Who shall judge? Hobbes, Locke, and Kant on the construction of public reason

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Abstract
This paper investigates early modern and enlightenment roots of contemporary ideas of public reason. I argue that concepts of public reason arose in answer to the question ‘who shall judge?’ The religious and moral pluralism unleashed by the reformation led first to the weakening of authoritative common forms of reasoning, this in turn and more importantly led to the question who is the final arbiter when a political community is faced with deep disagreement about political/moral questions. The rise of pluralism meant that to the question ‘what are the standards of public right?’ is added the corollary and equally important question ‘who judges when those standards are violated?’ The answer is that the public judges. Public reason thus refers to the role of the public as judge of public right and not simply to a set of reasons that an actual public happens to share. On this reading of Hobbes, Locke, and Kant, the initial contract recedes in importance while the seat of authoritative political judgment comes to the fore.

Keywords: public reason; pluralism; Hobbes; Locke; Kant

Public reason is now a central if not the central concept through which liberal theory addresses pluralism. The dilemma facing liberal orders whether they be domestic or global is to find ways to justify liberal institutions (from constitutions to international human rights regimes) to citizens with divergent religious, moral, and political views while at the same time respecting that divergence. The various competing conceptions of public reason discussed in the contemporary debate all focus on a solution to this dilemma. This paper seeks to contribute to that debate by returning to the early modern roots of contemporary ideas of public reason. I argue that the idea of public reason arose in answer to the question ‘who shall judge?’ The religious and moral pluralism unleashed by the reformation lead first to the weakening of authoritative common forms of reasoning, this in turn and more importantly lead to the question who is the final arbiter when a political community is faced with

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comes to the fore.  

What I hope to highlight in this return to the early modern period is that public
reason is not only about identifying public reasons, that is, putting our finger on
actual reasons a public might share or find acceptable. Public reason is more about a
public having the capacity, space, and right to reason authoritatively. We can hope
that that reasoning will construct or even discover reasons acceptable to all but it is
the public as authoritative reasoner that represents the radical change brought about
by the rise of pluralism and not a trading in of one set of reasons for another.

PLURALISM AND PUBLIC REASON

At its most general, public reason refers to reasons that can serve as appropriate
justifications for public policy or government action. Much depends on what is
meant by appropriate. In a sociological or descriptive sense, every political society
might be said to have a public reason specific to it. In every political society
there are claims and arguments that work as justifications for government action
and those that do not. Here, appropriate would simply mean what falls within a
given set of shared values, meanings and worldviews. Agamemnon can appeal to
divination as a reason to delay launching the military strike against Troy and
Charles I can appeal to the divine right of kings as a reason for claiming the power
to call and dismiss Parliament. These were appropriate reasons in each of these
contexts even if individuals could dispute whether they were good reasons. Neither
of these reasons would carry much weight in our political context even if there were
individuals who believed in the power of divination or who believed in a literal
interpretation of Romans 13. In our world, they are not just bad reasons, they are
inappropriate reasons. But this sociological or perhaps historicist sense of public
reason is not how the term is used within contemporary debate, or at least not
obviously so. For a theorist like John Rawls, for example, not all political societies
have a public reason. It is a peculiar feature of democratic societies.  
Now we
might want to give this its own historicist reading: public reason is simply the
term we use to describe what is appropriate or acceptable in our public debates.
There are people who seem to use public reason in this sense. Stephen Macedo, for
example, defends a consensus or convergence view of public reason that stresses
values and principles that citizens share as matter of fact.  
But it would be a
mistake to think of public reason as simply a reflection of underlying empirical
consensual understandings that change over time. This places too much emphasis
on discreet reasons and not enough on the idea of reasoning. In this paper, I argue that there is a qualitative shift in the whole process of public justification as we move into the modern era. It is not this or that reason that comes into question but who gets to do the reasoning. The qualitative shift involves thinking of the public as both the addressee and addressee of public reason.

The thinning out of widely shared beliefs becomes most obvious (and troublesome) when the Reformation explodes religious (and so moral and evaluative) conformity and sends religious belief into a centrifugal spin creating what appears to be an infinitely expanding universe of beliefs, convictions and first principles. It is not just that the Reformation undid the hold of a centralized religious authority for Christians, it also opened the door to a new source of religious (and so moral and evaluative) authority—private conscience. Under these conditions, moral and evaluative disagreement takes on a new dimension or at least the possibility of resolving such disagreement poses new problems for philosophers. People of course have always disagreed. This is not a peculiarity of modern societies. However, it is in the modern era that the possibility, indeed frightening possibility, that disagreement might go all the way down and be a permanent feature of society first seriously presents itself. We start with Hobbes because more than any other early modern thinker, he recognized what we might now call pluralism, but what he called private judgment, is the single most important threat to stability and legitimacy of any political order.

Pluralism is the catalyst that forces common reason to be replaced by public reason. As such it is the problem to which public reason is the solution. By pluralism I mean the fact of pluralism and not value-pluralism. The fact of pluralism refers first of all to the historical fact that people in the world today have vastly differing views about what is of value in life. But the fact of pluralism means more than this. This alone would be the fact of diversity. Perhaps people in the modern world have more profound disagreements than people in the ancient world—I am not sure. Perhaps disagreement is more widely distributed among people—this makes more sense to me. But these facts are not what defines pluralism. Pluralism is not identical to diversity of opinion, not even deep and widespread diversity of opinion. It is instructive to recall that the Catholic Church from the first day of its establishment was never without dissenting groups, opposition voices and reform movements. What is significant here is not the existence of diversity of opinion but rather the power and ease with which the church (for the most part) was able to suppress dissent. Church history can be read as the history of heresy. Pluralism is the term we use when diversity is no longer heretical. It implies that diversity of opinion is permanent because we allow it to be permanent. Pluralism as a doctrine is the view that disagreement (within some broad limits) ought to be tolerated. Pluralism as a fact is (a) the fact of deep diversity, plus (b) the fact that some version of pluralism as a doctrine is embedded in our public culture. The problem to which conceptions of public reason are the answer is: What is the nature of legitimate public justification under conditions of pluralism?
THOMAS HOBBES: PRIVATE JUDGMENT AND PUBLIC REASON

Thomas Hobbes is not a pluralist. Hobbes, however, recognized the first stirrings of pluralism and was concerned with the political consequences. This is to say that it was not simply diversity of opinion that worried him but a growing belief, often fueled by religious conviction, that one was justified in holding divergent opinions. In particular, Hobbes was worried about the belief that one’s religious conscience offered a stand point from which to judge the legitimacy of the political order. This belief was disastrous because individuals acting on their own judgment would never converge. Diversity of opinion coupled with strong convictions led to destabilizing disagreement. Thus, Hobbes addresses the fact diversity but seeks to turn back the fact of pluralism.

In his political writings, Hobbes was overwhelmingly concerned with civil strife and the most rational and certain means to prevent such strife. The devastation wrought by conflicts like the English Civil War is to be avoided at all cost. Law and order, even bad law and oppressive order, is always preferable to ‘the miseries, and horrible calamities, that accompany a Civill Warre.’ Not just any type of government will protect the political community from back sliding into civil war. Only absolute government conceived along very narrow lines will do. He implies that few political orders have ever acknowledged the full extent of power needed to maintain peace and most have been inherently unstable and always on the brink of the slippery slope to civil war.

How does Hobbes convince his readers that stability and peace depend on relinquishing all power to an absolute sovereign? To answer this question we must go to the causes of human discord. The proximate cause of strife can be found men’s appetites. Like many thinkers before him, Hobbes did not have a high opinion of human sociability. Greed, pride, and insecurity, all play their part in making life without authority unbearable. But St. Augustine said as much. What sets Hobbes apart and makes him interesting for our story about public reason, is his recognition that disagreement about the meaning of words and the content of truth, which is to say diversity of opinion, poses the most serious challenge to political order. ‘For the Actions of men proceed from their Opinions; and in the well governing of Opinions, consisteth the well governing of Mens Actions.’ It is not simply their irascible nature that leads men to disagree and fight among each other, language is complicit in this spiral of violence.

Where there is no strong civil authority, human society suffers from a type of linguistic anarchy. David Johnston remarks that Hobbes is not the first to observe that civil unrest is accompanied by linguistic disorder. Thucydides in his famous description of the civil war in Corcyra notes that to justify their actions, unscrupulous leaders twisted the meaning of words to suit their purposes; orators used ‘high words’ to get away with ‘base action.’ But for Thucydides this was a misuse of words that was allowed to take hold only during a state of deep pathology. ‘Civil war led to every sort of depravity’ including turning moral and evaluative language on its head by changing ‘the accepted meanings of words as they saw fit.’ For Hobbes, the causal
link is reversed. Civil war does not cause linguistic anarchy; linguistic anarchy causes civil war. So long as there is uncertainty and disagreement about moral meanings, conflict always stands in the offing. Uncertainty and disagreement about moral meanings is the natural state of mankind, therefore, linguistic anarchy is not the misuse of words for Hobbes. For Hobbes, there is no natural standard for evaluative words like good, worthy, and honest against which we can say that someone is misusing them or not. And ‘accepted meanings,’ the standard Thucydides uses, is only as good as the authority that can ensure they remain ‘accepted.’ Without such authority there is a natural tendency to fall back on private judgment to determine the meaning of words. Private judgment can gain no distance from subjective desires.

But whatsoever is the object of any mans Appetite and Desire; that is it, which he for his part calleth Good: And the object of his Hate, and Aversion, Evill; and of his Contempt, Vile and Inconsiderable. For these words of Good, Evill and Contemptible, are ever used with relation to the person that useth them: There being nothing simply and absolutely so.17

Thus there appears to be no way to adjudicate between divergent private judgments in a state of nature. Nature itself just did not offer a common standard of good and bad or right and wrong. Or more precisely nature’s standard was tied to each individual’s judgment of what is good and each individual’s judgment of what is necessary to preserve himself. Without some prior stipulation or established conventions, moral language and evaluation was thoroughly subjective.18 Therefore, while Hobbes can say that difference of opinion causes civil unrest, he cannot say that difference of opinion is itself caused by error or some sort of human willfulness. The solution to this problem is not to get people to give up their false beliefs. The solution to this problem is to get people to see that they need to give up private judgment in order to establish a standard of right and wrong, good and bad, against which to adjudicate claims. This in turn will only happen if they forgo judging all-together and hand it over to a third party.

But no one mans Reason, nor the reason of any one number of men, makes the certainty; ... And therefore as when there is a controversy in an account, the parties must by their own accord, set up for right Reason, the reason of some Arbitrator, or Judge, to whose sentence they will both stand, or their controversies must either come to blowes, or be undecided, for want of right Reason constituted by Nature.19

Thus, it is not this or that belief that must go but the practice of relying on personal judgment to adjudicate disputes. In an essay reconstructing Hobbes’ idea of public reason, David Gauthier explains it this way: ‘The individual mode of deliberation, in which each person judges for herself what she has reason to do, is to be supplanted by a collective mode, in which one person judges what all have reason to do.’20 Public reason, then, is what we all have reason to do.

Why, one might ask, must this public reasoner be absolute and all powerful? Hobbes, like many other early modern thinkers was concerned by the question: ‘who
shall judge?21 As there is no right reason beyond what the sovereign says is right reason, there is no vantage point form which to judge such a dispute. Indeed allowing the possibility of such a dispute puts one virtually back into the state of nature. It is not only that subjects must hand over judging to the sovereign, they must relinquish the belief that there is something special and inviolable about private judgment. Particularly worrying to Hobbes were the claims of conscience.21 In the claims of conscience, we see the turning point from diversity of opinion to pluralism. In 17th century England ‘a claim of conscience was a claim that one’s judgment or opinion was inviolable, even if the magistrate should demand otherwise.’22 Conscience was where a person stood in relation to God. It contained the necessary beliefs and commands to be upstanding in God’s eyes. As such it answered to a higher authority. Now Hobbes did believe that many, if not most, aspects of personal religious belief were irrelevant to the sovereign and so should be tolerated.23 Although the sovereign should have absolute power and be able to dictate belief and opinion, pragmatically all that was needed were broad strokes. Thus, Hobbes had no problem with the content of men’s conscience but rather with the very idea of conscience as something inviolable. The doctrine of inviolability was for Hobbes an excuse for sedition. Political stability required not only that a common standard of good and right be constructed and enforced, but individuals must also give up the idea that their private judgment is appropriate in adjudicating political and public matters.

Hobbes has a doctrine of public reason that is distinct from common or shared reason. It is distinct in the sense that it is constructed in response to the lack of a naturally occurring shared or common reason. Public reason is constructed not found. This is a feature of all modern conceptions of public reason even those like Locke’s which draws on natural law theory. But in the end Hobbes solves the problem of pluralism through stipulation. His problematic starts with the conviction that private judgment cannot consistently adopt a public perspective—that is, judge the world from the point of view of what is good and right for all. Each individual knows in her heart of hearts that things would be much better if everyone were to adopt this perspective, but each also knows that no one is to be trusted to do it. A stable political society requires laws that are justified from the public perspective. This job is handed to an all powerful state. Public reason collapses into raison d’etat. Thus, Hobbes addresses only one side of the pluralism dilemma. He deals with diversity but fails to respect that diversity. The public understood as made up of independent-minded citizens cannot be trusted to make judgments from the point of view of what is good for all. In Locke, the public is given this trust but only on very special and rare occasions.

JOHN LOCKE: TOLERATION AND THE APPEAL TO HEAVEN

Locke is not always included in the list of thinkers associated with public reason because reason in Locke is so clearly tied to natural law thus it is often read as God’s reason rather than a public’s reason. In this section I argue that because the public
acts as final judge as to whether the laws of nature have been violated, they can be understood as engaging in public reasoning in a constructivist sense. It is in Locke’s theory of resistance that I find his most significant contribution to the public reason debate. Locke is sometimes connected to public reason through his doctrine of toleration. I argue, however, that while Locke’s discussion of toleration is helpful in articulating a particular feature of public reason namely inclusiveness, it does not contain an adequate view of public reason because it is still the reason of state. Let me begin with a brief discussion of toleration and then move to the question of resistance.

Locke, like Hobbes, could very well see the damage done by religious diversity and dissent. But unlike Hobbes he did not think that granting a right to diversity of belief fatally undermined stability. Locke argues that states do not have the right or the power to enforce religious conformity.24 States do not have this right because the care of men’s souls was never entrusted to magistrates. God did not give government this authority and men did not (and would not) consent to such authority. But even if magistrates claimed this right, they do not have the power to exercise it. The power of states ‘consists only in outward force: but true and saving religion consists in the inward persuasion of the mind.’25 In Locke we see a strong defense of the inviolability of conscience.

Locke’s defense of toleration leads directly to modern doctrines of freedom of thought and speech as well as constitutional lines between church and state. It is important to recall that questions of public reason are not identical to questions of freedom of thought and speech or religious toleration. These issues revolve around carving out a legal space in which an individual’s beliefs and convictions are protected from interference. Public reason is about the appropriate justification of public action. While Locke’s doctrine of toleration begins to carve out the separate spheres of church and state, he clearly thinks that some religious arguments are appropriate justifications for public policy. Thus, the separation of church and state does not mean in this instance the exclusion of religion from public discourse nor does it mean that the state has or should have no interest in the religious beliefs of its citizens. For example, a policy of toleration places demands on individuals whose religious convictions lead them to believe strongly that tolerating ‘heretics’ is a sin. At a minimum, it asks them to suppress that belief for the sake of social peace. This is Jean Bodin’s strategy in defending toleration.26 Locke tackles the issue head-on and argues that persecution is based on false religious belief and cannot be supported by scripture. The irony here then is that Locke’s argument that government does not have any business interfering in the religious beliefs of its citizens is dependent on actually changing the religious beliefs of at least some of its citizens.

Locke uses religious arguments to defend religious pluralism. Is this a violation of public reason? There are some today who think that religious arguments cannot be public reasons because they cannot be reasons for everyone.27 Others have argued that perhaps there are no reasons that could be reasons for everyone.28 But if there are no reasons that could be good reason for everyone need we give up on public reason? Locke’s argumentative strategy here points to the possibility of a procedural
view of public reason in which the goal is maximum inclusiveness.²⁹ For example, the religious arguments he brings as justifications for public policy are intended to appeal to or make sense to religious dissenters as well as Anglicans. He is at pains to argue in *A Letter Concerning Toleration* as well as elsewhere that reasonable people can disagree on scriptural interpretation and so these cannot be the grounds for political action. Only broad stroke arguments that rely on generally accepted, and indeed common sense (for Locke’s world anyway) religious principles could serve as justifications for law.³⁰

Locke’s religious pluralism has its limits, however. He assumes that political stability cannot tolerate a diversity that goes all the way down but must be sustained by an underlying consensus, indeed a religious consensus. This assumption is most evident in his arguments excluding certain groups from the protective umbrella of toleration. Atheists and Catholics are not to be tolerated. Unlike his arguments for toleration which included religious appeals, his arguments against toleration are entirely political. The problem with atheism and Catholicism is not that they are false beliefs (something Locke no doubt believed). The problem is that certain fundamental and necessary conditions of political association do not hold for individuals who profess such beliefs. For Catholics it is a question of their allegiance to the state as they have a prince in Rome. But the more interesting case is the atheist. Locke famously says that ‘The taking away of God, though but even in thought, dissolves all.’³¹ In particular it dissolved the binding nature of promises and oaths but the more general point, made forcefully by Jeremy Waldron, is that political community requires some common moral language to survive.³² Locke assumed that atheists were incapable of sharing in that common moral language. In our world we may think that Nazis or racial bigots are incapable of sharing in our moral language and be very worried if their numbers grew to the extent that our political community was in jeopardy. Are laws banning Nazi parties in Germany so different from Locke’s exclusion of atheists and Catholics? We might want to say that Locke was simply wrong in his assessment of atheists and Catholics. Such an assessment would certainly be wrong today. But the broader point is that we too are asked to make such judgments in our world. Can public reason help to structure that judgment? The role of consensus in Locke’s argument is instructive. On the one hand, Locke excludes atheists and Catholics for the sake of a stabilizing consensus; on the other hand, he uses secular rather than sectarian arguments to defend this exclusion. He does not draw the reasons for exclusion from the consensus that those reasons protect. He does not say these are false beliefs in the way he argued that Christian arguments for intolerance were a misreading of Christian principles. Instead he uses political arguments that atheists and Catholics could conceivable endorse. While atheists would most likely dispute the conclusion that they are not to be trusted, they might very well agree with the principle that individuals who are unable to keep promises or who have no moral ballast to speak of will make for poor citizens. Is this then an example of public reason? I want to suggest that in the question of toleration Locke gets half the story right. The arguments both for and against toleration are constructed with an eye to the beliefs and opinions of the citizens who would have to
live under these regulations. Thus, in the case of toleration not only did Locke himself avoid controversial readings of scripture, but he argued they had no place in public debate precisely because they were subject to reasonable disagreement. In the case of intolerance, he appeals to secular arguments as the broadest and most public defense of exclusion. Why is this only half the picture? Public reason is not only reasoning for a public in the sense that it involves arguments that attempt to appeal broadly, it is also reasoning by a public. The public is not asked to judge these matters. The public plays an active role in constituting public reason in only one situation—revolution.

In Locke, the content of public reason is broadly determined by natural law. This means that there are moral limits to what is an acceptable reason for public policy. Now one might want to read this to mean that Locke’s idea of public reason is not constructed by a public but rather is discovered in natural law. But what the doctrine of resistance illustrates is that it is private citizens acting as public reasoners who judge when laws of nature are violated. Therefore, although Locke thinks we all have access to similar very general intuitions about public good, this cannot be operationalized in the world without a public capable of reasoning from the public point of view.

Locke’s state of nature is governed by the laws of nature. While there is disagreement and indeed conflict in Locke’s state of nature there is no linguistic anarchy or fundamental moral subjectivism. ‘For truth and keeping of faith belongs to men, as men, and not as members of society.’ Divergent moral evaluations and judgments are the result of human fallibility and weakness not a lack of a common moral standard outside of civil society. God’s law, the laws of nature, serves as the moral reference point for evaluating action. Natural law, through reason, ‘teaches all mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions.’ There is still room for disagreement and Locke often seems very pessimistic about our willingness and capacity to consult reason. Nevertheless, natural law offers a potential common ground from which to judge both private and public behavior. In the state of nature each individual is responsible for making these judgments, therefore, each individual is responsible for administering and enforcing the no harm principle. This causes inconveniences and sometimes conflict as we are not good at judging in our own case. We set up government in order to administer the laws of nature in a more systematic, rational and fair manner than can be achieved in the state of nature. This then is the trust that is placed in the hands of the governors. It is a trust that can be violated and when violated the very reason for entering into civil society disappears.

The possibility of violating the trust introduces a right of resistance. When a government violates its trust, the constitution under which it was ruling is dissolved. There is no government and the people can set up another constitution as they see fit. But how does this actually happen? What are the mechanisms by which the people can reconstitute? The first step in this process is deciding that the government has indeed over-stepped its trust. Locke, like Hobbes was deeply troubled by the question ‘who will judge?’ There can be no constituted or authoritative judge of this...
controversy because such a judge would stand above the sovereign and therefore
would be sovereign. Then the question of who judges is simply pushed back one step.
For many thinkers at the time any authority that could limit a sovereign must entail a
logical reductio ad infinitum.\textsuperscript{35}

On a number of occasions Locke says that there is no judge on earth but only
appeal to heaven. This appeal is not a vague appeal to providence or divine
intervention rather it is an appeal to moral standards rather than legal ones. For he
eventually says that of course someone must judge even if there is no official judge:
‘The people shall judge.’\textsuperscript{36} The people are judge if the government is in violation of
the trust. But what does this mean? How, as a matter of fact, do the people judge?
And if it is the people who judge, why does Locke need an appeal to heaven?

The people judge using private judgment: individual conscience must decide
whether or not fundamental constitutional essentials have been violated. But
individual conscience is guided by the interests of the people or community and not
the interests of the individual.\textsuperscript{37} Even in the state of nature, individuals are thought
capable of and expected to act to preserve mankind.\textsuperscript{38} The perspective of the common
good is natural for Locke. Furthermore, constitutional dissolution does not mean that
the people as a corporate body dissolves: ‘The power that every individual gave to the
society, when he entered into it, can never revert to the individuals again, as long as the
society lasts, but will always remain in the community.’\textsuperscript{39} But the community has no
constituted institution through which to speak. There is no court, government, or even
constitution; there are only individuals relying on their private judgment of public
right. In times of political crisis and public upheaval, we are all asked to reason as if
we were members of a hypothetical constitutional convention or as a public.

This question (“Who shall judge?”) cannot mean that there is no judge at all: for
where there is no judicature on earth, to decide controversies amongst men, God in
heaven is judge. He alone, it is true, is judge of the right. But everyman is judge for
himself, as in all other cases, so in this, whether another hath put himself into a state
of war with him, and whether he should appeal to the supreme Judge.\textsuperscript{40}

It is clear, then, that judging when a revolution is required lay in the hands of the
people. But how do we know that the people get it right or even when such a judgment
has taken place if there are no institutions to speak for or represent the people at times
of dissolution? Ian Shapiro argues that the answer can only be found in the historical
fact of a majority rising up and throwing off a tyrant. Judgment is rendered de facto by
the actions of majorities who speak for the people.\textsuperscript{41} Locke does sometimes appear to
introduce such a de facto argument. In answering the objection that his doctrine was
license for continual upheaval and revolutionary activity, Locke answered that, as a
matter of fact, the people are very reluctant to engage in revolution and so can be
counted on only to do so when things are really bad.\textsuperscript{42} Now this seems to imply that
revolutions only happen for good reasons. But even if this were a well-founded
empirical generalization, it could not mean that the brute fact that a majority of people
are willing to engage in revolutionary action is itself a justification of revolution. This
would appear to give the majority, acting on behalf of the people, the same moral free
pass as Hobbes gives the sovereign. But Locke is at great pains to detail the appropriate reasons to resist. There are very specific circumstances which constitute violation of the contract and it is only when these circumstances hold, that resistance is warranted. While it is true that only the people has the right to judge when those circumstances hold, it must also be true that the people can be mistaken. There are good reasons to overthrow a government and there are bad reasons to overthrow a government even if there is no power on earth to judge this. Thus, the appeal to heaven means that each must search his private conscience to evaluate whether the reasons for resisting are good reasons. What are good reasons here? They are public reasons. They are reasons that speak to a violation of a public good. Fomenting rebellion for personal gain or private feuds would not be a good reason to resist even if it was the case that one could win a majority to one’s cause. It is not how many people one can persuade that determines if resistance is legitimate; it is what reasons one has for resistance. Although it is possible to imagine reasons that would fail the public good criteria, it is also the case that there is no designated authority on earth other than the people themselves to determine whether reasons pass or fail. The appeal to heaven then is euphemistic appeal to reasons rather than force.

Locke’s case for revolution shows that authoritative judgment of legitimacy resides with the people who reason from the point of the community. While admitting that citizens often disagree about important matters of conscience including the content of natural law, Locke’s natural law theory postulates a capacity inherent in reasoning itself to see public questions from the point of view of public good. Because the people judge outside any and all political institutions that could represent their will, the people must judge through the possible reasons that are put forward on their behalf.

KANT: PUBLIC USE OF REASON

Kant is not concerned about pluralism in the same ways as Hobbes. Hobbes worried that disagreement would make society ungovernable. Kant thought that disagreement would make for better government. In a very famous passage from The Critique of Pure Reason, Kant says: ‘Reason must in all its undertakings subject itself to criticism; ... Reason depends on this freedom for its very existence. For reason has no dictatorial authority: its verdict is always simply the agreement of free citizens, of whom each one must be permitted to express, without let or hindrance, his objections or even his veto.’43 Hobbes had little faith that reason without the backing of a real dictatorial authority could resolve disagreements about politics and morals. Part of the problem was that people are unruly, willful, and desire to gain advantage. But the other part of the problem for Hobbes was that reason offered no clear right answer to practical questions outside of a situation where there was a dictatorial authority enforcing the answers. Kant had only a slightly more optimistic view of human nature, but he did think that reason could produce answers to practical questions. Reason produced these answers through persuasion and not force, however. Therefore
criticism, argument, and communication were means to reach the right answers and not (as for Hobbes) invitations to undermine the only safe answer namely the dictatorial authority of the sovereign designated to stipulate the right answer.

In moral questions of the type ‘what ought I to do?’ Kant thought that people in general had a pretty good idea of what they ought and ought not to do even if they often failed to live up to these duties. People should not lie or break their promises, and they should help others as well as try to improve themselves. Kant’s moral philosophy sets out to show that these widely shared if not widely acted upon moral principles follow purely, simply, and categorically from reason. I am going to sidestep that famous argument for the moment and move straight to politics. Although the answers to political practical questions of the type ‘what ought we to do’ also follow from reason, Kant could not say that states in general had a pretty good idea about how to govern. Hence, in political questions there was a particular need for criticism, argument, and communication in order to correct error and move state policy closer to the right answer. It is in the context of correcting error and improving government that Kant introduces the idea of the public use of reason. But let’s first take a look at what Kant thinks is the right answer to questions ‘what ought we to do.’

Both Kant’s moral and political philosophies begin with freedom. Moral theory seeks the inner source of autonomous action so that moral responsibility can be tied back to the individual will. Acting on principles of pure (a priori) practical reason is to be free (not determined by anything outside the self) and moral (guided by duties that hold for all rational agents). Politics is about external not internal freedom and it begins with a first principle: there is only one innate right, it is the right to ‘independence from being constrained by another’s choice.’ This right belongs to all human beings equally. Therefore, each person is innately free only to the extent that her freedom ‘can coexist with the freedom of every other.’ The problematic of external freedom is different than internal freedom. Internally the puzzle is about how humans can be autonomous, that is, have a truly free will, in a world governed by causality. Externally the puzzle is about how we can each do what we want (and ought) to do in the world without bumping into (and so constraining) other people also doing what they want (and ought) to do.

All law and therefore all reasoning about law must be tied back to this initial right and the puzzle that it engenders. To greatly simplify, Kant’s justification of the state goes something like this: although states do not give people innate right, they have it by virtue of being human, only a state can protect and enforce this right in a consistent and fair way. Indeed, innate right is not really a true right until a state protects and enforces it. Conceptually or logically we can think of innate right as prior to the state but in actuality there is no right without a way to instantiate it. Therefore, innate right necessarily entails entering into what Kant calls the rightful condition, that is, a condition in which rights are instantiated or made positive. But even ‘entering into’ is slightly misleading because there is no temporality here. It is more like a syllogism: if there is innate right then there must be a state.

The reason for law is to maintain the rightful condition, which is to say, to maintain a system of equal independence. All law must find its justification in this
abstract, formal, and universal condition. Happiness, welfare, and interest (understood as contingent desire) are not appropriate bases for law. In this way Kant thought he could avoid or sidestep at least one of the major sources of pluralism. Kant recognized that people disagreed deeply about what makes a person happy, and, unlike classical and scholastic thinkers, he did not think that philosophy could look past that disagreement and discern an underlying set of truths about the things that make humans happy. Kant thought that that disagreement reflected the fact that there were no universal truths about happiness except for the completely empty principle that everyone wants it.

The innate right to freedom requires a system of enforceable law to make it a real right. But law is inherently coercive. Law by its very nature constrains an individual’s choices and so seems to run afoul of innate right itself. This conceptual dilemma has often led people, who begin with a strong natural right to freedom, to head in a libertarian direction in which all law is seen as a necessary evil. While some do think that Kant advocates a rather minimal state (while others disagree), it is clear that Kant does not think that law is a necessary evil.46 He pursues a Rousseauian solution to the paradox that only coercive law can make people free. In order to avoid being constrained by the will of another we need to will it ourselves. All law, then, is conceived as self-legislation and further the idea of self-legislation becomes ‘the touchstone of any public law’s conformity with right.’47

The instantiation of a system of equal independence (innate right turned into a rightful condition) via what a whole people could will as law is how we get a right answer to political questions and is the reference point for all public uses of reason. Kant has set up a test for legitimate law. The test is hypothetical and essentially negative although Kant does not always articulate it in the negative. ‘If a public law is so constituted that a whole people could not possibly give its consent to it (…), it is unjust.’48 The hypothetical nature of this test is important for our purposes. It means that the test is passed or failed purely on the basis of argument and reasoning and not on the bases of empirical evidence of consent such as votes or collective action or opinion surveys (if there had been such things in the 18th century).

Kant was no democrat in the modern sense. He did not think that the majority of people were, for the most part, enlightened enough to be able to comprehend the true nature and purpose of law. Law was not there to make you happy; law was there to make you equally free; within those circumstances it was up to you to choose and pursue your own happiness. But Kant was a democrat in what might be called a public reason sense. His conception of law embodied a deep respect for the choices of autonomous persons. Thus, although Kant thought that as contingent matter people were not yet very enlightened, as a matter of principle he believed that the only justification of coercive law was that it flowed from and created equal respect for the free choices of individuals. The only appropriate perspective from which to defend or criticize legislation is the perspective of what all could consent to.

Sovereigns, although bound to impose only laws that citizens would impose on themselves, need not consult citizens on the matter: ‘if it is at least possible that a people could agree to it, it is our duty to consider the law as just, even if the people is
at present in such a position or attitude of mind that it would probably refuse its consent if it were consulted.\textsuperscript{49} Although Sovereigns need not consult the people, the sovereign would do very well to listen to arguments and reasoning on behalf of the people. In ‘What is Enlightenment’, Kant defends free speech on the grounds that societies improve themselves and states pursue sound legislation only as a result of public debate and criticism.

In the course of the argument, he makes an important distinction between the public and the private use of reason.\textsuperscript{50} His use of the terms appears at first sight counter intuitive, but as we shall see they capture something very important about public reason. The private use of reason for Kant is not the reasoning and argument one might use at home in the bosom of ones family, for example. It is the reasoning and mode of argumentation that is determined by the position one has in a particular organization. In certain circumstances, especially when we act as spokespersons for organizations and institutions, our public talk can legitimately be excepted to conform the internal standards of the organization even if we do not fully accept those or have grounds to dispute them. When speaking as member of or on behalf of the military, or a particular church, or as a civil servant we are expected to toe the line. Toeing the line, even as a public official, is the private use of reason because one’s reasoning is bound by the identity, purposes, or constitution of a particular group. In contrast, the public use of reason is bound only by truth. The public use of reason makes one a member ‘of the society of citizens of the world.’\textsuperscript{51}

To move from the private to the public use of reason we need to take off all particular and especially official hats. So there are really two moves: one is a move from the particular to the universal or from the logic and reasoning of a group to logic and reason per se. And the other is a move from an official capacity of some sort to the perspective of an independent person or, indeed, a private person. Kant speaks of scholars or men of learning and not private citizens. Kant does not have a professionalized view of the scholar, however, but rather an idealized view where the scholar stands above particularistic perspectives. Men of learning are interested in resolving questions and issues according to the lights of reason. They are interested in the pursuit of truth. This is what it means to be a scholar. Therefore, men of learning will naturally and diligently seek out arguments that appeal not to a specific group with a specific set of interests, but rather, reasons that could persuade regardless of one’s position in life or group membership. Scholars are in the best position to argue from the point of view of citizens of the world. They are private citizens in the sense that their reasoning is not tied to any official capacity.

On this view then public officials employ private reason while it is only speaking as a private individual that one can fully exercise public reason. Public reason, in this Kantian sense, answers to no higher authority than reason itself. Sovereigns, of course, ought to be able to reason in a public not a private way. They are not officials of the government in the sense that they do not come under some authority, but are themselves the highest authority. Sovereigns, however, can make mistakes. Who is judge in these cases? Kant’s answer to this perennial question is difficult and in many ways troubling.\textsuperscript{52} On the one hand, the answer seems clear, the public, made up of
private persons using reason publicly, is judge. Reason furnishes right answers to political questions. But reason, as we saw in the famous passage from *The Critique of Pure Reason* with which I opened this section, arrives at the right answer through criticism, argument, and persuasion. These in turn require freedom to flourish. Whereas Locke only allowed the people to judge the legitimacy of government action and policy in times of extreme crisis and upheaval when Kings and parliaments grossly overstep their prerogatives and consequently dissolve the constitution, Kant appears to be giving the people an ongoing role in determining the legitimacy of government action. Good government depends on the existence of an active public that uses its reason to keep power within the limits of legitimacy. Kant goes so far as to say (in explicit opposition to Hobbes) that individuals not only retain their fundamental rights within a constitution but each individual ‘is authorized to judge for himself’ when the sovereign has violated those rights. Freedom to use reason publicly is the ‘palladium of the people’s rights.’

So the people are judges in public matters but their authority is purely moral and never political. Kant says that the freedom to criticize the government is the ‘sole palladium of people’s rights’ (emphasis added). They may have inalienable rights against the sovereign but these rights are never coercive rights. Kant famously insisted that there could be no right to resist any constituted power no matter how poorly or even unjustly it ruled. He, not unlike Hobbes and Locke, thought that to grant any constitutional coercive power to limit the sovereign would simply shift sovereignty to the holder of that power and so on ad infinitum. This in turn would introduce a deep contradiction into the very idea of a rightful condition. Order—dependable, predictable, and enforceable—is a necessary condition of instantiating innate right. A right to resist introduces an ambiguity to the question of who brings, maintains, and enforces order. It therefore undermines the very idea that there is dependable, predictable, and enforceable order. For Kant the right to resist was simply and irrefutably contradictory.

Now we might want to say that Kant was simply mistaken in this conclusion; that his unbending and categorical objection to any power to coerce the sovereign was due to a simplistic and unitary conception of sovereign power that could admit no division. And certainly today there are Kantians that amend Kant’s politics in such a way as to allow for strong constitutional limits on legislative power as well as a doctrine of popular sovereignty. But in one respect, the Kantian doctrine that denies coercive power to public reason still has merit. The public use of reason is the tribunal through which legitimacy is judged. Like any human endeavor, the exercise of public reason by real people is fallible and corrigible. Therefore, we need to do all in our power to maintain the conditions most conducive to solid and effective reasoning. For Kant, freedom is the central concern for the exercise of public reason. But freedom is understood not simply in terms of a lack of interference (what we today would think of as free speech), but also freedom from the constraints and limitations imposed by obligations that compete with the obligation to seek out and pursue the truth. Elizabeth Ellis puts this very well when she says that for Kant ‘members of the public sphere are free both of political interference and of direct political responsibility; these
freedoms, Kant argues, allow them to judge according to (public) standards of truth rather than (private) needs or political expediency.\textsuperscript{57} As a judge of state action, public reason must remain independent of state power.

**CONCLUSION**

Public reason points to arguments, reasons, and justifications that a political community shares. The discussion of Hobbes, Locke, and Kant reveals that with the entrance of pluralism, public reason, although shared, is in an important sense constructed and not found. This is most obvious in Hobbes but also most problematic. Hobbes understood that without some common moral language to talk about and justify public policy, individuals will rely on their own private understanding of right and wrong, good, and bad. While Hobbes did have an idea of what the content of public reason ought to be, namely the laws of nature, it was much more important that there was an established public authority than that that authority got it right. Hobbes offered some prudential guidelines for the sovereign, but the bottom line was that subjects ought to be guided by and obey the voice of authority no matter what its content. Public reason collapses into the expedient reasoning of a state intent on survival. The authority of reason is submerged in the authority of the state.

Public reason is the reason of the public—it is what we all have reason to do. Both Locke and Kant identify public reason as separate from the state and a potential counter weight or critic of state power. In both cases public reason is the morally authoritative judge of political legitimacy. Its authority lies in its persuasive force not in its coercive force. Furthermore, we do not necessarily find public reason ready made in the opinions and preference of citizens. These may be deeply divided and riven with disagreement, they may also be mistaken, biased, or unreflective and finally on some questions there may be no discernable public reason. While Locke and Kant thought this last possibility was true for most religious doctrine and in Kant’s case for questions of happiness, it was not true for constitutional essentials. Both Locke and Kant held that fundamental questions of public right could be answered with public reasons. But these reasons needed to be brought forward, articulated, communicated, and defended. These reasons emerged in the public process of justification and argument.

For Locke, reason can teach us what we all have reason to do but only for those ‘who will but consult it.’\textsuperscript{58} Natural law stands in the background of Locke’s picture, but there is no guarantee that we will get it right. Furthermore, although natural law is the source from which citizens draw arguments and reasons for resistance, the justifications are addressed to the people who are the final judge and jury in this case. Locke envisioned the public as judge in very limited and special circumstances, however. Only in moments of deep constitutional crisis or political disintegration do the people take on the role of judge. At these moments each citizen is asked to evaluate claims and arguments being put forward from the point of view of the good of the community. The people only truly exist at these moments. Indeed, a people is
constituted through the struggles to articulate and engage in public reasoning. But the people have constitutive and not constituent authority. While Locke gives the people a very powerful role to play in moments of crisis, they play almost no role in the day to day life of a political community.

Kant in contrast, gives the public an on-going and central role in the political life of a community but limits that role to the pure function of argument. Reform, change, and improvement within a rightful condition ought to proceed through persuasion not force. All law, not just disputes that stand at the brink of state collapse, should be evaluated from the point of view of public reason, that is, by a public reasoning publicly. For Kant it is not just that the public is allowed to judge it is that the public is the only morally authoritative judge. Speaking in an official capacity, for example, disqualifies one from having the perspective of the public. Only private citizens reasoning publically can gain the requisite perspective. This elevates the public far beyond the role that Locke envisioned. It places a large responsibility on the shoulders of the public as well. Only if citizens embrace the role of public judge and construct a public reason will the political community be able to navigate the pluralism of private reasons which constantly threatened to engulf it. This means that although Kant does think that there is something like right reason, this is not based on a direct appeal to natural law. Getting the answer right is a matter of citizens putting forward arguments that rise above private reason to appeal to a general public. To repeat Kant’s famous words: ‘For reason has no dictatorial authority: its verdict is always simply the agreement of free citizens, of whom each one must be permitted to express, without let or hindrance, his objections or even his veto.’

Onora O’Neill understands this to mean that ‘by Kant’s own standards we will not reason or even think correctly unless we think in common with others.’ The public, reasoning publicly, freely and in common, is the final court of appeal in questions of right. While it is true that the verdicts of this court are not backed by any power to enforce, nevertheless it is the court of authority in questions of right.

In this brief survey of the history of public reason in the work of Hobbes, Locke, and Kant, I have sought to place the focus of debate on the role of public as judge. The contemporary debate regarding public reason is often dominated by the question what is or is not a public reason. There is much debate, for example, about whether appeals to religious arguments or intuitions can serve as public reasons. This approach tends to get caught up in a great sorting exercise where we canvas the substantive arguments being put forward in a given public sphere and ask whether they can be or are in fact shared. This paper has taken a different road. I have stressed that public reason is first and foremost a responsibility that the public has to judge right from wrong in the public sphere rather than a set of reasons. With this starting point it is possible to build a number of visions of how the public might in fact reason together publically some of which might appeal to substantive reasons that an actual public shares, but others might equally appeal to public procedures of reasoning under conditions where there are no shared or overlapping substantive reasons, in other words, where there is deep and, at least for the foreseeable future, disagreement. Even though our conceptions of sovereignty allow for a more nuanced conception of limitation than can be found in
Hobbes, Locke, or Kant (especially in the form of judicial review), it is still the case that to the question ‘Who Shall Judge?’ our answer must be the people.

NOTES

1. Gerard J. Postema, ‘Public Practical Reason: Political Practice’, in Nomos XXXVII: Theory and Practice, ed. Ian Shapiro and Judith Wagner DeCew (New York: New York University Press, 1995), 345–85; Duncan Ivison, ‘The Secret History of Public Reason: Hobbes to Rawls’, History of Political Thought 18, no. 1 (1997), 126–47; Stephan Macedo, Liberal Virtues: Citizenship, Virtue, and Community in Liberal Constitutionalism (Oxford: Oxford University Press, 1990); Jeremy Waldron, ‘Theoretical Foundations of Liberalism’, in Liberal Rights: Collected Papers 1981–1991, ed. Jeremy Waldron (Cambridge: Cambridge University Press, 1993), 35–63.

2. It would not be possible to list all the work being done in this area at the moment. The theorists who offer the two most influential paradigms are of course John Rawls and Jürgen Habermas, but there are a number of other models as well. I offer a brief list of some main contributors: Gerard J. Postema, ‘Public Practical Reason: An Archeology’, Social Philosophy and Policy 12 (1995), 43–86; David Gauthier, ‘Public Reason’, Social Philosophy and Policy 12, no. 1 (1995), 19–42; John Rawls, Political Liberalism, paperback ed. (New York: Columbia University Press, 1996); Jürgen Habermas, ‘Reconciliation through the Public Use of Reason’, Journal of Philosophy 92, no. 3 (1995), 109–131; Charles Larmore, ‘The Moral Basis of Political Liberalism’, Journal of Philosophy 96, no. 12 (1999), 599–625; Gerald F. Gaus, Justificatory Liberalism (Oxford: Oxford University Press, 1996).

3. Mark Button also argues that reading Hobbes and Locke as theorists of public reason rather than contract is very rewarding. Button, however, sees the core of their views to be articulated in a theory of transformative education in which public reason is inculcated in citizens. I do not share this view. Mark E. Button, Contract, Culture, and Citizenship: Transformative Liberalism from Hobbes to Rawls (University Park, PA: Pennsylvania State Press, 2008).

4. Rawls, Political Liberalism, 213.
5. Macedo, ‘Liberal Virtues’.
6. John Rawls argues that liberalism finds its most important roots in the rise of toleration in the wake of the reformation. See Rawls, Political Liberalism, xxiv–xxviii.
7. Ivison, ‘The Secret History of Public Reason: Hobbes to Rawls’; Philip Pettit, Made with Words: Hobbes on Language, Mind, and Politics (Princeton, NJ: Princeton University Press, 2008).
8. John Gray, ‘Pluralism and Toleration in Contemporary Political Philosophy’, Political Studies 48, no. 10 (2000), 323–33; Peter Jones, ‘Toleration, Value Pluralism, and the Fact of Pluralism’, Critical Review of International Social and Political Philosophy 9, no. 2 (2006), 189–210. Value-pluralism is an ethical and sometimes meta-ethical doctrine that maintains that values are irreducibly plural whether or not they are recognized as such by people in general. Value-pluralism is saying something about ‘the moral universe we inhabit’ and not something in the first instance about the social and political world we inhabit. William A. Galston, Liberal Pluralism: The Implications of Value Pluralism for Political Theory and Practice (Cambridge: Cambridge University Press, 2002), 48.
9. William E. Connolly, Pluralism (Durham, NC: Duke University Press, 2005).
10. Thomas Hobbes, Leviathan (Cambridge: Cambridge University Press, 1996), 128.
11. Ibid., 145.
12. Ibid., 124.
13. Pettit, Made with Words.
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14. David Johnston, ‘Plato, Hobbes, and the Science of Practical Reasoning’, in *Thomas Hobbes and Political Theory*, ed. Mary Dietz (Lawrence, KS: University of Kansas Press, 1990), 37–54.
15. Thucydides, *The Peloponnesian War*, trans. W. Blanco (New York: W.W. Norton, 1998), 131.
16. Ibid., 131, 130.
17. Hobbes, *Leviathan*, 39.
18. Michael Ridge, ‘Hobbesian Public Reason’, *Ethics* 108 (1998), 538–68.
19. Hobbes, *Leviathan*, 32–33.
20. Gauthier, ‘Public Reason’, 25.
21. Hobbes, *Leviathan*, 223–24.
22. Bryan Garsten, *Saving Persuasion: A Defense of Rhetoric and Judgment* (Cambridge: Harvard University Press, 2008), 42.
23. Richard Tuck, ‘Hobbes and Locke on Toleration’, in *Thomas Hobbes and Political Theory*, ed. Mary Dietz (Lawrence, KS: University of Kansas Press, 1990), 153–71.
24. John Locke, *Two Treatises of Government and a Letter Concerning Toleration* (New Haven, CT: Yale University Press, 2003), 219–20. Locke’s views on toleration changed over time. See John Wiedhoft Gough, ‘The Development of Locke’s Belief in Toleration’, in *A Letter Concerning Toleration in Focus*, ed. John Horton and Susan Mendus (London: Routledge, 1991). In this section I only discuss the views published in his last *Letter*.
25. Locke, *Two Treatises*, 219.
26. Julian Franklin, *Jean Bodin and the Rise of Absolutist Theory* (Cambridge: Cambridge University Press, 1973).
27. Macedo, *Liberal Virtues*.
28. Duncan Ivison, *Postcolonial Liberalism* (Cambridge: Cambridge University Press, 2002).
29. Gerald Postema argues that consensus on reasons should be regulative ideal, never fully achieved but always guiding the search for solutions to deep disagreements. Postema, ‘Public Practical Reason: Political Practice’, 356–61.
30. Jeremy Waldron, *God, Locke, and Equality* (Cambridge: Cambridge University Press, 2002).
31. Locke, *Two Treatises*, 246.
32. Waldron, *God, Locke, and Equality*.
33. Locke, *Two Treatises*, 106.
34. Ibid., 102.
35. Julian Franklin, *John Locke and the Theory of Sovereignty* (Cambridge: Cambridge University Press, 1978).
36. Locke, *Two Treatises*, 208.
37. Peter Laslett, ‘Introduction’, in *Two Treatise of Government*, ed. Peter Laslett (New York: New American Library, 1965), 122; Richard Ashcraft, ‘Locke’s Political Philosophy’, in *The Cambridge Companion to Locke*, ed. V. Chappell (Cambridge: Cambridge University Press, 1994), 240.
38. Locke, *Two Treatises*, 101–4.
39. Ibid., 208.
40. Ibid.
41. Ian Shapiro, ‘John Locke’s Democratic Theory’, in *Two Treatises of Government and a Letter Concerning Toleration*, ed. Ian Shapiro (New York: Yale University Press, 2003), 309–40. For other answers to this questions, see Robert C. Grady II, ‘Obligation, Consent, and Locke’s Right to Revolution: “Who Is to Judge?”’ *Canadian Journal of Political Science* 9, no. 2 (1976), 277–92; Katrin Flikschuh, ‘Reason, Right, and Revolution: Kant and Locke’, *Philosophy and Public Affairs* 36, no. 4 (2008), 375–404; Nathan Tarcov, ‘Locke’s Second Treatise On “The Best Fence against Rebellion”’, *Review of Politics* 43, no. 2 (1981), 198–212.
42. Locke, *Two Treatises*, 199.
43. Immanuel Kant, *Critique of Pure Reason*, trans. Norman Kemp Smith (New York: St. Martin's Press, 1965), A739/B767.
44. Immanuel Kant, ‘Practical Philosophy’, in *Critique of Practical Reason*, ed. Mary J. Gregor, vol. 6 (Cambridge: Cambridge University Press, 1996), 237.
45. That human beings live on a globe and so in a limited space is, according to Arthur Ripstein, an essential postulate of the theory. In other words, if we lived in an unlimited space then the solution to the puzzle would be to just move further away from each other. For an excellent and thorough discussion of Kant's political philosophy, see Arthur Ripstein, *Force and Freedom: Kant's Legal and Political Philosophy* (Cambridge, MA: Harvard University Press, 2009).
46. Ibid.
47. Kant, *Practical Philosophy*, vol. 8, 297.
48. Ibid.
49. Ibid.
50. My reading of public and private reason follows Onora O'Neill's in many important respects. Onora O'Neill, ‘The Public Use of Reason’, *Political Theory* 14, no. 4 (1986), 523–51.
51. Kant, *Practical Philosophy*, vol. 8, 37.
52. For an excellent discussion of this topic, see Elisabeth Ellis, *Kant's Politics. Provisional Theory for an Uncertain World* (New Haven, CT: Yale University Press, 2005), and Flikschuh, ‘Reason, Right, and Revolution’.
53. Kant, *Practical Philosophy*, vol. 8, 304.
54. There is a huge literature on this subject in Kant scholarship. For a review of the literature and a defense of Kant's total ban on revolution, see Flikschuh, ‘Reason, Right, and Revolution’. See also Ripstein, *Force and Freedom*, 325–43.
55. Locke does grant coercive power to the people, but he does it outside the constitution recognizing that a constitutional right of revolution was deeply problematic.
56. Onora O'Neill, *Constructions of Reason: Explorations of Kant's Practical Philosophy* (Cambridge: Cambridge University Press, 1989).
57. Ellis, *Kant's Politics*, 37.
58. Locke, *Two Treatises*, 102.
59. Kant, *Critique of Pure Reason*, A739/B767.
60. O'Neill ‘The Public Use of Reason’, 546.