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1

Introduction

IT IS NOT WIDELY KNOWN, even among specialists in Kant studies, that the concept of freedom that Immanuel Kant called negative freedom applied in the first instance to God. This was not because God preferred shopping to civic virtue or favoured private life more than transcendental immanence, but simply because God was perfect in every way. Being perfect, as Kant explained in 1788 in his *Critique of Practical Reason*, God's will was axiomatically disinterested and universally applicable. This meant that the concept of a categorical imperative—or the idea of deciding to act only on the basis that your will could also be enacted as a universal law—was not really relevant to the divine will. A divine will did not have to make any comparison between an individual will and a universal law because it was, by definition, universal and could, therefore, identify and maintain the disinterested content of the moral law without having to obey a command, even from itself. A human will on the other hand was, categorically, a divided will, with a life that straddled both the spiritual and physical worlds and the separation of time into past, present, and future, and, since it was a divided will, it categorically required an imperative command, especially from itself. It could, however, sometimes be a pure will because it could use reason to set itself a goal that as Kant put it, at least in the rather literal rendition occasionally given in translations of his works, "could always hold at the same time as a principle in a giving of universal law."[1] The outcome of this capacity to imagine one's own will as a universal law was the condition that Kant called autonomy, or the distinctively human capacity for self-determination. The resulting coincidence between an individual will and a universal principle would, Kant explained, be just the same type of moral law that God could observe without any possibility of conflict. All this meant that the subject of autonomy did not really apply to God because God, not being

1. Immanuel Kant, *Critique of Practical Reason* [1788], in Immanuel Kant, *Practical Philosophy*, ed. Mary Gregor (Cambridge, CUP, 1996), bk. 1, sec. 7, p. 164.

bounded by time or space or any of the other conditions associated with human experience, did not have to deal with the choices or dilemmas involved in human life.

Where the subject of autonomy was concerned, what required effort by humanity was effortless for the divinity. This was why God's freedom was purely negative and why, from this perspective, it could be said that God was a kind of Epicurean. As Kant's favourite author, Jean-Jacques Rousseau, pointed out, being divine seemed to entail being entirely self-sufficient and fully at one with oneself.[2] The human condition, however, was different. It did, certainly, have some godlike features. "Pure reason," Kant wrote, "is practical of itself alone and gives (to the human being) a universal law which we call the *moral law*."[3] In this respect, human capabilities were comparable to the divine. But in other respects the two capabilities were radically different because the human will could also be determined "by needs and sensible motives," and this externally generated form of causation meant that further measures of both will and understanding were required to secure the human capacity for self-determination. "In the supremely self-sufficient intelligence," Kant explained, "choice is rightly represented as incapable of any maxim that could not at the same time be objectively a law and the concept of *holiness* which on that account belongs to it, puts it not indeed above all practically restrictive laws and so above obligation and duty."[4] But since humans have bodies and senses, with the needs and desires that accompany them, freedom for humans had to be positive as well as negative because this type of freedom had to involve choices and decisions, sometimes even in purely isolated circumstances. Being human meant, therefore, that autonomy called for positive freedom because autonomy for humans was predicated upon an initial capacity for choice. Humans, Kant concluded, were subject to heteronomy but were also capable of autonomy.[5] God, however, did not really have to try.

"*Autonomy* of the will," Kant continued in the next section of his book, "is the sole principle of all moral laws and of duties in keeping with them; *heter-*

2. On Rousseau, God, and Epicureanism, see Michael Sonenscher, *Jean-Jacques Rousseau: The Division of Labour, the Politics of the Imagination and the Concept of Federal Government* (Leiden, Brill, 2020), pp. 61, 90, 100, 144.

3. Kant, *Critique of Practical Reason*, bk. 1, sec. 7, corollary, p. 165. On the Kant-Rousseau relationship, and in addition to the works referred to in Sonenscher, *Jean-Jacques Rousseau*, see Claude Piché, "Rousseau et Kant: A propos de la genèse de la théorie kantienne des idées," *Revue philosophique de la France et de étranger* 180 (1990): 625–35.

4. Kant, *Critique of Practical Reason*, bk. 1, sec. 7, remark, p. 166.

5. On the centrality of choice in Kant, see Eric Nelson, *The Theology of Liberalism: Political Philosophy and the Justice of God* (Cambridge, MA, Belknap Press of Harvard UP, 2019), pp. 1–14.

onomy of choice, on the other hand, not only does not ground any obligation at all but is instead opposed to the principle of obligation and to the morality of the will." Autonomy presupposed a combination of "independence from all matter of the law (namely from a desired object)" and "a determination of choice" that could be compatible with the idea of making a maxim a universal law. "That *independence*, however," Kant explained, "is freedom in the *negative* sense, whereas this *lawgiving on its own* on the part of the pure and, as such, practical reason is freedom in the *positive* sense."[6] The wider historical and historiographical implications of this distinction will be spelled out more fully in the final chapter of this book because quite a lot of ground has to be covered to bring them out more clearly. Here, it is enough to note that for humans, at least on Kant's terms, the moral law presupposed a capacity for both negative and positive freedom, or, in other words, an initial ability to distinguish the form of a law from its matter, a capacity that could then be coupled with an imaginative ability to align the idea of a choice with the prospect of universalizing it. Putting the two capacities together, Kant claimed, would produce a

6. Kant, *Critique of Practical Reason*, bk. 1, sec. 8, theorem iv, p. 166. Curiously, the passage was not mentioned by Isaiah Berlin in his classic "Two Concepts of Liberty." For Berlin, Kant "came nearest to asserting the 'negative' idea of liberty" in a passage in his "Idea for a Universal History" of 1784 that describes the concept, but does not use the phrase: see Isaiah Berlin, "Two Concepts of Liberty," in *Liberty*, ed. Henry Hardy (Oxford, OUP, 2009), p. 199 n. 1. Kant, it should be stressed, actually wrote about "freedom" (*Freiheit*) rather than "liberty," and, although both terms can refer to either a condition or a capacity and also have somewhat different connotations in German, English, French, and Italian, Berlin's substitution of "liberty" for "freedom" (perhaps because of the resonances of John Stuart Mill's *On Liberty*) has had the effect of blurring the differences between freedom as a condition or capacity that is either there or not there and "liberty" as a condition or capacity that is distinct, different, outside, or separate from what is usual, normal, or standard (as in a *faubourg* or *métier libre* in eighteenth-century France or one of London's liberties in eighteenth-century England). "Franchise and liberty," wrote William Blackstone in 1768 in his *Commentaries on the Laws of England*, "are used as synonymous terms and their definition is a royal privilege, or branch of the King's prerogative, subsisting in the hand of a subject": Blackstone, *Commentaries*, ed. Thomas M. Cooley (Chicago, 1884), bk. 2, ch. 3, p. 37, cited in John R. Commons, *Legal Foundations of Capitalism* (New York, Macmillan, 1924), p. 48 (Commons's whole book is a very helpful guide to the differences between the concepts of liberty and freedom in the English language). The term "negative liberty" had the effect of turning a word originally associated with an exception into a norm, and, in Berlin's usage, this norm was then set against another norm, namely, "positive liberty," to form what then became more like a binary choice. Mill's text actually captures more of the original, English-language, sense of liberty as an exception rather than a norm because, as he argued, private life was something outside, rather than inside, the public sphere to which legal and moral rules apply.

maxim that could then be subjected to the two tests of formal coherence and universalizable content.

The question to Kant's critics, like the pastor Johann Gottfried Herder, the philosopher Moses Mendelssohn, and the theologian Friedrich Schleiermacher (all to be discussed later), was whether the resulting maxim had any particular real-world applicability, and, more fundamentally, whether any conceptual creation produced under the finite conditions that Kant described could transcend the limitations of time, place, culture, and belief in which human creation took place.[7] Another critic was an early nineteenth-century Alsatian law professor named Georges Frédéric (or Georg Friedrich) Schützenberger, mayor of the city of Strasbourg between 1837 and 1848 and deputy of the department of the Bas-Rhin from 1842 to 1845. In a book that he published in 1839, entitled *Études de droit public* (Studies of public law), Schützenberger quoted all the passages from Kant's *Critique of Practical Reason* that have been cited here and came to the depressing conclusion (depressing because he admired the ambition and precision of Kant's critical philosophy) that the answer to both questions was negative. "The doctrine to which Kant has given the name of the metaphysical principles of law (*droit*)," he wrote, "is no more than a summary of Roman legislation in abstract form, divested of arrangements bound up with national and historical particularities."[8] Kant's examination of positive and negative freedom, the moral law, the categorical imperative, and the concept of autonomy lead, disappointingly, to the conclusion that he had set out in his *Metaphysics of Morals* of 1797, namely, that the

7. As the twentieth-century French philosopher Raymond Polin put it in 1944, "On pourrait dire que, chez Kant, l'objectivité elle-même est relativiste" (It could be said that, with Kant, objectivity itself is relative). Raymond Polin, *La création des valeurs: recherches sur le fondement de l'objectivité axiologique* (Paris, 1944), p. 20. On Schleiermacher as a critic of Kant, see Ruth Jackson Ravenscroft, *The Veiled God: Friedrich Schleiermacher's Theology of Finitude* (Leiden, Brill, 2019), pp. 60–77.

8. "La doctrine à laquelle Kant a donné le nom de principes métaphysiques du droit n'est qu'un résumé de la législation romaine sous une forme abstraite et dégagée des dispositions qui tiennent à des particularités nationales et historiques." Georges Frédéric Schützenberger, *Etudes de droit public* (Paris and Strasbourg, 1839), p. 180. See also, helpfully, Mikhaïl Xifaras, "Droit rationnel et droit romain chez Kant. Note sur le Conflit des Facultés," in *Généalogies des savoirs juridiques contemporains. Le Carrefour des lumières*, ed. Mikhaïl Xifaras (Brussels, Bruylant, 2007), pp. 123–50. On Kant in France, see Laurent Fedi, *Kant, une passion française 1795–1940* (Hildesheim, Georg Olms, 2018), and Jean Bonnet, *Dékantations. Fonctions idéologiques du kantisme dans le xixe siècle française* (Berne, Peter Lang, 2011). For a further examination of reactions to Kant, see Michael Steinberg, *Enlightenment Interrupted: The Lost Moment of German Idealism and the Reactionary Present* (Alresford, Hants., John Hunt Publishing, 2014).

law could be defined as the set of conditions in which one person's freedom of action could be reconciled with the freedom of action of another. To Schützenberger, the description was true but trivial. It began with the individual will and ended with individual wills. "Kant's formula," he wrote, "exhausts the idea of the law in terms of its form, but the sterility of the formula is shocking as soon as one tries to deduce principles of law from it." Defining the law in terms of mutual freedom of external action amounted to using a purely negative criterion of what the law should *not* be, in place of a more positive indication of what it *should* be. "Between, for example, the formula of non-lesion for freedom of action," Schützenberger complained, "and the rights and duties that arise from marriage, conventions, etc., there is simply an unbridgeable gulf."[9]

This was not the only unbridgeable gulf (*abîme infranchissable*) that many of Kant's contemporaries found in his philosophy. In modern scholarship, the one referred to most frequently is the gulf between what Kant called the phenomenal and the noumenal worlds, meaning the world that, on the one side, was accessible to observation and could be understood in terms of natural causes and physical laws and, on the other, the world that lay beyond sensory experience and had to be conceptualized in terms of things that have no physical counterpart, such as morality, legality, rights, justice, or freedom. In one sense, of course, the gulf was as old as religion, philosophy, or Plato's cave, and, in recent Kant scholarship, the idea that Kant had a two-worlds view has given way to the idea that he had a two-perspectives view, meaning that, although there is only one world, it can still be thought about either independently of appearances or in the light of those appearances.[10] But what many of Kant's contemporaries found perplexing or disquieting about his version of the gulf was not only the bounded character of the human capabilities that he described in all his works but also the way in which the capabilities themselves seemed to be self-defeating. In this respect they were rather like Rousseau's concept of *perfectibilité,* in which human ingenuity was responsible not only

9. "La formule de Kant épuise l'idée du droit quant à sa forme; mais la stérilité en est choquante lorsqu'on essaie d'en déduire les principes mêmes du droit. Nous sommes encore à nous demander comment ce philosophe s'y est pris pour tirer de cette abstraction purement logique la règle des divers rapports tels qu'il les expose dans la métaphysique du droit. Le principe fondamental étant négatif, l'on conçoit la possibilité d'y trouver le *criterium* de ce que le droit ne doit point faire; mais l'on ne comprend plus de quelle manière il faut s'en servir pour y rattacher les principes positives de cette science. Entre la formule de la non-lésion de la liberté d'action, par exemple, et les droits et les obligations qui naissent du mariage, des conventions etc. se trouve un abîme infranchissable." Schützenberger, *Études*, pp. 179–80.

10. For a helpful recent way in to a large subject, see Dennis Schulting and Jacco Verburgtt, eds., *Kant's Idealism: New Interpretations of a Controversial Doctrine* (Dordrecht, Springer, 2011).

for the discovery of metallurgy or the creation of agriculture, but also for the catastrophic consequences of the Lisbon earthquake of 1755 and the technological sophistication of war. Kant took the argument a step further by arguing that it was the human desire for justice and order that had given rise to the many different political societies that now dotted the globe. This, he argued, in the essay entitled "Idea for a Universal History with a Cosmopolitan Aim" that he published in 1784, was why sociability, or the human aptitude for society, was, paradoxically, unsocial, and why, as a result, what he called unsocial sociability (*ungesellige Geselligkeit*) was the underlying engine of human history.[11] The problem, as Kant presented it, was not that humans were unsociable by nature, but was rather that they were sociable too soon. Being prematurely sociable, human societies would have different interests, separate economies, particular cultures, dissimilar values, and partial requirements, and these unsociable propensities could sometimes collide, often in the name of freedom, justice, and rights. Reason, on Kant's terms, could supply reasons for violence as well as reasons for justice. Unsurprisingly, Kant had no hesitation in dismissing Grotius, Hobbes, and Pufendorf, the great seventeenth-century theorists of modern natural jurisprudence, as no more than "sorry comforters." Unsocial sociability was not simply a matter of the tension between reason and the passions, with reason, ultimately, having the trump card. It was, instead, the effect of having reasons for the passions. It ruled out the possibility of a global division of labour and entrenched the more dangerous and complicated reality of a world made up of many multiple divisions of labour all competing to survive. If, as many treatises of natural jurisprudence published in the seventeenth and eighteenth centuries often argued, values like freedom, rights, and justice were the goals, or *telos*, of human history, then on Kant's terms the *telos* of human history was a *telos* that was out of reach.

In this light, it could be said that the revealed mystery of Kant's impossible teleology was Friedrich Nietzsche's idea of eternal recurrence. It was not a consoling thought. "Thus, however much the world as a whole might benefit from this separated development of human powers," wrote the dramatist and philosopher Friedrich Schiller in 1795 in his *On the Aesthetic Education of Man*, "it cannot be denied that the individuals affected by it suffer under the curse of this cosmic purpose." Thinking about history on the basis of Kant's terms seemed to mean that real individuals "would have been the serfs of mankind,"

11. On the concept and its relationship to Rousseau's thought, see Raymond Polin, *La politique de la solitude. Essai sur Jean-Jacques Rousseau* (Paris, Sirey, 1971), notably pp. 1–34. Polin's interpretation of Rousseau was a development of his earlier work on the subject of values: see Polin, *La création des valeurs*, especially pp. 156–67.

doing "slaves' work for them" for "several millennia," to no other purpose than "that a future generation might in blissful ignorance attend to the care of its moral health and foster the free growth of humanity."[12] There was, it could be said, more than metaphorical hyperbole involved in Moses Mendelssohn's famous phrase, "the all destroying Kant," a phrase that he published in the preface to his *Morgenstuunden (*Morning hours) in 1785.[13] To Kant's former pupil Johann Gottfried Herder the "Idea for a Universal History" was an affront to humanity. What was particularly offensive, he wrote, was Kant's claim in the same essay that, since human progress necessarily had to occur in a setting formed by both the limited length of any individual life and the bounded quality of any particular set of individual capabilities, the benefits of progress would, logically, be available solely to those generations that came later, and only to collectivities rather than their individual members. On these terms, the appropriate subjects for evaluation would be things like the printing press, electrical power, or penicillin rather than musical skill, parental ability, or moral judgment. With this concept of progress, Herder wrote to his intellectual mentor Johann Georg Hamann soon after the publication of Kant's essay in 1784, it could only be concluded that "man was made solely for the whole species and—but only at the end of time—for the most perfect state-machine." Kant's concept of unsocial sociability, Herder wrote in a later letter, this time to the philosopher Friedrich Heinrich Jacobi, was not only absurd but morally repugnant because it attributed human improvement to nothing more than "political antagonism and the most perfect monarchy or, indeed, the co-existence of many, very perfect monarchies, ruled as a body by pure reason." The whole essay, Herder concluded, reeked of "wretched, ice-cold, slavish enthusiasm."[14] Much of the argument that supplied the content and

12. Friedrich Schiller, *On the Aesthetic Education of Man* [1795], ed. Elizabeth M. Wilkinson and L. A. Willoughby (Oxford, Clarendon Press, 1967), letter 6, p. 43. Subsequent citations of this work are to this edition. I have modified this version slightly in light of the later translation by Keith Tribe of Friedrich Schiller, *On the Aesthetic Education of Man*, ed. Alexander Schmidt (London, Penguin, 2016), p. 23.

13. On the phrase and its context, see Alexander Altmann, *Moses Mendelssohn: A Biographical Study* (London, Routledge, 1973), pp. 671–712 (particularly p. 673). See too Leo Freuler, "L'origine et la fonction de la metaphysica naturalis chez Kant," *Revue de métaphysique et de morale* 96 (1991): 371–94. On Mendelssohn's hostile assessment of Kant's essay, see George di Giovanni, *Freedom and Religion in Kant and His Immediate Successors: The Vocation of Humankind, 1774–1800* (Cambridge, CUP, 2005), p. 22 and n. 48.

14. I owe these quotations from the two letters to Eva Piirimäe, "State-Machines, Commerce and the Progress of *Humanität* in Europe: Herder's Response to Kant in *Ideas for the Philosophy of History of Mankind*," in *Commerce and Peace in the Enlightenment*, ed. Béla Kapossy, Isaak

shape of the huge, four-volume *Ideas on the History of Mankind* that Herder began to publish in 1784 was aimed directly at Kant. It would, he informed Hamann in 1785, "be very pleasant to see his idol of reason recoil in horror at the sight of its devastation."[15]

Even more than Schützenberger's disappointed assessment of the logical symmetry of Kant's concept of human freedom as no more than Roman law in a more abstract guise, Herder's reaction to Kant picked up something genuinely startling about his thought. This was the thought that human history and human life were, in a deep-seated sense, radically incompatible and, as with the distance between the principle of noninterference in human freedom and the real substance of marriage and other human conventions, there was an unbridgeable gulf between the two. The thought prompted the nineteenth-century Russian socialist Alexander Herzen to comment that Kant's treatment of human development seemed to have a kind of chronological unfairness built into it since those living later would benefit from the efforts of their predecessors but would not have to pay the same price. Earlier

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Nakhimovsky, and Richard Whatmore (Cambridge, CUP, 2017), pp. 155–91 (p. 163 for the passages cited). See also her "Human Rights and Their Realisation in the World: Herder's Debate with Kant," in *Passions, Politics, and the Limits of Society*, ed. Heikki Haara, Koen Stapelbroek, and Mikko Immanen (Berlin, Walter De Gruyter, 2020), pp. 47–73 (pp. 59–60 for the passages in question). For a helpful compilation of quotations from Herder's *Ideas* centred on his hostility to Kant, see Noëlla Baraquin and Jacqueline Laffitte, eds., *Kant. Idée d'une histoire universelle au point de vue cosmopolitique. Réponse à la question 'Qu'est-ce que les lumières?'* (Paris, Editions Nathan, 1994). See too Lewis White Beck, *Kant on History* (New York, Macmillan, 1963), pp. viii–x, xxii–xxiii, 11–26. On the Kant-Herder relationship, see also Megumi Sakabe, "Freedom as a Regulative Principle: On Some Aspects of the Kant-Herder Controversy on the Philosophy of History," in *Kant's Practical Philosophy Reconsidered*, ed. Yirimiyahu Yovel (Dordrecht, Kluwer, 1989), pp. 183–95, and Allen Wood, "Herder and Kant on History: Their Enlightenment Faith," in *Metaphysics and the Good: Themes from the Philosophy of Robert Merrihew Adams*, ed. Samuel Newlands and Larry M. Jorgensen (Oxford, OUP, 2009), pp. 313–42, and the earlier literature cited there. For an intriguingly Straussian approach, see William A. Galston, *Kant and the Problem of History* (Chicago, U of Chicago Press, 1975), particularly pp. 205–68, and, for a pro-Herder and anarchist perspective, see Rudolf Rocker, *Nationalism and Culture* (Los Angeles, Rocker Publications Committee, 1937), pp. 151–55, 184–87. For further examples of Herder's assessment of Kant, see chapter 2 below. The polemical context generated by the Kant-Herder relationship is relevant to, but not particularly visible in, Frank Ankersmit, *Sublime Historical Experience* (Stanford, Stanford UP, 2005), pp. 69–75, 146–49, 210–17. See Herman Paul and Adriaan Van Veldhuizen, "A Retrieval of Historicism: Frank Ankersmit's Philosophy of History and Politics," *History and Theory* 57 (2018): 33–55.

15. The passage is quoted in Pierre Pénisson, "Kant et Herder: 'le recul d'effroi de la raison,'" *Revue Germanique Internationale* 6 (1996): 63–74 (see p. 67 for the passage in question).

generations would simply carry the load used to build the house that only the final arrivals would occupy. "Do you truly wish to condemn the human beings alive today to the sad role of caryatids [meaning an ancient Greek carving used as an architectural pillar] supporting a floor for others someday to dance on?" Herzen asked. "History is fond of her grandchildren," Herzen's contemporary Nicholas Chernyshevsky observed, "for it offers them the marrow of the bones which the previous generation had hurt its hands in breaking."[16] If, as Cicero had written, there was something poignant or heroic in the idea of someone old planting a tree that would be available only to future generations, there was something more disorienting or absurd involved in applying the same idea to the whole of human history. Discussion of the problem continued well into the twentieth century, sometimes for and sometimes against Kant. "With deep earnestness Kant takes up the thought that the development of civilization succeeds only at the cost of individual happiness," wrote the German neo-Kantian philosopher Wilhelm Windelband approvingly. "The more complicated relations become, the more the vital energy of civilization grows, by so much the more do individual wants increase and the less is the prospect of satisfying them. But just this refutes the opinion of the Enlighteners, as if happiness were man's vocation." The political philosopher Hannah Arendt disagreed, on the basis of the same concept of history. "In Kant himself, there is this contradiction," she wrote. "Infinite progress is the law of the human species; at the same time, man's dignity demands that he be seen (every single one of us) in his particularity and, as such, be seen—but without any comparison and independent of time—as reflecting mankind in general. In other words, the very idea of progress—if it is more than a change in circumstances and an improvement of the world—contradicts Kant's notion of human dignity. It is against human dignity to believe in progress." As she wrote in her essay *On Violence* in 1970, even Kant himself had highlighted the bewildering quality of the idea of progress.[17] Strangely, and although the problem was also registered in a more muted way by Arendt's near contemporary Judith Shklar, the sense of perplexity or disorientation produced by this temporal and moral gulf is no longer particularly apparent in Kant

16. The passages are quoted in Isaiah Berlin, *Russian Thinkers* (Harmondsworth, Penguin Books, 1994), p. 92.

17. Hannah Arendt, *Lectures on Kant's Political Philosophy*, ed. Ronald Beinerweltan (Chicago, U of Chicago Press, 1975), p. 77, and her *On Violence* (New York, Harcourt Brace Jovanovich, 1970), p. 27, reprinted in her *Crises of the Republic* (New York, Harcourt, Brace & Company, 1972), p. 129. For the passage from Windelband, see Wilhelm Windelband, *A History of Philosophy* [2nd ed., Leipzig, 1899], 2 vols. (New York, Harper Torchbooks, 1958), 2:559.

studies.[18] To John Rawls, the most influential Kantian of more recent times, "these feelings while entirely natural are misplaced. For although the relation between generations is a special one, it gives rise to no insuperable difficulty." It was, Rawls continued, replying directly to Herzen's comment, "a natural fact that generations are spread out in time and actual exchanges between them take place only in one direction. We can do something for posterity, but it can do nothing for us. This situation is unalterable and so the question of justice does not arise."[19]

It was a confident statement but was predicated on a rather stylized characterization of the relationship between the generations. In real life, the members of various generations usually overlap and do not follow one another as a sequence of separate cohorts. If, as Rawls emphasized, savings are forward looking and desirable, this does not mean that the savings made by one generation will not affect levels of current consumption and, possibly, employment among other parts of the generational sequence.[20] Members of one part of the genera-

18. Judith Shklar, *After Utopia: The Decline of Political Faith* (Princeton, NJ, Princeton UP, 1957), pp. 67–69. Shklar, however, associated the problem rather too quickly with Hegel's concept of "the unhappy consciousness" rather than with Kant's philosophy of history, making it more difficult to see that what Hegel called "the unhappy consciousness" was a romantic reaction against Kant's philosophy of history, and that this placed Hegel's thought in alignment with Kant, against Kant's romantic critics. See too, more recently, the fascinating study by Michael Rosen, *The Shadow of God: Kant, Hegel, and the Passage from Heaven to History* (Cambridge, MA, Harvard UP, 2022), where the polemical response to Kant's philosophy of history is flattened out into a secular version of the rewards and punishments meted out in earlier conceptions of the afterlife.

19. John Rawls, *A Theory of Justice* (Cambridge, MA, Harvard UP, 1971), p. 291, referring to the remark by Herzen that was quoted by Isaiah Berlin in his introduction to Franco Venturi, *Roots of Revolution* (New York, Knopf, 1960), p. xx. The remark by Chernyshevsky was also quoted by Berlin on the same page. One of the few more recent scholars to have noticed this aspect of Kant's essay was Terence Ball, "'The Earth Belongs to the Living': Thomas Jefferson and The Problem of Intergenerational Relations," *Environmental Politics* 19 (2000): 61–77; see too his earlier "The Incoherence of Intergenerational Justice," *Inquiry* 28 (1985): 321–37. For an illuminating compilation of early nineteenth-century discussions of intergenerational justice and its relationship to questions of justice and distribution, see John Cunliffe and Guido Erreygers, *The Origins of Universal Grants: An Anthology of Historical Writings on Basic Capital and Basic Income* (Basingstoke, Macmillan, 2004), and, earlier, John Cunliffe, "Intergenerational Justice and Productive Resources: A Nineteenth-Century Socialist Debate," *History of European Ideas* 12 (1990): 227–38. To Rosen, *The Shadow of God*, pp. 7–8, the subject began with Diderot and the question of the judgments of posterity.

20. On the just savings principle in Rawls, see his *A Theory of Justice*, pp. 284–302, and on the broader framework of the argument, see, informatively, Stefan Eich, "The Theodicy of

tional continuum also sometimes make decisions with effects that go in more than a single linear direction. For David Hume, public debts were a way of drawing bills on posterity, and, despite its unpredictable retroactive effects, Kant, unusually, was publicly willing to endorse Hume's "heroic medicine" of a voluntary state bankruptcy if it ever came to a choice between keeping public faith and preserving the state.[21] Retroactive legislation—like the legislation abolishing previously legal feudal dues in France in 1789, or slavery in some parts of nineteenth-century Europe, or the American Supreme Court's endorsement of the Roosevelt administration's unilateral abolition of the gold clauses in contracts for public or private debt in 1936, or, more recently, the abolition of apartheid in South Africa and the reunification of Germany in 1990—can also have the same multidirectional distributional effects. As the nineteenth-century German socialist Ferdinand Lassalle explained in a large two-volume examination of the subject, there were identifiable reasons that could sometimes be found to establish intergenerational justice retroactively, just as there were similar reasons that could underlie intergenerational *injustice*.[22] Alongside public debt, at least on some interpretations, it is not hard to see why, in more recent times, the subject of climate change could give rise to similar sorts of questions about intergenerational justice and injustice, just as, from another perspective, the existence of money has sometimes been described as a means of intergenerational redress because, unlike credit, money can be used to pay off debts.[23] And, since states appear to have a capacity to create money as well as debt, the future sometimes seems to have an unusual ability to right past wrongs. In the context of climate change, posterity seems to be required very strongly to do something for us, just as in the context of slavery monetary compensation seems to be a way for posterity to atone for the past.

Growth: John Rawls, Political Economy and Reasonable Faith," *Modern Intellectual History* 18 (2021): 984–1009.

21. Immanuel Kant, *The Conflict of the Faculties* [1798], in Immanuel Kant, *Political Writings*, ed. Hans Reiss (Cambridge, CUP, 1991), p. 189. On Hume, Kant, and public debt, see Istvan Hont, "The Rhapsody of Public Debt: David Hume and Voluntary State Bankruptcy," in his *Jealousy of Trade: International Competition and the Nation-State in Historical Perspective* (Cambridge, MA, Harvard UP, 2005), pp. 325–53.

22. On these, see below, chapter 9.

23. As the early twentieth-century American political and economic thinker John R. Commons put it in his *Institutional Economics: Its Place in Political Economy* (New York, Macmillan, 1934), p. 513, "money, in its modern meaning, is the social institution of the creation, negotiability, and release of debts arising out of transactions." On this aspect of money, see the chapters on Hegel and Lorenz von Stein in Michael Sonenscher, *Capitalism: The Story behind the Word* (Princeton, NJ, Princeton UP, 2022).

It may well be true, as one recent scholar has put it, that "Kant in effect asks the question of how it is that a cosmopolitan world order (and thus a partially reconciled world) could and will come about by looking at it from the standpoint of a hypothetical future," as Kant undoubtedly did in his "Idea for a Universal History with a Cosmopolitan Aim." But, in contradistinction to Rawls, it is not clear that many of Kant's earlier readers thought that he had shown that it was a world within reach.[24] The point was made vividly by the early nineteenth-century Prussian writer Heinrich von Kleist in the short story entitled "On the Marionette Theatre" that he published nine years after his famous "Kant-Crisis" in 1801.[25] Puppets, Kleist wrote, can actually achieve real goals because they have both the physical ability to do what they were designed to do and the absence of any of the mental distractions that might get in the way. Humans, however, are enmeshed so deeply in layer upon layer of reflexive thought that it can seem quite impossible to identify any genuinely human capacity for purposive action located somewhere between the mechanical action of a puppet and the omnipotence of God. "Does that mean," asked the narrator of the story, "that we would have to eat again of the tree of knowledge to return once more to the state of innocence?" "Most certainly," his interlocutor replied. "That is the last chapter of the history of the world."[26] True innocence was omniscience. There was nowhere in between.

The gulf between individual lives and human history that Kant highlighted injected a real moral and political charge into the famous debate that took place between the two German philosophers Ernst Cassirer and Martin Heidegger at Davos in March 1929. It was, in certain respects, a replay of the earlier argument between Kant and Herder, with Cassirer cleaving to Kant's insistence on the foundational quality of human freedom, notwithstanding all the causal evidence to the contrary, and with Heidegger adopting a position more like Herder's, particularly in relation to the historically bounded character of human culture, language, and values.[27] There were, however, two major differ-

24. Terry Pinkard, *Does History Make Sense? Hegel on the Historical Shapes of Justice* (Cambridge, MA, Harvard UP, 2017), p. 46.

25. On Kleist's "Kant Crisis," see, recently, Tim Mehigan, "The Scepticism of Heinrich von Kleist," in *The Oxford Handbook of European Romanticism*, ed. Paul Hamilton (Oxford, OUP, 2016), pp. 256–74.

26. Heinrich von Kleist, "On the Marionette Theatre" [1810], trans. Thomas G. Neumiller, *Drama Review* 16 (1972): 22–26. I have modified the translation in the light of the later translation in *Essays on Dolls*, ed. Indris Parry (London, Penguin Books, 1974), pp. 1–12.

27. On the debate, see Michael Friedman, *A Parting of the Ways: Carnap, Cassirer, and Heidegger* (Chicago, Open Court, 2000); Peter Eli Gordon, *Continental Divide: Heidegger, Cassirer, Davos* (Cambridge, MA, Harvard UP, 2010) and his earlier *Rosenzweig and Heidegger: Between*

ences between the two pairs of protagonists because neither Kant nor Herder suggested that the concepts of time and temporality were as historically bounded as, certainly, Heidegger took them to be, while neither Cassirer nor Heidegger made any reference to God or introduced any comparison between divine qualities and human capabilities in the course of their debate. In that respect, however, each protagonist was rehearsing a position that Kant had also foreseen. As he wrote in his essay *Theory and Practice*, without some sort of assumption about God and some kind of initial belief in the intelligibility of history, human history would, at best, be something tragic or, at worst, no more than farce.

The opposition between history as tragedy and history as farce is now associated more usually with Karl Marx or, sometimes, Georg Wilhelm Friedrich Hegel. But, as with the distinction between positive and negative freedom (or positive and negative liberty, as the distinction came to be called by Isaiah Berlin in a version of the distinction that was somewhat different from Kant's), it was Kant who made it first. The details of how and why he made the distinction and the reasons why he argued that it mattered can be left to a later chapter.[28] But insisting on the purely chronological point about when the idea arose makes it hard to believe that nothing of substance occurred to thinking about the relationship between individual lives and human history between the time of the argument between Herder, Schiller, and Kant in the late eighteenth century and the debate at Davos between Heidegger and Cassirer in the third decade of the twentieth century. If the problems that Kant raised were registered at different times during the nineteenth century by Georges Frédéric Schützenberger in Strasbourg or Alexander Herzen in Paris and Nicholas Chernyshevsky in Russia (and, as will be shown, by many others too), it is hard to believe that the whole subject could have been dismissed as readily as might be suggested by Rawls's confident shrug. Looking back over the long nineteenth century from the vantage point of the debate between Heidegger and

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Judaism and German Philosophy (Berkeley, U of California Press, 2003), pp. 277–304. See too Simon Truwant, *Cassirer and Heidegger in Davos: The Philosophical Arguments* (Cambridge, CUP, 2022); Daniel M. Herskowitz, *Heidegger and his Jewish Reception* (Cambridge, CUP, 2021), pp. 48–65, and, for Heidegger's contribution, Martin Heidegger, *Kant and the Problem of Metaphysics*, ed. and trans. Richard Taft (Bloomington, Indiana UP, 1997), pp. 191–207. For further indication of the continuities, see Kristin Gjesdal, "Literature, Prejudice and Historicity: The Philosophical Importance of Herder's Shakespeare Studies." in *The Insistence of Art*, ed. Paul A. Kottman (New York, Fordham UP, 2017), pp. 91–115. For a wide-ranging examination of the subject of time, see Simon Goldhill, *The Christian Invention of Time: Temporality and the Literature of Late Antiquity* (Cambridge, CUP, 2022).

28. See below, chapter 5.

Cassirer, it would seem that the gap which Kant had opened up between individual lives and human history had never been closed. This, in fact, was not the case. Behind the idea of the many possible types of unfairness that seemed to be built into the relationship between early starters and late arrivers, a range of now more familiar subjects came to be connected to the problem of how to think about the passage of time and how to identify those aspects of human morality, culture, or history that appeared to bridge the gap between something timeless, like a number, and something time-bound, perhaps also like a number but, more unequivocally, like a language, a value, or a culture.

This is a book about the many different attempts that were made to think about how this gap could be closed and, more broadly, about what the impact of these attempts to close the gap has been on thinking about morality, culture, history, and politics, mainly in Europe and mainly in the nineteenth century.[29] One, almost entirely forgotten, attempt was connected to the concept of palingenesis, or the idea of something being reborn, either suddenly or gradually. As will be shown in the next chapter, both versions of the concept came to be used surprisingly widely before and after the French Revolution, and among those who used these different versions were both Kant and Herder. This, in part, was because thinking about palingenesis as something sudden lent itself readily to the subjects of crisis and revolution, and this in turn meant that thinking about the three subjects together, in the order of crisis, revolution, and palingenesis, became the basis of the modern concept of revolution.[30] In part, however, it was also because thinking about palingenesis as something gradual lent itself just as readily to the subjects of history, culture, and civilization or, more specifically, to thinking about the differences between the ancients and the moderns and about the bearing of the assorted legacies of the Greeks, the Romans, and the Christians, particularly after the decline and fall of the Roman Empire, on modern social, economic, and political arrangements. Here, the concept of reform was more salient than the concept of revolution but, as with the concept of revolution, the idea of reform also began to acquire a new, more firmly future-oriented set of connotations. Instead of the more cyclical idea of going back to first principles or of reverting to the ideas or values of the founders, as had been the case earlier with the concepts of both

29. Compare to Frank Ankersmit, *Meaning, Truth and Reference in Historical Representation* (Leuven, Leuven UP; Ithaca, NY, Cornell UP, 2012). The one gap in Ankersmit's impressive oeuvre is his treatment of Kant's approach to history and its bearing on what became historicism.

30. On the concept, see John Dunn, *Modern Revolutions* [1972], 2nd ed. (Cambridge, CUP, 1989). For examples of the use of the concept of palingenesis before 1848, see Alan J. L. Busst, "Ballanche and Saint-Simonism," *Australian Journal of French Studies* 9 (1972): 290–307.

revolution and reform, both concepts began to look forwards rather than backwards.

The problem—and one of the points that Kant set out to make both in his essay on the idea of universal history and in several of his other publications—was that it was difficult to evaluate the significance of either reform or revolution (or any other type of putatively linear progress) without some measure of value against which the evaluation could be made. This, Kant explained, was one reason why the distinction between the divine and the human was worth making, and why some sort of suprahuman standard of value was worth trying to imagine. The claim forms part of the subject matter of the first chapter of this book because one of the aims of this chapter is to describe a number of early nineteenth-century arguments that were designed to show that the divinity, humanity, and history were more closely aligned with one another than was usually thought. The most intellectually economical way of doing this was to make a distinction between God's essence and God's existence. Since God's essence encompassed everything to do with the divinity, making a distinction between essence and existence usually meant not only that God's essence had to precede God's existence but also, in the light of this initial assumption, that the Creation had to involve creating something other than another essence (because two divine essences would, in fact, be indistinguishable, particularly to the Creator). This, it was claimed, was why, in the created world, existence had to precede essence rather than, as with the divinity itself, essence preceding existence. The Creation, in other words, called for something about God to exist in time, and, being time-bound, every aspect of the Creation could then be calibrated to have an existence that was distinct from the divine essence. The outcome was a new variation on the old idea of the Trinity. With the Creation, at least in this rendition of the concept, God became an incomplete God or, in more familiar terms, God became a Trinity because a Trinity, being more than a Unity, could exist in time and, incrementally, give an appropriate existence to various aspects of its essence.

This new variation on the idea of the Trinity was one reason why, after Kant, the subject of Spinoza and Spinozism became so prominent in nineteenth-century European intellectual life. In this context, the time-bound character of the Creation helped to neutralize the idea of the radically unfair quality of human history. It could, as Hegel argued, supply reasons that helped to explain why the reflexive side of human rationality made reason capable of correcting itself. From this perspective, reason was both the cause—and the potential solution—of the problem of unsocial sociability. Although it has recently become more usual to associate Spinoza with monism, materialism, and the eighteenth century, Spinoza's real intellectual heyday occurred in the nineteenth

century.[31] It did so because his theology chimed readily both with the idea of an incomplete God and with the concept of the Creation as a process in which existence preceded essence. From this perspective, there was a significant overlap between the nineteenth-century Spinoza revival and the equivalent revival of the thought of the seventeenth-century Neapolitan theologian Giambattista Vico, particularly because of the distinction between divine creation and human making that was so prominent a feature of Vico's thought. The result, over a hundred years after their deaths, was that the thought of both Vico and Spinoza came to be associated with the concept of a philosophy of history and, more particularly, with the various political theologies of Kant's intellectual heirs and critics, the idealist philosophers Johann Gottlieb Fichte, Friedrich Wilhelm Joseph Schelling, and Georg Wilhelm Friedrich Hegel. To their critics, Fichte and, particularly, Schelling and Hegel were, simply, Spinozists. And, just as Kant's God was a kind of Epicurean, the concept of the divinity to be found not only in Fichte, Schelling, and Hegel but even in more orthodox theologians like Friedrich Schleiermacher was more radically historical than anything to be found in earlier Christian theology.[32] This new temporal aspect was used to inject a more moral but still Spinozist dimension into the idea of the Creation. "Can you not see?" as one of Spinoza's nineteenth-century French editors put it in a summary of what he took Spinozism to be, "that if God loves, he cannot be deprived of what he loves and, if creating is better than not creating, God cannot disobey the wisdom that shows him what is best or the holiness that forbids doing evil?" The Creation, in short, was necessary to the divinity because it was both an object of love and a fulfilment of duty. "God," as Spinoza's editor concluded in 1842, "without the world is an incomplete God."[33]

In itself, the claim could be used as an answer to Kant, but its existence also helps to indicate that the concept of political theology originated in the context of the speculations and discussions provoked by Kant. Ever since the con-

31. See Jonathan Israel, *The Radical Enlightenment* (Oxford, OUP, 2001) and its later sequels. For a helpful alternative approach, see Knox Peden, *Spinoza contra Phenomenology* (Stanford, Stanford UP, 2014). On Spinoza in the nineteenth century, see André Tosel, Pierre-François Moreau, and Jean Salem, eds., *Spinoza au xixe siècle* (Paris, Publications de la Sorbonne, 2007), particularly the chapter by Moreau on Emile Saisset.

32. See Jackson Ravenscroft, *The Veiled God*, pp. 116–24.

33. "Mais, sans parler de ce qu'il y a de visiblement humain dans ces images, ne voyez-vous pas que si Dieu aime, il ne peut pas ne pas être privé de ce qu'il aime, que si créer est mieux que de ne créer pas, Dieu ne peut pas ne pas obéir à sa sagesse qui lui montre le mieux, à sa sainteté qui lui défend le mal? Et alors le monde est nécessaire à Dieu, soit comme objet d'amour, soit comme devoir accompli; et alors Dieu sans le monde est un Dieu incomplet." Benedict Spinoza, *Œuvres*, ed. Emile Saisset [1842], 3 vols. (Paris, 1861), 1:348.

cept began to be used by the famous Nazi Carl Schmitt, the idea of political theology has become part of the intellectual repertoire of political theory and, by extension, the history of political thought. To Schmitt, the concept applied first and foremost to the state. "The juridic formulas of the omnipotence of the state," he announced in 1932, "are, in fact, only superficial secularizations of theological formulas of the omnipotence of God." The announcement echoed his assertion exactly a decade earlier that "all significant concepts of the modern theory of the state are secularized theological concepts."[34] But, as Schmitt's critic the Italian political philosopher Giorgio Agamben pointed out several decades later, the theological part of the concept was as important as its political part.[35] This was because far from containing "theological formulas of the omnipotence of God," the "secularized theological concepts" to be found in Fichte, Schelling, and Hegel had as much to do with multiplicity and particularity as with sovereignty and omnipotence and, as Agamben indicated in the subtitle of his book, were organized around what he called "a theological genealogy" of both the economy and government. Different theologies, in short, entailed different state theories. In this context, and in contradistinction to Schmitt, attributing theological concepts to the state meant moving quite a long way away from the idea of omnipotence as a load-bearing concept in either theology or politics. As Agamben went on to show, this made his own version of political theology rather like Michel Foucault's concept of biopolitics because both their respective political theories were designed to highlight the range of differentiated governmental and nongovernmental agencies and institutions that have come to be responsible for different aspects of human welfare.[36] For Agamben this process of institutional differentiation entailed

34. The two assertions are juxtaposed helpfully in Carl Schmitt, *The Concept of the Political*, trans. George Schwab, with a forward by Tracy B. Strong and notes by Leo Strauss (Chicago, U of Chicago Press, 2007), p. 42. For a concise and wide-ranging examination of the concept of political theology, see Ernst-Wolfgang Böckenförde, "Political Theory and Political Theology: Comments on Their Reciprocal Relationship" [1981], in Ernst-Wolfgang Böckenförde, *Religion, Law, and Democracy: Selected Writings*, ed. Mirjam Künkler and Tine Stein (Oxford, OUP, 2020), pp. 248–58.

35. Giorgio Agamben, *The Kingdom and the Glory: For a Theological Genealogy of Economy and Government* (Stanford, Stanford UP, 2011). On Agamben, see Claire Colebrook and Jason Maxwell, *Agamben* (Cambridge, Polity, 2016); Carlo Salzani, "Foucault and Agamben: Taking Life, Letting Live, or Making Survive," in *Reading Texts on Sovereignty*, ed. Stella Achilleos and Antonis Balasopoulos (London, Bloomsbury, 2021), pp. 171–78; Ian Hunter, "Giorgio Agamben's *Form of Life*," *Politics, Religion and Ideology* 18 (2017): 135–56, and his "Giorgio Agamben's Genealogy of Office," *European Journal of Cultural and Political Sociology* 4 (2017): 166–99.

36. On this aspect of Foucault's thought, see, helpfully, Keith Tribe, "The Political Economy of Modernity: Foucault's Collège de France Lectures of 1978 and 1979," *Economy and Society* 38

placing a stronger emphasis on what he called "the two paradigms" involved in thinking about power and territoriality on the one hand and values and their prerequisites on the other. In this, he explained, he was simply echoing what he called "the eschatology of salvation . . . of which the philosophy of German idealism was a conscious resumption." This philosophy, he continued, "was nothing but an aspect of a vaster theological paradigm" made up of an initial distinction "between the being of God and his activity," which formed the basis of his theological genealogy of the economy and government.[37]

As Agamben went on to show, the concept of the Trinity was central to the distinction between the being of God and the activity of God. But the version of the Trinity that Agamben went on to describe was informed almost entirely by an impressively detailed examination of medieval discussions of the concept as the basis of showing how the combination of unity and variety that it housed could be used as a counterconcept to Carl Schmitt's version of political theology. The connections between these medieval discussions of the Trinity and what Agamben, quoting Hegel, called "the real theodicy, the justification of God in history," were less visible.[38] So too was the idea of an incomplete God and the relationship of that concept not only to the long afterlife of Spinoza's thought in nineteenth-century idealism but also, more fundamentally, to the cluster of problems about political institutions, moral values, and human history embedded in Kant's concept of unsocial sociability. For Agamben, highlighting the theological part of the concept of political theology turned the concept into a modern echo of medieval conceptions of the Trinity and pushed the nineteenth-century significance of the concept largely out of the picture. The result was another historical hiatus. As with the apparently empty space between the debates between Kant, Schiller, and Herder on the one side and Cassirer and Heidegger on the other, a similar space continues to exist between early nineteenth-century German idealism and its later echoes in the thought of Schmitt, Foucault, and Agamben. Much the same type of problem applies to the parallel, and equally fascinating, examination of the concept of a person published by the Italian political philosopher Roberto Esposito, with its account of the idea of a rights-bearing

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(2009): 679–98, and Michael C. Behrent, "Liberalism without Humanism: Michel Foucault and the Free-Market Creed, 1976–1979," *Modern Intellectual History* 6 (2009): 539–68, together with his "Foucault and France's Liberal Moment," in *In Search of the Liberal Moment: Democracy, Anti-Totalitarianism and Intellectual Politics in France since 1950*, ed. Stephen W. Sawyer and Iain Stewart (London, Palgrave, 2016), pp. 155–65, and Michael C. Behrent and Daniel Zamora, eds., *Foucault's Neo-Liberalism* (Cambridge, Polity, 2016).

37. Agamben, *The Kingdom and the Glory*, pp. 4–5.

38. Ibid., p. 5.

individual as a kind of palimpsest of Roman law and Christian theology and its interpretation of the idea of autonomy as one, later, part of the palimpsest issuing orders to the other, earlier, part.[39]

Part of the point of what follows is to try to fill these gaps. This, in the first instance, means getting rather more of the measure of Kant's concept of unsocial sociability. Although the details of the various ways in which Kant came to use the term are described more fully in the following chapters, it is important to see at the outset that it was a concept that applied in the first instance to sociability rather than unsociability. On Kant's terms, unsociability was an effect of sociability. This, he argued, was partly because humans form societies too soon. But it was also because, once in society, they were faced with problems of mutual comprehension, shared values, and collective decision making that, by definition, are largely beyond individual control. From this perspective, the concept of unsocial sociability could shade easily into a now more familiar set of problems associated with either of two related paradoxes. The first was Condorcet's paradox, meaning the idea that if several individuals are required to make a choice on the basis of their rank order of preferences, they will collectively choose something that is not actually anyone's first preference. The second, related paradox is associated with the thought of Vilfredo Pareto and with the idea that while individuals can opt for and achieve goals, collectivities will usually end up with compromises. Setting the concept of unsocial sociability against these two more familiar conundrums makes it possible to see the problems of collective choice and collective action not only as problems in their own right but also as the effects of the more deep-seated problem of unsocial sociability that Kant had highlighted.

Starting with Kant and the connection between the concept of unsocial sociability and the apparently intractable nature of the problems of collective choice and collective action that it brought in its wake also helps to throw fresh light on why the subjects of human history and the significance of the passage of time came to matter so much in nineteenth-century thought. These were the subjects that, in Kant's wake, brought the Trinity back to life as a real conceptual resource because, once it came to be seen as a sequence rather than a mystery, it was a concept that could be applied to the proliferating array of arrangements and institutions that lay somewhere between the length of an

39. See, initially, Roberto Esposito, *Third Person* [2007] (Cambridge, Polity Press, 2012), together with his "The *Dispositif* of the Person," *Law, Culture and the Humanities* 81 (2012): 17–30, and his "Totalitarianism or Biopolitics? Concerning a Philosophical Interpretation of the Twentieth Century," in *Biopower: Foucault and Beyond*, ed. Vernon W. Cisney and Nicolae Morar (Chicago, U of Chicago Press, 2016), pp. 348–59.

individual life on the one hand and the whole history of humanity on the other. In this variation on the idea of a political theology, it was not so much time that was speeded up, as, famously, was claimed by the great German historian Reinhart Koselleck, as it was God who was brought closer to the rhythms and patterns of ordinary human life.[40] Where Kant's concept of unsocial sociability seemed to push back the horizons of political possibility and social justice out of human reach, Kant's critics sought to pull forward those same horizons to within range of human grasp. By claiming that God's existence preceded God's essence, they could then claim that there was a real synchrony connecting individual history, human history, and sacred history and a corresponding significance and value in the arrangements, institutions, and continuity that, it could be claimed, straddled all three.

One strong candidate for continuity was the state, because the existence of its institutions and its territory was not limited to any single set of lives or generations. Here, the concept that came to matter was genuinely theological in origin because it was the concept of the general will. In this context, it was a concept that was given a more secular association with the somewhat counterintuitive idea of a state that could be sovereign but could also be compatible with individual autonomy.[41] As will be shown in the fifth chapter, Kant's distinction between public law and private law was based on this concept and, more particularly, the distinction made by Jean-Jacques Rousseau between the general will and the will of all (later, as will also be shown, the same distinction was carried through into Hegel's distinction between civil society and the state). This variation on the idea of political theology does not seem to have occurred to Carl Schmitt or his later critics, partly perhaps because by the early twentieth century Rousseau's distinction had been buried beneath a number of later neo-Kantian or neo-Hegelian versions of the idea of a dual rather than a unitary political system, made up of both a government and a sovereign or, in another idiom, civil society and the state or, more succinctly, the concept

40. On the quasi-eschatological idea of time speeding up, see Reinhart Koselleck, *Critique and Crisis: Enlightenment and the Pathogenesis of Modern Society* [1959] (Cambridge, MA, MIT Press, 1988). For an earlier examination of the same idea, see Daniel Halévy, *Essai sur l'accélération de l'histoire*, 2nd ed. (Paris, 1948).

41. On the theological origins of the concept of the general will, see Patrick Riley, *The General Will before Rousseau: The Transformation of the Divine into the Civic* (Princeton, NJ, Princeton UP, 1986), and, on its later significance in the dualism of Rousseau, Hegel, and Jellinek, see Sonenscher, *Jean-Jacques Rousseau*, pp. 141–77. See also Olivier Beaud, Catherine Colliot-Thélène, and Jean-François Kervégan, eds., *Droits subjectifs et citoyenneté* (Paris, Classiques Garnier, 2019), particularly the chapters by Olivier Jouanjan, pp. 49–74, and Jean-François Kervégan, pp.75–96.

of a nation-state.[42] Another candidate for continuity was, for similar reasons, the law because it could be public or private, criminal or civil, and municipal or international. So too were things like money, industry, agriculture, trade, transport, music, architecture, or poetry. All of them seemed to offer the means to bring time, justice, and posterity into closer alignment. As the nineteenth-century French socialist Pierre-Joseph Proudhon noted in his diary, "the contradiction between work and the mind can never be entirely eliminated either in humanity or in individuals."[43] Individuals would always think of more than they can do because thoughts occur more quickly than work gets done. And, since humanity has no collective consciousness, it can think and act only as fast as its slowest individual members. This type of contradiction, Proudhon wrote, could not be eliminated. Industry was, therefore, built into the human condition, and, from this perspective, work was a kind of antidote to Kant. The contradiction that Proudhon highlighted helped to raise a question about the type—or types—of political and institutional arrangement that, on the one hand, could bring work and creativity into better and fuller alignment and, on the other, could form a bridge between the length of an individual life and the history of humanity as a whole. On Proudhon's terms, industry was the answer.

A far bleaker implication of the concept of unsocial sociability was that the answer to Kant's question was that there was no answer. Or, at best, that only time would tell. On Kant's terms, the direction of travel of human history was irretrievably ambiguous. It seemed to be either continuous or discontinuous, convergent or divergent, centrifugal or centripetal, and, in a more complicated sense, appeared to involve several different combinations of these binary possibilities. Since every actual human society was no more than a local and limited part of some more imaginatively generated kaleidoscope—or symphony—of human history, there were simply too many possible ways to connect what actually happened in real social and political time to anything more like a conceptually comprehensive history of humanity. From this perspective, the strange counterfactual history of Europe that was published under the title *Uchronie* (meaning another time, as against a utopia or another place) by the French philosopher Charles Renouvier in 1873 was, it could be said, a genuinely Kantian text because of the way that it made a mixture of imagined

42. See, however, Carl Schmitt, *The Value of the State and the Significance of the Individual* [1917], in *Carl Schmitt's Early Legal-Theoretical Writings*, ed. Lars Vinx and Samuel Garrett Zeitlin (Cambridge, CUP, 2021).

43. Daniel Halévy, *Proudhon d'après ses carnets inédits* (Paris, Sequana, 1944), p. 25. The whole passage as printed by Halévy should really be quoted in this note.

political decisions and real historical change the basis of a republican alternative to the history of imperial decline and fall that had once been the fate of ancient Rome (and was now, after Napoleon III, likely to be available to modern France).[44] History, in short, was always something more than causation because causation still had to accommodate freedom, however mysterious the process could seem. This, it is equally important to stress, was also the message of Kant's famous essay on the question of enlightenment. The more enlightenment there was, the less it was possible to rely on something outside or beyond human rationality, creativity, and ingenuity. But the greater the reliance on human rationality, creativity, and ingenuity, the less it looked possible to escape from their fundamentally bounded condition. Although Kant's essay is still sometimes taken to be the Enlightenment's manifesto, it was usually taken by his contemporaries to mark its limits, if not its end. From this perspective, keeping enlightenment alive meant finding a way to deal with Kant, or, more substantively, it meant developing an anthropology, a sociology, and a philosophy of history that could address the dilemmas that Kant had exposed (all three terms, it is worth emphasizing, were given much of their modern meaning in this context). From either a historical or a philosophical point of view, the effect of Kant's Copernican turn in philosophy was to generate a drive to establish an alternative.

One of the aims of what follows is to begin to describe the scale and the scope of the intellectual upheaval that this involved. In temporal terms, it straddled the period of the French Revolution and the Industrial Revolution. In spatial terms, it crisscrossed the boundaries of states and nations as new networks of argument, collaboration, or competition spread sporadically and unevenly between Paris, London, Berlin, Geneva, or Milan. Retrospectively, its outcome now seems to be the apparently modern distinction between historicity and normativity, or the idea that some values, beliefs, and arrangements belong very much to their time and place, while others are simply timeless. More historically, it was an upheaval that had the effect of turning a long-drawn-out seventeenth- and eighteenth-century argument usually known as the *querelle des anciens et des modernes*, or the quarrel of the ancients and the moderns, into a more ferocious early nineteenth-century argument between the supporters of the classics and the romantics. The difference

44. On the text, first published in 1857 but without the later title, see Alain Pons, "Charles Renouvier et l'*Uchronie*," *Commentaire*, 47 (1989): 573–82, and Catherine Gallagher, *Telling It Like It Wasn't: The Counterfactual Imagination in History and Fiction* (Chicago, U of Chicago Press, 2018), pp. 49, 58–66, 75–77. See also her earlier "What Would Napoleon Do? Historical, Fictional, and Counterfactual Characters," *New Literary History* 42 (2011): 315–36.

between the two sets of arguments can be taken as one measure of the scale of the intellectual upheaval that this book is about. As their respective names help to show, historical comparisons played a complicated part in both sets of arguments. In the earlier arguments, historical comparisons were centred on things (values, institutions, achievements, etc.) that were taken to be available to both the ancients and the moderns, but which were realized or achieved more fully and successfully on either one side or the other of the comparative divide.[45] In the second set of arguments, the comparisons were centred more fully on things that were taken to be *unavailable* to one side or the other of the comparative divide, such as Christianity or autonomy among the ancients, or slavery or, arguably, despotism and empire among the moderns. Here, history seemed either to rule some things in and others out or, finally, to reveal the true nature of what really could stand the test of time.

The difference between the two sets of arguments makes it possible to get rather more of the measure of the impact of Kant's unusual historical vision. In substantive terms, the quarrel between the ancients and moderns was an argument over whether the values, culture, civility, or grandeur of modern political societies such as the France of Louis XIV or the England of Charles II were like or unlike those of the ancients, particularly those of imperial Rome. The later argument between the supporters of the classics and romantics was more complicated because it was not only an argument over whether modern arrangements and values were superior or inferior to those of their ancient counterparts, but was also about whether, in a more comprehensive sense, some mainly ancient, but also sometimes modern or Christian, values were, simply, timeless. The difference was captured quite directly by the change in the meaning of the word "classic" in the early nineteenth century.[46] In earlier usage a classic was the name given to a text used in a class in Greek or Latin philosophy, rhetoric, and poetry because these were the subjects that, in early modern Europe, formed the basis of a humanist education. By the early nineteenth century, however, a classic had acquired a set of moral or aesthetic qualities that set it apart from the rest. Here, the putatively timeless quality of a classic was a foil to the putatively time-bound quality of a romantic.

45. On the *querelle*, see Larry F. Norman, *The Shock of the Ancient: Literature and History in Early Modern France* (Chicago, U of Chicago Press, 2011), the review of it by Marie-Pierre Harder, "Les anciens contre-attaquent, ou la querelle revisitée," *Acta fabula* 13 (2012): 1–11, and Norman's later chapter, "Ancients and Moderns," in *A History of Modern French Literature*, ed. Christopher Prendergast (Princeton, NJ, Princeton UP, 2017), pp. 269–90.

46. On this, see Christopher Prendergast, *The Classic: Sainte-Beuve and the Nineteenth-Century Culture Wars* (Oxford, OUP, 2007), and the further literature referred to in chapter 8 below.

A classic, in this rendition, was something like a symbol or incarnation of the values that it embodied. But it was also possible for the timeless or time-bound qualities of each side to be given radically different attributions and evaluations. From this latter perspective, a classic could be something that belonged very much to the language and culture of ancient Rome, while what was romantic could now be taken to be truly timeless, as it was sometimes said of the works of Shakespeare, Dante, or even Plato. "How apt we all are to look at the manners of ancient times through the false medium of our everyday associations," wrote a Cambridge scholar living in Munich in his introduction to a collection of essays on ancient Greek drama that was published in 1836. "How difficult we find it to strip our thoughts of their modern garb and to escape from the thick atmosphere of prejudice in which custom and habit have enveloped us."

> And yet, unless we take a comprehensive and extended view of the objects of archaeological speculation, unless we can look upon ancient customs with the eyes of the ancients, unless we can transport ourselves in spirit to other lands and other times, and sun ourselves in the clear light of bygone days, all our conceptions of what was done by the men who have long ceased to be must be dim, uncertain and unsatisfactory, and all our reproductions as soulless and uninstructive as the scattered fragments of a broken statue.[47]

It was perhaps appropriate that the editor of the collection was living in Germany because, as he acknowledged in a footnote to this passage, the text was in fact borrowed from a lecture on Roman history given in 1810 by the great German historian Barthold Georg Niebuhr.[48]

Importantly, however, both sides of the classic-romantic divide were alternatives to Kant. This, in turn, meant that both sides of the earlier quarrel between the ancients and moderns looked as if they could be folded into a broader, more comprehensively classic or romantic, anti- or post-Kantian alternative. Thinking about history as incremental and cumulative—with, for example, more Christianity but less slavery—amounted to cutting morality and culture free from their largely Greek and Roman pasts to open up more room to examine their putatively Germanic and medieval origins. Human

47. John William Donaldson, *The Theatre of the Greeks: A Series of Papers Relating to the History and Criticism of the Greek Drama*, 4th ed. (Cambridge, 1836), pp. 5–6.

48. The reference was to Barthold Georg Niebuhr, "Einleitung zu den Vorlesungen über die Römische Geschichte" [1810], in his *Kleine historische und philologische Schriften* (Bonn, 1828), pp. 92–93. On Niebuhr, see Peter Hanns Reill, "Barthold Georg Niebuhr and the Enlightenment Tradition," *German Studies Review* 3 (1980): 9–26.

history, from this perspective, could match the idea of the divine existence preceding the divine essence but on a more microhistorical scale. In this context, the idea of the jury, for example, could appear to have replaced the idea of the forum, and the idea of the rule of law could be taken to have superseded the idea of the living law, while what was romantic and Germanic in origin could also appear to trump—or perhaps absorb—what was classic and Latin. More saliently, this type of comparison appeared to underline the genuinely linear quality of history and, by doing so, to neutralize the concept of unsocial sociability by showing, as Rawls was later to do, that history had an unequivocally positive direction of travel. Equally, however, taking history to be the study of a medium responsible for transmitting significant concepts and values across time and space offered the alternative prospect of neutralizing the concept of unsocial sociability from a different direction. Here, what was linear and progressive would take second place to what was timeless and immutable, but, notwithstanding this still considerable difference, both points of view appeared to have the conceptual capacity to bridge the gap between human life and human history that Kant had opened up.

This, however, was where the real problems began. They did so because there was nothing to bridge the new gap between the mutable and the immutable or the time-bound and the timeless opened up by these two, apparently complementary, alternatives to Kant. Nor was it possible to identify something underlying either side of the divide that could make the distinctions secure. Something said to be classic could be shown to be relative and time-bound, just as something taken to be romantic could also be said to be absolute and timeless.[49] Nor, by definition, was there any robust set of criteria that could be used to adjudicate between the two types of evaluation because if the criteria were available, the problems would not have occurred. In themselves, the problems were moral or aesthetic, philosophical or sociological, economic or organizational, but their underlying intractability could ultimately make them political. Over the years, particularly as their original Kantian context has faded from historical view, many of these earlier problems have crystallized into a number of more recognizably discrete political ideologies. The best known are liberalism, nationalism, socialism, federalism, conservatism, and communism. More recently, there have been communitarianism, republicanism, feminism, and environmentalism. Part of the point of the argument that follows is to try to show why, as with any genealogy, they have both less and more in common

49. For a recent way in to the problem, see Martin Kusch, Katherina Kinzel, Johannes Steizinger, and Niels Wildschut, eds., *The Emergence of Relativism: German Thought from the Enlightenment to National Socialism* (London, Routledge, 2019).

than they seem, and why, therefore, it is not a good idea to take any single later term, like liberalism or civic humanism, as a starting point for thinking about politics. This is why this is a book about the history of political thought and, more specifically, about the long sequence of discussions generated by Kant's moral and historical vision. A surprisingly large number of apparently more recent political theories and concepts actually began from there.

The chapters that follow have been arranged to justify this claim. They are, accordingly, not so much a narrative as a cumulatively fuller reconstruction of a pattern or a half-buried mosaic. The next chapter is a development of this introduction and is a more detailed description of the relationship between the historical side of Kant's thought and a number of early nineteenth-century publications and artefacts that were informed by the concept of palingenesis. In 1848, as will be shown, it was a concept that came to be associated very directly with both the goals and the image of that revolutionary year. The following three chapters are an examination of the intellectual context in which both the image and the goals took shape. Their broad aim is to bring to light the scale of the hostility towards Rome and Roman law that developed in early nineteenth-century Europe, and the corresponding interest in the assorted legacies of the northern and Germanic peoples who had been responsible for the decline and fall of the Roman Empire. The intensity of that hostility has now been largely forgotten. "It was from Rome that we inherited the notion of rights," wrote the twentieth-century French moral and political thinker Simone Weil, "and like everything else that has come from ancient Rome, or the woman big with the names of blasphemy of the *Book of the Apocalypse*, it is pagan and unbaptizable. The Romans, like Hitler, understood that power is not fully effective unless it is clothed in a few ideas, and to this end they made use of the idea of rights, to which it is admirably suited." This, she explained, was because the Romans associated rights with property. "It is singularly shocking," she continued, here echoing Pierre-Joseph Proudhon's more famous claim that property is theft, "that ancient Rome should be praised for having bequeathed the notion of rights to us. If we examine Roman law in its cradle, to see to what species it belongs, we discover that property was defined by the *ius utendi et abutendi*. And, in fact, most of the things that any property owner had the right to use or abuse were really human beings."[50] As will be shown, this, to Simone Weil, was why, in substantive terms, the Nazis were actually Roman.

50. Simone Weil, "Human Personality" [1950], in Simone Weil, *An Anthology*, ed. Sian Miles (London, Virago Press, 1985; Penguin Classics, 2005), pp. 81–82. I have modified the translation slightly in the light of Simone Weil, *La personne et le sacré* (Paris, Editions Allia, 2020), pp. 33–34. On this aspect of Weil's thought, see Roberto Esposito, *Instituting Thought: Three Paradigms of Political Ontology* (Cambridge, Polity, 2021), pp. 59–60.

The countervailing interest in the Germanic peoples of the North was one that had arisen in sixteenth-century France, where it had been one of the features of monarchomach political thought, particularly the thought of François Hotman, at the time of the French Wars of Religion. It was given a more subtle and more durable expression in the political thought of Charles-Louis de Secondat, baron de Montesquieu, in the eighteenth century and, subsequently, acquired a more fiercely anti-Roman and anti-French orientation, not only in the German-speaking parts of Europe but also in Switzerland and France itself in the decades that followed the French Revolution and the establishment of the Napoleonic Empire. In these assessments, as is apparent in the passage quoted from Simone Weil, the political theory of possessive individualism was often said to have begun with Rome and Roman law rather than, as was said later, with the political thought of Thomas Hobbes and John Locke.[51] The initial focus of these Germanist-oriented chapters is on the Coppet group or the network of Swiss, French, German, Italian, and British literary, political, and economic thinkers associated most famously with Germaine de Staël and Benjamin Constant in the first two decades of the nineteenth century. Their more substantive aim is to describe the part played by members of that group in generating much of the early nineteenth-century European interest in developments in German-language moral and political thought, notably in the close and alarming relationship that came to be seen between Kant's concept of autonomy and the idea of the death of God.

As with the earlier occurrence of the distinction between history as tragedy and history as farce, this iteration of the idea of the death of God occurred far earlier in the nineteenth century than its better-known counterpart in the thought of Friedrich Nietzsche. The largely French and German repercussions of the idea, both in the form of what has come to be called recognition theory and in the distinction between civil society and the state made most famously by Georg Wilhelm Friedrich Hegel, form the subject matter of the sixth and seventh chapters. These two chapters are designed to form a bridge between intellectual developments in the German-speaking and the Francophone parts of Europe. The shift of focus that this involves was matched, historically, by a

51. On the phrase and its historiography, see C. B. Macpherson, *The Political Theory of Possessive Individualism* (Oxford, Clarendon Press, 1962). The claim was less pronounced in earlier Marxist evaluations. "Even Roman law," noted the Marxist scholar Georg Lukács in 1922, "which comes closest to these developments [meaning those underlying the capitalist phenomenon of reification] while remaining, in modern terms, within the framework of pre-capitalist legal patterns, does not in this respect go beyond the empirical, the concrete, and the traditional." Georg Lukács, *History and Class Consciousness* [1922], trans. Rodney Livingston (London, Merlin, 1971), pp. 96–97.

switch from a largely Germanic to a more firmly Roman subject matter in the years that preceded and followed the revolutions of 1848. The three chapters that follow are designed to convey something approximating to the real scale and scope of this now largely forgotten intellectual and evaluative transformation. Where, in the wake of Montesquieu and Hegel, it had once looked as if the arrangements and institutions of modern Europe were Germanic in origin, it now, with Jules Michelet and Edgar Quinet, began to look as if the opposite was the case. After 1848, it began to be clear that Rome was back. The final three chapters of the book examine the repercussions of this Roman revival, first in the long-drawn-out argument between Romanists and Germanists, mainly but not exclusively in the German-speaking parts of Europe, and second in the new evaluations given to arrangements and institutions that were once taken to be Germanic but were now said to be Roman. Gradually, as the scale of the transvaluation of values became more visible, the significance of Kant's concept of unsocial sociability began to become somewhat clearer. It was a concept that could encompass distinctions between states and governments, sovereignty and authority, unity and multiplicity, morality and legality, historicity and normativity, and, finally, between the real and the ideal. It ruled out much of the moral and political significance attached to historical legacies and binary choices. Sociability, from this perspective, was simply the clash of ideologies, while the impossible teleology that Kant set out in his "Idea for a Universal History with a Cosmopolitan Aim" could now be seen to be the modern framework of organized politics. Instead of the Romans or the Germans, there was no more than an empty future to be aimed for and filled, and endless argument over the competing components of the politics of dualism as the way to get there.

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