

Immanuel Kant

On the common saying: this may be true in theory but it does not apply in practice (1793)

1. Man's freedom as a human being, as a principle for the constitution of a commonwealth, can be expressed in the following formula. No-one can compel me to be happy in accordance with his conception of the welfare of others, for each may seek his happiness in whatever way he sees fit, so long as he does not infringe upon the freedom of others to pursue a similar end which can be reconciled with the freedom of everyone else within a workable general law – i.e. he must accord to others the same right as he enjoys himself. A government might be established on the principle of benevolence towards the people, like that of a father towards his children. Under such a paternal government (*imperium paternale*), the subjects, as immature children who cannot distinguish what is truly useful or harmful to themselves, would be obliged to behave purely passively and to rely upon the judgement of the head of state as to how they ought to be happy, and upon his kindness in willing their happiness at all. Such a government is the greatest conceivable despotism, i.e. a constitution which suspends the entire freedom of its subjects, who thenceforth have no rights whatsoever. The only conceivable government for men <who are capable of possessing rights> [*der Rechte fähig sind*], even if the ruler is benevolent, is not a paternal but a patriotic government (*imperium non paternale, sed patrioticum*). A patriotic attitude is one where everyone in the state, not excepting its head, regards the commonwealth as a maternal womb, or the land as the paternal ground from which he himself sprang and which he must leave to his descendants as a treasured pledge. Each regards himself as authorised to protect the rights of the commonwealth by laws of the general will, but not to submit it to his personal use at his own absolute pleasure. This right of freedom belongs to each member of the commonwealth as a human being, in so far as each is a being capable of possessing rights.

2. Man's equality as a subject might be formulated as follows. Each member of the commonwealth has rights of coercion in relation to all the [75] others, except in relation to the head of state. For he alone is not a member of the commonwealth, but its creator or preserver, and he alone is authorised to coerce others without being subject to any coercive law himself. But all who are subject to laws are the subjects of a state, and are thus subject to the right of coercion along with all other members of the commonwealth; the only exception is a single person (in either the physical or the moral sense of the word), the head of state, through whom alone the rightful coercion of all others can be exercised. For if he too could be coerced, he would not be the head of state, and the hierarchy of subordination would ascend infinitely. But if there

were two persons exempt from coercion, neither would be subject to coercive laws, and neither could do to the other anything contrary to right, which is impossible.

This uniform equality of human beings as subjects of a state is, however, perfectly consistent with the utmost inequality of the mass in the degree of its possessions, whether these take the form of physical or mental superiority over others, or of fortuitous external property and of particular rights (of which there may be many) with respect to others. Thus the welfare of the one depends very much on the will of the other (the poor depending on the rich), the one must obey the other (as the child its parents or the wife her husband), the one serves (the labourer) while the other pays, etc. Nevertheless, they are all equal as subjects before the law, which, as the pronouncement of the general will, can only be single in form, and which concerns the form of right and not the material or object in relation to which I possess rights. For no-one can coerce anyone else other than through the public law and its executor, the head of state, while everyone else can resist the others in the same way and to the same degree. No-one, however, can lose this authority to coerce others and to have rights towards them except through committing a crime. And no-one can voluntarily renounce his rights by a contract or legal [rechtliche] transaction to the effect that he has no rights but only duties, for such a contract would deprive him of the right to make a contract, and would thus invalidate the one he had already made.

source: <http://www.sussex.ac.uk/Users/sefdo/tx/tp2.htm>