

THE REVOLUTIONARY ‘DECEPTION’: KANT ON THE *ILLUSION* OF A POLITICS OF HAPPINESS

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ABSTRACT

Could an ideal of happiness ever serve as a legitimate principle of public legislation? According to Kant, grounding public legislation on a principle of the happiness, results in the “common deception” of taking a private, and merely subjective, conception of happiness, as a universal and objective principle of right. He describes this “deception” in terms of a *Täuschung*, namely a kind of *illusion* in our way of thinking that is however common, and in some ways, inevitable, similar to the one’s reason gets entangled in its theoretical use. I argue that, in attributing this form of deception to an individual like Danton, Kant is identifying a revolutionary mentality that takes happiness, and not right, to be the end of political association. From this follows that people have an alleged *coercive right to judge* the constitution if it falls short of the their expectations, thereby opening the door to violence and radical change.

KEYWORDS

Happiness, Judgment, Deception, Coercive Right, Revolution.

1. INTRODUCTION

“I want society to be happy”, wrote Diderot, “but I can see that there are as many conceptions of happiness, as there are individuals.”¹ Kant shares Diderot’s warning about the radically indeterminate nature of happiness, and of our ever-changing perception over our own wellbeing. What Kant does not share with Diderot, however, is the idea that, for a society to be happy, we must make happiness the end of political association.

In what follows, I position Kant in a tradition of thinking about revolution and its causes, by appealing to his critique of the principle of happiness as an ill-fitted principle of public legislation. Kant defends his arguments about the unsuited nature of a politics of happiness in the context three basic claims of his political thought: (i) a non-instrumental theory of the state, (ii) an *a priori* grounding of the

¹ Diderot, D. (1963) *Oeuvres Politiques*. Classiques Garnier: Paris, p. 404.

original contract, and (iii) an unconditional duty of political obedience. Taken together, these claims preclude the possibility of positing a *coercive right to judge*, and consequently, to abrogate the constitution, if we perceive it as detrimental to the wellbeing of the people. Since “people differ in their thinking about happiness, and how each would have it constituted”, happiness is unsuited to be the kind of principle, capable of bringing everybody under an obligation to “an external harmon[y] with everyone’s freedom” [TP 8:290].²

Whether there is a *right of rebellion* or a *right to revolution* in Kant remains beyond the scope of this paper.³ What I am interested is, rather, how Kant links his critique of happiness to a kind of “deception” in a way of thinking about politics and the end of political association, with revolutionary credentials. In a famous passage in *Theory and Practice*, Kant identifies a propensity in “so many well-meaning authors to take the people’s part”, the cause of them doing so, Kant goes on to explain:

...[I]s in part the common deception [*gewöhnliche Täuschung*], when the principle of right is under discussion, of substituting the principle of happiness for it in their judgments, and in part that, where there is to be found no instrument of an actual contract submitted to the commonwealth, accepted by its head, and sanctioned by both, they take the idea of an original contract, which is always present in reason as the basis [of a commonwealth], as something that must actually have taken place, and so think they can always save for the people authorization to withdraw from the contract as it sees fit if, though by its own appraisal, the contract has been grossly violated. [TP 8:301-2]⁴

² All references to Kant’s works follow the Cambridge Edition, unless otherwise noted. See the Bibliography for abbreviations.

³ Kant’s *definite* views on revolution and on a right of rebellion are, of course, debatable. Though he affirms that “all resistance against the supreme legislative power”, and “all defiance which breaks out into rebellion” are to be considered “the greatest and most punishable crime in a commonwealth, for it destroys its very foundations” [TP 8:300], some have argued that there is scope in Kant, particularly in the presuppositions of his moral philosophy, to ground a right of rebellion. For his most radical and immediate followers, as we will come to see in the course of this paper, a rejection of a right of resistance contradicted the precious Kantian principles of moral freedom, self-government and anti-paternalism they had gladly welcomed. More contemporary interpreters have deemed Kant’s views as “revolutionary for his age”, leading some to question whether Kant’s dictum never to resist the sovereign can really “be true”. For a defense of a right of rebellion in Kant see Reiss (1956), Schwarz (1977), Korsgaard (1997) and Cumiskey, (2010). For an opposite view see Flikchuh (2008), Romero (2015).

⁴ “Nur will ich bei diesem Hange so vieler wohlthenden Verfasser dem Volk (zu seinem eigenen Verderben) das Wort zu reden bemerken: daß dazu theils die gewöhnliche Täuschung, wenn vom Princip des Rechts die Rede ist, das Princip der Glückseligkeit ihren Urtheilen unterzuschieben, die Ursache sei; theils auch, wo kein Instrument eines wirklich dem gemeinen Wesen vorgelegten, vom Oberhaupt desselben acceptirten und von beiden sanctionirten Vertrags anzutreffen ist, sie die Idee von einem ursprünglichen Vertrag, die immer in der Vernunft zum Grunde liegt, als Etwas, welches wirklich geschehen sein müsse, annahmen und so dem Volke

This deceitful way of thinking about (i) the principle of right in terms of a principle of happiness on the one hand, and of (ii) the original contract as fact that can be overturned by the people, has both practical and political implications, based on two fundamental mistakes: it assumes a realist conception of the original contract, thereby attributing a coercive right to the people to judge and to scrutinize its legitimacy from an empirical-historical perspective. Second, and most importantly for what is to follow, it assumes a propensity in a way of thinking about political association, sourced in the *illusion* [*Täuschung*] of taking the universal and public nature of a principle of right (aimed at the stability and continuity of the juridical condition), for the radically subjective and private nature of a principle of happiness (aimed at the well-being of the people).

The aim of this paper is, therefore, to contribute to an understanding of Kant's anti-eudaimonistic politics, by focusing on his acute analysis of what I call the 'revolutionary deception' of taking the principle of happiness as a possible ground for public legislation. From this perspective, I position Kant in a tradition of thought concerned with explaining the legitimacy -and illegitimacy- of revolution, and its practical consequences from a philosophical point of view, as we find in Kant's immediate followers, the ideologues of the French Revolution, to Hannah Arendt.⁵ Kant's contribution lies in his particular understanding of a politics of happiness as linked to a kind of *illusion* [*Täuschung*] about the legitimacy of the state, giving place to a coercive right of the individuals' to pass judgment over the constitution. In contrast to this revolutionary approach to the limits of political obedience in light of a conception of popular happiness, for Kant "the object of right is not private welfare, i.e. that of the citizen, but the welfare of the state, yet without being detrimental to the private right of the citizens to attend to their own happiness." To attain "*justitia publica*" in contrast to mere "*salus publica* [public well-being]", is deemed the proper end of the political association [R 7683], even if some insist to think otherwise.

2. INSTRUMENTAL ACCOUNTS OF POLITICAL ASSOCIATION

A concern about the happiness and welfare of the people has been central to instrumental theories of political association. From this perspective, the state is understood not as an end, but rather as an instrument or the appropriate means, for the achievement of an ulterior end. Of course, instrumental views of the state come in many forms. In the vicinities of Kant's intellectual tradition, we are able

immer die Befugniß zu erhalten meinten, davon bei einer groben, aber von ihm selbst dafür beurtheilten Verletzung nach seinem Gutdünken abzugehen."

⁵ I appeal to Bernard Yack's reconstruction of this tradition as defended in Yack, B. (1992) *The Longing for Total Revolution. Philosophical Sources of Social Discontent from Rousseau to Marx and Nietzsche* University of California Press: California.

to identify Wolff's natural law theory of political and moral perfectionism,⁶ and Rousseau's political and pedagogical *ethos*, as a part of his theory of the general will.⁷ These instrumental accounts of political association partake in a common logic of justification of the state, in terms of its capacity to both promote and secure the ulterior end around which political association ultimately revolves.

What Kant finds problematic about this way of theorizing is the fact that, both in a Rousseauian version of the common good, or in Wolff's eudaimonistic perfectionism, the state is not *an end in itself*, but rather *a means to an end*. As he explains:

Among all the contracts by which a multitude of people unites into a society (*pactum sociale*), the contract establishing a civil constitution among them (*pactum unionis civilis*)...is essentially different from every other in the principle of its institution (*constitutionis civilis*). The union of many for some (common) end (that all of them have) is to be found in any social contract; but that union which is in itself an end (that each ought to have) and which is therefore the unconditional and first duty in any external relation of people in general, who cannot help mutually affecting one another, is to be found in a society only insofar as it is in the civil condition, that is, constitutes a commonwealth. [TP 8:289]

Therefore, grounding political association in an end other than “the unconditional and first duty” of being under the coercive power of public law makes “every lawful constitution insecure” [TP 8: 306]. This is so because, according to Kant, it will require the people to retain a *right to judge* whether the discretionary end underlying the social contract has, according to them, been fully achieved. From this we can claim that Kant rejects instrumental views of political association by means of two complementary arguments: a critique of happiness as a principle of public legislation on the one hand, and a critique of the instrumentalization of the social contract, as grounded in a discretionary end other than its own unity.

⁶ See Wolff, C. (1758) *Principes du droit de la nature et des gens, extrait du grand ouvrage latin*, (ed.) M. Formey, Tome Premier. Caen: Centre de philosophie politique et juridique. Cf. Moggach, D. (2009) ‘Freedom and Perfection: German Debates on the State in the Eighteenth Century’, *Canadian Journal of Political Science*, Vol. 42 (4).

⁷ Being able to *will* in accordance with the general will, to guarantee the cohesion of the political body, requires for Rousseau a deep qualitative transformation in our ordinary conception of what is merely particular in willing into what is truly general. Interestingly, Rousseau described this transformation in terms of a process of purification, “transforming each individual who by himself is a perfect and solitary whole into a part of a larger whole from which that individual would as it were receive his life and his being”. Moreover, this change in human nature presupposes that these “natural forces” in us “are dead and destroyed, [so] the greater and more lasting are the acquired ones” making political association between equals a more solid and lasting experience. Cf. Rousseau, J. J. (1969) *Émile*, in *Oeuvres Complètes*, Paris: Bibliothèque de la Pléiade, p. 851; Rousseau, J.J. (2012). *The Social Contract and other later political writings*, V. Gourevitch (ed.), Cambridge: CUP, Book II, chapter 7.

My interest in reconstructing this critique is motivated by the use Kant makes of it in his political writings of the 1790s, against the backdrop of the revolutionary events in France. In this context, Kant's concern with the "ill-effects" of taking happiness as a potential principle of public legislation, was aimed to alert us of the political, and potentially revolutionary implications, of the politicization of the notion of happiness in the context of questions about right and obligation. Kant identified in *instrumental* accounts of political and ethical perfectionism as the kind represented in Wolff and in Rousseau, an unjustified appeal to a conception of wellbeing or of the common good, which made the constitution ("*pactum unionis civilis*") not an end in itself, but a mere means to the pursuit of some instrumental end. When it comes to public right, Kant affirms, "what is under discussion here is not the happiness that a subject may expect from the institution or administration of a commonwealth but above all merely the right that is to be secured for each by means of it" [TP 8:298].

To be sure, Wolff and Rousseau would not deny that the state is the sphere where rights are to be administered and secured. What Kant is objecting to, however, is the idea that there is some ulterior end that the state must promote over and above the administration and safeguarding of the principles of right. For Rousseau, in contrast, the end of the state is to promote "what forms the social bond, and if there were not some point on which all interests agree, no society could exist".⁸ The state is deemed as the safeguard of the common good, a process that relies on the progressive transformation of the individual from her own particularities, into the common interest of the whole. In a similar vein, for Wolff the end of political association is also clear: "Do what makes you and your condition, or that of others, more perfect; omit what makes it less perfect".⁹ For this tradition of moral and political perfectionism, the '*salus publica*' of the state is judged in terms of the enjoyment of "sufficient means of subsistence, peace, and security" from the part of its subjects. Specifically on the issue of political obligation, Wolff defends a right of resistance based precisely on the standard of material welfare entailed by natural law. A corollary of this eudemonistic conception of politics is, therefore, a commitment to a theory of resistance as "consequentialist" in nature: for Wolff, political obligation can be suspended, and a right of resistance invoked, if the "the state's purpose, which is to promote human perfection" has been judged negatively. This value of perfection, as Maliks rightly concludes, "must assume obligation to the ruler to be conditional."¹⁰

⁸ Rousseau, J.J. (2012), Book II, chapter i.

⁹ Christian Wolff in *Deutsche Ethik* §15; 336, quoted in Bacin, S. (2017) *The Cambridge History of Moral Philosophy*, (eds.) Golob, S. & Timmermann, J., Cambridge University Press: Cambridge, p. 386.

¹⁰ Maliks goes on to defend a moral right of resistance in Kant, based on a relational account of law. He contrast this relational theory of resistance to its consequentialist alternative in mid-eighteenth-century legal and political philosophy, most clearly represented by Christian Wolff's

In contrast, Kant is departing from both an instrumental understanding of the social contract as a means for the pursuit of the common good in Rousseau's sense, and from the natural law version of this instrumental approach to the state, represented in Wolff's moral perfectionism, and in his specific commitment to a principle of material wellbeing. For Kant, the unsuitability of the principle of happiness for public legislation is a "common illusion" well-intended authors seem be prone to, like under the effects of a spell. In contrast, one must rightly see that being a subject under coercive laws, united under the concept of right, is a type of union

...which has no regard for any empirical ends (all of which are comprehended under the general name happiness; for, since people differ in their thinking about happiness and how each would have it constituted, their wills with respect to it cannot be brought under a common principle. [TP 8: 290]

A corollary of this critique is found in Kant's Hobbesian claim that in establishing a state, we give up the coercive right to judge in accordance with our own conceptions of what is right and what is just. I will discuss this issue in more detail as we progress, but it is important to note from the outset that Kant's preoccupation with an alleged *coercive right* to judge the legitimacy of the state, does not preclude him from invoking a right to express grievances against the sovereign, under the spirit of freedom of expression and the freedom of the pen.

In sum, people's radical disagreement about happiness "and how each would have it constituted", cannot serve as the adequate end of political association. Eudaimonistic perfectionism, or the *ethos* surrounding a defense of the common good, reduce the state to a mere instrumental kind of association, prone to disagreement. The end of political association must be the juridical conditions itself, even if being a subject to such a condition does not enhance our subjective idea of wellbeing.

3. THE "NEW IDEA OF HAPPINESS" IN THE FRENCH REVOLUTIONARY CONTEXT

Before turning to Kant's specific discussion of the ill-fitted nature of happiness as a principle of legislation, it is worth looking at the context surrounding the idea of happiness in public discourse, particularly in relation to the events in revolutionary France.

In an unusual historical reference, Kant mentions Georges Danton, one of the master-minds and leader of the Committee of Public Safety in France during the crucial years of the Reign of Terror (1793-1794). He targets him as a

moral and political perfectionism. Cf. Maliks, R. (2018) 'Two theories of resistance in the German Enlightenment', *History of European Ideas*, 44:4, pp. 452; 454.

representative of a propensity, made up of two interrelated mistakes: first, of incurring in the “common deception” of taking a principle of right for a principle of happiness, and second, in making the mistake of assuming that if a historical origin of the state is not to be found –which it cannot since the original contract is an *a priori* idea of reason with practical reality- then, “as Danton would have it, declaring that since [the original contract] does not actually exist, all property and all rights under the existing civil constitution are null and void” [TP 8:302]. This accusation is remarkable, both for the rare allusion to a historical figure¹¹, and for the mixture of both *a priori* and empirical insights working together in one single argument. This way of thinking about right and the original contract, leads one to think that the contract is open to be questioned, and consequently, its legitimacy lies not in the *a priori* nature of the original contract as an *idea*, but rather in the coercive right of the people to retain judgment over its performance. The practical, and according to Kant, revolutionary consequences of this way of thinking, result in the threat of abrogating all constitutions that fall short in the eyes of the people, and the hardships –most commonly involving violence-, of establishing a new social contract from scratch.

The reference to Danton is troubling, partly because he was not particularly a man of letters or a systematic ideologue worth referring to in this context, and partly due to the fact that his most famous speeches, including his own defense before the Revolutionary Tribunal in April 1794 leading to his decapitation¹², are mostly concerned with the political factions and the progressive radicalization of the revolution, rather than a systematization of the revolution’s philosophical principles. Factionalism, counter-revolutionary sentiments and suspicion were the matter of Danton’s speeches, all of which paved the way to the Terror, when all disagreement “finally look[ed] like plot.”¹³ However, Kant’s appeal to Danton has been further clarified by Gianluca Sadun Bordoni’s thorough reconstruction both of the specific speech Kant seems to be referring to –Danton’s speech on the inauguration day of the *Convention nationale* and the Proclamation of the Republic of France on 21 September 1792–, and of the second-hand interpretation of the speech Kant may have accessed, written by Christian Martin

¹¹ In an attempt to clarify this unusual reference to Danton, the editors of the Cambridge edition of Kant’s works note Heinrich Maier’s suggestion that “either Kant or a newspaper report attributed to him what had been said by someone else, perhaps Robespierre”. Mary Gregor and Allen Wood (1999), p. 623. However, as I will discuss shortly, Gianluca Sadun Bordoni has offered an important contribution to this issue, by thoroughly tracing plausible evidence to the claim that Kant did, indeed, intend to refer specifically to Danton. Cf. Sadun, G. (2020) ‘Kant and Danton’, in *Kant Studien* 111(3).

¹² Danton, G. (1928) *Voices of Revolt. Speeches of Georges Jacques Danton. Volume V*. International Publishers: New York.

¹³ Bien, D. (1990) ‘Francois Furet, the Terror, and 1789’, *French Historical Studies*, Vol. 16, No. 4, p. 778.

Wieland, founder of the journal *Neue Teutsche Merkur*, in a piece titled “Die französische Republik” in September 1792.¹⁴

By approaching the ‘Danton passage’ in its due context, I suggest it should be read in close relation to the critique of happiness that immediately preceded it. As I have argued so far, happiness plays a central role in Kant’s accusation against revolutionary minded thinkers, and it is from this perspective that someone like Saint-Just seems to me to be a more fitted target to embody Kant’s concerns. A radical ideologue during the Jacobin Terror, Saint-Just placed the idea of happiness center stage, as expressed in one of his many reports to the National Convention in the name of the Committee of Public Safety on the 3rd of March 1794 titled “Le bonheur est une idée neuve en Europe” (“*Happiness is a new idea in Europe*”). I acknowledge that this report is published six months *before* Kant’s *Theory and Practice* essay, where the passages that concern is here appear. But I think we are on safe grounds in saying that the revolutionary ideas that Kant is criticizing cannot be attributed to one single mind, be it Danton or Saint-Just, or to one single speech. This all-encompassing mentality –the “illusion” and “deceitful” way of thinking about politics as a revolutionary enterprise– was, therefore, in the air. What I want to suggest is that Saint-Just’s defense of this “new idea of happiness” could be also in the background of Kant’s remarks.

Exalting the prideful destiny of the “French people”, and alerting neighboring countries in Europe of the spread of the revolutionary spirit, Saint-Just speaks in the name of the people when he says: “May Europe learn that you no longer want an unhappy person or an oppressor on French territory; may this example bear fruit on earth, may it spread the love of virtues and happiness. Happiness is a new idea in Europe.”¹⁵ Saint-Just is speaking rhetorically when he defines happiness as a “new” idea in Europe, and cannot be expected to be understood literally. What is relevant from a Kantian perspective is rather the politicization of happiness as the proper end of just and emancipatory forms of political association. In defining happiness as a political end, a conceptual pairing is drawn between oppression and unhappiness, on the one hand, and liberation and happiness on the other. Liberation understood in terms of public happiness becomes key to justify the use of revolutionary methods.

What interests me here is to highlight how Kant identified this way of thinking in direct relation to the French Revolution, evidenced by his unusual reference to Danton as a representative, although not the most evident one. What he identified was the rising tendency to politicize the role of happiness, and the particular way

¹⁴ Sadun goes a step further in speculating that, despite a lack of clear evidence, Kant must have had access to Danton’s speech published in full, alongside other revolutionary speeches, in *Moniteur*, a journal closely followed by enthusiasts of the revolution in France such as Schiller. Sadun, G. (2020) ‘Kant and Danton’, in *Kant Studien* 111(3), pp. 506-507.

¹⁵ Saint-Just, L.A. (1834) *Ouvres de Saint-Just. Représentant au Peuple a la Convention Nationale*. Prévot, Libraire-Editeur: Paris, pp. 217-218.

this idea leads to a realist, i.e. factual, interpretation of the social contract, as a historical event that can be revoked and established anew if the people judge it so. Seeing happiness as “a new idea” and as the engine of radical change, incorporated a *subjective* element into the legitimacy of the state. In light of Kant’s critique of instrumental views of the state, a politics aimed at the happiness of the people in the way Saint-Just portrays it, risks making all constitutions insecure. Moreover, defining liberation from oppression in terms of the achievement of the collective happiness of the body politic is faced, from the interpretation we are here defending, with two inescapable difficulties: either there is a single conception of what makes the people happy, in which case individual views on the matter are necessarily subjected to that of the whole, or we allow for a multiplicity of versions of wellbeing, thereby accepting the consequences of radical disagreement over the proper end of the state. Both cases seem to me to be rooted back to the same, fundamental difficulty Kant has been trying to object to all along:

With respect to the former (happiness) no universally valid principle for laws can be given. For both the circumstances of the times and the highly conflicting but always **changing illusion** [*veränderliche Wahn*] in which someone places his happiness (though no one can prescribe to him in what he should place it) make any fixed principle impossible and [happiness] in itself unfit to be a principle of legislation. [TP 8:298, my emphasis in bold, italics in the original]

As this passage clearly shows, the ever-shifting nature of happiness prevents it from being a stable enough ground for universal and public legislation. Moreover, even if a variety of conceptions of happiness working in concert –a sort of “universal happiness”¹⁶ conception- could be made suitable for public legislation, the fact that individuals cannot have a unified conception of *their own* conception of happiness let alone that of *everyone* from a universal point of view, makes this second alternative a nonstarter. Referring to this radical indeterminacy of happiness as a “changing illusion” in the above passage fits well with the kind of “common deception” that Kant is adamant to attribute to revolutionary minded thinkers like Danton, or even Saint-Just.

That happiness can never be a stable ground for legislation, be this political or ethical, brings to mind Kant’s anti-eudaimonistic arguments in the *Groundwork of the Metaphysics of Morals*. “The concept of happiness”, he says, “is so

¹⁶ A universal conception of happiness was already rejected by Kant in the *Critique of Practical Reason*, on the grounds that it could never be a proper object of cognition, due to its indeterminate and ever-shifting nature. “The principle of happiness” he tells us, “can indeed furnish maxims, but never such as would be fit for laws of the will, even if *universal* happiness were made the object. For, because cognition of this rests on sheer data of experience, each judgment about it depending very much upon the opinion of each which is itself very changeable, it can indeed give *general* rules but never *universal* rules, that is, it can give rules that on the average are most often correct but not rules that must hold always and necessarily” [CPrR 5:26, emphasis in the original].

indeterminate a concept that, even though every human being wishes to achieve it, yet he can never say determinately and in agreement with himself what he actually wishes and wants.” [G 4: 418] We can see here an interesting parallel between Kant’s moral and political philosophy: just as in the case of individual action happiness cannot serve as a determinate principle for grounding what is the morally right thing to do, it is equally ill-suited to ground the universal and public nature of political legislation, one capable of guaranteeing that “what belongs to each can be determined for him and secured against encroachment by any other.” [TP 8: 289] Hence, judging which laws are either inductive or detrimental to the happiness of the subjects of a state is reserved for Kant only to “the supreme power.” A head of state, he says, “must be authorized to judge for himself and alone whether such laws pertain to the commonwealth’s flourishing...not in order, as it were, to make the people happy against its will but only to make it exist as a commonwealth” [TP 8: 299].

4. THE REVOLUTIONARY ‘DECEPTION’ AND TRANSCENDENTAL ILLUSIONS

It is against this historical background, and in the context of his critique of eudaimonistic and instrumental views of the state, that Kant couches his diagnosis of what he takes to be the *nature* of the mistake incurred by revolutionary thinkers. To recapitulate, the “propensity” of so many “well-meaning authors to take the people’s part” lies for Kant in two, interrelated causes. On the one hand, “the cause of their doing so is in part the common deception, when the principle of right is under discussion, of substituting the principle of happiness for it in their judgments”. On the other hand, and in strict relation to what has been said previously, there is a propensity to think that “where there is to be found no instrument of an actual contract submitted to the commonwealth, accepted by its head, and sanctioned by both, [the people] take the idea of an original contract, which is always present in reason as the basis [of a commonwealth], as something that must actually have taken place, and so think they can always save for the people authorization to withdraw from the contract as it sees fit” [TP 8:302].

One could think that incurring in the first mistake, namely that of the “common deception” of taking the principle of right for a principle of happiness, does not commit us to the second mistake, namely that of defending a realist, i.e. factual, interpretation of the original contract, and hence of defending a coercive right of the people to judge “whether the contract has been grossly violated”. However, I think that Kant’s diagnosis of the revolutionary mentality requires the presence of *both* of these errors working in tandem, since the illusion of thinking that subjective idea of happiness can serve as an objective ground for legislation, is precisely the criterion against which the people, thinking of themselves in

possession of a coercive right to judge the legitimacy of the social contract, will judge and act. If their subjective conception of happiness has been “grossly violated”, then an alleged coercive right of rebellion becomes justified.¹⁷

However, what goes unnoticed, and my point of concern in this section, is Kant’s peculiar way of advancing his critique by way of an identification of a propensity or a tendency [*Hange*] in authors such as Achenwall and allegedly Danton, to think that the rightful grounds of a social contract are, in some fundamental way, open to be judged and possibly destroyed. The fact that Kant speaks here of a “propensity” seems to suggest that it is something widely thought about, or at least something we find difficulty in avoiding, and over which we have little control. Relatedly, the revolutionary and possibly violent implications of this tendency to judge the legitimacy of the state from the perspective of its outcomes, seems to imply, in contrast to the above, that it is actually an *intentional* kind of propensity, consciously directed at the fulfillment of specific political and social ends, namely, the overthrowing of the present constitution in the name of one that better fits the expectations of the people.

But, what is the cause underlying this tendency to make “rightful constitutions insecure, and to judge the state from the perspective of outcomes and not from the point of view of the rightfulness of its form? Kant attributes this tendency to a “common deception” [*gewöhnliche Täuschung*] that he recognises at the heart of the instrumental views of the state in their two-fold commitment to the state as a means and not as an end in itself, and to the characterisation of the ultimate end of the state as involving some kind of conception of the welfare of its subjects. What particularly interests me is Kant’s way of portraying the politicization of happiness as a mental-cum-psychological mistake, a type of self-incurred illusion or mislead belief, all of which give potential meaning to the complex notion of *Täuschung*.

I believe that something important gets lost if we ignore Kant’s specific choice of words in this context. Kant’s use of the term *Täuschung* to convey his critique of instrumental politics, has been translated into English in ways that miss the very particular error he is trying to track here. In the most canonical translations into English, *Täuschung* appears as a “usual fallacy” or as a “common mistake”.¹⁸ These translations are well in the vicinity of Kant’s original meaning, and it is not my interest here to dwell on a philological point. Rather, what I want to draw our attention to is Kant’s particular way of identifying a very subtle yet significant way of thinking about politics, that was emerging in the context of the revolutionary events in France, and one which will turn out to have a pivotal influence on his

¹⁷ I appreciate an anonymous reviewer of this journal for pressing me to specify the relationship between this first and the second clause of this passage.

¹⁸ H.B Nisbet’s translation in (1991) *Kant’s Political Writings*, and the Cambridge Edition to the works of Immanuel Kant (1999) respectively.

immediate intellectual followers. This way of thinking about the people's right to judge with force over their own conception of happiness and public wellbeing is, I argue, better captured by the psychological undertones of the notion of "deception", and the clearly negative weight that comes with it. In this sense, I take issue with the two translations mentioned above in that neither of them seems to capture the way in which, taking what is right for what we judge will make us happy, is not just a 'mistake' in reasoning, or the result of a logical 'fallacy', but rather an intentional form of self-deception by those who want to deliberately disregard the nature of political association as a union made not "for the happiness that a subject may expect from [it]" but instituted with the sole aim of protecting and preserving "the right that is to be secured for each by means of it." [TP 8:298] The resistance to accept the state as an unconditional end, and the corollary duty to obey it, is yet another revealing implication of Kant's choice of the word *Täuschung* in this context, as not only a self-incurred deception, but an illusion that poses a resistance to see clearly into the foundation of right.

What a closer reading reveals instead is, how Kant is using a crucial notion his doctrine of transcendental illusions in the *Critique of Pure Reason*, in the context of his political thought. In his theoretical philosophy, Kant argues that as human beings with both the faculty of understanding and of reason, we are "subject to an *illusion* from which it is very hard to escape" ("*Es liegt indessen hier eine schwer zu vermeidende Täuschung zum Grunde*") [CPR B 305, my emphasis in bold] Kant's theory of transcendental illusions to which reason falls prey in its theoretical activity is complex, and goes beyond the limits of our discussion here. However, I think it is revealing to see that Kant reverts back to this notion at work in his theoretical philosophy, when trying to explain a tendency in the practical and political sphere. In the theoretical realm, there are broadly two types of illusions: one carried out by the understanding in its illegitimate application of the categories to things in themselves as presented in the Transcendental Analytic. This illusion amounts to thinking that the pure concepts of the understanding have a meaning when thinking about "intelligible entities (*noumena*)" and thereby "can be a way of knowing them" [CPR B 305]. A second form of illusion, discussed extensively in the Transcendental Dialectic, seems to arise from a realist interpretation of the principle of reason that commands us to seek for the unconditional in all chain of conditions. This illusion consists therefore "in our taking the subjective necessity that there be unity of thought to be an objective necessity extending to objects".¹⁹

In relation to our discussion, I argue that the underlying logic of these illusions in the theoretical use of reason strongly resonates in Kant's political appropriation of the notion of *Täuschung* in his practical philosophy. By mistakenly taking the principle of happiness in the context of right, we erroneously apply a subjective

¹⁹ Grier, M. (1993) 'Illusion and Fallacy in Kant's First Paralogism', *Kant-Studien* 83, p. 7.

principle to a sphere that it is not proper to it, in analogy to the illegitimate extension of the concepts of the pure understanding beyond the realm of appearances and into the realm of things in themselves. Equally, the “deception” conveyed by *Täuschung* in its political version, points to an illusory substitution of the principle of right as an objectively valid principle, with a principle of happiness which is merely subjectively valid, in the same way we take the subjective necessity of reason to seek for the unconditioned, as an objective necessity intrinsic to the reality of things.²⁰

As a way of summary, my incursion into this discussion has been motivated by two reasons: first, aware of the differences between his theoretical and his practical philosophy, it is however interesting to see Kant’s specific use of the idea of deception as *Täuschung* in his political philosophy, to characterize a mistake he deems “common” amongst the people and the learned alike. In light of the central role this notion played in his doctrine of the transcendental illusions of reason, I argue that putting it to work in the context of his critique to the principle of happiness in politics, reinforces the idea that there is a tendency to extend the principle of happiness *beyond the limited, and thereby subjective sphere, of our private desire for wellbeing*. This illegitimate extension from the realm of what is *private* to the realm of what is *public*, seems to me to mirror the illegitimate extension of the concepts of the understanding beyond their restrictive, transcendental use. The former extension is illegitimate in at least two ways: first, it disregards that the civil union as the “external relation of people to one another” has “nothing to do with the end that all of them naturally have (the aim of happiness)” [TP 8:290], and secondly, it ignores that this natural claim to happiness “absolutely must not intrude in the laws of [the civil union] as their determining ground” [ibid].

Second, my appeal to the analogy this discussion bears with the theoretical philosophy, allows me to show how Kant’s so-called inevitability thesis,²¹ according to which the illusions of reason are inevitable and somehow ‘wired’ into reason itself, in the case of the political “deception”, this mistake does not serve the same kind of regulative role Kant attributed to reason’s theoretical entanglements. In stark contrast, the practical and possibly violent implications of his “common deception”, should guard us against this kind of illusion, and keep us away from thinking that its consequences are in any way inevitable, or unavoidable.

²⁰ I am grateful to an anonymous reviewer of this journal for offering this second suggestion.

²¹ Grieg, M. (2001) *Kant's Doctrine of Transcendental Illusion*, Cambridge University Press: Cambridge, pp. 4-8; Cf. Wood, A. (1978) *Kant's Rational Theology*, Ithaca: Cornell University Press, p. 62.

5. PUBLIC AND UNIVERSAL LEGISLATION

I have argued so far for the interpretative benefits of reading the ‘Danton passage’ in *Theory and Practice* in the context of Kant’s more global critique of eudaimonistic politics on the one hand, and his concern over the specifically revolutionary implications of this approach to politics on the other. In this section, I want to present a further set of systematic reasons that further explain why a private and subjective criterion of happiness is, as Kant states, ill suited for public and universal legislation.

The contrast between a private and public perspective on legislation is instructive here. For Kant, when the principle of happiness operates as an alleged principle of legislation, despotism and rebellion appear hand in hand: “The sovereign wants to make the people happy *in accordance with his concepts* and becomes a despot; the people are *not willing to give up their universal human claim to their own happiness* and become rebels” [TP 8: 302, my emphasis]. Note that, in both the case of the sovereign and of the people, there is a shared appeal to a private and subjective conception of happiness. Even more relevant to my interpretation, the tendency of the sovereign to become a despot, and of the people to become rebels, is explained in terms of their mistaken appeal to subjective and private concept or claim: to their won happiness”. This undesirable state of affairs is linked back to the error of taking one’s *own* criterion of wellbeing as the ground for universal legislation on the part of the sovereign, and as a universal criterion to constrain the authority of the sovereign on the part of the people. As we saw in the case of the dogmatic metaphysician in the theoretical philosophy, who is under the illusion of taking appearances for things in themselves, the dogmatic despot takes his private conception of happiness for a legitimate principle of public and universal legislation in the name of all. Equally, what the rebels defend is their subjective conception of what makes them happy, extending it beyond the limits of their individuality.

Moreover, Kant thinks about these issues by appealing to the distinction between a unilateral and an omnilateral perspective on legislation. By violently abrogating the constitution, if from the perspective of the people’s unilateral judgment the contract has been grossly violated, this way of seeking their rights commits the people to a unilateral form of violence that makes any form of public legislation insecure. As Kant states it, “if laws are possible only on the basis of private choice [*ex arbitrio privato*] (one against all) they are violent, and therefore, despotic” [*Remarks on Achenwall*, 19: 346]. Only an omnilateral perspective, capable of legislating for all and not for “one against all”, can overcome the despotism of this kind unilateral assessment on the legitimacy of legislation.

Two implications follow from this analysis: first, a private conception of happiness can never be the ground for omnilateral legislation, the only legislation capable of securing that the freedom of each “is in harmony with the freedom of

everyone insofar as this is possible in accordance with a universal law.” What makes this “thoroughgoing harmony possible”, in contrast, is an appropriately constituted omnilateral will, with the power to abstract from all particular and private views of wellbeing, and to legislate only the *form* that makes “the external law harmonizing with everyone’s freedom” possible [TP 8:290]. Second, thinking otherwise involves a kind of deception to the extent that it takes a unilateral, and for that matter, private perspective on what I think makes me happy, or some, or a few, will constitute a universally endorsed standard for legislation. More pressingly for Kant, taking what is private for what is public “has ill effects in the right of a state, as it does in morals” as far as it takes what is indeterminate, unilateral, and ever-changing, for what is determinate, omnilateral, and a priori, namely, “the coalition of every particular will within a people into a common and public will” [TP 8:302; 297].

By understanding political legislation in terms of an public will, whose origin is not open to scrutiny [TP 8:297], and by defining political association non-instrumentally, Kant is drawing the conceptual interlocking of two distinct arguments: on the one hand, (a) the argument for the legitimacy of political authority, regardless of whether the state had its origin with “an actual contract of submission as a fact” or “power [*Gewält*] came first and law arrived only afterwards”, and on the other hand, (b) the argument that such a form of authority requires unconditional obedience even if the people under such a state have judged their happiness to be severely undermined. It is in the interlocking of these two arguments – (a) the *de facto* legitimacy of authority, and (b) the unconditional duty of political obedience, that reflect more clearly the connection between Kant’s critique of happiness and his critique of revolution. From this I think we are in a better position to see why, for Kant, a right of rebellion would involve a right to judge whether the wellbeing of the people has been justly promoted and defended by the state, and why such a right requires us to retain a right to inquire into the origins of such a state. This inquiry should not in itself threaten the stability of our present and *de facto* states, unless such an inquiry assumes a corresponding *coercive right* to revoke, by violent means, the legitimately constituted sovereign.

6. THE ABROGATION OF JUDGMENT

But what is, after all, so troubling about the idea of appealing to a conception of happiness to see whether our obligations to the state rest in justifiable grounds? What if the people “were to judge in all probability this [legislation as] *detrimental* to their happiness?” Kant’s answer is clear: “There is nothing to be done about it but obey” [TP 8:298]. To the effect that this is Kant’s explicit view, already

endorsed in the famous dictum of his earlier essay *What is Enlightenment?*²², I suggest that we read Kant's understanding of the relationship between the a priori authority of the original contract on the one hand, and his theory of political obligation on the other, in direct relation to his reading of the threats carried by the revolutionary mentality I have so far sketched. According to this reading, revolutions seek to separate the end of the state, i.e. the stability and continuity of itself as a union, from the "unconditional and first duty" of any people who mutually affect one another, to become politically obligated to its coercive laws.²³ Revolutions, therefore, necessarily appeal to a right of judgment based on a standard of happiness, seeking to revoke the unconditional duty of submission to the state. As argued in the previous section, the interlocking of the argument of the *de facto* legitimacy of current states, with the unconditional duty of obedience, rests on Kant's critique of happiness as a principle for public judgment.

It is important to note that, although Kant presents his critique to revolution and the politicization of happiness in a section titled 'Against Hobbes', he is at one with Hobbes in committing to the principle that, once we enter the civil condition, we cannot keep any *coercive rights* against the state, as this would involve a contradiction. The difference with Hobbes lies, however, in Kant's commitment to the claim that the sovereign can still err in his judgment, but can never be said to act unjustly against her subjects. The type of coercive right Kant is most concerned with (just like Hobbes) is that of an alleged right to pass judgment against the sovereign *with force*. He develops this thought in the context of his argument for the transition from the state of nature to the civil condition. According to Kant, the state of nature is primarily characterized by a situation where, in the absence of lawful coercion, "everyone follows his own judgment" since "each has a right to do what seems right and good to [him]" [DofR 6:312]. It is instructive for our purposes here to see the way Kant identifies what is problematic about judgment in relation to political obligation in terms of

²² "Argue as much as you will and about what you will; only obey!" [WE 8:41]

²³ At least two sources make themselves available to ground Kant's theory of political obligation. Subjection to the authority of the state can be grounded either in the rational idea of an *a priori* original contract, or in the natural law notion of original possession in common. On the first reading, "the general will is the product of contractual agreement between subjects to reciprocal recognition of the equal right of each to external objects of their choice". On the second reading, the general will is understood as "an antecedently given legislative authority" grounded in "the idea of original possession in common, and which assigns to each individual their rightful portion of external possessions from the common stock". It is beyond the scope of this paper to deliberate over Kant's relation to the natural law tradition, or to his particular, formalistic conception of the grounds of right. What is important to note here, however, is that inquiring into the origins of the *de facto* authority, raises a question not about what these *grounds* are, but whether they should be open to scrutiny by those who are subjected to their authority. On the two readings see Flikschuh, K. (2000) *Kant and Modern Political Philosophy*, Cambridge University Press: Cambridge, pp. 145-46. ²³

changeable perception of what “seems right and good” to me. The radically unilateral and private nature of judgment on matters of right follows naturally from Kant’s argument against the equally unilateral and private nature of a conception of happiness and wellbeing. The unilaterality of individual judgment in matters of public legislation is here related to an analysis of human nature, according to which human beings are driven by “the unsocial characteristic of wanting to direct everything in accordance with his own ideas” [IUH 8:21, my emphasis]. The “common illusion” comes again to the fore, as a deceitful tendency in revolutionary thought to think that *one retains a right to judge with force*, based on private and subjective longings.

This original conflict of judgment in the state of nature is resolved by entering into the civil condition, and establishing a single, omnilateral voice capable of speaking in the name of all. Casting doubt on the legitimacy of this authority, particularly by revolutionary and violent means, makes conflicting disagreement over matters of justice irresolvable, with the added harm of making this conflict into a permanent state of anarchy. In a slightly more formal version of this train of thought, Kant states that:

[S]ince the people must already be considered as united under a general legislative will before they can pass judgment upon the highest power within the state (*summum imperium*), they cannot and may not pass any judgement other than that which is willed by the current head of the state (*summus imperans*) [DofR 6:318].

As I mentioned before, Kant is remarkably close to Hobbes on this front. For Hobbes, conflicting judgments and opinions over the ‘good’ and the ‘right’ in society, are a permanent source of unrest, and one of the causes of the commonwealth’s dissolution. Disputes among men have a place in the state of nature, where opinions differ “about mine and yours, just and unjust”, and where “everyone decides by their own judgment”,²⁴ all of which are settled once sovereign authority is established. Therefore, rebellion against the sovereign rests for Hobbes in an “original error”, according to which everyone mistakenly claim *for themselves* “the knowledge of what is just and unjust which belongs to the commonwealth”. In doing this, a man does the worst “to undermine human society and the civil life of this world”.²⁵

Aware of the systematic differences between Hobbes and Kant, could we read this Hobbesian “original error” as similar in form to the Kantian “common illusion” of well-meaning authors who think that the people “retain the right to abrogate the original contract at [their] own discretion, if, in the opinion of the people, the contract has been severely violated”? [TP 8:299, my emphasis] Kant’s answer is unambiguous: once the subject has entered the civil condition, he “has

²⁴ Hobbes, T. (2011) *De Cive*, Cambridge University Press: Cambridge, chap. VI, 9.

²⁵ *Ibid.*, chap. XII, 2.

no longer any right to judge how the constitution should be administered” [TP 8:300] even if public grievances in the form of written discontent can be presented publicly to the sovereign. These limited spaces for public dissent, however, do not change the fact that the “lawful supreme authority” has the ultimate right to determine “what is or is not to be publicly just” [DoFR 6:372].

Kant concludes by accepting that the constitution “may be afflicted with great defects and gross faults”, and that it will certainly be in need of significant reforms. But such sources of dissatisfaction, channeled in a judgment carrying popular discontent, involve for Kant an act that “cast[s] doubt upon”, and “perhaps undermine[s]”, the unconditional, and hence irreproachable, nature of obedience [DoFR 6:371-72]. This, he thinks, is at the heart of the revolutionary illusion I have so far sketched.

6. CONCLUSION: FREEDOM OR HAPPINESS? KANT’S LEGACY REVISITED

Kant’s critique of a politics of happiness was a central concern of his writings in both morality and politics. As we have seen, his arguments were rooted in a critique of instrumental views of the state, and in a defense of the primacy of what is universal and public, over what is unilateral and private in matters of legislation. The fact was that, in practice, Saint-Just’s “new idea” of happiness in politics had an extraordinary influence not only over the course of the development of the events in revolutionary France, but also in the way Kant’s immediate followers defended the revolution as a vindication of human autonomy over heteronomous forms of oppression. I want to draw this discussion to a close by showing how the pernicious effects of the “common deception” that Kant had so acutely identified in his writings, was nonetheless endorsed by his immediate followers, albeit in a particular form. When Schelling described the importance that his contemporaries understood the bond between “the revolution in actuality there [France] and the ideal revolution here [Germany]” in his 1804 eulogy to Kant, he was oblivious to the strict connection Kant had drawn between legitimacy and obedience.²⁶ For these post-Kantians, revolution had to be justified in order to make, in Schiller’s words, “true freedom the basis of political association”.²⁷ However, Kant did not theorize the end of the state as a means to an end other than its own stability and continuity, nor would he have understood the idea of making “true freedom” the basis of political association. To be sure, for Kant’s German followers, it was not happiness, but freedom what grounded their defense

²⁶ Schelling, F., ‘Immanuel Kant’, quoted in Yack, B. (1992) *The Longing for Total Revolution. Philosophical Sources of Social Discontent from Rousseau to Marx and Nietzsche* University of California Press: California, pp. 108-109.

²⁷ Schiller, F., *Aesthetic Education*, quoted in Yack (*ibid*), p. 103

of a right to revolution. For Schlegel, to put an example, if a state was run in an abusive and corrupted manner, we were justified in judging it as “a quasi-state, not a genuine form but as a degenerated form of the state.”²⁸ This appeal to judgment, coupled with a commitment to the value of personal freedom, turned out to be a particular, German version, of the revolutionary mentality Kant had so adamantly criticized. As Ernst Bloch tells us, while the French *felt* the notion of freedom, the Germans *conceptualize* it.²⁹

Kant's identification of the French obsession with happiness, and its German appropriation in terms of a moral commitment to “true freedom”, placed him as a theorist of revolution and its causes. The justification of revolution was judged by Kant's followers both in Germany and in France, against the demands of a politically effective conception of freedom and happiness. For Jakob, Erhard, Schelling, Schlegel, and the early Fichte³⁰, man was “justified in rejecting all political institutions that [did] not embody the capacity for autonomy that Kant's critiques have rendered irrefutable”³¹, even against Kant's own warning of the risk of proceeding in this way, by disregarding the a priori interlocking of legitimacy and obedience.

As I have tried to show in this paper, Kant saw deeply into the logic animating the revolutionaries in France by identifying happiness as an idea with political weight for modern revolutions, even if his own followers in Germany made true freedom their preferred goal. In this sense, Kant anticipated Arendt's now canonical interpretation of the French Revolution as involving a “change of direction”. This new direction aimed no longer at freedom, but “the goal of the Revolution had become the happiness of the people”. Saint-Just had spoken of liberation from oppression, but as Kant had already identified, and Arendt later disclosed, the actual events were driven by “the naked forces of want and need.”³²

Despite the fact that Kant was not able to fully observe the practical and historical impact of these ideas, I think we are justified in reading his diagnosis of the ‘revolutionary deception’ as an important building block in a tradition of thought concerned with revolution and its causes. Happiness was, indeed, not a new idea in Europe. What I think Kant identified was, in the words of Raymond Geuss, “that for the first time a systematic attempt was being made to adopt

²⁸ Schelegel, ‘Versuch über den Begriff des Republikanismus’, quoted in Maliks R. (2012) ‘Revolutionary Epigones: Kant and his Radical Followers’ *History of Political Thought*, Vol. XXXIII, No. 4, p. 670.

²⁹ Bloch, E. (1987) ‘Kant's and Fichte's Natural Law without Nature: the A Priori Law of Reason’ in *Natural Law and Human Dignity* The MIT Press: Cambridge, p. 66.

³⁰ For a full reconstruction of their radical views Cf. Maliks, R. (2014) *Kant's Politics in Context*, Oxford University Press: Oxford; Yack, B. (1992) ‘The Discontent of the Kantian Left’.

³¹ Yack (1992) p. 102

³² Arendt, H. (1988) *On Revolution*. Penguin Books: London; pp. 61; 221.

happiness as an explicit social goal in a politically effective way.”³³ What was required to make this idea politically effective was a “standpoint from which some general judgment about the society as a whole can be made, which will be like the judgment the individual was supposed to be able to make about his or her own life as a whole.”³⁴ Extending this private and subjective way of thinking to the political realm, was precisely the kind of “deception” Kant warned us against. His arguments against a politics of happiness remain as present and as relevant as ever.

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CPR	Critique of Pure Reason
CF	Conflict of the Faculties
DofR	Doctrine of Right
G	Groundwork for the Metaphysics of Morals
IUH	Idea for a Universal History with a Cosmopolitan Aim
PP	Toward Perpetual Peace
R	Reflexionen
TP	On the Common Saying: This May Be Correct in Theory, but it is of No Use in Practice
WE	What is Enlightenment?
~	Remarks on Achenwall

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³³ Geuss, R. (2005) *Outside Ethics*. Princeton University Press: Oxford, p. 100

³⁴ *Ibid.*, p. 107

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