

Critique, Dissent, Disciplinarity

Judith Butler

Academic freedom has become a contested category within the United States. On the one hand, conservative scholars have sought to use the term to criticize what they perceive as political correctness in the academy, whereas progressive scholars have sought to bolster academic freedom as a principle that safeguards academic self-determination over and against corporate and government intrusion. Recently I published a debate with Robert Post in *Academic Freedom after September 11*.¹ This collection was first of all an effort to understand the definition and range of the concept of academic freedom. In his contribution, Post argues that the way to preserve academic self-governance is to allow tenured faculty to make judgments about curriculum and appointments because they have undergone the relevant professional training in a given discipline and so are uniquely prepared to make these sorts of judgments. To protect academic freedom in this domain, then, depends upon our ability to protect the singular professional capacities that tenured faculty have assumed by virtue of professional training and practices of peer review.

For Post, the viability of the institution of academic freedom is founded upon established and agreed-upon academic norms, set and enforced by a professional class of educators who know the fields in question, and these norms, in turn, enable the kinds of research and teaching that we do. These norms, in fact, are the legitimating condition of our academic freedom.

I have agreed with Post that academic self-governance, which is crucial

1. See Robert Post, "The Structure of Academic Freedom" and Judith Butler, "Academic Norms, Contemporary Challenges: A Reply to Robert Post on Academic Freedom," in *Academic Freedom after September 11*, ed. Beshara Doumani (New York, 2006), pp. 61–106, 107–42.

to academic freedom, must find a legitimate basis on which to argue against illegitimate political or administrative interventions on matters of curriculum and hiring. But I introduce a worry here because it would seem that when and if academic norms, understood as professional and disciplinary norms, become the legitimating condition of academic freedom, then we are left with the situation in which the critical inquiry into the legitimacy of those norms not only appears to threaten academic freedom but also falls outside the stipulated compass of its protection. So too do disciplinary and interdisciplinary innovations that might unsettle the boundaries of the disciplines. Professional norms, construed in part as disciplinary norms, legitimate academic freedom, but what, if anything, legitimates such norms? If we cannot find a good answer to that question, then it might be that we end up with the following conundrum: we must accept norms that we cannot legitimate (or whose legitimacy we refuse to question) in order to legitimate our academic freedom.

Indeed, in our eagerness to ground academic freedom in certain professional and disciplinary norms that only certain faculty members are trained to know and apply, we produce a different problem for academic freedom. *If disciplinary innovation becomes the price we pay in order to establish a basis on which to legitimate an argument against unwanted political intrusions, then it would seem we establish a conservative academic culture and even suppress disciplinary innovation, as well as interdisciplinary work, in order to preserve academic freedom. Then, of course, we have to ask, for whom is academic freedom preserved and for whom is it destroyed, and with what sense of the academic are we left?* One can see a serious disagreement brewing: *either professional norms are necessary restraints that we ought not to question if we are to preserve academic freedom, or professional norms have to bear internal scrutiny if we are to preserve academic freedom.*

This conundrum has led me to ask two different sorts of questions. The first has to do with the question of what is critical in academic work and how that relates to the problem of the disciplines. If a certain sort of critical inquiry is to be defended, how do we begin to go about understanding what that critical inquiry might be? The second question is whether what we mean by critical inquiry can be decided by a particular discipline, whether it is itself a disciplinary operation, and whether critical inquiry can

JUDITH BUTLER is the Maxine Elliot Professor of Rhetoric and Comparative Literature at the University of California, Berkeley. She is a recent recipient of a Mellon Distinguished Achievement Award. Her most recent book is *Frames of War: When Is Life Grievable?* (2009). She is currently working on a manuscript on critical traditions within Jewish philosophy and the question of violence.

be grounded in a notion of critique. Although critique clearly attains its modern formulation with philosophy, it also makes claims that exceed the particular disciplinary domain of the philosophical. In Kant, for instance, the operation of critique operates not only outside of philosophy and in the university more generally but also as a way of calling into question the legitimating grounds of various public and governmental agencies. Hence, I hope to show that what is critical in academic work relates more broadly to the problem of political dissent, where the latter is understood as a way of objecting to illegitimate claims of public and governmental authority. I should say at the outset that I do not think the operation of critique can supply all the norms we might need in order to make strong claims about legitimate and illegitimate authority, but I see its operation as necessary to any such claims we might eventually want to make.

It seems important to note the political context in which such questions are currently posed—or not posed at all. In the United States the term *academic freedom* characterizes a faculty entitlement to be free of incursion by corporate and administrative powers on matters of making curriculum, peer review, and research. On the other hand, academic freedom sometimes is invoked as a right on the part of researchers to enter into contract with whatever funding sources they deem fit and to agree to terms imposed by those outside sources that very often affect hiring, curriculum, and research. It is important to note the assaults on academic freedom (1) by the Academic Bill of Rights, which, among other things, seeks to mandate a “balance” of perspectives in the classroom;² (2) by new forms of state intervention instituted through the joint workings of the Patriot Act, the formation of advisory boards overseeing Middle East studies—what practitioners do, what affiliations they maintain—and new organizations seeking to regulate the teaching of religion and science; and (3) by the increased reliance on outside donors and alumni associations for the maintenance of higher education, which can involve restrictions on funding that lead, directly or indirectly, to pressures on academic decisions such as hiring and tenuring, to curricular developments, and to valorizing those forms of knowledge that may lead directly to profit.

To make a strong case for academic freedom, we have to understand the kind of freedom we are defending and to be able to describe its permutations. If a certain critical operation of thought is part of the very exercise of this freedom, then we have to specify the sense of *critical* that we consider worth defending. Critique does not supply the grounds for making a decision on any particular case of academic freedom, but without critique

2. See the Academic Bill of Rights, www.studentsforacademicfreedom.org/abor.html

there can be no robust debate on the issues raised by academic freedom. The operation of critique has from its formulation in Kant been bound up with the question of legitimate and illegitimate state interventions in academic life. Although there are many reasons not to turn to Kant to recover some sense of the meaning of critique, it seems to me nevertheless that a passage through Kant is useful. In the first place, *The Conflict of the Faculties* is precisely such an inquiry, one that seeks to distinguish between modes of thought that should be supported by the state and modes of thought that ought to be free of state intervention. Of course, in our contemporary predicament, it is not only the state that exerts consequential pressure on the course of academic and intellectual life (so do political lobbies, alumni associations, the media, and other funding agencies), so the possible analogies between Kant's text and our circumstances can already be seen to be limited. In asking about the implications of Kant's text for our time, I am not asking whether we might *apply* Kant to matters of academic freedom that preoccupy us but, rather, whether and how a *translation* between Kant's idiom and our own might profitably take place. This project is complex for several reasons because of course Kant has several versions of critique, and it remains to be understood which conception of critique bears on his discussion of the disciplines. Such a passage through Kant does not mean subscribing to a transcendental philosophy, but it may well prompt the question of whether a passage through a transcendental form of argumentation can lead to political and social consequence. After all, we call for certain historical institutions, like the university, to support the operation of critique, but we clearly have access to some notion of critique when we make the judgment that certain universities fail to adequately defend its place and exercise. On what grounds do we make that latter sort of judgment?

The notion of critique is bound up with what we still call open inquiry, even though we understand that what makes an inquiry open is something that circumscribes and binds the inquiry and so determines a limit to its operation. Not all forms of inquiry are open and critical, and the line we draw around those that are produces a closure, if not a foreclosure, that makes an inquiry's operation possible. The exercise of critique typically takes place through the formulation of a set of questions. This does not mean that we identify a critical feature of certain formal properties of the question and then develop a typology according to which we list certain kinds of questions as critical and others as not; rather, the task is more historically specific: can we think about how, under certain conditions, certain kinds of questions *cannot* be posed or, rather, can only be framed and posed by breaking through a certain prohibition that functions to

condition and circumscribe the domain of the speakable? This approach would define the critical in relation to the variable historical ways in which the domains of the speakable and the thinkable are circumscribed. My suggestion is that the domain of the speakable is established in part through casting certain intellectual positions as rogue viewpoints. It would be easy enough to say that rogue viewpoints are those that are commonly and explicitly deemed illegitimate and that they are differentiated from those that are explicitly deemed legitimate. But such a framework fails to take into account what cannot be explicitly stated and what acts precisely as the implicit and defining limit to the stateable. In other words, at its extreme the rogue viewpoint is not one that can be spoken without doing some damage to the idea of what is speakable; such viewpoints are understood to undermine the idea of the viewpoint. Here I refer less to viewpoints that take declarative form, though I understand that they also constitute rogue formulations, and more to viewpoints that are emergent or, rather, that take form as questions that are raised about the proper bounds within which questions are posed.

Of course, Kant in some ways insisted on the reverse. His question was how to limit our knowledge inquiries so that we would not be constantly ending up in dogmatic or skeptical conclusions. On what legitimate basis can we know? But, in asking this question, he was trying to sort through those kinds of bases that prove legitimate, that can be proven according to reason, and those that cannot. In the *Critique of Pure Reason*, Kant lays out several meanings and functions of critique, including the dethroning of metaphysics, the overcoming of what he called the reign of tedium (a perpetual altercation between skepticism and dogmatism), an effort to supply sufficient grounding for the sciences, the attempt to establish a tribunal through which all claims to knowledge might pass, the way toward civil peace, a public means for adjudicating knowledge claims, a solitary means for adjudicating knowledge claims, a way of deriving knowledge claims from a priori principles, and a way of distinguishing such claims from empirical ones as well as speculative ones. Critique is also described as a kind of revolution, what he calls a revolution at the level of procedure, a progressive path for science, a way of enforcing rightful claims, of protecting the public against harmful doctrines (especially those that involve contradiction, groping [*Herumtappen*], and excess), and a way of resisting popularity and yet serving the public. But, somewhere in this list, he suggests that there is a particular form of the question that belongs to critique, and it has a dual formulation. When one is undertaking a critique, one is not simply supplying the legitimating ground of any project of knowledge, but one is asking a set of questions about how that

mode of self-legitimation takes place. Those questions are: “*in what way?*” and “*by what right?*”³

So let us keep these questions in mind, in what way? and by what right? as we consider what use a critical perspective might be to some of our contemporary quandaries regarding disciplinarity and academic freedom. Kant wrote a small but engaging essay entitled “What Is Enlightenment?” and Foucault offered a contemporary reading of this piece in an essay of his own by the same name, “What Is Enlightenment?”⁴ There Kant elaborates what he means by critique, but he limits his claim by remarking that questions that give evidence of the free and public use of reason should be free only in their public use, but remain “submissive” in their private use.⁵ There are certain duties that are to be accomplished in the private realm, which includes, for instance, the realm of the family, the church, and taxation. We are not to question the authoritative character of those norms but only those that belong to a restricted conception of the public. Kant not only restricts his claim but shows that the claim to the free and public use of reason depends upon an unfree and private domain, suggesting not only that public criticism is a conditioned freedom, strictly speaking, but that one of its conditions is that there be a domain where the exercise of state supervision takes place free of critical intervention. How do we understand the circumscription of the domain of the free and public use of reason on the basis of a domain that is unfree and private? How does that line get drawn—by whom? Through what means? By what right?

Further, Kant offers another point of view in *The Conflict of the Faculties* where he maintains that though the faculties of law, medicine, and government should be subjected to government scrutiny and authorization, should duly receive and enact the commands of the state, the discipline of philosophy should be free of any such intervention. In fact, philosophy can only make use of reason freely if it remains unimpeded by such political requirements. The circumstances of the text’s production are complex; it was written in 1794 in response to repressive measures undertaken by Frederick Wilhelm II, a time in which Kant himself received a cabinet order requesting that he no longer write on the topic of religion. Kant’s argument is complex, distinguishing the “higher faculties,” namely, theol-

3. Immanuel Kant, *Critique of Pure Reason*, trans. Norman Kemp Smith (London, 1982), p. 32.

4. See Kant, “An Answer to the Question: What Is Enlightenment?” trans. James Schmidt, in *What Is Enlightenment? Eighteenth-Century Answers and Twentieth-Century Questions*, ed. Schmidt (Berkeley, 1996), pp. 58–64, and Michel Foucault, “What Is Enlightenment?” trans. Catherine Porter, *The Foucault Reader*, trans. Josué V. Hasari et al., ed. Paul Rabinow (New York, 1984), pp. 32–50; hereafter abbreviated “W.”

5. Kant, “An Answer to the Question: What Is Enlightenment?” p. 59.

ogy, law, and medicine—which directly serve the public good—from the lower faculties, which include philosophy and history and are occupied with “teachings which are not adopted as directives by order of a superior.” Insofar as philosophy preoccupies itself with the “truth of certain teaching to be expounded in public,” a “free judgment” is required, one that negotiates the command, judging it autonomously and agreeing to become “subject only to laws given by reason, not by the government.”⁶

Kant’s argument about the domain of critique seems to depend on clear disciplinary distinctions; politics—understood as the sanctions of the state—legitimately governs certain disciplines whose task is to expound and maintain the public good and illegitimately governs others whose task is to function critically, to test public views and proclamations against the laws of reason, and to maintain autonomy in relation to public directives of all kinds. Philosophy is thus defined as unconstrained precisely through its critical function, but its lack of constraint depends upon the constraint imposed upon other disciplines or faculties. Indeed, the task of deciding where and when those imposed constraints are legitimate forms is one of the tasks of philosophy itself. In this sense, freedom of inquiry for philosophy depends upon the lack of that very freedom for other disciplines. Philosophy’s freedom from state constraint comes to define the disciplinary task of philosophy; its freedom serves as a constitutive precondition of philosophy’s claim to free and open inquiry, a condition necessarily absent from all other disciplines. Thus the possibility of the disciplinary site of philosophy is a consequence of the withdrawal of state intervention. Indeed, when Kant himself makes this claim, namely, that philosophy ought to be unconstrained and other disciplines are rightly subject to constraint, it makes sense to ask whether he is speaking within the discipline of philosophy or as some sort of extradisciplinary arbiter of the disciplines. I suggest that both will prove to be true.

When Kant argues that philosophy ought to be free of state supervision and sanction, it seems that we are then compelled to take the inverse view. The state must learn from philosophy that it—the state—must restrict its own power and allow for the free and public vocation of philosophy. Philosophy, even though it sees itself as free from state intervention and different from those disciplines that the state supervises, still defines itself in relation to the state and actually depends on the state for its own philosophical definition of itself.

So the view that, for Kant, philosophy must be free of politics does not always take into account how that very freedom is dependent on a certain

6. Kant, *The Conflict of the Faculties*, trans. Mary J. Gregor (Lincoln, Nebr., 1992), p. 43.

political precondition for philosophy, one that is built into the structure of the university, as Derrida has made very clear, and its public mandate. Thus, we have every reason to wonder whether this move can ever remove philosophy from politics or, more restrictedly, from state power, since (a) state power operates to support philosophy, and the form that support takes is to withdraw supervision over the paths that philosophy takes; and (b) the distinctions among the disciplines (the higher faculties) that must justify their modes of inquiry and their knowledge claims in light of the public good established by state power are emphatically nonphilosophical, and so philosophy comes to be defined by what it is not, and that definition, in turn, sanctions or limits state intervention into the disciplinary formations of knowledge at issue. Where philosophy can be shown to be at work, restraints on state supervision are legitimate, which means that philosophy has as one of its critical tasks the limiting of illegitimate state power. Philosophy names the moment when state power retracts—or should retract—its commands or submits its own commands to a certain testing by a form of reasoning that is not itself furnished by the state; conversely, philosophy names the moment in which reason, defined as the power to judge autonomously, establishes the possibility for political dissent, that is, for refusing to accept certain commands or sanctions from the state as legitimate. If philosophy performs this function with respect to state interventions into university business, does it follow that philosophy, in its critical function, posits itself above or outside of state power and has the more general task of inquiring into those governmental commands and policies whose legitimacy has not yet been persuasively established?

Now, there are many reasons to question whether Kant's position can translate into the present or be useful to our own reflections on academic freedom and the critical tasks of university life. But here we can see at least two points that are worth underscoring for the purposes of negotiating the present. First, the operation of critique takes place within the discipline of philosophy, but it also takes place every place and any place its distinguishing questions get posed, so critique belongs not just to the discipline of philosophy but, as Derrida has insisted, throughout the university. Second, the operation of critique takes place not only in the identifiable domains of philosophy and within the walls of the university but every time and any time the question of what constitutes a legitimate government command or policy is raised. Thus, critique does not remain limited within any of the domains that claim to circumscribe the appropriate operation of critique, which means that this very notion of critique, initially furnished by Kant, exceeds the Kantian formulation and even leads to a critical distance from the Kantian text itself.

One feature of the Kantian position that preoccupied Derrida in several essays published in the volume entitled *Eyes of the University* was the mode through which disciplines are divided from one another. Derrida calls attention to the contamination that happens between disciplines, and though he quite literally praises philosophy, especially in the interview by that name, he also calls into question whether we can continue to rely on reason as the basis for a critical exercise and whether critique itself is too bound up not only with the claims of reason but with the untroubled distinction among the disciplines.⁷ Derrida's critical engagement with Kant, if I may continue to call it that, relies on a reading of Friedrich Schelling's 1803 *Lectures on the Method of University Studies*, in which Schelling makes the case for an operation of knowledge that would be prior to any delimitation of the disciplines. Later, Derrida will wonder whether thinking precedes and disables the rigid distinction between the disciplines and comes to prefer this term to *critique*, which, in his view, takes disciplinary differentiations for granted. Derrida's question, posed through Schelling, is, What is presupposed by critical delimitation itself? Derrida reserves thinking (*penser*) for that prior relation, prior to delimitation, understood as a wild or rogue region or, at least, a region that preconditions those institutionalized forms of knowledge to which it cannot be readily admitted. Derrida rightly asks how communication between the disciplines can happen if we cannot presume the possibility of translation between them, translations that very often show up disciplinary boundaries as fragile constructions and disciplines themselves as always plagued by contaminations that cannot be expunged or managed easily or finally. This problem emerges within Kant's own exposition of critique because, belonging to a discipline, critique takes place whenever and wherever a free exercise of reason takes place. In this way, we find the transdisciplinary operation of critique foreshadowed in Kant himself, though he did not, could not, pursue those kinds of conclusions.

These are all important questions, but I want to suggest that we do not need to consign critique to the various problematic partitions upon which Kant relied. I've suggested that Kant calls into question precisely what he thought must be beyond the scope of critique itself. The critique of critique is not the destruction or nullification of critique, the double negation that culminates in a transcendence of the category of critique; rather, it is its elaboration in forms that could not have been known or authorized in

7. See Jacques Derrida, "In Praise of Philosophy," interview by *Libération*, *Eyes of the University*, trans. Jan Plug et al. (Stanford, Calif., 2004), pp. 156–64.

advance and that call into question the implicit and uncritical preconditions of its operation.

For instance, consider the pivotal role that the distinction between public and private domains plays in Kant's discussion of critique and the conflict among the faculties. As noted above, philosophy is emphatically public, and its critical operations have no place in the private domain. This differentiates philosophy not so much from the other disciplines as from the private sphere, one in which certain differentials of power are considered to be, appropriately, beyond the reach of critique. So here we can see most clearly how the free and open use of critique, even, I would suggest, its claim to transcendental status, comes into crisis by virtue of its implication in politics. Is it a transcendent ground that conditions philosophy's difference from the other disciplines, or is it precisely the way that line of demarcation is drawn that produces the transcendental effect upon which the disciplinary self-definition of philosophy depends? The politics to which we refer is not the politics *of* the state or the politics *of* the public realm but the particular political power of delimitation that constantly divides private from public on questionable grounds. If the way of distinguishing private and public does not hold, then the exercise of critique is only illegitimately restricted to the public sphere. Since the private domain includes obligations that pertain to family and to religious institutions, to matters of health and reproduction, the sexual division of labor, regulations concerning sexuality and gender, even questions of conditions and means of subject-formation, including pedagogy and class- and race-based access to educational institutions, it would only be uncritical to say that these are areas in which critique ought not to go, or where relations of subordination are to be presumed as part of the prepolitical fabric of social life and even philosophical reflection. If, according to the Kantian scheme, philosophy has held itself exempt from state commands and policies, then philosophy has been instrumental in limiting the scope of critique. If issues emerging from the private domain as well as the very demarcation of the public and private can be thought about critically, then philosophy must lose its place among the disciplines and enter into a social field, neither public nor private, in order to pose the questions that instantiate its operation.

This perspective would imply shifting our understanding of critique to something that happens through the sociopolitical field and questioning whether established ways of delineating public and private are themselves legitimate. If critique is understood as restricted to the open public sphere, we have to ask how this restriction takes place. It takes place through political means that do not show up within that sphere itself since they

constitute precisely the delimiting power by which those spheres are established and stabilized. Hence, we need something like *a critique of critique* to understand these other differentiating effects of power and to undo their effects. Let us remember for a moment that the operative questions of critique include by what right? and through what means? This means that the exercise of critique can take place precisely in relation to those assertions of state power over academic inquiry. It becomes possible to restate the Kantian position in a different way. After all, the operation of reason that distinguishes the philosophical enterprise for Kant is precisely the critical one, so it makes sense to claim that what should be preserved as a value of the university is precisely that operation of critique that asks by what right and through what means certain doxa become accepted as necessary and right and by what right and through what means certain government commands or, indeed, policies are accepted as the precritical doxa of the university.⁸

One can and must make use of Kant against Kant to ask, Through what means does Kant construct the sphere of public reason and by what right? And through what means does he separate public and private and by what right? His question can and must be reiterated, breaking with the context in which it was formed, calling into question the contexts that his further articulations sought to constitute as given. One could say that one is no longer a Kantian if one asks the Kantian question of Kant, but that must surely be acceptable, even historically necessary because the questions he unleashed do not belong to him in the end as they are taken up by readers who seek to know what translation from Kant might be possible between his text and the impasses of our time. The critique of critique becomes the reiteration of critique, the subjecting of critique to a translation of texts that emerged from a divergent political temporality. This redoubling operation proves central to some of the most important efforts to make sense of Kant for our times. What sense do we make, for instance, of Foucault's

8. Now, of course, in debates about state and external intervention in the disciplines, including interventions in hiring, curriculum, and tenure cases, we do not for the most part encounter arguments about the necessity to immunize philosophy, but there are other ways in which this kind of argument works, especially when the disciplines are linked to the public good and the state understands itself as in the business of articulating and protecting the public good. What we do find, however, is the suppression of certain kinds of questions that might destabilize the presumptive relations between universities and corporate donors, between universities and supporting government agencies, between universities and alumni associations, and between universities and powerful nonprofit organizations, including major philanthropic organizations required to sustain the research dimension of the university. I'll return to this question toward the end of my remarks, but, for the moment, let me return to the question of how we might continue to reiterate Kant, to subject Kant to a certain translation into the present.

reiteration of Kant in “What Is Enlightenment?” the text in which he uses Kant’s title as his own and produces that uneasy identification between Kant and himself?

What first appears from the juxtaposition of these two essays is that the title is a question, the same question, and so it is a title that happens twice—something happens by way of the question that is distinct and iterable. What is that something? Foucault tells us that for Kant, at least in this essay, the Enlightenment is *not* to be understood exclusively as a time or a place but rather as that which recurs every time a certain kind of question is asked under conditions in which doxa has reigned. To ask the question, what is enlightenment? is effectively to let enlightenment take place again and to show that enlightenment is something that can and does take place when such questions are posed. So what follows right away from Foucault’s procedure of reading is that enlightenment is being radically dehistoricized and that, methodologically, enlightenment constitutes a certain break with historicism. Foucault remarks that if enlightenment has a motto, it appears to be this: “dare to know” (“W,” p. 35). So what follows secondly is that for Foucault critique has something to do with a disposition of the subject or even a certain risk that the subject takes with respect to prevailing authorities that have been protected from critique. This seems bound up with what he says about critique as the “virtue” courage in “What Is Critique?”⁹ and with his late reflections on fearless speech in the title by that name.¹⁰

When Foucault reads Kant, when he, perhaps somewhat perversely, allies himself with a Kantian trajectory of thought, he reads Kant selectively, leaving out those portions of Kant’s argument that do not suit his own transposition and translation. Foucault extends certain ideas of enlightenment that he finds in Kant and, in doing so, finds a necessary reason to break with Kant, even to show us that the break with Kant is a perfectly Kantian thing to do. Kant gives us a certain notion of critique that comes to necessitate a critical break with Kant. Foucault cites those resources in the text that he can bring forward for his own uses, and we might be tempted to fault him for this. But Foucault does this in a critical spirit; he exercises judgment in deciding what of Kant to bring forward into the present. So Foucault extends the Kantian notion of critique, but does so in a way that

9. Foucault, “What Is Critique?” trans. Lysa Hochroth, in *The Political*, ed. David Ingram (London, 2002), p. 192. For an elaboration of the idea of critique, see my commentary “What Is Critique? An Essay on Foucault’s Virtue,” in *The Political*, pp. 212–28. See also Butler, “What Is Critique? An Essay on Foucault’s Virtue,” *The Judith Butler Reader*, ed. Sara Salih (Malden, Mass., 2004), pp. 302–22.

10. See Foucault, *Fearless Speech*, trans. Joseph Pearson (Los Angeles, 2001).

undermines some of the crucial and emphatically uncritical partitions on which the Kantian discussion relies.

Some years ago, Bruce Robbins suggested that Kant and Foucault are oppositional figures, especially when it comes to thinking about the disciplines. Robbins writes that *The Conflict of the Faculties* “renounce[es] politics and the significance that goes with it [so] that philosophy [can] claim a unique right to autonomy: ‘having no commands to give, [it, philosophy] is free to evaluate everything.’”¹¹ Robbins thinks that no such renunciation of politics can or ought to take place, at least not for us, and not for now. Indeed, for Robbins, Kant is wrong to separate politics from knowledge, and Foucault is the one who shows him that it is impossible by claiming that knowledge and power are invariably linked. What I want to suggest is that Robbins misses a certain alliance between Foucault and Kant, precisely the one that would query the legitimacy through which any given knowledge project proceeds. To say that power and knowledge are inextricably related is of course an important, if not salient, contribution of Foucault to our contemporary thinking. For Robbins, it is the problem of power that compels interdisciplinarity, since power (corporate, institutional, state) produces and traverses the disciplines and so gives them a common object of concern.

Robbins warns us against understanding such struggles as an *invariable* conflict among the faculties. And he suggests that our transdisciplinary alliances ought to form the basis of a robust and collective response to our various publics. I think this is a fine idea, and it may well be that David Horowitz and the Higher Education Act and the Patriot Act will continue to produce all kinds of alliances among us. Robbins clearly thinks that the disciplines ought to be joining together to combat increased privatization and the further destruction of the welfare state. Although I readily sign his petitions, I want a certain amount of room to hesitate as well because there remains a question of how politics is to be understood in this context and how we understand freedom as well. If we substitute politics for power, we have to distinguish which sense of politics we mean. And here it seems most important to distinguish between the view that would say that all our knowledge projects are just so many political projects and that we are, when we disagree on matters of knowledge, actually engaged in positioning ourselves politically and trying to win and the view that would critically ask, How is knowledge made in tandem with a certain orchestration of institutional power?

11. Bruce Robbins, “Less Disciplinary Than Thou: Criticism and the Conflict of the Faculties,” *Minnesota Review* n.s. 45–46 (1995–96), www.theminnesotareview.org/journal/ns45/robbins.htm

In my understanding, this kind of critical question is surely also political, but in a precise sense: it questions the *basis* on which certain kinds of claims for legitimacy are maintained, and it insists upon a time and place, even a legitimate time and place, for that questioning within academic life. That there must be a time and place for such questioning suggests the insufficiency in Kant's position or rather shows that what is sometimes called a transcendental inquiry opens up within a set of institutions—and as a consequence and effect of a set of prior delimitations among the disciplines—and cannot be pursued without some form of institutional support. I would add here something more, namely, that that sort of questioning, which is not necessarily grounded in existing convention or established norm but which takes existing conventions and norms as its objects, is related to the question of political dissent. And where political dissent is a practice that is sometimes protected by the very state that becomes the object of its critique, it is also that which emerges precisely when there is no such protection and as a direct result of—as a response to—there being no such protection. In this sense, it is not a claim that is grounded in advance, and I want to suggest that what I am calling critique in this context is similarly an ungrounded inquiry into the legitimacy of existing grounds, one that might be understood in Kantian terms as the free and public use of reason but that extends outside the domain of the public to a sociopolitical field that is broader and more complex than the public/private distinction can allow. To call the operation of critique ungrounded as I have is simply to say that what form it takes is not knowable or predictable on the basis of established norms; it is not, however, to say that it can or will take place regardless of whether or not there are protected institutional venues for its happening. The petition to produce certain kinds of departments or centers can emerge precisely from such a critical claim with the understanding that such a critical inquiry cannot be sustained without such institutional supports. The operation of critique and even the subsequent petition can emerge from the interstices of institutional life (which is not the same as emerging from a transcendental field); it may emerge precisely from those interstitial sites where disciplinary boundaries have not been firmly maintained. The practices of demarcation precede and condition the “transcendental” turn because the operation of critique apart from existing disciplinary authorization or existing ideas of the public sphere depends essentially on the demarcations that are called into question through its practice.

In addition to calling into question established notions of discipline and the public sphere, critique also takes aim at reason, but not in order to celebrate unreason. In “What Is Enlightenment?” Foucault contends that

enlightenment *is* critique, that we have no other way of understanding it, and that critique takes place any time that humanity puts “its own reason to use, without subjecting itself to any authority” (“W,” p. 38). This emphasis on reason does not quite sound like Foucault, but he is working within Kant’s language to see what he can do with it. One important conclusion he draws is that critique is not merely or only a sort of nay-saying, an effort to take apart and demolish an existing structure. Rather, critique is the operation that seeks to understand how delimited conditions form the basis for the legitimate use of reason in order to determine what can be known, what must be done, and what may be hoped—the three aims of critique as Kant formulated them. To the degree that we can still ask the question, what is enlightenment? we continue to mobilize the question and so to show that critique has not stopped happening, and in that sense neither has enlightenment stopped happening. It is a process subject to historical translation, to the recurrence of questioning the limits imposed upon the askable.

Foucault will not argue from a priori principles, and he will not finally stay with Kant’s idea of reason. What he proposes instead is an *attitude* of critique, one that he identifies with an ethos, a way of acting and behaving that belongs to a certain culture or community, that signals that belongingness, and that is also an ongoing process that presents itself as an obligation and a task. In this context, he refers to an attitude toward modernity and suggests that the problem for modernity is not a matter of accepting one’s finitude but of “tak[ing] oneself [to be an] object of a complex and difficult elaboration.” “Modernity . . . compels [man] to face the task of producing himself” (“W,” p. 42).

Why suddenly does he introduce the production of oneself in this context? What is the relation then between this invention, elaboration, or production of the self and the problem of critique that Foucault opened up earlier? He maintains that the philosophical ethos of modernity involves sustaining a permanent critique of our historical era (a term that involves a transposition of the Maoist slogan of permanent revolution). That critique involves the exercise of a free and public reason, and it seems also to imply moving into adulthood from a childlike position, which means not accepting on face value different forms of authority and their commands. In point of fact, it would seem that a certain exercise of disobedience is necessary for the inventive elaboration of the self. So it seems that there are now two dimensions of his notion of critique, and they are interrelated: on the one hand, it is a way of refusing subordination to an established authority; on the other hand, it is an obligation to produce or elaborate a self.

The first function is negative, a refusal; but the second function is invention. And it seems to follow that the refusal opens the space for this invention or that, in some way, refusal, disobedience, is linked to self-invention.

For Foucault, this linkage between critique and the production of ourselves is an exercise in an autonomy distinct from various humanisms. It is clear that what Foucault has to say about the production of the self would not have found resonance in Kant, but perhaps it is worth considering how Kant's *The Conflict of the Faculties* concludes with a rather elaborate set of reflections and precepts on self-care. Indeed, in the final section, Kant considers the task of the faculty of medicine to be teaching its students health and well-being. Kant makes clear that principles that govern the morally practical life have bearing on how matters of health should be taught, and he has advice to offer on why, for instance, he does not believe that the head and feet need to be kept warm, on why insomnia happens, how we might master morbid feelings through the exercise of reason, and why his headaches are so bad. This is a strangely neurasthenic conclusion to a discourse on public reason, suggesting that the body and its daily demands emerge as a kind of necessary supplement, offering an implicit critique of the human animal who dwells exclusively in the domain of a public reason. The body is the site of private unreason, and yet its signs can be read and its care can be thought. How does this reflection on the body constitute a modality of thought other than the one that Kant explicitly defends as reason?

The resonances with the late Foucault are quite striking, since Foucault's way of linking critique with the production of the self will take yet another form when self-production comes to imply self-care in the later volumes of *The History of Sexuality*. There are grounds for considering the resonances between Kant's and Foucault's recipes for self-care. Whatever ethos is involved in critique is opened up by a specific historical reality and demand. It follows neither from a capacity for reason as such nor from any other inherent aspect of our humanity. It follows, rather, from a distinct and largely contingent historical accumulation and formation of conventions that produce subjects who, in turn, open up a set of possibilities within that historical horizon or, rather, by virtue of it. The norms that establish the modes of intelligibility and recognizability for a subject are themselves queried, called into question, and so the very social basis for the intelligibility of the subject is risked at the moment in which such historical norms are interrogated. The point, of course, is not to stay at the site of risk or to celebrate risk as a way of life, but to keep the possibility of critique

alive in the face of any and all possible intrusions and requirements leveled by illegitimate authority or leveled in illegitimate ways.¹²

Although a standard reading of Foucault suggests that he is less interested in asking how to distinguish between legitimate and illegitimate impositions of power than in describing the modalities through which power works, I want to suggest that these two questions cannot be fully disarticulated from one another. In "What Is Critique?" Foucault considers critique as it functions in two different domains of established authority: the first is regimes of rationality, and the second is modes of governmental obligation.¹³ Foucault makes clear that what he seeks in the characterization of the Enlightenment is precisely what remains unthought within its own terms (and it is interesting that for Derrida the alternative to critique is thinking, and the redefinition of critique in Foucault is interrogation, always partial, of the unthought, though they may well mean something similar by these divergent terms). In Foucault's view, critique begins with questioning the demand for absolute obedience and subjecting every governmental obligation imposed on subjects to a rational and reflective evaluation. Thus, he recasts the origins of critique more radically than Kant. Although Foucault will not follow the turn to Kantian reason, he will nevertheless ask what criterion delimits which sorts of reasons and so can come to bear on the question of obedience. What produces that criterion and by what means does it become binding? What enters into the produc-

12. Although Foucault does not elaborate on this notion of self-invention, he does move in this brief essay from a discussion of Kant to a consideration of Baudelaire. What kind of supplement is Baudelaire to Kant in this instance? Foucault references the flaneur as a subject who does not seek to know or confess itself, but to craft itself. But he misses the chance to think about the problem of agency in Baudelaire and what consequences it might have for his own efforts to delineate something specific about a certain kind of subject who emerges within European modernity. For instance, what Foucault misses is that to which Benjamin calls attention: the idea of the crowd as a way to rethink the sociality of the subject and the problem of agency. One does not craft oneself from one's own resources, and self-making never happens alone. For Benjamin, for instance, the individual is jostled in the crowds that populate Baudelaire's poetry, and this jostling is at once unwilling and animating. Sociality is impingement, but it is also excitation, and this conditions a different scene of self-invention than one that would be based on an ontology of individualism. Can we understand self-invention as something that emerges not from a self whose individuation is presupposed but rather one whose individuation is always, even constitutively, jeopardized by the impingements of sociality itself? Can we imagine that the operation of critique emerges neither from a radically unconditioned freedom nor from a radical act of individual will, but from a kind of jostling that happens in the midst of social life, the very scene of being impinged upon by those we do not know? To be jostled is to encounter impingement not only as repression and constraint but also as the animating condition for a certain kind of social existence. The point reminds us that the critical task is not to become free of all impingement (and to be restored to a fully free and autonomous reason) but to distinguish among those modes of impingement that are illegitimate and those that are not.

13. See Foucault, "What Is Critique?"

tion and implementation of that criterion? Is it necessary, and can it be changed? When we consider how the field of legitimate reasons for obeying and disobeying is circumscribed, we are considering the conditions and limits of rationality. Our ability to identify or even to question those limits does not presume that we are, as it were, outside reason but only that we are outside one set of conventions by which reason—and the reasonable—has been circumscribed. And so there follow the questions, who are we if we are not on the inside? how is this possible? and who is asking this question of an established domain of rationality? The very fact of these questions suggests that there is a speaking and inquiring being here, and so, rhetorically, we are left with a paradox because the question of the legitimacy by which the domain of reason is circumscribed cannot be taken into account within that domain.

Hence, Foucault mobilizes critique against both a mode of rationality and a set of obligations imposed by a specific governmental exercise of authority. The two are clearly linked, but not causally. Modes of rationality do not unilaterally create kinds of governmental obligation, and those governmental obligations do not unilaterally create modes of rationality. And yet to question government authority one has to be able to think beyond the domain of the thinkable that is established by that authority and on which that authority relies. To be critical of an authority that poses as absolute is not just to take a point of view but to elaborate a position for oneself outside the ontological jurisdiction of that authority and so to elaborate a certain possibility of the subject. And if that domain establishes some version of political rationality, then one becomes, at the moment of being critical, irrational or nonrational, a rogue subject as it were, unintelligible within those political terms and yet with a critical relation to existing modes of intelligibility. Thus Foucault thinks that such an inquiry, a critical inquiry, involves some manner of courage or audacity. It is also why such a critical practice opens up a new possibility for elaborating the subject or what he sometimes calls creating a new subjectivity, one that would by definition maintain an uncertain relation to existing terms of legitimacy and intelligibility, at least at first.

Hannah Arendt and others have asked about the conditions under which citizens and soldiers might justifiably voice dissent to existing authority and come to practice civil disobedience in relation to conventional law.¹⁴ Her view was that moral judgment must be exercised, and her own turn to Kant in her reflections on willing strongly suggest a reconsideration

14. See Hannah Arendt, "Personal Responsibility under Dictatorship," *Responsibility and Judgment*, ed. Jerome Kohn (New York, 2003), pp. 17–48.

of the meaning of autonomy in light of dissent, civil disobedience, and even revolution.¹⁵ Without exploring that important view in detail here, I would nevertheless like to underscore the way in which the operation of critique becomes linked with strong political terms of opposition, a move that suggests that the exercise of calling existing authorities into question moves outside the university into the broader terrain of politics.

Dissenting from authority is not a mere desisting, and it may entail much more than the punctual enunciation of a speech act or mode of comportment. Dissent may well imply an alteration both in and of the subject and can challenge and reformulate historically specific modes of rationality. Thus, dissent maintains important relations to the modes of knowledge that articulate modes of governmental authority. The practice of consent, on the other hand, involves a free acquiescence, even when that freedom is not always self-reflectively understood as such. One does not consent on the basis of one's autonomy, and one does not draw from one's autonomy in order to consent. Consent is the act through which autonomy is constituted, and, similarly, dissent is also a way of freely withdrawing one's consent and so constituting oneself at a remove from authority (and elaborating a certain exercise of freedom). If there is a condition of possibility for either, it is to be found in the historical conditions that have accumulated and made such acts obligatory or possible.

In the context of civil or political disobedience, the impetus for withdrawing one's consent from a given authority consists in trying to establish a limit to governability. And this can, depending on how it is formulated and publicized, result in a more radical inquiry into the legitimacy of the authority in question. Again, there is no part of the self that is by definition ungovernable; in withdrawing itself from the domain of governability, the self constitutes its own ungovernability in and through the act. Foucault does not propose, in "What Is Critique?" or elsewhere, the possibility of radical anarchy (although he makes room for a provisional anarchic relation to existing law). The problem for him is not to produce a subject who will be radically ungovernable for all time. The question, how not to be governed? is always the question of how not to be governed *in this or that way*. But it is not a question of how not to be governed at all. As a consequence, it is a specific question that emerges in relation to a specific form of government and might well constitute a kind of tactical and provisional anarchy in relation to existing authority—in his words, "how not to be

15. See Arendt, "Thinking and Moral Considerations," *Responsibility and Judgment*, pp. 159–89, *Hannah Arendt: Lectures on Kant's Political Philosophy*, ed. Ronald Beiner (Chicago, 1992), and "Civil Disobedience," *Crises of the Republic* (New York, 1972), pp. 49–102.

governed *like that*, by that, in the name of those principles, with such and such an objective in mind and by means of such procedures, not like that, not for that, not by them.”¹⁶

If these words seem to suggest that critique amounts to a lot of nay-saying, it is important to remember that the no delineates and animates a new set of positions for the subject; it is inventive and, in that sense, operates as a determinate negation in Hegel’s sense. Foucault thus characterizes the negative and positive dimensions of critique. How, then, does the no that he articulates relate to the no that we find in acts of dissent? Let us remember that when Socrates argues that the law that sentences him to death is unjust, he does not therefore have permission to question the legitimacy of the court or, indeed, the state itself. He refuses to flee, even though he understands his punishment as unjust, because, in his words, he belongs to the state, and his very being, the very possibility of his interlocation, depends upon that state. My sense is that Foucault, if faced with similar circumstances, would take another tack, that he would object to the law as unjust and flee, establishing the independence of his critical attitude from any established governmental authority. A certain conception of freedom is to be understood as part of such an act of dissent, the one that not only objects to this law but also calls into question the legitimacy of a court that makes its decisions on such bases (corruption of the youth, for example). But, in the case I am perversely imagining, the refusal of the law and the questioning of the legitimacy of the court itself do not necessarily proceed from provisions that the state itself stipulates, namely, that freedom to dissent is an integral conception of the idea of democracy that the state is bound to uphold. Although dissent can sometimes take this form, as when one files for conscientious-objector status under stipulated provisions, it can also take a form that is not authorized by the authority from which consent is withheld. And this establishes dissent both inside the purview of a democratic polity and as the principle by which a departure from an established polity can and does take place. In other words, there is a link between dissent and the right to revolution, one I can, for reasons of time, only gesture toward and that doubtless would require a return to the relation between Arendt and Kant.

One reason that Kant thought that the conflict among the faculties should never end is that a certain critical operation must attend to “statutory precepts of the government regarding teachings to be set forth in public.” Figuring philosophy as a kind of antigovernment militia, Kant writes, “the philosophy faculty can never lay aside its arms in the face of the

16. Foucault, “What Is Critique?” p. 193.

danger that threatens the truth entrusted to its protection, because the higher faculties [those bound up with state power] will never give up their desire to rule."¹⁷

Interestingly, the right to dissent has to be provided for by government, but where a government fails to provide it the right to dissent can become the basis for a critique of the legitimacy of that government. It requires institutional support, but it is also the basis on which a critique of the institution can and must proceed. In this sense, no government provision finally justifies the right to dissent. When government does grant and protect the right to dissent, it opens its own practices to critical scrutiny. In a sense, the government acts, provides for this dissent, but in providing for it cedes the condition by which its own action may well be curtailed. This curtailment might follow from the successful articulation of a dissenting view or practice, one that shows government mandates or policies to be illegitimate, at which point the curtailment would be a consequence of a dissenting view gaining acceptance. But the very granting of the right of dissent, although an act of power, is also an act in which power checks itself. In other words, the state derives its own legitimacy through granting rights of dissent, but to the extent that it cannot control the terms of dissent, it also allows for a deterioration of its own claims, a suspension of its own mandate, and even a withdrawal or compromise of its own sovereignty. In a time in which Carl Schmitt's theory of the sovereign has, for a variety of reasons, captured the theoretical imagination, perhaps the thought of dissent is actually the inverse of the thought of sovereignty. Whereas sovereign power may withdraw its protections and entitlements and establish itself as independent of any rights and obligations secured through conventional law, dissent is precisely the site where the state retracts its sovereign claim or lays open its sovereign commands to be checked and undone by those it is obligated to govern in a fair way. Everything depends on whether the state comes to manage the terms of dissent or whether it casts certain viewpoints as rogue viewpoints, ones that would call into question forms of power that are supposed to remain protected from critical consideration.

Of course, the field of power cannot be restricted to the issuing of government commands or policies, and so the challenge for thinking about how power works in the academy today would have to take into account all of the nongovernmental agencies and operations that seek to impose certain restrictions and directions on academic work. Nevertheless, it is important to note that many of the most controversial academic positions

17. Kant, *The Conflict of the Faculties*, p. 55.

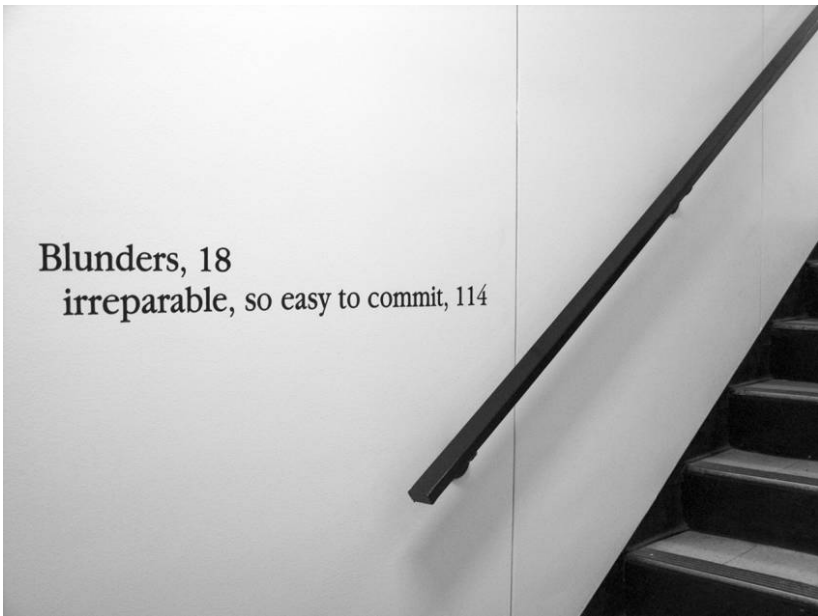
that have caused serious disputes about the meaning and purview of academic freedom have centered on the legitimacy of certain state authorities. Of course, there are several important and problematic issues of academic freedom that arise from the religious Right's effort to seize control over science teaching and research to reflect religious convictions. The powers at work there are churches and their political lobbies. Some of the viewpoints that are most seriously subjected to rogue status are those that ask about the legitimacy of existing states. Israel is clearly a case in point, and the debates about Israel in the U.S. academy reveal an extraordinary confusion about what constitutes legitimate critique, what constitutes a critique of legitimacy, and whether these can be dissociated from a call to destruction. Those who ask by what right and through what means does Israel legitimate itself through requiring a religious basis for citizenship—or differential degrees of citizenship that maintain Jewish demographic advantage—are clearly asking about the mode and rationale for the self-legitimation of a state. Some are immediately suspicious of the question, suggesting that to ask the question is to delegitimize the state and to subject its Jewish population to new threats. But whether or not one wishes to defend the state of Israel on already formulated grounds, and even if one wishes to call into question the existing form of that state in order to suggest reforms that might make for a different kind of state on those contested lands, it would be good to hear these questions actively posed and debated. To suspect the questions or shut down the conversation is to say that the matter of legitimacy should be assumed but not demonstrated, and that is precisely to make support for the existing form into a dogmatic position and label any other position as rogue. Whether or not one wants to make political arguments about the viability of neighboring states, one would do well to open the debate to a larger question of how and when states provide for their self-legitimation. No matter which political conclusion one reaches, it will have been arrived at through a critical operation, which means that we can begin to ask any questions we might have about what makes this state, or any state, legitimate. If we cannot pose the questions by what right and through what means a given state has achieved its status as legitimate, then we have already eroded the claim not only of critique but also of dissent, without which the process of legitimation cannot take place.


It makes sense that the debates about the legitimacy of the Israeli state (which is not the same as the legitimacy of the occupation) would form the center of debates on the proper purview of academic freedom. If academic freedom depends on critique, and critique is bound up with the question of how state legitimation takes place, then it would seem that the questions

raised about Israel's subordination and exclusion of the Palestinians prove to be a test case for whether or not critique can remain at the center of academic freedom during this time.

At stake in all of these reflections, however, is the question of whether we can continue to think about critique as something other than the practice of destruction, of nay-saying, of nihilism, or of unbridled skepticism. Could it not be that critique is that revolution at the level of procedure without which we cannot secure rights of dissent and processes of legitimation? When grant applicants are disqualified by virtue of the questions they pose (and without any reference to the conclusions they draw), then we have to ask whether the domain of the speakable and the domain of the askable are being foreclosed in order to limit critical debate and to thwart the demand to offer justifications for the points of view that we do hold. For such points of view to be debated, they have first to be admissible into academic and public debate; they have to be regarded as viewpoints. There would have to be room for a set of questions to be posed about the meaning of *destruction*—a term that is proliferated in confusing and frightening ways—of a state and the conditions of state legitimacy. Is extending rights of citizenship through formal and legal means or through new constitutional efforts the same as destroying a country or its people? How has this fearful conclusion taken hold, and does it sometimes stop us from asking very fundamental questions about equality and justice? Perhaps another kind of inquiry would be needed to know what precisely fuels efforts to circumscribe the speakable and the thinkable through means that compromise the very democratic values in whose name this censorship is performed and that ally modes of thinking with the kinds of viewpoints that uncritically adhere to governmental policy. When we identify and cast out the rogue viewpoint, we miss the point that every critical question is initially rogue in relation to existing conventions. We lose the traditions of both Socrates and Kant, not to mention Derrida and Foucault, since the very questions that would establish a critical viewpoint on state authority and governmental obligation are precluded from the asking. At that point it may well be that we are silenced by existing authorities, but we have also become, paradoxically, subjects whose muteness and political stammering come to define a mode of being.

Blunders, 18
irreparable, so easy to commit, 114





Lying in ambush
justice, 144
kindheartedness, 7