

Friedrich Schlegel, Essay on the Concept of Republicanism Occasioned by the Kantian Tract 'Perpetual Peace' (1796)

Abstract

Friedrich Schlegel (1772-1829) was a philosopher, critic, and Indologist who, with his brother August Wilhelm Schlegel, was a member of the Jena Circle of intellectuals. His wife, Dorothea Veit, eldest daughter of Moses Mendelssohn, was a well-regarded novelist who converted with him to Catholicism in 1808. This essay, published in 1796, captures the excitement generated by the French Revolution in German intellectual circles. Schlegel's vibrant defense of Republicanism found in the essay – in addition to his residence in Paris from 1802-1804 – indicate the explosive potential that republicanism held among some German-speaking thinkers. Importantly, republicanism was not something limited to the political sphere; Schlegel's essay suggests that the spirit of republicanism even leached into aesthetic analysis as well.

Source

The spirit that breathes in the Kantian essay *Perpetual Peace* must benefit every friend of justice, and even our most distant progeny will admire in this monument the elevated frame of mind of the venerable sage. His bold and dignified discourse is unaffected and candid, and it is spiced with a biting wit and a clever spirit. It contains a rich abundance of fruitful ideas and new insights for politics, morals and the history of humanity. For me, the opinion of the author concerning the nature of *republicanism*, and its relations to other kinds and conditions of the state, was especially interesting. The examination of it occasioned me to think through the subject anew. Hence arose the following remarks.

'The civil constitution', Kant says on p. 99,^[1] 'of every state shall be republican. A republican constitution is founded firstly upon the principle of *freedom* for all members of a society (as men), secondly upon the principle of *dependence* of everyone upon a single common legislation (as subjects), and thirdly upon the principle of legal *equality* for everyone (as citizens).' It seems to me that this definition is unsatisfactory. If the concept of legal dependence already lies in the concept of a constitution in general (p. 99 note), then it cannot be the criterion of the *specific character* of a republican constitution. Since no principle is given for the division of a constitution in general into its various kinds, the question arises whether the attributes of freedom and equality exhaust the complete concept of a republican constitution. Both attributes are nothing positive but only negations. Now since every negation presupposes an affirmation, every condition something conditioned, there must be some attribute missing in the definition (and indeed the most important that contains the ground of the other two). A despotic constitution knows nothing of those two negative attributes (freedom and equality); hence it will be distinct from the republican constitution through some positive attribute. That republicanism and despotism are not forms of the state but of the constitution is presupposed without proof, and a constitution is never defined.^[2]

The suggested deduction of republicanism (as defined above) is as little satisfactory as the definition. At least it appears, as maintained on pp. 99-100, that the republican constitution is necessary on practical grounds, because it is the only one that derives from the idea of the original contract. But upon what is this idea based other than the principles of freedom and equality? Is this not a circle?

All negations are limits of an affirmation. The deduction of their validity is the proof that the higher affirmation, from which the affirmation limited through it is derived, would destroy itself without this condition.[3] The practical necessity of political freedom and equality must therefore be deduced from the higher practical affirmation, which is the basis for the positive attribute of republicanism.

The definition of legal freedom – the right to do whatever one wants as long as one does no injustice to others – the author declares to be a tautology. He defines it instead as ‘the right to obey no external laws except those to which the individual could have given his consent.’[4] To me, these definitions seem correct, but only with some qualification. Civil freedom is only an idea,[5] which can be made actual only through an infinite progressive approximation. Just as in every progression there is a first, last and middle term, so in the infinite progression to that idea there is a minimum, a medium and a maximum. The minimum of civil freedom is contained in the Kantian definition. The medium of civil freedom is the right to obey no external laws other than those which the (represented) majority of the nation has really willed and the (supposed) universality of the nation could will. The (unattainable) maximum of civil freedom is that of the criticized definition, which would be a tautology only if it spoke of moral and not political freedom. The highest political freedom would be equivalent to moral freedom, which is limited only by the moral law, completely independent of all coercive laws. Similarly, what Kant defines as external legal equality in general is only the minimum in the infinite progression to the unattainable idea of political equality. The medium consists in not allowing any differences among the rights and obligations of the citizens other than those which the majority of the nation has actually willed and the totality of the people could will. The maximum would be an absolute equality of rights and duties for all citizens, thus ending all domination and dependency.

But are these interrelated concepts not essential features of the state in general? The presupposition that the will of all individual citizens will not correspond always with the general will is the only basis for *political domination and dependence*. However universally true, its opposite is at least thinkable. Furthermore, this presupposition gives only an empirical condition which can more accurately limit the pure concept of the state, to be sure, but which for just this reason cannot be a defining characteristic of its pure concept. The empirical concept presupposes a more pure one, the determinate concept a more indeterminate, from which it is first derived. Hence not every state (p. 102) contains the relation of a superior to an inferior, but only that which is empirically limited by such factual data. We can conceive an *international state* [Völkerstaat] without this relation, and without all the different states having to be fused into one.[6] This would be (not a hypothetically, but a categorically purposive)[7] society determined not by any particular end, but striving for an indeterminate goal concerning the freedom of the individual and the equality of everyone within a majority or mass of politically independent nations. The idea of a world republic has practical validity and conceptual significance.

The *personae* of the executive power (p. 101), the number of rulers, can be a principle of division only when not the universal but the individual will is the basis of civil laws (in despotism). How does the claim ‘republicanism is that principle of the state that separates the executive and legislative power’ agree with Kant’s first definition, and with the proposition that ‘republicanism is possible only through representation’ (p. 102)? If the whole executive power is not in the hands of the people’s representatives but divided between an hereditary ruler and hereditary nobility, so that the former has the executive and the latter the legislative power, then, despite the separation of power, the constitution would not be representative but (according to the author’s own definition) despotic, as the inheritability of state offices is incompatible with republicanism (pp. 99-100 note).

The legislator, executive and judge are indeed completely distinct *political* persons (p. 101); but it is physically possible that the *physical* person could unite these distinct political persons.[8] It is also politically possible, i.e. not contradictory, that the general will of the people decrees to delegate (not surrender) all power to one person for a definite time. Indisputably, the separation of powers is the rule

of the republican state; but the exception to that rule, dictatorship, seems to be at least possible.[9] (Its splendid utility is especially evident from ancient history. The human race is indebted to this shrewd Greek invention for many of the greatest products ever created by the political genius.)[10] But dictatorship is necessarily a transitory condition; for if all power is transferred for an indefinite time, then that is not representation but a cession of political power. But a cession of sovereignty is politically impossible; for the general will cannot destroy itself through an act of the general will. The concept of a *dictatura perpetua*[11] is therefore as contradictory as that of a four-angled circle. But transitory dictatorship is a politically possible form of representation – therefore a republican form of representation essentially distinct from despotism.

In general, the author does not even suggest his principle for the division of the kinds and parts of states. The following provisional attempt at a deduction of republicanism and a political classification a priori appears to me not to be unworthy of a reader's examination.

By connecting the highest practical thesis (the object of the practical basic science)[12] with theoretical data concerning the limits and kinds of human powers, the pure practical imperative receives as many different modifications as human power in general has specific different powers. Each of these modifications is the foundation and subject matter of a special practical science. By means of the theoretical datum that the human being, apart from the capacity it possesses as a pure isolated individual as such, has the *capacity of communication* in relation to other individuals of its species – that human individuals actually, or at least could, stand in a relation of reciprocal *natural influence* to one another – the pure practical imperative receives a new *specific modification*, which is the foundation and object of a new science. The proposition '*the ego should be*' means in this specific case '*the community of humanity should be*' or '*the ego should be communicated*'. [13] This derived practical thesis is the foundation and subject matter of politics, by which I understand not the art of using the mechanism of nature to govern human beings (p. 117), but (like the Greek philosophers) a *practical science* in the Kantian sense of the word,[14] whose object is the relation of practical individuals and species. Every human society, whose goal is the community of mankind (as an end in itself, or whose end is human society) is called a *state*. Since, however, the ego should be not only in the *relation* of all individuals but also in every *single* individual, and since it can be only under the condition of absolute independence of the will, *political freedom* is a necessary condition of the *political imperative*, and an essential characteristic of the concept of the state. For, otherwise, the pure practical imperative, from which the ethical as well as the political imperative is derived, would destroy itself. The ethical and political imperative are valid not merely for this or that individual, but for *every* individual; hence *political equality* is also a necessary condition of the political imperative, and an essential characteristic of the concept of the state.

The political imperative holds for *all* individuals; hence the state comprises an uninterrupted *mass*, a coexistent and successive *continuum* of human beings, the *totality* of which stand in a relation of physical influence to one another, eg. all inhabitants in a country, all descendants of a family. This characteristic is the *external criterion* by which the state is distinguished from political orders and associations, which have *special ends*, and therefore concern only certain particular individuals. All these societies comprise no mass, no total continuum, but connect only single scattered members.

Equality and freedom demand that the *general will* be the basis of all particular political activities (not only the laws, but also their application and execution). But just this is the character of *republicanism*. The despotism opposed to it, where the private will is the basis of all political activity, would therefore be no true state at all? It is indeed, and in the strictest sense of the word. Since, however, all political culture has its beginning in a special end, in force and in a private will – in short, in despotism – so that every *provisional government must be despotic*, since, moreover, despotism usurps the appearance of the general will and at least tolerates justice in civil and criminal cases in its interest; since, furthermore,

despotism distinguishes itself from other societies by means of that continuity of membership characteristic of the state; and since, finally, it promotes, if only accidentally, the interest of the community along with its special ends,[15] and so against its knowledge and consent carries the germs of a genuine state within itself and gradually brings republicanism to fruition – so for all these reasons one could regard despotism as a *quasi-state*, not as a genuine form but as a *degenerate form of the state*.

But how is republicanism possible? The general will is its necessary condition; but the absolute general (and therefore absolute enduring) will does not occur in the realm of experience and exists only in the world of pure thought. The individual and universal are therefore separated from one another by an infinite gulf, over which one can jump only by a *salto mortale*. There is no solution here other than, by means of a *fiction*, to regard an empirical will as the *surrogate* of the a priori absolute general will. Since a pure resolution of the political problem is impossible, we have to content ourselves with the *approximation* to this practical X.[16] Because the political imperative is categorical, and can be realized only in this manner (in an infinite approximation), the highest *factio juris*[17] is not only justified but practically necessary. However, it is valid only when it does not contradict the political imperative (the foundation of its claims) and its essential conditions.

Since every empirical will (according to Heraclitus' dictum) is in *constant flux* and absolute universality found in no one, the despotic arrogance to sanction one's (paternal or divine) private will as the general will is not only a maximum of injustice, but also pure nonsense. But even the fiction that the private will of, for example, a certain family can be a surrogate for the general will for all future generations, is contradictory and invalid; for it would destroy the political imperative (whose essential condition is equality), which is its own foundation. The only valid political fiction is that based on the law of equality: the *will of the majority* should be the surrogate of the general will. *Republicanism is therefore necessarily democratic*, and the unproven paradox that democracy is necessarily despotic cannot be correct. Of course, there is a *legitimate aristocracy*, a *genuine patriciate*, which is completely distinct from the perverted hereditary aristocracy, whose absolute injustice has been so satisfactorily demonstrated by Kant (p. 99 note); but it is possible only in a democratic republic. In particular, the principle of determining the value of votes not according to their number but their weight (according to the degree of approximation of each individual to the absolute universality of the will) is perfectly compatible with the law of equality. Yet it must be not *presupposed* but truly proven that an individual has no free will, or that his will has no universality - [for example], the lack of freedom through childhood and madness, the lack of universality through crime or the direct contradiction with the general will. (Poverty and *presumed* corruptibility, femininity and *presumed* weakness, are indeed not legitimate grounds to exclude someone from the right to vote.) If the political fiction to regard an individual as a *political non-entity*, a person as a *thing*, were permitted, then it would thwart the opposite of the arbitrary presupposition,[18] and so conflict with the ethical imperative, which is impossible, given that both rest on the pure practical imperative. The general will of the people can also never decree that the individual is a competent judge of the degree of universality of his own private will, and that he should have the right to make himself by his own authority into a patrician. The majority of the people must have willed the patriciate, determined its privileges and members, which should be regarded as the political nobility (those, whose private will best approximates the presumed general will). Perhaps it could give the elected nobility some share in the election of its future members, yet with the proviso that it could decide in the last resort; for sovereignty can never be surrendered.

That the majority of the people acts politically in person is in many cases impossible, and in almost all of them extremely disadvantageous. It can be very conveniently done through deputies and commissars. Hence *political representation* is certainly an indispensable organ of republicanism.

If one separates representation from political fiction, then there can be (even if technically extremely imperfect) republicanism even without representation. If one conceives of fiction as a form of

representation, one goes astray to deny it of the ancient republics.[19] Their technical imperfection is notorious. But the more confused the prevalent conceptions of the inevitable corruption of their inner principle,[20] the more misleading the judgements of the political worth of these admirable (not only so-called but genuine) republics, which are based on the valid fiction of universality being represented through the majority. With regard to the *community of morals*, the political culture of the modern state is in a state of infancy compared to the ancient; and no state has reached a greater degree of freedom and equality than the Attic.[21] The ignorance of the political culture of the Greeks and Romans is the source of unspeakable confusion in the history of humanity; and is even disadvantageous to the political philosophy of the moderns, which in these respects has much to learn from the ancients.[22] Even the reputed lack of representation is not true without qualification. The Attic nation could not perform the executive power in person; and in Rome at least part of the legislative and judicial power was managed through representatives (praetors, tribunes, censors, consuls).

The power of the majority of the people, as an approximation to universality and as a surrogate of the general will, is the *political power*. The highest classification of political phenomena (all the expressions of this power), like that of all phenomena, is according to the distinction between the *permanent* and *transitory*. The *constitution* is the totality of all *permanent* relations of political power and its components. The government, on the other hand, is the totality of all transitory manifestations of political power. The *components* of political power relate to one another and to their whole just as the different parts of the faculty of knowledge relate to one another and to their whole. The *constitutive* power corresponds to reason, the *legislative* to the understanding, the *judicial* to judgement and the *executive* to sensibility, the capacity of intuition. *The constitutive power is necessarily dictatorial*; for it would be contradictory to make the power of political principles, which is the foundation for all other political judgements and powers, to depend upon them, and hence to make it only *transitory*. Without an *act of acceptance* political power will not be represented but surrendered, which is impossible.

The constitution concerns the *form of fiction* and the *form of representation*. In republicanism there is indeed only one principle of political fiction, but *two distinct directions* of this single principle; and in their greatest possible divergence from one another there are not only two pure kinds but two opposed *extremes* of the republican constitution: the *aristocratic* and *democratic*. There are infinitely many different forms of representation (as mixtures of democratism and aristocratism)[23] but no pure kinds and no principle of division a priori. The constitution is the totality of everything politically permanent. Since one classifies a phenomenon according to its permanent attributes, not according to its transitory modifications, it would be nonsense to divide the genuine (republican state) according to the form of government.

In despotism there can be, properly speaking, not a political but only a *physical* constitution. That is, there cannot be relations of political power and their essential constituents that are absolutely permanent, but only such as are relatively permanent. Where there is no political constitution one can only classify the form of constitution dynamically, for physical modifications give no pure classes.

The single pure classification is furnished by the mathematical principle of the numerical quantity of the despotic persons.

The single (physically) permanent quality of despotism determines the *dynamic* (not political) *form of despotic government*. It is either *tyrannical*, *oligarchic* or *ochlocratic* depending on whether an individual, an estate (order, corps, caste), or mass rules. If *all* rule then who will be ruled? Furthermore, Kant's concept of democracy seems more adequate to ochlocracy. *Ochlocracy* is the despotism of the majority over the minority. Its *criterion* is the patent contradiction between the majority, in its function as a political fiction, with the general will, whose surrogate it should be. Among all political aberrations, it is – along with tyranny, given that the Neroes of the world could easily compete with Sansculottism[24] – the greatest physical evil.

On the other hand, oligarchy – the Oriental caste system, the European feudal system – is incomparably much more dangerous to humanity; for the very ponderousness of its artificial mechanism, gives it a colossal solidity. The concentration of those bonded together by similar interests isolates one caste from the human race and creates a resolute *esprit de corps*. The spiritual friction of the mass brings to early fruition the devilish art that makes the ennoblement of humanity impossible.

With suspicious glances the oligarchy detects every aspiring stirring of humanity and crushes it in the bud. On the other hand, *tyranny* is an uncaring monster, which often turns a blind eye to individual cases of the highest freedom, indeed even of the most perfect justice. The very clumsy machine *hangs on a single spring*; and if this is weak, it collapses with the first strong shove.

If the *form of government* is *despotic*, but the spirit representative or republican, then *monarchy* arises. (In ochlocracy the spirit of the government cannot be republican; otherwise, it would necessarily also be the form of the state. In pure oligarchy the spirit of the estate^[25] must be despotic, if the form is not that of a legitimate democratic aristocracy; the republican spirit of individual members helps nothing, for it is the estate, as such, that rules.) Chance can provide a legitimate monarch with despotic power. He can govern in a republican manner, and still retain the despotic form of the state, that is, if the degree of political culture or the political condition of the state makes a provisional (therefore despotic) government necessary, and if the general will could approve it. The *criterion of monarchy* (that which distinguishes it from despotism) is the greatest possible promotion of republicanism. The degree of approximation of the private will of the monarch to the absolute universality of the will determines the degree of its perfection. The monarchical form is perfectly adequate to some degrees of political culture, since the republican principle is either in its infancy (as in heroic prehistory) or has completely faded (as in the time of the Roman Caesars). It provides great and obvious advantages in rare but real cases, such as *Friedrich* and *Marcus Aurelius*,^[26] so that it is understandable why it has been, and still is, the favourite of so many political philosophers. Following Kant's excellent point (p. 102 note), one must not ascribe the spirit of a government to its bad (and illegitimate, pp. 99-100 note) form.

The *sacred* is only that which can be infinitely violated, something like freedom and equality, or the general will. How Kant can find the majesty of the people absurd I do not understand.^[27] The *majority of the people*, as the single valid surrogate of the general will, is in its role as a political fiction equally sacred; and every other political title and dignity is only a product of the *sacredness of the people*. The very sacred *tribune*,^[28] for example, was so only in the name of the people, not on his own. He reveals the sacred idea of freedom only in a mediate way; he is not a surrogate, but only a representative of the sacred holy will.

The state should exist, and it should be republican. Republican states have an absolute worth simply because they strive toward just and absolutely commanded ends. In this respect their worth is all equal. But they can be very different in their degree of approximation to the unattainable ends. In this respect their worth can be determined in two different ways.

The *technical perfection* of the republican state divides itself into the perfection of the constitution and the government. The technical perfection of the constitution is measured by the degree of approximation of its individual form of fiction and representation to the absolute (though impossible) adequacy of fiction to the fictionalized, the representation to the represented. (This agrees with the trenchant observation on pp. 101-102, if by a 'representation' the author also means a fiction. May a pragmatic politician fill a gap in our knowledge with a theory of the means to extend fiction and representation both extensively and intensively! The Kantian remark concerning the persons of state power (p. 101)^[29] may perhaps hold only for the executive and, under certain circumstances, constitutive power; but for the legislative and judicial power experience seems to show that the college and jury system are the best.) The negative technical perfection of a government is measured by the degree of harmony with the constitution; the positive by the degree of positive power with which the

constitution is actually executed.

The *political worth* of a republican state is determined by the extensive and intensive degree of the actually achieved community, freedom and equality. Of course, the moral culture of a nation is not possible before the state is organized on republican lines and has reached at least a certain degree of technical perfection (p. 113); but, on the other hand, the *reign of morality* is the necessary condition of the *absolute perfection* (the maximum of community, freedom and equality) of the state, indeed even of every degree of higher political excellence.

Hitherto we have considered only the *partial* republicanism of a single state and nation. But only through a *universal* republicanism can the political imperative be fully realized. The concept is therefore no will-of-the-wisp of dreaming mystics, but practically necessary, as much so as the political imperative itself. Its components are:

- 1) Politicization of all nations;
- 2) Republicanism of everything politicized;
- 3) Fraternity of all republicans;
- 4) The autonomy of each individual state, and the isonomy^[30] of all.

Only a universal and perfect republicanism would be valid, but also the only sufficient *definitive article for eternal peace*. As long as the constitution and government are not completely perfect, it would still remain *possible*, even in republican states, whose peaceful inclinations have been so splendidly shown by Kant, for there to be an unjust and unnecessary war. The first Kantian article for definitive peace demands indeed the republicanism of *all* states; but *federalism*, whose practicality (p. 104) has been so cogently proven by Kant, cannot by its very *concept* comprise *all* states; otherwise it would be, contrary to Kant's opinion (pp. 102-5), a universal international state. The aim of the pacific federation to secure the freedom of the republican states (p. 104) presupposes that there is a danger to them from states of a warlike tendency, i.e. *despotic states*. The cosmopolitan hospitality, whose origin and stimulus through the spirit of commerce has been so thoughtfully developed by Kant (p. 114), seems to presuppose even *unpoliticized nations*. But as long as there are still despotic states and unpoliticized nations there will still remain cause for war.

- 1) The republicanism of cultivated nations;
- 2) The federalism of republican states;
- 3) The cosmopolitan hospitality of the federated;

will therefore be only *valid definitive articles to the first genuine and permanent*, though only partial, peace, instead of the hitherto falsely named 'peace pacts', which are really only truces (p. 130).

One can also regard them as *preliminary articles to eternal peace*, which they intend to achieve, and which cannot even be thought of before the first genuine peace.

Universal perfect republicanism and eternal peace are inseparable complementary concepts. The latter is as *politically necessary* as the former. But how do things stand with its historical necessity or possibility? Which is the *guarantee of eternal peace*?

'Perpetual peace is *guaranteed* by no less authority than the great artist, nature herself,' Kant says on p. 108. As ingenious as the development of this splendid idea is, I still frankly want to confess what I find missing in it. It is not enough to show the *means* of its possibility, the *external occasions of fate* that lead

to the gradual realization of eternal peace. One expects an answer to the question *whether the inner development of humanity* leads to it? The (postulated) *purposiveness of nature* (however beautiful, and indeed necessary this view might be in other respects) is here completely beside the point; only the (actual) *necessary laws of experience* can provide a guarantee for future success. The *laws of political history*, and the *principles of political culture*, are the only basis from which we can show 'that eternal peace is no empty idea but a task which, as solutions are gradually found, constantly draws near to fulfilment' (p. 130). Although we cannot *prophesize* from them categorically and according to all circumstances of time and place, we can perhaps theoretically (if only hypothetically) determine beforehand with certainty the future reality of peace and the manner of approximating it.

Kant avoids here (as is only to be expected) any transcendent use of the teleological principle in the history of humanity^[31] (which even critical philosophers have allowed themselves). However, in one place it seems to me the practical concept of the unconditional freedom of will has wrongly been drawn into the theoretical domain of the history of humanity. If moral theology can and must raise the question 'What is the intelligible ground of immortality?' – whether it can and must I will not consider here – then I know no other answer than original sin in the Kantian sense.^[32] But the history of humanity has to deal with only the *empirical causes of the phenomenon of immorality*, the intelligible concept of original evil is empty and without all meaning in the realm of experience. The purported fact (pp. 120-1 note) that there is absolutely no belief in human virtue is unproven; and how can the obvious evil in the external relations of states (p. 121 note) – the immorality of a small human group^[33] that, for easily understood reasons, consists in the dross of the human race – be an argument against human nature in general?

It is an unfruitful standpoint here to consider the perfect constitution not as a phenomenon of political experience but as a problem of the political art (p. 113), for we want to know not about its possibility but its future reality and its law of progression toward political culture.

It is only from *historical principles of political development*, from the *theory of political history*, that we can discover a satisfactory *result concerning the relation of political reason and political experience*. Instead of this Kant has devoted an appendix to the inessential border disputes between morals and politics, which arise only accidentally from incompetence. He understands by politics not practical science, whose foundation and object is the political imperative, and also not political art, that is, the skill in realizing that imperative. Rather, he regards politics as the despotic aptitude, which is no political art but really a *political bungling*.^[34]

The two pure types of all conceivable constitutions (both politically necessary and possible) are republicanism and despotism. In addition, though, there are also two, at first glance very analogous but in essence completely distinct, *formless political conditions*, which should not be ignored as *limiting concepts*^[35] in the analysis of republicanism. Only one is politically possible; the other is merely historically possible.

Insurrection is not politically impossible or absolutely illegitimate (as is maintained pp. 126-7); for it is not completely incompatible with publicity. Concerning the (perhaps illegitimate) ruler what Kant says on p. 129 holds: 'The person who has decisive sovereignty has no need to conceal his maxims.' A constitution that allowed every individual to rebel *whenever it seemed right to him* would surely destroy itself. On the other hand, a constitution containing an article that, in certain cases, *peremptorily commanded* revolution would indeed not destroy itself. Yet this single article would be *null* and void; for a constitution cannot command anything if it ceases to exist. Insurrection can be legitimate only when the constitution has been already destroyed. It is indeed possible that an article in the constitution determines the cases in which the constitutive power can be regarded as *de facto nullified*, so that insurrection can be *allowed* for every individual. Such cases occur when, for example, the dictator keeps his power beyond the specified time; when the constituted power destroys the constitution, the foundation of its legal existence; and so forth. Since the general will cannot will such a destruction of

republicanism through usurpation, and necessarily wills republicanism, it must also permit the only means to destroy usurpation (insurrection) and to organize republicanism anew (provisional government). Hence that insurrection is *legitimate* whose motive is the destruction of the constitution, whose government is a merely provisional organ, and whose goal is the organization of republicanism.

The second valid motive for a legitimate insurrection is the existence of an *absolute* despotism, ie. not one which is provisional and therefore can be conditionally permitted, but one which strives to crush and destroy the republican principle of development (through whose free development alone the political imperative can be gradually realized), and which is absolutely impermissible i.e. could never be permitted by the general will. Absolute despotism is not even a quasistate, but rather an *antistate*, and (even if perhaps physically more tolerable) an incomparably greater evil than *anarchy*. The latter is only a negation of the politically positive; the former an affirmation of the politically negative. Anarchy is either a *fluid despotism*, in which the persons of the ruling power as well as the borders of the ruled masses constantly change, or an unguine and *permanent insurrection*; for the genuine and politically possible is necessarily transitory.

NOTES

[1] Schlegel cites the first edition of Kant's work *Zum ewigen Frieden. Ein philosophischer Entwurf* (Königsberg: Friedrich Nicolovius, 1795). His references to this virtually inaccessible edition have been replaced by references to the more accessible Reiss edition (PW). Schlegel's citations of Kant's text frequently depart from the exact wording of the original. In these cases I have translated Schlegel's exact words, not the original text. In citing Reiss's edition, then, I am referring to the passages that correspond to Schlegel's citations, not reproducing Reiss's translation.

[2] See Ak. VIII, pp. 351-3; PW, pp. 100-1. Schlegel's distinction between the form of the state (*Staat*) and constitution (*Staatsverfassung*) corresponds to Kant's distinction between the form of sovereignty (*Form der Beherrschung, forma imperii*) and the form of government (*Form der Regierung, forma regiminis*). According to Kant, the form of sovereignty is the number of persons who exercise authority, whereas the form of government is the way in which a nation is governed, whether according to laws or the dictates of the ruler, whoever that might be. The only forms of government are either republican or despotic.

[3] As Schlegel later explains (p. 100), the higher affirmation is the proposition 'the ego should be'; the affirmation limited through it is 'the community should be'. In sum, Schlegel's argument is that freedom and equality are necessary conditions of the realization of the practical imperative 'the ego should be'.

[4] See Ak. VIII, p. 350 note; PW, p. 99, note.

[5] Schlegel uses the term 'idea' (*Idee*) in the technical Kantian sense.

[6] Kant distinguishes between a federation of peoples (*Völkerbund*) and an international state (*Völkerstaat*), Ak. VIII, p. 354; PW, p. 102. In the former nations retain their distinct identity and establish a civil constitution securing their rights. In the latter the nations fuse together and form a single state. Kant argues that the idea of an international state is self-contradictory, since the very idea of a state requires a relationship between a superior (the legislator) and inferior (the people obeying the law), which would not be possible if all the states became a single state.

[7] Schlegel alludes to Kant's famous distinction between hypothetical and categorical imperatives. See Kant, *Foundation of the Metaphysics of Morals*, Ak. IV, pp. 412-16. A hypothetical imperative prescribes an action as a means to an end. Since the end has only a conditional value, depending on whether we want it or not, the imperative is hypothetical in form ('If you want X, then do Y'). A categorical imperative prescribes an action as an end in itself. Since the end has an unconditional value, commanding our respect whether we like it or not, the imperative is categorical in form ('You ought to do Y').

[8] Schlegel's point is that the mere distinction in office or function between the legislative and executive does not preclude one and the same person performing them.

[9] Here Schlegel defends temporary dictatorship for republican ends. He seems to wish to defend the terror and its apostle, Robespierre. On the romantic attitude toward Robespierre, see Schlegel, *Athenaeum Fragments*, no. 422, p. 239; and Novalis, *Schriften* IV, p. 540.

[10] The reference is obscure. However, Schlegel seems to refer to the fact that in 594 BC Solon was appointed *archon* in Athens, having complete authority to reform its laws and establish its constitution. He is credited with having founded Athenian democracy. See Aristotle, *The Politics* 1273b35-74a21 and *The Constitution of Athens*, nos. 5-12.

[11] *Dictatura perpetua*: eternal, perpetual dictatorship.

[12] The highest practical thesis is the principle 'the ego should be' (*das Ich soll sein*), which is derived from Fichte's 1794 *Wissenschaftslehre*. The first principle of the *Wissenschaftslehre*, 'I am' (*Ich bin*) or '1=1' (*Ich=Ich*), is given a regulative reading by Fichte so that it becomes 'The ego should be'. See Fichte, *Some Lectures concerning the Scholar's Vocation*, *Werke*, VI, pp. 296-300; EPW, pp. 148-53. According to Fichte, the ego's goal should be to achieve complete independence or autonomy, where all of nature conforms to purely rational ends.

[13] Here Schlegel argues that the ideal of absolute independence or autonomy can be realized only in a community that grants liberty and equality to all.

[14] 'A practical science in the Kantian sense of the word' (*eine praktische Wissenschaft, im Kantischen Sinne dieses Worts*): Kant's ideal of science is a system organized according to a single idea or principle. See CPR, B 89-90, pp. 860-1.

[15] Every state that has a specific end is despotic, however innocent this end might appear at first. How many despots take physical self-preservation as their starting point? But whenever it is achieved it degenerates into oppression. The practical philosopher will not be surprised by this well-intentioned confusion of the conditioned with the unconditioned. The finite cannot usurp unpunished the rights of the infinite.

[16] X, Kantian shorthand for something unknowable or unattainable in practice.

[17] *Fictio juris*: a legal fiction.

[18] The opposite of the arbitrary presupposition (*das Gegenteil der willkürlichen Voraussetzung*): that is, the assumption that a person has a free will or that his will has universality.

[19] Here Schlegel takes issue with Kant's view of ancient republics, Ak. VIII, p. 354; PIV, p. 102: 'None of the republics of antiquity employed a representative system, and they thus inevitably ended in despotism.'

[20] The 'prevalent conceptions' (*allgemeinherrschenden Begriffe*): the view that the ancient republics degenerated into ochlocracy or mob rule. This was a prevalent view among the eighteenth-century *Aufklärer*, who generally defended enlightened monarchy.

[21] In the *Kritische Ausgabe*, and most German editions, the text states *britische* instead of *attische*. Following the reading of Wolfgang Hecht (in Friedrich Schlegel: *Werke in zwei Bänden* (Berlin: Aufbau Verlag, 1980, I, p. 327)), I have replaced *britische* with *attische*. The term *britische* is most probably a printer's error from the first edition. It is completely out of context and contrary to the meaning of the passage here. Schlegel's radical republicanism put him at odds with those German conservatives, such as A. W. Rehberg and Ernst Brandes, who praised the English constitution. Schlegel was highly critical of Rehberg's views. See his letter to his brother of 23 October 1793: KA XXIII, p. 145.

[22] Schlegel developed his views on the difference between early and modern republics in his essay *Ueber antike und moderne Republiken*. Unfortunately, this essay has been lost. Schlegel mentions completing it in his letter to his brother of 4 July 1795: KA XXIII, p. 237. Since Schlegel's early political ideals were largely inspired by the ancient republics, which he preferred to modern ones, the loss of

the essay is especially unfortunate.

[23] 'Democratism and aristocratism': *Demokratismus und Aristokratismus*. In this context Schlegel means the pure principles or concepts of democracy or aristocracy.

[24] Sansculottism (*Sanskulottismus*): a term popular in the 1790s to refer to the violence and excesses of the Paris mob and French radicals, the so-called *sansculottes*.

[25] 'Estate': Stand. This broad term can also be rendered 'position', 'standing' or 'condition'. Here Schlegel opposes the old hierarchic society of estates (*Ständegesellschaft*).

[26] Marcus Aurelius, Roman emperor from AD 161 to 180, and Friedrich II, Prussian monarch from 1740 to 1786. Both were admired by the *Aufklärer* as examples of wise rulers, as 'philosophers on the throne.'

[27] See Ak. VIII, p. 354; PW, p. 103: "... it would be absurd to speak of the majesty of the people..."

[28] Tribune: a Roman magistrate, who had various kinds of duties. The office was established in 494 BC to defend plebeian interests.

[29] See Ak. VIII, p. 353; PW, p. 101: 'We can therefore say that the smaller number of ruling persons in a state and the greater their powers of representation, the more the constitution will approximate to its republican potentiality.'

[30] 'Isonomy' (*Isonomie*): equality of laws, rights or privileges.

[31] 'Transcendent use of the teleological principle' (*transzendenten Gebrauch von dem teleologischen Prinzip*): in this context, the assumption that we know that the purpose of nature is the realization of eternal peace.

[32] On Kant's concept of sin, see *Religion within the Limits of Reason Alone*: 'The proposition "man is evil" can mean . . . only that he is conscious of the moral law but adopts into his maxim a deviation from it. He is evil by nature means that this is true of him considered as a species; not that such a quality can be deduced from the very concept of his species (that of mankind in general) . . . but that he cannot be judged otherwise from what we know of him in our experience.' See Ak. VI, p. 32.

[33] 'A small human group' (*eine kleine Menschenklasse*): a reference to the princes.

[34] See Ak. VIII, p. 377; PW, p. 122. Here Schlegel takes issue with Kant's conservative approach to political reform, which should come from above and only as opportunities present themselves to the ruler.

[35] 'Limiting concepts' (*Grenzbegriffe*): in Kant, a limiting concept is one whose function is to limit the concepts of understanding, and the intuitions of sensibility, to experience and to prevent their application to noumena. See CPR, B, pp. 310-11. Schlegel uses the term here in an extended and analogical sense.

Source: Friedrich Schlegel, "Essay on the Concept of Republicanism Occasioned by the Kantian Tract 'Perpetual Peace'," in *The Early Political Writings of the German Romantics*, ed. and transl. Frederick C. Beiser, Cambridge: Cambridge University Press, 1996, p. 95-112.

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