the people take scarcely any or no notice at all of it and of their writings) but is addressed respectfully [*ehrerbietig*] to the state; and they implore the state to take to heart that need which is felt to be legitimate. This can happen by no other means than that of publicity in the event that an entire people cares to bring forward its grievances (*gravamen*). Thus the prohibition of publicness [*Publicität*] impedes the progress of a people toward improvement, even in that which applies to the least of its claims, namely its simple, natural right³⁴.

This text contains two opposing arguments:

1. The first asserts that the «public instruction» of the people about their «duties and rights vis-a-vis the state to which they belong» should be entrusted to philosophers, «free professors of law», since they are subject only to the law of reason, and not to professors of positive law.
2. For the second argument, philosophers do not address the people, who ignore them, but the state, through publicness. But why do philosophers need publicness if they address the state and not the people?

We find the answer on the immediately following page (Ak, VII, 90), where Kant explains that in the British constitution the people are deceived by a «mendacious publicity» that conceals the monarch's

³⁴ Kant, *Conflict of Faculties*, cit., 161. I replaced "publicity" by the less ambiguous "publicness".

power in order to make it appear that the people's representatives limit it instead of being influenced by it. Surely the British government does not need to be informed of this deception, since it is itself the deceiver, while the public use of reason can be useful to enlighten the deceived, i.e. the people. On the other side of the Channel, Kant can afford to state more clearly what he can only hint at on the Continent³⁵: if the government is to have any legitimacy, it must not only pay professors specifically to be criticized, but to be criticized in public, and it must also provide and secure the infrastructure that enables them to do so.

A French minister summoned some of the most esteemed merchants, to ask them for suggestions on how he could lift the fortunes of commerce, as if he intended to choose the best notice. After one had suggested this and the other that remedy, an old merchant, who had hitherto remained silent, took to saying: build good roads, mint good coinage, grant a streamlined right in matters of exchange, and so on; as for the rest, 'let us do it!' This would be the answer that the faculty of philosophy should give, if the government asked it what doctrines it should impose on scholars: only not to impede the progress of ideas and sciences. (AK VII, 19n)

Kant not only emptied the cameralistic university by contaminating it with the freedom of the public use of reason, but he also allowed himself to disrupt the meaning of liberal *laissez faire*³⁶ by transferring it from the market to the (university) factory. Since he was dealing not with a republic but with an absolute monarchy, he was also able to avoid the politically easy but philosophically heteronomous justification that liberal education is indispensable for the formation of democratic citizens and to make a much bolder claim. If the state does not want to stand by force alone, it is not the faculties that need the government, but the government that needs (and must finance) the faculties, especially and above all in their non-ministerial function of opposition to the government itself, whatever form it may take.

³⁵ On this strategy see Domenico Losurdo, *Autocensura e compromesso nel pensiero politico di Kant*, Bibliopolis, Napoli 2007.

³⁶ For the origin of the expression *laissez faire*, see John Maynard Keynes, *The end of laissez-faire*, 1926, now in <https://panarchy.org/keynes/laissezfaire.1926.html>