

TRUTHINESS AND CONSEQUENCES IN THE PUBLIC USE OF REASON: USEFUL LIES, A NOBLE LIE, AND A SUPPOSED RIGHT TO LIE¹

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RESUMO – O artigo mostra que há boas razões para questionar se abordagens embasadas na virtude sobre a questão da justiça podem adequadamente dar conta dos usos sofistas da mentira política – especialmente quando o pensamento sofista estende-se ao ponto culminante do ceticismo moral, ou para além do gritante niilismo moral e seus usos cínicos. A fim de refutar tais usos, recorre-se à mais influente discussão sobre a mentira em Kant, que se encontra em seu artigo de 1797 “Sobre o Suposto Direito de Mentir por causa da Filantropia.” Embora mantenha que o particular argumento moral kantiano contra Constant seja deficiente, o artigo argumenta que a posição especificamente *política* no argumento jurídico genérico de Kant é defensável. Mostra-se, portanto, que o relato kantiano das condições para a possível conformidade da política com os princípios do Direito efetivamente estabelece que um ato de mentir é passível de *impeachment* e categoricamente exige o *impeachment* e a devida execução jurídica de tal delito.

PALAVRAS-CHAVE – Filosofia do Direito. Filosofia moral. Kant. Mentira política.

ABSTRACT – The paper argues that there is good reason to doubt that virtue-based approaches to the question of justice can adequately come to grips with sophistic uses of the political lie – especially when sophistic thinking is stretched to the point of thoroughgoing moral skepticism, or well beyond that to outright moral nihilism and its cynical uses. To counter such uses, I turn to Kant’s most influential discussion of lying, which is found in his 1797 article entitled “Of a Supposed Right to Lie from Philanthropy.” Although I maintain that Kant’s particular moral argument against Constant is flawed, I argue that the specifically *political* position that Kant’s general juridical argument supports is sound. I thereby show how Kant’s account of the conditions for the possible conformity of politics with principles of right does effectively establish that an impeachable act of lying categorically requires impeachment and prosecution for wrongdoing.

KEY WORDS – Kant. Moral philosophy. Philosophy of right. Political lie.

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¹ A few words may serve here to clarify the title of this article. ‘Truthiness’ (as distinguished from ‘truthfulness’) is a term coined by the US-American television satirist Stephen Colbert. Colbert generally uses this term to characterize a highly vulgarized conception of truth that in recent years has often played a dominant role in United States political discourse. ‘Truthiness’ signifies whatever a person may claim to know intuitively and with utter disregard for analyzable evidence, logical consistency, intellectual coherence, or even standards of common human decency. I first presented a version of the present text in Spring 2006 at a New York State conference on the idea of public philosophy. As the title implicitly suggests, my paper was (and still is) meant as a philosophic tribute to Colbert, whose nightly television program, broadcast nationally, has steadfastly countered the forces that have made such effective of the

Two maxims of political reasoning we can count on, whether we like them or not: The worse things get to be, the more reason there is for the powerful to lie publicly in order to get what is ever more useful for the use of their power. And the more power the powerful get to have, the greater the power that is yielded by the public lies which the powerful have the all more reason to use the worse things get to be. So what? What, if anything, is *wrong* with the 'more reason' that features in sayings like these? The powerful have always lied whether the uses of reason have been public or not. That is because things have always been bad enough – or good enough, for that matter – for lying to be useful to the craft of ruling. This was true to begin with, and there is no reason to think that it will not always be so. The means of lying may differ greatly under different historical conditions. But lying itself is just a cold fact of social nature as far as the human condition goes, no matter how many different historical forms of social reproduction we may end up running through. (In this regard, lying is rather like labor and its variant existence-forms.) Even under public conditions ideal for the achievement of political autonomy and universal democratic consensus concerning the human good (or human goods), we would still be able to lie to ourselves. And why not do it if it is *useful*, publicly and democratically speaking? Besides, cannot lying signal virtue as well as have good consequences for those who rule and, conceivably, for those who are ruled?

I

Consider what Plato says in Book IV of the *Republic* about the possibility of contriving 'one of those useful lies... a single noble lie that would, preferably, persuade even the rulers themselves; but failing that, the rest of the city'² (414b-c)³. The point of the noble lie, of course, is to persuade subjects who are to be educated to rule that they by nature possess the capacity to become rulers to a far greater degree than anyone who by nature is to be ruled by those who are supposed to have such a capacity. The belief in one's own greater natural capacity that the noble lie is intended to engender and support is especially important for those who are enjoined to rule but may not seek material advantage for themselves. If you are supposed to touch no gold, let alone have it in your pockets, then, if you are going to develop the character traits and acquire the knowledge necessary for proper ruling, you had

principle of truthiness in their acquisition and maintenance of preponderant political power. On April 29, 2006, Colbert was the featured guest speaker at the Association of White House Correspondents Dinner in Washington DC. In the presence of President George W. Bush and many of the most influential figures of the Washington political establishment, Colbert gave a highly detailed description of Bush's publicly displayed thought processes and capacity for judgment in terms of the definitional account of truthiness given above. Colbert's satirical (not to mention courageous) speech had an extraordinary impact in the North American political context. Frank Rich of the *New York Times* has called Colbert's Whitehouse Correspondents Dinner performance the defining moment of the United States midterm election year.

² The full original passage, including the phrase elided, is as follows: *tis an oun hēmin, ên d' egô, méchanē genoito tôn pseudôn tôn en deonti gignomenôn, hōn dé nun elegomen, gennaion ti hen pseudomenous peisai malista men kai autous tous archontas, ei de mê, tēn allēn polin;*

³ I quote here the recent translation by C. D. C. Reeve (Indianapolis: Hackett Publishing Company, 2004), which is based on S. R. Slings's new Greek text: *Platonis Rempublicam* (Oxford: Clarendon Press, 2003).

better know that it is useful for you to believe that you should act as if you had gold in your veins. And it is good, as well as merely useful or opportune, if you can be persuaded to believe in the necessity of your belief in your innate capacity for excellence in ruling while you also happen to know that this belief is based on a fiction – though it would be even better, of course, if you could be persuaded that your false belief had some foundation in truth.

This reading of what is implicit in the opening lines of Plato's myth of the metals is, of course, contentious. First of all, it can certainly be questioned whether the employment of 'lie' and 'lies' provides for a conceptually accurate rendering of *pseudos* and the participial form of *pseudesthai* that Plato uses in the lines quoted above in translation⁴. Thus, one may want to maintain that the very expression 'noble lie' amounts to a *contradictio in adiecto* when applied within the normative framework of Plato's moral philosophy⁵. Or at least one will insist that the force of the expression should be softened to something like, 'convenient fiction,' *edle Täuschung*, *beau mensonge*, *nobile menzogna* – or indeed, to 'noble and generous fiction'⁶.

In support of this desired softening effect, one can call attention to the connection between the opportune or needful falsehood at issue in the phrase *tôn pseudôn tôn en deonti gignomenôn* and a pivotal distinction that Plato draws at the end of the second book of the *Republic*. I refer here to the distinction between, on the one hand, the 'true lie' or 'true falsehood' – i.e., 'what is truly false' (*alêthôs pseudos*-382a) – and, on the other hand, the 'lie in words' or 'falsehood in words' (*to en tois logois pseudos*-382c). Insofar as it is an affection of the soul, what is truly false embodies a lie that is quite properly hated or despised by both human beings and the gods. Yet falsehood in words, which unavoidably features in our use of myths, is to be deemed unworthy of hatred or contempt just because of its usefulness to human beings in the well-ordered city. To be sure, the latter type of falsehood is utterly useless to the gods under any conditions. Gods, who are altogether simple in word as well as in deed, simply have no need to deceive by lies involving false appearances and false likenesses of the things that are and events that have been. But given the ruling function that must be attributed the guardian class as a whole within the city, understood ideally as a political whole established discursively in reasoning⁷, falsehood in words can perfectly well be thought of as useful for the proper formation of guardians. Falsehood in words is useful for this purpose precisely because it is an imitation of the true lie as an affection of the human soul – in other words, because it is a mere image consequent upon this 'pure lie' or 'falsehood unmixed' (*akraton*

⁴ My use of 'lie' and 'lies' accords with Reeves' rendering of the relevant terms (note 2 above).

⁵ Cornford explicitly argues this point. See *The Republic of Plato*, translated and introduced by Francis Macdonald Cornford (Oxford: Oxford University Press, 1941), pp. 68, 106 (note).

⁶ See Plato, *Der Staat*, translated by Rudolf Rufener and edited by Olof Gigon (Zürich & München: Artemis Verlag, 1973), p. 204; idem, *La république*, translated by Emile Chambrey, in *Platon: Oeuvres complètes* vol. 6 (Paris: Société D'Édition Les Belles Lettres, 1965), 414b-c; idem, *La Repubblica*, translated by Giuseppe Lozza (Milan: Arnoldo Mondadori, 1990), p.265; idem, *The Republic*, translated by R. E. Allen (New Haven: Yale University Press, 2006), 414b-c

⁷ Cf. *Rep.* 592a.

pseudos-382c). For it is by means of falsehoods (or lies) in words that ruling guardians are capable of making what is truly false as much as possible like the true, thus rendering falsehood as such useful to us as beings who are ignorant of things that gods know to be true quite independently of the use of falsehoods in words to call forth the imagery of myth.

Fair enough. Plato can quite handily be defended against the onslaught of defenders of the "open society" who are incensed by the propagandistic tone of Plato's use of the 'Phoenecian story' (414c) in Book IV of the *Republic*, especially against anachronistically disposed defenders whose expertise in dealing with classic philosophical texts may leave a good deal to be desired. So let us just grant the point that lies (or falsehoods) can be rendered useful to us insofar as at least some of us are capable of using lies (falsehoods) to make that which is not truly false into something like that which is true. Let us accept as well that these useful lies (or useful falsehoods, deceptions, and the like) can be noble, and even generous, to the extent that mythological content generated by falsehood in words can be made as much as possible like the true for the purpose of establishing a pattern of political order consonant with the nature of the human being – or, for that matter, for the purpose of establishing a paradigm of order consonant with purportedly different natures of different types of human being⁸. Yet however persuasive or unpersuasive rulers may be expected to find their own founding political mythologies, I strongly suspect that a basic logical difficulty underlies, and thus undercuts, Plato's use of the myth of the metals in his account of justice – and this quite apart from the other concerns that such myth-making enterprises might give rise to (which the conservatively inclined may in any event want to chalk up to political correctness on the part of the liberally squeamish)⁹.

In order for the noble lie to be serviceable for Plato's account of justice in the human being and in the city, Plato must already have demonstrated conclusively the falsity of a key claim which underpins the particular sophistic conception of justice treated in the first book of the *Republic*, i.e., the conception represented by Thrasymachus' view of justice as the advantage of the stronger (*to tou kreittonos sumpheron* – 338c). Of course, the overall argument of the *Republic* by no means presupposes the complete dismantlement of Thrasymachus' general view of justice by end of Book I. Indeed, Plato's entire line of argument after the first book as good as begins with the radicalizing clarification and strengthening of that very view¹⁰. Yet there is, I believe, one sophistic claim that Plato must show to be wholly untenable prior to the radicalization of Thrasymachus' position if the *Republic's* overall argument is to be set up properly to achieve its goals, namely, to account for what justice is in

⁸ That is to say: consonant with the natures that can be ranked in accordance with the different natural capacities that human beings are supposed to have for doing different types of work or fulfilling different appropriate functions within the political whole.

⁹ For historical antecedents of this ever more strident conservative inclination, see, e.g., Leo Strauss, *The City of Man* (Chicago: Rand McNally, 1964), pp. 101-103; Allan Bloom, *Plato's Republic* (New York: Basic Books, 1968), pp. 366-369.

¹⁰ See *Rep.* 357a-367e.

both the soul and the city, and to prove that the just and most fully virtuous human being lives best and is therefore *eudaimon*. I have in mind here Thrasymachus' claim that the craft (or art) of ruling is always practiced to the advantage of those who rule, i.e., 'the stronger' understood as the ruling element in the city. Against this position, Plato has to establish, as a conceptual as well as linguistic point, that every ruler *qua* ruler can practice that craft of ruling only to the advantage, or good, of those who are ruled (i.e., the weaker). But in the key inference step of his refuting argument, Plato concludes merely that 'no type of *craft or rule* provides what is advantageous for *itself*'¹¹ (346e-italics mine). As far as the rest of the *Republic's* argument on the nature of justice is concerned, this step leaves the sophist with two crucial countering options – with two massive weapons, as it were, in the arsenal of sophistic persuasion for the advantage of the stronger. First, the Thrasymachean sophist could quite legitimately point out that Plato simply does not establish the required conceptual point, which, after all, pertains to the relation between *ruler* and *ruled*, and not to the relation between the craft practiced *by* the ruler who knows the craft and this craft itself. Plato (Socrates) and Thrasymachus had previously agreed that no craft or knowledge 'considers or enjoins what is advantageous for itself, but what is advantageous for the weaker, which is ruled by it'¹² (342c-d). But this does not entail that no ruler can properly be said to rule when the ruling is performed for that ruler's own good, as long as it is possible for a craft of this *type* to be practiced for the good of the craft's practitioner. This brings us to the second sophistic option. The Thrasymachean sophist could argue that the craft of ruling is relevantly similar to the craft that even Plato must recognize as something practiced for the good of the practitioner, to wit, the craft that aims at remunerative gain for the practitioner (*misthōtikē*)¹³.

Taken together, these options put the sophist in a position to maintain, at minimum, three things: (1) the craft of ruling can be practiced exclusively for the good of the ruler or ruling class; (2) because such a practice is possible, it simply does not follow that a ruler (or class of rulers) *must* act for the good of the ruled if she is to function properly as a ruler; and, consequently, (3) any distinction which one might want to draw between (a) the lies that are useful for efficacious ruling and (b) the virtue-based and virtue-enabling noble lie (i.e., the lie that both exhibits the virtuous disposition of the ruler and allows for the cultivation of that disposition in those who are similarly endowed) is simply beside the point – *unless*, that is, the distinction can be reduced to purely quantitative terms: the *more* useful the lie, the nobler it is. In many (if indeed not most) circumstances, that will mean 'the stronger the ruler, the bigger the lie; and the bigger, of course, the better, provided it makes the ruler stronger'.

So what *does* all this have to do with justice? If justice can be understood as 'the advantage of the stronger,' and if the craft of ruling can be practiced in order to

¹¹ *oukoun, ô Thrasumache, touto êdê dêlon, hōti oudemía technê oudè archê to hautêi ôphélimon paraskeuázei,...*

¹² *ouk ara epistēmê ge oudemía to tou kreittonos súmpheron skopeî oud' epitatteî, allà to tou hêttonos te kai archoménou hupò heautês.*

¹³ Cf. Strauss, *The City and Man*, pp. 79-85; Bloom, *The Republic of Plato*, pp. 332-334.

maximize this advantage, then that is just what justice *can be*. If this is a matter of opinion, then the opinion is certainly good enough for the powerful to get cracking. Don't just round up the usual suspects – ask anyone who *wants* to rule! You can be quite multi-partisan about this, at least in the event that you can find somebody who both wants the power he doesn't yet have (or no longer has) and is able to articulate a coherent thought about ruling as the effective use of power. At any rate, we just *know* that the more powerful – the stronger – always do get cracking since this is perfectly obvious on empirical grounds. And because they know this, too, they also know that lying is, more often than not, a perfectly good way for them to get cracking and keep on going. As Thrasymachus himself showed with such admirable clarity, it really makes no difference whether the 'they' (i.e., 'the stronger') is one, a few, or the many. Indeed, to bring the point at issue a bit more up to date, it is conceivable that the ruling power can be, or represent, everyone combined. And although we may think this is pure fantasy as far as our political reality is concerned, we can still endorse the democratic or republican principle that the conception represents. So at least for those of us who *can* know, we all ought to know that big lies can be very useful, and therefore exceptionally noble (not to mention generous) – especially if we can all somehow hoodwink one another most all of the time through some public use of reason. Happily, this conclusion seems to have found strong backing in a number of reality-based procedures of prudential reasoning. Some of these procedures of action guidance have on occasion been identified under the heading of "faith-based policy making". But that obviously depends on a misnomer since the overriding action-guiding principle involved is transparently this: as long as we can fool some of the people all of the time, there is (inductively) no good reason to believe we cannot always fool all of the people that we really need to fool in order to be getting on with what we really want to do, namely, rule to our advantage in accordance with our superior strength. And it matters not whether the 'we' really is everyone combined, or merely represents the one, the few, or the many who know what it really means to rule fools. Ridiculous? Well, hardly. Just look at the noble and generous effects of the news media's talking heads! A lot of those characters believe even their own stories. And if these stories – these contemporary urban myths – are the weapons of mass deception that support the lies of the stronger, then we can all be suckered down together with guiltless grins on our faces. So in at least one respect, Plato did get it right after all: justice does make us happiest. And the Thrasymachean options mentioned above make it possible to enforce the link between the ideas of justice and *eudaimonia* that, as has often been acknowledged, is so tenuously maintained in Plato's own theory of justice.

It would be a fine thing if, in the course of the *Republic's* extended argument, Plato had effectively dealt with these two options¹⁴. I don't believe that he did,

¹⁴ The further question is whether the overall argument of the *Republic* can firmly ground the link that Plato wants to establish between justice and *eudaimonia* (see *Rep.* 366b-367e, 443b-445d, 588a-592b, 612c-614a, 618b-619b) even if we assume that he successfully removes these Thrasymachean options. But I do not pursue this issue.

though. Nor, more importantly, do I think that the Platonic theory of justice offers the conceptual resources for dealing adequately with those sophistic options. Indeed, as much as I revere Plato and Aristotle, I tend to doubt that virtue ethical approaches in general can properly come to grips with the implications of such options, especially when sophistic thinking is stretched to the point of thoroughgoing moral skepticism, or well beyond that to outright moral nihilism and its cynical uses by the intellectually unhinged¹⁵. My doubt, of course, gives rise to any number of highly contentious claims. And given current political realities, it is – and is fully intended to be – combative. Before further developing my line of assault, however, let me say just a few things in order to illuminate my position somewhat better.

In expressing my doubt, I am not suggesting that there is no possible variant of “agent-centered” or “agent-based” moral philosophy that can offer a coherent and non-question-begging account of “right action” when it assumes that an action is right if, and only if, it is what a virtuous agent would characteristically do in a given set of circumstances. Nor do I even wish to imply that such an account, when grounded in this assumed biconditional, is incapable of furnishing prescriptions for rule-governed (or indeed for law-determined) action¹⁶. Still, it is far from obvious to me how any theory of right action can effectively counter the ultimate force of the sophistic options that I have been concerned to clarify if it must *jointly* satisfy the following two conditions, which I take to be essential features of every plausible form of virtue ethics. First, its account of the moral qualities and deontic modalities of human actions must be conceptually linked to what the virtuous agent, however described, would do when acting in character. Second, its determination of what an agent answering to this description would do in given circumstances must be logically tied to some specification of a concept of *eudaimonía*¹⁷. I take it, then, that Plato’s moral philosophy is just as much subject to these combined requirements as Aristotle’s ethics is, together with its Scholastic and contemporary Neo-Aristotelian derivatives. And I do not see how any coherent specification of what *eudaimonía* is can counter the sophistic options in question as long as one supposes that the account of the deontic properties of actions has to be tied, in virtue of the very idea of *eudaimonía* (however specified), to some description of the own-good or own-happiness of the agent who practices the art of ruling.

Note well that, in stating this last point, I am not contending that classical forms of virtue ethics and its contemporary offshoots are inherently egoistic *insofar* as they are eudaimonistic. I take such a view to be mistaken¹⁸. I hold merely no

¹⁵ On this increasingly extreme state of affairs, see Shadia Drury, *Leo Strauss and the American Right* (New York: St. Martin’s Press, 1988); idem., *The Political Ideas of Leo Strauss* (Basingstoke: Palgrave MacMillan, 2005). For an opposing assessment of Strauss, see Robert Pippin, *Idealism as Modernism: Hegelian Variations* (Cambridge: Cambridge University Press, 1997), pp. 209-233.

¹⁶ On this, see chapters 1 and 8-11 of Rosalind Hursthouse’s *Virtue Ethics* (Oxford: Oxford University Press, 1999).

¹⁷ Cf. Hursthouse, *Virtue Ethics*, p. 74; also Rosalind Hursthouse, “Are Virtues the Proper Starting Point for Morality,” in *Contemporary Debates in Moral Theory*, edited by James Dreier (Oxford: Blackwell Publishers, 2006), esp. pp. 106-112.

¹⁸ On this, see Julia Annas, “Virtue Ethics”, in *The Oxford Handbook of Ethical Theory*, edited by David Copp (Oxford: Oxford University Press, 2006), pp. 522-523.

virtue-theoretic account of right action, whether classical or contemporary, can effectively counter the skeptical and antimoralist options made available by the way of thinking that is illustrated by Plato's treatment of Thrasymachus. My position, of course, may not be especially disquieting to the contemporary proponent of virtue ethical reasoning, who will likely be only too happy to call attention to two further defining characteristics of his classical ancestry. The first of these further characteristics lies in the assumption that the notion of living virtuously is built into the interpretation of happiness as *eudaimonía*, and the second is found in the correlative assumption that a central task of philosophical ethics is to provide for a normative specification of *eudaimonía* in terms of the virtues of character that furnish subjective enabling conditions of 'acting well' or 'doing well'¹⁹. Given these crucial features of traditional ethical theory, one may well maintain that neither the skeptic nor the antimoralist (let alone the ethical egoist) needs to be taken all too seriously since ethical inquiry is in any event relevant only to the kind of agent who is, in some sense, already committed to an ideal of the virtuous life that the philosophical account of *eudaimonía* is supposed to enable that agent to make good sense of.

Fair enough. This line of reply seems unobjectionable as far as it goes. Yet the whole problem, as I see it, is that it just does not go nearly far enough. In an age of extremes like our own epoch, historically standard liberal, conservative, and even left-leaning appropriations of Western philosophy's dominant tradition of virtue ethics arguably do not provide an adequate basis of response to the non-modernist, post-modernist, antimodernist, post-anti-modernist, anti-post-modernist, etc., extremes that derive so much of their attractiveness and historical force from premodern repudiations of the normative core content of that same tradition of virtue ethical reasoning, notably, the ancient mainline tradition of Western philosophical ethics²⁰. Above all, I am not persuaded that contemporary appropriations of this particular tradition furnish anything like a sufficiently sound platform for dealing normatively with the politically most potent offshoots of the way of thinking against which Plato directed his main energies. But enough of this – I will not further belabor these sweeping historical pronouncements. I have brought them into the discussion merely in order to shed some light on why I am willing to make more than a two-millennium leap from Plato's time to the revolutionary epoch of Immanuel Kant.

It is specifically in view of the relationship between Kant's treatment of the permissibility of lying and his theory of right that I will construct the primary political argument of this paper. For the Kantian doctrine of right, as a theory grounded in the concept of *Recht*, is not subject to the joint requirements of eudaimonistic ethics delineated above, and its normative scope is therefore not restricted by the definitional features just mentioned.

¹⁹ On these crucial features, see Annas, "Virtue Ethics", pp. 520-523.

²⁰ The underlying reference here is to Eric Hobsbawm's *The Age of Extremes: A History of the World, 1914-1991* (New York: Vintage Books, 1994).

II

There can be little doubt that Kant has decisively influenced contemporary assessments of lying in the public domain, i.e., lying in the domain relevant to the public use of reason.

Kant's most influential discussion of lying –and unquestionably his best-known discussion – is found in his late article of 1797 entitled “Of a Supposed Right to Lie from Philanthropy” (*Über ein vermeintliches Recht aus Menschenliebe zu Lügen*). The article contains Kant's highly critical treatment of the views on duty, rights, and the permissibility of lying that Benjamin Constant had previously directed against Kant's conception of truthfulness as a juridical duty or duty of right (*Rechtspflicht*). According to Constant, there is of course a duty to tell the truth, but this duty cannot be unconditional. For telling the truth is a duty only in relation to someone who has a right to it; and where there is no relevant right, there can be no corresponding duty. Most everyone here will be quite familiar with the most striking story line involved in Kant's refuting argument. Someone hell-bent on murder appears at the door asking if the intended victim is in the house. If you lie, stating that the would-be murderer's target is out and about, then you are legally responsible for all of the consequences that might arise from your act of lying, including all of its unforeseen and undesirable consequences. Thus, if the prospective victim has left the house unnoticed, and the murderer ends up finding him outside and manages to do him in, then

you can by right [*mit Recht*] be prosecuted as the *author* of his death; for if you had told the truth to the best of your knowledge, the neighbors *might* have come and apprehended him while he was searching the house for his enemy and the deed would have been prevented²¹ (8:427 – italics mine)²².

I don't know about your neighbors. If my neighbors were that vigilant about what goes on privately inside my house, I would *likely* have moved out long before any murderer came a-knocking at my door, which makes Kant's implicit appeal to probabilistic thinking rather more tenuous than it might otherwise be. One could perhaps say something in this regard about Kant's Königsberg neighbors, or even something of somewhat broader scope about the customs of late eighteenth-century European neighbors, but I cannot see how that would be particularly helpful at the present juncture. The problem is that, intuitively, the particular argument in question somehow looks a bit thin to begin with; and the more one thinks about it, the thinner it looks. It is not difficult to figure out why that should be. Taken just as Kant presents it, the argument in question evidently hinges on a thought that is less than remarkable

²¹ So kannst du mit Recht als Urheber des Todes desselben angeklagt werden. Denn hättest du die Wahrheit, so gut du sie wußtest, gesagt: so wäre vielleicht der Mörder über dem Nachsuchen seines Feindes im Hause von herbeigelaufenen Nachbarn ergriffen und die That verhindert worden.

²² Kant's is cited according to the given volume and numbers of *Kants gesammelte Schriften*, Königlich Preußische (now Deutsche) Akademie der Wissenschaften (Berlin: G. Reimer [now De Gruyter], 1902-. The Kant passages quoted in English are generally in keeping with Mary Gregor's translations in Immanuel Kant, *Practical Philosophy* (Cambridge: Cambridge University Press, 1996), although I substantially alter these renderings in view of Kant's German when I find it appropriate to do so.

for its initial transparency. Kant seems to move from the claim that one is juridically responsible (*auf rechtliche Art verantwortlich*) for all of the consequences that might arise from one's own act of lying to the (not obviously coherent) notion that one is subject to prosecution because of being causally responsible for an event caused by another.

There are, of course, many questions that can be raised in this context about the nature of agent causation. There are also many issues that Kant's argument generates concerning the criteria by which we should set about distinguishing between causing, doing, intending, and allowing harm and wrongdoing. Yet it is, I think, safe to say that the argument, as just summarized, is simply not refined enough for such questions to be worth bringing to bear without further ado. So if Kant's reasoning concerning the connection between lying, legal responsibility, and warranted prosecution is to have a leg to stand on, we need something more to go on. Fortunately the text under scrutiny seems to offer some promising considerations in this regard²³. Two paragraphs further on, Kant seeks to support his view of truthfulness as a strict duty, and thus his claim that it is a juridical requirement of practical reason to tell the truth under all possible conditions for action, by exposing what he takes to be a crucial piece of conceptual confusion that underpins Constant's entire line of argument. Kant holds that Constant confuses 'an action by which someone *harms* (*nocet*) another by telling a truth he cannot avoid admitting with an action by which he *wrongs* (*laedit*) another'²⁴ (8:428). Thus, if the distinction between harming (*Schaden*) and doing wrong (*Unrecht tun*) is respected, then (in keeping with the unwelcome door-knocking situation already described) two substantive points can be made against the type of position that Constant wants to defend. First, we can see that the agent put on the spot has 'the strictest duty to truthfulness in statements that he cannot avoid making, though they may harm himself or others'²⁵ (8:428). Second, we can discern that, in telling the truth in accordance with this requirement of strict duty, such an agent does not *do* harm to the other who suffers it. For it is merely an accident (*casus*) if anyone is harmed as the result of making a truthful statement; and it is this accident that *causes* that harm, in the event that anyone actually ends up being harmed²⁶.

²³ This is fortunate because, except for the article under consideration, I know of no passage in Kant's collected works that supports the view of the authorship of human action that Kant needs in order to make his argument, as summarized, work. Twenty-three volumes of the Prussian Academy Edition of Kant's works contain publications, sketches, and fragments from Kant's own hand. Apart from the piece at hand, only four passages from this mass of materials have some bearing on the view of authorship at issue (see 6:84, 6:223, 6:227, 6:431); and none of these furnishes any basis for the inference move from juridical responsibility for the consequences of one's action to the authorship of an event for which the deed of another agent is causally responsible.

²⁴ So verwechselte »der französische Philosoph« die Handlung, wodurch Jemand einem Anderen schadet (*nocet*), indem er die Wahrheit, deren Geständniß er nicht umgehen kann, sagt, mit derjenigen, wodurch er diesem Unrecht thut (*laedit*).

²⁵ Jeder Mensch aber hat nicht allein ein Recht, sondern sogar die strengste Pflicht zur Wahrhaftigkeit in Aussagen, die er nicht umgehen kann: sie mag nun ihm selbst oder Andern schaden.

²⁶ Es war bloß ein Zufall (*casus*), daß die Wahrhaftigkeit der Aussage dem Einwohner des Hauses schadete, nicht eine freie That (in juridischer Bedeutung)... Er selbst thut also hiermit dem, der dadurch leidet, eigentlich nicht Schaden, sondern diesen verursacht der Zufall (8:428).

Needless to say, again, there are quite a few issues in this line of thought that stand in need of some sorting. But let us keep things as simple as possible, thereby making Kant's case as strong as it can be made to be. Let us grant the underlying assumption that is needed in order to make sense of Kant's use of the distinction that he wants to draw between doing harm and causing harm. In other words, let us accept as unproblematic this proposition: the agent who by telling the truth causes the accident that causes harm to another is an agent that *does* no harm, and consequently does no *wrong*, to the one who suffers the harm caused by that very same agent, i.e., the agent who *causes that accident* by telling the truth.

The content of this proposition may stick in the throat a bit before it slides down. But it does furnish an assumption that Kant needs if he is to make his point against Constant, i.e., the point that one does not, and indeed cannot, do wrong to another by telling the truth, even if one thereby causes harm to another. But exactly therein lies the rub in Kant's understanding of the relationship between juridical responsibility, causal agency, and prosecutorial warrant. The distinction that Kant needs in order to establish that acts by which someone is harmed are not necessarily acts by which someone is wronged – i.e., the distinction between doing and causing harm – is precisely the distinction which excludes that an agent is *necessarily* prosecutable (*anklagbar*) if she is the author of an event caused by the criminal deed of another. If I am the agent who causes the accident that in fact enables another to wrong someone else, then I am (in some sense) the author (*Urheber*) of an event in which, or by which, someone is harmed as the result of my act. Yet I cannot possibly be the author of an event by which, or in which, someone is *wronged by me* if I am the author of that event *only insofar* as my act causes harm to another (or more precisely: *only insofar* as my act causes the accident that causes harm to another). Event authorship is by no means a sufficient condition for prosecutorial warrant in the event of wrongdoing if the author of an event does no wrong.

What follows from this? Many things follow, but several things are particularly striking if we consider once again the story line that Kant wants to run. If we combine this consideration with the inherently reasonable background expectation that any theory of practical reason must be able to come to grips with the relation between ends of action and the means of achieving such ends through action, we arrive at two fairly straightforward conclusions. These are perhaps most agreeably formulated taking the first-person standpoint. First, it seems that I would have to be either a hare-brained fool or just a downright vicious ass – or, more realistically, a combination of both – if I failed to try to prevent a deed that will foreseeably result in someone being wrongfully killed, and I failed in this endeavor *simply because* I thought that the *means* of my act of prevention (i.e., my lying) could, unforeseeably, result in my being the author of an event involving harm to another. Second, even if I accept that, strictly speaking, I would do no juridical wrong to the prospective victim by telling the truth (a rather large 'if,' incidentally – see below), I can still know that I would be an utter nincompoop if I were to tell the truth while hoping (praying?) that my neighbors are virtuous and fleet-footed enough, and are also obsessively vigilant enough about what goes on privately at my doorway, to be willing and able run into

my house and nab the murderous knocker before the dastardly deed is done. In any event, I can hardly be prosecuted for *doing* wrong whether or not my act causes, or *can* cause, the accident that is the cause of unforeseen harm to the victim insofar as it happens to furnish the occasion for another agent's act of wrongdoing. That prospective victim is not *my* victim, even if it should ultimately turn out that I am (accidentally) one of the authors of his demise. End of story, though probably also the beginning of the finding of fact, of course.

So what can we say about Kant's views on lying and legal (or more precisely: juridical [*rechtlich*]) responsibility? If we are inclined to engage in psychological speculation, one thing to say might be that unfortunate things can happen when a thinker of even Kant's caliber is pressed to finish and send off a journal article directed against a reputable and influential critic when he has more pressing and more interesting things in mind to do. (I have in mind here mainly the developments in Kant's metaphysics of nature that are exhibited in the middle and later fascicle components of the *Opus postumum*²⁷). But this is hardly the only thing to say, and is certainly not the most interesting claim to assert, if we focus on the *political* point that Kant has in mind when putting forward his considerations on the strict duty of truthfulness. To understand this point, we must first be clear about a systematic issue of prime importance. For Kant, the question of the permissibility or impermissibility of lying that his 1797 article treats is one that concerns specifically, and moreover exclusively, the systematic domain of the theory of *right* (*Recht*). What exactly does this mean?

The key formula of Kant's basic principle of right is found in the Doctrine of Right of 1796: 'Any action is *right* if it can coexist with everyone's freedom in accordance with a universal law, or if on its maxim the freedom of the power of choice (*Willkür*) of each can coexist with everyone's freedom in accordance with a universal law'²⁸ (6:230). According to this formula, the basic metaphysical principle of Kant's juridical philosophy applies normatively to all actions by which external relations between persons can be established. This universal principle employs the term 'right' to express a concept of freedom; and it specifies this concept in terms of the possibility of reciprocally law-determined relations governing all persons' powers of choice: the coexistence of everyone's freedom in accordance with a universal law. The universal law of right, which derives directly from this principle of external freedom, furnishes an imperative that places upon every given agent (*qua* person) the unconditional obligation to restrict her freedom to the types of action by which the exercise of everyone's external freedom of action is possible.

This fundamental law of right – 'so act externally that the free use of your power of choice can coexist with the freedom of everyone in accordance with a universal

²⁷ On this, see chapters 8 and 9 of my *Substance, Force, and the Possibility of Knowledge* (Berkeley/Los Angeles/London: University of California Press, 2000).

²⁸ Eine jede Handlung ist recht, die oder nach deren Maxime die Freiheit der Willkür eines jeden mit jedermanns Freiheit nach einem allgemeinen Gesetze zusammen bestehen kann. (6:30)

law'²⁹ (6:231) – is the universal prescription of reason that grounds the entire system of juridical duties presented in the Doctrine of Right as a whole. This doctrine is a specifically juridical theory (*ius*). Fundamentally, it is a metaphysical account of strict right (*ius strictum*), which concerns *only* the conditions of external freedom under law. Thus, not only does it abstract from all needs and all particular ends that rational agents may have in mind with objects that they may want to have. It also abstracts from the conditions of inner freedom in which ethics (*ethica*) is grounded since it does not consider laws for *maxims* of actions, notably, the practical laws that belong to ethics as a theory of virtue. That is to say: Kant's foundational theory of right abstracts not merely from the nature and empirical content of human needs as well as from all ends of the power of choice that may be achievable by way of prudential reasoning concerned with promoting the well-being or happiness of human beings. It abstracts even from the set of *a priori* laws of practical reason that specify the duties that all of us have in virtue of the capacity that each of us by nature has to act on maxims that we ought to adopt without reference to possible external constraint by another agent or other agents. Kant's theory of the metaphysical foundations of right therefore treats only the formal conditions under which different subjects whose powers of choice are, or can be, reciprocally linked can always act freely in conformity with practical reason's universal juridical prescription.

The key to understanding how this conformity is possible lies in the necessary connection between the concept of right and the concept of external compulsion or coercion (*Zwang*). According to Kant, the connection at issue is analytic: 'there is connected with right by the principle of contradiction an authorization to coerce someone who infringes upon it'³⁰ (6:231). Consequently, Kant holds that strict right itself is representable as 'the possibility of a fully reciprocal use of coercion that is consistent with everyone's freedom in accordance with universal laws'³¹ (6:232). It is the analytic connection between right and possible coercion that ultimately grounds the right of the state to punish those who violate the deontic requirements of strict right; and it is the representation of the possibility of a fully reciprocal use of coercion that makes the punishment of those who violate these formal requirements a type of action prescribed by a categorical imperative of juridico-practical reason. No *progress* in the public use of reason is possible unless the conditions for the satisfaction of this imperative are themselves satisfiable.

Returning to the 1797 article on the supposed right to lie, let us focus on two overarching concerns that Kant's criticism of Constant is intended to address. First, there is Kant's concern to underscore the connection between, on the one hand, the duty to truthfulness in making statements and, on the other hand, the definition of

²⁹ Handle äußerlich so, daß der freie Gebrauch deiner Willkür mit der Freiheit von jedermann nach einem allgemeinen Gesetze zusammen bestehen könne,...(6:231).

³⁰ Mithin ist mit dem Rechte zugleich eine Befugniß, den, der ihm Abbruch thut, zu zwingen, nach dem Satze des Widerspruchs verknüpft. (6:231)

³¹ Das stricte Recht kann auch als die Möglichkeit eines mit jedermanns Freiheit nach allgemeinen Gesetzen zusammenstimmenden durchgängigen wechselseitigen Zwanges vorgestellt werden. (6:232)

right as the consistency (*Zusammenstimmung* – 8:428) of the freedom of each with the freedom of everyone in accordance with universal law. The *pivotal* issue that Kant wants to be in position to address by means of his criticism of the consequentialist features of Constant's thinking is the link between truthfulness and this definition of external freedom. Second, there is Kant's concern with the possibility of progressing, in view of this link, from the normative concepts and principles of the metaphysically foundational theory of right to 'a principle of politics [*ein Grundsatz der Politik*]' that offers the means of solving the problem of 'how it is to be arranged that in a society, however large, concord in accordance with principles of freedom and equality is maintained (namely, by means of a representative system)'³² (8:429).

With regard to the first of these overarching concerns, Kant categorically insists on taking one basic position. Even in the event that no one *in particular* is wronged by an act of lying, the agent who lies nevertheless violates 'the principle of right with respect to all unavoidable necessary statements *in general*' (8:427). For Kant, this is as much as to say that a wrong is thereby 'inflicted upon humanity in general [*die Menschheit überhaupt*]' (8:426) even if an act of lying (and thus the lying agent) 'escapes being subject to punishment by accident'³³ (8:427). It is specifically in view of the notion of the infliction of wrong on humanity in general that we are to understand the relation between lying and juridical wrongdoing. As Kant states

³² Um nun von einer Metaphysik des Rechts (welche von allen Erfahrungsbedingungen abstrahiert) zu einem Grundsatz der Politik (welcher diese Begriffe auf Erfahrungsfälle anwendet) und vermittelt dieses zur Auflösung einer Aufgabe der letzteren dem allgemeinen Rechtsprincip gemäß zu gelangen: wird der Philosoph 1) ein Axiom, d.i. einen apodiktisch gewissen Satz, der unmittelbar aus der Definition des äußern Rechts (Zusammenstimmung der Freiheit eines Jeden mit der Freiheit von Jedermann nach einem allgemeinen Gesetze) hervorgeht, 2) ein Postulat (des äußeren öffentlichen Gesetzes, als vereinigten Willens Aller nach dem Princip der Gleichheit, ohne welche keine Freiheit von Jedermann Statt haben würde), 3. ein Problem geben, wie es anzustellen sei, daß in einer noch so großen Gesellschaft dennoch Eintracht nach Principien der Freiheit und Gleichheit erhalten werde (nämlich vermittelt eines repräsentativen Systems); welches dann ein Grundsatz der Politik sein wird, deren Veranstaltung und Anordnung nun Decrete enthalten wird, die, aus der Erfahrungserkenntniß der Menschen gezogen, nur den Mechanism der Rechtsverwaltung, und wie dieser zweckmäßig einzurichten sei, beabsichtigen. – Das Recht muß nie der Politik, wohl aber die Politik jederzeit dem Recht angepaßt werden. (8:429)

³³ Wahrhaftigkeit in Aussagen, die man nicht umgehen kann, ist formale Pflicht des Menschen gegen Jeden, es mag ihm oder einem Andern daraus auch noch so großer Nachtheil erwachsen; und ob ich zwar dem, welcher mich ungerechterweise zur Aussage nöthigt, nicht Unrecht thue, wenn ich sie verfälsche, so thue ich doch durch eine solche Verfälschung, die darum auch (obzwar nicht im Sinn des Juristen) Lüge genannt werden kann, im wesentlichsten Stücke der Pflicht *überhaupt* Unrecht: d.i. ich mache, so viel an mir ist, daß Aussagen (Declarationen) überhaupt keinen Glauben finden, mithin auch alle Rechte, die auf Verträgen gegründet werden, wegfallen und ihre Kraft einbüßen; welches ein Unrecht ist, das der Menschheit überhaupt zugefügt wird.

Die Lüge also, bloß als vorsätzlich unwahre Declaration gegen einen andern Menschen definiert, bedarf nicht des Zusatzes, daß sie einem Andern schaden müsse; wie die Juristen es zu ihrer Definition verlangen (*mendacium est falsiloquium in praeiudicium alterius*). Denn sie schadet jederzeit einem Andern, wenn gleich nicht einem andern Menschen, doch der Menschheit überhaupt, indem sie die Rechtsquelle unbrauchbar macht.

Diese gutmüthige Lüge *kann* aber auch durch einen *Zufall* (*casus*) strafbar werden nach bürgerlichen Gesetzen; was aber bloß durch den Zufall der Straffälligkeit entgeht, kann auch nach äußeren Gesetzen als Unrecht abgeurtheilt werden (8:426-427).

toward the end of his article, the problem presented by lying is 'not the danger of *harming* (accidentally [*zufälligerweise*]) but of *doing wrong*, as would happen if I make the duty of truthfulness, which ... constitutes the supreme juridical principle in statements, into a conditional duty subordinate to other considerations'³⁴ (8:429). In setting forth the unconditional duty of truthfulness, the supreme juridical principle in statements specifies a formal condition or requirement of external freedom that must be fulfilled if the infliction of wrong on humanity in general is to be avoided.

Yet given the way in which Kant draws the distinction between causing harm and doing harm, and consequently between harming and wrongdoing, we have seen that it is *possible* for an agent to lie and yet *not* to be the author of an event in (or by) which a person is wronged by that agent, even when this particular person suffers both harm and wrongdoing as the result of the agent's act of lying. In view of this possibility, then, we have to ask whether Kant's basic position on wrong done to humanity in general by an act of lying is supportable with respect to *all* conditions under which actions can accord with the universal principle of right as a principle of external freedom.

As far as it concerns acts of lying that fall within the purview of the theory of right, Kant's position does seem to require significant qualification, if not substantial revision. For one thing, as we have seen, the blanket juridical prohibition against lying under all possible conditions of action seems to be incompatible with Kant's use of his own criteria for the conceptual determination of wrongdoing in the specifically juridical sense of that term. Moreover, given this determination, it is exceedingly difficult to grasp how an apparent violation of the juridical principle of truthfulness could inflict wrong on humanity in general if, under certain conditions of action, no human being in particular *can* be wronged by an act of lying – at least not given the type of conditions illustrated by the door-knocking scenario treated earlier. How I could possibly do wrong to humanity if, under extreme conditions of the type described, it is impossible for anyone in particular ever to be subject to wrong *by me* in virtue of my wrong-preventing act of lying? Furthermore, if it is not clear how I could violate the principle of truthfulness as a *principle of right* when I can do wrong to no one in particular, it is also unclear how I could avoid doing wrong to humanity in general if I simply allow a preventable wrong to be done to a particular person. As a principle of strict right, the principle of truthfulness proscribes a type of action by which wrong is done to humanity in general. But like every other principle of strict right, such a principle of truthfulness requires that an agent must do no

³⁴ »Ein als wahr anerkannter (ich setze hinzu: *a priori* anerkannter, mithin apodiktischer) Grundsatz muß niemals verlassen werden, wie anscheinend auch Gefahr sich dabei befindet,« sagt der Verfasser. Nur muß man hier nicht die Gefahr (zufälligerweise) zu *schaden*, sondern überhaupt *Unrecht zu thun* verstehen: welches geschehen würde, wenn ich die Pflicht der Wahrhaftigkeit, die gänzlich unbedingt ist und in Aussagen die oberste rechtliche Bedingung ausmacht, zu einer bedingten und noch andern Rücksichten untergeordneten mache und, obgleich ich durch eine gewisse Lüge in der That niemanden Unrecht thue, doch das Princip des Rechts in Ansehung aller unumgänglich notwendigen Aussagen *überhaupt* verletze (formaliter, obgleich nicht materialiter, Unrecht thue): welches viel schlimmer ist als gegen irgend Jemanden eine Ungerechtigkeit begehn, weil eine solche That nicht eben immer einen Grundsatz dazu im Subjecte voraussetzt (8:429).

wrong to *anyone*, even if it *happens* that someone is thereby harmed. Thus, it is not clear how I could fail to violate the principle of truthfulness, insofar as it serves as a juridical principle that *prohibits wrongdoing*, if I act in such a way that I am willing to become the author (or co-author) of an event in which a person is wronged so that I can avoid being the author of an event by which that same person might be harmed. For if I do become the author of an event in which a person is wronged in as much as I cause this event as the way to avoid being the author of an event involving possible harm to another, then how can I possibly fail to be an agent who *causes* wrong to be done to that person? And if I do cause *wrong* to be *done* to this same person by becoming the author of an event in which someone is wronged, how can this wrong not be *my* punishable doing as long as wrongdoing, understood as the infliction of wrong on humanity in general, is inflicted in doing and by doing wrong to particular persons? As we have seen, event authorship is not a sufficient condition for liability to punishment if the event by which someone is harmed is not the event in which that person is wronged by the author of this same event. But this does not entail – or at least does not obviously imply – that the author of such an event does no wrong if the event that he authors is just the event in which, and by which, he causes foreseeable and preventable wrong to be done to someone.

I suppose that the clarification of these conceptual and metaphysical issues presupposes the explication of Kant's idea of humanity in general; the interpretation of the various uses of this idea in Kant's theory of right as well as in his ethics; and finally, the critical assessment of these uses in view of the problem of attributing intrinsic moral significance to the distinction between doing wrong to another and allowing wrong to be done to another. But we do not need to become involved in any of this here. For the various difficulties involved in sorting out those issues should not keep us from discerning an implication of Kant's account of the juridical principle of truthfulness that is clearly defensible on the basis of the analytic connection between the Kantian concept of right and the concept of the reciprocal use of external coercion. Granted this connection, the interesting upshot of this account emerges when we consider conditions under which *everyone* is unavoidably wronged by a public act of lying. Let us therefore try to understand Kant's basic juridical position on lying and truthfulness in connection with his second overarching concern, that is, his concern with the possible conformity of politics with the deontic requirements of strict right. In particular, let us try to answer this question: what follows if we bring Kant's basic position into its proper alignment with the principle of politics that requires a representative system? We can best discern what follows if we consider the extreme-case scenario in which a public act of lying affecting the lawgiving capacity of this type of political system utterly excludes, as the result of that act, the possibility that politics could be accommodated to right.

Take a historical situation in which appointed administrative agents of a state's executive authority (*Gewalt* = *potestas*) obtain the authorization to exercise the power of that authority in a particular way – to engage in the pre-emptive external use of military force for the purpose of expanding a state's economic power and international political influence, for example – on the basis of an act (or acts) of lying

to persons representing that same state's legislative or judicial authorities. In this case, violation of the juridical principle of truthfulness does two things when judged from the standpoint of practical reason's universally prescriptive role. First, in virtue of that very violation, wrong is in fact inflicted upon everyone whose lawgiving capacity is represented by particular persons who have legislative or judicial functions in a state. Second, wrong is *thereby* inflicted upon humanity in general by reason of the universally prescriptive import of the fundamental law that requires the accommodation of politics to right (see 8:429). If the administrative liar's maxim to achieve an end by means of an act of lying is what furnishes the grounds for legislative action or judicial decisions, it becomes impossible to determine whether actions of this type conform to the principle that an action is right if, and only if, it can coexist with the law-conforming freedom of everyone. In other words, it becomes impossible for particular agents representing the legislative or judicial authority of the state to exercise their respective functions in such a way that state action *can necessarily* be in accordance with a universal law. Thus, since any action's possible coexistence with everyone's law-conforming freedom furnishes precisely the definitional account of right action in terms of which the accommodation of politics to right (as opposed to the accommodation of right to politics) must be understood, the administrative agent's act of lying inflicts wrong on humanity in general by making it impossible for the legislative or judicial exercise of state power to occur in accordance with the universal law that requires the accommodation of politics to right.

What juridical consequence, then, ought to be drawn from the violation of the juridical principle of truthfulness when a public act of lying not only can cause harm but also necessarily makes the liar the author of an event (or events) in which all persons are wronged, including all persons belonging to the particular representative system the rightful lawgiving and law-specifying capacity of which is impermissibly restricted by that act? In this case, the act of lying is not merely a punishable action in the event that wrong is done by a lying agent. It is an act by which a lying agent necessarily ought to be subject to prosecution and punishment because that agent necessarily does wrong in and by lying. That is because it is impossible for an agent *not* to be the author of an event by which everyone is wronged when this event – the very act of lying to the legislator or the judicial authority in the representative system of a people – makes the accommodation of politics to the principle of right impossible. In this event, then, the act itself demands prosecution on the strength of the analytic connection between strict right and the reciprocal use of coercion consistent with everyone's freedom.

A juridically impeachable act of wrongdoing categorically requires impeachment and prosecution. Such, in Kantian terms, is the most basic possibility condition – the *conditio sine qua non* – for any progress of reason from the theory of right to politics in the event that the juridical principle of truthfulness is violated by a political act of lying to the legislative or judicial authorities in a system representing a people. The Kantian line of assault against the political lie, however, by no means ceases at this point. For the demand to accommodate politics to the principle of right can also

be shown to apply to international law when the use of politically useful lies within a given state is what makes possible the execution of certain policy measures that are contrary to principles of right. Consider again the pre-emptive external use of military force to engage in hostilities as a prime example. To ground and justify this use by means of a useful lie – a lie that precludes the determination of a policy's consistency with principles of right – is a type of action that opposes the fundamental *exeundum* requirement of morally practical reason: the commandment to put an end to the condition of war represented by the concept of the juridical state of nature.

The import of this requirement and the consequences of its violation become evident when the Thrasymachean 'advantage of the stronger' is translated into the conceptual universe of later traditions of Western juridical thought, especially the tradition stemming from the twelfth-century enlightenment's introduction of the concept of subjective right³⁵. According to Kant, the 'right of the stronger' (*Metaphysik der Sitten* 6:344.9) characterizes the condition of humanity in which the will to remain in a state of lawless freedom overrides, or simply disregards, the prescriptively 'irresistible veto of morally practical reason: *there is to be no war*'³⁶ (6:354.20-21). Acting contrary to this categorical demand *is*, in Kantian terms, the doing of wrong in the very highest degree³⁷. And the use of the political lie to make possible this highest degree of wrongdoing by disguising the real imperial ends of state policy that embodies the right of the stronger makes the executors of such policy the authors of events in which the highest degree of wrong is necessarily done to all human beings – to those living, to those not yet born, and, arguably, even to those long since dead. In the event of wrongdoing of this degree and scope, the principles of public right in general and of *ius gentium* in particular furnish a fully sufficient normative basis for prosecutorial warrant. Moreover, and just as importantly, in the event that contractually established international courts of justice actually exist, the institutional framework for prosecuting the lie-supported pursuit of the advantage of the stronger is in fact given and ought to be brought to bear for the purpose of actual prosecution. The particular warrant for and the special implications of these last conclusions, however, provide the topic of another paper.

In concluding this paper, I suppose that I should say something about the title of my talk. What do my considerations on Plato and Kant have to do with "truthiness"?³⁸ Not all that much – or at least not all that much *directly*. Truthiness, like bullshit from high places, undoubtedly causes untold harm worldwide as the result of damage to a national political culture. But unless its authors overstep the boundary markers furnished by definitions of lying in positive law (state-internal or international), we are pretty much left with the traditional remedies in hand, no

³⁵ For a detailed account of this tradition from the humanistic jurisprudence of the twelfth century through Grotius, see Brian Tierney's *The Idea of Natural Rights: Studies on Natural Rights, Natural Law, and Church Law, 1150-1625* (Atlanta: Scholars Press, 1997).

³⁶ Nun spricht die moralisch-praktische Vernunft in uns ihr unwiderstehliches Veto aus: *Es soll kein Krieg sein*.

³⁷ See *Metaphysik der Sitten* 6: 307-308, 344, 350-351, 354-355.

³⁸ See note 1 above.

matter how far they may limp along behind the technological means of deception that underlie so many contemporary forms of myth-making. The available instruments for remedy through the public use of reason, however, are tools that most anybody can still wield. We find them in the shed and in the kitchen. Bullshit has to be shoveled right back up to where the sun don't shine on bulls. Truthiness has to be pried apart, cut thin, and exposed for what it is: the partisan performances of the auxiliaries of the stronger. Comedy Central already provides both excellent examples and decent moral support for these activities. Does philosophy still have a special role to play in this regard? I think it may. Historically, one of philosophy's most important public roles has been to remind us of this cold fact of social nature: it's almost always the strongest who are in the strongest position to act on a maxim of self-justifying deceit that in fact boils down to nothing *more* than 'The bigger the lie, the better it is.' No matter how far reason regresses in its public uses, we can still *know* that there is nothing noble, much less generous, about that. And we can also understand why punishment is imperative when impeachable wrong is done. Truth has consequences.