ENLIGHTENMENT FUNDAMENTALS: RIGHTS, RESPONSIBILITIES & REPUBLICANISM

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Abstract. This essay re-examines some key fundamentals of the Enlightenment regarding individual rights, responsibilities and republicanism which deserve and require re-emphasis today, insofar as they underscore the character and fundamental importance of mature judgment, and how developing and fostering mature judgment is a fundamental aim of education. These fundamentals have been clouded or eroded by various recent developments, including mis-guided educational policy and not a little scholarly bickering. Clarity about these fundamentals is more important today than ever. *Sapere aude!*

Keywords: Hobbes, Hume, Rousseau, Kant, Hegel, rational justification, mature judgment, moral constructivism, realism, objectivity, rights, responsibilities, republicanism, media culture, Euthyphro question, natural law, Dilemma of the Criterion, practical anthropology.

1. Introduction

Kant's motto for enlightenment, *Sapere aude!*,[1] captures important aspects of how the best of Enlightenment thought was radical in the literal sense of probing the roots of fundamental concepts, principles and institutions, in both the natural and in the moral sciences. About the notion that some phases or aspects of the Enlightenment in contrast to others, and in particular, earlier as contrasted with later periods of the Enlightenment, are properly designated "the Radical Enlightenment" I am doubtful.[2] I can best make my case by highlighting a very fundamental Enlightenment innovation that has been lost beneath the fray: a sound reconception of how to identify and to justify basic, universally valid moral principles without appeal (either *pro* or *contra*) to moral realism. Kant's motto for enlightenment thus also holds for our knowledge and understanding of the Enlightenment, and of enlightenment.

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[1] Kant, *GS* 8, p. 35. Citations methods are explained in the References.

[2] I share these doubts with Zammito [2012].

2. A Fundamental Moral Distinction

Socrates asked Euthyphro whether the pious pleases the gods because *it is* the pious, or is it the pious only *because* it pleases the gods.[3] His justly famous question permutes to related distinctions regarding the good, the right, the just, the virtuous, the permissible, the dastardly or the heinous. The first option represents a moral realism, insofar as the pious is whatever it is, and only thus pleases the gods. The latter option represents a non-realist position, insofar as something is pious only because it is so regarded by the gods. On this latter option, the pious is literally an artefact, be it made by gods or by some other relevant group of cognisant beings. The worry has always been that if basic moral standards or principles are artefacts, then they are also ultimately arbitrary, threatening moral relativism or scepticism. This concern presumes a third thesis, which I shall call

> THE ARBITRARINESS THESIS: If basic moral standards are altogether artificial, they are thus also inevitably conventional, relative or arbitrary, and cannot be universally valid.

Is the Arbitrariness Thesis sound? No. This was the key insight of Hume's theory of justice:

> Though the rules of justice be artificial, they are not arbitrary. Nor is the expression improper to call them Laws of Nature, if by natural we understand what is common to any species, or even if we confine it to mean what is inseparable from the species.[4]

In sharp contrast to his ethical theory, this insight enabled Hume to develop some fundamentals of a natural law theory of justice which is simply *neutral* about issues of moral realism or its alternatives.[5] These fundamentals were developed much more adequately by Rousseau, Kant and Hegel.[6] Their systematic development of what may be called 'Natural Law Constructivism' coincides with their historical chronology.

Considered generally, the constructivist method consists in four steps: For some intended domain, first identify basic, salient elements within it. Second, sort and evaluate these elements. Third, on the basis of the most significant and

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[3] *Euthyphro*, 10.

[4] Hume, *T* 3.2.1.19.

[5] Westphal [2010a].

[6] See Westphal [2010b, 2013a, 2013c, forthcoming].

prevalent such elements, construct adequate principles or theories for that domain by, fourth, using preferred principles of construction. This general constructivist approach can be developed either in theoretical philosophy – as both Kant and Carnap did[7] – or in moral philosophy. The fundamental question about moral constructivism is: If basic moral norms are artificial – if they literally are made by us – to what extent are they for that reason inevitably conventional, relative or arbitrary? The answer depends fundamentally upon the selection of basic elements (Step 1).

Contemporary moral constructivisms focus upon *subjective* basic elements, upon purportedly basic states of awareness or motivational states of agents, such as feelings, sentiments, passions, moral intuitions, subjective responses (to circumstances or to other people), manifest preferences, individual interests, hypothetical contractual considerations or "validity claims" (Habermas' *Geltungsansprüche*).[8] Because these moral constructions build upon subjective basic elements of these kinds, in which individuals' *states of awareness* are basic, the resulting theories can in principle identify and justify moral principles only *for*, and only *to*, agents who sufficiently share these basic elements. Whomever does not share these basic elements, or whomever disowns, denies or rejects them, in principle cannot be addressed by that theory. That is a very fundamental problem with such theories, because such subjective (though allegedly) basic elements vary historically and regionally. Such theories are hapless before the pyrrhonian Dilemma of the Criterion.[9]

The key to identifying and justifying universally valid moral principles, whilst maintaining neutrality about moral (ir)realism, is to appeal to objective basic elements (Step 1) in a constructivist moral theory. Such objective elements include basic facts about our finite form of embodied rational agency and basic facts about our worldly context of action. In this regard two findings by Hobbes are fundamental: (1) Unlimited freedom of action amongst human beings suffices to generate universal mutual interference, thus thwarting all effective free action by anyone. (2) Mere, innocent ignorance amongst human beings about what belongs to whom suffices to generate universal mutual interference, thus

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[7] Kant, *KdrV* A709, 834–835/B737, 862–863, *cf.* O'Neill [1992]; Carnap [1928]. (Noting their parallel in this regard is not to endorse a Kantian interpretation of Carnap's views; Kant's method is also transcendental, Carnap's not.)

[8] Habermas, *Geltungsansprüche* are included because nothing counts as a *Geltungsanspruch* except insofar as someone claims it to be valid or good; see Kettner [2002, 2004, 2008].

[9] Sextus Empiricus, *PH* 2,20, *cf.* 1,116–117; *AD* 1,316–317. I mean specifically the pyrrhonian Dilemma of the Criterion, and not Chisholm's simplified 'Problem of the Criterion', which is too often mistaken for the original; see Westphal [1998].

thwarting all effective use of resources by anyone, including air, water and space. These findings by Hobbes hold independently of issues about human motivation; preoccupation with Hobbes' purported egoism has obscured his central contributions to natural law theory.[10] To these Rousseau rightly added: (3) Those two problems hold only in conditions of relative population density.[11] All three points are fundamental to Hume's, Rousseau's, Kant's and Hegel's Natural Law Constructivism, all of whom recognised: (4) Fundamental moral problems include fundamental problems of social coordination, all of which require in principle for their solution *public*, mutually recognised principles of action, including their institutionalisation as shared behavioural practices. Rousseau first recognised: (5) These fundamental social principles and practices can only be justified as *legitimate*, if and insofar as they recognise and protect the independence of each person by insuring so far as possible that no one acquires the kind or extent of power or wealth, whereby s/he can command the will and action of anyone else.[12] Thus the fundamental question is: Whether, how or to what extent can a constructivist moral theory identify and justify sufficient, universally valid, legitimate principles and practices for resolving these coordination problems, thereby preserving, protecting and enabling effective free individual action? Answering this question is Kant's contribution to Natural Law Constructivism.

3. Kant's Constructivist Approach to Rational Justification

The core of Kant's constructivist approach to rational justification in moral philosophy consists in showing that, for any proscribed maxim or type of action, it is impossible to provide everyone with reasons sufficient to justify so acting. Conversely, for any prescribed maxim or type of action, it is impossible to provide everyone with reasons sufficient to justify omitting such an act. Kant's constructivist approach to rational justification in moral philosophy requires neither agreement nor consensus. Instead it requires the *possibility* of the consistency of our maxims or outward actions in a very specific (though widely neglected) regard. Kant's criterion for the moral status of an action (whether it is

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[10] *Cf.* Ludwig [1998].

[11] Rousseau, *CS* 1.6.1.

[12] Rousseau's social contract "is the condition which, by giving each citizen to his country, secures him against all personal dependence" (*CS* 1.7.8); *cf.* Rousseau [1964], p. 1449, note 1, and Neuhouser [2000], pp. 63–78. Rousseau likewise quotes, approves and affirms: "'In the republic,'says the Marquis d'Argenson, 'each man is perfectly free in what does not harm others.' This is the invariable limit, which cannot be defined more exactly" (*CS* 4.8.30 note).

forbidden, permissible or obligatory) is neither assertoric nor hypothetical, but rather *modal*. Its modality is nicely put by Onora O'Neill:

> When we think that others *cannot* adopt, a fortiori *cannot* consent to, some principle we cannot offer them reasons for doing so.[13]

In this regard 'can adopt' pertains to the capacity of all persons to follow the same principle consistently, in thought and in action, including one's own action on the proposed occasion. What others 'can adopt' is not a question of their psychological preparedness to agree to a principle or to reasons favouring it. Nor is it a question of what motives or reasons for acting a person may have or affirm. What we can consistently adopt, in principle and in practice, is determined by the action--guiding maxim and by basic facts about our finite form of embodied rational agency, including basic features of relevant contexts of action. These contingent factors are included in Kant's universalisation tests by this Principle of Hypothetical Imperatives:

> Whoever will the end, also wills (insofar as reason has decisive influence on his actions) the indispensably necessary means to it that are within his power.[14]

Through his universalisation tests Kant's constructivist approach to rational justification proscribes maxims of deception, exploitation and extortion, but prescribes maxims of rightful possession, honesty, impartial courts and law enforcement as indispensable to us finite human agents. For those proscribed maxims it is in principle not possible to provide to all others – especially not to potential victims – sufficient justifying reasons for such an action, such that they too can without contradiction adopt that maxim and its justifying reasons in thought and in action, including on the occasion on which one proposes so to act.[15] Kant's universalisation tests exclude those maxims because they cannot possibly be adopted by others. This possibility can be indicated by the lack of possible consent, which can thus serve as a criterion of (il)legitimacy. Consent or agreement, whether implicit, explicit or hypothetical, plays no constitutive role in Kant's constructivist approach to rational justification. Kant's approach is constructivist because it appeals to no other, independent or self-sufficient kind of normative justification or authority, whether socio-historical, communal,

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[13] O'Neill [2000] p. 200; *cf.* Westphal [1997] §§4, 5.

[14] Kant, *Gr* 4, pp. 417–418, tr. Paton.

[15] *Cf.* Westphal [1997] §§4–5; O'Neill [2000] p. 200.

conventional, religious, metaphysical, ideological or personal. Instead, Kant's constructivist account of rational justification is rooted in the autonomy of reason, which is both necessary and sufficient for identifying and justifying legitimate fundamental moral principles. Kant's moral constructivism identifies and justifies those basic moral principles to which we are committed – regardless of whether we like, want or affirm them – on the one hand by the rational requirement to determine how to act – and to *act* – on the basis of sufficient justifying reasons, and on the other hand by many features of our very finite form of embodied rational agency and worldly context of action.

4. Morals, Principles *&* Kant's "Practical Anthropology"

Kant maintained that the fundamental principles of morals are pure *a priori* and thus can and must be developed independently of empirical considerations, including anthropology. Equally he maintained that we can only be obligated to do what we are able to do.[16] Determining what we are able to do requires relevant empirical facts, including anthropological facts and perhaps relevant peculiarities (though not preferences or proclivities) of any agent. The relevant empirical facts are anthropological or perhaps characterological, but are not as such *moral* facts. In accord with his Critical principles, developed in the *Kritik der reinen Vernunft*, Kant contends also in the *Grundlegung der Metaphysik der Sitten* that metaphysics, as an *a priori* system of principles, has its proper empirical counterparts, one concerning nature, the other morals. In just this connection Kant indicates in the *Grundlegung* that the counterpart to the *a priori* fundamental principles of morals is a specifically "practical anthropology."[17] Appeal to such an anthropology is required to apply the *a priori* principles of morals *to* us human beings.[18] Kant reiterates this same account in his main work on moral philosophy, the *Metaphysik der Sitten*.[19] The morally relevant anthropological facts concern what we human beings can or must do, including facts about what our worldly circumstances of action allow us to do, and about our many and various limitations and vulnerabilities, *e.g.*, to injury, deception or extortion.

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[16] See Kant, *KdprV* 5, pp. 30, 125.

[17] Kant, *Gr* 4, pp. 388–389.

[18] Kant, *Gr* 4, pp. 411–412.

[19] Kant, *GS* 6, pp. 216–217.

5. Kant's Moral Constructivism is Fundamentally Social

Kant's moral constructivism is fundamentally social because it focuses upon the possibility of sharing sufficient grounds of rational justification amongst *all* persons. I shall speak of the 'sharability' of principles or justifying reasons to indicate that others are able in thought and in action consistently to adopt these principles or reasons, in the sense specified above (§3). By Kant's fundamental principle of morals and its (constructivist) universalisation tests we are obligated to respect *all* persons, ourselves included, as rational agents, that is, as agents who can develop, understand, assess and follow in thought and in action rationally justified principles; this is the central point of Kant's universalisation tests: they test for the sharability of maxims and their justifying grounds amongst *all* persons. Consequently, Kant's moral theory does not need to appeal to any independent premises regarding the purported incommensurable value of rational agency (their dignity, Kant calls this, in contrast to exchange value or price). Nor does his moral theory require appeal to any independent premises regarding the purported "fact" of pure practical reason, that we find ourselves to be morally obligated.[20] This is because regarding and treating all others *as* rational agents is built into the core of Kant's Categorical Imperative and its universalisation tests, because the sharability of principles and justifying reasons is a *conditio sine qua non* of rational justification (in all non-formal domains).[21] Our actions are not coordinated by any natural, transcendental or transcendent being. Consequently, stable and justifiable social constructions – be they linguistic, physical, moral, economic or political – must be based upon and justified by principles and reasons which *all* persons *can* consistently follow in thought and in action.

To identify and to justify such sharable principles and reasons by using Kant's constructivist approach to rational justification requires, as Kant stressed, that we think for ourselves, that we think consistently, that we think without prejudices against others and that we "think from the position of any and everyone else."[22] These methodological maxims are not rules for calculation or inference, nor do they form a method, but they are *conditio sine qua non* for any

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[20] Kant's "fact" of pure practical reason (*KdpV*, §7) concerns, not our specific obligations, but rather our being morally free and hence subject to obligations. For discussion see Wolff [2009], and also note 25.

[21] This important though not generally familiar point is detailed in Westphal [2013, 2014].

[22] Kant, *KdU* §40, *GS* 8, p. 145. I specify prejudices against others. Dorschell [2001] rightly points out that it is impossible to think without prejudices, that is, without pre-judgments. The problem with, *e.g.*, racist or sexist prejudices is not that they are prejudices, but that these prejudices are racist or sexist.

and for all cogent and rationally justifiable thought, judgment and action. Onora O'Neill rightly stresses that these maxims are also conditions for the possibility of communication amongst ultimately *all* persons.[23] Consequently, Kant's constructivist approach to rational justification is fundamentally *social*, because both cognitive claims and moral claims pertain to common, *public* facts and states of affairs.[24] Facts and states of affairs do not suffice to identify or to justify normative principles, nor maxims of action, though they are necessary for so doing (§4).

Actually to follow these maxims of cogent, justifiable thought – in contrast to merely affirming that we wish to, or merely believing or claiming that we do – requires that we can identify and assess our own presuppositions, so that if need be, we can at least temporarily disregard them, in order at least to understand others' perspectives. This is to say, following those maxims requires our engaging in effective, constructive self-criticism. Effective, constructive self-criticism involves mature judgment, which involves these abilities: (1) To discern and define the basic parameters of a problem, (2) To distinguish relevant from irrelevant and more relevant from less relevant considerations bearing on a problem, (3) To recognize and to formulate important questions and sub--questions which must be answered in order to resolve a problem, (4) To determine proper lines of inquiry to answer those questions, (5) To identify historical or social factors which lead people – including ourselves! – to formulate questions or answers in particular ways, (6) To think critically about the formulation or reformulation of the issues, (7) To consider carefully the evidence or arguments for and against proposed solutions, (8) To accommodate as well as possible the competing considerations bearing on the issue, (9) Through these reflections and inquiries to resolve a problem so far as possible, and (10) To organize and to present these considerations clearly and comprehensively to all interested parties. Finally (11), because we are fallible rational agents, mature judgment requires judging one's own results thus: "So far as I now understand this issue, and so far as I now am able to understand it, this conclusion is justified by these grounds (reasons, evidence, analyses, principles, methods *etc.*) and in these regards. What do you think (of how and how well I have reasoned about it)?"

Mature judgment – and it alone – enables us to examine, assess, evaluate and properly to use facts, principles, analyses, evidence or claims, be they our own

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[23] O'Neill [1989] pp. 24–27, 42–48.

[24] *Cf.* Kant, *KdU* §21.

or others'. Exercising mature judgment – and it alone – enables us to examine reasoning constructively, and either confirm or improve it, in our own case and for others. The pyrrhonian Dilemma of the Criterion is solved by the possibility of constructive self-criticism and mutual critical assessment, though only to the extent that we indeed exercise mature judgment! *That* is constitutive of the autonomy of rational judgment, which can be explicated and justified without recourse to Kant's transcendental idealism, and indeed, for reasons Kant himself provided, though did not fully appreciate.[25]

6. The Modality of Kant's Justificatory Principles

Kant's maxims of cogent thought and my explication of mature judgment are *conditio sine qua non* of any sound piece of justificatory reasoning (in non--formal domains). They are required for specifying and properly assessing and using morally relevant facts pertaining to Kant's practical anthropology. They are also required for determining whether all others *can* adopt one's own maxim and one's reasons for justifying it. In this regard, 'can consistently adopt' differs fundamentally from 'can' or 'would agree to'. Issues of agreement ultimately if indirectly recur to justificatory grounds which agents affirm, accept or hold. Recourse to such ultimately *de facto* holding of reasons cannot avoid the problems a cogent moral theory is to solve or resolve, namely, the apparently interminable, often fractious, even fatal debates about 'basic moral values' or other 'basic moral premises'. Ultimately this weakness also infects Habermas's *Geltungsansprüchen*.[26] Such approaches are, as noted, hapless before the pyrrhonian Dilemma of the Criterion.

The point of Kant's universalisation tests using the Categorical Imperative is to demonstrate that proscribed maxims or actions are such that the very possibility of their sharability, the very possibility of their (or their justifying reasons) being consistently adopted by all others in thought and in action, is either made irrelevant by one's own exercise of power (*e.g.*, in cases of extortion, exploitation, violence or seizure of power), or must be avoided in order to act effectively upon one's own maxim (*e.g.*, to lie, deceive, swindle or steal). These results are achieved, not by Kant's *a priori* fundamental principle of morals (the Categorical Imperative) *alone*, but also by appeal to practical anthropology, insofar, *e.g.*, as we are not the kind of rational being Kant considers at the end of

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[25] Westphal [2012a]. Consequently, Kant also does not need to appeal to any "fact of reason" to justify his claim that we are free to judge and to act accordingly.

[26] See Kettner [2002, 2004, 2008].

his *Anthropologie*, who are incapable of any thought which they do not at once speak aloud.[27] Such agents cannot deceive one another, because any such attempt they can make only by announcing their intent to deceive when making the attempt, thus directly undermining both their intent and their attempt – provided they are indeed rational, intelligent and so not hopelessly gullible beings.

Publicity of reasons and reasoning is fundamental to Kant's moral philosophy, both in principle and in practice, insofar as it is fundamental to the sharability of principles, maxims, reasons and (we shall now see) public policies, and insofar as it is fundamental to individual autonomy of thought and action. Earlier (§2) we noted that fundamental moral problems include fundamental problems of social coordination, solving which requires in principle publically accepted principles and practices, and we noted Rousseau's insight that these fundamental social principles and practices can only be justified as *legitimate*, if and insofar as they recognise and protect the independence of each person by insuring so far as possible that no one acquire the kind or extent of power or wealth, whereby s/he can command the will and action of anyone else. This same requirement of social and political independence is affirmed by Kant at the outset of his theory of justice, as the sole innate right to

> *Freedom* (independence from being constrained by another's choice), insofar as it can coexist with the freedom of every other in accord with a universal law, is the only original right belonging to every human being by virtue of his or her humanity.[28]

Because a range of fundamental moral problems are problems of social coordination, which require for their solution public, common, mutually sharable, accepted and acceptable principles and their institutionalisation as practices, the possible publicity of a maxim, principle or justifying reason is a necessary condition of its legitimacy, a necessary condition of its being just. This is precisely Kant's point in *Perpetual Peace*:

> All actions pertaining to others' rights, the maxims of which are incompatible with publicity, are unjust.[29]

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[27] Kant, *Anthropologie, GS* 7, p. 332.

[28] Kant, *MdS, GS* 6, pp. 237–238; translation amended, *cf. GS* 6, pp. 236–237.

[29] Kant, ZeF,*GS* 8, p. 381; my translation.

This first Principle of Publicity, Kant notes, although a necessary condition, is not a sufficient condition for the justice or legitimacy of maxims, "because whoever has decisive ruling power need not keep his maxims private."[30] To overcome this limitation Kant introduces a second, positive "affirmative principle of public justice," namely:

> All maxims which require publicity (so as not to fail in their aim) harmonise with both justice and politics combined.[31]

Precisely this kind of publicity is required for and by the fundamental principles of any possible – and for us very finite, mutually interdependent human beings, also necessary – life on earth. These are the fundamental principles of justice, including the principles of rights to possession, republican citizenship, legitimate contract, honesty and integrity.[32] These principles and their corresponding maxims, forms of action and specific acts can only be realised through their publicity. Only by such publicity is mutual interference terminated and replaced by just social coordination. Hence only by such publicity are one's own morally permissible maxims and actions both just and *possible*, in both theory and in practice. To this extent the fundamental principles and practices of morals – not only of justice but also of ethics – are our artifacts. In just this connection we should reconsider Kant's observation regarding maxims of action:

> For if they can attain their end only through publicity, they must accord with the universal end of the public (happiness), and to accord with this (to make the public satisfied with its condition) is the proper task of politics. But if this end shall be attainable *only* through publicity, that is, by removal of all distrust toward the maxims of politics, then these maxims must also comply with the right of the public, in which alone the union of everyone's ends is possible.[33]

This is Kant's own comment upon the second, positive Principle of Publicity just quoted. Other than noting that this principle is transcendental and not empirical, Kant leaves further discussion of this second principle to another occasion. By calling this principle 'transcendental', Kant indicates that it is justified as

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[30] Ibidem, pp. 384–385; my translation.

[31] Ibidem, p. 386; my translation.

[32] Kant's universalisation tests are discussed in detail in Westphal [2010]. His justification of rights to possession I detail in Westphal [1997], *cf.* Rühl [2010], Horn [2014] pp. 196–220. On the right of contract see Byrd & Hruschka [2010], chapters 11–12.

[33] Kant, ZeF, *GS* 8, p. 386; my translation.

a principle of justice, not by appeal to maximal utility. This, however, is a distinction concerning the kind of justification Kant provides this principle; his own comment notes that in this fundamental regard, the requirements of justice and the general desire for felicity coincide. The present essay on enlightenment fundamentals has outlined Kant's Critical justification of this positive principle of publicity.

7. W(h)ither Enlightenment?

Kant is widely believed to have subverted his own republican political principles by defending an absolute duty to obey any actual political authority.[34] Writing shortly after the French revolutionary terror and under political censure, Kant had to express himself carefully. However, Kant's rejection of the right of resistance is entirely (small 'r') republican. Kant's absolute prohibition of resistance or rebellion is defined – and only holds – within his *a priori* 'metaphysical' principles of justice; hence it holds only of fully legitimate states. In principle there can be no right to revolt against, nor to resist, a fully legitimate state – if only there were some! Parallel to this point of principle Kant argues for a very strong, though not unconditional, duty to obey actual political authorities, though these too must be political authorities, and not merely locally or regionally dominant 'protective' agencies.[35]

Those familiar with his theory of justice know there is a fly in Kant's juridical ointment. Like Rousseau, Kant insists that independence – including civil independence – is the sole innate human right (above, §6). Unlike Rousseau, Kant muddied the juridical waters by distinguishing – not in his *a priori* (main) text, but in his (indented) empirical elaboration – between active and passive citizenship and between active and passive citizens.[36] Kant's distinction reflects the common property qualification for voting rights (though perhaps to protect those who must seek employment from others against political pressure by their employers, whether potential or actual).[37] Kant insists that it must be possible to raise one's position from passive to active citizenship.[38] To Kant's disenfranchised, however, belong not only minors and day labourers, but also all women (*alles*

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[34] *E.g.*, Bouterwek [1797, 1799].

[35] See Westphal [1992]. On the important topic of non-ideal political normativity in Kant's views, see Horn [2014].

[36] Kant, *RL* §46, Anm.

[37] For discussion of Kant's distinction, see Weinrib [2008].

[38] Kant, *RL* §46, *GS* 6, p. 315.

Frauenzimmer). How someone can possibly elevate one's status from woman to active citizen Kant does not explain, nor does he explain what in practice would restrain independent merchants from legally securing the political disenfranchisement of day labourers or non-independent artisans.

Massive mythology to the contrary notwithstanding, Hegel adopted and developed much further Kant's transcendental method (whilst dispensing with Transcendental Idealism) and also the Natural Law Constructivism inaugurated by Hume, advanced by Rousseau and refined by Kant. With admirable conclusiveness Hegel rectified Kant's mistake about passive citizens by arguing that, because some possessions and their use are required for freedom, everyone is entitled as a matter of right to some rightful possessions and their use.[39] Hegel further argued that, because the economy, civil society and government control the region of any state, individuals are barred from securing their own life and livelihood independently from some nation state or other. Accordingly, citizens are entitled as a matter of justice to earn sufficient livelihood to *be*, and to be publically *regarded* as, regular contributing members of society.[40] Hegel's is expressly a relative standard of wealth and social opportunity, not a minimum floor of subsistence survival.

In developing Kant's Critical constructivist method for identifying and justifying fundamental, substantive principles (of knowledge and of morals), Hegel demonstrated that the pyrrhonian Dilemma of the Criterion refutes the two most common models of rational justification, foundationalism and coherentism – including the so-called 'method' of reflective equilibrium – and that Kant's Critical constructivism about rational justification, together with his account of the autonomy of rational judgment, suffice to solve that Dilemma. Exactly how is subtle; the main point is: By exercising self-critical judgment and engaging constructively in mutual critical assessment – *i.e.* insofar as we exercise mature judgment – we can assess, and as need be re-affirm, revise, replace or improve the use of any evidence, principles, analyses or methods used in any substantial piece of justificatory reasoning. To the extent that we do this, the pyrrhonian Dilemma of the Criterion is only a sceptical trope.[41] Please note, finally, that the basic moral principles and practices identified and justified by Natural Law Constructivism

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[39] Hegel, *Rph* §§41–46, 49. I have spoken here and above deliberately of rights to possess and use, rather than property, because usufructary rights are identified and justified by Natural Law Constructivism, whereas the further incidents involved in property rights – whether individual or collective – require positive legislation; see Westphal [1997], Rühl [2010], Horn [2014] pp. 196–220.

[40] Hegel, *Rph* §§244, 253 Anm.

[41] Westphal [2013b].

are such that they are easily adapted to a very wide range of social, historical or regional circumstances, with no trace of imposing some 'one size fits all' moral vision upon others.

Readers will have gathered that these reflections on the Natural Law Constructivism and on Kant's Critical method of rational justification are not merely historical. Rights to freedom of thought or action entail responsibilities to think and to act responsibly; such rights and responsibilities require the skills and abilities epitomised above in the explication of mature judgment (§5). It is no accident that John Dewey so closely linked two themes: *Democracy and Education*, which begins with a chapter on "Education as a Necessity of Life."[42] Nor is it coincidence that Thomas Green concludes *Voices: The Educational Formation of Conscience* with a chapter on "The Office of Citizen."[43] Education is a human right, and a requirement for republican citizenship, which requires exercise of mature judgment. Dewey's issues are as vital today as they were a century ago.[44] These aims of education are severely eroded, *inter alia*, by the unbridled glut of media 'culture', so much of which serves to train people by distraction and sensory overload to be nothing but consumers: To what extent has the ancient Roman formula for hegemony, "Bread and circuses," been effectively replaced by "Shop 'till you drop" and by "Sex and drugs and Rock n' Roll"?[45] One of the most central aims of education – the fostering, practice and exercise of mature judgment – is severely eroded also by those government officials and educational administrators who insist ever more upon 'measurable' economic benefits of education or of academic research, thus neglecting – a mere oversight? – that economies exist for the sake of citizens; citizens do not exist only for the sake of their economies. The so-called 'American model' of university administration so touted now in Western Europe is *not* an academic model; it is a business model of micro-management for desk workers,[46] a white-collar counterpart to Taylorism for manual workers. The main moral and political problem produced by mass media and by globalization is that as both complexity

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[42] Dewey [1916].

[43] Green [2003].

[44] Jenlink [2011].

[45] A few years ago I happened to occupy a hotel room overlooking Times Square, where the billboards made overwhelmingly evident that we will never be rid of sexism so long as it remains so very useful to marketers.

[46] See Head [2011], Thomas [2011], Watson [2012], Ginsberg [2011], Schekman [2013]. (Keith Thomas is a Fellow of All Souls College, Oxford, and former President of the British Academy; Randy Schekman is a cell biologist and recipient of the 2013 Nobel Prize for medicine.)

and distraction mount, so do the prospects of evading publicity and 'transparency' in decision-making and in action, whether industrial or political. It is no surprise that such prospects are exploited by those who can.

These are not other people's problems: They are ***our*** problems. Today there are more philosophers than ever before in history, nearly all of whom earn their living as teachers, yet only a tiny fraction of them pay attention to philosophy of education. In his Inaugural Address at the University of St. Andrews, Mill observed that

> Bad men need nothing more to compass their ends, than that good men should look on and do nothing.[47]

This sentiment has been – or until recently had been – popular amongst staunch patriots in the USA. In his nationally broadcast Farewell Address (17 January 1961), US President Dwight D. Eisenhower warned against the dangers of the developing "military industrial complex." Eisenhower was frank about these dangers and about the only possible, entirely (small 'r') republican solution:

> In the councils of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist.
> We must never let the weight of this combination endanger our liberties or democratic processes. We should take nothing for granted. Only an alert and knowledgeable citizenry can compel the proper meshing of the huge industrial and military machinery of defense with our peaceful methods and goals, so that security and liberty may prosper together.[48]

Eisenhower's frank warning directly recalled and urgently updated the 18th-Century watch word of republican liberty, that "Eternal vigilance is the price we pay for liberty."[49] Citizens of the USA did not, however, respond effectively and

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[47] J.S. Mill [1867], *CW* 21, p. 247.

[48] Eisenhower [1961].

[49] This formulation was published for US Independence Day by the Bennington *Vermont Gazette* (8 July 1817, p. 2), likely drawing directly or indirectly upon John Philpot Curran's 1790 speech, in which he stated: "It is the common fate of the indolent to see their rights become a prey to the active. The condition upon which God hath given liberty to man is eternal vigilance; which condition if he break, servitude is at once the consequence of his crime and the punishment of his guilt" (Curran [1811] 2, pp. 235–236), though perhaps both drew from an earlier, as yet unidentified source. In his farewell address (4 March 1837), US President Andrew Jackson put it

constructively to Eisenhower's warning. Although there were genuine external and some internal threats in the mid-20th Century, Cold War hysteria suppressed constructive internal dissent and discussion. The Vienna Circle had originated not only for the sake of scientific philosophy, but also for promoting social progress.[50] As they fled Hitler's Nazis to the USA, they easily recognised the cold, harsh winds blown by Senator Joseph McCarthy and his House Un-American Activities Committee. Only then did Logical Positivists proclaim their entirely scientific aims and interests. The Cold War did not spawn the 20th Century Anglophone reconfiguration of moral philosophy, so as to rank ethics as the primary discipline, and relegate justice no more than incidental status. This reconfiguration, however, proved extremely useful in that ideologically charged era, which substituted for the charge of being 'politically irresponsible' the blanket condemnation of 'being political' – as if such condemnation were not itself a very political act, indeed, a politically irresponsible act with very real political consequences: not only for academic hiring, tenure or policy decisions, or for 'the' philosophical agenda, but in aiding and abetting the demise of constructive, critical political discourse in public about matters of public importance – such matters as those Eisenhower highlighted – thus directly contributing to suppressing the very notion of loyal opposition. The simple question, relevant to any political policy: Who benefits? – was suppressed as treasonous. Much the same effect was achieved in France by opposite means, where the domineering French Communist Party stifled both political philosophy and much of public politics. At least with the passing of the Soviet Union it is now somewhat easier to distinguish Marx the economist and social analyst from his own political misjudgments and especially from the travesties committed in his name.[51] As for the USA, sufficient analysis of US political institutions and their operations were publicly available: re-reading Truman (1951) and Mills (1956) retrospectively in view of the US development first of the atomic and then of the hydrogen bombs details most chillingly the tip of the iceberg to which Eisenhower sought to direct public attention.[52] Mainstream

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thus: "But you must remember, my fellow-citizens, that eternal vigilance by the people is the price of liberty, and that you must pay the price if you wish to secure the blessing."

[50] Carnap only touched on these matters gingerly at the very close of his intellectual autobiography ([1963] pp. 82–84).

[51] For very interesting discussion of Marx's views and their Cold War fate, see Rapic [2014]. I refer to Marx's political misjudgments that capitalism had by 1872 nearly exhausted its effective use of its industrial system, so that major revolutions were imminent in the most industrialised countries; instead, *e.g.*, Upton Sinclair's *The Jungle* [1906] spawned liberal reform rather than socialist (much less: communist) revolt.

[52] On the USA's development of these weapons see Rhodes [1986, 1995].

Anglophone philosophy, especially in the USA, has yet to reckon with itself or to the public about the intellectual and political damages – within philosophy and more broadly – wrought by the Cold War.[53]

Both the principles and the practices of morals, *i.e.,* both ethics *and* justice – exist and are effective only so long as we think and conduct ourselves according to them. So doing requires mature judgment, not only on our part, but also on the part of our students. Mature judgment is one crucial focus of education, especially higher education,[54] and has been since at least the Renaissance. Mature judgment requires care, adequate information, intelligence, good will and breadth of vision – precisely the conditions most eroded by the relentless speed-up produced by academic administrators who demand ever more from ever fewer employees in ever less time. This makes over-simplification inevitable, and with that, also injustices, small and large, direct and indirect. Even algorithms require mature judgment for their development, and for assessing their relevance, adequacy and proper use. In principle there are and can be no algorithms for 'measuring' or for 'rating' either mature judgment or mature judgments. The ever more pronounced governmental and administrative insistence upon 'bibliometric measures', 'impact measures' or 'recognition measures' for intellectual results – whether scholarship, research or other results of trained inquiry – guarantees and indeed hastens the death of educational institutions. This has already had pronounced deleterious effects upon the calibre of peer reviewing of research manuscripts for professional publication, as well as upon graduate training – and competence – in philosophy.[55]

It is not hard to discern the trajectory of these developments: further deterioration, by the sociological law of unintended consequences, if by no other means. According to a weak formulation of the Peter Principle, hierarchical organizations tend to promote employees to their level of incompetence.[56] Presumably, once they reach that level, they are not further promoted. However, the effect of this tendency is ramified by iteration: The cumulative effect of the Peter Principle over time (decades, generations), as promotion decisions are made ever more prevalently by people who themselves have been promoted to their level of incompetence. This tendency has two direct effects: First, it accelerates the

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[53] See Reisch [2005].

[54] Westphal [2012b].

[55] Many current problems with training and competence in the field of philosophy are examined by Haack [2013] pp. 251–257. Attendant problems of over-specialisation, fragmentation and consequent ineffectiveness Haack examines in her [2015].

[56] Peter & Hull [1969] p. 8.

effects of the Peter Principle; second, it supercedes the restraint of the Peter Principle because once promotions are decided by those already above their own level of competence, those they promote can much more easily rise in the hierarchy far beyond their level of incompetence. This Iterated Peter Principle is the (dis-) organizational counterpart of the Law of Entropy; once it takes organisational root, it promotes death by committee. This trend occurs only under certain identifiable kinds of promotion schemes;[57] the problem in academia is that schemes promoting this trend are being instituted, expanded and reinforced by short-sighted management policies and practices, including in many quarters (certainly in philosophy) far too much of the peer review process.[58] The USA is one of the few countries using the model of a liberal arts education; it is vital that what little remains of this model be rejuvenated!

8. Conclusions

The Enlightenment is no more radical than (small 'r') republicanism coupled with the development, exercise and promotion of mature judgment, which is required for any legitimate republic. These principles are practicable, as is demonstrated by the Nordic and Scandinavian countries, though mainstream political culture in the USA has never grasped the Western European notion of a democratic *Sozialstaat*.[59] I have sought to highlight these fundamentals of

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[57] Lazear [2000].

[58] To be sure: I am calling for re-enforcing the integrity of the peer review process, especially pertaining to academic tenure decisions. Precisely because academic posts involve tenure, procedures for granting tenure must be of the highest academic calibre – including teaching and academic administration, as well as research. Current efforts (and effects) to 'streamline' these procedures are fundamentally ill-conceived and untenable. Those concerned about these developments – and this should be all of us – would be well advised to study O'Neill [1986], Tainter [1988], McIntosh, Tainter and McIntosh [2000], Tang [2011], and Tainter and Patzek [2012]. These trends within academia are not at all isolated from similar trends in many other aspects or areas of today's social life.

[59] As was observed, *e.g.*, by the US Ambassador to Germany, in taped interview regarding US attitudes towards former German Chancellor Willy Brandt. Recall, too, during an economic down-turn, then US President Reagan remarked that "We ought to do things like the Germans," *i.e.*, the way the Germans then managed their growing economy – but no Democrat, nor anyone else with media access, leapt to the occasion to explain the workings and virtues of the German *Sozialstaat*. The problem is not that the USA does not know how to run a proper public health care system; the USA runs an excellent public health care system – though only for the military, including veterans, and for the US Congress. Today conservatives in the USA condemn as excessive government regulation basic principles and practices of business accountancy required by justice and accountability, thus reconfirming Keynes's observation that all that is needed for an economic depression is enough time to pass to forget how the previous one occurred. It is one thing if the spy's by-word is "If discovered, admit nothing, deny everything, make counter--assertions;" it is quite another for this to become the main operating principle of a major political

enlightenment by drawing attention to Hume's, Rousseau's, Kant's and Hegel's development of them into a comprehensive, cogent account of rational justification in non-formal domains. Their Natural Law Constructivism identifies and justifies strict, universal, fundamental moral principles without recourse (either *pro* or *contra*) to moral (ir)realism, by appeal to a *sine qua non* of rational justification in non-formal domains – that legitimate reasons and principles can be consistently adopted by all others – and to basic anthropological facts about our finite form of embodied rational agency. Natural Law Constructivism is also independent of debates about whether reasons for action and motives to act are linked intrinsically or extrinsically. In normal cases of healthy, properly educated persons, reasons sufficient to justify an act are strongly linked to motivation so to act. In various cases of immaturity or pathology, they are not. These are educational and social-psychological matters in which philosophy is only marginally competent. Philosophers really ought to know – and to do – better. Replying in 1922 to F. C. S. Schiller's review of *The Analysis of Mind*, Russell exhorted:

> I should take 'back to the 18th century' as a battle-cry, if I could entertain any hope that others would rally to it.[60]

Whatever Russell's hopes may have been, Anglophone philosophers have been all too obliging, to the point that they do not notice the great extent to which 'contemporary' philosophy works within decidedly pre-Kantian, empiricist frameworks, direct descendants of early Enlightenment materialism. Quine persuaded many to accept his claim that analytic sentences are those which are "confirmed no matter what."[61] On Quine's account this sentence is confirmed no matter what: 'Either every observation report is made by a living being, or elves and Vogons exist'. Quine's "crude"[62] approach to meaning (or to his simulacrum for meaning) is as hopeless as previous verificationist theories of meaning, which otherwise rightly went out of vogue. Quine later acknowledged that his notion of analyticity "comes to naught unless we independently circumscribe the 'what may'."[63] Quine's extensionalist logical point of view cannot independently

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party, as it has in the USA since Nixon amongst politicians who misappropriate the misnomer 'Republicans'.

[60] Russell, *CP* 9, p. 39.

[61] Quine [1951] p. 40, [1961] p. 43.

[62] So Blackburn [1984] pp. 160–161.

[63] Quine [1960] p. 65.

circumscribe that vital clause, "come what may." Not only the Cold War, and not only high office, exhibits the phenomenon of group think. Within Anglophone philosophy, critical reflection upon one's own historical context within philosophy largely died when J. S. Mill misunderstood Comte's use of his three-stage law of social development. Mill thought that positive philosophy was established once and for all. In contrast, Comte held that philosophising properly and constructively requires reflectively understanding one's own position within intellectual history – including both the sciences and philosophy – up to and including one's present philosophical-historical context. In this important regard, Comte drew upon and further developed Kant's *Idea for a Universal History with Cosmopolitan Intent*.[64] Kant's moral theory and in particular his universalisation tests continue to be misunderstood by empiricists who mistakenly assimilate Kant's sophisticated form of universalisation with something much simpler, often no more than a logical quantifier. Mistakes such as this are routinely repeated, despite the long availability of good information.[65] It is high time Kant's Critical contributions to enlightenment and to rational justification were treated more justly. *Sapere aude!*

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[64] Kant [1784], *GS* 8, pp. 17–31; on Comte, see Scharff [1995].

[65] *E.g.*, Watson [1881].

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