The Oxford Handbook *of* POLITICAL THEORY

THE OXFORD HANDBOOK OF

POLITICAL THEORY

Edited by

JOHN S. DRYZEK
BONNIE HONIG
and
ANNE PHILLIPS

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POLITICAL THEORY

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PART I

INTRODUCTION

CHAPTER 1

INTRODUCTION

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> "What's your line of business, then?"
> "I'm a scholar of the Enlightenment," said Nicholas.
> "Oh Lord!" the young man said. "Another producer of useless graduates!"
> Nicholas felt despondent.
>
> (Lukes 1995: 199)

In *The Curious Enlightenment of Professor Caritat*—Steven Lukes' fictionalized round-up of contemporary political theory—the hapless professor has been kidnapped by the resistance movement and sent off to search for grounds for optimism. In Utilitaria, he is asked to give a lecture on "Breaking Free from the Past;" in Communitaria, on "Why the Enlightenment Project Had to Fail." Neither topic is much to his taste, but it is only when he reaches Libertaria (not, as one of its gloomy inhabitants tells him, a good place to be unlucky, unemployed, or employed by the state) that he is made to recognize the limited purchase of his academic expertise. At the end of the book, the professor still has not found the mythical land of Egalitaria. But he has

derived one important lesson from his adventures: in the pursuit of any one ideal, it is disastrous to lose sight of all the others.

This *Handbook* is not organized around categories such as utilitarianism, communitarianism, or libertarianism, and though it also notes the continuing elusiveness of egalitarianism, it does not promote any single ideal. The *Handbook* seeks, instead, to reflect the pluralism of contemporary political theory, a pluralism we regard as a key feature and major strength of the field. In this introduction, we clarify what we understand by political theory, identify major themes and developments over recent decades, and take stock of the contemporary condition of the field. We end with an explanation of the categories through which we have organized the contributions to the *Handbook*.

1 What is Political Theory?

Political Theory is an interdisciplinary endeavor whose center of gravity lies at the humanities end of the happily still undisciplined discipline of political science. Its traditions, approaches, and styles vary, but the field is united by a commitment to theorize, critique, and diagnose the norms, practices, and organization of political action in the past and present, in our own places and elsewhere. Across what sometimes seem chasms of difference, political theorists share a concern with the demands of justice and how to fulfill them, the presuppositions and promise of democracy, the divide between secular and religious ways of life, and the nature and identity of public goods, among many other topics.

Political theorists also share a commitment to the humanistic study of politics (although with considerable disagreement over what that means), and a skepticism towards the hegemony sometimes sought by our more self-consciously "scientific" colleagues. In recent years, and especially in the USA, the study of politics has become increasingly formal and quantitative. Indeed, there are those for whom political theory, properly understood, would be formal theory geared solely towards the *explanation* of political phenomena, where explanation is modeled on the natural sciences and takes the form of seeking patterns and offering causal explanations for events in the human world. Such approaches have been challenged—most recently by

the Perestroika movement (Monroe 2005)—on behalf of more qualitative and interpretive approaches. Political theory is located at one remove from this quantitative vs. qualitative debate, sitting somewhere between the distanced universals of normative philosophy and the empirical world of politics.

For a long time, the challenge for the identity of political theory has been how to position itself productively in three sorts of location: in relation to the academic disciplines of political science, history, and philosophy; between the world of politics and the more abstract, ruminative register of theory; between canonical political theory and the newer resources (such as feminist and critical theory, discourse analysis, film and film theory, popular and political culture, mass media studies, neuroscience, environmental studies, behavioral science, and economics) on which political theorists increasingly draw. Political theorists engage with empirical work in politics, economics, sociology, and law to inform their reflections, and there have been plenty of productive associations between those who call themselves political scientists and those who call themselves political theorists. The connection to law is strongest when it comes to constitutional law and its normative foundations (for example, Sunstein 1993; Tully 1995, 2002; this connection is covered in our chapters by Stimson and by Ferejohn and Pasquino).

Most of political theory has an irreducibly normative component—regardless of whether the theory is systematic or diagnostic in its approach, textual or cultural in its focus, analytic, critical, genealogical, or deconstructive in its method, ideal or piecemeal in its procedures, socialist, liberal, or conservative in its politics. The field welcomes all these approaches. It has a core canon, often referred to as Plato to NATO, although the canon is itself unstable, with the rediscovery of figures such as Sophocles, Thucydides, Baruch Spinoza, and Mary Wollstonecraft, previously treated as marginal, and the addition of new icons such as Hannah Arendt, John Rawls, Michel Foucault, and Jürgen Habermas. Moreover, the subject matter of political theory has always extended beyond this canon and its interpretations, as theorists bring their analytic tools to bear on novels, film, and other cultural artifacts, and on developments in other social sciences and even in natural science.

Political theory is an unapologetically mongrel sub-discipline, with no dominant methodology or approach. When asked to describe themselves, theorists will sometimes employ the shorthand of a key formative influence—as in "I'm a Deleuzean," or Rawlsian, or Habermasian, or Arendtian—although it is probably more common to be labeled in this way by others than to claim the description oneself. In contrast, however, to some neighboring producers

of knowledge, political theorists do not readily position themselves by reference to three or four dominant schools that define their field. There is, for example, no parallel to the division between realists, liberals, and constructivists, recently joined by neoconservatives, that defines international relations theory. And there is certainly nothing like the old Marx–Weber–Durkheim triad that was the staple of courses in sociological theory up to the 1970s.

Because of this, political theory can sometimes seem to lack a core identity. Some practitioners seek to rectify the perceived lack, either by putting political theory back into what is said to be its proper role as arbiter of universal questions and explorer of timeless texts, or by returning the focus of political theory to history. The majority, however, have a strong sense of their vocation. Many see the internally riven and uncertain character of the field as reflective of the internally riven and uncertain character of the political world in which we live, bringing with it all the challenges and promises of that condition. In the last two decades of the twentieth century, liberal, critical, and post-structuralist theorists have (in their very different ways) responded to the breakdown of old assumptions about the unitary nature of nation-state identities. They have rethought the presuppositions and meanings of identity, often rejecting unitary conceptions and moving towards more pluralistic, diverse, or agonistic conceptions in their place. These reflections have had an impact on the field's own self-perception and understanding. Happily for political theory, the process has coincided with a movement within the academy to reconceive knowledge as more fundamentally *inter*disciplinary. This reconsideration of the function and role of the boundaries of the academic disciplines may help others, as well as political theorists, to see the field's pluralism as a virtue and a strength, rather than a weakness in need of rectification.

1.1 Relationship with Political Science

Political theory's relationship to the discipline of political science has not always been a happy one. Since the founding of the discipline in the late nineteenth century, there have been periodic proclamations of its newly scientific character. The "soft" other for the new science has sometimes been journalism, sometimes historical narrative, sometimes case-study methods. It has also, very often, been political theory. Beginning in the 1950s, behavioral

revolutionaries tried to purge the ranks of theorists—and had some success at this in one or two large Midwestern departments of political science in the USA. The later impact of rational choice theory encouraged others, like William Riker (1982*a*: 753), to reject "belles letters, criticism, and philosophic speculation" along with "phenomenology and hermeneutics." For those driven by their scientific aspirations, it has always been important to distinguish the "true" scientific study of politics from more humanistic approaches—and political theory has sometimes borne the brunt of this.

Political theorists have noted, in response, that science and objectivity are steeped in a normativity that the self-proclaimed scientists wrongly disavow; and theorists have not been inclined to take the description of political "science" at face value. They have challenged the idea that their own work in normative theory lacks rigor, pointing to criteria *within* political theory that differentiate more from less rigorous work. While resisting the epistemic assumptions of empiricism, many also point out that much of what passes for political theory is profoundly engaged with empirical politics: what, after all, could be more "real", vital, and important than the symbols and categories that organize our lives and the frameworks of our understanding? The French have a word to describe what results when those elected as president and prime minister are representatives of two different political parties: *cohabitation*. The word connotes, variously, cooperation, toleration, sufferance, antagonism, and a sense of common enterprise. Cohabitation, in this sense, is a good way to cast the relationship between political theory and political science.

1.2 Relationship with History

History as a point of reference has also proven contentious, with recurrent debates about the extent to which theory is contained by its historical context (see Pocock and Farr in this volume), and whether one can legitimately employ political principles from one era as a basis for criticizing political practice in another. When Quentin Skinner, famous for his commitment to historical contextualism, suggested that early principles of republican freedom might offer a telling alternative to the conceptions of liberty around today, he took care to distance himself from any suggestion that "intellectual historians should turn themselves into moralists" (Skinner 1998: 118). He still drew criticism for abandoning the historian's traditional caution.

In an essay published in 1989, Richard Ashcraft called upon political theorists to acknowledge the fundamentally historical character of their enterprise. While contemporary theorists recognize the "basic social/historical conditions which structure" their practice, "this recognition does not serve as a conscious guideline for their teaching and writing of political theory." Ashcraft continued: "On the contrary, political theory is taught and written about *as if* it were great philosophy rather than ideology" (Ashcraft 1989: 700). For Ashcraft, acknowledging the ideological character of political theory meant embracing its political character. The main objects of his critique were Leo Strauss and his followers, whom Ashcraft saw as seeking evidence of universally valid standards in canonical political theorists and calling on those standards to judge their works. For Straussians, the wisdom of the ancients and greats is outside history.

Ashcraft also criticized Sheldon Wolin, who shared Ashcraft's displeasure with Straussians, on the grounds of their inadequate attention to politics (see Saxonhouse's contribution to this volume). Although Wolin acknowledged the historicity of the texts he had examined in his seminal *Politics and Vision* (1960), Ashcraft claimed that Wolin resisted the "wholesale transformation" that would result, in both his view and Ashcraft's, from putting that historicity at the center of his interpretative practice. Wolin is famous for championing what, in the style of Hannah Arendt, he termed "the political:" politics understood, not in its instrumental capacity (Harold Lasswell's (1961) "'Who gets what, when, and how'"), but rather in its orientation toward the public good coupled with a commitment to the "public happiness" of political participation. Contra Ashcraft, one might see Wolin's move to the political as a way of splitting the difference between a Straussian universalism and the thick contextualism of Ashcraft's preferred historicist approach.

"The political" is a conceptual category, itself outside of history, that rejects the idea that politics is about universal truths, while also rejecting the reduction of politics to interests. "The political" tends to connote, minimally, some form of individual or collective action that disrupts ordinary states of affairs, normal life, or routine patterns of behavior or governance. There are diverse conceptions of this notion. To take three as exemplary: the political takes its meaning from its figuration in Wolin's work by contrast primarily with statism, constitutionalism, and political apathy; in Arendt's work by contrast with private or natural spheres of human behavior; and in Ranciere's (1999) work by contrast with the "police."

1.3 Relationship with Philosophy

The most un-historical influence on political theory in recent decades has been John Rawls, whose work represents a close alliance with analytic philosophy. On one popular account, Rawls arrived from outside as political theory's foreign savior and rescued political theory from the doldrums with the publication in 1971 of *A Theory of Justice* (see Arneson in this volume). Rawls' book was an ambitious, normative, and systematic investigation of what political, economic, and social justice should look like in contemporary democracies. With the distancing mechanisms of a veil of ignorance and hypothetical social contract, Rawls followed Kant in looking to reason to adjudicate what he saw as the fundamental question of politics: the conflict between liberty and equality. Writing from within the discipline of philosophy, he returned political theory to one of its grand styles (Tocqueville's two-volume *Democracy in America*, also written by an outsider, would represent another). Much subsequent work on questions of justice and equality has continued in this vein, and while those who have followed Rawls have not necessarily shared his conclusions, they have often employed similar mind experiments to arrive at the appropriate relationship between equality and choice. The clamshell auction imagined by Ronald Dworkin (1981), where all the society's resources are up for sale and the participants employ their clamshells to bid for what best suits their own projects in life, is another classic illustration. Starting with what seems the remotest of scenarios, Dworkin claims to arrive at very specific recommendations for the contemporary welfare state.

As the contributions to this volume demonstrate, one strand of current debates in political theory revolves around the relationship between the more abstracted or hypothetical register of analytic philosophy and approaches that stress the specificities of historical or contemporary contexts. Those working in close association with the traditions of analytic philosophy—and often preferring to call themselves political philosophers—have generated some of the most interesting and innovative work in recent decades. But they have also been repeatedly challenged. Communitarians and post-structuralists claim that the unencumbered individual of Rawlsian liberalism is not neutral but an ideological premise with significant, unacknowledged political effects on its theoretical conclusions (Sandel 1982; Honig 1993). Feminists criticize the analytic abstraction from bodily difference as a move that reinforces heteronormative assumptions and gender inequalities (Okin 1989; Pateman

1988; Zerilli and Gatens in this volume). As we indicate later in the introduction, analytic liberalism has made some considerable concessions in this regard. In *Political Liberalism*, for example, Rawls no longer represents his theory of justice as addressing what is right for all societies at all times, but is careful to present his arguments as reflecting the intuitions of contemporary liberal and pluralistic societies.

1.4 Relationship with "Real World" Politics

The way political theory positions itself in relation to political science, history, and philosophy can be read in part as reflections on the meaning of the political. It can also be read as reflections on the nature of theory, and what can—or cannot—be brought into existence through theoretical work. The possibilities are bounded on one side by utopianism. Political theorists have seemed at their most vulnerable to criticism by political scientists or economists when their normative explorations generate conclusions that cannot plausibly be implemented: principles of living, perhaps, that invoke the practices of small-scale face-to-face societies; the or principles of distribution that ignore the implosion of communism or the seemingly irresistible global spread of consumerist ideas (see Dunn 2000, for one such warning). There is an important strand in political theory that relishes the utopian label, regarding this as evidence of the capacity to think beyond current confines, the political theorist's version of blue-sky science. Ever since Aristotle, however, this has been challenged by an insistence on working within the parameters of the possible, an insistence often called "sober" by those who favor it. At issue here is not the status of political theory in relation to political science, but how theory engages with developments in the political world.

Some see it as failing to do so. John Gunnell (1986) has represented political theory as alienated from politics, while Jeffrey Isaac (1995) argues that a reader of political theory journals in the mid 1990s would have had no idea that the Berlin Wall had fallen. Against this, one could cite a flurry of studies employing empirical results to shed light on the real-world prospects for the kind of deliberative democracy currently advocated by democratic theorists (see for example the 2005 double issue of *Acta Politica*); or testing out theories of justice by reference to empirical studies of social mobility (Marshall, Swift, and Roberts 1997). Or one might take note of the rather large number of

political theorists whose interest in contemporary political events such as the formation of a European identity, the new international human-rights regime and the politics of immigration, the eschewal of the Geneva Convention at the turn of the twentieth century, or the appropriate political response to natural disasters leads them to think about how to theorize these events. Concepts or figures of thought invoked here include Giorgio Agamben's (1998) "bare life" of the human being to whom anything can be done by the state, Michel Foucault's (1979) "disciplinary power" that conditions what people can think, Carl Schmitt's (1985) "state of exception" wherein the sovereign suspends the rule of law, Ronald Dworkin's (1977) superhuman judge "Hercules," Jacques Derrida's (2000) "unconditional hospitality" to the other, or Etienne Balibar's (2004) "marks of sovereignty" which signal the arrogation to themselves by political actors in civil society of rights and privileges of action historically assumed by states.

As is clear from the contributions in this *Handbook*, political theorists take their cue from events around them, turning their attention to the challenges presented by ecological crisis; emergency or security politics; the impact of new technologies on the ways we think about privacy, justice, or the category of the human; the impact of new migrations on ideas of race, tolerance, and multiculturalism; the implications of growing global inequalities on the way we theorize liberty, equality, democracy, sovereignty, or hegemony. In identifying the topics for this collection, we have been struck by the strong sense of political engagement in contemporary political theory, and the way this shapes the field.

1.5 Institutional Landscape

Institutionally, political theory is located in several disciplines, starting of course with political science, but continuing through philosophy and law, and including some representation in departments of history, sociology, and economics. This means that the professional associations and journals of these disciplines are hospitable (if to varying degrees) to work in political theory. Among the general political science journals, it is quite common to find political theory published in *Polity* and *Political Studies*, somewhat less so in the *American Journal of Political Science*, *British Journal of Political Science*, and *Journal of Politics*. On the face of it, the *American Political Science Review*

publishes a substantial number of political theory articles, but the majority of these have been in the history of political thought, with Straussian authors especially well represented. In philosophy, *Ethics* and *Philosophy and Public Affairs* are the two high-profile journals most likely to publish political theory. Some of the more theoretically inclined law journals publish political theory, and so do some of the more politically inclined sociology journals.

Political theory's best-established journal of its own is *Political Theory*, founded in 1972. Prior to its establishment, the closest we had to a general political-theory academic periodical were two book series. The first was the sporadic *Philosophy, Politics and Society* series published by Basil Blackwell and always co-edited by Peter Laslett, beginning in 1956 and reaching its seventh volume in 2003. Far more regularly published have been the NOMOS yearbooks of the American Society for Political and Legal Philosophy, which began in 1958 and continue to this day. Recent years have seen an explosion in political theory journal titles: *History of Political Thought*; *Journal of Political Philosophy*; *The Good Society*; *Philosophy, Politics and Economics*; *Critical Review of International Social and Political Philosophy*; *European Journal of Political Theory*; *Contemporary Political Theory*; *Constellations*; and *Theory and Event* (an online journal). The *Review of Politics* has been publishing since 1939, although its coverage has been selective, with a Straussian emphasis for much of its history. Political theorists can often be found publishing in related areas such as feminism, law, international relations, or cultural studies. Journals that feature their work from these various interdisciplinary locations include *differences*; *Politics, Culture, and Society*; *Daedalus*; *Social Text*; *Logos*; *Strategies*; *Signs*; and *Millennium*. However, political theory is a field very much oriented to book publication (a fact which artificially depresses the standing of political theory journals when computed from citation indexes, for even journal articles in the field tend to cite books rather than other articles). All the major English-language academic presses publish political theory. Oxford University Press's *Oxford Political Theory* series is especially noteworthy. While the world of the Internet changes rapidly, at the time of writing the Political Theory Daily Review is an excellent resource that opens many doors.[1]

Political theory is much in evidence at meetings of disciplinary associations. The Foundations of Political Theory section of the American Political Science Association is especially important, not just in organizing panels and

[1] http: //www.politicaltheory.info/

lectures and sponsoring awards but also in hosting what is for a couple of hours every year probably the largest number of political theorists in one room talking at once (the Foundations reception). The field also has associations of its own that sponsor conferences: the Conference for the Study of Political Thought International, and the Association for Political Theory (both based in North America). In the UK, there is an annual Political Theory conference in Oxford; and though the European Consortium for Political Research has tended to focus more on comparative studies, it also provides an important context for workshops on political theory.

2 Contemporary Themes and Developments

As befits a relentlessly critical field, political theory is prone to self-examination. We have already noted controversies over its relationship to various disciplinary and interdisciplinary landscapes. Occasionally the self-examination takes a morbid turn, with demise or death at issue: the most notorious example being when Laslett (1956) claimed in his introduction to the 1956 *Philosophy, Politics and Society* book series that the tradition of political theory was broken, and the practice dead. Even the field's defenders have at times detected only a faint pulse.

Concerns about the fate of theory peaked in the 1950s and 1960s with the ascendancy of behavioralism in US political science. Such worries were circumvented, but not finally ended, by the flurry of political and philosophical activity in the USA around the Berkeley Free Speech movement (with which Sheldon Wolin 1969, and John Schaar 1970, were associated), the Civil Rights movement (Arendt 1959), and protests against the Vietnam war and the US military draft (Walzer 1967, 1970). At that moment, the legitimacy of the state, the limits of obligation, the nature of justice, and the claims of conscience in politics were more than theoretical concerns. Civil disobedience was high on political theory's agenda.[2] Members of activist networks

[2] See notably Marcuse's "Repressive Tolerance" contribution in Wolff, Moore, and Marcuse (1965), Pitkin (1966), Dworkin (1968), the essay on "Civil Disobedience" in Arendt (1969), and Rawls (1969).

read and quoted Hannah Arendt, Herbert Marcuse, and others in support of their actions and visions of politics.

Throughout the 1960s, the struggle over the fate of theory was entwined with questions about what counted as politics and how to find a political-theoretical space between or outside liberalism and Marxism. It was against this political and theoretical background that John Rawls was developing the ideas gathered together in systematic form in *A Theory of Justice* (1971), a book devoted to the examination of themes that the turbulent 1960s had made so prominent: redistributive policies, conscientious objection, and the legitimacy of state power. Later in that decade Quentin Skinner and a new school of contextualist history of political thought (known as the Cambridge school) rose to prominence in the English-speaking world. Still other works of political theory from this period give the lie to the idea that political theory was in need of rescue or revivification. The following stand out, and in some cases remain influential: Leo Strauss's *Natural Right and History* (1953), Louis Hartz's *The Liberal Tradition in America* (1955), Karl Popper's *The Poverty of Historicism* (1957), Hannah Arendt's *The Human Condition* (1958) and *On Revolution* (1963), Sheldon Wolin's *Politics and Vision* (1960), Friedrich A. von Hayek's *The Constitution of Liberty* (1960), Michael Oakeshott's *Rationalism in Politics* (1962), James Buchanan and Gordon Tullock's *The Calculus of Consent* (1962), Judith Shklar's *Legalism* (1964), Herbert Marcuse's *One-Dimensional Man* (1964), Brian Barry's *Political Argument* (1964), and Isaiah Berlin's *Four Essays on Liberty* (1969).

2.1 Liberalism and its Critics

Looking at the field from the vantage point of the first years of the twenty-first century, there is certainly no indication of political theory failing in its vitality: this is a time of energetic and expansive debate, with new topics crowding into an already busy field. For many in political theory, including many critics of liberal theory, this pluralistic activity obscures a more important point: the dominance that has been achieved by liberalism, at least in the Anglo-American world. In its classic guise, liberalism assumes that individuals are for the most part motivated by self-interest, and regards them as the best judges of what this interest requires. In its most confident variants, it sees the material aspects of interest as best realized through

exchange in a market economy, to the benefit of all. Politics enters when interests cannot be so met to mutual benefit. Politics is therefore largely about how to reconcile and aggregate individual interests, and takes place under a supposedly neutral set of constitutional rules. Given that powerful individuals organized politically into minorities or majorities can turn public power to their private benefit, checks across different centers of power are necessary, and constitutional rights are required to protect individuals against government and against one another. These rights are accompanied by obligations on the part of their holders to respect rights held by others, and duties to the government that establishes and protects rights. Liberalism so defined leaves plenty of scope for dispute concerning the boundaries of politics, political intervention in markets, political preference aggregation and conflict resolution mechanisms, and the content of rights, constitutions, obligations, and duties. There is, for example, substantial distance between the egalitarian disposition of Rawls and the ultra-individualistic libertarianism of Robert Nozick (1974).[3] Liberalism's conception of politics clearly differs, however, from the various conceptions of the political deployed by Arendt, Wolin, Ranciere, and others, as well as from republican conceptions of freedom explored by Quentin Skinner (1998) or Philip Pettit (1997).

In earlier decades, liberalism had a clear comprehensive competitor in the form of Marxism, not just in the form of real-world governments claiming to be Marxist, but also in political theory. Marxism scorned liberalism's individualist ontology, pointing instead to the centrality of social classes in political conflict. The market was seen not as a mechanism for meeting individual interests, but as a generator of oppression and inequality (as well as undeniable material progress). Marxism also rejected liberalism's static and ahistorical account of politics in favor of an analysis of history driven by material forces that determined what individuals were and could be in different historical epochs. Different versions of this were hotly debated in the 1970s, as theorists positioned themselves behind the "humanist" Marx, revealed in his earlier writings on alienation (McLellan 1970),[4] or the "Althusserian" Marx, dealing in social relations and forces of production (Althusser 1969; Althusser and Balibar 1970). Disagreements between these schools were intense, although both proclaimed the superiority of Marxist over liberal

[3] Other important works in the vast liberal justice literature include Gauthier (1986), Barry (1995), and Scanlon (1998).

[4] See also the work of the US-Yugoslav Praxis group, and their now-defunct journal *Praxis International*.

thought. In the period that followed, however, the influence of academic Marxism in the English-speaking world waned. The fortunes of Marxist theory were not helped by the demise of the Soviet bloc in 1989–91, and the determined pursuit of capitalism in China under the leadership of a nominally Marxist regime.

Questions remain about liberalism's success in defeating or replacing this rival. One way to think of subsequent developments is to see a strand from both liberalism and Marxism as being successfully appropriated by practitioners of analytic philosophy, such as Rawls and G. A. Cohen (1978). Focusing strictly on Marxism vs. liberalism, however, threatens to obscure the presence of other vigorous alternatives, from alternative liberalisms critical (sometimes implicitly) of Rawlsianism, such as those developed by Richard Flathman (1992), George Kateb (1992), Jeremy Waldron (1993), and William Galston (1991), to alternative Marxisms such as those explored by Jacques Ranciere (1989) and Etienne Balibar and Immanuel Wallerstein (1991), and Nancy Hartsock (1983). Michael Rogin combined the insights of Marxism and Freudian psychoanalysis to generate work now considered canonical to American studies and cultural studies (though he himself was critical of that set of approaches; see Dean's essay in this *Handbook*). Rogin (1987) pressed for the centrality of race, class, property, and the unconscious to the study of American politics (on race, see also Mills 1997).

Liberal theory's assumptions about power and individualism were criticized or bypassed from still other perspectives through the 1970s, 1980s, and 1990s, a fecund period during which political theorists had a wide range of approaches and languages from which to choose in pursuit of their work. In France, social theorists writing in the 1970s (in the aftermath of May 1968) included, most famously, Michel Foucault, whose re-theorization of power had a powerful influence on generations of American theorists. In Germany, a discursive account of politics developed by Jürgen Habermas (for example, 1989, first published in German 1962) captured the imaginations of a generation of critical theorists committed to developing normative standards through which to assess the claims of liberal democratic states to legitimacy. The 1970s Italian Autonomia movement inspired new Gramscian and Foucaultian reflections on equality, politics, violence, and state power (Virno 2004). For much of this period, feminism defined itself almost as an opposite of liberalism, drawing inspiration initially from Marxism, later from psychoanalytic theories of difference, and developing its own critique of the abstract individual. In Canada and at Oxford, Charles Taylor (1975) was

thinking about politics through a rereading of Hegel that stressed the importance of community to political autonomy, influencing Michael Sandel (1982) and many subsequent theorists of multiculturalism. Deleuze and Guattari combined post-structuralism and psychoanalyisis into a series of difficult ruminations on the spatial metaphors that organize our thinking at the ontological level about politics, nature, and life (1977; see also Patton in this volume). Ranging from Freudian to Lacanian approaches, psychoanalysis has provided political theorists with a perspective from which to examine the politics of mass society, race and gender inequalities, and personal and political identity (Butler 1993; Laclau 2006; Zizek 2001; Irigara 1985; Zerilli 1994; Glass in this volume).

2.2 Liberal Egalitarianism

As the above suggests, alternatives to liberalism continue to proliferate, and yet, in many areas of political theory, liberalism has become the dominant position. Marxism has continued to inform debates on exploitation and equality, but in a shift that has been widely replayed through the last twenty-five years, reinvented itself to give more normative and analytic weight to the individual (Roemer 1982, 1986; Cohen 1995, 2000). There has been a particularly significant convergence, therefore, in the debates around equality, with socialists unexpectedly preoccupied with questions of individual responsibility and desert, liberals representing equality rather than liberty as the "sovereign virtue" (Dworkin 2000), and the two combining to make liberal egalitarianism almost the only remaining tradition of egalitarianism. One intriguing outcome is the literature on basic income or basic endowment, which all individuals would receive from government to facilitate their participation in an otherwise liberal society (van Parijs 1995; Ackerman and Alstott 1999).

For generations, liberalism had been taken to task for what was said to be its "formal" understanding of equality: its tendency to think that there were no particular resource implications attached to human equality. In the wake of Rawls's "difference principle" (see Arneson in this volume) or Dworkin's "equality of resources" (see Williams in this volume), this now seems a singularly inappropriate complaint. At the beginning of the 1980s, Amartya Sen posed a question that was to frame much of the literature on distributive justice through the next decade: equality of what? This generated a multiplicity

of answers, ranging through welfare, resources, capabilities (Sen's preferred candidate), to the more cumbersome "equality of opportunity for welfare," and "equality of access to advantage."[5] None of the answers could be dismissed as representing a merely formal understanding of equality, but all engaged with key liberal themes of individuality and responsibility. The subsequent explosion of liberal egalitarianism can be read as a radicalization of the liberal tradition. But the convergence between what were once distinctively liberal and socialist takes on equality can also be seen as demonstrating the new dominance of liberal theory. Much of the literature on equality is now resolutely individualist in form, running its arguments through thought experiments designed to tease out our intuitions of equality, and illustrating with stories of differently endowed individuals, exhibiting different degrees of aspiration and effort, whose entitlements we are then asked to assess. It is not always clear what purchase this discourse of individual variation (with a cast of characters including opera singers, wine buffs, surfers, and fishermen) has on the larger inequalities of the contemporary world. "What," as Elizabeth Anderson has asked, "has happened to the concerns of the politically oppressed? What about inequalities of race, gender, class, and caste?" (Anderson 1999, 288).

In the course of the 1990s, a number of theorists voiced concern about the way issues of redistribution were being displaced by issues of recognition, casting matters of economic inequality into the shade (Fraser 1997; also Markell and Squires in this volume). There is considerable truth to this observation, but it would be misleading to say that no one now writes about economic inequality. There is, on the contrary, a large literature (and a useful web site, The Equality Exchange[6]) dealing with these issues. The more telling point is that the egalitarian literature has become increasingly focused around questions of individual responsibility, opportunity, and endowment, thus less engaged with social structures of inequality, and less easily distinguishable from liberalism.

2.3 Communitarianism

One central axis of contention in the 1980s was what came to be known as the liberal–communitarian debate (for an overview, see Mulhall and Swift 1996).

[5] Key contributions to this debate include Sen (1980, 1992); Dworkin (1981, 2000); Arneson (1989); and G. A. Cohen (1989).

[6] http: //aran.univ-pau.fr/ee/index.html

Communitarians like Michael Sandel (1982), influenced by both Arendt and Taylor, argued that in stressing abstract individuals and their rights as the building blocks for political theory, liberalism missed the importance of the community that creates individuals as they actually exist. For communitarians, individuals are always embedded in a network of social relationships, never the social isolates that liberalism assumes, and they have obligations to the community, not just to the political arrangements that facilitate their own interests. This opposition between the liberal's stripped-down, rights-bearing individual and the communitarian's socially-embedded bearer of obligations seemed, for a period, *the* debate in political philosophy. But voices soon made themselves heard arguing that this was a storm in a teacup, a debate within liberalism rather than between liberalism and its critics, the main question being the degree to which holistic notions of community are instrumental to the rights and freedoms that both sides in the debate prized (Taylor 1989; Walzer 1990; Galston 1991). Liberalism, it is said, was misrepresented. Its conception of the individual was never as atomistic, abstracted, or self-interested, as its critics tried to suggest.

2.4 Feminism

In the 1980s, feminists had mostly positioned themselves as critics of both schools. They shared much of the communitarian skepticism about disembedded individuals, and brought to this an even more compelling point about the abstract individual being disembodied, as if it made no difference whether "he" were female or male (Pateman 1988; also Gatens in this volume). But they also warned against the authoritarian potential in holistic notions of community, and the way these could be wielded against women (e.g. Frazer and Lacey 1993). Growing numbers challenged impartialist conceptions of justice, arguing for a contextual ethics that recognizes the responsibilities individuals have for one another and/or the differences in our social location (Gilligan 1982; Young 1990; Mendus in this volume). Still others warned against treating the language of justice and rights as irredeemably masculine, and failing, as a result, to defend the rights of women (Okin 1989).

As the above suggests, feminism remained a highly diverse body of thought through the 1980s and 1990s; but to the extent that there was a consensus, it was largely critical of the liberal tradition, which was represented as overly

individualistic, wedded to a strong public/private divide, and insufficiently alert to gender issues. There has since been a discernible softening in this critique, and this seems to reflect a growing conviction that liberalism is not as dependent on the socially isolated self as had been suggested. Nussbaum (1999: 62) argues that liberal individualism "does not entail either egoism or normative self-sufficiency;" and while feminists writing on autonomy have developed their own distinctive understanding of "relational autonomy," many now explicitly repudiate the picture of mainstream liberal theory as ignoring the social nature of the self (see essays in MacKenzie and Stoljar 2000). Some of the earlier feminist critiques overstated the points of difference with liberalism, misrepresenting the individual at the heart of the tradition as more self-contained, self-interested, and self-centered than was necessarily the case. But it also seems that liberalism made some important adjustments and in the process met at least part of the feminist critique. It would be churlish to complain of this (when you criticize a tradition, you presumably hope it will mend its ways), but one is left, once again, with a sense of a tradition mopping up its erstwhile opponents. Some forms of feminism are committed to a radical politics of sexual difference that it is hard to imagine liberalism ever wanting or claiming (see Zerilli in this volume). But many brands of feminism that were once critical of liberalism have made peace with the liberal tradition.

2.5 Democracy and Critical Theory

In the literature on citizenship and democracy, liberalism has faced a number of critical challenges, but here, too, some of the vigor of that challenge seems to have dispersed. Republicanism predates liberalism by two thousand years (see Nelson in this volume), and emphasises active citizenship, civic virtue, and the pursuit of public values, not the private interests associated more with the liberal tradition. Republicanism enjoyed a significant revival through the 1980s and 1990s as one of the main alternatives to liberal democracy (Sunstein 1990; Pettit 1997); indeed, it looked, for a time, as if it might substitute for socialism as *the* alternative to the liberal tradition. Nowadays, even the republican Richard Dagger (2004: 175) allows that "a republican polity must be able to count on a commitment to principles generally associated with liberalism, such as tolerance, fair play, and respect for the

rights of others;" this is not, in other words, a total alternative. Deliberative democracy also emerged in the early 1990s as a challenge to established liberal models that regarded politics as the aggregation of preferences defined mostly in a private realm (J. Cohen 1989). For deliberative democrats, reflection upon preferences in a public forum was central; and again, it looked as though this would require innovative thinking about alternative institutional arrangements that would take democracies beyond the standard liberal repertoire (Dryzek 1990). By the late 1990s, however, the very institutions that deliberative democrats had once criticized became widely seen as the natural home for deliberation, with an emphasis on courts and legislatures. Prominent liberals such as Rawls (1997, 771–2) proclaimed themselves deliberative democrats, and while Bohman (1998) celebrates this transformation as "the coming of age of deliberative democracy," it also seems like another swallowing up of critical alternatives.

The recent history of critical theory—and more specifically, the work of Jürgen Habermas—is exemplary in this respect. Critical theory's ancestry extends back via the Frankfurt School to Marx. In the hands of Max Horkheimer and Theodor Adorno (1972; first published 1947) in particular, critique was directed at dominant forms of instrumental rationality that defined modern society. Habermas rescued this critique from a potential dead end by showing that a communicative conception of rationality could underwrite a more congenial political order and associated emancipatory projects. Habermas's theory of the state was originally that of a monolith under sway of instrumental reason in the service of capitalism, which had to be resisted. Yet come the 1990s, Habermas (1996) had redefined himself as a constitutionalist stressing the role of rights in establishing the conditions for open discourse in the public sphere, whose democratic task was to influence political institutions that could come straight from a liberal democratic textbook (see Scheuerman in this volume).

2.6 Green Political Theory

Green political theory began in the 1970s, generating creative proposals for ecologically defensible alternatives to liberal capitalism. The center of gravity was left-libertarianism verging on eco-anarchism (Bookchin 1982), although (at least in the 1970s) some more Hobbesian and authoritarian voices were

raised (Ophuls 1977). All could agree that liberal individualism and capitalist economic growth were antithetical to any sustainable political ecology. In his chapter, Meyer charts the progress of "post-exuberant" ecological political theory, characterized by engagement with liberalism. Not all green theory has moved in this direction. For example, Bennett and Chaloupka (1993) work more in the traditions of Thoreau and Foucault, while Plumwood (2002) draws on radical ecology and feminism to criticize the dualisms and anthropocentric rationalism of liberalism.

2.7 Post-structuralism

Post-structuralism is often seen as merely critical rather than constructive. This mistaken impression comes from a focus on the intersections between post-structuralist theory and liberal theory. Some post-structuralist theorists seek to supplement rather than supplant liberalism, to correct its excesses, or even to give it a conscience that, in the opinion of many, it too often seems to lack. Hence Patton's suggestion (in this volume) that the distance between post-structuralist and liberal political theory may not be as unbridgeable as is commonly conceived. And some versions of liberal theory are more likely to be embraced or explored by post-structuralists than others: Isaiah Berlin, Richard Flathman, Jeremy Waldron, and Stuart Hampshire are all liberals whose work has been attended to in some detail by post-structuralist thinkers.

But post-structuralists have also developed alternative models of politics and ethics not directly addressed to liberal theory. One way to canvas those is with reference to the varying grand narratives on offer from this side of the field. Post-structuralism is often defined as intrinsically hostile to any sort of grand narrative, a claim attributed to Jean-Francois Lyotard (1984). This claim is belied by a great deal of work in the field that does not so much reject grand narrative as reimagine and reiterate it (Bennett 2002). Post-structuralists do reject foundational meta-narratives: those that present themselves as transcendentally true, for which nature or history has an intrinsic purpose, or that entail a two-world metaphysic. Those post-structuralists who do use meta-narratives tend to see themselves as writing in the tradition of social contract theorists like Hobbes, whose political arguments are animated by imaginary or speculative claims about the origins and trajectories of social life. Post-structuralists, however, are careful to represent their post-metaphysical

views as an "onto-story whose persuasiveness is always at issue and can never be fully disentangled from an interpretation of present historical circumstances" (White 2000, 10–11; see also Deleuze and Guattari 1977).

What post-structuralists try to do without is not the origin story by means of which political theory has always motivated its readers, nor the wagers by way of which it offers hope. Rather, post-structuralists seek to do without the ends or guarantees (such as faith, or progress, or virtue) which have enabled some enviable achievements (such as the broadening of human rights), but in the name of which cruelties have also been committed (in the so-called "developing" world, or in the West against non-believers and non-conformists).[7] These ends or guarantees have sometimes enabled political theorists to evade full responsibility for the conclusions they seek, by claiming the goals or values in question are called for by some extra-human source, like god or nature.

3 Political Theory and the Global Turn

Liberalism has demonstrated an almost unprecedented capacity for absorbing its competitors, aided by the collapse of its rival, Marxism, but also by its own virtuosity in reinventing itself and incorporating key elements from opposing traditions. Yet this is not a triumphalist liberalism, of the kind proclaimed in Fukuyama's (1989) "end of history," which celebrated the victory of liberal capitalism in the real-world competition of political-economic models. The paradox is that liberalism's absorption of some of its competitors has been accompanied by increasing anxiety about the way Western liberalism illegitimately centers itself. The much discussed shift in the work of Rawls is one classic illustration of this, for while the Rawls of *A Theory of Justice* (1971) seemed to be setting out "the" principles of justice that would be acceptable to any rational individual in any social context, the Rawls of *Political Liberalism* (1993) stressed the reasonableness of a variety of "comprehensive doctrines," including those that could be non-liberal, and the Rawls of *The Law of Peoples* (1999) encouraged us to recognize the

[7] On the role of progress in India, see Mehta (1999). On the fate of non-conformists in Rawls, for example, see Honig (1993).

"decency" of hierarchical, non-liberal societies that are nonetheless well-ordered and respect a certain minimum of human rights.

Having won over many erstwhile critics in the metropolitan centres, liberals now more readily acknowledge that there are significant traditions of thought beyond those that helped form Western liberalism. They acknowledge, moreover, that the grounds for rejecting these other traditions are more slippery than previously conceived. The critique of "foundationalism" (for example, Rorty 1989) used to arouse heated debate among political theorists. Many were incensed at the suggestion that their claims about universal justice, equality, or human rights had no independent grounding, and accused the skeptics of abandoning normative political theory (see, for example, Benhabib et al. 1995). In the course of the 1990s, however, anti-foundationalism moved from being a contested minority position to something more like the consensus. Post-structuralist critiques of foundationalism led to liberalism's late twentieth-century announcement that it is "post-foundational" (Rawls 1993; Habermas 1996)—although with no fundamental rethinking of the key commitments of liberal theory. In the wake, however, of Rawls and Habermas disavowing metaphysical support for their (clearly normative) projects, Western political theorists have increasingly acknowledged the historical contingency of their own schools of thought; and this is generating some small increase in interest in alternative traditions. The awareness of these traditions does not, of itself, signal a crisis of confidence in liberal principles (arch anti-foundationalist, Richard Rorty, certainly has no trouble declaring himself a liberal), but it does mean that political theory now grapples more extensively with questions of moral universalism and cultural or religious difference (e.g. Euben 1999; Parekh 2000; Honig 2001).

The explosion of writing on multiculturalism—largely from the 1990s—is particularly telling here. Multiculturalism is, by definition, concerned with the multiplicity of cultures: it deals with what may be radical differences in values, belief-systems, and practices, and has been especially preoccupied with the rights, if any, of non-liberal groups in liberal societies. The "problem" arises because liberalism is not the only doctrine on offer, and yet the way the problem is framed—as a question of toleration, or the rights of minorities, or whether groups as well as individuals can hold rights—remains quintessentially liberal. Will Kymlicka (1995) famously defended group rights for threatened cultural communities on the grounds that a secure cultural context is necessary to individual autonomy, such that the very importance liberals attach to individual autonomy requires them to support multicultural

policies. His version of liberal multiculturalism has been widely criticized (see Spinner-Halev and Kukathas in this volume); and many continue to see liberalism as at odds with multiculturalism (for example, Okin 1998, 2002; Barry 2001). But in analyzing the "problem" of multiculturalism through the paradigm of liberalism, Kymlicka very much exemplifies the field of debate. Liberalism simultaneously makes itself the defining tradition and notices the awkwardness in this. Its very dominance then seems to spawn an increasing awareness of traditions other than itself.

It is not entirely clear why this has happened now (liberalism, after all, has been around for many years) but that useful shorthand, globalization, must provide at least part of the explanation. It is difficult to sustain a belief in liberalism as the only tradition, or in secularism as the norm, when the majority of the world's population is patently unconvinced by either (Gray 1995, 1998). And although political theorists have drawn heavily on the liberal tradition in their explorations of human rights or global justice, the very topics they address require them to think about the specificity of Western political thought. Political theory now roams more widely than in the past, pondering accusations of ethno-centricity, questioning the significance of national borders, engaging in what one might almost term a denationalization of political theory. That description is an overstatement, for even in addressing explicitly global issues, political theory draws on concepts that are national in origin, and the assumptions written into them often linger into their more global phase. Terms like nation or state are not going to disappear from the vocabulary of political theory—but the kinds of shift Chris Brown (in this volume) discerns from international to global conceptions of justice are being played out in many corners of contemporary political thought.

It is hard to predict how this will develop, although the combination of a dominant liberalism with a concern that Western liberalism may have illegitimately centered itself looks unstable, and it seems probable that pockets of resistance and new alternatives to liberalism will therefore gain strength in future years. It seems certain that moves to reframe political theory in a more self-consciously global context will gather pace. This is already evident in the literature on equality, democracy, and social justice, where there is increasing attention to both international and global dimensions. It is also becoming evident in new ways of theorizing religion. Religion has been discussed so far in political theory mainly in the context of the "problem" of religious toleration, with little attention to the internal structure of religious beliefs. But other dimensions are now emerging, including new ways of understanding

the politics of secularism, and closer examination of the normative arguments developed within different religions. It seems likely that new developments in science (particularly those associated with bio-genetics) will provide political theorists with difficult challenges in the coming decade, especially as regards our understanding of the boundaries between public and private, and the prospects for equality. And while the prospect of a more participatory or deliberative democracy remains elusive, we can perhaps anticipate an increasing focus on the role of pleasure and passion in political activism.

It is harder to predict what will happen in the continuing battle to incorporate issues of gender and race into mainstream political theory. The contributors to this *Handbook* include people who have played significant roles in the development of feminist political theory, but it is notable that few have chosen to make feminism and/or gender central to their essays. The optimistic take on this is that gender is no longer a distinct and separate topic, but now a central component in political thought. The more pessimistic take is suggested in the final comment of Linda Zerilli's chapter: that the attempt to think politics outside an exclusively gender-centered frame may end up reproducing the blind spots associated with the earlier canon of political thought. The likely developments as regards race are also unclear. We can anticipate that racial inequality will continue to figure in important ways in discussions of affirmative action or political representation, but the explosion of work on multiculturalism has focused more on culture or ethnicity, and political theory has not engaged in a thoroughgoing way with the legacies of colonialism or slavery. The essays in this *Handbook* suggest, however, that important new developments are under way.

4 Political Theory and Political Science: Current Trajectories

We noted earlier the sometimes difficult relationship between political theory and the rest of political science. We return to this here, but more with a view to areas of cooperation. In addition to its interdisciplinary locations, political theory has a place in the standard contemporary line-up of sub-fields in political science, alongside comparative politics, international relations,

public policy, and the politics of one's own country. Here and there, methodology, public administration, political psychology, and public law might be added; and truly adventurous departments may stretch to political economy and environmental politics. All these sub-fields have a theoretical edge that potentially connects with the preoccupations of political theory. These connections confirm the importance of political theory to the rest of political science.

International relations has a well-defined sub-sub-field of international relations (IR) theory, and we have noted that this is defined largely in terms of the three grand positions of realism, constructivism, and liberalism. Confusingly, liberalism in IR is not quite the same as liberalism in political theory. In IR theory, liberalism refers to the idea that actors can co-operate and build international institutions for the sake of mutual gains; it is therefore linked to a relatively hopeful view of the international system. Realism, in contrast, assumes that states maximize security in an anarchy where violent conflict is an ever-present possibility. Constructivism points to the degree to which actors, interests, norms, and systems are social constructions that can change over time and place. Each of these provides plenty of scope for engagement with political theory—even if these possibilities are not always realized. Despite its differences, IR liberalism connects with the liberalism of political theory in their shared Lockean view of how governing arrangements can be established, and when it comes to specifying principles for the construction of just and legitimate international institutions. Realism is explicitly grounded in the political theory of Thomas Hobbes, interpreting the international system in Hobbesian "state of nature" terms. Thucydides has also been an important if contestable resource for realism (Monoson and Loriaux 1998). Constructivism has been represented (for example, by Price and Reus-Smit 1998) as consistent with Habermasian critical theory. As Scheuerman (this volume) points out, critical theory has reciprocated, in that it now sees the international system as the crucial testing ground for its democratic prescriptions. Normative theory is currently flourishing in international relations, and many of the resources for this are provided by political theory (Cochran 1999), with postmodernists, Rawlsian liberals, feminists, and critical theorists making particularly important contributions.[8]

[8] See, for example, Pogge (2002), Lynch (1999), Connolly (1991), der Derian (2001), Elshtain (2003), Walker (1993), Rawls (1999), and Habermas (2001*a*, 2001*b*).

The connections between comparative politics and political theory are harder to summarize because many of the practitioners of the former are area specialists with only a limited interest in theory. Those comparativists who use either large-*n* quantitative studies or small-*n* comparative case studies are often more interested in simple explanatory theory, one source of which is rational choice theory. But there are also points of engagement with political theory as understood in this *Handbook*. The comparative study of social movements and their relationships with the state has drawn upon the idea of the public sphere in democratic political theory, and vice versa. Accounts of the role of the state in political development have drawn upon liberal constitutionalist political theory. More critical accounts of the state in developing societies have drawn upon Marxist theory. In the last two decades democratization has been an important theme in comparative politics, and this work ought to have benefited from a dialogue with democratic theory. Unfortunately this has not happened. Studies of democratization generally work with a minimalist account of democracy in terms of competitive elections, developed in the 1940s by Joseph Schumpeter (1942), ignoring the subsequent sixty years of democratic theory. Recent work on race and diaspora studies in a comparative context is perhaps a more promising site of connection, invoking Tocqueville (see also Bourdieu and Wacquant 1999; Hanchard 2003). And theorists working on multiculturalism and race have been especially attentive to comparative politics questions about the variety of governmental forms and their interaction with cultural difference (Carens 2000; Kymlicka 2001; Taylor 1994; Gilroy 2000).

Methodology might seem the sub-field least likely to engage with political theory, and if methodology is thought of in terms of quantitative techniques alone, that might well be true. However, methodology is also home to reflection on what particular sorts of methods can do. Here, political theorists are in an especially good position to mediate between the philosophy of social science on the one hand, and particular methods on the other. Taylor (1979) and Ball (1987) point to the inevitable moment of interpretation in the application of all social science methods, questioning the positivist self-image of many of those who deploy quantitative methods. The interdisciplinarity that characterizes so much political theory provides especially fruitful material for methodological reflection.

Public policy is at the "applied" end of political science, but its focus on the relationship between disciplinary knowledge and political practice invites contribution from political theory; and many political theorists see

themselves as clarifying the normative principles that underpin policy proposals. From Rawls and Dworkin onwards, work on principles of justice and equality has carried definite policy implications regarding taxation, public expenditure on health, the treatment of those with disabilities, and so on. While it has rarely been possible to translate the theories into specific recommendations (Dworkin's hypothetical insurance market and Amartya Sen's theory of capabilities are often said to be especially disappointing in this respect), they are undoubtedly directed at public policy. Normative reasoning applied to public policy largely defines the content of *Philosophy and Public Affairs*, though this reasoning involves moral philosophy as much as or more than political theory.[9] Political theorists working on questions of democracy and representation have also drawn direct policy conclusions regarding the nature of electoral systems or the use of gender quotas to modify patterns of representation (Phillips 1995).

Policy evaluation and design are important parts of the public policy sub-field, and both require normative criteria to provide standards by which to evaluate actual or potential policies. Again, political theory is well placed to illuminate such criteria and how one might think about handling conflicts between them (for example, when efficiency and justice appear to point in different directions). It is also well placed to explore the discourse aspects of public policy, an aspect that has been an especial interest of the Theory, Policy, and Society group of the American Political Science Association. Among the linkages this group develops are those between deliberative democratic theory and policy analysis, between the logic of political argument and interventions by analysts and advocates in policy processes, and between interpretive philosophy of social science and policy evaluation (Hajer and Wagenaar 2003).

Cutting across all the sub-fields of political science in recent decades has been rational choice theory, grounded in microeconomic assumptions about the wellsprings of individual behavior. Indeed, to some of its practitioners, rational choice is what should truly be described as political theory. For these practitioners, rational choice theory is "positive" political theory, value free, and geared toward explanation, not prescription. This claim does not hold up: as explanatory theory, rational choice theory is increasingly regarded as a failure (Green and Shapiro 1994). But many believe that it is very useful nevertheless. Game theory, for example, can clarify what rationality *is* in

[9] See the compilations of Cohen, Nagel, and Scanlon (1974*a*, 1974*b*, 1977); also Goodin (1982).

particular situations (Johnson 1991), thereby illuminating one of the perennial questions in political theory. And despite the frequent description of rational choice theory as value free, it has provided for plenty of normative theorizing among its practitioners. Arch-positivist Riker (1982*b*) deploys Arrow's social choice theory to argue that democracy is inherently unstable and meaningless in the outcomes it produces, and uses this to back a normative argument on behalf of a minimal liberal democracy that allows corrupt or incompetent rules to be voted out—but nothing more. The conclusions of rational choice theory are often bad news for democracy (Barry and Hardin 1982); but it is possible to reinterpret this edifice in terms of critical theory, as showing what *would* happen if everyone behaved according to microeconomic assumptions. The political challenge then becomes one of how to curb this destructive behavioral proclivity (Dryzek 1992). There are many other connections between rational choice theory and political theory, exploratory as well as critical; we only touch on them in this *Handbook* because they will be more extensively reviewed in *The Oxford Handbook of Political Economy*, also in this series.

Leading comparativist Bo Rothstein (2005) has expressed the worry that the empirical arm of the discipline has lost its moral compass. To use his running example, its "technically competent barbarians" would have no defense against lining up in support of a political force like Nazism, should that be expedient. Rothstein himself sees the remedy in political theory: "The good news is that, unlike other disciplines, I think we have the solution within our own field of research. This, I believe, lies in reconnecting the normative side of the discipline—that is, political philosophy—with the positive/empirical side" (2005, 10). Despite the likelihood of some resistance to this from both sides of the divide, the examples discussed above suggest that such connection (or reconnection) is indeed possible.

5 Organization of the *Handbook*

We turn now to the way we have organized this *Handbook*. Part II, "Contemporary Currents," assesses the impact, and considers the likely future trajectory, of literature that proved especially influential in framing debate through

the last decades of the twentieth century and opening years of the twenty-first. The selection is not, of course, meant to sum up what political theory has been about over that period: if it did that, there would be little need for the remaining essays in the *Handbook*. We have included three figures—Rawls, Habermas, and Foucault—whose work has so shaped the field that it became possible for a time to label (although somewhat misleadingly) other political theorists by their adherence to one of the three. We have also included three thematic styles of theory—feminism, pluralism, and linguistic approaches—that have sought (successfully or not) to refocus debate in a different direction. The theorists and themes addressed in this section are ones that have particularly marked out this moment in political theory, and the chapters assess their continuing influence.

Part III, "The Legacy of the Past," focuses on historical work in political thought. As James Farr notes in his chapter, the history of political thought has been a staple of university instruction since the end of the nineteenth century, long recognized as a branch of political theory. But the role and object of historical inquiry has been much debated in recent decades, and the idea that one should search the classical texts for answers to the perennial problems of political life has been subjected to especially searching critique. Some theorists have been happy to jettison any study of historical traditions, regarding it as a merely antiquarian exercise. But the greater attention now given to context—to what can and cannot be thought at any given period in history—has also enabled radically new readings of political thought. The essays in this section can give only a taste of the wealth of scholarship in this field, and have been selected with an eye to that continuing discussion about the legacy of the past and its relationship with the present. They include a meta-level discussion of the relationship between political theory and the discipline of history; a disciplinary history of the history of political thought; and essays on a number of historical traditions that have been subject to significant re-evaluation and reinterpretation in the recent literature.

Questions of context are spatial as well as temporal, for even the most abstract of political theories cannot transcend its location, and the issues with which theorists become preoccupied reflect the histories and concerns of the worlds in which they live. The chapters in Part IV, "Political Theory in the World," make matters of location more explicit. They explore differences, misconceptions, and mutual influences between Western and non-Western political traditions, with the latter represented here by Confucianism and Islam, and look at how ideas of America on the one hand and Europe on the

other enter into and shape ideas of democracy, representation, and nation. This section should be understood as a gesture, but just that, towards decentering what has come to be known as Anglo-American theory. This *Handbook* of political theory is published in Oxford and written in the English language, but one modest objective, nonetheless, is to highlight the specificity of *all* work in political theory, and the way the questions addressed reflect particular histories and locations.

The chapters in Part V, "State and People," combine historical analysis of the shifting understandings of state and people with normative explorations of democracy, constitutionalism, and representation. As the essays indicate, the last decades have been a time of very considerable innovation. For much of the twentieth century, democracy was conceptualized as a matter of universal suffrage (sometimes quaintly equated with one man one vote), competitive party elections, and the rule of law. The outstanding problems were not thought to be theoretical, but centered on how to spread this conception more widely; and much of the work on democracy (often comparative, or dealing with the conditions for democratization) was carried out by political scientists rather than theorists. This picture has since changed radically, with a complex of concerns about the nature and limits of constitutionalism, the exclusions practised under the name of democracy, and the possibilities of wider and deeper practices of popular control. As reflects the breadth of these debates, this is one of the largest sections in the *Handbook*.

Part VI, "Justice, Equality, and Freedom," evokes the combination of concerns that runs through the work of John Rawls, Ronald Dworkin, and the liberal egalitarian tradition: the idea, for example, that justice is a matter of treating people as equals rather than treating them equally; or that egalitarians must recognize individuals as responsible agents, accountable for their own choices. The chapters in this section reflect that legacy, but also problematize it by reference to arguments drawn from the feminist literature and work on recognition. They include essays on the relationship between equality and impartiality, and the relationship between treating people as equals and recognizing them as different; and address the questions about individual responsibility that became central to the literature on justice and equality through the last decades. The literature on historical injustice goes back further, but has drawn new sustenance from debates on reparations for slavery and the treatment of indigenous peoples.

Part VII, "Pluralism, Multiculturalism, and Nationalism," reflects areas of debate that have proved particularly fruitful over the last thirty years. As noted earlier in our introduction, it also reflects explorations of the implications and/or limits of the liberal tradition. The literature on multiculturalism has its precursor in a sociological literature on cultural pluralism, but as normative political theory dates from the 1980s. Theoretical work on toleration or the right of nations to self-determination is not, of course, new. But the recent synthesis of liberalism with nationalism is more unexpected, as is the reframing of long-established liberal principles of toleration to take account of issues of identity as well as belief. This last point is part of what unites the chapters in this section. All engage with arguments that have been central to the liberal tradition, but in relation to the new questions that arise when people make claims on the basis of identity. The authors reach very different conclusions—including, at its most heretical, that the pursuit of justice may not be such a compelling concern.

Part VIII, "Claims in a Global Context," takes this from the national to the global level. It explores the debates that have developed between seemingly universal discourses of secularism or human rights and more relativist emphases on cultural difference; examines the connection between multicultural and post-colonial theory; and considers the challenges globalization presents to current conceptions of justice. Although justice has been at the heart of recent debates in normative political theory, the dominant conceptions have been very state-centered—and often very Western state-centered. The chapters in this section consider what happens in the move from national to global—and what theoretical possibilities become available if the center of gravity shifts from the Western to non-Western world.

Part IX, "The Body Politic," takes what has long been employed as a metaphor for the political community at its face (or bodily) value, and uses it to engage with new areas of theoretical debate. These include the way the body itself has been politicized in the theoretical literature, including in the literature on self-ownership; and the way the social "body" has been politicized, as in the discussion of crises and paranoia. A number of the chapters in this section begin with changes in the social world: the impact of global migration, for example, and the way this alters our understanding of the individual subject; the development of new medical technologies, and the dilemmas these present about organ transplants or genetic engineering; the developments in surveillance technology combined with radical changes in the relation between the sexes, and the challenge this poses to our understanding of the

relationship between public and private space. This reconceptualizing of the political space owes much to the influence of feminism, as do a number of the essays themselves.

We have argued in our introduction that political theory is something of a mongrel sub-discipline, made up of many traditions, approaches, and styles of thought, and increasingly characterized by its borrowing from feminist and critical theory, film theory, popular culture, mass media, behavioral science, and economics. These tendencies will be evident throughout the chapters in the *Handbook*, but are most directly addressed in Part X, "Testing the Boundaries." Here, we include essays that set political theory in dialogue with work in cultural studies, political economy, social theory, and the environment. The current academy confronts two opposing trends. One draws the boundaries of each discipline ever more tightly, sometimes as part of a bid for higher status, sometimes in the (not totally implausible) belief that this is the route to deeper and more systematic knowledge. Another looks to the serendipitous inspirations that can come through cross-disciplinary and interdisciplinary work; or more simply and modestly, realizes that there may be much to learn from other areas of study. It is hard to predict which of these will win out—and most likely, both will continue in uneasy combination for many years to come. The essays in this section reflect the importance we attach to the second trend.

All the *Handbooks* in this series end with what is perhaps unhappily termed the "Old and New" section. In this case, it provides the opportunity for two highly influential but very different political theorists—Arlene Saxonhouse and William Connolly—to reflect on their experiences and perceptions of theory as it has changed, developed, improved, and/or worsened in the course of their careers. Where other contributors were asked to weave their own distinctive take on a topic into essays that would also work as overviews of the sub-field, our last contributors were encouraged to write from a more personal angle.

6 Conclusion

Ours is not the first or only handbook of political theory. We believe this *Oxford Handbook* is distinctive in its exploration of political theory's edges as well as its several cores, its global emphasis, and its contemplation of the

challenges that contemporary social and technological change present to the field. Political theory is a lively, pluralistic, and contested field, and we invite readers to construct their own summary interpretations and embark on their own imaginative theorizing by sampling the wide variety of options on the palette that follows.

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PART II

CONTEMPORARY CURRENTS

CHAPTER 2

JUSTICE AFTER RAWLS

RICHARD J. ARNESON

In the mid-twentieth century John Rawls single-handedly revived Anglo-American political philosophy, which had not seen significant progress since the development and elaboration of utilitarianism in the nineteenth century. Rawls reinvented the discipline by revising the social contract tradition of Locke, Rousseau, and Kant. A series of essays starting with "Justice as Fairness" in 1958 culminated in a monumental treatise, *A Theory of Justice* (Rawls 1999*a* [originally published 1973]). That theory of justice was in turn qualified and set in a new framework by an account of legitimate political authority to which Rawls gave a definitive formulation in his second book, *Political Liberalism* (Rawls 1996 [originally published 1993]). Rawls also produced an important monograph on justice in international relations, *The Law of Peoples* (Rawls 1999*c*). Rawls's achievements continue to set the contemporary terms of debate on theories of social justice. This chapter comments on the present state of play in the political philosophy discussions that Rawls initiated and stimulated.

1 Rawls's Theory of Justice in a Nutshell

Rawls's theory consists in an egalitarian vision of justice, specified by two principles, and the original position, a method for comparing and justifying candidate principles of justice that is supposed to single out his proposed principles as uniquely reasonable. The vision is recognizably liberal in its striving to combine the values of equality and liberty in a single conception, and controversial both in the kind of equality that is espoused and in the particular freedoms that are given special priority. The principles are claimed to be ones that free and equal persons could accept as a fair basis for social cooperation.

The principles are as follows:

1. Each person has an equal claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme for all; and in this scheme the equal political liberties, and only those liberties, are to be guaranteed their fair value.
2. Social and economic inequalities are to satisfy two conditions: first, they are to be attached to positions and offices open to all under conditions of fair equality of opportunity; and second, they are to the greatest advantage of the least advantaged members of society (quoted from Rawls 1996, Lecture 1).

The first principle is called the *equal liberty principle*. In discussion, the second is often divided into its first part, *fair equality of opportunity*, and its second part, the *difference principle*.

The equal basic liberties protected by the first principle are given by a list: "political liberty (the right to vote and to hold public office) and freedom of speech and assembly; liberty of conscience and freedom of thought; freedom of the person, which includes freedom from psychological oppression and physical assault and dismemberment (integrity of the person), the right to hold personal property and freedom from arbitrary arrest and seizure as defined by the concept of the rule of law" (Rawls 1999*a*, 53). Roughly, the idea is to protect civil liberties of the sort that might well be entrenched in a political constitution.

The protection accorded to the basic liberties is augmented by the further stipulation that the first principle has strict lexical priority over the second.

This means that one is not permitted to trade off basic liberties for gains in the other justice principle. In addition, fair equality of opportunity, the nondiscrimination principle, has strict lexical priority over the difference principle. The principles just stated make up Rawls's special conception of justice. This conception does not apply at all historical times, but only when economic growth produces a situation in which the basic liberties can be effectively exercised. Rawls's more general conception of justice holds that social and economic advantages must be arranged to be of greatest benefit to the least advantaged members of society.

The measure of individual benefits in Rawls's theory is the individual's holding of multi-purpose goods known as "primary social goods." In *A Theory of Justice* these goods are defined as those it is rational for a person to want more rather than less of, whatever else he wants. In later writings, primary social goods are defined as goods that any rational person would strive to have who gives priority to developing and exercising two moral powers, the capacity to adopt and pursue a conception of the good and the capacity to cooperate with others on fair terms (Rawls 1996, 106, 178). Primary social goods are held to consist mainly of "the basic rights and liberties covered by the first principle of justice, freedom of movement, and free choice of occupation protected by fair equality of opportunity of the first part of the second principle, and income and wealth and the social bases of self-respect" (Rawls 1996, 180).

According to Rawls, the primary subject of justice is the basic structure of society, the way that major institutions such as the political system, the economic system, and the family interact to shape people's life prospects. The principles of justice are intended to regulate the basic structure. The duties imposed by social justice on individuals are ancillary: Individuals have a duty to conform to the rules of just institutions, if they exist, and if they do not exist, to strive to some extent to bring them about.

Fair equality of opportunity may be contrasted with formal equality of opportunity or careers open to talents. The latter principle is satisfied if positions such as places in universities and desirable jobs and entrepreneurial opportunities (access to investment capital) are open to all who might wish to apply, positions being filled according to the relevant fitness of the candidates for the position in question. Formal equality of opportunity is violated if positions of advantage are passed out on any basis other than the relevant merits of the candidates. The more demanding fair equality of opportunity requires that institutions are arranged so that any individuals with the same

native talent and the same ambition have the same chances for competitive success—success in competitions for positions that confer above-average shares of primary social goods. A society in which fair equality of opportunity is satisfied is, in a sense, a perfect meritocracy.

Why accept Rawls's principles? Rawls offers two arguments. One appeals to the implications of applying these principles in a modern setting. To the extent that the principles imply policies and outcomes for individuals that match our reflective judgments about these matters, the principles will appear reasonable. A second form of argument, a novelty introduced by Rawls, is the original position construction. The idea is to refine the social contract tradition. Justice is conceived to be what persons would agree to under conditions for choosing principles to regulate the basic structure of society that are ideally fair. The original position argument exemplifies a fair proceduralist standard of justification: What is right is what people following an ideal procedure would accept as right.

The original position argument carries the social contract idea to a higher level of abstraction. The object of the agreement is to be basic principles for regulating social life not actual social arrangements. The agreement is conceived to be hypothetical not actual. Actual contracts reached by people in ordinary life reflect their bargaining strength and other contingencies. Rawls's notable innovation is to try to ensure that the agreement that defines principles of justice is fair by depriving the parties who make the agreement of any information that might corrupt or bias the choice of principles. In Rawls's phrase, the parties are to choose under a veil of ignorance. Rawls urges a thick veil, with the result that parties in the original position know no particular facts about themselves, not even their own aims and values, but only general facts such as social science provides. The parties are assumed to prefer more rather than fewer primary social goods and choose principles according to their expectation of the primary social goods they would get in a society run according to the principles chosen in the original position.

Rawls conjectures that, in the original position so specified, the parties as defined would choose a maximin rule of choice (choose the policy that will make the worst possible outcome as good as possible) and on this basis would favor his principles.

The original position argument as Rawls presents it is significantly shaped by his conviction that to render his view plausible the formidable opponent that must be defeated is utilitarianism. According to Rawls, utilitarianism, although wrong, has received impressive formulation as a genuine normative

theory of right conduct and institutions. A theory is a set of principles that specifies the facts relevant to social decision and that, once these relevant facts pertaining to any decision problem are known, determines what ought to be chosen in that decision problem without any further need for intuitive judgment. You cannot beat a theory except with a better theory, Rawls thinks. Rawls provides a partial theory, a theory of just institutions, that can stand as a rival to a utilitarian account. Rawls identifies utilitarianism with the view that one ought always to choose that action or policy that maximizes the aggregate (or average level) of informed desire satisfaction.

As Rawls sets up the original position argument, three arguments are prominent. One is that given the special circumstances of choice in the original position, it would be rational for the parties to choose to maximin and thus to adopt Rawls's principles. Another argument is that those in the individual position are choosing for a well-ordered society in which everyone accepts and complies with the principles chosen, so they cannot in the original position choose principles that they expect they might not be disposed to accept and follow in the society ruled by the principles chosen. A related argument or stipulation is that the parties are supposed to be choosing principles for a public conception of justice, so a choice of principles that could be successfully implemented only by being kept esoteric is ruled out.

Rawls adds to the original position argument a discussion of stability. He thinks his theory is only acceptable if it can be shown that in a society regulated by his principles of justice, people will embrace the principles and institutions satisfying their requirements and will be steadily motivated to comply with the principles and the institutions that realize them. Here in retrospect Rawls locates a pivotal mistake in *A Theory of Justice* (see Rawls 1996, "Introduction"). In later writings, culminating in *Political Liberalism* (1996), he maintains that he initially appealed to a comprehensive Kantian account of human autonomy and fundamental human aims to establish that people living under Rawlsian institutions will have good reason and sufficient motivation to comply with them. But he comes to believe this appeal was misguided. In any liberal society that sustains a clearly desirable freedom of speech, people will fan out into different and conflicting comprehensive views of morality and the good life, so any appeal to a narrow Kantian ideal of autonomy and the nature of persons is bound to be sectarian (Rawls 1996).

Political Liberalism affirms that a society that avoids sectarianism satisfies a liberal ideal of legitimacy: Basic political arrangements, the fundamental

constitution of society, are justified by considerations that all reasonable persons, whatever their comprehensive views, have good and sufficient reason to accept.

2 Criticisms and Alternative Paths

From its first elaboration, Rawls's theory of justice has been scrutinized by an enormous amount of criticism. In my view, Rawls's theory has been broken on the rack of this critique. But the upshot is not a defeat for the theory of justice. New suggestions, not yet fully elaborated for the most part, point in a variety of promising, albeit opposed, directions.

2.1 Primary Social Goods and Sen's Critique

Rawls holds that just institutions distribute primary social goods fairly. Roughly, a fair distribution is identified with the distribution in which the worst off are as well off as possible according to the primary social goods measure. Amartya Sen objects that individuals born with different physical and psychological propensities will generally be unequally efficient transformers of resources such as primary social goods into whatever goals they might seek (Sen 1992). Consider two individuals with the same allotments of primary social goods. One is fit, hardy, and quick-witted; the other is lame, illness-prone, lacking in physical coordination, and slow-witted. In any terms that we care about, the condition of the two persons is unequal, but a primary social goods metric does not register the disparity. Sen proposes that we should look beyond the distribution of opportunities and income and other primary goods and see to what extent individuals are able to be and do with their primary goods allotments given their circumstances. The basis of interpersonal comparisons for a theory of justice should, according to Sen, be a measure of people's real freedom to achieve functionings they have reason to value.

A Rawlsian response is that the theory of justice assumes that all individuals are able to be fully contributing members of society throughout their

adult life. Problems of disability and chronic debilitating illness are assumed away. Moreover, for those within the normal range of native talents and propensities, it is reasonable to hold individuals responsible for taking account of the primary goods shares they can expect and fashioning a reasonable plan of life on this basis. As Rawls says, justice as fairness "does not look beyond the use which persons make of the rights and opportunities available to them in order to measure, much less to maximize, the satisfactions they achieve" (Rawls 1999*a*, 80).

The response does not meet the difficulty. Differences in native talents and trait potentials exist among all persons, including those within whatever range is deemed to be normal. These differences strike many of us as relevant to what justice demands, what we owe to one another. Moreover, one can grant that a person endowed with poor traits would be well advised not to form unrealistic ambitions and to tailor his plan of life to what he can achieve. Expecting people to make such adjustments in their plan of life leaves entirely open whether compensation is owed to individuals to mitigate the freedom-reducing effect of poor natural endowment.

Although there is something salutary and correct about Sen's train of thought, it immediately runs into a puzzle. There are enormous numbers of capabilities to function, and they vary from the trivial to the momentously important. We need some way of ranking the significance of different freedoms if the capability approach is to yield a standard of interpersonal comparison (Arneson 1989; Nussbaum 1992). Viewed this way, carrying through Sen's critique would have to involve elaborating a theory of human good.

2.2 The Priority of the Right over the Good

A core ambition of Rawls's work on justice is to free the idea of what is right and just from the idea of what is good or advantageous for a person. This is a crucial part of the enterprise of constructing a theory that is a genuine alternative to utilitarianism. For the utilitarian, as Rawls correctly notes, the idea of what is good for a person is independent of moral notions; Robinson Crusoe alone on his island still has need of a notion of prudence, of what he needs to do to make his life go better rather than worse over the long haul. If we could get clear about what is really intrinsically good, the rest would be

easy—what is morally right is maximizing, efficiently promoting the good. In contrast, Rawls aims to construct an account of rights that people have, specified by principles of justice, that is substantially independent of any particular notions of what is good, which are always bound to be disputable. Rawls's paradigm case of a dispute about how to live is religious controversy, which must end in stalemate. Reasonable people will persist in disagreeing about such matters. To reach objective consensus on issues of social justice, we must bracket these disagreements about God and more generally about the good, and in fact the willingness to set aside controversial conceptions of good in order to attain shared agreement on rules of social cooperation is for Rawls a prime mark of reasonableness.

But if the requirements of justice are conceived as disconnected in this way from human good, we have to countenance the possibility that in a perfectly just society people lead avoidably squalid lives. Perhaps they are even condemned to such lives; Rawlsian justice is no guarantee that your life goes well or has a good chance of going well. Moreover, the squalor might be pointless, in the sense that it is not that the misery of some is needed to avoid worse misery for others. Furthermore, the numbers do not count: If my small right is inviolable, then it must be respected, no matter the cost in the quality of human lives and in the number of persons who suffer such losses.

To the extent that we have an adequate conception of human good, that singles out what is truly worth caring about and what makes a life really go better for the person who is living it, it makes sense to hold that what people in a society fundamentally owe each other is a fair distribution of human good.[1] An adequate conception will surely be pluralistic, recognizing that there are many distinct goods and valuable ways of life, and will not claim more than the possibility or rough and partial commensurability of good across lives.

Many substantive claims about human good, such as that the list of valuable elements in a human life includes loyal friendship, reciprocal love, healthy family ties, systematic knowledge, pleasure, meaningful work, and significant cultural and scientific achievement, seem to me to be pretty

[1] Raz (1986, part II), Nussbaum (1992, 1999, 2000), Arneson (1989, 2000), Sher (1997), and Hurka (1993) (among others) advance arguments on this theme. Ackerman (1980), Larmore (1987), and Barry (1995, part II) defend versions of liberal neutrality on controversial conceptions of the good. On this issue, Nussbaum's current view appears in the final chapter of Nussbaum (2004).

uncontroversial, part of commonsense lore. But what is widely accepted is still sometimes disputed. Thinking straight about how to live is difficult, and we make mistakes. Prejudice, ignorance, superstition, and unthinking acceptance of convention play roles in rendering ethical knowledge controversial. Hence it does not offend against human dignity and respect for persons to endorse the implementation by a society of controversial but (by our best lights) correct conceptions of human good. The liberal legitimacy norm that Rawls embraces should be put in question if it is read as denying this. It all depends on what we mean by "reasonably" in the norm that one should treat people only according to principles that no one could reasonably reject. If "reasonably" refers to the ideal use of practical reason, then one reasonably rejects only incorrect principles and accepts correct ones. The norm is then unproblematic, but it allows imposition of views that are controversial in the ordinary sense of being contested among normal reasonable people (who may be making cognitive errors). But if "reasonably" is used in a weaker sense, so that one could reasonably make errors in judgment, then the weaker the standard of reasonableness that is invoked, the stronger and more constraining is the idea that one should not impose on people in the name of principles that are controversial among weakly reasonable people (but for a defense of Rawls, see Dreben 2003).

Here one might object that I am just pounding the table and dogmatically insisting that we can know the good, a controversial claim for which I have presented no argument. But I am just insisting on symmetry. Skepticism about knowledge of human good is a possible option, but by parity of reasoning, the grounds for that skepticism will carry over to claims about what is morally right and just as well. Only a sleight of hand would make it look plausible that reasonable people, if left uncoerced, will forever disagree about what is good but that all men and women of good will, if they are reasonable, will agree on principles of right such as the difference principle.

Restoring substantial claims about the content of human good to the theory of what is right and just does not necessarily lead back to utilitarianism. A good-based theory of justice asserts that we should choose actions and institutional arrangements to maximize some function of individual well-being, but maximizing aggregate or average well-being is just one option. In particular, more egalitarian principles beckon. In fact, Rawls has initiated an exploration of broadly egalitarian principles that is still ongoing.

2.3 The Difference Principle, Maximin, and the Original Position

The difference principle says that given the constraints imposed by the equal liberty and fair equality of opportunity principles, the social and economic primary social goods of the least advantaged should be maximized. Rawls's general conception of justice holds more simply that the basic structure of society should maximize the level of advantage, calculated in terms of primary social good holdings, of the least advantaged.

On its face, these principles assert an extreme priority weighting.[2] The principles insist that no gain, no matter how large, and no matter how large the number of already better off people to whom the gain accrues, should be pursued at the cost of any loss, no matter how tiny, and no matter how small the number of worse off persons who would suffer the loss (provided the change leaves intact people's status as belonging to the better off or worse off group). Rawls himself points out that this is counterintuitive (Rawls 1999*a*, 135–6) but remains unfazed on the ground that it is empirically wildly unlikely that in any actual society we would be faced with such a choice. But if this response is deemed satisfactory, this must mean the principles are no longer being pitched as fundamental moral principles but rather as practical policy guides, rules of thumb for constitution-makers and law-makers.

The claim that the strict lexical priority that the difference principle accords to the worst off, although admittedly too strict, will never lead to mistakes in practice, merits close scrutiny. To the extent this is plausible, its plausibility is entirely an artifact of the fact that Rawls would have us compare the condition of people only in terms of their primary goods allotments. If a possible policy would produce a huge gain in dollars for many better off people, surely some of that gain can be siphoned off to those worse off. But if we instead believe that the theory of justice should attend to people's actual overall quality of life over the entire life course, then we do face conflicts in which very tiny benefits for a few can be purchased only at huge cost in other people's lives. We could devote huge resources to the education of the barely educable or to extraordinary medical care that only slightly raises the life

[2] This problem was first raised by Harsanyi (1975). A response that defends Rawls is in Freeman (2003, editor's introduction). A version of the original position idea appears in Harsanyi (1953), where it is used in an argument for utilitarianism. For discussion, see Roemer (1996, ch. 4; 2002); also Parfit (2004, 341–53).

expectancy of those with grave medical conditions, and so on. Some of us are very inefficient transformers of resources into an enhanced quality of life. The hard issue of how much priority to accord to the achievement of gains for the worse off must be faced.

The difference principle lies at the extreme end of a continuum of views that accord variously greater weight for achieving a gain of a given size for a person, depending on how badly off in absolute terms the person would be, absent receipt of this gain. At the other end lies utilitarianism, which accords no extra weight at all to achieving a gain for a person depending on the prior goodness or badness of her condition. The entire range between these end points corresponds to the prioritarian family of principles, according to which, the worse a person's lifetime condition, the morally more valuable it is to achieve a gain or avoid a loss for her. The distinction between valuing priority and valuing equality has been clarified in work by Derek Parfit (2000).

Counterintuitive or not, the difference principle and the broader maximin conception might be derivable by iron logic from undeniable premises. Rawls gestures at provision of this sort of support in his original position argument, but in the area in which Rawls is pointing I submit that no good argument is to be found (see the critical discussions cited in footnote 2). Suffice it to say that the innovation of the original position has not resonated in recent political philosophy in anything like the way that Rawls's powerful but controversial vision of justice as social democratic liberalism continues to shape the agenda of political philosophy for both proponents and opponents. In my view the underlying reason for the relative neglect of original position arguments is that the basic hunch that motivates the project is wrong. Recall that the idea of the original position is that the principles of justice are whatever would emerge from an ideally fair choice procedure for selecting principles of justice. The presupposition is that we have pretheoretic intuitions, which can be refined, concerning what are the fairest conditions for choosing basic moral principles. But why think this? Perhaps one should say that the fair set-up of a procedure for choosing principles of justice is whatever arrangement happens to produce the substantially best principles. We have commonsense beliefs about the conditions under which contracts and private deals are fairly negotiated, but there is no intuitive content to the idea of a fair procedure for choosing basic principles of social regulation. (If we knew that a particular person, Smith, was very wise and knew a lot about principles of justice and had thought more deeply about these matters than the rest of us, perhaps the "fairest" choice procedure would be, "Let Smith decide.")

This takes us back to a conflict of intuitions that needs to be clarified and perhaps resolved via theory. Some affirm equality: it is good if everyone has the same, or is treated the same, in some respect (Temkin 1993). Others affirm doing the best that can be done for the worst off. Priority weakens this strict maximin tilt in favor of the worst off. An unresolved Goldilocks issue arises here; how much priority arising from the badness of one's condition is too little, too much, or just enough? Another option worth mention is sufficientarianism: What matters morally and what justice requires is not that everyone has the same but that everyone has enough. Each should achieve, or be enabled to achieve, a threshold level of decent existence, the level being set by whatever we had better take to be the best standard of interpersonal comparison for a theory of justice (primary goods shares, or capabilities to function in valuable ways, or utility construed as pleasure or desire satisfaction, or well-being corresponding to achievement of the items on an objective list of goods, or whatever). Expressions of sufficientarian or quasi-sufficientarian opinion are common in recent political philosophy (Frankfurt 1987; Anderson 1999; D. Miller 2004; Nussbaum 2000), but the doctrines other than the difference principle mentioned in this paragraph need further elaboration and interpretation before we would be in a position definitively to gauge how compelling they are.

2.4 Nozick and Lockean Libertarianism

According to Rawls, the choice of economic systems—capitalist, socialist, or some other—need not reflect a fundamental moral commitment. At least, either a liberal capitalist or a liberal socialist regime could in principle implement the Rawlsian principles of egalitarian liberalism. Against this view Robert Nozick developed a powerful response of right-wing inspiration (Nozick 1974). His starting point is the idea that each person has the moral right to live as she chooses on any mutually agreed terms with others so long as she does not thereby harm nonconsenting other people in ways that violate their rights. These latter rights not to be harmed form a spare set. Each of us has the right not to be physically assaulted or menaced with the threat of physical assault, not to be imposed on by the actions of others in ways that cause physical harm to oneself or one's property, not to be defrauded, not to

suffer theft or robbery. Nozick finds antecedents for these ideas in the writings of John Locke, who does not fully commit to them.[3] From this standpoint, the moral authority of the state to coerce people without their consent even just to maintain minimal public order appears problematic. The idea that society has the right and obligation to redistribute property to achieve a more fair distribution cannot find a place in Lockean natural rights theory. Property is owned by people, and the state, acting as agent of society, has no more right to take from some and give to others than a robber does.

The right of each person to act as she chooses has as its core a universal right of self-ownership: Each adult person is the full rightful owner of herself, possessing full property rights over her own person. The next question that arises here is how an individual may legitimately come to acquire rights to use or own particular pieces of the world. Without some such rights self-ownership would come to very little. The Lockean project is to specify how legitimate private ownership of property arises in a world in which objects are initially unowned, and what the terms and limits of such legitimate ownership are. The main stream of Lockean views defends the idea that private property ownership can be fully legitimate, given certain conditions, no matter how unequal the distribution of privately owned property. Left-wing Lockeans demur (Steiner 1994). They try to defend the view that each person is the full rightful owner of herself but that the distribution of ownership of the world must be roughly equal.

Mainstream Lockean views concerning the legitimacy of private property ownership resonate strongly and positively with commonsense opinion in modern market societies, but the philosophical elaboration of these views is still a project that largely awaits completion. Nozick's arguments are sometimes brilliant but his views are sketchy. We are not yet in a good position definitively to compare Lockean versions of liberal justice with their more egalitarian rivals.

2.5 Desert, Responsibility, and Luck Egalitarianism

Surprisingly, Rawls rejects the platitude that justice is giving people what they deserve (Rawls 1999*a*). He argues against the idea that notions of desert belong in fundamental principles of justice (although, of course, norms of

[3] See Locke (1980). See also the interpretation of Locke in Simmons (1992) and Waldron (1988, ch. 6) and developments of Lockean ideas in Simmons (2001).

desert might serve as means to implement justice goals). A notion of individual responsibility is implicit in Rawls's principles. The basic notion is that given a social context in which people's rights to access to primary social goods are assured, each person is responsible for deciding how to live, constructing a plan of life, and executing it. If one's choices have bad results and one has a poor quality of life, this fact does not trigger a valid moral claim to further compensation from others.

Some see problems in this picture (see Olsaretti, this volume). One line of objection holds that a sharper line needs to be drawn between what we owe to one another and what each individual must do for herself. What we owe to each other is compensation for unchosen and uncourted bad luck. Some bad events just befall people in ways they have no reasonable opportunity to avoid, as when a meteor strikes. Some bad events are such that one does have reasonable opportunity to avoid them. A paradigm case would be losses that issue from voluntarily undertaken high-stakes gambling. Social justice demands a differential response to bad luck, depending on how it arises. A complication here is that each person's initial genetic endowment of propensities to traits along with her early socialization is evidently a matter of unchosen and uncourted luck, good or bad. But my later, substantially voluntary choice to embrace bad values and make unwise decisions about how to live may simply express my initial unchosen bad luck in inherited traits and socialization experiences. Does justice then demand *some* compensation for courted bad luck traceable in part to uncourted earlier bad luck, paternalistic restriction of individual liberty to limit the harm to self that my lack of intelligence generates, or what? Ronald Dworkin has done the most to clarify these tangles and develop a coherent position concerning distributive justice on the basis of this line of thought (Dworkin 2000). Some sympathetic to this general line are trying to refine it (Roemer 1998). Others find the entire approach, labeled "luck egalitarianism" by critics, to be unpromising (Scanlon 1989; Fleurbaey 1995; Anderson 1999; Scheffler 2003). Luck egalitarianism is said to be too unforgiving to individuals who make bad choices. Its critics accuse it of exaggerating the significance of choice and of giving undue weight to the distribution-of-resources aspect of social justice.

A different but related line of thought finds that egalitarian principles of social justice inevitably must imply that individuals have moral duties to live their lives so that the principles are more rather than less fulfilled. How much

more? If we must live our lives in ways that maximize justice fulfillment, the demands of justice on the conduct of individual lives will be very stringent and likely counterintuitive. Rawls suggested that the principles of justice for the basic structure of society are stringently egalitarian but that individuals are free to live their lives as they choose so long as they abide by the rules of just institutions. G. A. Cohen finds this position to be unstable (Cohen 2000). If well-off persons accept the difference principle (which holds that inequalities that are not to the maximal benefit of the least advantaged are unacceptable), they cannot benefit in good conscience from hard bargaining. Instead of threatening to strike for higher wages, already well-paid medical doctors, committed to the difference principle, could agree to work extra hours for no extra pay, or voluntarily to embrace pay cuts, for example. A large question arises here concerning the degree to which a modern liberal theory of justice can or should be libertarian in the sense of embracing some close relative of the principles defended by J. S. Mill in *On Liberty*.

2.6 Civil Liberties, Diversity, Democracy, and More-than-formal Equality of Opportunity

Liberalism in normative political theory is more an attitude or stance toward politics than a specific set of doctrines. Liberalism is strongly associated with strong protection of freedom of speech and assembly and related liberties. One argument is good-based: If what I fundamentally want is to lead a life that achieves truly worthwhile and valuable goals, I will want not just to satisfy whatever preferences I now have, but to enjoy a sound education and a culture of free speech, which has some tendency to undermine my false beliefs and bad values. (Of course free speech can also cause a person to abandon true beliefs and good values; the liberal position involves a broad faith that the free use of reason by ordinary persons will tend over time to lead to improvement rather than corruption.) Rawls appeals to the interest that persons as such are assumed to have in developing and exercising their moral powers to adopt conceptions of the good and to cooperate with others on reasonable terms (Rawls 1996). These arguments have some force, but they are also in some tension with each other, and it is not clear that either one or both can be worked into a doctrine that picks out privileged liberties and justifies according them strict priority.

Civil liberties traditionally understood strike some as insufficient to resolve problems of diversity in contemporary society. Women, members of minority ethnic groups and supposed races, people with nonheterosexual sexual orientation, and others who experience themselves as unfairly pushed to the margins of society seek recognition of their differences and common humanity (see Markell and Squires, both in this volume).

Another question is the place of democratic political rights in liberal theory (Christiano 1996). Democratic rights are not central in the Lockean tradition. One might suppose that egalitarian liberals will hold democratic rights to be of mainly instrumental value in securing other more fundamental rights. An egalitarian might hold that whatever political arrangements are most likely to achieve a fair distribution of good quality lives or opportunities for good quality lives to people should be instituted and upheld.

Advocates of democratic equality (e.g. Anderson 1999; J. Cohen 2003) hold a sharply contrasting view. They hold that the moral equality and equal dignity of persons rightly interpreted require above all equal fundamental liberty for all persons and that prominent among these liberties is the right to participate on equal terms with other members of one's society in collectively setting the laws that coercively regulate all members' lives.[4] In this perspective, the right to democracy can appear to be the right of rights, the crown jewel of individual rights.

A society can be more or less democratic along several dimensions of assessment. How democratic should society be? Rawls stakes out a demanding position in answer to this question. His final statement of his equal liberty principle states that the equal political liberties are to be guaranteed their "fair value." What he means is that any two citizens with equal political ability and equal ambition to influence political outcomes should have the same chances of influencing political outcomes. A kind of fair equality of opportunity is to operate in the political sphere that is close in spirit to the fair equality of opportunity that he holds should prevail in the competition for positions conferring economic and social advantages.

[4] Another aspect of democratic equality is what we have called "diversity"—how society must be arranged, in order to assure equality of the appropriate sort between members of groups, for example, between men and women and between members of different ethnicities or supposed races. On the former division, see Okin (1989). On the latter, see discussions of the rights of minority peoples in democratic society, for example, Kymlicka (1989, 1995) and Barry (2001).

Rawlsian fair equality of opportunity is a strong, controversial doctrine. Rawls pushes to its logical limit an ideal that others either reject outright or hold should be constrained by conflicting values (Nozick 1974; Arneson 1999).

2.7 Global Justice

Do we owe more to fellow citizens than to distant needy strangers (Chatterjee 2004)? Should we embrace a two-tier theory of justice, which imposes demanding egalitarian requirements within each society but much less demanding requirements on members of one nation toward the members of other nations? A certain type of cosmopolitan view proposes a resounding "No" to both questions (Beitz 1979; Pogge 1989; Nagel 1991). This cosmopolitanism can take a right-wing form, which asserts that duties are minimal in both the national and the global context, and a left-wing form, which affirms strong duties within and across borders.

This issue can be regarded as a part of the morality of special ties (Miller 1998; Scheffler 2001). Many of us intuitively feel that we have especially strong moral obligations to those who are near and dear to us, to family members, friends, members of our community, and perhaps fellow citizens, but it is unclear to what extent a sound theory of justice will vindicate or repudiate these pretheoretical feelings. And what about putative special obligations to fellow members of our own social class, ethnic group, or racial lineage?[5]

A related issue arises if we imagine a society that is just internally by our lights, and faces the task of choosing a just international relations policy. Should the just foreign policy of such a society press for ideal justice everywhere or rather extend strong sincere toleration and respect to any political regime that meets a threshold standard of decency?

Rawls's book *The Law of Peoples* (Rawls 1999*c*) adopts a conservative and somewhat anti-cosmopolitan stance toward the issues just mentioned. But the doctrine of egalitarianism within national borders and minimal duties across borders may ultimately prove to be unstable under examination. The arguments that urge minimal duties toward outsiders, if found acceptable, may undermine the case for egalitarian arrangements among insiders, and

[5] See the essays in McKim and McMahan (1997). Also Barry (2001) and Kymlicka (1995).

the arguments that urge egalitarian arrangements within borders, if found acceptable, may compel a similar egalitarianism across borders.

Thinking about global justice issues tends to unsettle one's prior convictions (see C. Brown, this volume). A reflective equilibrium among our justice beliefs may be hard to achieve, and at any rate not within sight, in the present state of theory. This claim applies not just to global justice beliefs but to all beliefs about the content of social justice. The pot that Rawls has stirred up is still bubbling.

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CHAPTER 3

POWER AFTER FOUCAULT

WENDY BROWN

The English noun, power, derives from the Latin, *potere*, which stresses potentiality and means "to be able." However, origins may be as disorienting as they are helpful in this case, especially in understanding how power has been reconceptualized by French critical thought in recent decades. In its emphasis on concerted agency, the Latin root obscures the significance of power's dispersion, circulation, and microphysical mechanics, its often automatic rather than intentional workings, and its detailed imbrication with knowledge, language, and thought. Moreover, the etymological origin of power suggests the importance of power as a quality (an ability) which, however important, diverts appreciation of power as a relation and one that induces effects, especially in the making of human subjects and social orders. It is from power's effects, including unintended ones, that many recent theories of power have insisted the presence of power be read, an insistence that underscores an incommensurability between what the putatively powerful desire or intend and what power does. The contemporary thesis that subjects are socially constructed by power comes hand in glove with the decoupling of power from familiar notions of agency as sovereignty: not only does the social construction of subjects constitute a limit

on the sovereignty of subject, but when power is understood to flow along discourses and course through populations, it ceases to appear as the property of individuals or institutions. Hence the "to be able" of power's etymology does more than place important aspects of power in the shadows; it forthrightly misleads in its conjuration of an actor behind the action of power, "a doer behind the deed" in Nietzsche's phrase (Nietzsche 1967, 45).

Many strains in contemporary cultural theory and especially in post-structuralism have contributed to the recent reconceptualizations of power suggested above. The past fifty years of Continental thought—not only in philosophy but also in structuralist and post-structuralist linguistics, anthropology, semiotics, literary theory, science studies, psychoanalysis, and historiography—have radically reconceived the operations, mechanics, logics, venues, and vehicles of power.[1] On the one hand, power has been discerned in relations among words, juxtapositions of images, discourses of scientific truth, micro-organizations of bodies and gestures, in social orchestrations of pain and pleasure, sickness, fear, health, and suffering. On the other hand, these discernments have undermined conventional formulations of power—those that equate power with rule, law, wealth, or violence. They have also undermined strong distinctions between power and knowledge, and between power and ideology: If power operates through norms, and not only through law and force, and if norms are borne by words, images, and the built environment, then popular discourses, market interpellations, and spatial organization are as much a vehicle for power as are troops, bosses, prime ministers, or police. Moreover, if power constructs human subjects and does not simply act upon them, if power brings human worlds into existence and does not simply contain or limit them, then power is above all generative and constantly exceeds itself—it is neither spatially bound nor temporally static. Power also exceeds and is distinguishable from intentions imputed to it; it is not, as convention would have it, simply about enactment of the will, though it may well be tactical, strategic,

[1] Some of the thinkers associated with this reconceptualization include Giorgio Agamben (1998, 1999, 2005), Talal Asad (1993), Roland Barthes (1972, 1977), Judith Butler (1997, 2004), Gilles Deleuze (1988, 1995), Paul De Man (1983, 1986), Jacques Derrida (1976, 1978), Jacques Donzelot (1997), Michel Foucault (2000), Stuart Hall (1991, 1997), Stuart Hall and Paul Du Gay (1996), Donna Haraway (1990, 1991), Jacques Lacan (2002), Bruno Latour (1993), Bruno Latour and Michel Serres (1995), Jean-François Lyotard (1984), Paul Rabinow (1997), Edward Said (1978), Gayatri Chakravorty Spivak (1987, 1988), Gianni Vattimo (1988), and Hayden White (1987).

and logical. How to think strategy without human design? Tactics without perpetrators? Logics without aim?

Enter Michel Foucault.[2] Well-known for his insistence that power is "everywhere," this insistence is not a claim that power equally and indiscriminately touches all elements of the social fabric or that power belongs equally to everyone. Rather, this formulation displaces one in which power emerges only in explicit scenes of domination or rule-giving. Instead, power is understood to construct and organize subjects in a variety of domains and discourses, including those ordinarily imagined to be free of power, for example science, sexual desire, or the arts. Attention is also shifted from questions about who holds power to questions about forms and operations of power, and Foucault is especially interested in those forms and operations that "categorize the individual, mark him by his own individuality, attach him to his own identity, impose a law of truth on him which he must recognize and which others must recognize in him . . . a form of power which makes individuals subjects" (Foucault 1982, 212). In addition, this formulation displaces one in which domination is thought to inhere only in visible regimes of cruelty or injustice, emphasizing instead multi-faceted subjectification and subject production by social norms and practices.

These displacements are most easily grasped by reviewing Foucault's critique of what he takes to be three conventional models of power: the sovereignty model, the commodity model, and the repressive model. These models are not radically distinct; not only are they interwoven with one another, they address different moments of power. Sovereignty primarily refers to power's putative source, commodity refers to power's movement, while repression concerns the nature of power's action. The sovereignty model equates power with rule and law; the commodity model casts power as tangible and transferable, like wealth; and the repressive model assumes the action of power to be only negative, repressive, constraining. Foucault's alternative to these understandings requires what he calls an "analytics" of power that centers on an appreciation of power's productive, regulatory, and dispersed or capillary character—its irrigation of the social order as opposed to an imagined positioning of power as on top of, visibly stratifying, or forcibly containing its subject (Foucault 1980*a*, 88–107). In the

[2] For a more extended discussion of this point see "Power," co-authored by Wendy Brown and Joan W. Scott, in *Critical Terms of Gender Theory* (Chicago: University of Chicago Press, forthcoming).

following, Foucault's critique of each model of power is considered in further detail.

1 The Sovereignty Model

Although Foucault's critique of sovereignty extends from the subject to the state, the sovereign model of power is the most common *political* notion of power; it casts the problem of power in terms of ruling and being ruled, or in Lenin's formulation, "who does what to whom." Power in this view is thought to be contained in sovereign individuals or institutions and to be exercised over others by these individuals and institutions. Not only monarchical rule but representative democracy as it appears in social contract theory from Hobbes to Rawls is premised upon the sovereign model of power. Power is equated with rule, and the making and enforcement of law is taken to be its sign. We are presumed to be sovereign subjects when we are self-legislating, which is to say that we are presumed to will and hence legislate for ourselves when another is not legislating for us. Thus, social contractarian formulations of popular sovereignty rely upon the mutually reinforcing conceits of individual sovereignty and state sovereignty, each of which, paradoxically, is taken to have the power to confer sovereignty on the other.

Foucault challenges the sovereign model of power first by challenging the a priori of sovereignty itself, insisting instead that the conditions of sovereignty or imagined sovereignty are themselves suffused with power. Thus, sovereignty is revealed as an effect or emblem of power rather than its source, a move that recasts sovereignty from a universal wellspring of state formation and individuality to a historically specific expression and dissimulation of power relations. At the same time, sovereignty is exposed as a fiction, neither the origin of power nor in control of the field of power's operation to the degree that the conventional model suggests. Second, Foucault argues, sovereign power is a small rather than governing feature of modern political life and governance; modern political thought's preoccupation with sovereign power has led it to overlook the range of subjectifying and often unavowed powers that coexist with legitimate forms of sovereignty (Foucault 1980*a*). Sovereignty, which defines political power as a

matter of rule, blinds us to the powers that organize modern polities and modern subjects.

2 The Commodity Model

The commodity model of power is predominantly an *economic* understanding of power, although it has substantial relevance to conventional formulations of political domination. In the commodity model, power is thoroughly material and is a transferable or circulating good. Although Foucault does not resolutely hold Marx to this model (indeed, Marx's move to derive all social power from labor anticipates Foucault's insistence on the *productive* and *relational* character of power), the Marxist notion of labor power as extractable, commodifiable, and constituting the basis of capital and hence the power of capitalism, inevitably partakes of an understanding of power as a commodity. But so also does the idea of sovereignty rely on a view of power as commodifiable: The very possibility of being able to transfer sovereignty from one king to another, or to divest the king of sovereignty and distribute it to the people—the understanding of these acts *as* transfers or divestments—assumes the commodifiability of power. Thus, social contractarians draw on the commodity model of power both to theorize the legitimacy of the social contract and to articulate liberty in a liberal democratic frame. The commodity model of power also undergirds social analyses that treat some groups as having power and others as lacking it, analyses that treat powerlessness as the necessary corollary of power, or analyses that understand power as equivalent to privilege that can either be exercised or surrendered depending on the moral commitments of the subject in question.

Foucault challenges this formulation of power as an object, a transferable substance external to and hence potentially alienable from the subject who is said to hold it. He argues that power is constitutive of subjects, not simply wielded by them; that it operates in the form of relations among subjects, and is never merely held by them; that it "irrigates" society and is not an object within society; and that it travels along threads of discourse by which we are interpellated and which we also speak, thereby confounding distinctions

between subjects and objects of power, or between agents, vehicles, and targets of power (Foucault 1980*a*).

3 The Repressive Model

The repressive model of power is the most common psychological notion of power, although like the commodity model, it is also part of what the sovereign model draws upon. What Foucault names the "repressive hypothesis" in *The History of Sexuality* identifies power inherently with repression or restriction, with "saying no" (Foucault 1978). The repressive hypothesis implies that the aim of institutional and especially state power is either containment of desire *tout court* (Freud) or containment of the natural passions and lawlessness of the body politic (Hobbes).

Foucault's challenge to the repressive hypothesis is fourfold: (1) power is productive rather than simply repressive, that is, power *brings into being* meanings, subjects, and social orders—these are effects of power rather than its material or its a priori; (2) power and freedom are not opposites insofar as there is no subject, and hence no freedom, outside of power; (3) repressive models of power tacitly posit a human subject (or a human nature) untouched by power underneath power's repressive action; and (4) repression itself, far from containing desires, proliferates them (Foucault 1978, part 2). It is the critique of the repressive hypothesis that allows Foucault to develop his formulations of specifically modern varieties of power that work to one side of the state. He is especially interested in what he names biopower, which regulates life rather working through the threat of death and orders and regulates mass populations and their behaviors in a way that no repressive apparatus could rival (Foucault 1978, part 5; Foucault 1979, part 3; Foucault 2004).

Together, the conventional models of power express a conviction about power's tangible, empirical nature—its presence in a rule, an order, a person, or an institution. They also cast power as largely independent of truth and knowledge, and in that move, distinguish power from the mechanisms of its legitimation. While Foucault is careful not to equate power and knowledge, he does establish knowledge as a significant field of power, and truth as

inherently political. "Truth is a thing of this world: it is produced only by virtue of multiple forms of constraint. And it induces regular effects of power" (Foucault 1980*b*, 131).

It is in the power/knowledge relation, and the recognition of the extent to which power operates as a field or regime of truth, that the importance of Foucault's own formulation of the concept of discourse emerges. Different from mere language or speech, for Foucault, discourse embraces a relatively bounded field of terms, categories, and beliefs expressed through statements that are commonsensical within the discourse. As an ensemble of speech practices that carry values, classifications, and meanings, discourse simultaneously constitutes a truth about subjects, and constitutes subjects in terms of this truth regime. For Foucault, discourse never merely describes but rather, creates relationships and channels of authority through the articulation of norms. Insofar as discourse simultaneously constructs, positions, and represents subjects in terms of norms and deviations posited by the discourse, representation ceases to be merely representation but is importantly constitutive of subjects and the world in which they operate. Thus representation is never innocent of power, but is rather, a crucial field of power; this in turn unsettles the possibility of a distinction between "truth" and power, and hence unsettles the possibility of truth in a modern (objectivist) idiom. Another important implication of Foucault's understanding of the truth-and subject-constituting nature of discourse is that domination or oppression can no longer be conceived in terms of total or closed systems. Rather, Foucault's depiction of the unsystematic interplay of discourses that potentially converge as well as conflict with one another means that domination is never complete, never total, never fully saturating of the social order.

Foucault's critique of conventional models of power thus challenges models that account for social *systems* of rule and replaces them with an understanding of the multiple, infinitely detailed, and above all incomplete or haphazard content of particular regimes of truth governing and constituting subjects. His insistence on the relentlessly historical nature of particular formations of power, and even particular styles or "technologies" of power, replaces an image of power governing a social totality with an image of power suffusing the present with an array of historically freighted discourses that do not harmonize or resolve in a coherent, closed system. Foucault's formulation of discourse also poses a fundamental challenge to the Marxist and neo-Marxist view of power as material and of ideology as a distorted account of that materiality. Rather, if

discourses establish truth, and construct and position subjects in terms of that truth, then power is *inside* a discourse or truth regime rather than external to it. Discourse is not mere ideology, and ideology, if it remains a coherent concept at all (about which Foucault is dubious), is never "mere" (Foucault 1980*b*, 118). Truth is not underneath or outside representation; power is never fully tangible but, rather, is an effect of the norms issuing from particular orders of words and images, orders that are constructed as much by silences, blank spaces, and framing as by the words and images themselves.

4 Governmentality

Foucault's critique of conventional models of power and his own formulation of power as productive and dispersed rather than repressive and concentrated paves the way for a reconsideration of modern governance itself, that is, of how individuals and populations are ordered and mobilized in mass society. Foucault's particular interest pertains to what he dubs the "omnes et singulatim" (all and each) technique of modern government, its signature capacity simultaneously to gather and isolate, amass and distinguish (Foucault 1981). Modern political governance also involves a combination (but not a systemization) of micropowers and macropowers, that is, powers that operate on the body and psyche in local and often non-obvious fashion, and powers that may be more overt, centralized, and visible.

Foucault's lectures on governance in the late 1970s integrate a set of working ideas that he had been developing for some years: the critique of sovereignty (state and individual), the decentering of the state and of capital as the organizing powers of modern history (and a correspondent decentering of state theory and political economy for mapping power), the elaboration of norms, regulation, and discipline as crucial vehicles of power, the development of analyses that illuminate the production of the modern subject rather than chart its repression, the imbrication of truth and power and the importance of "regimes of truth" or rationalities, and an appreciation of the imbrication (not the identity) of power and knowledge in organizing subjects and societies. But the governance studies—and in particular the theory of governmentality elaborated below—do not simply integrate these

concerns; rather, they are gathered into a project that moves from critiques of inadequate models and conceptualizations toward the development of a framework for apprehending the operations of modern political power and organization.

The questions of modern government, which, according to Foucault, "explode" in the sixteenth century, include "how to govern oneself, how to be governed, how to govern others, by whom the people will accept to be governed, and how to become the best possible governor" (Foucault 1991, 87). Government in this broad sense, therefore, includes but is not reducible to questions of rule, legitimacy, or state institutions; it is not only a formally political matter but is as applicable to self, family, workplace, or asylum as to public life and the state. Government involves, in Foucault's famous phrase, "the conduct of conduct," the directing and channeling of the behavior of the body individual, the body social, and the body politic by means other than force or even explicit rule (Gordon 1991, 5). Whether conducted on oneself by oneself or on a social body by a combination of political, economic, and social powers, government operates through (and molds) the capacity of the governed body to regulate its own behavior and, in this regard, paradoxically presupposes a degree of freedom on the part of the governed. At variance from exercises of domination or force, government in Foucault's locution is perhaps best grasped as regularized orchestration, something suggested by the musical allusion in the phrase, "the conduct of conduct."

But does governing require a conductor or conductors? Govermentality, Foucault's neologism that explicitly hybridizes government and rationality, is designed to capture the uniquely modern combination of governance by institutions, knowledges, and disciplinary practices, and to accent the dispersed rather than centralized or concentrated nature of modern political governance. The neologism captures both the phenomenon of governance by particular rationalities and grasps governing itself as involving a rationality. As Foucault elaborates it, governmentality has four crucial features. First, it involves the harnessing and organizing of energies in any body—individual, mass, national, or transnational—that might otherwise be anarchic, self-destructive, or simply unproductive. And not only energies but needs, capacities, and desires are corralled, harnessed, ordered, managed, and directed by governmentality. This is part of what distinguishes it from classical conceptions of rule or domination in which subjects are presumed to be bossed by power rather than fashioned, integrated, and activated by it. Second, as the conduct of conduct, governmentality has a vast range of points

of operation and application, from individuals to mass populations, and from particular parts of the body and psyche to appetites and ethics, work or citizenship practices. Thus, for example, discourses of health, consumerism, or safety are as or more important than discourses of rights in governing the contemporary liberal democratic subject. Third, far from being restricted to rule, law, or other kinds of visible and accountable power, governmentality works through a range of invisible and non-accountable social powers. One of Foucault's best examples here is pastoral power, a form that migrates from church to state and infiltrates workplaces as well. Pastoral power orders and controls its subjects by promoting their well-being through detailed knowledge and regulation of their behavior—simultaneous individualization and massification and a high degree of moralization of crime, sin, or failure. Fourth and related, governmentality both employs *and* infiltrates a number of discourses ordinarily conceived as unrelated to political power, governance, or the state. These include scientific discourses (including medicine, criminology, pedagogy, psychology, psychiatry, and demography), religious discourses, and popular discourses. Governmentality, therefore, draws upon without unifying, centralizing, or rendering systematic or even consistent, a range of powers and knowledges dispersed across modern societies.

Within the problematic of government and governmentality, Foucault's interest in the state is largely limited to the way in which it is "governmentalized" today. Governmentalization refers to the internal reconfiguration of the state by the project of administration and its links to external knowledges, discourses, and institutions that govern outside the rubric and purview of the state. The "governmentalization" of the state connects "the constitutional, fiscal, organizational, and judicial powers of the state ... with endeavors to manage the economic life, the health and habits of the population, the civility of the masses, and so forth" (Rose 1999, 18). If governmentality in general includes the organization and deployment of space, time, intelligibility, thought, bodies, and technologies to produce governable subjects, the governmentalization of the state both incorporates these tactical concerns into state operations and articulates with them in other, non-state domains.

Foucault's decentering of the state in formulating modern governmentality corresponds to a contrast he establishes between governing and the state. While Foucault acknowledges that the state may be "no more than a composite reality and a mythicized abstraction," Foucault takes the state to signify powers of containment and negation, a signification that does not capture the more complex and diffuse ways that modern citizens are produced,

positioned, classified, organized, and above all, mobilized by an array of governing sites and capacities (Foucault 1991, 103; Mitchell 1991). Government, as Foucault uses it, also stands in contrast to rule; with the end of monarchy and the dissolution of the homology between family and polity in modernity, rule ceases to be the dominant modality of governance. However, Foucault is not arguing that governmentality chronologically supersedes sovereignty and rule. In his own words, "we need to see things not in terms of the replacement of a society of sovereignty by a disciplinary society and the subsequent replacement of a disciplinary society by a society of government; in reality one has a triangle, sovereignty–discipline–government, which has as its primary target the population and its essential mechanism the apparatuses of security" (Foucault 1991, 102).

5 Theorizing Power after Foucault

While he did not set out to do so, Foucault has transformed the political theoretical landscape of power to a degree that rivals the Marx–Nietzsche–Weber effect a century earlier. Foucault's infamous insistence that "we must cut off the king's head in political theory," the guillotine for which is provided not only by his theorization of power but by his genealogies of non-sovereign and non-juridical modes of political power, opens a fantastic range of institutions, practices, knowledges, and identities to political theoretical inquiry (Foucault 1980*b*, 121). By simultaneously considering the production, mobilization, representation, and subjectification of the modern subject, he has threaded together what are conventionally distributed across economic, sociological, and political perspectives on power, and has reconceived both the location and action of power itself. Nor is this just a matter of discerning power in new places: Foucault's genealogies of the knowledge/power relations in sexuality, punishment, and other forms of subject production have also attuned us to the *circuitries* of power and governmentality between, for example, the state and the social, the scientific and the political, or the carceral, the pedagogic, and the medical (Rose 1999; Barry, Rose, and Osborne 1996; Burchell, Gordon, and Miller 1991; Dumm 1996).

Foucault's rich account of power carried in discourse, regimes of truth, and political rationality, and his mobilization of these accounts in his formulation of governmentality, provide a post-Marxist framework for articulating the materiality of knowledge and "truth," one that escapes the aporia of the materialism/ideology opposition in Marxism and the truth value imputed to political ideology characteristic of the liberal and Hegelian traditions. The centrality and inescapability of power in Foucault's thinking locates him in a Realist tradition of political thought that runs from Thucydides and Machiavelli to Morgenthau, but his emphasis on discourse and the critique of sovereignty significantly challenges both the materialism and the state-centrism of that tradition. Foucault's theorization of resistance, and especially of resistance as a permanent accompaniment to power, also wrests Realism away from apologists and conservatives. Foucault's rich account of power not only augments the meaning and reach of the political, it also reconfigures several of its most important components; especially important among these is the notion of freedom, which now must be thought of in terms of the specific conditions and subjects produced by power rather than as a project of emancipation from power or an expression of a (non-existent) sovereign self. Hence Foucault identifies liberty as a "practice," as "what must be exercised," rather than as an unvarying principle or something guaranteed by laws and institutions (Foucault 2000, 354–5). Freedom is but one example of the way Foucault's account of discourse as a field of power that makes meaning and produces and orders subjects changes the very nature and terrain of political theoretical inquiry. After Foucault, the fiction of perennial or universal concepts—from equality to authority to terror—gives way to an appreciation of the historical and geopolitical specificity of terms of discourse, themselves both constructs and vehicles of power.

One interesting paradox of Foucault's influence on contemporary research in political theory is that it has been strongest on topics and thematics with which Foucault himself was little engaged. Post-colonial and subaltern studies scholars, feminist theorists, critical race theorists, critical legal theorists, and theorists of political subjectivity and of international relations have made extensive use of Foucault's work on power, discourse, and the body; however, for the most part, these were not Foucault's own research interests.[3]

[3] Although he did not incorporate this work into a publication, Foucault presented his research on the construction and mobilization of race in modern Europe in his 1975–6 lectures at the Collège de France (Foucault 2003, chs. 3–5 and 11). Examples of theorists working in these areas include Nicholas Dirks (1992, 2001), Edward Said (1978, 1993), Ann Laura Stoler (1995, 2002), and Gayatri Chakravorty

Democratic theorists have employed Foucault's insights on power and governmentality, and have also followed his genealogical approach to study contemporary political topics ranging from punishment to political reason to constitutionalism.[4] These appropriations and mobilizations of Foucault's theoretical insights also suggest the importance of Foucault's thinking in opening the border between political theory and other domains of critical inquiry, including social theory, literary and visual criticism, cultural studies, cultural anthropology, and history. (See, for example, Connolly 2002; Moore, Pandian, and Kosek 2003; Dean 2000; and Butler and Scott 1992.)

Certainly there are limitations and aporias in Foucault's theorizations of power for political theory, some consequent to certain provincialisms on his part, some consequent to the fact that he was working well outside the field of political theory. Foucault's reaction against the dominance of Marxism and psychoanalysis in mid-twentieth century French critical thought resulted in his largely eschewing both capital and the psyche in theorizing modern power and governmentality. Many of his readers have been frustrated by the thin theory of subjectivity and the absence of political economy in analyses purporting to comprehend contemporary logics of subjectification and governance.[5] Similarly, Foucault's argument that disciplinary and other microphysical operations of power have largely usurped the importance of juridical power eschews close consideration of how these work together, and of the disciplinary and regulatory effects of law itself.

Foucault's formulation of governmentality is also problematically inflected by some of his relatively local and temporally-bound theoretical skirmishes with French structuralists and Marxists. Governmentality stands to state

Spivak (1987, 1999) in post-colonial theory; Sandra Bartky (1990), Wendy Brown (1995), Judith Butler (1997, 2004), Barbara Cruikshank (1998), Kathy Ferguson (1993), Elizabeth Grosz (1994, 1995), Meaghan Morris (1988), and Jana Sawicki (1991) in feminist theory; Katherine Franke (1997, 1998), Janet Halley (2002), and Kimberlee Crenshaw et al. (1996) in critical legal theory and critical race theory; Michael Dillon (1996, 2004), R. B. J. Walker (1993), James der Derian (1995), and William Connolly (1995, 2002) in international relations theory.

[4] Examples include the work of William Connolly (1991), Tom Dumm (1994, 1996), David Owen (1997, 1999), James Tully (1995), Michael Shapiro (2001), Barry Hindess (1996), Jeremy Moss (1998), Meaghan Morris and Paul Patton (1979), Nikolas Rose (1999), and Barry Smart (2002, 2003).

[5] Thinkers who have largely rejected Foucault for not making capital central range from various Marxists to Richard Rorty. But there are also political theorists, and scholars of geography and cultural studies, who have striven to incorporate Foucaultian insights into thinking about political economy. See, for example, Gibson-Graham, Resnick, and Wolff (2000). The same is true of Foucault's rejection of psychoanalysis. Across a number of her works, Judith Butler has attempted to intertwine the insights of Foucault and psychoanalysis, especially on questions of the production and regulation of subjects. See, in particular, Butler (1997).

theory as genealogy stands to dialectical critique and as discourse stands to structuralist accounts of ideology; in each case, the former is not only an alternative to but a critique of what Foucault takes to be the false premises of the latter. However, each opposition is also overdrawn. If, for example, the state today is a minor apparatus of governmentality, and is itself governmentalized in a manner that makes it sharply discontinuous with its absolutist or classical modern predecessor, the state nonetheless retains a measure of sovereignty, expressed in its capacity to wage war, terrorize, detain, and police. The state also remains an important site of political legitimacy in late modernity. Both of these points are developed briefly below.

With regard to the issue of sovereignty and the diminished overall significance of the state in governmentality, it is telling that Foucault's consideration of the state is largely limited to the matter of domestic rule. It does not encompass what Locke denoted as the prerogative power of the liberal state, its right and capacity to act *as* a state without regard to the legislative power of the people or their representatives (Locke 1960). Nor does it consider the state in terms of what Deleuze has theorized as the security society, what Schmitt has theorized as the state of exception, and what Agamben has theorized as the state of emergency (Deleuze 1995; Schmitt 1985; Agamben 1998, 2005).

As for political legitimacy, it was not a matter in which Foucault was much interested. Indeed, with the exception of his discussions of neoliberalism, legitimacy is largely excluded from Foucault's formulation of governmentality, in part because he understands political rationalities to be self-legitimating (Foucault 2004). Thus, while governmentality usefully expresses both the amorphousness of the state and the insufficiency of the state as a signifier of how modern societies are governed, it does not capture the extent to which the state remains a unique and uniquely vulnerable object of political accountability. Moreover, if the state's legitimacy needs determine at least some portion of political life, this is a fact with which a theory of the imperatives conditioning and organizing governance needs to reckon and which Foucault's theory does not. For example, the liberal state, whether libertarian or social democratic, is required to represent itself as universalist, that is, as the collective representative of a nation's people. Transnational populations and powers, especially those associated with globalization, have complicated this representation in new ways by revealing states' investments in and privileging of certain populations and norms, for example Christian, heterosexual, or native-born. The ideology of civic multiculturalism responds to this crisis of

universality without resolving it. Within it, most liberal democratic states struggle to mediate between hegemonic norms and the challenges posed to them by, for example, Islamic religious requirements or gay marriage and parenting. Foucault's restriction of theoretical concern with the state to a sovereign model of power does not facilitate apprehension of this troubling of state universality and the conundrums of policy and legitimacy it poses.

Modern political power does not only manage populations and produce certain sorts of subjects, it also reproduces and enlarges itself. This reproduction and enlargement is at times even among political power's primary objects and thus cannot be treated independently of the project of governing populations and individuals. A full account of governmentality, then, would attend not only to the production, organization, and mobilization of subjects by a variety of powers, but to the problem of legitimizing these operations by the singularly accountable object in the field of political power: the state. These two functions may be analytically separable, and may even be at cross purposes at times. But they do not occur separately in practice and both must therefore be captured in a formulation of contemporary governance. It is not that the state is the only source of governance, or even always the most important one; but where it is involved (and this includes privatization schemes in which the state's connection with the enterprises to which it turns over certain functions is still visible), the question of legitimacy is immediately at issue (Wolin 1989).

Finally, despite the fecundity of Foucault's thinking for political theory, especially that concerned with the nature of power, governance, freedom, and truth, it is significant that Foucault did not conceive of himself as a political theorist and did not confine his scholarly inquiry to matters of political life. (One need only remember his early work on knowledge and epistemology in *The Order of Things* (1970) and *The Archeology of Knowledge* (1972) or his turn to ethics and arts of the self in the second and third volumes of *The History of Sexuality* (1978–86).) It thus makes little sense to allow Foucault's work fully to set the agenda for or articulate the boundaries of contemporary political theory. Moreover, Foucault's thinking about power is useful to political theory only to the extent that power is not equated with the political. If the political does not have referents that exceed the mere presence of power, then every human action, activity, and relation becomes political and the political ceases to be a meaningful category of analysis. This is not to say that Foucault was wrong in his discernment of the ubiquity of power nor in his discernment of it in places—knowledge, sexuality, confession, self-care, pedagogy—

conventionally considered immune from it. Rather, it is to give political theory the task of apprehending what ground, activities, identities, negotiations, and actions might comprise and define the political. If Foucault's work has importantly *politicized* certain practices and knowledge fields heretofore imagined relatively insulated from inquiry into the interests shaping them, the opponents they vanquish, the aims they serve, and the contingent effects they produce, such politicization need not be conflated with political life *tout court* (for a more extended discussion, see Brown 2002, 115–17). Foucault's formulations of power, and especially of government and governmentality, have made this distinction extremely difficult. However, rather than giving up the distinction on the one hand, or rejecting Foucault's problematization of it on the other, political theory after Foucault is faced with the task of delineating it anew.

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CHAPTER 4

CRITICAL THEORY BEYOND HABERMAS

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The presently most influential feature of Jürgen Habermas' wide-ranging contributions to political theory is his attempt to formulate a socially critical as well as empirically plausible conception of *deliberative democracy*. Both his earliest contribution to political theory, *The Structural Transformation of the Public Sphere* (1989, published in German in 1962), and his more recent *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (1996), defend an ambitious deliberative model of political legitimacy, according to which normatively acceptable decisions are only those which meet with the agreement of affected parties in possession of far-reaching possibilities to subject them to critical debate. Not surprisingly, Habermas and those influenced by him have worked hard to outline the proper philosophical presuppositions of the basic intuition that only free-wheeling argumentation can both justify the exercise of coercive state power and contribute to its reasonable character.

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In addition, they have taken important steps towards describing the appropriate institutional moorings of a vibrant deliberative democracy (Chambers 2003; Dryzek 1990; Habermas 1996), while struggling to demonstrate why deliberative democracy, when properly conceived, is the rightful intellectual heir of the early Frankfurt School (Bohman 1996). Habermas' account of deliberative democracy is not only normatively distinct from competing liberal and communitarian models (Forst 2001), but it also purports to pose a more credible challenge to the social inequalities and injustices of contemporary capitalist society. In addition, Habermas and his followers repeatedly insist that their version of deliberative democracy remains *realistic*. It not only acknowledges the fact of modern social complexity, but we can even begin to see a rough outline of its proper operations in the otherwise depressing realities of present-day political practice (Benhabib 1996; Bohman 1996; Hauptmann 2001). Although maintaining a critical perspective on the status quo, it avoids a methodologically flawed juxtaposition of the "ought" to the "is," thereby offering relatively constructive guidance for those seeking to advance overdue radical reforms of the liberal democratic status quo.

The present-day critical theory obsession with deliberative democracy nonetheless seems surprising. With the notable but typically overlooked exceptions of Franz L. Neumann and Otto Kirchheimer, the early Frankfurt School tended to neglected political and legal theory altogether (Scheuerman 1994). Implicit Marxist theoretical assumptions about the state and law led its most prominent representatives (Theodor Adorno, Max Horkheimer, and Herbert Marcuse) to discount normative political theory as well as creative intellectual approaches to the analysis of political and legal institutions. Only with Habermas' life-long programmatic overhaul of critical theory—most important being his formulation of a *theory of communicative action*—was it possible for Frankfurt-oriented critical theorists to grasp the full significance of normative political theory to a critical theory of society (McCarthy 1982; White 1989). Not surprisingly, Habermas and his followers have been at the forefront of recent efforts to develop critical models of deliberative democracy in which Habermas' ideas about uncoerced speech and communication typically loom in the background.

But should critical theorists continue to devote their intellectual energy to the project of deliberative democracy? Does deliberative democracy constitute the legitimate *future*—and not just the contemporary—focus of critical theory? In order to answer this question, we need first to consider another

one. Is there some way by which we might sensibly test the capacity of Habermasian deliberative democracy to advance both critical theory and progressive politics?

Fortunately, Habermas and those influenced by him have themselves pointed to the existence of one possible test. Over the course of the last decade, Habermas and his sympathizers have turned much of their attention to the pressing question of how democracy needs to be reconfigured in light of the sizable challenges posed by globalization. Following the broad mainstream of present-day social science, they recognize that the multi-pronged process of globalization challenges both the normative legitimacy and effective regulatory capacity of the liberal democratic nation state. If democracy is to thrive, it needs to meet the numerous threats posed by globalization (Held 1995). Of course, critical theorists are hardly the only scholars busily examining the conflict-laden nexus between globalization and democracy. Distinct to the Habermasian approach, however, is the belief that its vision of deliberative democracy is best capable of providing persuasive resolutions of the normative and institutional quagmires of globalization. From this perspective, the most difficult challenge to contemporary democracy also provides an unambiguous corroboration of the impressive normative and empirical credentials of Habermasian political theory.

Although broadly sympathetic to this view (Scheuerman 2004, 187–224), I would like to register a number of reservations. Habermasian deliberative democracy remains profoundly ambiguous in its political and institutional ramifications. At some junctures, it points the way to a radical overhaul of the political and economic status quo; at others it makes its peace with present-day political conditions. This programmatic tension is reproduced in recent critical theory research on deliberative democracy and globalization (Section 4.1.). Unfortunately, this tension derives at least in part from conceptual slippage that we find in the Habermasian account. The potentially misleading imagery of an "anonymous" and even "subject-less" deliberative civil society sometimes contributes to a problematic *conceptual bifurcation between deliberation and democracy*. Deliberation without the meaningful (deliberative) involvement of concrete "subjects" is, in reality, no longer democratic. Lively deliberation is not, in fact, "subject-less," and the fact that lively argumentative give-and-take often makes it difficult for us to determine the genesis or initial "possession" of a specific insight hardly renders it altogether anonymous either. This conceptual slippage, I submit, opens the door to a troubling tendency to condone overly defensive models of deliberative democracy for the global stage (Section 2.).

1 Globalization and the Antinomies of Habermasian Critical Theory

A striking programmatic oscillation can be readily identified in Habermas' most developed account of deliberative democracy.[1] On the one hand, Habermas at times proposes an indisputably *radical* vision of deliberative democracy, where free-wheeling deliberation would emerge in civil society but ultimately gain clear expression in the apparatus of government. Although Habermas follows Nancy Fraser in distinguishing weak from strong publics, with the latter culminating in binding legal decisions whereas the former fail to do so, there remains no structural difference between the two publics: in both, "communicative power" derived from spontaneous, unlimited debate and deliberation predominates (Fraser 1992). In this version of the argument, formal government institutions (most important, the central legislatures) are simply a technical extension of civil society, the "organized midpoint or focus of a society-wide circulation of informal communication" (Habermas 1996, 182). In turn, the principle of the legality of the administration guarantees that bureaucratic mechanisms are rendered unambiguously subordinate to processes of popular debate and deliberation which effectively "determine the *direction* in which political power circulates" via the medium of law (Habermas 1996, 187). Of course, modern society still requires an administrative apparatus operating according to a distinct logic, but Habermas hopes that the "administrative state" might gain the requisite democratic legitimacy which it too often lacks. Even seemingly problematic forms of administration discretion can be successfully subordinated to the legitimacy-generating power of deliberation in which "*all* members of the political community ... take part in discourse" in a meaningful way. "Each must have fundamentally equal chances to take a position on all relevant contributions" (Habermas 1996, 182). This equality of chances is by no means purely formal in character. For Habermas, it demands an egalitarian social and economic setting that "has emerged from the confines of class and thrown off the millennia-old shackles of social stratification and exploitation" (Habermas 1996, 308). A normatively legitimate deliberative democracy, it seems, can only take the form of radical *social* (deliberative) democracy.

[1] I develop this interpretation in greater depth elsewhere (Scheuerman 2002*a*). See also Bohman (1994).

On the other hand, deliberative democracy periodically takes on significantly more subdued hues in Habermas' discussion. He often seems so intent on emphasizing the necessity of complex markets that it remains unclear precisely what social and economic reforms—beyond some sensible improvements to the (increasingly fragile) welfare state—he has in mind. He frequently describes popular deliberation as merely influencing, countersteering, or "laying siege" to the state administration, justifying this relatively modest aspiration with the claim that communicative power "cannot 'rule' of itself but only point the use of administrative power in specific directions" (Habermas 1996, 300). He even endorses the possibility that a truly vibrant deliberative democracy necessarily plays a limited role in the actual operations of political decision-making most of the time: typically, "courts deliver judgments, decisions, bureaucracies prepare laws and process applications, parliaments pass laws and budgets, party headquarters conduct election campaigns, clients exert influence on 'their' administrators" with civil society necessarily left at the wayside (Habermas 1996, 357). Even those facets of government most closely tied to civil society may have to accept a truncated role: "the initiative and power to put problems on the agenda and bring them to a decision lies more with the Government leaders and administration than with the parliamentary complex" under normal political conditions (Habermas 1996, 380). In this version of his model, only during unusual or exceptional conditions (as defined somewhat imprecisely by Habermas) can we expect a genuinely robust deliberative democracy, in which the argumentative give-and-take of civil society effectively dominates the political machinery, to surface.

In the second section of this chapter, I turn to consider one of the likely conceptual sources of this tension. For now, I merely hope to show how the ongoing critical theory debate about deliberative democracy and globalization reproduces it.

Contemporary critical theorists generally endorse the view that a deliberative model of democratic legitimacy is especially well suited to the demands of globalization. Indeed, this is one of the main reasons they adduce for the superiority of their approach. Habermas defends this position by noting that his model "loosens the conceptual ties between democratic legitimacy and the familiar forces of state organization" (Habermas 2001*a*, 111). Although democracy always needs some conventional (and typically state-based) forms of decision-making and representation, the deliberative model "tips the balance" in precisely the right way by underscoring the centrality of a "functioning

public sphere, the quality of discussion, accessibility, and the discursive structure of opinion- and will-formation," none of which is necessarily tied to a particular territory or nation-state-based political institutions (Habermas 2001*a*, 110–11). For this reason, Habermas considers the paradigm of deliberative democracy especially fruitful for thinking through the possibility of developing and democratizing regional political and economic blocs (e.g. the European Union); it also helps us consider how such regional blocs might come to constitute core components of a broader cosmopolitan system of governance. Although, a *world-state* is undesirable, a stronger and more democratic United Nations (UN) able to exercise peacekeeping and humanitarian functions, operating in conjunction with regional blocs outfitted with the decision-making muscle necessary for pursuing ambitious regulatory policies, are now called for.[2] In lucky correspondence with the ongoing intensification of cross-border ties in countless arenas of social life, Seyla Benhabib notes in the same vein, deliberation "can emerge *whenever* and *wherever* human beings can affect one another's actions and well-being" (Benhabib 2002, 147). Deliberative democracy should prove adept at coping "with fluid boundaries" and producing outcomes across borders since human communication—especially in an age of high-speed communication and unprecedented possibilities for simultaneity—easily explodes the confines of conventional political and geographical boundaries (Dryzek 2000, 129; Schmalz-Bruns 1999). In the same spirit, Jim Bohman defends a "public reason" model of decision-making by noting that the profound pluralism characteristic of political affairs at the global level requires unrestricted communication along the lines encouraged by deliberative democracy. To be sure, Habermasians need to rethink conventional ideas about the public sphere in order to liberate them from unnecessary Eurocentric baggage, but there is no reason to preclude the possibility of doing so successfully (Bohman 1998, 1999*b*). Whereas communitarian or republican accounts occlude the "fact of (rapidly growing) pluralism," deliberative democracy can grapple successfully with diversity (Bohman 1997, 185; Dryzek 2000, 129). In contrast to republican or participatory democratic decision-making models which

[2] Whereas Held (1995) suggests that a refurbished UN might conceivably undertake ambitious forms of social, economic, and environmental regulation, Habermas would more cautiously limit global government to peacekeeping operations and the protection of fundamental human rights. Social, economic, and environmental issues—what Habermas describes as "global domestic politics" [Weltinnenpolitik]—would be dealt with by transnational—but not necessarily *global*—political actors. Habermas suggests that regional blocs such as the EU should play a decisive role at this transnational level (2004, 134–5).

privilege face-to-face political interaction (e.g. town meetings or mass demonstrations), deliberative democracy seems well-suited to exploit the virtues of relatively abstract forms of potentially cross-border communication. For this reason as well, it offers a fruitful starting point for theorizing about postnational democracy.

Despite this common starting point, Habermasian deliberative democrats take different roads in their approaches to globalization. Although the story is more complicated than I can acknowledge here, those roads ultimately mirror the tensions in Habermas' own discussion.

Echoing Habermas in his more radical moments, some of his sympathizers offer a vision of global (deliberative) democracy resting on the realization of ambitious new forms of transnational democratic decision-making subject to global civil society, to be undertaken in conjunction with a plethora of radical social and economic reforms. In this version of transnational deliberative democracy, new formal institutions can be successfully established at the global level. Furthermore, the "commanding heights" of those institutions can be rendered directly subordinate to deliberatively derived communicative power. Thus, Iris Young argues that ultimately only "global institutions that in principle include or represent everyone" (Young 2004, 11) represent the best institutionalization of the deliberative-democratic intuition that "dialogic interaction" can generate regulations that "take account of the needs, interests, and perspectives of everyone" (Young 2004, 3).[3] Given "the increased density of interaction and interdependence" of our globalizing universe, deliberative democracy—to be achieved in part by strengthening as well as democratizing the UN—is the only way to assure the legitimacy of "more global-level regulation of security, human rights, trade regulation, [and] development policy" (Young 2004, 4; also Young 2000, 271–5). Young links her defense of transnational deliberative democracy to the necessity of attacking the stark poverty that still plagues humanity, observing that transnational deliberative democracy is destined to founder if poverty continues to prevent the meaningful political involvement of hundreds of millions of our fellow prospective global citizens (Young 2004, 8).

Notwithstanding its many differences vis-à-vis Young's ideas, David Held's widely discussed model of a "cosmopolitan democracy," which has been

[3] Of course, Young has been highly critical of some important features of Habermas' own account of deliberation (Young 2000). This is also true of other authors discussed in this chapter. However, I do believe that they all share enough of Habermas' general approach to be fairly described as "Habermasian."

influenced by Habermas in numerous ways, can be placed under this rubric as well.[4] Held argues that "deliberative and decision-making centers beyond national territories are [to be] appropriately situated when those significantly affected by a public matter constitute a cross-border or transnational grouping, when 'lower' [local or national] levels of decision-making cannot manage and discharge satisfactorily transnational ... policy questions, or when the principle of democratic legitimacy can only be properly redeemed in a transnational context" (Held 1998, 22–3). He immediately links the call for novel modes of formal global government to the necessity of far-reaching social democratic social and economic reforms (Held 1995, 239–66). Last but by no means least, Habermas himself has recently taken on the role of an outspoken defender of relatively powerful forms of supranational European governance, and he has struggled to show why his discourse theory of democracy can help overcome the tired divisions between skeptics and defenders of the European Union. Only a refurbished European Union committed to the ideals of deliberative democracy, the argument goes, offers Europeans a way to preserve democracy and the welfare state. Habermas conveniently downplays some of the distinctive features of European regionalization (Lupel 2004), in part because he tends to interpret the European Union as part of a more general institutional trend towards more ambitious forms of transnational deliberative democracy (Habemas 2001*a*, 2001*b*, 2004).

Yet critical theorists also offer models of transnational deliberative democracy which mirror Habermas' more cautious considerations about deliberative democracy. Although John Dryzek considers himself a left critic of many strands of Habermasian theory,[5] his work reproduces Habermas' own occasional suggestion that the "commanding heights" (e.g. existing centers of decision-making, as well as novel sites as conceived by ambitious models of transnational democracy) of power are unlikely to be rendered effectively subordinated to communicative power. Dryzek offers a flattering account of transnational civil society as a site for spontaneous unconstrained

[4] The influence is reciprocal, since Habermas refers favorably to Held's ideas on occasion. There are, however, normative and programmatic differences between the two approaches.

[5] He worries that Habermasian critical theory has made too many concessions to liberal constitutionalism (Dryzek 2000, 8–20, 115–16). Dryzek is right to emphasize the many ways in which capitalism potentially restrains global institutional decision-making. He is also right to worry that some critical theorists tend to downplay those restraints. However, he seems unduly skeptical of the "reformist" possibility that far-reaching institutional reforms at the global level (for example, a dramatically strengthened UN) might threaten the social and economic status quo and thereby contribute to its radical transformation.

communication, sharply contrasting it with the profound limitations on deliberation found in the formal political institutions of the capitalist state, where the dictates of globalizing capitalism truncate meaningful possibilities for deliberation (Dryzek 2000, 13). This contrast leads Dryzek to favor global civil society as the central and perhaps exclusive site for transnational democratization. In contrast to other theorists of deliberative civil society who have emphasized the necessity of a "dualistic" strategy linking the democratization of civil society to democratic reforms of the formal apparatus of government,[6] Dryzek tends to emphasize the threat of cooptation posed by attempts to directly exercise, rather than merely influence, formal institutions (Dryzek 2000, 107–14). In a similar vein, Jim Bohman asserts that "globalization processes are too large and complex, escaping not only the boundaries of the nation-state, but of *all* state-like institutions and their mode of exercising power" (Bohman 1999*a*, 508; emphasis added). In light of the necessary limitations of *any* state-centered strategy for democracy at the global level, Bohman tends to emphasize the virtues of a democratization strategy that extends the influence of emerging global deliberative public spheres to the existing potpourri of power holders presently operating at the global level. Although much can be said in favor of this approach, the question of the relationship between such influence and the actual exercise of power by the commanding heights of global authority still remains somewhat unclear. Bohman, in some contrast to Dryzek, appears to hold out the possibility of establishing more ambitious modes of firmly institutionalized transnational democracy; some of his observations suggest more far-reaching institutional aims. Yet his skepticism about conventional forms of state authority—including, it seems, conceivable postnational varieties—leaves unresolved the question of how conflicts between competing global publics ultimately might be mediated and given a binding legal form.

In these more cautious accounts of transnational deliberative democracy, understandable skepticism about the prospects of centralized global government, in conjunction with a realistic assessment of the pathologies of the contemporary capitalist state, risks generating a truncated vision of democracy. After all, *influence* is not, per se, equivalent to an effective *exercise* of power

[6] Jean L. Cohen, for example, argues that transnational citizenship "involves the exercise of power and not only of influence," and she suggests a relationship of codependence between a vibrant civil society and effective formal channels of political power at the transnational level (1999, 263). Her recent work, in contrast to that of some critical theory writers who have endorsed her ideas about civil society, has focused on the difficult question of institutional and legal reform (Cohen 2003).

(Maus 2002, 249). To be sure, extending the influence of civil society to existing sources of authority at the global level is an admirable political goal. Yet vassals also "influenced" feudal lords; children and wives influence patriarchal husbands and fathers. By neglecting the question of how the commanding heights of global power could be directly subjected to popular self-legislation, these models risk throwing out the baby with the bathwater. In contrast, the core idea of modern democracy requires the exercise of political power in accordance with rules and laws freely consented to by those affected by them. In this classical view, democracy requires autonomous self-legislation. In the context of deliberative democracy, this traditional democratic idea can be fruitfully reformulated as requiring that there can be "no rule of [deliberative] reasons apart from the self-rule of citizens by justified reasons" (Forst 2001, 374).[7] Models of transnational democracy which reduce the unfulfilled quest for self-rule by deliberative citizens to the popular influence (or, in Habermas' appropriation of systems-theory jargon, counter-steering) of seemingly impermeable global power blocs fail to pay proper fidelity to core democratic aspirations. To put the point more bluntly: deliberative influence does not a democracy make. Only the exercise of the commanding heights of decision-making by deliberative citizens can achieve democracy. At the transnational level, this requires us to think even harder about how both existing and hitherto unrealized forms of transnational authority can be clearly subordinated to the preferences of deliberative self-legislating citizens.

2 Popular Sovereignty, Deliberation, and Transnational Democracy

To what do critical theory analyses of deliberative democracy owe this peculiar oscillation between "radicalism and resignation" (Scheuerman

[7] To be sure, the question of the relationship between the concepts of *deliberation* and *democracy* raises profound philosophical questions. Unfortunately, I cannot address those questions here. But I think it pivotal that we underscore their mutual dependence: democratic self-legislation without (rational) deliberation is normatively unattractive and probably impossible; deliberation without democracy (that is, without the approval of those impacted by resulting binding decisions) may produce more or less interesting and insightful epistemic results, but it cannot legitimately claim to justify binding decisions on those affected by them.

2002*a*)? Might not its ubiquity in Habermasian theory suggest the existence of a deeper conceptual weakness?

A certain conceptual slippage plagues Habermasian accounts of deliberative democracy. The problematic implications of that slippage are especially evident in recent discussions of transnational democracy.

Typically, Habermasians start with a bold account of the normative underpinnings of legitimate decision-making. In this account, only those norms are legitimate when agreed to in a process of deliberation having the following attributes:

> (1) participation in such deliberation is governed by norms of equality and symmetry; all have the same chances to initiate speech acts, to question, to interrogate, and to open debate; (2) all have the same right to question the assigned topics of conversation; and (3) all have the same right to initiate reflexive arguments about the very rules of the discourse procedure and the way in which they are applied (Benhabib 1996, 70).

If applied to the global arena, this normative ideal would probably have revolutionary consequences. It seems to require the reconfiguration of global political and economic power so that *every one* of the planet's billions of inhabitants might possess equal and uncoerced chances to determine, via free-wheeling deliberation resulting in a binding rule, the character of any decision influencing his or her activities. Not surprisingly, writers like Iris Young and David Held rigorously pursue this normative intuition by advocating fundamental alterations to the distribution of economic resources on the global level. But one might legitimately wonder whether even their sensible reform proposals ultimately would suffice given the shocking inequalities plaguing present-day material conditions. Nor is it startling that some Habermasian deliberative democrats consequently embrace ambitious models of cosmopolitan democratic government, where supranational formal institutions would take on many tasks presently exercised by the nation state. Given the transnational character of countless forms of human activity, such institutional aspirations would appear to make eminent sense.

At the same time, immediate problems present themselves to defenders of this approach. It seems fundamentally utopian given present economic and political conditions. Can anyone really imagine the United States peacefully surrendering its dominant military position within the international state system, or for that matter the privileged rich countries acceding to a fundamental global redistribution of economic resources? Thus far, they have aggressively resisted even relatively modest (and relatively inexpensive)

efforts to reduce global starvation. It remains unclear whether those who defend an ambitious application of Habermasian ideas to the global arena have sufficiently answered these practical questions (Zolo 1997). On a more systematic level, applying Habermas' basic normative vision to the global arena also potentially undermines one crucial claim for its intellectual superiority vis-à-vis competing approaches. As noted above, Habermasians suggest that republican and participatory democratic models of decision-making unrealistically exaggerate the necessity of relatively direct forms of small-scale, face-to-face political exchange. But does not their model require an equally dramatic politicization of the (global) citizenry? Deliberative democracy in this account calls for a substantial quantitative increase as well as qualitative improvement to existing forms of political deliberation. Closer to republican and participatory democratic models than probably acknowledged, deliberative democracy demands a vast increase in participation and difficult old-fashioned "political work," since deliberation itself is obviously a form of participation. Revealingly, Benhabib speaks of "participation in deliberation," notwithstanding her attempts to contrast the deliberative model favorably to competing ones (Benhabib 1996, 70; Hauptmann 2001). In fact, deliberation is an especially time-consuming and fragile form of participation, since it requires tremendous patience, a rare willingness to hear others out, and the careful evaluation of often ambiguous assertions and claims. The achievement of meaningful transnational deliberation is likely to be at least as arduous and demanding in terms of the scarce resource of time as many other transnational political endeavors.

Not surprisingly, many Habermasian deliberative democrats hesitate before embracing this radical interpretation of deliberative democracy. Other elements of Habermas' account offer a ready basis for a fall-back position. Unfortunately, those elements pave the way for an unsatisfactory account of transnational democracy.

Typically, the audacious normative model underlying the demand for deliberative democracy is quickly translated into the institutional demand for "a plurality of associations," or "interlocking net of ... multiple forms associations, networks, and organizations" constituting "an anonymous 'public conversation' " (Benhabib 1996, 73–4). Although formal institutions are both necessary for the protection of deliberation and are expected to codify its results via binding general laws, the real site for creative political deliberation remains a decentered civil society characterized by a multiplicity of associations. Benhabib favorably contrasts this pluralistic model of "anonymous"

deliberation to the traditional "fiction of a mass assembly carrying out its deliberations" in the form of one concrete unified body or institution. The concretistic and overly unitarian "fiction of a general deliberative assembly" fails to capture the properly pluralistic character of deliberation (Benhabib 1996, 73). In undertaking this political translation of Habermas' deliberative model, Benhabib is simply following Habermas himself, whose *Between Facts and Norms* (1996) similarly announces the death of historically anachronistic ideas of a sovereign democratic macro-subject, in which society is conceived as a unified "body" or collective subject; Habermas repeatedly scolds traditional democratic thinkers for endorsing overly concretistic interpretations of the normative ideal of popular sovereignty. The original theoretical inspiration for Benhabib's reflections is replete with references to the anonymous and even "subject-less character" of lively deliberative politics (Habermas 1996, 136). Parallel descriptions of an anonymous deliberative civil society are now commonplace in the critical theory literature.

At first glance, this translation seems harmless enough. Popular sovereignty has indeed been interpreted in many unconvincing ways in modern political thought. Who could persuasively claim that a single deliberative legislature can either legitimately or effectively "stand-in" for a pluralistic people and the "plurality of associations" they employ?[8] Habermas and his followers rightly praise the virtues of a vibrant civil society and lively process of deliberation in which ideas and arguments "move" and "flow" in an unpredictable and even anarchic fashion, and they understandably celebrate, in a postmodern spirit, the death of anachronistic ideas of a unitary sovereign macro-subject as the proper carrier of democracy. They are also right to offer a *proceduralist* reading of the idea of popular sovereignty (Habermas 1996, 287–328). Given this starting point, the appeal of such terms as anonymous and subject-less seems obvious. As we all know from the practical discourses in which we unavoidably engage, it often remains unclear who initiated a specific argument or to whom it "belongs." Many times we simply do not care: lively argumentative give-and-take can *seem* anonymous and even subject-less because fruitful deliberation often flows in complex and unexpected ways. We may be more interested in the practical resolution of whatever

[8] To be sure, this argument has something of a straw man quality to it. Defenders of a simple parliamentary model of rule—the obvious target of Benhabib's comments—are few and far between today. In an important critique of Habermas' own formulations of this argument, Ingeborg Maus argues plausibly that this criticism rests on a caricature of the classical theory of popular sovereignty articulated most clearly by the Enlightenment theorists Rousseau and Kant (Maus 1992; 1996, 874–5).

question or task is at hand than assigning credit for good arguments and blame for unproductive contributions. Our contributions to debate can generate unexpected consequences, taking on meanings or significance which we would never have imagined possible beforehand.

This translation of the basic normative model of deliberative democracy provides reason for concern, however. Its overstylized and undialectical contrast between unity and plurality, anachronistic macro-subjects and subject-less deliberation, and "concretistic" vs. "desubstantialized" popular sovereignty helps obscure one of the most basic issues of democratic theory: how can the plurality of deliberative civil society undergo an effective funneling into a (unified) expression of democratically legitimate political power? If civil society is to result in coherent legislation to which deliberative citizens have agreed, if only in a relatively indirect institutional fashion (e.g. by representative bodies), subject-less discourse and debate must ultimately take a unified (that is, generally applicable) binding form. To the extent that political decision-making requires that civil society ultimately speak with "one voice," political unity still must be achieved if "anonymous" and "subject-less" civil society is to speak coherently and decisively.[9] For traditional democratic theory, formal political institutions play a decisive role in generating this necessary moment of unity. Of course, Habermasian deliberative democrats have proposed a number of thoughtful institutional innovations (Benhabib 2002; Young 1990). Yet too little intellectual energy has been devoted to examining the proper role of those institutional mechanisms—most important, perhaps, general law-making and the rule of law—which historically have played a decisive role in making sure that civil society can act effectively and coherently via binding legal norms.[10]

To be sure, achieving even a minimum of such unity at the transnational level poses *enormous* hurdles in light of the unprecedented complexity and profound pluralism we find there. The UN, of course, constitutes an

[9] Of course, speaking with "one voice" may mean agreeing to disagree (as in the case of liberal abortion laws), or even agreeing to the necessity of relative complex and even differentiated forms of legal regulation.

[10] Of course, there are exceptions here: Andrew Arato (2000), Jean Cohen (2003), Habermas himself (1996), Maus (1992), and myself (Scheuerman 1994). Against John Dryzek (2000), I would argue that this theoretical concern has motivated the resurgence of legal theorizing in critical theory, and not a political sellout to "liberal constitutionalism." In my view, Dryzek's criticism rests on an overstylized contrast between liberalism and radical democracy, since the latter will also require individual rights, the rule of law, constitutional mechanisms channeling the exercise of political powers, and independent courts.

important attempt to do so. Yet one might legitimately wonder whether even a strengthened UN might successfully meet the stunning regulatory tasks at hand. How might we subject the "neo-feudal" power blocs (organizations like the World Trade Organization (WTO) and International Monetary Fund (IMF), international arbitration bodies, various forms of "soft" transnational legal regulation, etc.) presently operating on the global scene, in both a normatively satisfactory and institutionally realistic fashion, to democratic self-legislation? What form might general legislation and the rule of law sensibly take at the global level? To be sure, non-state bodies will undoubtedly play a key role as we struggle to offer a real-life institutional answer to these questions. But an insufficiently critical homage to (non-state) "governance" should not lead us to obscure the indispensable functions existing state and new state-like institutions will need to perform in achieving novel forms of self-legislation and the rule of law.

Whereas much of the critical theory work on these issues remains defensive and even anxiety-ridden, tending to emphasize the threats posed to democratic self-legislation and the rule of law by globalization (Maus 2002; Scheuerman 2002*b*; 2004, 144–226), some theorists working in the Habermasian tradition have begun to tackle these issues in more constructive ways. Hauke Brunkhorst, for example, worries that transnational decision-making is subject to weak but not yet strong publics. Civil society exercises moral influence, but only a " 'loose coupling' between discussion and decision" can be found at the global level (Brunkhorst 2002, 679). Arguing that we can separate the normative kernel of constitutionalism from its familiar carrier, the modern state, Brunkhorst shares the understandable skepticism of grandiose proposals for new forms of extended state authority at the global level. Yet because normatively attractive legal and constitutional ideas can still be salvaged from the wreck of the declining nation state, weak global publics might still successfully be transformed into strong (that is, legally enforceable) publics via "egalitarian procedures for the formation and representation of a global *volonte generale*, which would provide 'direct access . . . for all the interests concerned' "(Brunkhorst 2002, 686; 2005). The important point for now is to recognize the potential perils of an interpretation of deliberative civil society that misleadingly generates an unwarranted neglect—and even skepticism—of the necessity of institutional mechanisms that will need to play a crucial role in realizing the legally binding and effectively accountable general results of free-wheeling deliberation. Unfortunately, some strands of Habermasian deliberative democracy probably succumb to those perils. Not

surprisingly, they ultimately engender a defensive account of transnational democracy in which global publics and civil society do little more than influence or counter-steer the commanding heights of global authority. The self-legislation of the deliberative citizen is thereby reduced to one of its presuppositions, a free-wheeling deliberative civil society. Without more effective institutional devices, however, existing global power holders will continue to disregard global civil society if they so desire.

Another potential error flows from the imagery of an "anonymous" and "subject-less" civil society. Of course, a lively deliberative democracy is only anonymous and subject-less in a *metaphorical* sense. If a legitimate deliberative democracy rests on genuinely free and equal opportunities for *everyone* to deliberate about matters impacting them, the resulting deliberative process will in reality rest on the input of *numerous* subjects. Properly speaking, it is neither anonymous nor subject-less. Indeed, its core ideal makes it incumbent on us to ensure that *everyone* might have the opportunity to participate meaningfully in public debate and deliberation and shape decision-making. As noted in the previous section, deliberative democracy is not per se the "rule of deliberative reasons," but instead should be properly understood as the "self-rule of citizens by (deliberative) reasons." The danger here is that the translation of deliberative democracy into anonymous and subject-less discourse risks downplaying indispensable democratic attributes of deliberative democracy; it may also lead those who reproduce this imagery to embrace correspondingly misleading institutional proposals. Deliberative democracy only deserves to be described as democratic if deliberation is undertaken by (concretely situated human) subjects for the sake of achieving self-rule or self-legislation. The peril at hand is that this translation threatens unwittingly to privilege ("anonymous," "subject-less") deliberation over democracy by downplaying the central place of *self-legislating (and deliberating) subjects* to democracy. As the German critical theorist Ingeborg Maus similarly worries, by transforming the principle of popular sovereignty into freely fluctuating, subject-less deliberation, in Habermas' theory "communicatively generated power threatens to become nearly ubiquitous" (Maus 1996, 875). But this move potentially makes it difficult to assure the strict legal accountability of state actors to the sovereign people, which Maus rightly describes as a necessary precondition of democratic self-legislation (Maus 1992). To whom exactly are state agents to be made accountable if the demos is always fluid and subject-less? How are its desires to be effectively funneled and ultimately given binding general legal form if communicative power is both

ubiquitous and fundamentally fluid in character? How might it ever succeed in carefully regulating the exercise of administrative power?

Some of Habermas' recent writings on transnational democracy confirm the basic soundness of this concern. He has recently relied on a distinction between "democratic procedures whose legitimacy rests on the grounds that they are fair and open to all, and democratic procedures defended on the grounds that both deliberations and decisions have sufficiently rational character" (Fine and Smith 2003, 476–7). This distinction arguably parallels the general tendency to overstate the practical differences between participation and deliberation, as well as downplay the centrality of the actual (deliberative) participation of those concrete subjects affected by whatever norm or rule is under scrutiny in favor of the potentially misleading imagery of anonymous and subject-less deliberation. To put the point polemically (and rather crudely): if legitimate deliberation can be anonymous and somehow subject-less, perhaps we need not worry too much when actual deliberative input possesses a relatively limited participatory basis. In Habermas' own words:

> democratic procedure no longer draws its legitimizing force only, *indeed not even predominantly*, from political participation and the expression of political will, but rather from the general accessibility of a deliberative process whose structure grounds an expectation of rationally acceptable results. (Habermas 2001*a*, 110; emphasis added)

Many intergovernmental negotiating and transnational decision-making bodies lack the former. According to Habermas, they possess the latter, however. That is, they lack significant popular participatory input via conventional state forms, yet they nonetheless ground "an expectation of rationally acceptable results" and thus can perform, with some degree of success, what we might describe as useful *epistemic* functions, in the sense of generating "rationally acceptable results" (Habermas 2001*a*, 110; Fine and Smith 2003, 476). They:

> raise the information level and contribute to rational problem solving because they include different parties and often adhere to arguing as a decision making procedure and not voting and bargaining. To various degrees such bodies inject the logic of impartial justification and reason giving into transnational bodies of governance. (Eriksen and Weigard 2004, 251)

For this reason, Habermas concludes, the supposedly "weak" legitimation of some transnational bodies, when understood in light of his model of

deliberative democracy, appears "in another [more positive] light" (Habermas 2001*a*, 111).

As Robert Fine and Will Smith point out, however, this argument downplays the indispensable role of democratic representative bodies and threatens to dissolve any link between deliberative civil society and formal political institutions (Fine and Smith 2003, 477). Discussing the implications of Habermas' ideas for the European Union, they worry that the development of a civil society "*in isolation from* such representative institutions might enhance the feeling of detachment" and alienation already widespread in relations between European citizens and institutions (Fine and Smith 2003, 477). More generally, Habermas' distinction potentially opens the door to a relatively conciliatory reading of actual transnational decision-making bodies, many of which undoubtedly achieve useful "epistemic" functions but hardly rest on broad democratic deliberation. Many deliberative processes in the transnational setting arguably contribute to a measure of "rationally acceptable results." Unfortunately, few of them can claim to provide a sufficient institutionalization for deliberative global citizens who need to make sure that their preferences gain a binding legal form.

3 Conclusion

At the beginning of this chapter I suggested that recent Habermasian attempts to tackle the normative and institutional quagmires of globalization offer a useful test for determining whether the paradigm of deliberative democracy should continue to occupy the energies of critical theorists. How then has deliberative democracy fared on this test? If I am not mistaken, the results look mixed. Although Habermas-inspired deliberative democracy has undoubtedly enriched the ongoing debate about the prospects of transnational governance, it remains both programmatically and conceptually tension-ridden. If it is to prove intellectually fruitful in the future, critical theorists will need to make sure to avoid the worrisome tendency to discount the indispensable democratic core of the idea of deliberative democracy. They will also need to move beyond disappointing defensive models of transnational democratization, while simultaneously showing why deliberative

self-legislation can be meaningfully realized at the transnational level *without* succumbing to utopianism. Even though self-legislation has primarily been realized within the confines of the nation state in modernity, we now need to consider how it can legally be secured at the transnational level, most likely with only limited aid from novel forms of formal supranational state organization. Needless to say, these are difficult challenges. The basic intellectual richness of critical theory, however, suggests that it remains at least as well positioned as its main theoretical competitors to rise to those challenges.

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CHAPTER 5

FEMINIST THEORY AND THE CANON OF POLITICAL THOUGHT

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Feminist approaches to the canon of political theory are characterized by deep ambivalence. On the one hand, canonical authors have mostly dismissed women as political beings in their own right, casting them instead as mere appendages to citizen man. If the citizen is a gendered category based on women's exclusion, then it would appear that the canon is more or less bankrupt for the development of feminist political theory. On the other hand, the same Western canon is in important ways constitutive of our political vocabulary, a valuable resource for political thinking that we can hardly do without. To recognize this reliance, however, is not to declare a truce. Feminism's relationship to the tradition has been and in all likelihood will remain, if not agonistic, deeply critical.

The stance feminists take toward canonical texts that exclude women as political subjects can be categorized, for the initial purpose of a schematic overview, into four critical projects: (1) to expose the absence of women from,

or their denigrated status in, canonical discussions of politics; (2) to integrate women into the very categories of political membership from which they had been originally excluded; (3) to show that women cannot be so integrated because their exclusion is constitutive of those very categories; (4) to draw the consequences of this impossible inclusion and reconstitute the categories of politics anew. According to this fourth project, the appropriate response to women's exclusion is an even more rigorous form of feminist critique that not only deconstructs inherited categories but generates new ways of thinking about politics. The task is one of critical reconstruction, that is, of transforming the core concepts of the political theory canon such that they speak to the significant changes in modern gender relations and the political demands of the feminist movement.

These critical approaches are by no means discrete and only in some very restricted sense chronologically based in the various waves of the feminist movement: elements of each can be found in the others and works written in an earlier historical period may well resonate with fresh insights in a later one. This chapter offers one narrative of developments in feminist political thought, but such narration should be viewed with caution. What comes later is by no means more sophisticated and there are many other ways in which the story of feminist theory could be told (Phillips 1998). How to tell the story is itself a matter of dispute among feminists about what matters for women in political life.

The best way to think about the different approaches described below is not as responses of solitary feminist theorists to a mostly androcentric tradition of canonical authors but as a conversation of feminist critics among themselves. Feminists respond to more than the canonical texts; they respond as well to the interpretations of those texts by other feminist critics. Like the canonical authors that Machiavelli famously called upon to stage an imaginary dialogue while in political exile, feminist critics, too, have created a conversation from a place of outsideness (Zerilli 1991). This feminist conversation seeks to disrupt the terms of the canonical one—premised as it is on women's absence—and to constitute a sense of political community based in part on the practice of forming judgments about the canonical texts.

Thus feminist engagements with the canon can be creatively understood as contributions to the constitution of critical community. Feminists may well disagree with the canonical authors, but they also disagree with each other. They discover the nature and limits of their sense of political community partly through the practice of interpretation and judgment. In this sense, then,

the canon of Western political theory remains a valuable resource for feminism despite its indifference and even hostility to women as political beings.

1 Tracking Women's Absence

Some of the first feminist critiques of the canon concerned themselves with exposing the absence of women from the core texts of the Western tradition. Feminists quickly discovered that what appeared to be the absence of women in many canonical texts was often accompanied by a deep worry about women's supposedly disorderly nature and its influence on men and the public sphere (Elshtain 1981; Okin 1979; Pitkin 1984). The work of excluding women entirely from discussions about politics was largely carried out by authors of the secondary literature (Jones and Jonasdottir 1988) rather than by the canonical writers themselves (Saxonhouse 1985). These writers did not so much ignore women as tried to justify the exclusion of women from public life. Such justification took the form of claiming that women were not fully rational, that they tended to be driven by their passions, especially their bodily desires, and above all their sexuality (Brennan and Pateman 1979; Figes 1970; Clark and Lange 1979; Mahowald 1978; Okin 1979). Although premodern and modern authors had quite different views of female sexuality (Laqueur 1992), they more or less figured it as an excess to be contained, in the interests of political and moral life, primarily through the restriction of the woman to the private realm of the household under the dominion of her father and/or husband. To be a woman was by definition to be excluded from participation in the political domain.

Focusing on the egregiously misogynist elements of the canonical texts, many of the aforementioned feminist critiques declared the canon totally bankrupt for thinking about women as political beings (Clarke and Lange 1979; Figes 1970). Not all feminist critics agreed, of course, but most held that the canon was clueless when it came to rethinking fundamental changes in modern political life, such as the claims made by various waves of the feminist movement to the rights of citizenship. Asking "What is man's potential?" but "what is a woman for?" the canonical authors never considered women as acting and judging members of the public realm (Okin 1979, 10). Especially

wanting was the possibility of any reply on the question of the public–private dichotomy, which feminists of the second wave famously challenged with the slogan: "the personal is political." Canonical thinkers took for granted the naturalized concepts of gender and the sexual division of labor that feminists, in their claims to citizenship, questioned (Eisenstein 1981; Elshtain 1981; O'Brien 1981; Okin 1979; Pateman 1988; Phillips 1991; Pitkin 1984; Scott 1988). The issue, then, was not so much whether, say, Rousseau's eighteenth-century argument for women's domesticity was still valid; rather, it was whether an author like Rousseau still had anything to say on the issues that now mattered to feminists.

2 Correcting for Women's Absence

To ask whether canonical thinkers have something to say to feminists today is a rather different project from the aforementioned attempt to track women's absence in the canonical texts. Although feminists responding to the first critiques were still concerned to criticize the various justifications given for women's exclusion, their engagement with the canon was driven by a broader critical impulse, namely the desire to question certain fundamental assumptions about what is, and what is not, political. Insofar as certain activities were deemed by canonical authors to be non-political, so, too, were those human beings who are primarily associated with them. If issues of sexuality, reproduction, and child-rearing are defined as private rather than public, feminists argued, what hope was there of integrating women into political life?

To question the exclusion of these activities from the domain of politics was, at the same time, to criticize their exclusive association with women as beings whose biological capacities defined their social function (Atkinson 1974; Landes 1988; MacKinnon 1987; O'Brien 1981; Shanley 1989). The idea that anatomy is destiny—which, with certain exceptions (e.g. John Stuart Mill), remained unquestioned by male canonical theorists—was at the center of the second-wave feminist critique. Private activities were redefined as political in the sense that they were no longer ascribed on the basis of membership in a naturalized sex class, but were subject to collective debate and change. The sex/gender distinction employed by many feminists of the

second-wave (Atkinson 1974; de Beauvoir 1952; Firestone 1970; Freeman 1975; Rubin 1975) was crucially important for questioning the biological basis of social activities and for loosening the sense of social necessity or destiny that attached, in the canonical texts, to sexed being.

Traditional assumptions about sexed being can be seen in the idea of a social contract. Famously articulated in the works of Hobbes, Locke, and Rousseau, social contract theory excludes women as beings capable of contracting, that is, of making and keeping promises with political significance. Some thinkers have held that, although the citizen has been historically gendered masculine, it is in principle neutral and universal; thus we can expect, as with rights, the extension of social contract theory to women. The notion that women, too, can be included as signers of a social contract, however it is construed, fails to account for a constitutive if hidden feature: namely, men's property in women. According to Carole Pateman, the other story of the social contract is that of "the sexual contract," which secures the so-called natural basis of political society, namely, the patriarchal family. Once we recognize this, says Pateman (1988), we will understand why the contract is not a universal concept whose logic can be infinitely expanded to include previously excluded groups.

It is incumbent upon feminists to rethink core concepts of "malestream" political theory, then, not by adding women into the mix, but rather by altering the very framework of politics in which the concepts were first developed and the so-called woman question has been posed.

3 Transforming the Framework

Questioning attempts to integrate women into canonical understandings of citizenship, some feminists held that critique itself is not enough, for a genuine transformation of the Western intellectual inheritance requires a radical reconstruction of core political concepts. Critique was expanded to include the more positive project of rethinking what core concepts like authority, rights, equality, and freedom can mean once we recognize the claims of women as political beings and reject the private–public dichotomy that functions as the scaffolding of most canonical political thought. Such a

project is not without its risks. As Nancy Hirschmann and Christine Di Stefano write:

> If an important feminist insight developed through our [feminists'] critique of "malestream" theory has been that women are excluded, and even that their exclusion is a foundation for these very theories, then bringing women back into these visions is at once reactionary—because it tries to fit women into an existing anti-woman framework—and radical—because the fact that women generally won't fit requires a serious alteration in the framework. (Hirschmann and Di Stefano 1996, 5)

What it means to "bring women back in" here is significantly different from attempts to fold women into existing conceptions of the political. Altering the frame involves risking the loss of political orientation, for the meaning of inherited concepts can no longer be taken for granted, certainly not as something to which women could be added. The point is not to declare canonical theory bankrupt, as some feminists had, but to think of gender as a constitutive category of politics, a category that, were we to take account of it, has the potential to alter what we think politics is—especially democratic politics.

Trying to understand the complexity of modern power relations, especially those of sex and gender, some feminists turned to the work of Michel Foucault. In his view, power is not strictly a limitation or prohibition exerted on the political subject from above (which is how the canonical thinkers tended to construe it), but a productive force that constitutes the subject in relation to a wide-ranging matrix of quotidian disciplinary practices (Foucault 1980). Theorists working with Foucault's account of the constitution of modern subjectivity were among the most critical of previous attempts to resurrect canonical political concepts in accordance with the demands of feminism. According to Foucault, "juridical systems of power produce the subjects they subsequently come to represent," observes Judith Butler (1990, 2). The very idea of the subject who freely contracts or claims her rights neglects the constitutive aspects of the political system, especially the formation of subjects as sexed and gendered (de Lauretis 1987). Any feminist appeal to such a system for the liberation of women is doomed to fail, it would seem, for the system itself is productive of, and dependent on, the feminine subject as subjected. "The question of the subject is crucial for politics, and for feminist politics in particular, because juridical subjects are invariably produced through certain exclusionary practices that do not show once the juridical structure of politics has been established," Butler (1990, 2) concludes.

This turn to the subject question in third-wave feminist theory marks a radical departure from attempts to include women in the category of the

subject as a sovereign and rational agent. Deeply critical of the assumptions about the nature of human subjectivity, feminists of the third-wave returned to the classic texts in order to expose the dangerous ideals of masculinity and the gendered character of the various fantasies of sovereignty and rationality found there (Brown 1988; Di Stefano 1991; Pateman 1988; Pitkin 1984; Wingrove 2000; Zerilli 1994). For some feminists, recognition of the problematic assumptions associated with the sovereign subject in political theory texts inspired attempts to reconstruct concepts of political subjectivity that would be less defensively gendered and more attuned to the interdependent nature of human existence (Benhabib 1992; Di Stefano 1991; Hirschmann 1992, 2002).

More generally, third-wave feminist accounts of subject formation raised questions about earlier works of feminist political theory, which had taken for granted the idea that women constitute, by virtue of their sexed identity, a political group. What in the 1990s came to be known as "identity politics" in feminism was premised on the assumption, held by most first- and second-wave feminists alike, that women qua women had shared interests based on shared experience (Cott 1987; Riley 1988). The idea that women qua women constitute a giant "sisterhood" waiting to be mobilized was, in the course of the decade, viewed with increasing skepticism. The very idea that women had shared interests assumed that gender identity was the nodal point in the constitution of political subjectivity. Critics pointed out that race, class, and sexuality (among other identity categories) had also to be considered in feminist accounts of political community (Grant 1993; Haraway 1991; Hartsock 1985; Collins 2000; hooks 1981, 2000; Phelan 2001; Rich 1980; Rubin 1984; Spelman 1988). Whereas these critics emphasized the idea of "intersectionality" in the construction of political identity, other feminists remained deeply skeptical about the very category of identity as the basis for feminist politics (Butler 1990; Brown 1995; Cornell 1995; Flax 1991; Honig 1992; Laclau and Mouffe 1985; Riley 1988; Scott 1992; Zerilli 1994). In their view, the focus on identity tends to take for granted a pre-given feminine subject with a set of identity-based interests (rooted in the experience of being a woman), whose collective pursuit gets cast as the *raison d'être* of feminist politics itself.

The very idea of "women's interests," far from being given in the existence of women as a natural or social group, is the radical creation of feminist politics. Interests are not given in the fact of being a woman, in other words, but must be articulated politically: named and mediated in a public space. Accordingly, one cannot really speak of women as a unified group whose common interests serve as the foundation for feminist political community. Rather "women" as a

political collectivity comes into being through the activity of politics itself. The ability to say "we," as Simone de Beauvoir had already recognized in *The Second Sex*, requires the transformation of women from a natural (sex) or social (gender) group into a political one. There is nothing necessary or automatic about this transition, many feminists argue, for it marks more of a rupture with socially ascribed forms of identity than their mere extension into another domain (Butler 1990, 1992; Brown 1995; Phillips 1995; Young 2000; Zerilli 1994).

In this way, many third-wave feminists questioned the core theoretical concept inherited from the second-wave, namely, the sex–gender distinction. They now viewed this once radical concept as exhibiting a blind spot: the idea of a naturally given female body. In their view, the famous sex–gender distinction threw something of a fig leaf over the female body, all the better to preserve it and the experiences associated with it (reproduction, motherhood, sexual violence, etc.) as the universal basis for a unified feminist politics (Butler 1990, 1992; Nicholson 1995). Putting sex into nature and gender into culture, the core concept of second-wave feminist critique retained the idea of shared experience based on anatomy while questioning socially ascribed gender roles based on those biological differences. What Linda Nicholson called the "coat-rack" theory of gender identity treated the female body as universal, a stable rack onto which the shifting accoutrements of diverse cultures are thrown (Nicholson 1995). Although second-wave feminists refuted the idea that the body must take a certain cultural meaning, few doubted that it could serve as the ground for commonality in the face of tremendous cultural diversity.

Without so much as the idea of the biologically given female body to anchor a sense of community across cultures and multiple points of social identification, some feminists protested, it seemed as if feminism had finally lost any sense of its collective subject; it had relinquished any possibility of speaking in the name of "women." Was this not a disappearing act worthy of the very canonical thinkers that feminists had criticized?

4 Feminism without Women?

The critique of the feminine subject as the basis for feminist politics came, in the course of the 1990s, to generate a sense of political crisis. If feminism no

longer had a "subject" in whose name it could speak, critics argued, how could one speak of a movement called feminism? How can one make claims in no one's name? And what distinguishes feminism from, say, political movements based on issues of class, race, or ecology? Why speak of feminism at all?

The sense of crisis that characterized feminist theory in the 1990s is in large part symptomatic of a fairly radical transformation in the very concept of politics itself. Part of what came under attack in the category of "women" debates was the idea that politics is the activity of pursuing interests on behalf of a subject (be it women, African-Americans, workers, or gays and lesbians). First- and second-wave feminists had challenged the idea that men could represent women's interests and that there was, therefore, no need for their actual presence in elected bodies. This challenge, however, risked reinscribing traditional understandings of gender insofar as it took identity-based experience to be the real basis for political membership (Phillips 1995; Young 2000) and neglected, for the most part, the potentially transformative power of political participation on identity itself. Besides, feminists argued, it is by no means clear that women politicians represent the interests of women—assuming we can talk about such a thing—better than do their male counterparts. At a minimum one has to distinguish between the ability to represent the ideas and ideals of feminism (however these may be defined in different historical moments and by different constituencies) and the notion of women's interests in some generalized sense (Dietz 2002; Riley 1988).

Central to the pursuit of identity-based interests, moreover, is an instrumental conception of politics. But if politics is merely a means to an end (e.g. a means to procure certain social goods), what sense was there to feminism understood as a deeply participatory political practice committed to hearing and exchanging different points of view? Hardly unique to feminism but deeply inflected by feminist concerns with the hidden power relations of the private realm, the idea of politics as a practice of empowerment came to figure as a radical departure from inherited conceptions of the political. In the complex societies of the Western industrial nations it has become increasingly difficult to sustain the focus on citizen empowerment, for citizens all too often lack, if not the expertise, the time required to grasp, and make decisions about, the issues that concern them. This is especially the case with women, whose increased participation in the paid workforce has not released them from the tasks associated with the sexual division of labor (Phillips 1991). Feminism has not escaped the temptation to hand over the difficult work of active citizenship to its own set of experts—but at a price. What some critics

see as the increasing entrenchment of feminism in the bureaucratic machinery of the liberal state raises questions about the ability of feminism to sustain its commitment to empowerment in the face of the empirical realities that seem to call for a more instrumental approach to matters of common concern (Ferguson 1984; McClure 1992; Zerilli 2005).

In the view of some critics, feminism has not been innocent when it comes to entanglement in what Kirstie McClure calls a "scientized politics" (McClure 1992*b*, 344). The idea that the task of feminist political theory is to establish the epistemological basis on which the social relations of sex and gender can be, first, criticized, then properly ordered, implicates feminism in conceptions of politics that tend to cede enormous power to various authorities or experts and to the state. The increasing reliance on the state to achieve feminist objectives, critics argue, tends to increase the impersonal power of bureaucracies and is at odds with the radical politics of empowerment that has been a central objective of the feminist movement in each of its waves (Brown 1995; Ferguson 1984). This reliance undercuts feminism's power to transform the quotidian spaces of social and political life and to constitute alternative forms of community, trapping women instead in an endless quest for reparation whose addressee is the state and the courts (Brown 1995; Bower 1994; Milan 1990; Zerilli 2005).

Sympathetic to these concerns, Iris Marion Young argues that the voluntary associations of civil society have indeed been crucial to feminism as to democracy. "The self-organization of marginalized people into affinity grouping enables people to develop a language in which to voice experiences and perception that cannot be spoken in prevailing terms of political discourse," writes Young (2000, 155). Voluntary associations carve out a space between the economy and the state in which citizens develop important political skills and practice self-governance. As vital as voluntary associations are to political movements like feminism, however, it would be mistaken to assume that they can substitute for the critical functions that the state has performed in regulating the capitalist economy and alleviating social inequality, in Young's view. If a central goal of feminism is social justice, then the state remains a valuable site for feminist action. Young sees that a deep tension exists between "the authoritative power of state institutions ... [and] the creativity of civic activity and the ideas expressed in the public spheres" (Young 2000, 190). Rather than try to eradicate this tension by refusing to engage with the state, she argues, we do better to remain vigilant about the ways in which reliance on state power can discipline citizens and deprive them of the very activities of empowerment that we associate with civil society.

Young's call to develop the associations of civil society and engage critically with state institutions is partly a reaction to the turn to questions of difference and subjectivity that characterized the category of "women" debates of the 1990s. Focused on the problems associated with identity differences and subject formation, many feminist theorists of the third-wave seem to have lost sight of the classic and legitimate political concerns of the canonical authors. The subject question has led feminism away from questions of collective action and citizenship, indeed from any robust understanding of the public sphere altogether. Social change seems restricted to work on the self or micro-practices of self-transformation.

In the view of other critics, the subject question has led feminism away from broader questions about structures of power and economic justice (Fraser 1997; Phillips 1999). The demand for recognition of marginalized identities, they argue, has displaced the questions about economic and social equality that have been central to feminism throughout its history. The critique does not call for a return to older models of social justice that sought the common good but rigorously excluded claims to difference; rather, it challenges us to rethink classic questions of redistribution from within the framework of a politics of difference and a multicultural world.

In the 1980s and 1990s, the concept of difference came to be understood in terms not simply of gender but also of what goes under the sign of multiculturalism. The notion of differences among women, in other words, was inflected with concerns about deep cultural differences among groups, both within and between nation states. In the view of some feminists, especially those who endorsed political liberalism, the uncritical embracement of the idea of differences was often at the expense of women. Asking whether multiculturalism "is bad for women," Susan Okin (writing from within a neo-Rawlsian framework) answered with a resounding "yes." In her view, modern feminism's historical demand for equality ought to trump demands for cultural difference that oppose such equality. Her argument is explicitly directed against "the claim, made in the context of basically liberal democracies, that minority cultures or ways of life are not sufficiently protected by the practice of ensuring the individual rights of their members, and as a consequence [that] these should also be protected through special *group* rights or privileges." Insofar as "most [and especially non-Western, nonliberal] cultures are suffused with practices and ideologies concerning gender" which strongly disadvantage women, says Okin, "group rights are potentially, and in many cases actually, antifeminist" (Okin 1999, 10–11, 12).

Okin's essay raised difficult questions about the task and scope of feminist theory, for it articulated a claim to universal values such as rights that, historically speaking, have been associated with Western democracies. Like Okin, Martha Nussbaum argues that cultural traditions pose some of the greatest obstacles to women's self-development and well-being (Nussbaum 1999, 2000). Defending universalist values in feminism, she tries to give the concept of respect for and dignity of persons a non-metaphysical grounding in various cultures and practices. Critics are quick to point out, however, that Nussbaum's examples are resolutely Western and that the canonical thinkers to whom she turns (Aristotle, Kant, and Mill) foreground rationality as defining of human being. Notwithstanding these critiques, Nussbaum and Okin see something that we do well to consider: Feminists must make judgments about cultures and practices not always their own. The question, then, is, on what basis can such judgments be made?

5 Feminist Theory in a Global Context

The question of how to make political judgments about other cultures and practices that deeply affect women is particularly important for feminist theory today. Globalization and the weakening of nation states have pressed feminists to raise political demands with an eye to their multicultural and transnational significance. The difficulties of theorizing in a global context could be said to center on the old question of universality. Feminists have critically interrogated the idea of universality for its androcentric bias (Gerhard 2001; Okin 1989; Young 1990). The problem of universality, however, is not restricted to the explicit or implicit assumption that Man stands for the universal and woman for the particular, as de Beauvoir showed long ago. The problem is also how to posit values and make political judgments without endorsing ethno- or sociocentrism. This problem is by no means new to feminists, but it takes on special urgency in our current geopolitical context. The very idea of the assimilation of cultural minorities to a certain national political culture, for example, is questionable when nation states themselves are increasingly diminished as sovereign political entities. Likewise, the

influence of multinational corporations and an increasingly unfettered capitalist economy on the lives of women across the world, as Nussbaum argues, have brought home the importance of developing a global feminist movement. What if any should be the principles guiding this movement? And how should feminists form political judgments based on these principles?

In the view of some critics, feminists need norms according to which they can orient themselves, build a collective movement, and make political judgments. As Seyla Benhabib sees it, the "infinitely skeptical and subversive attitude toward normative claims" that, in her view, characterizes the work of "postmodern" thinkers such as Butler, is "debilitating." (Benhabib 1992, 15). In the absence of norms we would lack the ability to justify one course of action over another and thus have no way of acting politically. Likewise, Nussbaum argues for defining "central human functions [or capabilities], closely allied to political liberalism" as it has developed in the West (Nussbaum 2000, 5). And Okin—although (following Rawls) she does not promote a deeply substantive conception of the common good—advocates women's capacity for autonomy and self-development as defining features of any feminism worthy of its name.

To posit a normative basis for feminism, however, does not come without a risk. The risk is not only sociocentrism but also critical quiescence about our own norms. These norms can come to function like rules according to which we judge other cultures and practices but never critically interrogate our own principles of judgment. We posit norms whenever we judge, of course, but the question is how to remain critical in relation to whatever norms we posit. In the work of Okin and Nussbaum, for example, Western cultures and practices are vastly superior to non-Western ones when it comes to the status of women. Although both thinkers see that forms of discrimination persist in the West, these pale when compared to non-Western forms. Recognizing the problem of sociocentrism at issue here, Benhabib claims that philosophy could provide the means for ordering and clarifying the norms of one's own cultures such that they are subject to rational processes of validation. This assumes, however, that philosophy can generate so-called higher-order principles that would somehow transcend the prejudices of culture.

If it is true, as Wittgenstein holds, that our practices are at bottom ungrounded, part of a form of life that we normally do not question, then there can be no place outside those practices from which we could judge and no rational standpoint from which we could generate the higher-order principles that Benhabib advocates. The point here is not to endorse a complacent relativism about the treatment of women in societies and cultures

not our own, but rather to ask how we can develop the critical faculty of judgment. Second- and third-wave debates showed that inherited categories such as "women" can no longer serve in an unproblematic way as universals under which to subsume particulars. The same goes for the inherited categories of political theory, which feminists have shown to be, not bankrupt, but hardly suitable as a set of rules for making sense of modern gender relations and women's political experience. The faculty of judgment, then, must involve more than the ability to apply rules.

The problem of judging without a concept is at the heart of the later work of Hannah Arendt, a political theorist once castigated by feminists for her lack of attention to questions of gender. In recent years, some feminists have returned to Arendt in an attempt to recover her action-centered account of politics and the common world (Bickford 1995; Honig 1995; Dietz 2002; Disch 1994; Zerilli 2005). Such a return is less a rapprochement than an attempt to move away from the questions of subjectivity and epistemology that concerned feminists throughout the 1990s and to recall instead what makes political theory a distinctive intellectual enterprise worth pursuing, not least for feminists. In her work on totalitarianism, Arendt struggled with the collapse of the Western tradition of political thought, that is, inherited categories of understanding and judgment. The question for her, as for feminists, is how to develop the critical faculty of judgment in the absence of these categories without succumbing either to dogmatism (the reaffirmation of unquestioned principles of judgment) or to skepticism (the claim that such principles are always subject to radical doubt and thus no judgment can be made). Moreover, Arendt thought that political community was constituted through the practice of making judgments. In her view, shared judgment, not identity, is the basis for political community.

Arendt's call to develop the faculty of reflective judgment and her critical view of identity as the ground of community make her writings potentially useful for feminists who worry that gender as a category of analysis could reinforce, rather than undermine, the sexually dimorphic organization of social and political life. A danger implicit in many of the feminist critiques described in this chapter, in other words, is that they reconstitute (albeit unwittingly) the very categories of masculinity and femininity they question (Dietz 2002; Wingrove 2000). Arendt is one thinker whose conception of politics as action eschews identity categories such as gender, but there are many other political theorists to whom feminists might (re)turn as they raise questions about their own critical practice, including canonically

marginalized historical thinkers like Mary Wollstonecraft (Gunther-Canada 2001). No longer content to ask "the woman question" in political theory, feminists might seek to ask the political theory question in feminism. They might seek, in other words, to constitute a different frame of reference for thinking politics, a frame characterized neither by the androcentric orientation of the canonical thinkers nor the gynocentric orientation of their feminist critics. Whether this attempt to think politics outside an exclusively gender-centered frame will succeed without reproducing the now familiar blind spots associated with the canon of political thought can only be judged by future generations of feminist critics.

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CHAPTER 6

AFTER THE LINGUISTIC TURN: POST-STRUCTURALIST AND LIBERAL PRAGMATIST POLITICAL THEORY

PAUL PATTON

At first glance, post-structuralist philosophy and liberal political theory appear profoundly different enterprises: one is a primarily critical enterprise while the other is predominantly reconstructive. A common self-understanding of contemporary liberal theory perceives its aim as setting out rational principles that sustain the central institutions of a just and democratic society and cohere with our considered moral intuitions. Providing support for oppressive institutions or policies that conflict with our egalitarian intuitions is an argument against a given theory. Conversely, agreement with our

considered intuitions while structuring them so as to bring out their internal logic constitutes a powerful argument in favor of that theory (Kymlicka 1992, 6). Political theory can help to clarify if not to resolve the tensions that may arise between our intuitions relating to freedom, equality, or other important values such as security. It can even serve the realistically utopian task of further entrenching such values within the limits of what is currently possible. However, a crucial aim remains the justificatory task of providing secure conceptual and moral foundations for the constitutional principles of liberal democracy (Rawls 1993, 101).

By contrast, post-structuralist philosophers[1] see themselves as engaged in a more radical and critical project. Derrida insists that deconstruction seeks to intervene in order to change things or at least to engage with events and transformations already under way (Derrida 1992, 8–9). In *Specters of Marx*, he endorses a form of Marxism that is heir to the spirit of the Enlightenment and that in turn justifies a "radical and interminable" critique of the present (Derrida 1994, 90). Deleuze and Guattari argue that "it is with utopia that philosophy becomes political and takes the criticism of its own time to its highest point" (Deleuze and Guattari 1994, 99). By "utopia" they do not mean some transcendent vision of a better society but those moments or processes immanent in a given society which embody the potential for change. They define philosophy as the creation of concepts in the service of such immanent utopianism: "*We lack resistance to the present.* The creation of concepts in itself calls for a future form, for a new earth and people that do not yet exist" (Deleuze and Guattari 1994, 108).

Success in this kind of political philosophy is not measured by a test such as Rawls's reflective equilibrium or by a contribution to maintaining a well-ordered society but by the capacity of its concepts to engage productively with movements of social change. Its aim is to assist new forms of individual and collective life that, in specific ways, are better than those from which they emerged. In contrast to earlier forms of utopianism, post-structuralists deny any overarching criteria of progress. In the aftermath of the failure of Communist regimes in Eastern Europe, the failure of revolutionary movements to materialize in the West, and the collapse of belief in the philosophy of history which for so long underpinned the hopes of critics of capitalism, the post-structuralist philosophers sought to outline other strategies for resistance to

[1] In this chapter, I focus on Deleuze and Guattari, Derrida, and Foucault, taking these to be in many, although not all, respects representative of the different currents of French post-structuralism.

the present. It is at this point that they differ most sharply, not only from much liberal theory, but also from those forms of critical theory which insist on the need for what Habermas calls "a transcendent moment" to provide a secure basis for such critique of the present (Habermas 1996, 15).

The radicalism of the post-structuralist philosophers leads to the accusation that they focus on the differences that divide individuals and groups at the expense of the shared values and institutions that are necessary if political community is to flourish. For this reason, many commentators find it impossible to envisage any reconciliation between post-structuralist and liberal political philosophy. Richard Rorty, for example, famously condemns the entire tradition that extends from Hegel and Nietzsche to Foucault and Derrida as "largely irrelevant to public life and to political questions" (Rorty 1989, 83). He accepts the significance of this tradition for the private pursuit of self-transformation but thinks that it is has no bearing on the public political culture of contemporary liberal democracies. Others draw attention to the variety of ways in which post-structuralism fails to address the central institutions of liberal democracy. Foucault, Derrida, Deleuze and Guattari, et al. provide no foundations for institutions such as the rule of law or the nature and limits of public reason; they provide no theory of justice, equality, or freedom; they do not even spell out the normative foundations of their own opposition to particular kinds of oppression or their support for particular liberation movements (Habermas 1987, 276; Fraser 1989, 32–3). In France the rediscovery of normative ethics and political philosophy has led critics to charge the entire May 1968 generation with rejection of liberal democracy and refusal to accept the revolutionary social and economic changes for which it was responsible in postwar France (Mengue 2003, 89).

There is substance to these accusations. There are undoubted differences of nuance and tone between Deleuze and Guattari's extreme utopianism, the more moderate utopianism associated with the liberal egalitarianism of Rawls, Kymlicka, and others, and the apparent complacency of some varieties of contemporary liberalism. Rorty's suggestion that "Western social and political thought may have had the last *conceptual* revolution it needs" (Rorty 1989, 63) stands in sharp contrast to Deleuze and Guattari's call for the creation of untimely concepts in Nietzsche's sense of this term: "acting counter to [our] time, and therefore acting on our time and let us hope, for the benefit of a time to come" (Deleuze and Guattari 1994, 112; Nietzsche 1983, 60). However, we should be wary of overstating the real political differences at issue. Against the received opinion of irreducible differences, I will argue that

the different orientations and vocabularies that define post-structuralist and liberal political theory are not completely irreconcilable. While comprehensive convergence is unlikely, they are in some respects complementary rather than opposed approaches to liberal political institutions and governance. Moreover, there are encouraging signs of progress towards consensus, where "progress" must be understood in the sense that we appear to approach an ever receding horizon, and "consensus" in the Rawlsian sense of sufficient overlapping points of agreement to maintain an uneasy equilibrium between disparate world-views.

The outlines of such consensus may be discerned, first, in relation to the egalitarian and democratic presuppositions of post-structuralist critical strategies; and secondly, in relation to the non-metaphysical and historical conception of liberalism that we find in the late Rawls. Rorty appeals to these same features of political liberalism in defense of his own liberal pragmatism. For this reason, although he is skeptical about the value of much post-structuralist criticism, his work provides a convenient focus for the lines of convergence between these apparently divergent approaches.[2]

1 Irony and Contingency

Rorty's ironism with regard to the vocabulary of liberal democratic politics provides a first kind of convergence with post-structuralism. Unlike metaphysicians who believe that there are real essences and an intrinsic nature of things which it is the task of philosophy to discover, ironists are nominalists who believe that nothing has an intrinsic nature or real essence. They are also historicists who believe that all our descriptions of events and states of affairs are couched in the terms of particular vocabularies that are subject to change (Rorty 1989, 73ff). As such, an ironist is aware of the contingency of

[2] I am not suggesting that Rorty provides an adequate defence of his own liberal commitments, only that he offers reason to think that liberalism is not incompatible with the historical and contextual approach of the post-structuralists considered here. For critical assessments of Rorty's liberalism, see among others Jo Burrows (1990), Matthew Festenstein (1997), Festenstein and Thompson (2001), Richard J. Bernstein (2003), and Jean Beth Elshtain (2003).

his or her own "final vocabulary" and also aware that such vocabularies can neither be justified nor refuted by argument but only replaced by other vocabularies.

In these terms, Rorty sees the final vocabulary of liberal political culture as the product of the institutional settlements that ended the wars of religion and the Enlightenment ideals that accompanied the end of aristocratic and monarchical government (Rorty 1998, 167–85). As such, it represents the historically singular and contingent expression of a particular modus vivendi that has evolved in societies of Western European origin. Rawls's political liberalism is ironic in this sense: conscious of the plurality of reasonable conceptions of the good which must cohabit peacefully in a well-ordered society and committed to achieving this through the exercise of practical rather than theoretical reason. The truth or falsity of moral judgments is not at issue, only their acceptability in accordance with accepted practices of public political reason (Rawls 1993, xx, 94).

Foucault, Derrida, and Deleuze are also, each in their own way, ironists in this sense. One of the avowed aims of Foucauldian genealogy is to demonstrate the contingency of the discourses in which our public political debates are conducted, whether they involve the treatment of the insane, the punishment of criminals, or the nature and purpose of government. For this reason, he describes the modern systems of mental illness, punishment, and sexuality as "pure singularities" rather than the incarnation of an essence or the determination of a species (Foucault 1996, 395). The targets of his genealogies are not universal principles of justice or right but particular assemblages of power and knowledge: *dispositifs* of madness, punishment, sexuality, or government. These emerge on the basis of particular, contingent, historical conditions that enable them to operate within a given social context.

Derrida's practice of deconstruction also affirms the necessity of a genealogical study of the history and interpretations of a given concept. His discussion of law and justice in *Force of Law* called for an historical genealogy of different concepts of law, right, and justice, and of the manner in which these are bound up with responsibility and the network of concepts related to this, such as property, intentionality, will, freedom, conscience, consciousness, etc. (Derrida 1992, 20). Similarly, his approach to the concept of democracy in *Politics of Friendship* is genealogical. He asks how the idea of democracy arose in the West, in what terms it has been thought, and in relation to what other concepts it has been defined. Chief among these are the

concepts associated with kinship, and especially the concept of friendship (Aristotle), in terms of which democracy was first defined. In this way, his interest in the concept of friendship is linked to the ambition to deconstruct the "given concept of democracy" in order to open up the possibility of a different way of understanding this peculiar manner of living together with others (Derrida 2002, 178).

2 Non-teleological Progress

A further area in which there is a measure of agreement between post-structuralism and non-metaphysical liberalism concerns the abandonment of Enlightenment inspired philosophies of history in favor of open-ended and piecemeal conceptions of progress in human affairs. Rorty presents a version of liberalism that embodies this kind of non-teleological or negative progress when he defines liberals as those who believe that cruelty to others is the worst thing that we can do and therefore something we should strive to eliminate (Rorty 1989, xv). Since "cruelty" here should be understood in a broad sense to include all forms of causing or allowing others to suffer, and since it is always open to us to be convinced that behavior that was formerly considered natural or justified or inoffensive is bound up with the suffering of others, it follows that there is an historically dynamic element to liberalism understood in this manner. This dynamic is not merely theoretical since it ultimately derives from the practical activity of those who contest, challenge, or otherwise bring to light hitherto unrecognized forms of suffering.

Foucault presents the critical ethos embodied in his practice of genealogical criticism of the present in a similar fashion, in several versions of a comparison with Kant's "What is Enlightenment?" (Foucault 1986, 1996, 1997). He describes the aim of such criticism as the identification of limits to present ways of thinking, acting, and speaking in order to find points of difference or exit from the past: "in what is given to us as universal, necessary, obligatory, what place is occupied by whatever is singular, contingent and the product of arbitrary constraints?" (Foucault 1997, 315). Rather than attempt to provide normative justification for such departures from established ways

of thinking, acting, and speaking, or attempt to connect such departures with purportedly universal tendencies of society or history, he prefers to link the limits described in genealogical terms to specific social transformations under way in the present in which he wrote, such as those in relation to prisons, sexuality, and sexual morality. His characterization of an ethos of enlightenment is therefore progressivist in a non-teleological sense in which the direction of progress can only be negatively defined in terms of freedom from past constraints.

Rorty misrepresents Foucault in attributing to him "the conviction that we are too far gone for reform to work—that a convulsion is needed" (Rorty 1989, 64). His suggestion that Foucault and other post-structuralist thinkers yearn for a kind of autonomy that could never be embodied in social institutions allows him to align them with a failed revolutionary utopianism (Rorty 1989, 65). However, this diagnosis relies on a misleading contrast between those who remain in the grip of a Kantian conception of freedom as an inner realm exempt from natural necessity and those who view freedom only as the recognition of contingency (Rorty 1998, 326). In fact, Foucault, Deleuze, and Derrida share this conception of freedom as the recognition of contingency, along with a commitment to the ever-present possibility of agency within relations of power. This implies the permanent possibility of resistance to forms of domination and exclusion, which they each present, in different ways, in terms of a relation to something like Kant's unconditioned or Transcendental Idea: partially realized in the ongoing process of pushing back the limits of what it is possible to do or to be, but never finally or entirely achieved. It is for this reason that Foucault refers to genealogical criticism of the present as "the undefined work of freedom" (Foucault 1997, 316).

Deleuze expresses a similar view, by reference to Kant's distinction between the revolution in France and the enthusiasm aroused by its ideals throughout Europe, when he distinguishes between the way in which revolutions turn out historically and the "becoming-revolutionary" that is a permanent possibility open to all. Like Foucault, he views this kind of individual and collective self-transformation as our only way of "responding to what is intolerable," where the limits of what is intolerable are themselves historically determined and subject to change (Deleuze 1995, 171). Derrida, as I will show below, appeals directly to concepts of an unconditioned justice, hospitality, forgiveness, friendship, and so on in order to ensure the possibility of progress in the negative sense of a rupture with present, conditioned expressions of those

virtues. In this sense, in response to Habermas's claim that he is an anti-Enlightenment thinker, Derrida affirms his belief in perfectibility and progress (Derrida 2001*a*, 100).

3 Democracy to Come

The fact that the post-structuralist philosophers do not provide explicit theoretical support for the institutions of liberal democracy does not mean that they deplore them or that they renounce the egalitarian values on which they rest. Rather, these values and institutions are presupposed in order to concentrate attention on the conditions under which limits to their application may be overcome. Consider Philippe Mengue's objection that Deleuzian micropolitics is anti-democratic, because it is distinguished from the majoritarian politics of the public sphere and because the privileged outcome is not the determination of the majority will but a "becoming-minoritarian" that implies differentiating oneself from the majority. Mengue argues that this is not properly a theory of politics because it does not seek to theorize or render legitimate the institutions required to constitute a properly political society, such as the necessary space for debate and free political action. While he is undoubtedly correct to point to the absence of any Deleuzian theory of public political reason, this is no reason to suppose a fundamental antipathy towards democratic politics. Deleuze's criticisms of the present social and political order rely on egalitarian principles and his call for resistance to the present state of liberal democratic government is advanced in the name of a becoming-democratic that implies a more extensive application of those principles (Patton 2005*a*, 2005*b*).

Moreover, one of the distinctive features of democratic politics is that even the fundamental convictions expressed in its laws and institutions are open to change: examples might include the extension of basic political rights to include those formerly excluded, or the moral values expressed in the protection of a right to life alongside the denial of a right to die. Among the conditions of such change are subterranean shifts in the attitudes, sensibilities, and beliefs of individuals and populations. It follows that what Deleuze and Guattari call the micropolitical sphere is a no less

important dimension of democratic politics than the macropolitical sphere of public reasons and party politics. Since their theory of assemblages of desire and affect provides a language in which to describe micropolitical movements of this kind, it complements liberal democratic conceptions of decision-making and challenges these to take into account such micropolitical processes. On this basis, William Connolly argues that Deleuzian micropolitics and democratic theory are not merely compatible but that they require one another. In order to remain open to the kinds of changes in fundamental conviction mentioned above, democratic institutions must be supplemented by a pluralist and democratic ethos of engagement, "responsive to both the indispensability of justice and the radical insufficiency of justice to itself" (Connolly 1999, 68).

Derrida's exploration of the politics of friendship also presupposes the value of the democratic tradition even as it addresses a problem within it, namely the manner in which philosophers have defined friendship and democracy in familial, patriarchal, and fraternal terms. From an historical point of view friendship, like democracy, has been an affair among men. Derrida's deconstructive genealogy asks:

> is it possible to think and to implement democracy, that which would keep the old name "democracy", while uprooting from it all those figures of friendship (philosophical and religious) which prescribe fraternity: the family and the androcentric ethnic group? Is it possible, in assuming a certain faithful memory of democratic reason and reason *tout court*—I would even say the Enlightenment of a certain *Aufklärung* (thus leaving open the abyss which is again opening today under these words)—not to found, where it is no longer a matter of *founding*, but to open out to the future, or rather to the "to come", of a certain democracy? (Derrida 1997, 306)

The phrase "to-come" here stands for the future understood in such a way that it is not to be identified with any future present but rather with something that remains in the future, a structural future which will never be actualized in any present even though it remains capable of acting in or upon the present. In other words, it stands for a perpetually open, yet to be determined future, a "to come" understood as "the space opened in order for there to be an event, the to-come, so that the coming be that of the other" (Derrida 2002, 182). This constant orientation towards the other, or towards the open future that is named here by the phrase "to-come," underwrites the pragmatic, political function of deconstructive analysis. Whenever the question of the purpose or the politics of deconstruction is raised, Derrida points to

the undesirability of having a "good conscience" about established ways of acting and thinking. In other words, he points to the desirability of being willing to question and challenge what is currently accepted as self-evident in our ways of thinking and acting.

4 Useful Descriptions

Rorty's pragmatism eschews any orientation towards a true theory of how things are in favor of the creation of concepts that enable more useful descriptions of the world. He abandons talk of truth and falsity in philosophy in favor of talk about the degree to which a new vocabulary is interesting, where "interesting" philosophy is usually "a contest between an entrenched vocabulary which has become a nuisance and a half-formed new vocabulary which vaguely promises great things" (Rorty 1989, 9). He suggests that, since ironists do not believe in the existence of a final vocabulary that philosophy aims to discover, their self-descriptions will be "dominated by metaphors of making rather than finding, of diversification and novelty rather than convergence to the antecedently present" (Rorty 1989, 77). Deleuze and Guattari exemplify this ironic attitude by endorsing Nietzsche's characterization of concepts as things that philosophers must "make and create" (Deleuze and Guattari 1994, 5). They agree with Marx and Rorty that the job of philosophers is not to provide knowledge in the sense of correspondence with how things are but to "help make the future different from the past" (Rorty 1995, 198). For them as for Rorty, success or failure in philosophy is not measured by truth or falsity but by the degree to which it serves this pragmatic aim. The adequacy or inadequacy with which philosophy performs this task is only assessable in terms of whether or not a given concept is interesting or useful for some purpose. Philosophy can offer guidelines for well formed as opposed to flimsy concepts, but it cannot offer criteria for judging the importance of concepts or the events they express. The only criteria by which concepts may be assessed are those of "the new, remarkable and interesting that replace the appearance of truth and are more demanding than it is" (Deleuze and Guattari 1994, 111).

According to Rorty, philosophy helps to make the future different from the past by providing new means of description for social and political events and

states of affairs. Redescription rather than argument is the only appropriate method of criticism of an existing vocabulary and as a result ironists are those who "specialise in redescribing ranges of objects or events in partially neologistic jargon, in the hope of inciting people to adopt and extend that jargon" (Rorty 1989, 78). Deleuze and Guattari agree that philosophy provides new forms of description, thought, and action, although, unlike Rorty, they insist that it does so by inventing new concepts. For them, the elaboration of new vocabularies is inseparable from the creation of concepts. The prodigious exercise of concept creation they undertook in *A Thousand Plateaus* provides a series of vocabularies in terms of which we can describe significant features of the contemporary landscape (Patton 2000). These include the terminology used to describe different kinds of social, linguistic, and affective assemblages (strata, content and expression, territories, lines of flight or deterritorialization); the terms employed in the elaboration of a micropolitics of desire founded on the dynamics of unconscious affect and the different ways in which this interacts with individual and collective subjectivities (body without organs, intensities, molar and molecular segmentarities); an account of capitalism as a non-territorially based *axiomatic* of flows of materials, labor, and information (as opposed to a territorial system of overcoding); a concept of the state as an apparatus of capture which, in the forms of its present actualization, is increasingly subordinated to the requirements of the capitalist axiomatic; a concept of abstract machines of metamorphosis (nomadic war-machines) which are the agents of social and political transformation; and finally a vocabulary in which to describe transformative processes such as a becoming-revolutionary that is not reducible to the reality of past or future revolutions, and "a becoming-democratic that is not the same as any actual constitutional State" (Deleuze and Guattari 1994, 112–13).

Deleuze and Guattari do not provide any explicit statement or defense of normative principles. Instead, they demonstrate such principles through the elaboration of their ontology of assemblages. They describe a natural and social world that accords systematic preference to certain kinds of movement: becoming-minor, lines of flight, deterritorialization, and so on. The concept of deterritorialization expresses the ethico-political sense of this ontology. In the concluding statement of rules governing some of their most important concepts at the end of *A Thousand Plateaus*, deterritorialization is defined as the movement or process by which something escapes or departs from a given territory (Deleuze and Guattari 1987, 508), where a territory can be a system of any kind, conceptual, linguistic, social, or affective. By contrast, reterritorialization refers

to the ways in which deterritorialized elements recombine and enter into new relations in the constitution of a new assemblage or the modification of the old. On their account, systems of any kind always include "vectors of deterritorialization," while deterritorialization is always "inseparable from correlative reterritorializations" (Deleuze and Guattari 1987, 509).

The complexity of their concepts of deterritorialization and reterritorialization emerges when they distinguish an absolute and a relative form of each of these processes. This corresponds to an ontological distinction between a virtual and an actual order of things: absolute deterritorialization takes place in the virtual realm while relative deterritorialization concerns only movements within the actual. It is the virtual order that governs the fate of any given assemblage. The sense in which this ontology amounts to an ethics and a politics of deterritorialization is apparent when they describe absolute deterritorialization as the underlying condition of all forms of relative deterritorialization. It is an immanent source of transformation, a reserve of freedom or movement in reality that is activated whenever relative deterritorialization takes place. At one point, they describe it as "the deeper movement ... identical to the earth itself" (Deleuze and Guattari 1987, 143).

In their redescription of the nature and task of philosophy in *What is Philosophy?* (1994), Deleuze and Guattari transpose this commitment to an open future onto philosophy itself. Philosophy, they argue, is a vector of deterritorialization to the extent that it creates concepts that break with established or self-evident forms of understanding and description. This is how philosophy engages with the present and fulfills its utopian vocation. To think philosophically about the present is to create concepts that give expression to the pure events that animate the everyday events and processes unfolding around us: globalization, democratization, neoliberal governmentalization, deterritorialization, etc. To describe current events in terms of such philosophical concepts is to relate them back to the pure event or problem of which they appear only as one particular determination or solution. In other words, through the invention (capture, deterritorialization, becoming, etc.) and transformation (democracy, justice, hospitality, etc.) of concepts, philosophy helps us to dissociate the pure event expressed in them from the particular determinate forms in which it has been actualized, thereby pointing to the possibility of other determinate actualizations. When Deleuze and Guattari suggest that "the concept is the contour, the configuration, the constellation of an event to come," they mean that the creation of concepts opens up the possibility of transforming

existing forms of thought and practice (Deleuze and Guattari 1994, 32–3). In this manner, like Derridean deconstruction, their ethics of deterritorialization is oriented towards the permanent possibility of something other, towards a perpetually open future or "to-come". The particular concepts they propose such as becoming, capture, and deterritorialization are not meant as substitutes for existing concepts of justice, rights, democracy, or freedom, but they only serve the pragmatic goal of philosophy to the extent that they assist in bringing about another justice, new rights, or novel forms of democracy and freedom.

5 The Unconditioned

Deconstruction, especially in its so-called affirmative phase, does not invent new concepts or provide new means of description. Rather, its aporetic analysis is applied exclusively to existing concepts such as democracy, friendship, the gift, hospitality, and forgiveness in a manner which reproduces multiple versions of a distinction between a contingent or conditioned form of the concept and an absolute or unconditioned form. In each case, this analysis reinvents a distinction between two poles or ways of understanding the concept in question in order to argue that the ever-present possibility of transformation in our existing historically conditioned and contingent ways of understanding the phenomenon in question is guaranteed by the existence of an absolute or unconditioned form of the concept.

Consider Derrida's discussion of the concept of hospitality. On the one hand, hospitality as it is practiced in particular contexts is always conditional. It is always offered to certain determinate others, endowed with a particular social status and subject to certain reciprocal duties in relation to the rights of the host. On the other hand, the conditional practice of hospitality derives its force and its meaning from a concept of absolute or unconditional hospitality which would welcome the other in the absence of any conditions such as knowledge of name, status, or provenance, and without any restrictions with regard to their movements or behavior while in the domain of the host:

absolute hospitality requires that I open up my home and that I give not only to the foreigner (provided with a family name, with the social status of being a foreigner, etc.), but to the absolute, unknown, anonymous other, and that I *give place* to them, that I let them come, that I let them arrive, and take place in the place I offer them, without asking of them either reciprocity (entering into a pact) or even their names. The law of absolute hospitality commands a break with hospitality by right, with law or justice as rights. (Derrida 2000, 25)

Derrida insists on the difference between the conditional and the unconditional form of the concept: absolute hospitality remains irreducible to ordinary, conditional hospitality, "as strangely heterogeneous to it as justice is heterogeneous to the law to which it is yet so close, from which in truth it is indissociable" (Derrida 2000, 26). Moreover, he argues, it is this difference and the fact that the conditioned form of the concept inevitably refers to the unconditioned form that ensures the possibility of criticism of existing social practices. Thus, in his analysis of law and justice, he argues that the law is deconstructible in a way that justice is not, precisely by reference to the unconditioned concept of justice. Elsewhere, he suggests that in the same way that the law can be modified or improved by appealing to justice, so we can "inspire" new forms of forgiveness by reference to the paradoxical idea of the unforgivable (Derrida 2001*c*, 53). In similar fashion, the idea of unconditional hospitality underpins the possibility of improvement or progress in the existing conditional forms of welcome extended to foreigners:

It is a question of knowing how to transform and improve the law, and of knowing if this improvement is possible within an historical space which takes place *between* the Law of an unconditional hospitality, offered *a priori* to every other, to all newcomers, *whoever they may be*, and *the* conditional laws of a right to hospitality. (Derrida 2001*b*, 22)

Derrida's concept of the unconditioned bears a remarkable resemblance to Rorty's cautionary use of the word "'true' (or any other indefinable normative term such as 'good' or 'right')" (Rorty 2000, 12). Rorty defines this cautionary use as "the use we make of the word when we contrast justification with truth and say that a belief may be justified but not true" and suggests that this is all the pragmatist may allow in place of the moment of unconditionality which Habermas thinks necessary in order to ground critique (Rorty 2000, 4). Since Rorty rejects any transcendent concept of truth in favor of historically specific and contingent protocols of justification, he takes this cautionary use of "true" to mark the ever-present possibility that what we

now consider justified may not be so before different audiences in the future. In the same way, for Derrida, the irreducible gap between the conditioned and unconditioned forms of the concept removes any basis for good conscience about present instantiations of our political virtues. The unavoidable reference to the unconditioned form of the concept ensures the question of the conditions under which it finds institutional and political expression remains open.[3]

In turn, the relationship that he discerns between the conditioned and unconditioned poles of a given concept parallels the relationship between the two heterogenous but equally indissociable movements of absolute and relative deterritorialization that we saw above in Deleuze and Guattari's political ontology. Just as their ontology of deterritorializing assemblages represents a world in which processes of transformation or deconstruction are immanent in any present state of affairs, so for Derrida the gap between conditioned and unconditioned, along with the inevitable reference to the unconditioned within the conditioned forms, remind us of both the possibility and the importance of departing from existing forms of thought or practice. In this manner, there is a common critical impulse at the heart of affirmative deconstruction, Deleuze and Guattari's constructivism and Foucault's genealogical work on the limits of the possible. They each share the orientation towards a future defined by its potential difference from the present, but which nevertheless acts in the present to ensure the possibility of criticism and resistance. Their reliance upon democratic and egalitarian principles as the basis for such criticism is reason to include them among the contemporary heirs of the liberal tradition. While their non-teleological historicism aligns them in certain respects with Rorty's pragmatism, their commitment to criticism of present institutions, practices, concepts, and considered convictions differentiates them from all forms of uncritical liberalism.

[3] From the perspective of his own agonistic and practice-based conception of liberal democracy, and with reference to the Rawlsian thesis of the ubiquity of reasonable disagreement, James Tully defends a similar position in suggesting that "the orientation of practical philosophy should not be to reaching final agreements on universal principles or procedures, but to ensuring that constitutional democracies are always open to the democratic freedom of calling into question and presenting reasons for the renegotiation of the prevailing rules of law, principles of justice and practices of deliberation" (Tully 2002, 218).

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CHAPTER 7

THE PLURALIST IMAGINATION

DAVID SCHLOSBERG

Accepting the legitimacy of difference is theoretically problematic.

(Raz 2001: 11)

1 Introduction

William James proclaimed in 1909 that the "prestige of the absolute has rather crumbled in our hands" (1977, 63). A century later, political theory sees moral, ethical, and cultural pluralism as endemic—an undeniable, empirical, political reality. Generations of pluralists have theorized ways to undermine universalism and monism in both political practice and theory; while unsuccessful in a political realm that has seen a revitalized focus on universalism, pluralist theory has imagined numerous paths toward the development of an acceptance of varied values, cultures, and ways of life. Further, in its focus on developing ways to engage authentically across difference, the pluralist imagination has permeated the recent history of political theory. White (2002, 475) sees the field as "constrained to an ever deeper and more extensive engagement with pluralism. And we must become, accordingly, increasingly

involved with exploring the ethos and strategies that should animate and guide this adventure." Likewise, Gunnell argues that the pluralist bias is deeply infused and diffused in political theory; it is, in fact, "home"—the discursive heritage of the field (Gunnell 2004, 249).

Central to this school of thought is both acknowledgment of the empirical and experiential basis of moral and cultural plurality, and the design of political engagement across that difference. This chapter will examine the development of these aspects of pluralist theory, in order to illustrate both the longevity of pluralist thought in the discipline and the resurrection of earlier pluralist themes in recent theory. Monism, however, has not been pluralism's only challenge. The other major discourse of political theory—liberalism—has often overshadowed the pluralist impulse, and much recent pluralist theory has examined the interplay of the two schools of thought. Central to both of these discussions is the problematic nature of acknowledging difference, and the imaginative ways pluralists have proposed to engage that dilemma.

2 Generations of Pluralists

Pluralism in political science began both as a case for value pluralism and incommensurability and as a way to implement that knowledge in innovative political designs. Centrally, theorists focused on an awareness, consideration, and institutionalization of difference and group life below the level of the state. The pluralist universe has always been based on one key empirical and philosophical claim: the acceptance of the legitimacy of difference in perspectives. Here, the original influence was the pluralist and anti-absolutist philosophy of William James.

James saw the methodology of "radical empiricism" as the basis of pluralist philosophy. Here, "all we are required to admit as the constitution of reality is what we ourselves find empirically realized in every minimum of finite life" (James 1977 [1909], 145). James argued that as both what is experienced and the consciousness of that experience varies for people, a pluralist universe is empirically and objectively grounded. His pluralist approach was not just a validation of the empirical reality of difference, but an insistence on

understanding that difference will never come together into a single coherent unity, as the philosophical absolutists desired. According to James, the pluralist view "is willing to believe that there may ultimately never be an all-form at all, that the substance of reality may never get totally collected, that some of it may remain outside of the largest combination of it ever made, and that a disruptive form of reality, the *each-form* is logically as acceptable and empirically as probable as the all-form commonly acquiesced in as so obviously the self-evident thing" (James 1976 [1912], 14–15). Incommensurability—of values, visions, and reality itself—was central to James' explication of pluralism; he simply wanted philosophy to recognize and embrace the real world of difference and disunity.

Early political pluralists such as Arthur Bentley (1908), Ernest Barker (1957 [1915]), Harold Laski (1917, 1921), and Mary Parker Follett (1918) were united against absolutist unity on both philosophical and political grounds. While often basing their philosophical justification for pluralist concerns on James, their target was the overriding concern of political theorists with the singular sovereignty and unity of the state. "What the Absolute is to metaphysics, that is the state to political theory" (Laski 1917, 6). While Laski insisted that political theory come to grips with the "plurality of reals" and accept that "the parts are as real and as self-sufficient as the whole" (1917, 9), Follett (1918, 291) insisted that "[l]ife is a recognition of multitudinous multiplicity. Politics must be shaped for that." A focus on unity, in particular the unified state, they argued, came only at the expense of the diversity of individual and group experiences. These early pluralists argued for this plurality of experiences, manifest in groups in civil society, as the center of political life—and they used that diversity of group experiences to break the monopoly of the state in political theorizing.

The acknowledgment of plurality, difference, and incommensurability in values and experiences led directly to pluralist attempts to redesign political institutions that recognized difference in civil society and avoided unified singularity at the level of the state. As Hirst (1989, 3) has written, pluralism was about a "critique of state structure and of the basis of the authority of the state." It challenged the idea of unlimited sovereignty and the unitary centralized state, and argued that it was unrealistic and intolerable to have no layer of autonomy, authority, and sovereignty between individual citizens and the singular state.[1] While this early generation of pluralists may have been

[1] Hirst attributes this position only to the English pluralists, but he unfairly compares the early English pluralists with the later, postwar Americans. There were, however, American pluralists, such as Follett, making similar claims at the time.

motivated by the same recognition of plurality, both philosophically and in civil society, there was never agreement on state design. Cole was a supporter of guild socialism, Laski of a federal structure with plural authority, and Figgis argued for the state as an association of associations, charged with the task of helping citizens establish and maintain such groups (Hirst 1989, 25–7). Follett's design for a new state was closest to Laski's federalism, though she was constantly trying to balance James' plurality with a Hegelian (rather than a monist or uniform) unity. Ultimately, neither this first generation of pluralists nor those that follow make for a coherent academic school—by definition, their discourse and institutional suggestions are open-ended, variable, and unending. Such is the nature of radical empiricism wed to an imaginative rethinking of political forms.

Pluralist concerns were never given a welcome reception by the discipline of political science; given the attacks on the statist focus of political theory, there were harsh critiques of pluralism and pluralist authors in the *American Political Science Review* in the 1920s (Coker 1921; Elliot 1924; Ellis 1920). Not surprisingly, the focus of political theorizing moved back toward the state and a growing concern with liberalism in the 1930s and 1940s (covered admirably by Gunnell 2004). Still, the pluralist discourse reappeared in the post-Second World War period, although in a way that ignored the writings and frameworks of the earlier generation. While articulated as an argument against a unitary explanation of power politics, for example in Dahl's (1961) direct response to the elite power theory of Mills (1956), there was little in it resembling the earlier generation's concerns. The underpinning of radical empiricism and value incommensurability were ignored, replaced with an elevation of liberal institutions as universally applicable to solving the problem of group (more particularly, interest) difference.

Dahl's (1961, 1967) version of pluralism argued that power was divided into multiple centers, with different actors having more power in different sectors. The ideal, which just so happened to be what these pluralists empirically found, was a system of balanced power, shared among overlapping groups. Truman's classic work (1960) embodied the institutional focus of the post-war pluralists, focusing on the pressure of interest groups (almost entirely based on economic identity and interest) in the political realm. Individual freedoms were to be defended and protected by such pressure groups, and the stability of the system would be enforced by the incrementalism bred by "mutual adjustment" (Lindblom 1965). This was a purely political and institutional pluralism, uninformed by the philosophical or empirical grounding in difference that was the foundation of earlier pluralists. This

form of pluralism failed as both an explanation of the political reality of difference and as a framework for politically embodying and enfranchising real and growing differences in the postwar landscape.

It did not take long before this school of pluralism was attacked for these limitations, as well as its explicit, uncritical support of the American political system. Kariel (1961) argued that while pluralism posed as a positive science, it was based on an unconscious adoption of "the functional system," and simply stopped being analytical (Kariel 1961, 139, 145). Kariel noted how the particular power of the corporation was ignored in this group approach; Shattschneider was much more direct with his famous line, that the "flaw in the pluralist heaven is that the heavenly chorus sings with a strong upper-class accent" (Shattschneider 1960, 35). Connolly, who would later become a major figure in rethinking the pluralist imagination, challenged a "biased pluralism in which some concerns, aspirations, and interests are privileged while others are placed at a serious disadvantage" (Connolly 1969, 16). While a generation of pluralist authors tried to explain the American system as one of shared power among groups, its critics saw one where some groups were privileged due to their economic status, while groups based on other identities were at a distinct disadvantage (Wolfe 1969, 41). This criticism of the pluralist school continued for over two decades (see Manly 1983).

Connolly (1969: 26) argued that pluralists needed to extend the conventional limits of politics and contestation if pluralism was to approach its own ideal. But the focus of the postwar pluralists was the defense of the discourse of liberalism against that of a unitary elitism; this overrode the original set of pluralist philosophies, critiques, and its imaginative rethinking of the state. In essence, pluralism lost its focus on plurality and instead celebrated a singular institutional form. With criticisms plentiful and growing, pluralism took on a shameful and haunted connotation in political thought, signifying the lack of political critique and imagination in the discipline of political science and the field of political theory specifically.

In the meantime, British political theory had its own second generation of pluralism, mostly in the expansive thought of Isaiah Berlin. Berlin eschewed the institutional focus of the postwar American school, and focused on the epistemological foundation of pluralism. While he never acknowledged a specific debt to earlier pluralist thinkers on either continent, the tenets of value pluralism and incommensurability were central to his examination of the relationship between liberalism and pluralism. While Berlin is most well-known for his work on liberty, he premises the need for such a focus with an

acknowledgment against the monist view. "[S]ince some values may conflict intrinsically, the very notion that a pattern must in principle be discoverable in which they are all rendered harmonious is founded on a false a priori view of what the world is like" (Berlin 1969, li). Universalism, he argued, reduces every value to the lowest common denominator, and "drained both lives and ideals of the specific content which alone gave them point" (Berlin 1990, 245). The belief that there is a final, single unity "rests on the conviction that all the positive values in which men have believed must, in the end, be compatible, and perhaps even entail one another . . . [but] not all good things are compatible, still less all the ideals of mankind" (Berlin 1969, 167). A singular, harmonious, unitary, and unified state was neither possible nor desirable within a context of liberty.

Again, while not explicitly acknowledged by Berlin, his work followed the work of earlier pluralists in two additional ways. First, he argued that recognition of the validity of multiple points of view and the incommensurability of values is not relativistic. "Relativism is not the only alternative to universalism . . . nor does incommensurability entail relativism. There are many worlds, some of which overlap" (Berlin 1990, 85). Berlin defined pluralism as "the conception that there are many different ends that men may seek and still be fully rational, fully men, capable of understanding each other and sympathizing and deriving light from each other" (Berlin 1990, 11). Second, Berlin also recognized the importance of groups and social context in the development of our values; the understanding we get from one's own group gives us "the sense of being someone in the world" (Berlin 1969, 157). Unfortunately, Berlin's concern with these elements of plurality was a minority view in the postwar era dominated by the Americans' institutional focus.

3 Resurrecting the Pluralist Imagination: Difference and Engagement

By the 1980s, a number of authors began to both resurrect important aspects of pluralism's first generation and imagine new paths for pluralist theory. The epistemological foundation of pluralism, born in James' radical empiricism

although ignored by seemingly everyone but Berlin in the postwar years, came back to the forefront of pluralist thought in order to justify and validate different ways of seeing and knowing the world. Key to this, as McClure (1992) argues, was the revitalization of feminist epistemology and the radical pluralist potential in the multiple subjectivities suggested by Haraway and other feminist theorists. Critiquing the singular identity required by the modern state, McClure's focus is specifically on the relationship between pluralist understandings of identity and the important political possibilities inherent in the recognition and validation of multiple subjectivities. Here, she is one of the very few to use the recent focus on philosophical pluralism while explicitly echoing and expanding upon the earlier generation.[2]

Others resurrect the core of pluralism's first generation without such explicit recognition. Haraway's (1988) descriptions of situated knowledge and embodied objectivity were based on a metaphor of vision—that depending on one's experience, context, or view from one's body we can see and understand the same object in multiple ways. In this sense, as with James, only partial perspectives can be considered objective. Similarly, Deleuze and Guattari (1983) inspired postmodern pluralists with their argument to return to a focus on multiplicity. Empirically, they argued, we live in an age of partiality, where we are defined by the many and varied states, situations, and groups through which we pass. These arguments, in particular their focus on the way identity is constructed, resurrected James' radical empiricism in the postmodern context, and reawakened the pluralist political response to the reality of difference. Politically, although again without reference to past pluralists, Mouffe explicitly claims a pluralist intent—starting political analysis with the recognition of difference, and refusing "the objective of unanimity and homogeneity which is ... based on acts of exclusion" (Mouffe 1996, 246). These theorists illustrate that at the end of the twentieth century, plurality again became the basis of a radical and critical political theorizing, focusing on the meaning of identity, citizenship, and relations across difference rather than on the unitary state or a singular identity of the citizen.[3]

[2] McClure (1992) is to be credited with the idea of three "generations" of pluralist theory; she tops a short list of theorists (including Eisenberg 1995; Gunnell 1993, 2004; Schlosberg 1998, 1999; and Seigfried 1996) who refer back to the first generation in examining current challenges of difference, identity, and citizenship.

[3] This resurgence of theory based on one form or another of James' radical empiricism was not always expressly "pluralist." Given the negative connotation of the term, many political theorists returning to issues of plurality instead began to focus on a discourse of difference. As Honig suggested, "difference is just another word for what used to be called pluralism" (1996, 251). Theorists such

Pluralism, from its origins, has always gone beyond a recognition of plurality, to a central concern with how such difference is to be communicated and engaged. Values and identities can be comparable, even if incommensurable; incommensurability does not mean that values cannot be shared, or at least understood, across differences. Bohman (2001, 89–90) argues that the engagement of pluralist perspectives is the central issue for contemporary critical social theory. As pluralism indicates that no one perspective may lay claim to epistemic, moral, or rational authority, the task for theory is to examine what each perspective provides, how to adjudicate among them, and how to reconcile conflicting perspectives in democratic practice. The job for the pluralist critic is "to relate various perspectives to each other in acts of criticism within reflective practices that articulate and adjudicate such conflicts" (Bohman 2001, 90). Importantly, conflicts are not to be resolved by the critic, "but practically in ongoing and reflective practices." Simply put, pluralism demands engagement.

Both Berlin and Raz note the importance of what we learn from others across difference. Berlin calls on us to try to understand "the standards of others . . . to grasp what we are told" by them. Their difference does not preclude us from "sharing common assumptions, sufficient for some communication with them, for some degree of understanding and being understood" (Berlin 1969, 103). Galston (2002, 90–1) argues that, ideally, pluralist participants see others not as ignorant, short-sighted, or blinded by passion, but rather as fellow citizens who happen to see things differently, and whose positions might be right, add to the larger picture, or at least have some value. Tully (1995, 25) notes that the "ability to change perspectives—to see and understand aspectivally—is acquired through participation in the intercultural dialogue itself." This focus on active pluralist engagement and intersubjectivity is especially necessary as cultures mix and individuals find themselves in more than one cultural world simultaneously—Muslim youth in Western schools, Anglo university students learning about indigenous cosmologies, urban dwellers coming to know and interact with new immigrants (and vice versa).

as Fred Dallmayr, Carol Gould, Will Kymlicka, Anne Phillips, and Iris Young, for example, revisited pluralist questions—and imagined new responses—within discourses of difference, multiculturalism, and constitutionalism. Others, such as William Connolly, John Gray, and Chantal Mouffe, have attempted an explicit resurrection of the term along with the key concerns of pluralization.

Central to pluralist engagement is the attitude that conflict across difference is to be welcomed, and certainly not avoided. The key claim of those supporting agonistic encounters is that moral conflict and engagement across differences is a valuable and indispensable part of social and political life. Such conflict is good for the body politic, and both groups and individuals within it. Honig (1993) points out that too much political theory has been about avoiding conflict and eliminating dissonance, resistance, struggle—the displacement of politics. While she looks to Nietzsche and Arendt as examples of those who do not displace rivalrous encounters, both first generation and more recent pluralist theorists embrace such agonistic engagement.

James embraced the need to see alternatives and imagine other states of mind (1978, 4). Follett called for an inclusive, integrative resolution of differences, brought about "by the reciprocal adaptings of the reactions of individuals, and this reciprocal adapting is based on both agreement and difference" (1918, 35). She was concerned that addressing conflict not lead to the dismissal of diversity. "What people often mean by getting rid of conflict is getting rid of diversity, and it is of the utmost importance that these should not be considered the same" (Follett 1924, 300). Key to both James and Follett was a process open to difference and yet focused on making connections across that difference.

A number of contemporary pluralist theorists pick up on this process, and the need for an ethic of agonistic respect across difference. For Tully, intercultural dialog is the central task of pluralist politics, and in order for negotiation to occur across difference, an ethic of mutual respect and recognition will "enhance a critical attitude to one's own culture and a tolerant and critical attitude towards others" (Tully 1995, 207). Taylor (1995, 34) notes that identity is never worked out in isolation; "but that I negotiate it through dialogue, partly overt, partly internal, with others.... My own identity crucially depends on my dialogical relations with others." Connolly, however, is the key theorist who espouses such an ethos within a critical pluralist frame. The response to a pluralizing society that is continually and agonistically overlapping, interacting, and negotiating needs to be an ethos of what Connolly calls critical responsiveness, the "indispensable lubricant of political pluralization" (1995, xvi). Such an "ethical connection... flowing across fugitive experiences of *intrasubjective* and *intersubjective* difference opens up relational possibilities of agonistic respect, studied indifference, critical responsiveness, and selective collaboration between interdependent,

contending identities" (Connolly 1995, xvii). Connolly's ethos is crucial to a viable process of engagement across difference.

There are, however, pluralist critics of such imaginative dreams of agonism. Connolly claims that an agonistic model of pluralist and democratic engagement could foster greater inclusion of diverse citizens and more mutual respect; Honig also thinks agonism can disrupt hegemonic political ideas and spaces. Deveaux (1999) thinks not, and argues that the claim that agonism "could more readily foster the inclusion of citizens' moral, cultural, and ethical differences is simply unfounded" (1999, 3). Agonism, on the contrary, could lead to the entrenchment of existing identities and "make it more difficult for diverse cultural communities to see that they do share at least some social and moral views, norms and interests in common with others" (1999, 15). Likewise, Raz (1986, 401) notes that "pluralism has an inherent tendency to generate intolerance, a tendency which ought to be guarded against." It is not just agonism that comes out of pluralism, but the very real danger of intolerance.

The political fact is that such intolerant agonism is already entrenched, especially in American politics, without the lubricants of critical responsiveness, recognition, and respect for the positions of others. Such agonism, unattached to any formal or informal institutions of engagement, is certainly laced with the vile and disrespect Deveaux fears, rather than the optimistic vision of Connolly. Deveaux (1999, 16) argues that "proponents of agonistic democracy typically fail to acknowledge the key role played by *institutions* in *making* citizens *agree*, or in finding solutions to common problems." While there seems to be agreement among agonists on the value of engagement and conflict itself, Deveaux argues that some liberals, and certainly those focused on forms of deliberative democracy, are better in terms of giving that agonism somewhere to play out. We should, she argues, focus on developing specific political practices which will facilitate the expression and engagement of citizens' disagreements.

The issue here is the move from the theoretical argument regarding the fact and ethos of pluralism to the much more practical and political issue of how to bring that existing plurality into political and institutional engagement. In other words, contemporary pluralist theory is faced with not only theorizing difference, but also bridging the divide between epistemological and institutional forms of pluralism. This is the point where contemporary pluralism meets institutional democratic design, in particular deliberative democracy, for pragmatically addressing the real practice

of agonistic engagement. Here, inclusive forms of deliberation are indispensable in the development of a politics that offers respect and recognition to diverse citizens. Mouffe (1999) is the only pluralist theorist who explicitly challenges the link between pluralism and deliberative democracy, but she mistakenly insists that all deliberation aims at erasing antagonism and creating perfect, permanent harmony. On the contrary, most pluralist models of deliberation transform political discourse from antagonism between enemies to a more civil agonism between adversaries—just what Mouffe desires.

While this is not the place to go into any detail regarding institutionalization of democratic forms of discourse amenable to pluralist engagement, there are some important aspects that others in deliberative or discursive democracy might not address. First, institutions of engagement could not exist solely at the state level; the focus must be at both macro and micro levels, or both the state political realm and the cultural subpolitical realm. Deveaux (2000) thoroughly addresses this interface of pluralism and deliberative democracy, and she notes that macro-level democracy alone cannot secure adequate respect and recognition for cultural minorities; this requires more democracy down to the micro-level of society. Second, any agonistic institutions must pay attention to the interplay of identities, both individual and in groups. Pluralists encourage a move away from thinking of diversity in terms of individual beliefs; difference is both socially constructed and collective. Recognizing the role of groups as a font of the values that form the basis of agonism moves engagement away from that solely between citizens and the state. Finally, pluralists eschew the idea that any result of an agonistic engagement is ever permanent. Institutionally, this means an ever-adaptive management—policies are developed and implemented, but constantly revised with input from feedback, additional knowledge, and ongoing discourse. Pluralism—the engagement, the agonism, the understanding, and the resolution—is always in the making. James (1976 [1912], xxii) argued that "knowledge of sensible realities thus comes to life inside the tissue of experience. It is *made*; and made by relations that unroll themselves in time." From James to Connolly, pluralists have cited the influence of Bergson's notion of creative evolution and the continuously creative nature of our engagements; the process is one of becoming, rather than finishing. It gives us a permanent and always contingent politics, affirming the importance of ongoing engagement.

4 The Liberalism/Pluralism Debate

While much of the pluralist imagination has been focused on radical empiricism, engagement, and the development of plural and agonistic institutions and processes, a good portion has been engaged with the question of whether or not pluralism is compatible with the other central theoretical discourse of political theory—liberalism. Pluralists differ on the point, with some arguing compatibility, others vehemently denying the link, and still others proposing imaginative redesigns to build compatibility.

At the heart of the argument that liberalism and pluralism are compatible is the claim that value pluralism—multiple and incommensurable conceptions of the good—is the starting point of liberalism. As Crowder (1999, 9) notes, there are really two steps in laying out this compatibility: "first, the claim that pluralism gives us a reason to value diversity; second, the claim that diversity is best accommodated by liberalism." For liberal pluralists or pluralist liberals, liberal principles serve the empirical reality of value pluralism. Ideally, a liberal pluralist society "will organize itself around the principle of maximum feasible accommodation of diverse legitimate ways of life" (Galston 2002, 119).

Raz (1986) argues that valuing the liberal staple of autonomy commits one to a weak value pluralism. The connection is simple: if a life does not have diverse choices, than that life is not autonomous, as "autonomy presupposes a variety of conflicting considerations" (1986, 398). The liberal value of autonomy, then, can only be realized in a pluralistic society, and so valuing autonomy leads to the endorsement of moral pluralism. Likewise, Galston's main concern is with the way that monist or unitary states deny liberty. Moral pluralism, he argues, "supports the importance of expressive liberty in a way monist theories do not" (Galston 2002, 37–8). Berlin is perhaps the premier theorist of this argument. For Berlin, freedom is the central liberal value. As Gray (1996, 142) argues in his comprehensive examination of Berlin's thought, Berlin privileges "choice-making as the embodiment of human self-creation. We make ourselves what we are ... through our choices." Pluralism is the best context for this choice-making because it recognizes both incommensurability and rivalry across values (Berlin 1969, 171). "It may be," Berlin argues, "that the ideal of freedom to choose ends without claiming eternal validity for them, and the pluralism of values connected with this, is only the late fruit of our declining capitalist civilization" (1969, 172).

For Berlin, this freedom and recognition for self-definition in a plural society is not solely for individuals, but for groups as well. As with individuals, what oppressed classes or nationalities want "is simply recognition (of their class or nation, color, or race) as an independent source of human activity, as an entity with a will of its own, intending to act in accordance with it ... and not to be ruled, educated, guided, with however light a hand, as being not quite fully human, and therefore not quite fully free" (Berlin 1969, 156). This focus on group autonomy has been taken up by multicultural pluralists looking for a liberal justification for group difference and self-rule. Both Galston (2002, 124) and Tully note the relationship between demands for recognition and demands for forms of group autonomy. Tully (1995, 6) argues that multicultural demands for recognition "share a traditional political *motif*: the injustice of an alien form of rule and the aspiration to self rule in accord with one's own customs and ways." Similarly, for Raz, multiculturalism "emphasizes the role of cultures as a precondition for, and a factor which give shape and content to, individual freedom" (Raz 1994, 163). Such struggles are struggles for liberty, autonomy, and self-rule—certainly enduring characteristics of liberalism.[4]

Berlin would have agreed. As Gray (1996, 62) points out, while freedom is the central liberal value for both individuals and groups in Berlin's theory, the claims of freedom can never be absolute; it is reasonable, within a pluralist framework, to trade off liberty for other values, or to trade off some types of liberty for others. This is what makes Berlin's form of the liberal–plural interface so unique and imaginative. The acknowledgment of, and the real space for, the incommensurability and the diversity of various goods draws a strong contrast to other liberal theories (such as in Rawls and his followers) based in universal theories of justice or fundamental rights (Gray 1996, 145). The point of Berlin's pluralism is that we need to make choices in liberal systems *without* the kind of overarching, singular, universal rules at the heart of most liberal theory. He is unwilling to lay out a theory with such a universal right to liberty, given the pluralist context liberalism finds itself within. Berlin, then, expands both the pluralist and liberal imagination in arguing for a politics with room for the underlying support for difference in each. He embodies the argument for a tense compatibility between liberalism and pluralism.

[4] See both Galeotti and Spinner-Halev in this volume for more on these themes.

But not all pluralists agree with this happy marriage, and Gray is perhaps the harshest critic. As much as he admires the attempts of Berlin and Raz to bridge liberalism and pluralism, Gray (1996, 142, 146) argues the connection does not hold, and he criticizes both Berlin and Raz for believing that a value pluralism based in incommensurability can live compatibly with liberalism. "The central flaw in this common reasoning is in the assumption that principles of liberty or justice can be insulated from the force of value-incommensurability" (1996, 147). In practice in liberal societies, liberty trumps diversity, and if you are a value pluralist, there can be no justification for that norm (1996, 152).

Gray is an unrelenting pluralist critic of modern liberalism, and his complaints go further than this difference with Berlin and Raz; they generally fall within two categories: the individualist nature of contemporary liberalism and the attempt to universalize its applicability. On the first, Gray follows communitarian critics in noting the lack of the social in liberal understandings, but his focus is on lack of attention to the meaning of specific group memberships. In essence, Gray's critique is that liberalism in contemporary practice is too individualist to fit in the group-centered world of pluralism; American liberalism in particular trivializes value pluralism as "alternative lifestyles."

Here Gray resurrects one of the long-standing pluralist critiques of liberalism—the lack of a middle ground between individuals and the state, which is in essence a lack of recognition of the difference and autonomy of group life. Mouffe (1992, 231) also explains the pluralist challenge in exactly these terms: "Our only choice is not one between an aggregate of individuals without common public concern and a pre-modern community organized around a single substantive idea of the common good. Envisaging the modern democratic political community outside of this dichotomy is the crucial challenge." Key to pluralism through its generations is the understanding that our identity comes through cultural groups and our social interactions within and among them. While some pluralists believe that liberalism offers recognition and autonomy to groups, the more thorough pluralist critique is that liberalism is simply not accommodating to that group focus. Deveaux (2000), for example, disparages Raz's and Berlin's attempts to bridge the liberal/pluralist divide by explaining group life as the context for personal autonomy. The approach is both too individualist in its focus—groups as the context for personal autonomy—and is in conflict with groups that simply may not value individual autonomy as much as liberals. Illiberal groups, especially, make pluralist/liberal compatibility tenuous, at best.

Gray's second major worry regarding the relationship between liberalism and pluralism concerns the singularity of liberalism itself. His key critique of both Berlin's and Raz's attempts to reconcile liberalism and pluralism is that the liberal way of life has no special or universal claim in a pluralist universe. "[I]f value pluralism is true, the range of forms of genuine human flourishing is considerably larger than can be accommodated within liberal forms of life. As a matter of logic alone, it is safe to say that value pluralism cannot mandate liberalism, where that is taken to be a theory or set of principles claiming universal authority" (Gray 1995, 133). Gray (1995, 126) argues that we need to reject the idea that liberalism can be the singular response to a plural world, the single regime ideally best for all humankind, applicable to all cultures; he insists that there may be other, non-liberal ways of adopting plurality that exist in other cultures and ways of life. We should look for those first, in context, in arguing for pluralistic systems outside of the historically liberal societies of the USA and Europe.[5]

For other pluralists, liberalism is pluralistically redeemable with more attention to the differences and particularities of social and cultural groups. These theorists examine the potential of expanding liberalism in pluralist directions, or of resolving the various critiques or limitations of liberalism with a thorough dose of pluralistic understanding. The point is not to reject liberalism or limit plurality, but to focus on particular potential-laden aspects of liberalism—respect, consent, democratic participation—that can serve a pluralistic society. Deveaux (2000), for example, argues that liberalism can be expanded to encompass a broadly defined, group-based, cultural pluralism with three broad conceptual shifts. First, liberalism's understanding of diversity would be reconceived, from an individualist to a social and collective conception (Deveaux 2000, 32). Second, although clearly related, liberalism must move from accepting solely moral or value pluralism to an understanding of cultural pluralism. Individual moral and value differences simply do not cover all of the crucial features of social and cultural diversity in contemporary states. Third, Deveaux argues for a more thorough recognition of

[5] Gray criticizes the liberal universalist dream of overthrowing regimes and replacing them with a Western liberalism, when in fact more could be done to preserve plurality by exploring historical, traditional, and/or cultural processes that would more seamlessly be implemented from within. But there are two weaknesses in Gray's anti-liberal argument. First, he does not discuss societies that are not only illiberal, but anti-pluralist; plenty of non-liberal systems are far from the pluralist ideal. Second, Gray's focus on whole societies offers no specific help for dealing with the growing cultural pluralism in already-defined liberal societies.

the value of diversity. Too often in liberal societies difference is seen as a problem or hindrance. Pluralism, on the contrary, understands the self-respect and dignity diversity brings to group members and recognizes the enrichment it brings to larger cultures. Deveaux criticizes pluralistic liberals like Raz and Kymlicka for only recognizing the *liberal* value of religious, ethnic, and cultural identities, as opposed to their greater *pluralistic* value (2000, 110).

Multicultural pluralists attempt to broaden liberalism's understanding and recognition of group difference, but there is one key lesson from the first generation of pluralists lost—an increased role for group sovereignty. In the attempt to reconcile liberalism and pluralism, the focus is often solely on the institutional tasks and responsibilities of the state. While groups are discussed as a central place where individuals get meaning, and so should be protected as such, they are not, as they were for earlier pluralists, a place where we should have not just autonomy, but sovereignty as well. Such a step is necessary if we take individual liberty and autonomy seriously as liberals, and respect group life as pluralists. There is a danger that such a step which would make pluralism illiberal—multicultural pluralists are concerned that offering limited sovereignty to groups might create illiberal pockets in plural societies. But no pluralist argues that we replace the liberal state with group sovereignty writ large; states *are* necessary, at the very least, for the protection of individual rights and autonomy and the protection of group contexts, if not for the promotion of their specific values. Still, a cultural pluralism based in an expanded liberalism *and* a resurrection of respect for groups requires a *shared* sovereignty between groups and the state.

Some pluralists more directly address the importance of this interface. Many go as far as Galston (2002) in insisting that a pluralized liberalism calls for the maximum feasible accommodation of groups, even where there are internal practices many disagree with. Tully (1995), perhaps, goes further, insisting that the politics of cultural recognition is about liberty in the most enduring sense of the term—the demand for some level of self-rule. Pluralism in a liberal context, then, means at minimum the political liberty and autonomy for groups to practice diverse moral beliefs, and the limited sovereignty to make that liberty meaningful. In essence, it means an integration of pluralism's epistemological grounding and ontological valuing of difference with the variety of institutions necessary to express that difference in the social and political realms.

5 Conclusion

The most important outcome of this encounter between pluralism and liberalism has been a general move to the acceptance of numerous underlying pluralist assumptions. The reality and value of difference and diversity, and their group origins, have been widely accepted in the theoretical realm. The argument is not, as it was earlier, between monism and unitary political theory on the one hand and pluralist theory on the other; rather, the focus is on how to accommodate pluralist reality in contemporary societies. This has brought a need for flexibility to liberal politics, and while it makes liberals interested in universal rules uncomfortable, that flexibility has been a central tenet of pluralism from the first generation to the present. While some may not be happy with the resulting uncertainties, conflicts, and endlessly unfinished business, such uncertainty is the stuff of everyday, pragmatic pluralist politics. Dilemmas of difference, group autonomy, inclusion, engagement, and agonistic relations remain just that: dilemmas.

Is this progress? James may have been prescient when he noted the crumbling of the absolute—in the realm of theory. He imagined the pluralist universe with which political theory is now fully engaged. For Tully (1995, 186), pluralist progress is about "learning to recognize, converse with and be mutually accommodating to the culturally diverse neighbors in the city we inhabit here and now." The argument here is that pluralist theory has indeed imagined such progress. The larger problem, of course, is that the political realm itself suffers from a much larger failure of imagination.

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PART III

THE LEGACY OF THE PAST

CHAPTER 8

THEORY IN HISTORY: PROBLEMS OF CONTEXT AND NARRATIVE

J. G. A. POCOCK

1 The Problems of Terminology

To construct a study of the relations between "political theory" and "history"—as conceptualized phenomena or as disciplines we practice—it is necessary to study these terms and, if possible, to reduce them to manageable forms. The term "political theory" is imprecise; it has been used in a diversity of ways, and the contributors to this *Handbook* are probably not agreed on any single usage. From the standpoint from which this chapter is written, it is observable that "political theory" is often used as if it were interchangeable with "political thought," a term equally inexact. In the first half of the twentieth century, there were written a number of "histories of political thought," or of "political

theory," of which the subject-matter and the method were practically indistinguishable. By "political thought" (and therefore "theory") were meant a number of intellectual disciplines—or alternatively, modes of rhetoric—which had from time to time been applied to a subject or subjects which it was agreed formed that of "politics." The "history" of these modes of discourse was agreed to form the "history of political thought" or "theory." They contained much that amounted to a "theoretical" treatment of an abstract concept of "politics," and each of them—at least in principle—had generated a second-order discourse which critically examined its conduct, and so amounted to "theory" in a further sense of that term.

These "histories" of political thought/theory were canonically constructed; that is, they arranged modes of discourse—and above all, the major texts that had acquired classical status and authority in each—in an order which it had come to be agreed formed the "history" being presented. Classically—and, it should be emphasized, for historical reasons, many of which were good—they began with the invention in fourth-century Athens of what was termed "political philosophy," so that "political philosophy" became a term of equal status (and imprecision) with "political thought" and "theory." A historical grand narrative emerged, in which "the history of political thought," "theory," or "philosophy" moved from Platonic or Aristotelian beginnings through a medieval period in which "philosophy" encountered Christian theology, into one in which this encounter was liquidated and replaced by modes of thought, theory, and philosophy it was agreed to term "modern."

It was a further characteristic of these "histories" that they were not written by historians so much as by "political theorists" and "philosophers" who held that the study of this "history" was in some way conducive to the enterprise or enquiry in which they were themselves engaged. To study "the history of political theory" was helpful to the practice of "political theory." This assumption came, at and after the middle of the twentieth century, to be attacked in two ways. There arose ways of conducting both the empirical and the normative study of politics which claimed to have no need of historical knowledge—still described in its canonical form—because they possessed means of validating, criticizing, verifying or falsifying, the statements that they made, which depended upon the method that they practiced and not upon historical circumstance or character. This may be considered one of the moments at which the term "political science" made its appearance. Concurrently—and in some ways in response to this development—historians appeared who proposed (often aggressively) to reduce "the history of political thought" to a rigorously

autonomous mode of historical enquiry. The writing of texts, the slower formation of belief systems or "philosophies," were to be reduced to historical performances or "speech acts," the actions of historical actors in circumstances and with intentions that could be ascertained. They were not part of a "theory of politics;" or if they were, the processes by which they had come to be so, and the very existence of "political theories" themselves, were historical processes in the performance of acts and the formation of languages, to be studied as such.

Important claims can be made about the increase and intensification of historical knowledge which this revolution in method brings about. The theorist or philosopher is faced with the question of whether "political theory" is or is not to be reduced to the knowledge of its own history. A typical response has been to treat this question as itself a problem in theory or philosophy, and it can be observed that more has been written about Quentin Skinner—a leader in the historical revolution—as political theorist or philosopher than as historian. The author of this article, however, treats Skinner's work, and his own, as the construction of historical narratives, in which things happen (in this case the utterance of theoretical statements about politics), the conditions or "contexts" in which they happen exist and change, and processes occur in the history of these performances that can be narrated. In what follows, it will be presupposed that a "historian," interested in the question "what was it that was happening?", and a "political theorist," engaged in an enquiry possessing its own ways of self-validation, confront each other over the reading of a given text. I will bias my own enquiry by pointing out that the text will be a historical artifact, but that the theorist desires to make use of it for purposes other than establishing it as a historical phenomenon.

2 History and Theory: The Encounter

The activity of the mind called "political theory" will have been defined—probably, and properly, in more ways than one—by the contributors to this volume. For purposes of abbreviation, I will suppose that they have defined it as the construction of heuristic and normative statements, or systems of such statements, about an area of human experience and activity called "politics" or "the political." I will also suppose that the activity called "political theory" is a

discipline possessing its own rules: that is to say, the statements it aims to construct acknowledge certain procedures according to which they are constructed and may be validated and criticized. There will instantly arise, however, a further activity of questioning how such procedures have been and are being constructed, to what capacities of the mind they make appeal, whether their claims to validity are or have been justifiable, and in short whether, and how, it is possible to construct a discipline called "political theory" at all. This activity of the second order may be called "political philosophy"—although this term has borne other meanings—and distinguished from "political theory" as carried on at levels confident enough of its procedures to dispense, at least provisionally, with the questioning of them at the levels called "philosophy." Having made this distinction, of course, we observe that the two activities continually intersect, although the distinction does not disappear.

It is valuable to imagine the "political theorist"—given that this term may have more than one meaning—confronted by a "historian of political thought," who regards "political theory," in any of its meanings, as one of many ways in which "thought," or rather "discourse," about "politics" has been going on. Even if we suppose our agonists to agree on a definition of the activity to be called "political theory," and to agree that this activity has had a continuous history of some duration, there will remain many senses in which they do not and perhaps should not have much to say to one another. The "theorist" is interested in the making of statements (hypotheses?) obedient to certain modes of validation; the "philosopher" in the question of how (and whether) it is possible to construct these (or any) modes of validation (or evaluation). The historian is not interested primarily, although perhaps secondarily, in any of these questions, but in the question "what happened?" (or was happening)—more broadly still, "what was it that was happening?"—when events or processes occurred in the past under study. One aims to characterize, to evaluate, to explicate (rather than explain), and therefore in the last analysis to narrate, actions performed in the recorded past; and if they were performed according to, or even in search of, certain modes of validation, one is interested in their performance rather than their validity, and in the validations to which they appealed as the context that renders them the happenings they were. The questions "is this statement valid?" and "what has happened when it is made?" are not identical, unless—and this is the issue—the theorist who asks the former can oblige the historian who asks the latter to admit that nothing has been going on except the practice of a certain mode of validation; and this the questions asked by the "philosopher" have already rendered somewhat uncertain.

The historian, then, may be thought of as scrutinizing the actions and activity of political theory, and asking questions about what it has been and done, answers to which will necessarily take the form of narratives of actions performed and their consequences. The historian's activity is clearly not identical with that of the political theorist. Before we go on to set these two activities in confrontation and interaction, it is desirable to ask whether "histories of political theory" have been or may be constructed, and what character they may possess. Here the focus of our enquiry shifts. A "history of political theory" would clearly move beyond the scrutiny of particular acts in the construction of such theory, and would suppose "political theory" to be and have been an ongoing activity, about which generalizations may be made and which can be said to have undergone changes in its general character over the course of time; changes which could be recounted in the form of a narrated history. There are, however, few such histories; few, that is, which are or may be called histories of political "theory" in any sense in which that term may be distinguished from, or isolated within, the "history of political thought" as the academic genre it has become. Histories of this kind are themselves indeterminate, in the sense that options exist and have been exercised as to what kinds of literature may or should be included in them, and it is a consequence that the terms "political thought" and "political theory" have often been used interchangeably, or with no precise attention to differences between them. The political theorist whose attention turns to history, therefore, is often confronted with historical narratives whose content bears little relation to the activity of "political theory" as it may have been defined. It is not unreasonable if such a theorist asks why such histories deserve attention.

3 Histories and their Purpose

In the last forty or fifty years, canonical histories of this kind have fallen into disfavor (although there have recently been some signs of a revival[1]). The best-known alternative in English, associated with the work of Quentin

[1] For example, Coleman (2000); she might not accept the adjective "canonical."

Skinner and others,[2] has taken the form of a close scrutiny of the history—a key word has been "context"—in which texts and patterns of political discourse may be situated and said to have happened. It will be seen that the distance, mentioned earlier, between the questions asked by the theorist or philosopher, and by the historian, has grown wider. Historians of this school look upon the political literature of any period as composed of acts of speech or writing, articulations performed by authors in the language or diversity of languages available to them. These languages have histories; they can be seen in formation and in change; the performances of authors act in and upon them; and this is the sense in which they can be termed the primary "context" in which texts and debates happen in history. There are of course further contexts, the political, religious, social, and historical situations in which authors and their publics were situated; and what these were is to be discovered as much from the implications of their languages as from the researches of historians. What actors thought was happening is of equal importance with what historians think was happening; history is the study of subjective behavior.

In this multiplicity of "contexts"—both linguistic and situational—historians pursue the interactions between an author's intentions, the language available for him or her to use, and the responses of those who read, or were informed concerning, the text and its author; the tensions between what an author "meant" to say and what a text "meant" to others, are often complex and productive of ambivalences. It may be the case that an author wrote in more than one "context" and was read in contexts other than those he intended. To give examples: *Leviathan* was written in both English and Latin, and one may differentiate between Hobbes's intention and reception in a circle of philosophers in Paris, the court of the exiled Stuarts, the pamphlet-reading public in London, and the Dutch and German universities. The works of Machiavelli were written in manuscript for discussion groups in the politics of Florence, and it was by others after his death that they were released on the print networks of Europe, where they were read and responded to by other groups and publics, in ways it is not immediately certain he intended. The happenings of communication and performance are of primary concern to the historian, but not to the political theorist. The former is interested in what an author "meant" and in what a text "meant" to actors in history; the latter in what it "means" to a theorist, in the context of the enquiry she or he is conducting.

[2] Skinner (2002, i); Tully and Skinner (1988); Palonen (2003); Pocock (1962, 1985, 1987).

Works on the history of political thought, written in the above manner, tend to be microhistories rather than macrohistories, studies of particular performances, actions, and compositions, focused on the immediate context of the action rather than its long-term consequences. If confined—as there is no reason why they should not be—to a particular text or group of texts, and to the state of the language culture at the time these were written, they will be synchronous rather than diachronous in their emphasis; and it has been asked whether the contextualist approach is capable of supplying a history of contexts. This, however, can be done in several ways. The text and its author can be shown innovating in and acting upon the language in which the text is written, obliging the language to say new things and modify or reverse its implications. The text can be studied as it is read and responded to by others, becoming what it means to them as distinct from what its author intended. Lastly, texts sometimes outlive both their authors and the contexts in which they are written, traveling both in space and in time to act and be acted upon in contexts of language and circumstance sharply unlike those in which they received their original meaning. There will now be the possibility of historical narrative, recounting both how the text underwent changes in use and meaning, perhaps and perhaps not continuing to convey its author's intentions in situations he cannot have foreseen, and how the language context underwent change for reasons not reducible to the intended performances of identifiable speech actors. It may even be possible—although it seems that it must be questionable—to supply unified "histories of political thought," in which one pattern of consensus and challenge is progressively replaced by another, although recent *Cambridge Histories* have tended to present several such histories going on concurrently in contexts distinguishable from one another.[3] If anything like the former canonical histories is restored, it will probably be the work of political theorists desirous of a usable past, rather than of historians not interested in supplying them with one.

4 The Encounter Resumed

To suppose a direct encounter between a political theorist and a historian, each engaged in studying the same text, we must make two assumptions. In

[3] Burns (1988); Burns with Goldie (1991); Goldie and Wokler (2006).

the first place, we should suppose the theorist to be carrying out a programme of theoretical enquiry, possessing its own discipline and means of validating the statements it advances; this will enable us to juxtapose the theorist's propositions with those put forward by the historian, and enquire into any meeting or collision that may appear between them. In the second place—and here it is hard to avoid placing an additional burden on the theorist—we must suppose that the two actors are studying the same text, which has not been written by the theorist but by some other agent at some point in history. It is hard, although in principle not impossible, to imagine the historian studying a text written by a contemporary theorist as if it were a historical phenomenon. Historians are typically concerned with the past; they let time go by, during which evidence may assemble and perspectives emerge and alter. But once we suppose the theorist to be engaged with a text written by another hand, and itself a historical document, we must ask why this is happening, and what role a text written by another and—the historian instantly adds—in another context plays in the self-discipline and self-validating enterprise we have supposed the theorist to be conducting. The answer to our questions may emerge in literary and almost serendipitous terms. The theorist has, for whatever reason, read the historic text and finds its language to serve the purpose of some enterprise in political theory being conducted in the present; the language of the text is therefore presented as a proposition to be evaluated in the terms and by the criteria of the present enterprise. The historian now appears, asking questions and making statements concerning the intentions of the text's author and the meaning (a two-faced term) of his words in the context or contexts he and they occupied in history. In what ways, if any, will the propositions advanced by theorist and historian affirm or deny one another?

The theorist may assert that the author in the past was engaged in a programme of political theorizing identical with, or very closely resembling, that being conducted by the theorist in the present; so that the author's language may be quoted, cited, or paraphrased as language employed in the theorist's enterprise. The historian will scrutinize this assertion. We will suppose her or him capable of understanding a programme of political theory conducted in the present, as well as of reconstructing the languages in which programs of a similar kind have been conducted in past historical contexts. Such a historian will therefore be capable of pronouncing the theorist's assertion valid or invalid. If the former, the past author's language can be employed in the present theorist's enterprise without doing violence to

the former (with which the historian, as historian, is primarily concerned); that is without doing violence to the past author's intentions or the meanings of the words used in the text. It is not in principle impossible that this will be the outcome of the historian's enquiry.

But the historian's business is with then, not now; with what the author was doing,[4] with what was happening and happened when the text was written, published, read, and answered. The former's concern is with contexts, rather than programs; with the multiplicity of contexts in which the text may have had meaning and may have been intended; with the diversity of languages (or conceptual vocabularies) in which it will have been read and may even have been written (since authors are not incapable of recognizing multivalence and taking part in it). The theorist's reading of the text will therefore have been an act of selection, a decision to read the text as engaged in a particular program, even if the author proves to have made the same decision. The historian is interested in the multiplicity of the things that have happened and the contexts in which they happened, and will probably respond, even in the extreme case where it can be shown that an author wrote in only one language and was engaged in only one enterprise, by enquiring if that is the only way in which others read and have read that author's works. When texts outlive the historical situation in which they were first written and read, intended and understood, the likelihood of a diversity of effect becomes greater.

The theorist is performing an act of selection on grounds which are not those on which the historian acts. We have so far supposed a situation in which this selection raises no problems for the historian and is even acceptable as a historical statement about the text's or the author's "meaning," but it is methodologically interesting to move away from this supposition. Suppose instead that what the theorist is doing is less quotation than translation; a removal of the author's words from the meanings and implications they bore in a past historical context to those they may bear in a present context—one, that is, defined by the enterprise the theorist is engaged in rather than by any other language situation. The last stipulation implies that the enterprise is purely theoretical and is not being carried on into practice, since practice takes place in a world of multiple contexts and history. Given this condition, however, the theorist may still be asked why the historically distant text has been chosen as the subject of this act of translation. The answer may be that it

[4] Skinner (1978, i, xiii).

has happened accidentally; the theorist happens to have read this text, and it happens that its language lends itself to this theoretical purpose. The circumstance that the author had similar intentions, or alternatively that his or her language can be so interpreted, is itself accidental; we are in a situation where history is accidental, or incidental, to theory. These hypothetical circumstances, however, entail different historical statements; the former is about the author acting in her or his moment in history, the latter about the action and moment of the theorist. The latter claims to be acting now, making a statement whose validity does not depend upon the historical context in which it is performed. It may be called positivist in the sense that it offers its own conditions of validation and appeals only to them.

This is of course wholly justifiable; it is valuable to set up laboratories and construct hypotheses subject to validation under rigorously controlled conditions. A common consequence of falsification, however, is the discovery that something was present which the experiment did not foresee or succeed in excluding, and here our theorist's enterprise may be the better for knowing its own history; what exactly are the conditions it specifies, and why does it specify these and not others? This question becomes all the more pressing as we enter the realms of practice and history, where the conditions under which, and the contexts in which, we operate can never be defined with finality. Here we pass beyond the simple dialogue between theorist and historian, beyond the problem of congruence between a text's meaning in the present and those it has borne in pasts. The historian has begun to resemble a post-Burkean moderate conservative, reminding us that there is always more going on than we can comprehend at any one moment and convert into either theory or practice. One has become something of a political theorist in one's own right, advancing, and inviting others to explore, the proposition that political action and political society are always to be understood in a context of historical narrative. There is room therefore for consideration of historiography as itself a branch of political thought and theory, literature and discourse.

The theorist, however, may be imagined using historical information, making historical assumptions either explicit or implicit, or reflecting upon historical processes as these appear relevant to the enterprise in political theory being conducted.[5] The question now arises whether these operations are entailed by the method of framing and validating statements in which the

[5] Schochet (1994).

theorist is engaged, or whether they are incidental or accidental to it. If the former, the theorist is claiming to make historical statements validated in either the same ways as those the historian practices, or in other ways which must be defined and defended. If the latter—and this the historian finds easier to imagine—the distinction between "political theory" and "political thought" has begun to disappear: that is, the former has begun to coexist with other modes of political discourse, and we are re-entering the historical world in which discourses interact, modifying, changing, confusing, and distorting one another. There are historians who study and narrate what goes on in this world; it is possible that there may be a "political theory" which addresses the same phenomena.

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CHAPTER 9

THE POLITICAL THEORY OF CLASSICAL GREECE

JILL FRANK

The classical Greek world differed greatly from our own. Athens may have been the birthplace of Western democracy, but it was hospitable to practices that democracy as we know it resolutely disavows, including the institution of slavery and the systematic subordination and exclusion of women from citizenship. Moreover, the classical Greeks expressed their views about democracy, and about politics more generally, in poetry, narrative, speeches, tragedies, comedies, and dialogues. The canon of modern and contemporary Western political thought, by contrast, is primarily made up of discourses, treatises, essays, and letters. Despite these and other significant differences and also because of them, contemporary political theorists remain as committed as ever to studying the classical world. This is in no small part because, in the words of Bernard Williams, "our ethical ideas have more in common with those of the Greeks than is usually believed" (Williams 1993, 11). This is

* For their contributions to this chapter, my thanks go to Ryan Balot, Gerald Mara, Patchen Markell, Allen Miller, and the editors of *The Oxford Handbook of Political Theory.*

true not only of our ethical ideas but also of our political ideas, and not just of our ethical and political ideas but also of our ways of thinking about those ideas, and of relating thought to practice. In short, the classical authors, in all their many genres, are fertile resources for contemporary scholars because they inaugurated a reflective approach to the study of politics that is no less reflective for being about the world of action, power, and institutions, and no less political for being reflective.

Politics counts among its constituent parts individuals, families, complex and plural social groups, classes, and cultures, the practices and institutions that regulate the relations among these parts, and also the constitutions that guide them. Studying politics thus involves studying all sorts of matters having to do with human beings, both individually and collectively, including, but not limited to, history, economics, sociology, psychology, philosophy, education, anthropology, and ethics. Treating as equally political matters relating to public and private, community and individual, institutions and ethics, Aristotle, to name only the most explicit example, calls politics the most authoritative, *kuriōtatēs*, or architectonic, *arkhitechtonikēs*, art (*Nicomachean Ethics* I.1–2). The disciplinary boundaries that today often restrict the study of politics to political science departments would have made no sense to the classical authors.

In the past two decades this reflective and pre- (or, for us, multi-) disciplinary approach to the study of politics has been adopted by a host of scholars of the classical world. The practitioners of this approach find their academic homes in and out of political science departments, in North America, the United Kingdom, and Europe. Some produce studies of single thinkers.[1] Others examine multiple thinkers across time.[2] Still others are guided by a particular topic, such as punishment (Allen 2000), greed (Balot 2001), memory (Loraux 2002; Wolpert 2002), gender (Saxonhouse 1985; Thompson 2001), or law (Schwartzberg 2004). Some see significant discontinuities among the classical authors, locating in Plato's Socrates, for example, the development of a set of concepts (Williams 1993) or the onset of a theoretical attitude (Cartledge 2000; Thompson 1996) or a mode of audience

[1] See, e.g., Bodéüs (1993), Connor (1984), Crane (1998), Frank (2005), Kraut (2002), Lane (2001), Lear, J. (1988), Lear, G. (2004), Mara (1997), Mayhew (1997), Monoson (2000), Nichols (1992), Orwin (1994), Price (2001), Raaflaub (2000), Rood (1998), Salkever (1990*b*), Sherman (1989), Smith T. (2001), Tessitore (1996), Thompson (1996), Wallach (2001), and Yack (1993).

[2] See, e.g., Deneen (2000*a*), Euben (1990, 1997), Farrar (1988), Goldhill (2000), Gray (2000), Nussbaum (1986), Ober (1998), Saxonhouse (1992, 1996), Schofield (1999), and Rocco (1997).

engagement (Salkever 1986) absent from the poets and historians, while others seek and find continuities not necessarily of form or conclusion but of theme from Homer to Plato and Aristotle. These scholars bring different sets of questions to the materials they examine and they often offer competing interpretations of the texts they engage. Despite all of these important differences, they have a sufficiently large set of substantive and methodological commitments in common that it is possible to speak of them as sharing a political theoretical approach. Focusing on scholarship available in English and published in the past twenty years, this chapter provides an overview of the commitments these scholars share and then shows them at work in some recent scholarship on Aristotle.[3]

1 Four Commitments

I. The first commitment shared by the practitioners of this reflective and multidisciplinary approach to the study of politics in the classical world is to treat the authors they study not as "systematic philosophers" who provide their readers with "conclusive truths established by rigorous arguments" (Mara 2000, 841) but as educators. These practitioners, accordingly, seek in the materials they engage not impregnable foundations for a particular political regime or ultimate justifications for some set of institutions or transcendent doctrines of morality, but rather ways of reflecting about and expanding the horizons of stubborn and complex ethical and political questions. Moreover, for these political theorists, as for the classical authors they study, theory and practice are not opposed. Instead, theory directly engages and reflects the changing world of human thought, character, actions, and institutions in which the political questions themselves arise. Theorizing, so understood, as in the original sense of the word, from the Greek *theoria*, is a practice of seeing and an active engagement with the local and observable world of contingency and particularity.

[3] There are, to be sure, instances of scholars adopting some of these commitments earlier than the mid-1980s, yet it is primarily in the years since then that a group of political theorists has emerged who more or less share all of them. This chapter explicitly focuses on those political theorists and not on the classical philologists or ancient historians upon whose work most of those theorists liberally draw.

Because theorizing about sets of stable and changing human practices is not particularly precise, these political theorists do not set out to impose coherent rational orderings on those practices or to produce consistent sets of arguments for their own sake. Discovering no universalist theories or abstract essences, they aim instead "to enrich our moral vocabulary and so our moral lives; to re-enchant the world by respecting contradiction and paradox; to undermine the triumph of especially those experts and that expertise that reduce political and social life to problem solving and efficiency management; and to recapture [a] sense of mortality and mutability" (Euben 1986, 16). For this reason they borrow from the social sciences and humanities, drawing not only on analytic philosophy but also on the work of continental thinkers like Hannah Arendt, Walter Benjamin, Jacques Derrida, Michel Foucault, Pierre Hadot, Martin Heidegger, Hans-Georg Gadamer, Friedrich Nietzsche, Jacques Rancière, and Leo Strauss. Sharing with these thinkers an interest in exposing and analyzing tensions and inconsistencies and the commitment to treating these as purposive rather than as sites of unintended philosophical failures, these political theorists also depart from some of those continental thinkers in seeing tension and contradiction not as stymying the possibilities for political action nor as making moot frameworks of falsity and truth, but rather as opening the way to less binary ways of thinking about age-old problems and dilemmas.

II. The first commitment, to political theorizing as "practical philosophy" (Salkever 1990*a*, 4), produces, and is also guided by, a second commitment, to an expansive classical canon. Because the world of human thought, character, actions, and institutions is seen no less fully by poets, historians, and playwrights than it is by philosophers (and often more so), these political theorists do not limit their studies to the political writings of Plato and Aristotle, the most famous philosophers of the classical Greek world. Additionally, the poetry of Homer, Hesiod, Solon, and Theognis, the histories of Herodotus and Thucydides, the tragedies and comedies of Aeschylus, Sophocles, Euripides, and Aristophanes, the speeches of Lysias, Demosthenes, and Aeschines, the less famous political works of Xenophon and Isocrates, and the less explicitly political writings of Plato and Aristotle, including their works on rhetoric and poetry, the soul and the senses, nature and beauty, friendship and virtue, are all treated as fertile resources for the excavation of political phenomena.

Owing to the differences among these classical genres, the political theorists under consideration attend closely to the literary form of the materials they

study, bringing different interpretative strategies to bear, where appropriate. This means that they treat the poetry of Homer differently from the tragedies of Sophocles and these differently from the narrative of Thucydides and the dialogues of Plato. Attention to these differences in genre in their larger context, namely, a primarily oral culture, does not produce series of disconnected and particularistic interpretations, however. Committed to probing thematic continuities in the writings of a single author, among, say, Herodotus' ethnographies or Isocrates' speeches, or across the works of multiple authors, among, say, Homeric poetry, Sophoclean tragedy, and Platonic dialogue, these scholars are able to offer context-sensitive insights that, taken together, bring out shared theoretical concerns on the part of the specific author or set of authors they study. For these political theorists, attending to genre also means taking seriously that the classical authors do not always speak in clear authorial voices or announce declarative truths and that, at times, they use tropes like irony, myth, and metaphor to invite the truth of their compositions to be called into question. Focusing on these practices, their venues, and the genres that disclose and produce them, the political theorists under discussion seek to illuminate the attitudes of the classical authors to such things as authorship and authority, truth and credibility, judgment and imagination, all key issues for politics.

III. A third commitment shared by this group of political theorists is to take seriously the sometimes declared, sometimes implicit claim made by most of the classical authors that they wrote for present and future audiences and understood their work as, in Thucydides' words, "a possession for all time." From the perspective of this commitment, the classical authors' reflections on human action and character, political practices, and institutions and their modes of expressing these reflections are examined for the light they shed on the worlds these authors inhabited and on the attitudes these authors took to their worlds, and also for their relevance to our own contemporary world. These political theorists thus reject the view that there is an unbridgeable chasm between premodernity and modernity. They also, however, reject the view that the best way to understand the classical Greeks is as part of a particular and unfolding historical narrative, whether progressivist or declinist. Seeking to demonstrate neither essential otherness nor causal continuity, or to explain why certain singular events occurred, or why particular figures acted in specific ways, or how given institutions arose, they explore instead the ways in which these events, actions, and institutions,

along with their analysis and evaluation by the classical poets, playwrights, historians, and philosophers, "are what they are yet they possess a transcendent significance as well" (Thompson 2001, 24). In other words, they treat the classical authors as bringing a past to the present. They do so not because there are no discontinuities between ancient and modern but because they see the Greeks as reflecting on ethical and political dilemmas and problems that are analogous to our own and so as co-thinkers, not museum-pieces. Because unpacking similarities and differences between ancient and modern often involves careful reconstruction of local contexts and horizons, these theorists draw liberally on the works of classical philologists, ancient historians, archeologists, anthropologists, and sociologists.

Exploring how the classical authors engaged critically not only with their contemporary practices and institutions but also with their contemporary values and ideas, and sensitive to the language and tone in which these engagements are expressed, the political theorists under discussion translate these classical critical attitudes into an interrogation of current practices and institutions and also of the political and philosophical ideas and values informing them. Like the classical authors they study, these political theorists undertake critical interrogation at least in part to stimulate individual and collective self-reflection and thoughtful and meliorative political change. Thus, the premodern practice of political thought becomes not only imaginable as a living tradition but actually lived, which is to say, reinvented and also respected for what it was, namely, a way of life (Hadot 2002).

IV. The final shared commitment among these political theorists is to engage the classical Greek poets, historians, and philosophers specifically with a view to how they may educate contemporary theorists and practitioners of democratic politics, domestic or international. To do this is not to treat Thucydides or Aristophanes or Plato or Aristotle as a friend of democracy in any simple sense. This is not least because these and other fifth- and fourth-century authors adopted largely critical, although varied, attitudes to the democratic regimes they inhabited and to democracy more generally. But neither are the classical authors treated as democracy's foes. Instead the political theorists I am describing attend to the ways in which the criticisms of democracy offered by the classical authors are made within, and "to a certain extent enabled by, a democratic culture" (Mara 1997, 3) and are often made with a view to its improvement. Thus, Thucydides' treatment of Greekness (Mara 2003), Sophocles' and Euripides' tragedies, staged before

Athenian audiences, but depicting events in Thebes and Argos (Zeitlin 1986), and Plato and Aristotle's treatments of the manly virtues (Salkever 1991; Smith 2001) are read as condemnations of attitudes fostered by contemporary democratic Athenian culture and also as opening more tolerant and, indeed, more democratic, practices towards "others," be they foreigners or women. In these and other ways, the classical authors are, in large part, interpreted as "immanent critics" (Ober 1998, 48–51) of democracy and as subtle practitioners of the politics they critiqued, intent on thinking critically about their cultures with a view to improving relations not only among individual human beings and social groups within democratic Athens but also between Athens and other polities, no small task given the pervasiveness of war in the classical world.

Taken together, these commitments—to seeing an education for the present from the past in the classical integration of theory and practice via a multiplicity of disciplines in many genres—produce a powerful political theoretical approach to the diverse theorists of the classical world. From the standpoint of these commitments, Aristotle appears, at first glance at least, to be an outlier among the classical authors. His writings come to us not as dialogues, narrative, or poetry but, like those of most Western political philosophy, as prose, presented in his own voice. His prose, moreover, appears to follow modern analytic conventions regarding consistency and argumentation, and propositional declarations may be extracted easily from his texts. This prose style appears to reflect a mode of theorizing fundamentally different from that of the earlier classical authors, to be more modern in form and to inform a set of substantive doctrines that are more modern in effect. Indeed, Aristotle is often treated as the inventor of modern constitutionalism, and an authoritative source for modern accounts of private property, distributive justice, rights, and the rule of law.

For many of the political theorists under discussion here, Aristotle's accounts of the building blocks of politics, along with his contributions to the history of political thought and to current theory and practice, must be read through the lens of his practice of theorizing. By their lights, however, Aristotle's political theory is, like that of his predecessors, less formal and systematic and more complexly engaged with the politics and authors of his time than is often supposed. The next section explores how this is the case by showing the ways in which the four commitments just sketched are at work in some recent Aristotle scholarship.

2 Aristotle

Aristotle's style may distinguish him from poets, orators, and historians but, for many of the political theorists considered here, his work is no more systematic than that of his predecessors. Treating his political and ethical writings, including the *Nicomachean Ethics, Eudemian Ethics*, *Politics*, and *Rhetoric*, as examples of practical philosophy and concerned with individual and collective action and change, they take Aristotle at his word when he rejects certainty as a standard for ethics and politics, maintaining instead that "we must … be content if, in dealing with subjects and starting from premises thus uncertain … we seek the degree of precision which belongs to its subject matter" (*Nicomachean Ethics* 1104a4, 1094b21–30). Aristotle's works, interpreted in this way, set out no blueprints for correct ethical or political behavior, produce no transcendent prescriptions, indeed produce few transparent prescriptions at all. Reading Aristotle in the way they read his predecessors, the political theorists under consideration extract from his texts no abstract or formal doctrines. Instead, they treat him as an educator in the mode of Plato, Euripides, or Thucydides and attend to how his texts lay out in their depth and breadth the conundra of ethical and political life.

They read him in this way, at least in part, because they take the presence and role of an audience to be no less important to Aristotle's practice of theorizing than it was to the earlier classical authors. Even though he did not write plays to be produced before an audience, Aristotle did stage dialogues among interlocutors (lost to us), and most ancient historians believe that his non-dialogic works are lecture notes taken by students attending his school, the Lyceum. Thus, like tragedies, comedies, and dialogues, his practical works are best treated as "forms of pedagogical rhetoric" that engage their contemporary readers and auditors, and everyone else who reads them, in a dialogue about the ethics and politics these audiences practice. Aristotle thus educates his audience by inviting them to participate in "conversations about the advantages and limitations of individual ways of life … and specified forms of common partnerships" (Mara 2000, 855–6), by inviting them, in other words, to participate in the very mode of life to which he wishes to educate them, which is to say, a theoretical practical life. He does this by engaging, himself, in dialectic.

Aristotle engages in dialectic in any number of ways: he converses with earlier Greek poets, historians, and philosophers by incorporating or

referring to their works in his own; he invites his readers to bring into conversation different parts of his texts by his use of paradox and inconsistency; and, within his texts, he brings the particular, different, and conflicting opinions of the many and the wise into dialogue with one another by way of his endoxic (from *doxa*, opinion) method. These dialogic practices subvert the conventional appearance of his prose style and decenter his authorial voice.

Consider, for example, Aristotle's treatment of natural slavery in the first book of the *Politics*. Judged by the standards of conventional propositional philosophy, Aristotle there offers a defense of natural slavery that is incoherent. As evidence that Aristotle defends natural slavery, passages such as the following that appear to establish a clear distinction between foreigners as natural slaves and Greeks as naturally free are cited from book I: " 'It is meet that Hellenes should rule over non-Greeks'; as if they thought that the foreigner and the slave were by nature one" (*Politics* 1252b5–9). Aristotle's defense of natural slavery is deemed incoherent because it is full of inconsistencies. Aristotle says that slaves lack the deliberative element (*Politics* 1254b22–23, 1260a12–13) but also that if they did not participate in reason they would not be able to execute their masters' orders (*Politics* 1254a23–24). He says that slaves are not capable of self-rule (*Politics* 1254b16–21) but also that they have the excellence necessary to fulfill their functions (*Politics* 1259b22–28, 1260a1–3, 1260a35–36). He distinguishes slaves from children on the ground that children possess the deliberative element (albeit in an immature form) (*Politics* 1260a13), but then insists that the proper response to slaves, even more than to children, is admonition rather than command alone (*Politics* 1260b5–7). He says that slaves are simply matter or bodies waiting for minds as form to impose order on them (*Politics* 1252a31–34, 1254b15–20) but also that, as human beings, they are constituted by matter and form (*Politics* 1254a32–34), and share in the capacity to reason (*Politics* 1259b29).

Probing Aristotle's textual references and unpacking his inconsistencies, the theorists considered here draw substantially different conclusions. Noting that the claim that "It is meet that Hellenes should rule over non-Greeks" is a quotation Aristotle attributes to "the poets," they maintain that Aristotle invokes this passage, from Euripides' *Iphigeneia in Aulis*, with knowledge of its context, not to establish a fundamental distinction between foreigners as natural slaves and Greeks as naturally free but to call into question any too-easy opposition between them: "Iphigeneia, who is speaking, is about to be

sacrificed by her father, Agamemnon to propitiate the gods so that the Greeks can continue their expedition against Troy. Is this less barbaric than treating women as slaves? Iphigeneia is a living instrument used for the sake of an action" (Davis 1996, 17). The passage, read in its embedded context, as an incorporated reference to the words of a poet, may, thus, be seen to call into question the very distinction it is often claimed to establish. Taking seriously Aristotle's inconsistencies in his account of natural slavery, such scholars conclude not that his account is incoherent but that he uses these inconsistencies to underscore the difficulty, if not impossibility, of determining conclusively who, if anyone, may be a slave by nature.

Bringing popular, persuasive, and conflicting opinions between the many and the wise into conversation with one another and orienting them in a way that draws on both sets of opinions but endorses neither, Aristotle's endoxic method is explicitly dialectical. He applies this method to the prevailing opinions and ideas of his time and also, as is evident in his account of the mean, to the ethical practice of virtue and to the political institution of a middle class. In all these ways, Aristotle, like the earlier theorists, brings into dialogue ideas and practices that, in his culture as well as in our own, are more usually opposed.

The dialectical quality of Aristotle's theorizing is evident not only in his dialogues with other classical authors and in his endoxic method, but in the ways these inform his substantive teachings about the building blocks of politics. In book I of the *Politics*, for example, Aristotle describes the polity both as emerging out of and preceding such smaller units as individual human beings, households, and villages. These claims seem contradictory. They may be taken, however, not as a sign of shoddy thinking, but as evidence of Aristotle applying his dialectical approach to the polity itself. These claims underscore his methodological commitment to thinking about politics both from the top down (from whole to parts) and from the bottom up (from parts to whole) and his substantial commitment to understanding the polity as an organic and preexisting whole with its own characteristic features and functions and also as composed of individuated and differentiated parts.

An exploration of the ways Aristotle's dialogic practices inform his treatments of individual human beings and collectivities and the constituent parts of each of these unities—including soul and virtue, education, property, justice, and law—shows Aristotle to be a fertile resource for current theory and practice, although not in a particularly straightforward way. Attention to

his understanding of virtue as constituted by habits and actions informed by nature and culture (*Nicomachean Ethics* I.8 and II.1), or of property as a mode of holding things as one's own for common use *(Politics* 1263a25–26), or of the polity as a differentiated unity (*Politics* II.1), reveal him to be not a conceptual forerunner of contemporary theorists of virtue ethics or private property or identity politics but rather a proponent of a way of thinking beyond some of the binarisms that inform and stymie much of contemporary political thought about these questions. Aristotle is able to move beyond binary thinking (is virtue a matter of nature or nurture? is property public or private?) because his dialogic practice of theory, which produces, and is informed by, complex understandings of ethical and political phenomena, brings together into plural or differentiated unities ideas and practices that are today often treated as being in an unbridgeable tension. Aristotle, too, understands the relation between the differentiated parts of any whole to be always in a possible tension but, to him, the difference that can produce tension also and in the first instance makes possible these unities as plural wholes.

It is especially productive to engage Aristotle with the specifically democratic culture and practices of his time and of our own because of the ways in which his simultaneous commitment to difference and unity offers a kind of education in democratic citizenship. It does this by, among other things, modeling the dynamic reciprocity characteristic of democratic deliberation and rotational rule, or ruling and being ruled in turn. These signal features of democratic self-sovereignty depend on the simultaneous recognition of and respect for plurality and unity, as do Aristotle's philosophical method as well as his substantive accounts of ethical and political phenomena. Democratic deliberation depends on a plurality of points of view and aims to achieve consensus out of these differing opinions. Rotational rule involves hierarchy and obedience and aims to achieve the common good for both rulers and those being ruled.

These aspects of Aristotle's theorizing are best exemplified, perhaps, in his familiar celebration of the mean as that which aims at "what is intermediate" (*Nicomachean Ethics* 1106b28–29). Functioning simultaneously as an ethical attitude—the embodiment of virtue—and as a political mandate—in defense of a middle class—and positioned between excess and deficit, Aristotle's mean is a unified middle. But it is neither a middle nor a unity in any usual sense. It is not achieved simply by combining opposing

extremes into an organic and undifferentiated whole. A person will not act courageously by combining rashness and cowardice. A middle class will not emerge by aggregating the discrete self-interests of rich and poor. Hitting the mean calls rather for bringing opposing extremes into conversation with one another and orienting them in a new way that draws on both extremes but is reducible to neither. Hitting the mean, in other words, produces a unified whole that preserves the plurality of its differentiated parts. This orientation to the middle is not in any sense an orientation to mediocrity. On the contrary, requiring ethical and political work over time in the form of trust, good judgment, and an enlarged sense of self-interest, it cultivates, even as it depends on, the practice of democratic citizenship.

3 Conclusion

For the political theorists discussed in this chapter, there is no better place to seek answers to the fundamental questions of politics than in the texts of the classical Greek world. That the answer these texts offer takes the form of a question should not be altogether surprising. This question is most familiarly associated with Socrates. It is also the central question for figures ranging from Homer's Achilles to Sophocles' Philoctetes to Thucydides' Pericles to Aristotle's Theramenes. That question, both the subject of political science for the Greeks and also its object, is: What should I do? To call this the signal question for politics is not to reduce politics to ethics or to claim that the aim of political science is to answer that question. It is rather to view politics and theorizing about politics as at once individuated and collective projects that critically interrogate a complex ethical and political world at least in part by reflecting the questions it poses back at it.

The "What should I do" question shows politics to be an individuated project insofar as it is posed by one person addressing himself and signaling his preparedness to account for his actions. Engaging that question involves the person with his immediate and particular circumstances which are, in important ways, unique to him. The actions he takes distinguish him from others and exemplify his singularity insofar as those actions

belong to no one but him. At the same time, by engaging a person with his local and observable world of contingency and particularity, the "What should I do" question calls that person to the practice of theory, *theoria*. And theorizing brings to light, among other things, the ways in which individual human beings are always in relation not only to what is immediately around them but also to that which makes their unique circumstances what they are, namely, a culture, a set of institutions, a constitution, and the other members of their community, past and present, that brought these into being.

By inviting reflection that reveals the ways in which agency is both individuated and also embedded in collectivities made up of, and made by, others, the "What should I do" question brings to light the dependence of individual human beings on the collectivities of which they are parts and also the dependence of the collective whole on the actions, choices, and judgments of the parts that make it up. It underscores the centrality to politics of individual agency and accountability, the human impossibility of taking into account everything one would need to in order to answer fully adequately for one's actions, and the utter vulnerability of those actions to collective power and institutions. In all these ways, the "What should I do?" question contains within it other questions, including "What is there to be done?" and "What do we wish to be able to do?" and "What should we do as a collectivity?" These questions, together, indicate the possibilities, responsibilities, and limitations of a political life.

Modern and contemporary political theorists are no less concerned than were the Greeks with the possibilities, responsibilities, and limitations of a political life. Studying individual agency or rational choice or identity or culture or state-centered institutions, these theorists tend to orient their analyses of politics to one particular axis of inquiry. The Greeks, by contrast, theorized politics by drawing all of these axes together. There is, to be sure, no easy fit between these domains of inquiry, and so the classical authors theorized as well about the quarrelsome interfaces among individual human beings, households, social groups, and polities, and also between politics and philosophy, politics and piety, politics and society, and politics and poetry. By putting the "What should I do" question at the center of their study of politics the classical poets, historians and philosophers disclosed the scope and breadth of politics. Asking that question now, and again, returns us to their methods and contexts, and allows us to appreciate anew the possibilities of political theory.

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CHAPTER 10

REPUBLICAN VISIONS

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The early-modern period in Europe witnessed the rise of two distinct kinds of republican political theory. One of these was Roman in origin: it valued independence, private property, and the glory brought by empire. The other was fundamentally Greek, and valued the natural ordering of the state made possible by the regulation of wealth. The first inspired all subsequent theories that have preached the sovereignty of the individual in his own sphere; the second was the archetypal expression of the view that men in commonwealths must be "forced to be free."[1] Each would exert a powerful influence on the shape of eighteenth-century political thought in both the Old World and the New.

When present-day scholars and political theorists use the term "republicanism," they usually have in mind the first of these traditions, an ideology generated in late Medieval Europe out of a set of ancient Roman texts. The unifying feature of these texts is that they all constitute, in one way or another, a nostalgic reflection on the collapse of the Roman *respublica*:

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[1] This famous phrase appears in the seventh chapter of Rousseau's *Social Contract* (see Rousseau 1994, 141).

the government of consuls, senate, and tribunes which ruled Rome until Augustus instituted the principate after the Battle of Actium in 31 BCE. For defenders of the old regime, the end of Roman liberty had signaled the end of Roman virtue; and the end of Roman virtue had put at grave risk the *imperium* that Rome had so assiduously cultivated over centuries. These writers treated the relationship between *libertas* and *virtus* as axiomatic. Only men who governed themselves in a free state (*civitas libera*) could summon the level of agency necessary for virtuous action, and, as a result, only they could acquire glory. By contrast, slaves—those unfortunates who lived in a state of dependence upon the will of their masters—became passive, demoralized, and impotent in the face of tyranny (Skinner 2001, 237–68; Pettit 1999). The historian Sallust sums up this equation in a famous passage of his *Bellum Catilinae*: "Because kings hold the good in greater suspicion than the wicked, and to them the merit of others is always fraught with danger," the city of Rome "was only able to rise so suddenly to her incredible level of strength and greatness once she gained her liberty, such was the thirst for glory that filled men's minds" (Sallust 1921, 13). Because kings fear competition from the virtuous, virtue can only thrive in a free state. Accordingly, once the Roman people had achieved freedom and political rights, Roman virtue could become the engine of imperial glory. With the rise of factions and dictators, however, Rome returned to a state of subjection, and became "the worst and most vicious" of cities (Sallust 1921, 11).

Liberty, then, served two functions in the system of thought with which we are concerned. It was, first of all, a good in and of itself. As Cicero has it in the *De officiis*, liberty is that value "for which a high-souled man should stake everything" (Cicero 1913, 71). But liberty was equally important as an instrumental good: it was a prerequisite for glory, the animating principle of the Roman tradition.[2] For Cicero, public service in a self-governing commonwealth is the source of "the highest and most perfect glory" (Cicero 1913, 199), and justice likewise recommends itself to men because it is the source of "true glory" (1913, 211). The glory described in these passages is not an abstract, other-worldly quality; it is, like the Greek *kléos*,[3] a function of reputation and public recognition, and, in the case of states, its most prominent guarantor is *imperium* (empire). But how precisely does liberty make glory possible? This question

[2] The centrality of *gloria* in Roman thought has been a focus of Renaissance historiography since Burckhardt (1990, 104). See also Brunt (1978, 159–91); Skinner (1988, 412–41; 1990, 121–41).

[3] The etymology of this word is quite revealing. *Kléos* derives from the same root as the verb *klúo*, meaning "to hear." A person's *kléos* is, thus, literally what is "heard" about him.

preoccupied Roman writers to a remarkable degree, and the surviving Latin treatises and histories exhibit a startling unanimity concerning its answer. First, as we have seen, Roman writers were convinced that liberty created the space for virtue—a disinterested commitment to the public good, together with the will and agency necessary to act on behalf of that commitment. Virtue, in turn, carried with it a reverence for justice, canonically defined in the *Digest* of Roman law as "the constant and perpetual aim of giving each person that which is his [*ius suum*]" (Mommsen and Kruger 1985, vol. 1, 2). This account of justice placed extraordinary emphasis on the preservation of private property, not only for its own sake, but in order to secure *concordia*, the internal harmony of the *respublica*. Turning once again to the *De officiis*, we read that usurpations of private property "undermine the foundations of the commonwealth ... they destroy harmony [*concordia*], which cannot exist when money is taken away from one party and bestowed upon another" (Cicero 1913, 255). And once we realize, in Sallust's words, that "harmony makes small states great, while discord undermines the mightiest empires" (Sallust 1921, 149), the final link in the chain of values connecting *libertas* to *gloria* comes into view.

This theory of the Roman state, with its impassioned insistence on the sanctity of private property and its terror of civil strife, represents an overwhelmingly patrician inheritance (Long 1995, 216). Almost all of the surviving Roman authors adopt the point of view characteristic of the small group of families who controlled the republican oligarchy before the tumults of the Triumviral period—the so-called "optimate" party, as opposed to the "popular" party sympathetic to the plebs. This realization, in turn, helps make sense of the particular manner in which many of the surviving Roman authors account for the decay and collapse of the republic. All of our sources—including Sallust, who had strong plebeian sympathies—agree that, in several important respects, Rome's imperial success contained within itself the seeds of decline. To begin with, conquest brought riches and luxury from the East, corroding the martial character of Roman life. As the poet Lucan has it in his *Pharsalia*, "When Rome had conquered the world and Fortune showered excess of wealth upon her, virtue was dethroned by prosperity, and the spoil taken from the enemy lured men to extravagance" (Lucan 1928, 15). Furthermore, military commanders in far-flung lands retained control of their legions for too long, cultivating a personal following and exercising private patronage at the expense of the common good. Sallust alludes to this problem explicitly when he writes in the *Bellum Iugurthinum* that, after the destruction of Carthage, "affairs at home and in the field were managed according to the will of a few men, in

whose hands were the treasury, the provinces, public offices, glory and triumphs. . . . The generals divided the spoils of war with a few friends" (Sallust 1921, 255; cf. Gruen 1984, 60–3). When virtuous citizens "who preferred true glory to unjust power" finally rose up against these private men with their personal armies, "the republic was torn to pieces" (Sallust 1921, 223–4).

This account of the nexus between foreign conquest and personal ambition is, as noted above, a feature of virtually every surviving account of the collapse of the republic. But a second explanatory narrative appears in many, if not most, of the Latin sources, and it is this second story that is unambiguously drawn from patrician polemic. It concerns the Roman agrarian laws. Under Roman law, lands captured in war or bequeathed to Rome by foreign princes were designated *ager publicus*, "public land." The uncultivated portions of this public territory were, in theory, meant to be distributed in small parcels among Roman citizens, who would then farm the land and pay a tithe to the republic. In reality, however, patricians quickly acquired vast tracts of the uncultivated *ager publicus*, often by means of fraud and violence, and then neglected to pay the required tax—a practice which provoked the ire of even some of the most rabidly anti-plebeian Roman authors. However, by the time of the Gracchan laws (133 and 122 BCE) these large estates had been in private hands for generations, and had acquired the aura of private property.[4]

Beginning in the fifth century BCE, tribunes periodically proposed laws designed to redivide the *ager publicus* and distribute it among the plebs; such laws became known as *leges agrariae* ("agrarian laws"). It is an article of faith of the patrician narrative that these laws constituted unjust expropriations of private property, and that the controversy surrounding their proposal and passage ultimately brought about the fall of the republic (Nelson 2004, 49–86). Speaking of the land law put forward by the tribune Spurius Cassius in 486 BCE, Livy observes pointedly that "this was the first proposal for agrarian legislation, and from that day to within living memory it has never been brought up without occasioning the most serious disturbances" (Livy 1919, 353). Livy's Roman successors were even more emphatic on this subject, but they directed their animus chiefly toward the agrarian program of Tiberius and Caius Gracchus. In Lucan's *Pharsalia*, the Gracchi, "who dared to bring about immoderate things," appear in the underworld alongside other famous Roman traitors in the "criminal crowd" which rejoices at Rome's civil war, while the blessed dead weep (Lucan 1928, 363).

[4] On the Roman agrarian laws, see Badian (1962, 197–245); Bernstein (1978); Carcopino (1967); Cardinali (1965); Crawford (1992, 94–122); and Stockton (1979).

The most forceful Roman opponent of the agrarian movement was, however, Marcus Tullius Cicero. Cicero lays the groundwork for his view in the first book of the *De officiis*. "Property becomes private," he writes, in part "through long occupancy," and "each one should retain possession of that which has fallen to his lot; and if anyone appropriates to himself anything beyond that, he will be violating the laws of human society [*ius humanae societatis*]" (Cicero 1913, 23). In book two, he makes clear that the agrarian laws should be regarded as precisely such a violation. "The man in administrative office," he explains, "must make it his first care that everyone shall have what belongs to him and that private citizens suffer no invasion of their property rights by act of the state" (Cicero 1913, 249). As his example of this kind of "invasion," he submits that "ruinous policy" called the *lex agraria*. This policy, he continues, favored an "equal distribution of property." "What plague could be worse?", he asks, especially since it negates the basic purpose for which people enter civil association—namely, the preservation of their private property (*custodia rerum suarum*). In *De legibus*, Cicero adds that the strife over the Gracchan laws in particular brought about "a complete revolution in the State" (Cicero 1928, 483). In short, Cicero characterizes the agrarian movement as seditious, dangerous, and violently unjust. For what is an agrarian law, he asks, but an initiative "to rob one man of what belongs to him and to give to another man what does not belong to him?" (Cicero 1913, 261).

For Cicero, as for so many other Roman writers, agrarian laws driven by plebeian envy had disrupted the *concordia* of the Roman republic, given rise to factions, and ultimately dismembered the body politic. This conviction, as we have seen, had an enormous impact on the shape of the political theory preserved for European readers in the Roman sources. If it was the *libertas* of the Roman republic that made virtue possible, it was the protection of private *ius* that brought it *imperium* and *gloria*. And when justice ceased with the agrarian laws, neither the republic nor its glory could long survive.

1 Republicanism in Italy

It is not difficult to understand why this scale of values handed down from Roman sources appealed so strongly to the Italian communes of the so-called *regnum italicum*—the portion of northern Italy which theoretically remained

under the suzerainty of the Holy Roman Empire during the High Middle Ages. By the late twelfth century, these city-states had evolved a distinctive form of political life centered on an elected official known as the *podestà* (from the Latin *potestas*, meaning "power"), and had begun to assert their independence from imperial rule.[5] During the thirteenth century, their arguments for self-government tended to be couched in the traditional language of the Roman civil law, which had also served as the legal basis for the Emperor's claim on the Italian cities. But the end of the thirteenth century witnessed the rise of a powerful new cultural force: a fascination with the ancient *studia humanitatis*,[6] now known as humanism, swept through European universities and brought with it a deep reverence for ancient Roman history, poetry, and moral and political philosophy.[7] By this time, most of the Italian city-states had abandoned their system of elective self-government in favor of more conventional, hereditary *signori* (Pisa, Mantua, and Verona are good examples), but two important exceptions remained: Venice and Florence.[8] Defenders of these two cities used their Roman sources to construct a case for the inherent superiority of popular self-government, drawing freely from the ancient poets, historians, and statesmen as they went.

Perhaps the most famous early example of such an exercise is the *Laudatio florentinae urbis* ("Panegyric of the City of Florence") of Leonardo Bruni. Although not a Florentine himself (he was born in the city of Arezzo), Bruni had made Florence his adoptive home, and in 1404—the probable date of the composition of the *Laudatio*—he was conducting a campaign to replace Coluccio Salutati as chancellor of the republic (Hankins 2000, 143–78). In a formal sense, the *Laudatio* is based on the *Panathenaicus*, an oration by the second-century Greek rhetorician Aelius Aristides. But the reader is left in no doubt as to the true direction of Bruni's thoughts. We first read that Florence is to be praised on account of its glory, manifested in its "power and wealth" (Bruni 1996, 570). The ultimate source of this *grandezza* is Florence's founder: Rome. As Bruni writes, "Your

[5] As early as the eleventh century, in fact, the Italian communes had begun to appoint their own "consuls." On this development, see Jones (1997, 130–51).

[6] The term was coined by Cicero, although substantially redefined in this context by Coluccio Salutati. On the rise of humanism, see Witt (2000).

[7] Paul Oskar Kristeller famously defined the humanists as "essentially rhetoricians and heirs to the tradition of the medieval *dictatores*" who began to use classical sources as models for their compositions. See Kristeller (1944–5, 346–74); cf. Skinner (2002, vol. 2, 10–38).

[8] Two smaller cities, Lucca and Siena, also maintained their republican forms of government (intermittently in the case of Lucca).

[Florence's] founder is the Roman people, conqueror and master of the globe ... what a beginning this is, for the Florentine race to be born from the Roman people! What nation in the whole world was ever more famous, more powerful, or more pre-eminent in every kind of virtue?" (Bruni 1996, 596). But Bruni has in mind a more specific thought. Florence was not simply founded by Rome, but by the Roman republic. That is, Florence had the distinction of being founded by the Romans at the height of Roman liberty. When Rome founded Florence, Bruni reasons, "the Caesars, the Antonines, the Tiberii, the Neros, plagues and destroyers of the republic, had not yet abolished liberty.... From which I think it results that, in this city more than any other, we see that a particular quality is present and has been present: namely, that the men of Florence delight in liberty above all things, and are the greatest enemies of tyrants" (Bruni 1996, 600).

It is important to recognize what a substantial departure this passage represents. It had been an orthodoxy of Roman historiography throughout the Medieval period that Rome achieved her true greatness under the Caesars, and that the famous republican antagonists of the emperors had simply been traitorous rebels—an account that also drew strength from Church history, which idealized the imperial *pax romana* as the great enabler of Christian proselytization (Baron 1955, 39). The most celebrated formulation of this classic view appears in Dante's *Inferno*, where Caesar's assassins, Brutus and Cassius, appear in the claws of Lucifer alongside Judas Iscariot in the very lowest level of hell (Dante 1960, 677). Here, Bruni reverses the standard reasoning. Rome, he informs us, reached its zenith as a self-governing republic, and the end of Roman liberty brought decline and corruption. The manner in which he makes this case should sound quite familiar. "For after the republic had been brought under the yoke of one man," Bruni writes, " 'those remarkable minds,' as Cornelius [Tacitus] says, 'disappeared': so it is of great interest whether a colony was founded in the later period, for by then all of the virtue and nobility of the city of Rome had been extirpated" (Bruni 1996, 606). This is a straightforward recapitulation of the standard Roman claim: liberty makes virtue possible, and without virtue there can be no glory.

Bruni continues by making a set of connected claims about how liberty promotes *grandezza* in the Florentine state. Because Florence is governed by numerous magistrates each serving short terms, and because each part of the city is represented in government, "there is liberty, without which this people would not consider life worth living" (Bruni 1996, 634). This balanced system

of rulership, in turn, ensures that injustice is banished from the city. As Bruni puts it, "every care is taken so that justice is held completely sacred in the city, without which a city is not even worthy of the name." "For this reason," he writes later on, "no one here can suffer any injustice [*iniuria*], and no one has to part with his property [*res sua*] unless he is willing" (Bruni 1996, 642). The rich are protected by their wealth, the poor by the state, and justice applies equally to all. This is, of course, a difficult claim to take seriously; yet the ideological commitments behind the claim are important. Florence is just, we are told, because it respects the private property of its citizens. Bruni adds that this reverence for *ius* produces "armonia" (1996, 632)—concord and harmony in the city—without which imperial glory is unattainable. With all of these values in place (liberty, virtue, justice, concord), Florence is poised to acquire empire. In Bruni's words, "to you, men of Florence, belongs dominion over the globe by a kind of hereditary right, as a paternal inheritance" (1996, 598). Having inherited Rome's liberty and virtue, Florence will surely inherit its empire.

The innocent republican enthusiasm of Bruni's panegyric could not, however, withstand the events of the fifteenth century. Beginning in 1434, Florence came increasingly under the control of the Medici family, and apart from a theocratic experiment under Girolamo Savonarola (1494–8) and a brief republican interregnum (1498–1512), Florence was clearly moving in the direction of a principate. It was against this backdrop of Medici rule and civic decline that Niccolò Machiavelli wrote his monumental *Discorsi sopra la prima deca di Tito Livio* (known in English as the *Discourses on Livy*), unquestionably the most influential republican text of the period. In 1513, after the Medici had been returned to Florence under the protection of Spanish arms, Machiavelli had written *Il Principe* in order to advise the new rulers on how best to govern the city. Yet, although he was not above seeking patronage from the new regime, Machiavelli never relinquished his conviction, born of long service to Florence, that republican government was best—and the *Discorsi* (written between 1515 and 1519) are eloquent testimony to that belief.

Machiavelli's text might seem at first glance to adopt the prevailing Roman republican tradition *in toto*. He announces early in the second discourse that "it is an easy thing to know whence arises among peoples this affection for the free way of life, for it is seen through experience that cities have never expanded either in dominion or in riches if they have not been in freedom" (Machiavelli 1996, 129). The reason, Machiavelli insists, is that "it is not the

particular good but the common good that makes cities great. And without doubt this common good is not observed if not in republics" (1996, 130). The willingness to do what is necessary to advance the common good, and thereby acquire glory for the city, is virtue (*virtù*), which for Machiavelli explains why monarchies cannot compete with republics. After freedom is replaced by princely rule, he argues, cities "go backward" because a prince "cannot honor any of the citizens he tyrannizes over who are able and good since he does not wish to have suspicion of them."[9] This passage, as we have seen, is a straightforward paraphrase of Sallust's famous observation in the *Bellum Catilinae*. It is, on this account, in the nature of princely government to repress virtue and to invite flattery and corruption. *Libertà*, on the other hand, breeds *virtù* and leads to *grandezza*. As Machiavelli puts it in the *Istorie Fiorentine*, "from order comes virtue, and from this comes glory and good fortune" (Machiavelli 1963, 773).

So far Machiavelli is simply ventriloquizing the standard Roman account of republican government. But he dissents from this tradition in two vital respects. First, Machiavelli completely rejects the value of *concordia*, or "internal harmony." It was, as we have seen, a staple of the Roman narrative to claim that civic peace and quiet were necessary prerequisites of empire and glory: if the city was divided, it could not conquer. This conviction accounted in large part for the hagiography of Venice that grew up in the fifteenth century; Venice, after all, was called *la serenissma*, the most tranquil of cities.[10] For Machiavelli, however, tranquility was no virtue. On his view, Rome had indeed been a "perfect republic," but its perfection had been the result of "the disunion of the plebs and the senate," not their concord. Machiavelli defends this startling claim by articulating his theory of the *umori* (temperaments). Those who deride the Roman *tumulti* (the frequent battles between patricians and plebs), he argues, "do not consider that in every republic are two diverse humors, that of the people and that of the great, and that all laws in favor of freedom arise from their disunion" (Machiavelli 1996, 71). The great wish to rule, while the people simply wish not to be ruled. These two temperaments are inherently adversarial, and a republic can only survive if it allows them to

[9] Here Machiavelli is clearly thinking of Florence.

[10] Venice's serenity was thought to flow from its "mixed" constitution. The historian Polybius, in his analysis of the Roman constitution, had famously argued that a mixture of the three predominant sorts of regime (rule by the one, the few, and the many) would save the state from the ravages of continual revolution. Venice, with its doge, *Consiglio di Pregati*, and *Consiglio Grande*, appeared to have realized this ideal. See Polybius (1923, vol. 3, 271–311).

tame and restrain each other. If one or the other were allowed to predominate, the result would be a return to the political chaos and instability from which republican government had rescued Rome. It is, therefore, precisely the antagonism inherent in the Roman constitution which, for Machiavelli, renders it worthy of praise and emulation (Skinner 1990, 135–6).

Yet if Machiavelli has little patience for the notion of *concordia*, he has even less for another pillar of the Roman system of values: the principle of justice. His complaint here is, once again, lodged on purely empirical grounds. On the Roman account, justice is, at least in part, an intermediate value: Roman theorists prize justice because it produces concord, which in turn makes glory possible. We have already seen that Machiavelli eliminates concord from this equation, but the question remains whether the pursuit of *ius* leads us to glory. Given his survey of history, and his own diplomatic experience, Machiavelli concludes that the answer to this question is "sometimes." There are occasions on which doing the "just" thing contributes to the aggrandizement of the republic, and there are other occasions on which the opposite is true. But, given this fact, if we are serious about placing glory at the summit of values, then we will have to agree that justice should not be the guide of our actions.[11] If it were, our pursuit of glory would be compromised. Machiavelli is conscious that this conclusion is unprecedented and will prove extremely unsettling to his readers. But as he puts it in *Il Principe*, he is not interested in describing men as we might wish them to be; he is interested, rather, in the "effectual truth" (*la verità effetuale*), the way things actually are (Machiavelli 1991, 150).

This subversive rejection of justice as a value is everywhere on display in the *Discorsi*, but perhaps its most dramatic appearance comes during Machiavelli's discussion of a familiar topic. At the end of the first discourse, there is a chapter entitled, "What Scandals the Agrarian Law Gave Birth to in Rome." Given the title, Machiavelli's readers might be forgiven for assuming that he was about to restate the conventional Roman attack on the redistribution of wealth. And, sure enough, Machiavelli does indeed condemn the Gracchan laws for "turning the city upside down," causing the rise of factions, and furnishing "the cause of the destruction of the republic" (Machiavelli 1996, 79). But his readers would then be quite surprised to discover Machiavelli's more general view of agrarian laws: he states unambiguously in the same chapter that "well-ordered republics have to keep the public rich and

[11] See, for example, Machiavelli's vindication of Romulus in *Discorsi*, I.9.

their citizens poor." Machiavelli makes clear that he approves of legal measures designed to ensure an equal and moderate distribution of wealth on prudential grounds: great wealth, he argues, attracts dependents and undermines the supremacy of the public good (Nelson 2004, 73–86). Machiavelli's only complaint about the Gracchan agrarian laws is that they were "backward-looking." They attempted to address a civic pathology that was of such scale and long-standing that they were doomed to failure. Machiavelli is not at all concerned with the standard Roman objection that agrarian laws are "unjust." His only worry is that, in this case, they undermined the glory of the republic. Such was the transformed version of the Roman republican case that Machiavelli bequeathed to the seventeenth century.

2 Northern Europe and the Turn Toward Greece

Up until now, we have defined republicanism as an essentially Roman ideology, and that is, indeed, the dominant definition among contemporary scholars and political theorists.[12] But this view is incomplete.[13] At the very same time that Machiavelli was writing his *Discourses*, an English humanist was busy composing an imaginative account of the ideal republic which adopted an overtly polemical attitude toward the Roman sources we have been discussing. The humanist in question was Sir Thomas More, and the treatise he wrote was *Utopia*. More's work was written in the shadow of the

[12] A notable exception is J. G. A. Pocock, who views the republican tradition as an outgrowth of Aristotle's political teleology. See Pocock (1975).

[13] To begin with, in the 1260s, William of Moerbeke's Latin translation of Aristotle's *Politics* was introduced into the *regnum italicum*. It provided a powerful new perspective on the situation of the self-governing Italian city-states, and was the animating force behind the Neapolitan Thomas Aquinas's account of political life in the *Summa theologiae* and in the unfinished *De regimine principum*. Several of Aquinas's scholastic disciples, such as Ptolemy of Lucca and Marsilius of Padua, used Aristotelian arguments about the relationship between widespread political participation and civic peace to augment the standard Roman *encomia* of "free states" in the following century. This literature did not, however, challenge any of the cardinal assumptions of the Roman tradition. The challenge came, rather, from another quarter. See, for example, Rubinstein (1982, 153–200); and Skinner (1978, vol. 1, 49–65).

Tudor monarchy, and it emerged out of an early sixteenth-century "culture war" over the study of Greek. The Dutch humanist Erasmus had gathered around himself a circle of English scholars—More among them—who became the first men in England to learn the Greek language. One of their immediate priorities was to direct their new philological skills to the task of correcting the Vulgate New Testament, a project which culminated in Erasmus's *Novum Instrumentum* of 1516. This enterprise was met with charges of heresy, and anti-Greek sentiment reached such a fever pitch at Oxford that bands of students calling themselves "Trojans" rampaged through the streets accosting classmates who were studying Greek (Saladin 2000; Nelson 2001, 897–8; Goldhill 2002). The Erasmians responded to this wave of hostility by asserting the superiority of Greece over Rome, of Hellenism over Latinity, and, most notably, of Greek philosophy over its Roman counterpart. More's friend Richard Pace wrote in one polemical pamphlet that "philosophy among the Romans was so feeble that nothing could seem more stupid to learned ears than to compare Roman philosophers to the Greeks" (Pace 1967, 128), and More himself agreed that, in philosophy, "the Romans wrote next to nothing" (More 1986, 220). *Utopia* is an elaborate and ingenious expression of this argument, and is designed to champion a wholly different set of political values drawn from the primary sources of Greek moral and political philosophy.

The dichotomy between Greece and Rome is made explicit from the very outset of the text. More places his description of Utopia in the mouth of Raphael Hythloday, a mysterious mariner who, we are told, is not ignorant of Latin, but is extremely learned in Greek. His main interest is philosophy, and "he recognized that, on that subject, nothing very valuable exists in Latin except for certain works of Seneca and Cicero" (More 1995, 45). When Hythloday later recommends books to the Utopians, his rejection of Roman philosophy extends even further. Echoing More himself, Hythloday observes that "except for the historians and poets, there was nothing in Latin that they would value" (More 1995, 181). Accordingly, Hythloday gives the Utopians most of Plato's works, and some of Aristotle's—none of Cicero's or Seneca's—and continues by noting that the Utopian language is related to Greek. More amplifies this Greek commitment throughout the text with his skillful use of Greek nomenclature. "Utopia" itself is a Greek coinage, meaning "no place," and the island's cities, rivers, and government officials are all given Greek names.

All of this conspicuous Hellenism provides a powerful backdrop for More's thoroughgoing subversion of the Roman republican tradition. Following Plato in particular, but also Aristotle to some degree, More recovers and advances a very different sort of political theory. This essentially Greek ideology does not particularly value freedom as "non-domination"—living without dependence on the will of other human beings. The sort of "freedom" it values is the condition of living according to our rational nature, and it assumes that most men can only become free in this sense if they are ruled by their moral superiors (if someone ruled by his passions is left to rule himself, then he is enslaved). The Greek tradition also assumes that the purpose of civic life is not "glory" (which it dismisses as the irrelevant approval of non-experts), but rather "happiness" (*eudaimonia*), the fulfillment of our rational nature through contemplation. Most important of all, the Greek account exhibits a sharply contrasting theory of justice. Justice, on this view, is not a matter of giving each person *ius suum* in the Roman sense, but is rather an arrangement of elements that accords with nature. In the case of the state, justice is instantiated by the rule of reason in the persons of the most excellent men—an arrangement which corresponds to the rule of reason over the appetites in the individual soul. This view of justice in turn leads to a completely anti-Roman endorsement of property regulations. If property were allowed to flow freely among citizens, both Plato and Aristotle reason, then extremes of wealth and poverty would inevitably develop. The resulting rich and poor would both be corrupted by their condition: The rich would become effeminate, luxurious, and slothful, while the poor would become criminals and lose their public spirit. Neither group would defer to the rule of the best men, and, as a result, justice would be lost. Accordingly, the Greek view recommends either the outright abolition of private property (as among the guardians in Plato's *Republic*), or, at the very least, severe regulations designed to prevent its undue accumulation (as in Plato's *Laws* and Aristotle's *Politics*).

More replicates this set of commitments to a remarkable degree. The Utopians, we are told, have abolished private property, thus avoiding the great and pervasive injustice of European societies. Hythloday explains this decision as follows: "Wherever you have private property, and money is the measure of all things, it is hardly ever possible for a commonwealth to be just or prosperous—unless you think justice can exist where the best things are held by the worst citizens" (More 1995, 101). In such states, the rich become "rapacious, wicked, and useless," the poor "look out for themselves, rather

than for the people," and justice is lost. The Utopians, on the other hand, have abolished private property and find it shocking that "a dunderhead who has no more brains than a post ... should command a great many wise and good men, simply because he happens to have a big pile of gold coins" (More 1995, 155). Accordingly, the Utopians enjoy the rule of the wise, and government is reserved exclusively for those who "from childhood have given evidence of excellent character, unusual intelligence, and a mind inclined to the liberal arts." This elite rules over the commonwealth, we are told, like parents over children—an image no Roman writer would ever use to describe citizens, because children are not considered to be *sui iuris* (under the guidance of their own sovereign will) (More 1995, 147). The goal of Utopian life is not glory, which the Utopians disdain, but rather "happiness" (*felicitas*)—and life is organized so that "all citizens should be free to devote themselves to the freedom and culture of the mind. For in that, they think, lies the happiness of life" (More 1995, 135).

At the bottom of this scale of values, then, is an uncompromising claim about the relationship between property and justice. Private property, we are told, must be abolished if the wise are to rule and the state is to fulfill its nature; indeed, More writes explicitly that attempts to regulate and moderate private property will not succeed in preventing the wealthy from dominating offices "which ought to go to the wise" (More 1995, 103). Yet More's later acolytes, although they fully accepted his equation of justice with the rule of the best men, were reluctant to embrace the outright abolition of private ownership, and were attracted instead to another model we have already had occasion to discuss: the Roman agrarian laws. As we have seen, the surviving Roman sources had uniformly negative things to say about these laws, and the attitude of these ancient writers was replicated throughout the Italian *quattrocento*. Yet a radically different view of the same subject could be found in a second set of ancient sources which had entered widespread circulation only in the middle of the sixteenth-century: the Greek historians of Rome, in particular Plutarch.[14] For Plutarch, himself a Platonist, the Roman view of the agrarian movement was entirely unacceptable. He styled the Gracchi as "men of most generous natures" who "tried to exalt the people ... and tried to restore an honorable and just civil polity," only to be frustrated by "the hatred of the powerful men, who were unwilling to relax their usual rapacity" (Plutarch 1914, 7). Indeed, on his account, the Gracchi are to be faulted, not

[14] On the availability of classical historians during the Renaissance, see Burke (1966, 135–52).

for going too far, but for failing to go far enough; they did not, like the Spartan kings Agis and Cleomenes, wholeheartedly institute "the unwritten laws concerning balance and equality of property" so vital to republican survival. For Plutarch, in short, the agrarian laws were praiseworthy if minimal attempts to restore the balance and justice of the state, and the blame for the collapse of the republic should fall squarely on the shoulders of rapacious patricians.

This rival account of the agrarian movement appealed in particular to More's great seventeenth-century disciple, the philosopher James Harrington. In Harrington's *The Commonwealth of Oceana*, published in 1656 during the Cromwellian protectorate, we find, in many respects, a straightforward reprise of the Morean project, complete with Greek nomenclature and a comprehensive endorsement of More's theory of justice. For Harrington, as for More, there was a "natural aristocracy diffused by God throughout the whole body of mankind," and the people have "not only a natural, but a positive obligation to make use of their guides" (Harrington 1977, 173). These wise and virtuous men, designed for rulership by nature herself, will "lead the herd," and their fellow citizens will "hang upon their lips as children upon their fathers." Harrington further agrees with More that wealth represents the greatest single threat to the realization of this ideal arrangement; extreme wealth, he firmly believes, brings with it both political power and corruption, and renders the rule of the wise impossible. Yet Harrington rejects More's insistence that the problem of wealth can only be addressed through the abolition of private property: "To hold that government may be founded upon community [of property]," he muses, "is to hold that there be a black swan or a castle in the air" (Harrington 1977, 808). Harrington's solution is to institute something he calls "the equal agrarian," a limit on the accumulation of wealth buttressed by inheritance laws designed to break up large estates. If by these means fortunes are kept relatively equal, he argues, "the eminence acquired by suffrage of the people in a commonwealth . . . can be ascended by no other steps than the universal acknowledgement of virtue" (1977, 182). Agrarian laws, in short, allow for the rule of the wise, and that is the source of their justice. Harrington draws support for this view, as he himself tells us, from one source in particular: "he who, considering the whole story [of the Roman agrarian laws] or only that of the Gracchi in Plutarch, shall judge aright, must confess that, had Rome preserved a good agrarian but in Italy, the riches of her provinces could not have torn up the roots of her liberty" (1977, 689). For Harrington, "the Roman writers," as he calls them, have missed the moral of their own story. It was the *lack* of redistribution that

doomed the Roman Republic, and, accordingly, if England wished to maintain its own commonwealth, it would have to embrace the agrarian movement (Nelson 2004, 87–126).

We see, then, that the battle between Rome and Greece defined the development of republican political theory throughout the early-modern period. It was a battle waged over the central values of political life: freedom, property, and the nature of human beings. Both neo-Roman political theory, with its commitment to the sovereignty of the individual will, and the Greek tradition, with its passion for the rational ordering of the political community, would cast imposing shadows over eighteenth-century political thought in Europe and the emerging American republic. But, as between them, perhaps it was the Greek account's tantalizing mixture of radical means and hierarchical ends that more conclusively captured the Whig imagination. After all, it was Thomas Jefferson in 1776 who sponsored a set of redistributionary inheritance laws in order "to lay the axe to the Pseudo-aristocracy" of wealth, and "to make an opening for the aristocracy of virtue and talent, which nature has wisely provided for the direction of the interests of society" (Jefferson 1984, 32). "That form of government is the best," he fully believed, "which provides the most effectually for a pure selection of these natural aristoi into the offices of government" (Cappon 1959, 390). Neither More nor Harrington could have said it any better.

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CHAPTER 11

MODERNITY AND ITS CRITICS

JANE BENNETT

Seeking insight into the political events and debates swarming around them, undergraduates enrolled in "Modern Political Thought" courses are often surprised to learn that the focus is on writers from the seventeenth, eighteenth, and nineteenth centuries. This is because, as part of the series ancient–medieval–modern–contemporary, "the modern" in political theory is that which has *already* passed, although its traces are said to remain in the background of today. The term "modernity" functions somewhat differently in the discipline: it names a *contemporary* condition. As I contend at the end of this chapter, modernity is alive and kicking even within a theoretical framework of *post*modernism.

In what does the condition of modernity consist? First, in a distinctive constellation of intellectual tendencies, including the propensity to subject established norms and practices to critical reflection, to seek physical causes for disease, to believe both in universal human rights and in cultural specificity, and to affirm oneself as an individual even while lamenting the lack of community. The condition of modernity refers, second, to a set of institutional structures associated with such a temper, including popular elections, rule by law, a secular bureaucracy,

an independent judiciary and free press, public education, capitalism, and monogamous marriage.

"Modernity and Its Critics," therefore, is perhaps best approached as the *story* of this habit of mind and its institutional embodiments. In a version of the story that circulates widely in North America, Europe, and Australia, the plot goes something like this:

> Once upon a time there was a (medieval Christian) world where nature was purposive, God was active in the details of human affairs, all things had a place in the order of things, social life was characterized by face-to-face relations, and political order took the form of an organic community experienced as the "prose of the world" (Foucault 1970). But this premodern cosmos gave way to forces of scientific and instrumental rationality, secularism, individualism, and the bureaucratic nation state.

"Modernity and Its Critics" is a tale of this epochal shift, of the secularization of a traditional order that had been imbued with divine or natural purpose. Some tellers of the tale celebrate secularization as the demise of superstition; others lament it as the loss of a meaningful moral universe. When placed against the backdrop of a dark and confused premodernity, modernity appears as a place of reason, freedom, and control; when it is compared to a premodern age of community and cosmological coherence, modernity becomes a place of dearth and alienation. Even the celebrators of modernity, however, share something of the sense of loss accentuated by its critics—and this is to be expected, given what seems to be the tale's prototype, the biblical story of the Fall.

As a cultural narrative or civilization fable, "Modernity and Its Critics" tells us who we are and are not, and it identifies the key ideals to guide us and the most important dangers and opportunities we confront. As such, the narrative serves less a historiographical than a therapeutic function. It helps to order the vast and variable field of experience, and thus to shape the actual world in which we live. Under its banner, a certain tradition of thought and a certain group of people try to make sense of themselves and their collective life.

But *which* tradition of thought, *which* group of people? The story of modernity is embedded in the history of seventeenth-, eighteenth-, and nineteenth-century Europe, in particular in its political struggles against totalizing forms of rule and unthinking forms of obedience. The twenty-first-century encounter between militant strains of Islamic fundamentalism and "Western culture" has been read by Michael Thompson, for example, as a

recapitulation of Europe's own *internal* struggle between modern and anti-modern forces, between, that is, "Enlightenment notions of reason, secularism, universalism, civil society" on the one hand and "the *volkish* tendencies of cultural particularism, nativism, provincialism, and spiritualism" on the other (Thompson 2003, 1–2).

Bruno Latour has shown how the story of modernity portrays modern, Western culture as a *radical* break from all other modes of human thought, social organization, and inquiry into nature. Only the moderns, the story goes, have mastered the art of categorical purification, of distinguishing clearly between what is natural and what is cultural, between what is universal and true and what is particular and partial. Latour rejects this conceit, arguing that the difference between modern and other cultures is not qualitative but quantitative; that is, a matter of "lengthened networks." If modern critiques are more global, if modern self-consciousness is more explicit, if modern technologies are more masterful, it is only because of a difference in the "scope of mobilization," which, while important, "is hardly a reason to make such a great fuss" (Latour 1993, 124).

Other critics have noted that modernity, precisely *because* it is part of European history, cannot be exclusively European. Modernity cannot be divorced from the imperialist and colonialist projects of Europe or America, and thus is a product of the (psychic, linguistic, normative, bureaucratic, military) interactions between the West and the non-West. This means that multiple modernities exist side by side around the globe. Amit Chaudhuri makes a version of this point when he says that, "if Europe is a universal paradigm for modernity, we are all, European and non-European, to a degree inescapably Eurocentric. Europe is at once a means of intellectual dominance, an obfuscatory trope, and a constituent of self-knowledge, *in different ways for different peoples and histories*" (Chaudhuri 2004, 5; emphasis added). For Partha Chatterjee, too, because the cultural exchanges that generate modernity are not unidirectional, modernity must be understood as a multicultural production. Speaking in the context of India's modernity, he says that:

> true modernity consists in determining the particular forms of modernity that are suitable in particular circumstances; that is, applying the methods of reason to identify or invent the specific technologies of modernity that are appropriate for our purposes. (Chatterjee 1997, 8–9)

The postcolonial scholarship concerning non-Western or "alternative modernities" is rich and ongoing (see Gaonkar 2001; Chatterjee 2004). In insisting upon the geographical, cultural, and subcultural specificities of coterminous

modernities, such work resists the idea that modernity has a single lineage or is a univocal practice. This resistance is also served by acknowledging that every version of modernity includes, right from the start, its critics. "There must be something in the very process of our becoming modern that continues to lead us, even in our acceptance of modernity, to a certain skepticism about its values and consequences" (Chatterjee 1997, 14). Although he writes from a position deep inside Europe, Max Weber helps reveal just what this something is, just how modernities of all kinds generate their own critics.

1 Disenchantment and the Problem of Meaninglessness

Max Weber (1864–1920) identified the central dynamic of modernity as *Entzauberung* or de-magification, usually translated into English as disenchantment. Disenchantment names the processes by which magic is gradually supplanted by calculation as the preferred means for enacting human ends. Disenchantment is itself an instance of a more general process of "rationalization," which in turn encompasses several related processes, each of which opts for the precise, regular, constant, and reliable over the wild, spectacular, idiosyncratic, and surprising. In addition to eschewing magic as a strategy of will ("scientizing" desire), rationalization also *systematizes* knowledge (pursues "increasing theoretical mastery of reality by means of increasingly precise and abstract concepts"); *instrumentalizes* thinking (methodically attains a "practical end by means of an increasingly precise calculation of adequate means"); *secularizes* metaphysical concerns (rejects "all non-utilitarian yardsticks"); and *demystifies* traditional social bonds in favor of those founded on the shared reason of all men (Weber 1981, 293).

Systematization, *instrumentalization*, *secularization*, *demystification*: the shared grammatical form of these terms emphasizes the fact that modernizing transformations are ever ongoing, never fully completed. There will always be some phenomena that remain resistant to full mathematical or social-scientific analysis. These remnants, in Weber's account, are to be left aside until such time as scientific knowledge has advanced further into the logic of nature and society, or they are relegated to (the distinctly modern

invention of) the realm of private "values" and aesthetic, sexual, or mystical "experiences."

Weber acknowledges that the "modern" processes of rationalization predate modern times: attempts to displace magic were made, for example, by the ancient Hebrew prophets "in conjunction with Hellenistic scientific thought" (Weber 1958, 105; Jameson 1988, 26). But Weber describes the urge to demystify, pursued in fits and starts throughout history, as reaching its "logical conclusion" in seventeenth-century Puritanism. The ascetic ethic of Puritanism and its idea of a "calling" eventually became the entrepreneurship and acquisitiveness of modern capitalism (Weber 1958).

Whether directly or indirectly touched by Puritanism, any culture of modernity will encourage a distinctively *analytical* style of thinking. More specifically, to be modern is to be able to discern what things are "in principle" and not only what they are in current practice: one learns to relate to phenomena by seizing upon the *logic* of their structure, upon the *principle* of their organization, and this enables an even more careful and precise categorization of things. In a passage that also exemplifies how modernity is defined by way of contrast to an imagined primitivism, Weber describes this "in principle" logic:

> Does ... everyone sitting in this hall ... have a greater knowledge of the conditions of life under which we exist than has an American Indian or a Hottentot? Hardly. Unless he is a physicist, one who rides on the streetcar has no idea how the car happened to get into motion.... The increasing intellectualization and rationalization do *not*, therefore, indicate an increased and general knowledge of the conditions under which one lives. It means something else, namely, the knowledge or belief that if one but wished one *could* learn it at any time. Hence, it means that principally there are no mysterious incalculable forces that come into play, but rather that one can, in principle, master all things by calculation. This means that the world is disenchanted. (Weber 1981, 139)

Modernity produces a self skilled in the art of discerning the hidden logic of things. Key to Weber's story is the claim that while this skill is a laudable achievement, its cost is very high: a rationalized world stripped of all "mysterious incalculable forces" is a *meaningless* world. "The unity of the primitive image of the world, in which everything was concrete magic," gives way to "the mechanism of a world robbed of gods" (Weber 1981, 281). Or, as Charles Taylor puts the point:

> People used to see themselves as part of a larger order. In some cases, this was a cosmic order, a "great chain of Being," in which humans figured in their proper place

along with angels, heavenly bodies, and our fellow earthly creatures. This hierarchical order in the universe was reflected in the hierarchies of human society. . . . But at the same time as they restricted us, these orders gave meaning to the world and to the activities of social life. . . . The discrediting of these orders has been called the "disenchantment" of the world. With it, things lost some of their magic. (Taylor 1991, 3)

Weber identified modern science as the "motive force" behind these disenchanting and discomforting effects: in defining nature as a mechanism of material parts, in defining materiality as deterministic and devoid of spirit, and in allowing spirit to retain its premodern definition as the exclusive locus of "meaning," science empties the lived, natural world of moral significance. What is more, the very logic of scientific *progress* also demoralizes. Because every piece of scientific knowledge must be understood merely as a temporary and soon-to-be-superseded truth, modern selves are denied the psychological satisfaction of closure, the pleasure of a fully accomplished goal:

civilized man, placed in the midst of the continuous enrichment of culture by ideas, knowledge and problems, . . . catches only the most minute part of what . . . life . . . brings forth ever anew, and what he seizes is always something provisional and not definitive, and therefore death for him is a meaningless occurrence. And because death is meaningless, civilized life as such is meaningless: by its very "progressiveness" it gives death the imprint of meaninglessness. (Weber 1981, 140)

How, then, does Weber illuminate the link between modernity and self-critique? How does modernity necessarily engender radical repudiations of it? In subjecting norms to a demystification that weakens their efficacy without providing any critique-proof alternatives, in reducing nature to a calculable but heartless mechanism, and in celebrating a scientific progress that precludes the pleasure of completion, modernity *alienates.* One response, perhaps the most common one, is the demand for a return to a social whole exempt from relentless analysis and to a natural world restored to its cosmic purpose. Weber did not quite foresee the rise of Christian, Islamic, and Jewish fundamentalisms that would characterize the last years of the twentieth and beginning of the twenty-first centuries. But he did insist that rationalization inevitably generates a black hole of meaninglessness and a set of profoundly disaffected critics.

To sum up the story that Weber recounts: modernity is now-time, positioned against a lost age of wholeness; moderns are swept up in accelerated processes of disenchantment, scientization, secularization, mathematization, bureaucratization, and alienation; as such, they bear the burden of a world without intrinsic meaning, although they also benefit from an unprecedented

degree of critical acumen. The story ends, as do all fables, with some advice: do not resent the condition of modernity, counsels Weber, because a world devoid of intrinsic purpose positively overflows with opportunities for individuality and freedom. Modernity calls one to make one's own valuations, to choose for oneself among competing meanings:

> So long as life remains immanent and is interpreted in its own terms, ... the ultimately possible attitudes toward life are irreconcilable, and hence their struggle can never be brought to a final conclusion. Thus it is necessary to make a decisive choice. (Weber 1981, 152)

For Weber, the anti-modern project is futile because disenchantment, although never complete, is not a reversible historical trajectory. And so it is most profitably met by a heroic will to choose rather than by a cowardly slide into resentment.

The more recent work of Ulrich Beck, Anthony Giddens, and Scott Lash on "reflexive modernization" pursues a similar line of response. They argue that modernity is now:

> a global society, not in the sense of a world society but as one of "indefinite space." It is one where social bonds have effectively to be made, rather than inherited from the past.... It is decentred in terms of authorities, but recentred in terms of opportunities and dilemmas, because focused upon new forms of interdependence. (Beck, Giddens, and Lash 1994, 107)

In its emphasis on the *inevitability* of the disenchantment process, Weber's tale distinguishes itself both from attempts to re-enchant modernity (Moore 1996; Sikorski 1993; Berman 1981) and from attempts to identify opportunities for wonder and enchantment in secular, counter-cultural, or even commercial sites within modernity (Bennett 2001; During 2002). Weber's version also diverges from Marx's story of modernity, which explores the possibility of a more radical escape.

2 Commodity Fetishism

Karl Marx's (1818–1883) narrative of modernity focuses upon two linked social processes not emphasized by Weber: commodification and fetishization. A commodity is an article produced for market exchange rather than

"for its own immediate consumption." In the commodity form, "the product becomes increasingly one-sided. . . . [I]ts immediate use-value for the gratification of the needs of its producer appears wholly adventitious, immaterial, and inessential" (Marx 1977, 952–3). Commodification thus *homogenizes* objects, destroying their "sensuously varied objectivity as articles of utility" (Marx 1977, 166) and reduces them to equivalent units of exchange. Marx presents this alchemy, through which unequal things are made equal, as a sinister process (Jameson 1991, 233).

It is sinister not only because people are deprived of "sensuously varied objectivity," but also because, as commodified entities themselves, people (workers) come to be treated as mere objects. This objectification of labor is what makes profit possible: although a portion of labor is indeed "exchanged for the equivalent of the worker's wages; another portion is appropriated by the capitalist without any equivalent being paid" (Marx 1977, 953). The masking of this swindle is the most pernicious effect of modernity.

Second to that is its unnatural animation of artifacts. Marx compares the *tromp l'oeil* of commodification to the mystification perpetrated by religions:

> The mysterious character of the commodity-form consists . . . in the fact that the commodity reflects the social characteristics of men's own labour as objective characteristics of the products of labour themselves. . . . In order . . . to find an analogy we must take flight into the misty realm of religion. There the products of the human brain appear as autonomous figures endowed with a life of their own. (Marx 1977, 163–5)

In capitalism as in theism, nonhuman entities are empowered and humans are deadened.

Thus, commodity *fetishism*: the idolatry of consumption goods. This is an irrationality quite at home in the modern, rational self. Under its sway, the human suffering embedded in commodities (by virtue of their exploitative system of production) is obscured, and mere things gain hegemony as they dominate attention and determine desire. Commodity fetishism is modernity's relapse into primitivism, into the superstition that "an 'inanimate object' will give up its natural character in order to comply with [one's] . . . desires" (Marx 1975, 189).

Here again the Eurocentric tenor of the story comes to the fore: the negative force of the phrase "commodity fetishism" derives in part from an image of the repulsive non-European savage. More specifically, the primitive is aligned with the negro, the negro with pagan animism, animism with

delusion and passivity, passivity with commodity culture. And this line of equivalences is contrasted with another, consisting of the modern, the light, the demystified, the debunking critical theorist. Here Marx highlights for us the central role played by the technique of demystification or "ideology critique"—what Weber called a rationalization process—within the narrative of modernity. For Marx, modernity is ideology; it is a narrative that maintains the existing structure of power by obscuring or defending as legitimate its inherent inequalities and injustices. The just response to modernity qua ideology is modernity qua critique; that is, the clear-eyed unmasking of inequities that reveals them to be products of social choices that could be otherwise.

3 Ideology Critique

An exemplary instance of ideology-critique is Max Horkheimer and Theodor Adorno's 1944 essay on "The Culture Industry" (see Horkheimer and Adorno 1972). This elaboration of Marx's analysis of commodity fetishism aims to awaken man's critical faculties, which have been blunted by a postwar world saturated with commercialism. Horkheimer and Adorno echo the calls of Friedrich Nietzsche (1844–1900), Ralph Waldo Emerson (1803–82), Henry Thoreau (1817–62), and others for a life lived *deliberately* and in opposition to the voices of conformity, normality, and respectability. Unlike Nietzsche and the American Transcendentalists (and the Adorno of *Aesthetic Theory* and *Negative Dialectics*), however, Horkheimer and Adorno are skeptical about the role that aesthetic experience might play in this project of wakefulness. They argue that even the senses have been colonized, rendered incapable of posing an effective challenge to the "iron system" of capital. "The culture industry can pride itself on having energetically executed the previously clumsy transposition of art into the sphere of consumption" (Horkheimer and Adorno 1972, 137). Despite its constant invocation of novelty, the culture industry serves up only formulaic amusements designed to produce a passive, consumeristic audience.

In the version of the story told by Horkheimer and Adorno, modernity is on the brink of no return. It has solidified into a system where commercial

forces have almost wholly triumphed. Almost—for these heirs of Marx still harbor hope for a way out through the demystifying practice of radical critique. For Nietzsche, too, unmasking was a key strategy in the fight with modernity, a modernity that he identified with Christian and scientific asceticism. Nietzsche's practice of "genealogy," like ideology-critique, sought to uncover the violent, cruel, or simply contradictory elements within conventional ideals and concepts, including those constitutive of the modern self (e.g. moral responsibility, guilt, and conscience) (Nietzsche 1987, 1989)

Horkheimer and Adorno evinced a particularly strong faith in the power of ideology-critique, in, that is, the ability of human reason to expose the truth. Unlike Nietzsche, for whom reason required the supplement of aesthetic motivation, Horkheimer and Adorno imagine this truth as morally *compelling*, as capable of *enacting itself*. They reveal for us the extent to which the modern temper includes a belief in the efficacy of debunking, in the idea that insight into injustice carries with it its own impetus for undoing wrong and enacting right.

In invoking an independent and efficacious realm of critical reflection, Horkheimer and Adorno interrupt their own, more dominant, image of capitalist modernity as an *all-powerful* system of exploitation. In so doing, they display something of Gilles Deleuze's (1925–95) and Felix Guattari's (1930–92) sense that "there is always something that flows or flees, that escapes ... the overcoding machine," that although "capitalists may be the master of surplus value and its distribution, ... they do not dominate the flows from which surplus value derives" (Deleuze and Guattari 1986, 216, 226).

4 Nature

Marx and the historical materialists indebted to him identify modernity with the exploitation of human labor and human sensibility. As in Weber's account, the abuse of *nonhuman* nature receives less attention. But associated with every cultural narrative of modernity is a particular image of nature. In general, the modern assumption is that nature is basically law-governed and predictable, "in principle" susceptible to rationalization.

Let us consider critics who contest this nature-picture. Martin Heidegger (1889–1976), for example, rejects modernity's "enframing" of the world, an institutional, mental, and bodily habit whose ultimate goal is to reduce the Earth to the abject status of "standing reserve." He calls instead for humans to become more receptive to nature and to let it be. Heidegger also contends that the rationalizing zeal of modernity will itself bring to light that which it cannot rationalize, that is, the "incalculable" or "that which, withdrawn from representation, is nevertheless manifest in whatever is, pointing to Being, which remains concealed" (Heidegger 1982, 154).

There is a sense in which Heidegger aims to re-enchant the world, to recapture a premodern sense of the universe as an encompassing whole that fades off into indefiniteness. There, nature and culture regain their primordial cooperation. Other critics of the picture of nature as calculable mechanism, however, eschew the serenity of Heidegger's counter-vision. They draw instead from "pagan" conceptions of materiality as turbulent, energetic, and surprising. For these vital materialists, nature is both the material of culture and an active force in its own right. Nietzsche is one such materialist. He describes nature as:

> a monster of energy ... that does not expend itself but only transforms itself.... [A] play of forces and waves of forces, at the same time one and many...; a sea of forces flowing and rushing together, eternally changing..., with an ebb and a flood of its forms; out of the simplest forms striving toward the most complex, out of the stillest, most rigid, coldest forms toward the hottest, most turbulent..., and then again returning home to the simple out of this abundance, out of the play of contradictions back to the joy of concord. (Nietzsche 1987, 1067)

Political theorists described as postmodern or post-structuralist (see Foucault 1970, 1973, 1975, 1978; Butler 1993; Brown 1995; Ferguson 1991; Dumm 1996; Gatens 1996) also figure nature as resistant to human attempts to order it, although capable of emergent forms of *self*-organization. Like Marx and Nietzsche, they believe in the power of demystification: Foucaultian genealogies of madness, criminality, and sexuality; feminist and queer studies of gender and power; and postcolonial studies of race and nation all seek to expose the contingency of entities formerly considered universal, inevitable, or natural. But what is more, these exposés insist upon the *material recalcitrance* of contingent products. The mere fact that gender, sex, and race are cultural *artifacts* does not mean that they will yield readily to human understanding or control.

Nature appears in this work as neither imbued with divine purpose nor as disenchanted matter. Instead, all material formations—human and nonhuman—are described as processes with the periodic power to surprise, to metamorphosize at unexpected junctures. Drawing from discussions of nature in Spinoza (1632–1677) and Lucretius (*c.* 99–55 BCE), Deleuze and Guattari, for example, speak of nature as a perpetual "machine" for generating new and dynamic compositions, as "a pure plane of immanence . . . upon which everything is given, upon which unformed elements and materials dance" (Deleuze and Guattari 1987, 255).

For this "postmodern" set of critics of modernity, the nonlinearity of nature and culture retains a logic that can be modeled, despite the fact that the emergent causality of the system means that trajectories and patterns can often be discerned only retroactively, only after the fact of their emergence. Complexity theory, initially developed to describe a subset of chemical systems (Prigogine 1997), offers these political theorists the beginnings of a theoretical framework and methodology (see Serres 2001; Lyotard 1997; Bennett 2004; Latour 2004; Connolly 2002; Massumi 2002). Modern science is not rejected; on the contrary, one version of it is actively affirmed. And that is the one that understands nature as a turbulent system where small changes in background conditions can have big effects, where micro-shifts can produce macro-effects. However, the nature that consists of flows, becomings, and irreducible complexity is *not* a random set of fluctuations unrecognizable *as* a world. It remains, rather, a world "in which there is room for both the laws of nature and novelty and creativity" (Prigogine 1997, 16).

Within the rich and heterogeneous story of modernity, therefore, it is possible to identify three nodal points or attractors, each with its own image of nature and culture. At one point, we find a "Weberian" social order plagued by meaninglessness (or a "Marxist" world of economic injustice and alienating commodification), and a "dead, passive nature, . . . which, once programmed, continues to follow the rules inscribed in the program" (Prigogine and Stengers 1984, 6). At a second point, we find a "Heideggerian" modernity of ruthless enframing, accompanied by a nature that gestures darkly toward a higher purpose. At the third, "Nietzschean," point lays a world where creativity and novelty endlessly compete with the forces of regularization. All three versions, however, are infused with the *hope* that the world is susceptible to the critical reasoning, careful analysis, and practical interventions typical of modernity, and with the *will* to render that world more intelligible.

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CHAPTER 12

THE HISTORY OF POLITICAL THOUGHT AS DISCIPLINARY GENRE

JAMES FARR

The history of political thought refers, ambiguously, either to the actual chronology of past thought about politics, or to the narration and critical commentary on past thought. This parallels a similar ambiguity when referring to the history of science (Laudan 1977). Unlike the history of science, however, the ambiguity attending the history of political thought (in the second sense, which shall govern our usage) is deepened by the fact that past political thinkers engaged in narration and critical commentary on the political thought that preceded them. Whereas past scientists were not historians of science, at least beyond recent precedents, past political thinkers were historians of political thought whose reach extended to the thinkers of antiquity. This is a reminder how entangled political thought is in its own

history; and this entanglement has changed over time. There is a history of the history of political thought.

This chapter focuses on the history of political thought—understood as narration and critical commentary on past thought—between the mid-nineteenth and the later twentieth centuries. With Robert Blakey (1855), William Dunning (1902, 1905, 1920), and George Sabine (1950), among others, the history of political thought became a disciplinary genre within political science. Its defining features marked a break from what passed as the history of political thought before the nineteenth century when greater and lesser political thinkers were not bound by any recognizable discipline. A methodological awakening in the later twentieth century brought the disciplinary genre to a close and initiated the latest chapter in the history of the history of political thought.

1 Narration and Critical Commentary, New and Old

The latest chapter in this history is the one most familiar to readers of this *Handbook*. "The history of political thought" names an academic specialty or subdivision of labor among political theorists in departments of politics, government, or political science at college or university. In this way, it is part of the broader "real history" of political theory in the discipline of political science (Gunnell 1993). The history of political thought is acknowledged, by name, as an area of inquiry by professional academic associations like the American Political Science Association (APSA), the Political Studies Association, and the Association of Political Theory. Academic journals publish articles in this category, among the more prominent being *The History of Political Thought*.

The academic specialists known as historians of political thought in these departments, associations, and journals are political theorists with a heightened consciousness of the bearing of the past on the present who engage in the time-honored, although contested, practice of narrating and critically commenting on one or more past thinkers or themes—from Plato to Dewey, power to democracy, and much else. The history of political thought in this contemporary and wide-ranging sense is marked by considerable depth of

scholarship, evident in extensive research and citation of primary and secondary sources. It is also attended and partly constituted by sustained methodological reflection on the practice of narration and critical commentary. Thinkers like Leo Strauss, Quentin Skinner, and Michel Foucault, among others, are known not only for what they wrote or have written brilliantly about Hobbes, Machiavelli, liberty, power, or sovereignty. In addition, their competing methodological prescriptions—whether to pursue esoteric doctrines, intentional speech acts, archaelogy, or genealogy—are followed, resisted, or amended by historians of political thought who go about their business of narration and critical commentary. Proof of this methodological consciousness may be found in the sizable and growing literature on what it is "to do" the history of political thought (Pocock 1962, 1971; Dunn 1968, 1996; Skinner 1969; Gunnell 1979; Condren 1985; Tully 1988; Bevir 1999). Broader testimony to the depth and range of the contemporary practice of the history of political thought may be found in scores of books, articles, and entries in this *Handbook*.

There are exceptions to this quick portrait of our time. There are alternative academic settings for historians of political thought in departments of philosophy, geography, or cultural studies, and a few professional alternatives in foundations, think tanks, or print media. Some forms of political theory—like social choice theory—are decidedly ahistorical. Some popular works of fiction like *Sophie's World* (1994) by Jostein Gaarder suggest how free of method and academic specialization the history of political thought can be for a broader readership. There are also tensions over the importance of historical inquiry—if not political theory itself—between historians of political thought and political scientists in the departments they mutually inhabit. But, exceptions or tensions notwithstanding, the history of political thought is today largely the province of academic professionals in political science engaged in serious scholarship and the diverse practices of narration and critical commentary.

This state of affairs dates roughly to the third quarter of the twentieth century, and features of it go back much earlier. The history of political thought was professionally acknowledged when the APSA was formed in 1903. By the late nineteenth century, it had already become an identifiable subject of higher education (Haddow 1939; Collini, Winch, and Buron 1983). Narration and critical commentary on previous political thought date nearly to the earliest political writings. But what passed for the history of political thought before 1969—to hazard a symbolic date—was notably different than today's academic specialization, scholarly depth, and methodological

consciousness. Pre-nineteenth century history of political thought was more different and diffuse still.

Before the nineteenth century, "the history of political thought" was not a category or phrase in circulation, if it was yet coined or used at all. Political thinkers nonetheless engaged in narration and critical commentary on previous political thought as an essential element of their own thinking. This was true of epigone, as well as the greatest thinkers of antiquity and early modernity. Consider, famously, Plato on Socrates or Aristotle on Plato. Waves of neo-Platonists across history could only identify themselves as such by critical commentary on Plato, so as to adapt his thought to changing circumstances. Aristotle—"the greatest thinker of antiquity" to Marx—proved to be the dialectical spur for subsequent thinkers like Cicero, Averroes, Aquinas, Marsilius, and (negatively) Hobbes. Sections of Augustine's *City of God* read like a medieval literature review of the Old Testament and the writings of pre-Socratics, Romans, and neo-Platonists. Locke reacted to Filmer at great length before proposing his own construction of civil government. Rousseau presented his originality in republican thought after a blazing pass by natural lawyers and social contractarians like Grotius and Hobbes, as well as earlier republicans like Machiavelli. Such examples can be multiplied without end. The thinkers in question did not (nor can we) understand their thinking apart from their narration and critical commentary on the political thought that preceded them—when, of course, they actually did so.

There are some noteworthy features of this earlier period when the history of political thought proceeded without name. While many thinkers were teachers in that their works were "teachings," as followers of Strauss say, they were usually not educators or academics, Plato and Aristotle aside. They certainly were not professionals and their political writings seldom earned them their bread. Moreover, narration and critical commentary on previous thinkers was often brief, without quotation, citation, or mention of the works in question. The great exception in the Christian West after the fourth century was commentary on the sacred canon, especially the Bible. Biblical commentary was a defining feature of medieval and early modern political thought, thus marking another distinction from what came later. While many political thinkers were rhetoricians, aware of the array of humanistic sciences, they narrated and commented critically on what they read without much discussion of what it was to narrate or criticize in the way they did. There were exceptions to this in certain matters of interpretation, especially for political thinkers who were also jurists. But to read Rousseau's abbreviated

critical commentary on Hobbes without benefit of quotation or to read Hobbes's abbreviated critical commentary on Aristotle without benefit of quotation conveys how some great political thinkers went about their work in light of figures who preceded them.

There was also an immediacy and viability in the history of political thought in these earlier eras. The thought of prior thinkers was alive and present to those who narrated them, however long dead the thinkers actually were. A sense of contextual difference or historical distance was scarcely in evidence. Machiavelli, for example, announced his intention to open a "new route" for political thought in the *Discourses* by commenting upon the books of Livy, as if written yesterday. The Florentine republican left special testimony to this sense of immediacy and viability in a famous letter concerning *The Prince* that begins with his doffing his work clothes, muddy from the day's labors, and assuming courtly garments:

> Thus appropriately clothed, I enter into the ancient courts of ancient men, where, being lovingly received, I feed on that food which alone is mine, and for which I was born for; I am not ashamed to speak with them and to ask the reasons for their actions, and they courteously answer me. For hours ... I give myself completely over to the ancients. (translation in Wolin 1960, 22)

Hobbes made the point from an opposing, more menacing direction: sedition of modern state authority frequently followed the reading of classical writers. Leviathan should beware the living threat of antiquity.

2 A Disciplinary Genre

Beginning in the nineteenth century and in full maturation by the twentieth, the history of political thought changed dramatically. There certainly were great political thinkers, like Hegel, Mill, and Marx, who narrated and commented critically on those who came before. This was a continuation of the age-old practice. But they were more attuned to context and historical distance, as well as to breaks in the chronological trajectory of political thought. The Bible was ceasing to be a required text for political reflection, or even requisite for spiritual uplift. More significantly, "the history of political thought" came into use as a phrase, among kindred phrases, often

figuring as the title of textbooks for collegiate instruction. This phrase and these textbooks announced the arrival of a disciplinary genre.

As an ideal-type, admitting of exceptions and differences, this genre displayed striking commonalities. (For related accounts, to which this entry is indebted, see Gunnell 1979 and Condren 1985.) The genre bundled together and presented in chronological order the thinkers deemed to be great, important, or representative. Sometimes these bundles of thinkers were organized in terms of eras or nationalities, as if they were defined by or themselves defined these eras or nationalities. More often, a chapter was dedicated to each of several individual greats. Thus emerged the long line of famous thinkers: Plato, Aristotle, Cicero, Augustine, Aquinas, Machiavelli, Hobbes, Locke, Rousseau, Hegel, and Mill. It was not just that this list, even when extended to include a larger cast, contained and presented in chronological order the great, important, or representative thinkers who deserved attention. They had long since deserved and received attention. Rather, they went together *as* a line-up, later thinkers being understood in terms of previous ones. It was no mere chronology, but a linked chain of influence and attention. Whether or not a particular thinker had *actually* commented upon a previous one, the line-up made it appear that political thinkers were bound together as a tradition, engaged in a great dialogue, each later thinker speaking to or about each previous one. The dialogue of this tradition was composed of a vocabulary of key concepts that thinkers-in-line shared; and it turned upon some long-standing themes or even perennial problems of politics. This dialogue and these problems still reigned in the nineteenth and twentieth centuries, despite political change. Students of political science could do no better than to study the great works of the lined-up tradition, taken as a whole. The whole of these works became a canon, the tradition realized, as if canon and tradition preceded the nineteenth and twentieth century genre of narration and critical commentary. Line-up, canon, and tradition came to be conceived as existing "out there" or "back then," not literary artifacts of a genre. They appeared as natural kinds or found objects that the historians of political thought were humbly narrating. "The history of political thought," in short, became a purportedly real object of study, a (reified) thing with an identity of its own that justified the writing of these books.

Other features—stylized in the way of an ideal type—stand out in this defining period. The line-up of great thinkers implied progress or evolutionary improvement of political argument. There was usually, however,

demurral about the progressiveness of the most recent political thought, as if future history still had to sort out the clamor of competing claims. Moreover, progress was charted in terms of conceptual antinomies of antique origin but modern persistence, like liberty versus tyranny (Blakey) or authority versus liberty (Dunning). These begat contemporary ideological categorizations, like liberalism versus totalitarianism (Sabine). Such antinomies gave the clue to the author's political convictions, even (no, especially) when he claimed to be value-free or without prejudice. The more significant differences among genre writers were to be found in their political convictions, forged in different decades of two very troubled centuries.

There were methodological, scholarly, and disciplinary markers to the genre, as well. A nominal contextualism was usually defended. Past political thought was explained in terms of the authors' situated biographies or "the times" (usually some mix of war, religious strife, international affairs, economic interests, and technological change). Such contextualism was a hedge, but little more, on the alleged progress of political thought or the perenniality of problems. Given the staggering hermeneutical difficulties of mastering the thought of great thinkers from Plato to Mill, not to mention scores of lesser lights, the authors of the collegiate textbooks were dependent on the scholarship of others whose ambitions fell shy of covering the entire canon. More modestly and expertly, the latter scholars took out a more limited range, often one or a few thinkers from a defined historical period. Thus the scholarship in the textbooks combined the author's own far-flung reading with in-depth studies that were acknowledged as crucial to the exercise. The genre historians also agreed that in narrating past political thought they were contributing to political science. Indeed, they *were* political scientists as much as any of their colleagues who were studying—by the historical, comparative method—the state, government, and administration. Thus one book in the genre—Sir Frederick Pollock's *An Introduction to the History of the Science of Politics* (1890, originally in *Fortnightly Review* 1883)—was aptly titled, they thought, even though it did nothing more or less than narrate and comment upon the political thought of Plato, Aristotle, Cicero, Aquinas, Machiavelli, Hobbes, Locke, and Rousseau, with additional bits from Burke, Blackstone, and Bentham. Pollock's closing advice for political science—"Back to Aristotle"—was, to historians of political thought, not bad. They were already back there.

3 From Blakey to Sabine

It is tempting to identify the first disciplinary historian of political thought as Robert Blakey, especially since he gave himself up for the honor. In 1855, the Professor of Logic and Metaphysics at Queen's University, Belfast, boasted that his *History of Political Literature from the Earliest Times* was "the first attempt of the kind." At present, Blakey alleged, "political writers of the past are thrown into a promiscuous heap." With "no one to guide" him, he then proceeded in two large volumes to trace the history of political thought from the Old Testament and the pre-Socratics to late seventeenth-century thinking, as organized by the major European nationalities. (He drafted two more unpublished manuscripts on eighteenth- and nineteenth-century thought.) Consistent with the "great principles of polity" found in "the sacred canon," the works of political thought that Blakey identified were presented as the "progressive steps or land-marks" in "politics as a great science" that taught "the axioms of citizenship." Both volumes were framed by "two grand ideas . . . namely, liberty and tyranny" (Blakey 1855, vol. 1, vi, vii, ix, xvi, xxiv, xv, xxxi, 446); and the second issued up "two grand doctrines" that "pervaded" political thought since the Reformation, namely, liberty of conscience and the right of resistance. While Blakey denied "prejudice and party-feeling," there was no suppressing his Chartist and republican commitments to liberty and popular resistance as "inalienable rights." Locke, thus, received special attention; and passages from the radical closing chapters of *Two Treatises* were quoted at length (Blakey 1855, vol. 2, 4, 20, 33, 166–70, 441–3).

Blakey's boast of being the first historian of political literature was and remains credible. However, prior developments make certain features of his book less dramatic in initial appearance. These form literary bridges between the genre and what came before. First, Blakey himself had previously authored two histories of thought, *History of Moral Science* (1833) and *History of Philosophy of Mind* (1850). In both, he lined up the great thinkers, including Plato, Aristotle, Cicero, Hobbes, and Locke, invariably discussing some matters of politics. In the former, he even invoked "the whole history of political philosophy" to refute the view that liberty springs from human nature, as opposed to moral and political teachings; and he discussed theorists of natural law and the law of nations, like Grotius, Pufendorf, and Vattell (Blakey 1833, vol. 2, 348, 299–305, 350). Blakey's two histories of mind and moral science, furthermore, were scarcely unique. A class of textbooks in

moral and mental philosophy had been under way since the late eighteenth century in which the political views of moralists were discussed. Blakey was aware of these texts since he cited or quoted from several, including *Lectures on Moral Philosophy* (1800; 1822), originally delivered at Princeton during the 1770s and 1780s by John Witherspoon, the Scottish-born moral philosopher whose "common sense" realism influenced revolutionary America. At the end of his textbook, Witherspoon (1982) drew together a striking, non-promiscuous list of "some of the chief writers upon government and politics" that presaged the genre's line-up style:

> Grotius, Puffendorf, Barbyrac, Cumberland, Selden, Burlamaqui, Hobbs, Machiavel, Harrington, Locke, Sydney, and some late books, Montesquieu's Spirit of Laws; Ferguson's History of Civil Society; Lord Kaime's Political Essays, Grandeur and Decay of the Roman Empire; Montague's Rise and Fall of Ancient Republics; Goguet's Rise and Progress of Laws, Arts, and Sciences. (Witherspoon 1982, 187)

Encyclopedias need to be remembered, too. Blakey acknowledged encyclopedias for biographical information. But there was more in them of the history of thought. In *L'Encyclopedie* (1745–72), for example, Diderot offered entries on "egoisme," "Hobbisme," and "Locke, philosophie de." Similar entries resided in the *Encyclopedia Britannica*, as well as the *Encyclopedia Americana*, edited by Francis Lieber in the 1830s. Not only were there stand-alone entries on several thinkers, including Aristotle and Spinoza (Lieber's heroes), there were those on "history of philosophy," "political science," and "the state" that marshaled views from historical figures. Such entries were mini-chapters, as it were, that could grow to larger proportion in treatises on political science and the state, like Lieber's own textbooks—*Manual of Political Ethics* (1838) and *Civil Liberty and Self-Government* (1853)—as well as *Allgemeine Staatslehre* (1851, with many subsequent editions and translations) by Johann K. Bluntschli.

Out of moral philosophy, treatises of state, encyclopedias, and long lists, then, came Blakey's "first" history of political thought. It gained notice, if only as "crude, scrappy, and superficial" to William A. Dunning, Lieber Professor of History and Political Philosophy in the School of Political Science at Columbia University. So underwhelmed was Dunning by Blakey's efforts, that he submitted his own candidacy as the first to trace successfully, as a scholar, the history of political thought as a set of "successive transformations" in "the broad field of the world's progress." In his three-volume *History of Political Theories* (1902, 1905, 1920), Dunning took note not only of Blakey, but of Pollock's history of political science and another early work in the genre, *Histoire de la Philosophie Morale et Politique: Dans*

l'Antiquite et les Temps Modernes (1858, 1872, 1887) by Paul Janet. Dunning also relied upon the primary scholarship of John Neville Figgis (for divine right), Henry Hallam (for constitutional history), and Otto von Gierke (for medieval thought), as well as Bluntschli's historical overview of theories of the state. This did not prevent him from being critical of them, or from liberally dispensing his own judgments about Locke's "illogical, incoherent system," or Marx's "shrieking contradiction," or Rousseau's inner "spoiled child" (Dunning 1905, 1, 368, 375). He announced in the first volume a contextualism that tied "any given author's work to the current of institutional development" (Dunning 1902, xxv). However, in the final volume, the prescience of the ancients trumped institutions: "In twenty-three centuries, the movement of thought has but swung full circle. Such is the general lesson of the history of political theories." More plausibly, Dunning noted a falsificationist's "progress," namely, the passing into obscurity of certain foundations in the perennial struggle between liberty and authority. "Nature was dropped out of consideration as God had been before." Replacing them were "reason, righteousness, and history, especially as embodied in constitutional formulas" (Dunning 1920, 415, 422, 423). The last of these remaining foundations was crucial. History dismissed natural rights and popular sovereignty. It allowed Dunning to sympathize with positivism (Austin, Comte, Spencer) and commend the theory of liberty in Montesquieu's *Spirit of the Laws*. The "scientific calm" and political moderation of this "great work in the history of political science" was disturbed only by Montesquieu's "splendid glow of wrath" over slavery. Dunning was no defender of slavery, although he thought "progress" had been made in arguments defending it. However, he shuddered at the "barbarous civil war" wrongly fought in America over the peculiar institution; and he judged Reconstruction a total horror whose "substantial factor" was not some "principle of popular will" but "the military power of the North" (Dunning 1905, 287, 336, 409, 418).

Dunning entrenched the genre's form and much of its substance. His formal influence was already apparent in the work of his student, Charles E. Merriam, who wrote more pointedly on *The History of the Theory of Sovereignty since Rousseau* (1900) and more nationally on *A History of American Political Theories* (1903, dedicated to Dunning, and retitled upon revision in 1920). Raymond G. Gettell hailed Dunning's "splendid monument," as he wrestled three volumes into one *History of Political Thought* (1924) and produced another on *History of American Political*

Thought (1928). In the former, he redeployed Dunning's conceits regarding "objective conditions" and "continuous growth." He also proclaimed "the fundamental problems of political thought are essentially the same as those of two thousand years ago" (Gettell 1924, v, 5, 494). In the latter, he quoted approvingly Dunning's view of Reconstruction as "'a huge social and political revolution under the forms of law.'" But Dunning was of greatest interest to Gettell, as to Merriam in *New Aspects of Politics* (1925), because he and colleagues at Columbia and Johns Hopkins had "laid the foundations of modern methods of scientific political inquiry" (Gettell 1928, 387). This underscored the long-proclaimed identity or complementarity of the history of political thought and political science, what George Catlin called "the rational Grand Tradition" and "a Science of Politics." In *The Story of the Political Philosophers* (1939), Catlin narrated fiercely on the side of the tradition and political science. He proceeded, he said, "full of humility" in the wake of Dunning, George Sabine, and even Thomas I. Cook (whose *History of Political Philosophy* (1936, v) offered "the haven of a textbook" to hapless undergraduates, with chapters, like Catlin's, adorned with photographic plates of canonical busts, making the history of political thought appear, pictorially, as a long line of heads).

By Catlin's time, the political locus of genre histories had shifted. Professing objectivity or impartiality as political scientists, historians of political thought pitched nonetheless for liberalism or some version of democratic constitutionalism. Gettell (1924, 472–87, 493) ended his narrative skeptical of "recent proletarian political theory," meaning anarchism, syndicalism, bolshevism, and national socialism. "Democracy in ultimate control combined with efficiency in administration" was the future "compromise" he appeared to value. In *Recent Political Thought* (1934, v), Francis W. Coker professed an "impartial attitude," although "his own theoretical preconceptions" might have "colored his critical interpretation at many points." And, sure enough, liberal democracy helped him sort arguments of socialists, fascists, and "empirical collectivists." But it was Catlin (1939, ix, x, 753ff, 768, 771, 777) who was most alert to "rival philosophies of these times" and narrated accordingly. He lined up the Grand Tradition of humanist values consistent with science, inscribed in the "gnomons and canons" of Plato, Aristotle, Aquinas, Erasmus, Locke, and Bentham, with Confucius and recent thinkers like Dewey and Merriam serving as historical bookends. A "counter-tradition" consisted of amoralists like Machiavelli,

Hobbes, and Nietzsche, as well as "totalitarians" like Hegel. Catlin's "friend and late colleague," George Sabine of Cornell University, was more circumspect about the political persuasion informing his *History of Political Theory* (1937). But in the second edition of 1950 (ix), Sabine admitted being "even more deeply convinced than he was in 1937 that ... he is indebted to the tradition of liberalism itself, and hence he is forced to see in that tradition the most hopeful prospect for social and political improvement by peaceful means."

Sabine's *A History of Political Theory* was the last and greatest of the genre. It was the most scholarly, too, because Sabine made independent contribution by translating Cicero and editing Winstanley's writings. It acknowledged Dunning and Janet in the genre, but relied on expert authorities like Ernest Barker (for the Greeks), Charles McIlwain (for medieval thinkers), Leo Strauss (for Hobbes), and Herbert Marcuse (for Hegel). It was even more forthright in its philosophical preferences: for Hume's criticism of natural law and his argument that value ("ought") could not be derived from fact ("is"). This gave fair warning of Sabine's skepticism about natural lawyers from Althusius to Locke, appreciation for the secular or non-clerical tendencies in less-known figures like Winstanley, and sympathy for non-foundational empirics like Machiavelli, Harrington, Burke, and Hume himself. Humean preferences allowed endorsement of the emerging dogma of political science as value-free, or at least incapable of justifying values. This implied "social relativism" for narrating the history of political thought: "political theory can hardly be said to be true" since "thought evolves" alongside institutions of government going back to the Hellenic city-state (Sabine 1937, i–iii). Such relativism did not prevent Sabine, or anyone, from choosing sides or deciding values. Indeed, he came clean about doing so, if belatedly, when it came to liberalism. In coming clean in the second edition (Sabine 1950, ix), he revised his former opinions about the Hegelian origins of national socialism, the Marxist foundations of Leninism, and the unity of liberalism. Matters were more complex, especially for a multifaceted liberalism that learned a hard lesson from the 1930s and 1940s: "no democratic movement can expect anything but disaster from an alliance with communism." Further amendments came in the third edition (1961), suggesting a scholar still at work, struggling to get his head around the history of political thought as a whole. Could it ever really be done? Could the line hold?

4 Criticism and Methodological Transformation

In the third quarter of the twentieth century, the genre that peaked with Sabine came under attack by those both hostile and sympathetic to historical inquiry into past political thought. Developments that were indifferent to the fate of the genre abetted these attacks and signaled a new chapter in the history of political thought. A bellwether critic of the genre was David Easton in *The Political System: An Inquiry into the State of Political Science* (1953, ch. 10, 236, 237, 249, 254). In the works of Sabine and Dunning, Easton traced the "decline" of political theory into a form of "historicism" (vilified by the philosopher of science Karl Popper). Contextualism and social relativism might help historicist understanding of past thinkers in their times, but not the pressing task of constructing a political theory of value that could actually guide political actors. While Sabine was "brilliant" and Dunning's trio worth traipsing over, Easton judged them "manifestly unsuited for training political scientists." Easton's longing for "a theory of a good political system" went unfulfilled, but his charge of manifest unsuitability of the genre for disciplinary training captured and influenced the mentality of a discipline becoming more behavioral, positivistic, and ahistorical. This was a considerable breach given the genre writers' view of themselves *as* political scientists. The breach widened when Peter Laslett (1956, vii) opined that political theory was "dead" and "the tradition broken." Dead, broken, or just something to avoid, John Plamenatz (1963, xiv) would preface his study of "man and society" from "Machiavelli to Marx" with a disavowing first sentence: "this book is not a history of political thought."

Other historians of political thought—notably Sheldon Wolin and Leo Strauss—confirmed the disciplinary breach within political science. They were also harbingers of contests in the field. In *Politics and Vision* (1960, 12, 14, 27, 213, 216, ch. 9), Wolin ignored Sabine and genre writers altogether when discussing "the tradition" in the decisively temporal terms of "continuity and innovation," as well as blaming liberalism for "the decline" of political philosophy and the "sublimation of politics" in a world of corporate orderliness. His Plato was against politics; his Calvin was a radical educator; and his Machiavelli crafted a "new science" to "unmask illusions" and bring about "a new political ethic." How bracing and distant this was from "the

dreary controversy over whether [contemporary] political science is, or can be, a true science." "Rather than dwell on the scientific shortcomings of political theories," Wolin impatiently pronounced, "it might be more fruitful to consider political theory as belonging to a different form of discourse," one that drew upon ordinary experience and aspired to a non-scientistic "form of political education."

If you blurred your vision, Wolin's arguments appeared to be shared by Strauss and Joseph Cropsey (1963), especially on liberalism, the tradition, and political education. But, if one read between the lines, or read other lines that Strauss and his students wrote, then the differences with Wolin came into bolder relief (and are now starkly contrasted with the expanded edition of *Politics and Vision* (Wolin 2004)). There was first, though, a difference of form separating Strauss and Cropsey from Wolin or the genre. They were contributors and editors of a volume of thirty-three chapters by twenty-seven different authors. Strauss wrote on Plato and Marsilius (and in later editions on Machiavelli); his students covered the rest. It evidently took a village or a philosophical school to educate an undergraduate in *History of Political Philosophy* from Plato to Dewey. Strauss and Cropsey (1963, 1, 248, 722, 761, 762) began by distinguishing "political philosophy"—namely, Socratic "classical teachings" from Greek antiquity to the Islamic and Christian middle ages—from mundane "political thought"—"coeval with political life"—of the sort Wolin valued. The Straussian narrative turned declensional with Machiavelli, long before the declines of liberalism (Wolin) or the genre (Easton). Machiavelli (whom Strauss elsewhere denounced as a "teacher of evil") led modernity away from classical natural right. Hobbes and Locke recycled Machiavelli's malevolent teachings; Marx "proposes nothing less than the end of the West;" and "Dewey's depreciation of the political" rested on his paltry belief in democracy as a way of life. In their undeniably powerful textbook, Strauss and company instructed undergraduates to believe that "the great majority of the profession concurs in the view that the history of political philosophy is a proper part of political science" because of "the very common practice of offering courses on this subject." But the discipline was divided since political scientists knew neither their classical heritage nor Machiavelli's teachings nor the inferno of twentieth-century politics. As Strauss (1962, 327) decried the year before his co-edited textbook: political science "fiddles while Rome burns. It is excused by two facts: it does not know that it fiddles, and it does not know that Rome burns." With some irony—or a deep appreciation of the differences at stake in the new turn in the history of political thought—it

was not political scientists but rather Wolin (with John Schaar 1963) who criticized the Straussians' fiery assault on political science, as well as its classicist elitism.

As textbook narration and commentary on past political thought departed from both genre and political science, there appeared on several fronts a transformative methodological awakening. "Method" was then, as now, a capacious term that covered technical and philosophical interventions in the practices or understandings of interpretation, narration, and criticism. The awakening in the history of political thought was an inevitable if delayed development that followed searching methodological discussions begun in philosophy, science, and social science. The resulting self-consciousness about the history of political thought proved more profound than, say, Dunning's institutional contextualism or Sabine's separation of facts from values. Indeed, a deeper contextualism and prouder historicism emerged from different quarters. One came out of Cambridge University in the work of Quentin Skinner, John Dunn, and J. G. A. Pocock, who were influenced by developments in the philosophy of language and action, as well as the idealist historiography of R. G. Collingwood. Contexts for understanding were linguistic, broadly speaking; language and its changing vocabularies formed the context and imposed the limits on what could be said about politics at any particular time in history, as well as what could be done, intentionally, in saying them. This broad linguistic framework was displayed in magisterial studies of Machiavelli, Hobbes, Locke, and supporting casts of long forgotten figures, absent in genre histories. From an altogether different quarter, influenced by structuralism and the philosophy of Martin Heidegger, came Michel Foucault at the Collège de France. With the imposing title of Professor of History of Systems of Thought, Foucault encouraged, by edict and example, an understanding of political thought, during any particular "epoch," as an "archive" or set of discourses that conditioned what counted then as truth. Discourses drew from and made possible structures of power beyond or beneath the state. Armed with discursive method, Foucault questioned "what is an author" and made dramatic pronouncements about the death of man (within humanist philosophy). He also produced several brilliant "archaeologies" of madness, clinical psychology, and the social sciences (which included canonical thinkers like Locke and Hegel whose intellectual distance from one another suggested great "ruptures" and incommensurate "epistemes" in history). These archaeologies were simultaneously social critiques of current disciplinary practices in prisons, hospitals, and academies,

making historical recovery serve contemporary political purposes. Methodological awareness of the sort represented and encouraged by the very different figures of Foucault and the Cambridge historians—and there were others still—transformed the history of political thought.

The year 1969 may serve as a symbolic date for the methodological and disciplinary developments that upstaged the genre. It was, in any case, a banner year for reading new thoughts about old thinkers, emergent methods, and changed disciplines. Foucault came out with *L'Archeologie du Savoir* and "Qu'est-ce qu'un auteur?" Skinner waged war on genre "myths" (and many expert historians, as well) in "Meaning and Understanding in the History of Ideas." Dunn unleashed *The Political Thought of John Locke*, in which a strangely compelling theological radical of the seventeenth century escaped the bonds of liberal, Marxist, and Straussian interpretation. Wolin evoked "the vocation of political theory" with its historical mooring while savaging behavioral "methodism" in political science. Easton crossed over the disciplinary breach, as APSA president, to criticize behavioralists for their lack of historical relevance and their indifference to political crises as a "post-behavioral revolution" loomed on the horizon. All told, these were symbolic developments with real consequences for the history of political thought. There were to be trailing clouds and textbooks of the genre after 1969, just as there were intimations of it before Blakey in 1855. But there can be no doubt that the history of political thought in the last quarter of the twentieth century left the genre behind, or a shadow of its former self. This can be gauged by the contemporary range of historical studies, the depth of scholarship that comes with a humbler circumscription of past thinkers or themes, and the continuing buzz of methodological debate over authors, subject positions, speech acts, discourses, esoteric doctrines, genealogies, and conceptual histories. Narration and critical commentary goes on, keeping past political reflection alive as backdrop, alternative, or spur to contemporary thinking about politics.

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PART IV

POLITICAL THEORY IN THE WORLD

CHAPTER 13

THE CHALLENGE OF EUROPEAN UNION

RICHARD BELLAMY

1 Introduction

Political theorists and scientists alike have viewed European integration as a laboratory for exploring how far the nation state, and the forms of domestic and international politics to which it gave rise, has been affected by the various processes associated with globalization. Debate has focused on whether the European Union (EU) has transformed the old politics of nation states to produce a new kind of polity, or merely adapted the old politics to new circumstances. As a result, theorists have had to confront the underlying empirical assumptions of much normative political theory—in particular, the degree to which our contemporary understanding of democratic politics presupposes the nation state. If it does, and the EU represents a significant move beyond national politics, then we may need a parallel conceptual transformation of our views of constitutionalism, citizenship, representation, and

* I am grateful to the editors, Andreas Føllesdal, Percy Lehning, and Albert Weale for helpful comments on an earlier draft.

accountability. Alternatively, that might be a good reason for resisting integration. All depends on how far the theorist believes ideals are tied to particular realities or can, given the political will, be made real in time.

2 Normative Models

Almost every type of theorizing has been placed in the service of almost every conceivable political interpretation of the EU (for overviews see Føllesdal and Koslowski 1997; Weale and Nentwich 1998; Friese and Wagner 2002; Bellamy and Castiglione 2003). Consequently, particular views of the EU cannot be easily associated with a given approach to political theory. Nevertheless, a key difference has been provided by the notion of political community (Archibugi, Held, and Köhler 1998). On the one hand, those who stress the intrinsic value of communities in shaping political identity in significant ways have emphasized the importance of either national or European values and culture as a source of unity, and been concerned to ensure the EU balances integration with a respect for the continuing diversity of its component parts (Weiler 2001; Bellamy and Castiglione 1998; Bellamy and Warleigh 2001*b*). On the other hand, those who hold a more instrumental view of communities have been more inclined to evaluate the EU in terms of its efficiency in securing certain goods, such as enhanced productivity, increased security, or the better protection of human rights (Majone 1998; Moravscik 2002; Morgan 2004).

A wide range of theoretical approaches can be fitted within each of these two camps. The intrinsic approach may adopt a more hermeneutical point of view, whereas the instrumental seeks for explanations on the model of the natural sciences, but each can be pursued in either an analytical or a more continental philosophical style. Each can also prioritize—both ethically and methodologically—either an individualist perspective, be it single persons or some collective agent such as a state, or a holistic view based on the functioning of the social and political system, the role of discourse, or some other whole. For example, intergovernmental and neo-functionalist accounts of the EU both offer instrumental accounts of European integration, but the former focuses on the rational actions of individual agents—be they politicians or states, while the latter concentrates on the systemic features of an increasingly interconnected global economy. Likewise, even those who believe in the intrinsic importance of

community can do so because of its role in promoting individual autonomy as a context of choice. Finally, there are left- and right-wing versions of both notions of community. Appeals to the instrinsic value of community are made by both conservatives and social democrats, for instance, just as certain libertarians and rational choice Marxists have both adopted instrumental accounts.

If the notion of political community shapes the normative ideals theorists offer of the EU, their understanding of how this ideal might be translated into political reality is conditioned by their stance on the global processes of which the EU forms a part. Some theorists see globalization as transforming the character of democratic politics towards a postnational and potentially global form of democratic politics, with the EU merely the most developed regional example of this shift (Held 1995, 111–13). Others regard the EU as a mere means whereby nation states have adapted to global pressures while retaining their actual, and for many a normatively inescapable, centrality (Hirst and Thompson 1996, 152–69). Meanwhile, a Euroskeptical group dispute the implacable nature of globalization, and seek to resist it (Malcolm 1991). Thus, a liberal who takes an instrumental view of community and espouses a moral cosmopolitanism will only be moved to regard the EU as a necessary stage in the building of a political cosmopolitanism if they take a transformative view of the effect of global processes. Otherwise, they will be likely to regard inter-state arrangements as the best, or at least the only practicable, means for making their moral ideals a political reality.

The two dimensions of reactions to globalization and accounts of political community (illustrated in Fig. 13.1) provide the conceptual space within which we can locate different normative views of the EU. As a result, we can find transformative, adaptive, and resistant versions of both views of political community (and their numerous variations).

Thus, communitarian minded liberal nationalists, who see the nation state as a necessary context for welfare and democracy, have tended to be located in the bottom left-hand corner on the interface between the intrinsic view of community and the resistant–adaptive response to globalization (Miller 1998). For rather different reasons, so have ethnic nationalists (Smith 1992) and nationalist conservatives (Powell 1973; Malcolm 1991). However, utilitarians, who view the nation state as still being the functionally most efficient unit for most policies, would be located in the top left-hand corner (Goodin 1987–8, 685; Hirst and Thompson 1996). So, for quite different reasons, might a free-marketeer committed to a European-wide free market, but wishing to prevent the EU acquiring too much state-like power that might lead to

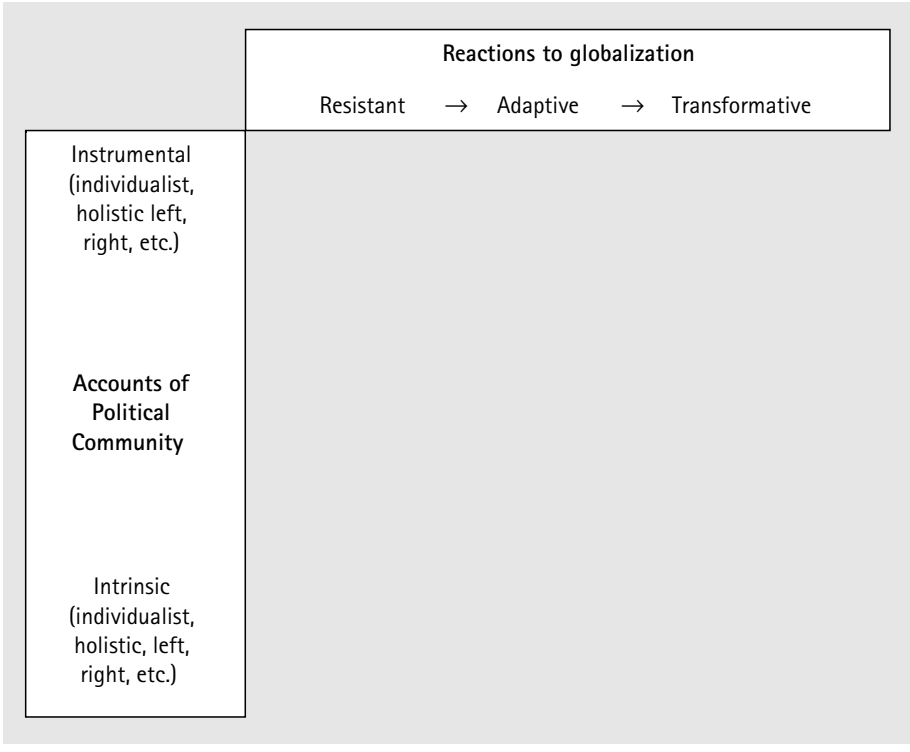

FIG. 13.1. NORMATIVE VIEWS OF THE EUROPEAN UNION

economic intervention (Rabkin 1998; Vibert 2001). Both social democratic and libertarian theorists at the intersection between an instrumental approach and an adaptive response are relatively open to the EU so long as it can promote welfare and economic efficiency as they respectively understand it. Indeed, they tend to welcome its overcoming the very affective and intrinsic relationships others so value, claiming either that it produces an openness to global redistribution (Van Parijs 1997; and in Rawls and Van Parijs 2003) or makes any such policies less likely (Hayek 1948). Yet, some radical libertarians might still desire to do away with the state altogether and so situate themselves in the top right-hand corner. However, they would regard the EU as too close to the state form and so insufficiently transformative. Liberal or social democratic cosmopolitans arguing on either utilitarian or rights-based grounds would agree. For them, a cosmopolitan system that stops at the EU level on any basis other than convenience risks falling into the bottom right-hand, intrinsic–transformative, corner. EU immigration policy has prompted such fears (Soysal 1994; Kostakopoulou 2001).

As this rapid overview indicates, it is often hard to disentangle exactly what does the work in many normative arguments about the EU—ontology, methodology, empirical assumptions, or ideological preferences. Theorists who differ on almost everything else can still converge on policy recommendations and vice versa. To explore why, we shall examine two key debates in which theorists have played an important part: that on the EU's Charter of Rights and the proposed Constitutional treaty, and the related discussion of citizenship and the EU's democratic deficit.

3 The EU's Charter of Rights and Constitutional Treaty

The Convention on the Future of Europe was the culmination of a decade long concern with the EU's legitimacy (Beetham and Lord 1998; Banchoff and Smith 1999). The Treaty of Maastricht, and the difficulties experienced in ratifying it in subsequent referenda in France and especially Denmark, raised fundamental questions about the ultimate goals and methods of European integration. Meanwhile, the corruption scandals surrounding the Santer Commission added concerns over the propriety of the institutional mechanisms employed to govern it. The introduction of the euro and enlargement to encompass ten new states, including eight from the former Soviet bloc, added to these worries. Several theorists saw the drafting of a Charter of Rights and Constitution as a way of addressing the EU's perceived normative weaknesses by placing it on clear, principled foundations (Habermas 2001; Eriksen and Fossum 2004). However, others have regarded them as potentially deepening these worries (Weiler and Wind 2003; Dobson and Follesdal 2004; Barry 2004).

These contrasting judgments about the appropriateness and possible content of an EU Charter and Constitution reflected the two dimensions explored above: namely, differing views of political community, on the one hand, and of the degree to which the EU secured or undermined the favored model, on the other. Moreover, these positions figured not only in academic debates but also in the two conventions established to draft these documents.

With regard to the Charter, the two major issues were the relationship between any EU Charter and those of the member states, and the range of

rights the Charter should cover. Those social democrats and conservatives who took an intrinsic view of community but adopted a resistant view of globalization wanted the Charter to apply only to EU institutions and to cover a fairly restricted range of rights—principally the political and economic rights deriving from the EU's current activities. They feared the Charter could threaten the distinctive national ways of life of the various member states. In Walzerian fashion (Walzer 1994), they contended that rights might have a "thin" universal form, but their "thick" content reflected national rather than European or global norms—protecting, for example, particular languages and religions, a certain approach to free speech, or a specific view of labor practices and welfare. Even within the common framework of the European Convention on Human Rights, which all member states have signed, there is considerable diversity across Europe on these issues. Some constitutions, such as the Irish, enshrine a given religion and particular duties that are said to follow from it; others, such as the Belgian, give great weight to protecting particular languages; still others, such as the Italian, highlight the rights of workers and so on. By contrast, conservatives in the intrinsic community camp who adopted a transformative view wanted to ground these EU rights in a supposed European culture and especially Christianity—a move that offended anti-clericals and secularists in the Convention, while appearing to exclude Europe's one million Muslims and the prospective membership of Turkey, along with Jews and other non-Christian religions. Meanwhile, social democrats of a more instrumental turn, yet who also took a transformative stance on globalization, saw the Charter as a means of shifting the EU from economics and the bargaining between nations to a post-nationalist concern with rights, with these documents acting as the focus for a distinctive European constitutional identity (Habermas 2001; Eriksen, Fossum, and Menéndez 2002; Fossum 2003). However, they were opposed by libertarians, who wished any Charter to entrench the free market values that the EU has hitherto seen as its prime focus (Vibert 2001).

In the end, a combination of vagueness and log-rolling allowed the Charter to accommodate elements of all these positions (Bellamy and Schönlau 2004*b*). Certain theorists see the Charter's capacity to encompass such diverse views as indicative of its success (Fossum 2003). Arguably, though, these disagreements undermine the very project of a rights charter (Bellamy 2001). However open the Charter may be in theory, in practice it will have to be given a specific interpretation on particular issues. Some commentators fear that, as a consequence, the Charter will lead the European Court of

Justice (ECJ) to overruling rather than negotiating with national constitutional courts, curtailing a dialogue over rights that has promoted a genuine European rights culture based on mutual respect for the diverse sources and meanings they have been given across the continent (Weiler 2000, 2001). This position, that in certain respects can be aligned to a republican perspective (Bellamy 2001), cuts across both views of political community and takes a more adaptive stance. Its proponents doubt the likelihood of national communities being displaced by similar allegiances to Europe or the necessity for the EU to take on many of the tasks of the member states. In the sphere of rights no less than in economics, both the intrinsic and the instrumental virtues of a European community are realized through the interaction between states within the EU framework rather by that framework supplanting the role of states.

Debates about the Constitution followed a very similar pattern (Magnette 2004; Bellamy and Schönlau 2004*a*). Some saw the Constitution as a way of clearly demarcating and limiting the competences of the EU; others as providing a legal and principled basis for its further expansion; still others as a mere reorganization of the existing treaties and an attempt to streamline decision-making to cope with the expansion of the Union from fifteen to twenty-five member states. Meanwhile, all had an interest in finding a way of defining which issues ought to be dealt with at what level—the subnational, national, or European. Since Maastricht, these considerations have been guided by the linked doctrines of subsidiarity and proportionality, whereby the EU should only act when it can achieve a policy more efficiently than some inferior level of government and only to the extent necessary to realize the aims of an EU Treaty (or now the Constitution). The difficulty has been that the interpretation of these principles will depend on the view of political community and the place on the resistant–transformative spectrum of the interpreter—the principles themselves are unable to adjudicate between rival interpretations (Føllesdal 1998). The attempt to draw up a comprehensive (and hence limited) list of EU competences necessarily ended in failure. Instead, the Constitution contains vague formulae and a new monitoring mechanism that allows national parliaments to challenge the constitutionality of attempts to extend the EU's competences, although the final decision rests with the ECJ—which, as a federal body, is likely to side with an EU orientated position. Whether the Constitution proves too rigid or too flexible, an improvement or a retrograde step, will no doubt also depend on the views of the commentator concerned. As with the debate on the Charter,

those of an adaptive viewpoint tend to view it as premature and as potentially eroding what was an evolving common law constitution negotiated between the ECJ and national courts (Weiler 2003).

Perhaps the most significant theoretical advocate of both the Charter and the Constitution has been Jürgen Habermas. In a series of influential articles, he has argued that an EU Constitution could become the focus for "a constitutional patriotism"(e.g. Habermas 1992, 2001). His claim appears to be that democratic deliberation between the peoples of Europe presupposes certain common constitutional norms of mutual recognition. Liberal cosmopolitans, however, will be inclined to ask why such norms should have a specific European focus rather than being global in application. Habermas appears to incline to the view that certain cultural commonalties exist, differentiating continental Europeans at least from the United States on such issues as welfare and the abolition of capital punishment. Especially in the wake of the second Iraq war, Europe has been seen by several theorists as an alternative power bloc to the United States, committed to a social rather than an aggressively free market model (Habermas and Derrida 2003). However, many social democratic civic nationalists contend that the EU has been a force of economic liberalization rather than of social protection (Miller 1998), while cosmopolitans point out that appeals to European values are potentially regressive and exclusive (Young 2003). These debates have revealed the theoretical as well as practical difficulties of reconciling "unity and diversity" as the Constitution aspires to. Some Habermasians have claimed that a process of democratic deliberation offers a route forward (Erikson and Fossum 2000, chs. 1–3, 6, and 12). However, the two Conventions employed to draw up the EU's new constitutional documents were elite affairs with only the most indirect of democratic mandates. Indeed, the rejection of the Constitution in the 2005 French and Dutch referenda suggests popular enthusiasm was largely absent. Meanwhile, for reasons explored below, many theorists doubt that a pan-European democratic dialogue could meaningfully take place.

4 Citizenship and Democracy

A prime critique of the EU since the 1970s has been that it suffers from a democratic deficit. Theorists standardly focus on two dimensions of the

problem—the socio-psychological and the institutional. The first concerns the "demos" issue, the second the effectiveness of the existing arrangements in promoting the responsiveness and accountability of rulers to the ruled.

Those who emphasize the intrinsic elements of political community contend that democracy assumes a fairly culturally and linguistically cohesive people (Miller 1998; Grimm 1997; Kymlicka 1999). A viable demos must share a collective destiny and a relatively common discourse of politics. Both elements promote the acceptance of democratic rule. The former involves not just the practical need for a collective decision, but also the feeling that it is right for this particular collectivity to take it. The latter suggests a broad agreement on the parameters of acceptability of any given decision and the capacity for all to be reasonably involved in it. History, to some degree ethnicity, and above all a common language are all seen as supporting such communal bonds. Although large, multicultural, and multilingual political units exist, such as Canada, they note that such states have become increasingly decentralized, with territorially concentrated linguistic and cultural sub-units gaining ever more autonomy from the center (Kymlicka 1999). Within this context, the diversity coming from recent waves of immigration is distinguished from that stemming from indigenous peoples or past colonization. Whereas immigrants who choose to come to a new country can be expected to make some effort to integrate into the host culture—even if, over time, they are also likely to change it—no such expectation can reasonably be made of historic nations.

On these grounds, the EU is said to fail the "demos" test. It consists of well-established historic nations, with no common language and hence no common newspapers or other media that might serve to create a shared European public sphere. Although at a very general level all member states may adhere to certain liberal democratic values, their understanding of these principles differs in significant ways. As we saw, they have very different constitutional provisions in many key areas. Globalization may have produced certain problems, such as cross-border pollution, that can only be tackled by intense international cooperation, but that is qualitatively different from establishing regional or global decision-making bodies with a direct mandate from a European people. Absent a European demos of the requisite kind, which most members of this camp regard as a very distant prospect at best, they see the creation of better democratic institutions at the EU level as deepening rather than diminishing its democratic deficit. European citizenship will always lack an affective level that ties people to each other and the EU via a

shared political identity. There are democratic limits to European integration, therefore, that suggest it should remain a predominantly intergovernmental organization in which a national rather than the European parliament can exert control over what the executive might agree to. In particular, welfare and redistributive issues have to remain the preserve of the member states (Scharpf 1999; Offe 2000).

Those who take a more instrumental view of political decision-making are potentially less cautious. They believe it is sufficient that citizens have a common interest in securing some benefit or protecting themselves against some harm (Niada-Rumelin 1997; Pogge 1997; Weale 2005). To the extent these benefits have to be obtained at a level above the nation state, then citizens have good democratic reasons to set up supranational political institutions that give them the opportunity to control the forces affecting their lives. The EU is preferable to a series of issue-specific agreements by allowing spill-over between issues to be addressed. The socio-psychological element will come *post facto* once citizens begin to interact regularly with each other. Indeed, to some degree, globalization has already created a global political community in this fuller sense. English now operates in much of the world, and certainly in Europe, as a common second language. The introduction of the euro has become a tangible symbol of EU citizens' shared fate and identity for those in the euro zone. The media offers twenty-four-hour coverage of world events and alerts people to natural and humanly created disasters in far corners of the globe and, as events such as Live Aid demonstrate, can elicit global solidarity with the plight of their victims. On issues such as the environment and the oppression of woman there are now well-organized transnational pressure groups that bring global action to bear on local problems. Perhaps most significantly, all these groups increasingly express their demands in a common discourse of human rights. Through bodies such as the European Court of Human Rights, these norms now constrain the sovereignty of states and even provide grounds for intervention by other states in domestic affairs. Far from threatening the pursuit of social justice, cosmopolitan institutions—of which the EU forms but a component—offer ways for institutionalizing international redistributive schemes that could raise standards. Even minority languages and cultures might be better protected through a global language rights policy than through a system of nation states that allow the rich and powerful to dominate the poor and the weak (Van Parijs 1997; and in Rawls and Van Parjis 2003). The challenge of immigration has led some to advocate decoupling citizenship

and nationality altogether, giving rights of free movement to all. Voting and taxation would depend on residence alone (Soysal 1994; Kostakopoulou 2001).

Yet, within this camp too there are significant differences over how far or deep this transformation of political community has gone or could go. Some suggest the EU is only an adaptation of national politics to globalization. The policies concerned are regulatory rather than distributive and the main requirement is for independent monitoring mechanisms that can ensure all comply with the relevant agreements and neither the policies nor their mode of implementation infringe certain basic rights (Majone 1998; Moravscik 2002). Because democratic majorities can threaten rights or the public interest, delegated agencies often handle such regulatory tasks within national democracies. No democratic deficit exists, because in these areas democracy need not, and even should not, be authorial. People need only have the possibility of contesting or "editing" agreements for bias or maladministration (Pettit 2006). This purpose is served by the ECJ upholding the rule of law and the possibility of appealing to it and the European Ombudsman. Yet, some instrumentalists follow those in the intrinsic camp who believe international agencies can never be fully democratized and so contend their scope should be limited. They maintain that, beyond a certain size, a citizen's vote becomes worth so little, and the center so distant, that a global or even a European democracy could never work effectively (Dahl 1999).

Once again, debate within and between the two camps turns to some degree on one's reading of the empirical evidence. Unfortunately, the available facts do not clearly support one side or the other. Eurobarometer polls consistently show that citizens identify themselves as national first and European second, while turnout in elections to the European Parliament (EP) is lower than in national (if not necessarily local) ones and getting lower (although this is a common trend for all elections). However, the polls also reveal that most citizens regard the EU as beneficial, while many view the EP and the Commission more favorably than their national parliaments and governments. Although people vote for national parties in European elections, these are aligned on a similar left–right spectrum in all member states and have no difficulty re-forming as European party blocs within the EP. Ultimately, it is hard to resist the conclusion that we have neither a European demos nor merely national demoi, but rather a series of relations that place people betwixt and between various subnational, national, international, transnational, and supranational allegiances, with differing degrees of instrumental and intrinsic motivations operating at all these levels. As a result, EU

nationals enjoy multiple citizenships. However, these cannot be viewed as either discreet or hierarchically organized, with lower levels being encompassed by the higher like a Russian doll. EU competences are not clear-cut, but mutually interact. Some regard this situation as unstable; others see the interaction as beneficial—producing mutually respectful modifications in national or subnational allegiances, while checking the pretensions of any supranational authority (Weiler 1999, ch. 10; Bellamy 2001).

Attitudes to the demos problem will clearly influence one's approach to the institutional question. Claus Offe (2003, 439–40) has argued that the persistence of territorial, class, and religious conflicts within Europe has, following the disastrous attempts of the totalitarian regimes of right and left to remove their sources, led to Europeans placing a high premium on handling diversity through compromise, cooperation, and constraint in ways that acknowledge its legitimacy and inescapability. The proportional, consensus democratic arrangements, corporatist bargaining, and social market economy that predominate in Western Europe largely reflect this tendency. Some social democratic commentators see the EU as the natural extension of this system within a globalizing context (Habermas 1999). The chief problem is the current institutional set up. Ironically, they see the EU as unable to counter American economic and military hegemony because it possesses a radical version of the United States system that divides power both horizontally and vertically, sharing decision-making between a member state appointed Commission, the largely secret meetings of the various Council of Ministers, and an EP elected on domestic rather than European issues. These arrangements allow too many veto points, favoring a negative integration of liberalizing measures and lowest common denominator standards over a more positive integration involving a redistribution of costs and benefits (Offe 2000; Morgan 2005). Such measures cannot be achieved through voluntary coordination and regulative governance. They require the central authority of a democratic government able to impose common policies deriving from fair but collectively binding decision procedures. They seek to strengthen decision-making within the EU through such devices as enhanced qualified majority voting in the Council of Ministers, an increased role—including the ability to initiate legislation, currently the prerogative of the Commission—for the EP, and a stronger, more activist ECJ. They locate the chief source of the democratic deficit in the absence of clear lines of responsibility and accountability. Once these are established by more centralized decision-making, a European demos will naturally form along with a sufficiently

strong sense of European solidarity to allow an EU welfare and security regime to develop.

Obviously, libertarians often approve the very features of current arrangements these theorists criticize (Barry 2004). However, so do some social democratic theorists who take a more adaptive stance and believe multiple demoi can only achieve adequate representation and control within a polycentric polity. Developing republican ideas (MacCormick 1997; Bellamy and Castiglione 2000; Bellamy 2003), they see this division of power as a means of curtailing certain attributes of national sovereignty that permit various types of domination and exclusion by hegemonic groups without recreating them at the supranational level. States remain largely autonomous, but they must now attend to at least some effects of their activities on other states and are encouraged to cooperate with them to overcome common bads and create common goods. A system of mutual checks and balances allows unity to be combined with respect for diversity. Although imperfect, the challenge for the future lies not in creating a European demos but in enhancing the interaction between the various subnational, national, and transnational demoi and rendering their representatives more accountable on European matters (Schmitter 2000).

5 Conclusion

The EU has forced political theorists to address a new setting. How far that requires a parallel rethinking of basic assumptions and principles remains unclear. At present, the new bottles of supranational institutions are filled with the old wine of nation-state politics. However, the process of intense inter-state and inter-citizen cooperation is producing some novel blends. The EU can be plausibly characterized as an intergovernmental organization of an advanced kind, a nascent federation of states and a new form of post-national, post-state entity. Its true novelty may lie in mixing elements of all of these, or it may be destined to collapse into one or other of them. Normative theorists have offered plausible arguments for each of these scenarios, but which one ultimately prevails will be a matter of real rather than ideal politics.

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CHAPTER 14

EAST ASIA AND THE WEST: THE IMPACT OF CONFUCIANISM ON ANGLO-AMERICAN POLITICAL THEORY

DANIEL A. BELL

1 Background

The first substantial encounter between East Asian and Western political theory took place in seventeenth- and eighteenth-century France. Drawing upon the translations and reports of Jesuit missionaries in China, Enlightenment thinkers such as Voltaire expressed deep admiration for Confucian moral and political philosophy. Confucian-inspired China was depicted as the model of rationality and just rule and it was held up as the mirror image of religious and superstitious European societies. The problem, however, is that there were strong elements of projection and wishful thinking in Enlightenment accounts of Confucian philosophy and its social and political circumstances (Clarke 1997, 43).

It would only be a slight exaggeration to argue that the situation reversed itself in the century following the French revolution. European political thinkers from across the political spectrum pointed to Chinese thought and its political manifestations as the opposite of "progress." As John Stuart Mill put it, "The greater part of the world has, properly speaking, no history, because the despotism of Custom is complete. This is the case over the whole East. Custom is there, in all things, the final appeal; justice and right mean conformity to custom; the argument of custom no one, unless some tyrant intoxicated with power, thinks of resisting" (Mill 1975, 87). China was still used to examine the political and philosophical inadequacies of Europe, but instead of pointing the road to the future, it served as a "warning example" (1975, 88).

The twentieth century finally presented an opportunity for more nuanced understandings of East Asian political thought. There were more cross-cultural exchanges: John Dewey and Bertrand Russell made lengthy visits to China in the 1920s, and they both expressed admiration for Chinese culture and argued for a synthesis of "East" and "West." Translations of Eastern philosophies became more reliable, as did histories of East Asian societies. Yet few Western political theorists made serious efforts to learn from the traditions and experiences of East Asian societies.[1] Indifference to East Asian political thought—more generally, to non-Western political theory—has been the blind spot of contemporary Western, especially Anglo-American, political theory. Recently published introductory texts in political theory pay no attention at all to political theories from the Confucian, Islamic, or Hindu traditions (see, e.g., Kymlicka 2002; Swift 2001; Plant 1991; Wolff 1996; Hampton 1997; Ball 1995).

Fortunately, there has been increased recognition of the need to engage with non-Western political traditions during the past decade or so, with the discipline of cross-cultural or comparative political theory beginning to establish itself in Anglo-American academia (Dallmayr 2004). Leading periodicals in the field have called for more contributions that deal with non-Western thinkers and topics, and there have been more openings of late for jobs in comparative political theory. Two book series have been trying to address the deficit in English-language works in comparative political theory: Fred Dallmayr's *Global Encounters* series in comparative

[1] One exception is the attraction to Maoist egalitarianism in the 1960s. However, greater awareness of "actually-existing" Maoism, particularly the horrors of the Cultural Revolution, soon put an end to this trend.

political theory, published by Lexington Press, and the *Ethikon Series in Comparative Ethics*, published by Princeton University Press and Cambridge University Press.

Just as "the" Western political tradition is complex and composed of plural, occasionally inconsistent strands, so "the" East Asian political tradition is rich and varied, and many aspects of East Asian political theory have enriched, or have the potential to enrich, contemporary debates in Anglo-American political theory. For example, the thoughts of ancient Legalist thinkers such as Han Fei Zi anticipated Machiavellian realpolitik and the "originality" of Machiavelli might not be so apparent seen in this comparative light (Moody 1979). Daoist antipathy to authoritarian controls can be compared to anarchist proposals for social order without coercion (Hall 1978). The Buddhist practices designed to dissolve the self can provide inspiration for Western liberals concerned with the question of how to motivate impartial justice; and the Buddhist ideal of compassion for all forms of life can bring insights to the moral and political theories of animal rights advocates (Revel and Ricard 1997).

The most influential East Asian political tradition is Confucianism (just as liberalism is the main plank of Western political theorizing), and this tradition in particular has been subject to increased scrutiny in contemporary Anglo-American debates. Several recent books have compared Confucian political ideas with Western ideas of human rights, democracy, capitalism, the rule of law, and just war (e.g. de Bary and Tu 1998; Hall and Ames 1999; Bell 2000; Chan and Liang 2002; Angle 2002; Peerenboom 2002; Bell and Hahm 2003; Ni 2003). In this chapter, I will try to show that two recent developments in contemporary Anglo-American political theory have allowed for substantial engagement with Confucian political theory and may set the stage for further interest in East Asian political theory more generally. One is the communitarian critique of liberal universalism and the other is the feminist emphasis on the politics of the family.

2 East Asian Contributions to the Debate on Universalism vs. Particularism

In the 1980s, communitarian critics of liberalism sought to deflate the universal pretensions of liberal theory (e.g. Walzer 1983), but they were less

than successful at putting forward attractive visions of non-liberal societies appropriate for the modern world. They could score some theoretical points by urging liberal thinkers to be cautious about developing "universal" arguments founded exclusively on the moral argumentation and political experience of Western liberal societies, but few thinkers would really contemplate the possibility of non-liberal practices appropriate for the modern world so long as the alternatives to liberalism consisted of ancient Greek city-states, caste societies, fascism, or "actually-existing" communism. For the communitarian critique of liberal universalism to have any lasting credibility, thinkers needed to provide compelling counter-examples to modern day liberal-democratic regimes—and 1980s communitarians came up short.

Awareness of a "communitarian" alternative to Western-style liberalism emerged from the East Asian region in the late 1980s. The economic success of East Asian countries became so conspicuous as to require explanation. The need for a new theoretical framework became all the more acute primarily because social scientists, both liberal and Marxist, failed to predict or explain the success of these family and community-oriented East Asian states with Confucian heritages while the Weberian thesis regarding the alleged incompatibility between Confucianism and capitalism rapidly lost credibility. Initially, those who found "communitarian Confucianism" to hold the secret to the region's economic success and social stability were mostly Western scholars (e.g. Vogel 1991). Several Asian politicians, however, soon began to espouse the idea that "Asian values" underpinned the rapid industrialization of the region, with the apparent aim of celebrating Asian non-individualistic traditions and justifying constraints on the democratic process. Asians, they claim, place special emphasis upon family and social harmony, with the implication that those in the "chaotic and crumbling societies" of the West should think twice about intervening in Asia for the sake of promoting human rights and democracy. As Singapore's Lee Kuan Yew put it, Asians have "little doubt that a society with communitarian values where the interests of society take precedence over that of the individual suits them better than the individualism of America" (Lee 1991). Such claims attracted international attention primarily because East Asian leaders seemed to be presiding over what a United Nations (UN) human development report called "the most sustained and widespread development miracle of the twentieth century, perhaps all history" (Crossette 1996). In 1997–8, however, the East Asian miracle seemed to have collapsed. And it looks like "Asian values" was one casualty of the crisis.

The political factors that focused attention on the "East Asian challenge" remain in place, however. East Asian economies have been recovering and relative to the rest of the world this region does not look badly off. China in particular looks set to become an economic and political heavyweight with the power seriously to challenge the hegemony of Western liberal democratic values in international forums. Thus, one hears frequent calls for cross-cultural dialogue between "the West" and "the East" designed to understand the other "side," if only to avert misunderstandings and conflicts that might otherwise have been prevented.

From a theoretical point of view, however, it must be conceded that the official debate on Asian values has not provided much of a challenge to dominant Western political outlooks. The main problem is that the debate has been led by Asian leaders who seem to be motivated primarily by political considerations, rather than by a sincere desire to make a constructive contribution to the debate on feasible and desirable alternatives to Western-style politics and philosophy. Thus, it was easy to dismiss—rightly so, in most cases—the Asian challenge as nothing but a self-serving ploy by government leaders to justify their authoritarian rule in the face of increasing demands for democracy at home and abroad.

Still, it would be a mistake to assume that nothing of theoretical significance has emerged from East Asia. The debate on Asian values has also prompted critical intellectuals in the region to reflect on how they can locate themselves in a debate on human rights and democracy in which they had not previously played a substantial part. Neither wholly rejecting nor wholly endorsing the values and practices ordinarily realized through a liberal democratic political regime, these intellectuals are drawing on their own cultural traditions and exploring areas of commonality and difference with the West. Although often less provocative than the views of their governments—in the sense that few argue for the wholesale rejection of Western-style liberal democracy with an East Asian alternative—these unofficial East Asian viewpoints may offer more lasting contributions to the debate on "universalism" vs. "particularism" in contemporary political theory. Let me (briefly) note three relatively persuasive East Asian arguments[2] for cultural particularism that contrast with traditional Western arguments for liberal universalism:

[2] I do not mean to imply that these arguments are distinctly or uniquely East Asian, only that they have been put forward by East Asian scholars and critics of late.

1. Cultural factors can affect the *prioritizing* of rights, and this matters when rights conflict and it must be decided which one to sacrifice. In other words, different societies may rank rights differently, and even if they face a similar set of disagreeable circumstances they may come to different conclusions about the right that needs to be curtailed. For example, US citizens may be more willing to sacrifice a social or economic right in cases of conflict with a civil or political right: If neither the constitution nor a majority of democratically elected representatives support universal access to health care, then the right to health care regardless of income can be curtailed. In contrast, the Chinese may be more willing to sacrifice a civil or political liberty in cases of conflict with a social or economic right: There may be wide support for restrictions on the right to form free labor associations if these are necessary to provide the conditions for economic development. Different priorities assigned to rights can also matter when it must be decided how to spend scarce resources. For example, East Asian societies that take Confucian values seriously such as Korea and Taiwan place great emphasis upon the value of education, and that may help to explain the large amount of spending on education compared to other societies with similar levels of economic development.
2. Cultural factors can affect the *justification* of rights. In line with the arguments of "1980s communitarians" such as Michael Walzer, it is argued that justifications for particular practices valued by Western-style liberal democrats should not be made by relying on the abstract and unhistorical universalism that often disables Western liberal democrats. Rather, they should be made from the inside, from specific examples and argumentative strategies that East Asians themselves use in everyday moral and political debate. For example, the moral language (shared even by some local critics of authoritarianism) tends to appeal to the value of community in East Asia (Wong 2004*a*, 34–9), which matters for social critics concerned with practical effect. One such "communitarian" argument is that democratic rights in East Asia can be justified on the grounds that they contribute to strengthening ties to such communities as the family and the nation (see Bell 2000, ch. 4).
3. Cultural factors can provide moral foundations for *distinctive* political practices and institutions (or at least different from those found in Western-style liberal democracies). In East Asian societies influenced by Confucianism, for example, it is widely held that children have a profound duty to care for elderly parents, a duty to be forsaken only in the most

exceptional circumstances.[3] In political practice, it means that East Asian governments have an obligation to provide the social and economic conditions that facilitate the realization of this duty. Political debate tends to center on the question of whether the right to filial piety is best realized by means of a law that makes it mandatory for children to provide financial support for elderly parents—as in mainland China, Japan, and Singapore—or whether the state should rely more on indirect methods such as tax breaks and housing benefits that make at-home care for the elderly easier, as in Korea and Hong Kong. But the argument that there is a pressing need to secure this duty in East Asia is not a matter of political controversy.

Thinkers influenced by East Asian cultural traditions such Confucianism have also argued for distinctive, as yet unrealized political practices and institutions that draw on widely-held cultural values for inspiration. For example, Korean scholars Hahm Chaihark and Mo Jongryn argue for the need to revive and adapt for the contemporary era such Choson dynasty institutions as policy lectures and the Censorate, traditional institutions that played the role of educating and disciplining rulers of the day (Hahm 2003; Mo 2003).

In contrast to 1980s communitarian thinkers, East Asian critics of liberal universalism have succeeded in pointing to particular non-liberal values and practices that may be appropriate for the contemporary world. Some of these may be appropriate only for societies with a Confucian heritage, others may also offer insights for mitigating the excesses of liberal individualism in the West.

Even defenders of universalism, however, have an interest in paying greater attention to East Asian political theory. By the late 1990s, fairly abstract methodological disputes over "universalism vs. particularism" faded from academic prominence, and the debate now centers on the theory and practice of human rights. Few theorists are opposed to the idea of universal human rights, but the dispute turns over how to improve the philosophical

[3] Interestingly, this moral outlook still seems to inform the practices of Asian immigrants to other societies. According to the *New York Times* (11 July 2001), fewer than one in five whites in the US help to care for or provide financial support for their parents, in-laws, or other relatives, compared with 28 percent of African-Americans, 34 percent of Hispanic-Americans, and 42 percent of Asian-Americans. Those who provide the most care also feel the most guilt that they are not doing enough. Almost three-quarters of Asian-Americans say they should do more for their parents, compared with two-thirds of Hispanics, slightly more than half of African-Americans, and fewer than half of the whites.

coherence and political appeal of human rights. For many East Asian intellectuals and social critics, it is important to engage with East Asian traditions and empirical realities to make human rights truly universal. Consider Joseph Chan's proposal:

> There are at least two main intellectual approaches to justifying universal human rights. The first, and more traditional approach is to show that there are universal values and moral principles which can justify human rights to all reasonable persons. The second approach tries to seek consensus on human rights from within cultural perspectives. It encourages different cultures to justify human rights in their own terms and perspectives, in the hope that an "overlapping consensus" on the norms of human rights may emerge from self-searching exercises as well as common dialogue. I shall call the first approach the "fundamentalist" approach and the second "ecumenical." (Chan, J. 1999, 212; see also Chan, J. and Liang 2001, chs. 3–6)

Chan then goes on to test the "ecumenical" approach by examining the case of Confucianism, arguing that key elements of Confucianism are compatible with the idea of human rights, although Confucians might have their own understandings about the justification, scope, and prioritization of human rights.

Charles Taylor, following an extended period of study in Thailand with Buddhist practitioners and thinkers, has put forward a similar proposal for establishing an unforced, cross-cultural consensus on human rights (Taylor 1999). He imagines a cross-cultural dialogue between representatives of different traditions. Rather than argue for the universal validity of their views, however, he suggests that participants should allow for the possibility that their own beliefs may be mistaken. This way, participants can learn from each other's "moral universe". There will come a point, however, when differences cannot be reconciled. Taylor explicitly recognizes that different groups, countries, religious communities, and civilizations hold incompatible fundamental views on theology, metaphysics, and human nature. In response, Taylor argues that a "genuine, unforced consensus" on human rights norms is possible only if we allow for disagreement on the ultimate justifications of those norms. Instead of defending contested foundational values when we encounter points of resistance (and thus condemning the values we do not like in other societies), we should try to abstract from those beliefs for the purpose of working out an "overlapping consensus" of human rights norms. As Taylor puts it, "we would agree on the norms while disagreeing on why they were the right norms, and we would be content to live in this consensus, undisturbed by the differences of profound underlying belief" (Taylor 1999, 124).

While such proposals for cross-cultural dialogue move the debate on universal human rights forward, they still face certain difficulties. For one thing, it may not be realistic to expect that people will be willing to abstract from the values they care deeply about during the course of a global dialogue on human rights. Even if people agree to abstract from culturally specific ways of justifying and implementing norms, the likely outcome is a withdrawal to a highly general, abstract realm of agreement that fails to resolve actual disputes over contested rights. For example, participants in a cross-cultural dialogue can agree on the right to democracy, while radically disagreeing upon what this means in practice—a Singaporean official may argue that competitive elections are sufficient, whereas a Western liberal will want to argue that "meaningful elections" must be accompanied by the freedoms of speech and association.

To summarize, the distinctive East Asian contribution has been to cast doubt on "universal" theories grounded exclusively in the liberal moralities of the Western world, on the grounds that cultural particularity should make one sensitive both to the possibility of justifiable areas of difference between "the West" and "the rest" and to the need for more cross-cultural dialogue for the purpose of achieving genuine, unforced consensus on human rights. The next step, in my view, would be to take up this "East Asian challenge" to liberal "universalism," with the aim of developing feasible and desirable political theories appropriate for the East Asian region as well as embarking on sustained cross-cultural dialogue to develop theories of more universal scope with substantive content.

3 East Asian Contributions to the Debate on the Family and Justice

The history of Western ethics, until recently, is the history of valuing duties, obligations, and activities outside of the family. Socrates neglected his children to concentrate on philosophizing and public service, and it was a short step from there to Plato's proposal that the family should be abolished so that rulers could devote themselves wholly to the service of the community, unmoved by the distracting loyalties and affections of the family system.

Aristotle objected to Plato's argument on the grounds that abolishing the family, rather than ensuring impartial and equal concern for all citizens, will ensure that nobody cares strongly about anything—but he still held that the good lies outside the family structure, in the political sphere. Christian thinkers typically endorsed the Aristotelian view that the family is a necessary condition for social production and reproduction, but the good life lies in the "City of God," where just rewards are handed to all those deserving to be in paradise and the focus of attention is the soul's relationship with God, not relationships between particular family members. Traditional liberal thinkers further enshrined the devaluation of the "private." In fact, it is difficult to find any arguments in the Western canon that obligations to the family matter as much as public or spiritual duties. Those who addressed the issue tended to explicitly argue in favor of the opposite: The English thinker William Godwin (1756–1836), who believed that only social utility could be justly employed to adjudicate between the competing claims of individuals, provided the notorious example of someone being morally compelled to save Archbishop Fenelon from a burning room instead of a common chambermaid (a being of less social worth than the Archbishop), even supposing that the chambermaid had been the rescuer's mother.

One great contribution of feminist theory has been its focus on the family as an actual or potential source of virtue. Far from being a secondary "private" sphere, what happens within the structure of family has great impact on human well-being. It also impacts on what happens in other spheres, and largely explains the subordination of women in economic and political life. So long as women are treated as subordinate within the family, and denied the equal opportunity to develop their talents, they will be subordinate outside the family as well. Hence the feminist slogan, "the personal is the political."

The impact of feminist theory on Western ethics and practice is perhaps the most dramatic development in contemporary Western political theory. Few political thinkers in Western societies question the need to treat women as equals within the family and to structure society so as to allow for women's equality in different realms. Still, there remain many disputes and questions regarding the role of the family in promoting human well-being, the implications of the various family practices for women's interests outside the family, and the kinds of public policies that best encourage healthy family life and the overall well-being of women and children. As a result, some Western political theorists, including feminist theorists, have looked to East Asian political theories, Confucianism in particular, for inspiration.

On the face of it, the relevance of Confucianism for contemporary Western theorizing about the family that largely takes for granted the equality of men and women might seem questionable. A basic assumption of Confucian ethics is that the moral life is only possible in the context of particularistic moral ties, and the most important relationship by far in Confucian ethics is the family. Here the contrast with traditional Western ethics is most stark. The problem, however, is that the domination of men over women seems to be one of the defining characteristics of Confucian theory and practice—one might even say that patriarchy is the "Achilles heel" of Confucianism.

In response, several theorists have argued that one can and should detach Confucian values from patriarchal values and practices. Unlike, say, Aristotle, early Confucian thinkers such as Confucius and Mencius did not argue for the biological inferiority of women. Their views regarding the subordinate roles of women can be ascribed to the prejudices of the time and the central values of Confucianism, properly interpreted, can and do meet the challenge of including women as fully human subjects (Chan, S. 2000, 2003). Others argue the *Analects* of Confucius and other Warring States and Han narratives did represent women as having the same virtues as men (Raphals 1998; Raphals 2000) and that Confucianism became oppressive to women at a later stage. In practice, there was a role, particularly among the elite class in early Imperial China, for women's moral and personal growth in societies shaped by Confucian values (Li 2000; Nylan 2000). In contemporary societies, the traditional family duties defended by Confucian thinkers as key to the good life can be carried out by men as well as women, as in the increased tendency of fathers to care for children and elderly parents in urban Chinese cities. Hence, political theorists can seek inspiration from Confucianism for theorizing about the family and justice, without necessarily having to justify patriarchal values and ways of life.

Let me note (briefly) some of the actual and potential Confucian contributions to the debate on the family and justice:

I. The family as an educative institution. Few Western theorists paid much attention to the family as an actual or potential source of virtue until Mary Wollestonecraft and John Stuart Mill critically discussed the subordination of women within the family context and speculated about the function of a radically restructured egalitarian family (Wollestonecraft 1975; Mill 1975*b*). Such liberal feminists, however, differ from Confucians in two respects. First,

they argue that there is an immense gap between the actually-existing family, the "school of despotism," and the family as it ought to be, the "school of the virtues of freedom and equality." Susan Moller Okin argues that reform of the family requires nothing less than a situation where "one's sex would have no more relevance than one's eye color or the length of one's toes" (Okin 1989, 181); that is, members of the family would have no sense of being either male or female. As noted above, several contemporary Confucians have sought to meet the challenge of regarding women as men's equals, but they still find more of value in actually-existing families than feminists of the Okin mode, similar to feminist "care theorists" who place special value upon particular relationships and obligations within the family while criticizing the devaluation of family duties by a male-dominated culture (Li 1994).

Secondly, whereas feminists tend to think of the family as an educative institution for *children* (Okin 1989, 17–23), Confucians focus on the family as an educative institution for *adults* (Schwartz 1985, 101). That is, human beings learn such virtues as responsibility and self-sacrificing love not just qua children learning from adults, but also—especially—qua adults caring for elderly parents. It is the focus on filial piety, "the essential way of learning to be human" (Tu 1989, 13), that explains in large part the Confucian stress on the family as an educative institution, an emphasis that can enrich feminist debates on the family's (potential) role in transmitting (desirable) morality.

II. The family as a political institution. Confucians share the feminist view that attitudes and behaviors within the family context have implications not just for personal ethics and everyday social life, but also for politics. Once again, however, there is a difference in emphasis that may allow for mutual learning. According to Confucius, "Those who have a sense of filial and fraternal responsibility rarely have a taste for defying authority" (Confucius 1998, bk. 1.2). This might seem to be an endorsement of the family as the "school of despotism" model, but it is primarily an argument about motivation: the practice of other-regarding behavior within the family provides the main psychological basis for other-regarding behavior outside the family. Confucianism may offer resources, both ethical and practical, for guiding the expansion of concern from the family to citizens and strangers (Chong, Tan, and Ten 2003; Lee 2000).

Political rulers also learn their morality within the family. In a dialogue with King Xuan of Qi, Mencius offers the following advice to the ruler: "Treat your elders in a way befitting their venerable age and extend this treatment to

the aged of other families; treat your young in a way befitting their tender age and extend this treatment to the young of other families. The whole world can then be rolled in your palm" (Mencius 1984, 1A.7).[4] The point here is not that rulers should treat strangers as they treat family members, but rather that they learn the dispositions and habits that underpin the benign exercise of power within the family (Schwartz 1985, 70; de Bary 1989, 17) and that the exercise of such power is the key to long-term political success.

III. Obligations to the family cannot be overridden by public obligations. In traditional liberal theory, as noted above, obligations to the family should be subordinate to public obligations. Contemporary liberals, perhaps due to the influence of feminist theory, typically recognize the importance of special ties to loved ones and seek to develop theories that allow for *both* particularistic ties and impartial justice, ideally providing some guidance in cases of conflict. Brian Barry's book *Justice as Impartiality* is an influential recent attempt to spell out a moral theory that provides support for both particularistic ties and impartial justice. His argument is that "justice as impartiality" comes first, in the sense that where it applies, it should have priority. Where it does not, then individuals can fulfill their particularistic duties (Barry 1995, 250).

Confucians would reject any sort of a priori commitment to public obligations, even of the sort Barry endorses. In cases of conflict, the traditional Confucian view is that family duties should outweigh all other obligations. In fact, Confucius went so far as to argue that the care owed to elderly parents might even justify breaking the law:

> The Governor of She told Confucius, "In my country there is a man called Upright Kung. When his father stole a sheep, he reported him to the authorities." Confucius said, "In my country the upright men are different from this. A father covers for his son, and a son covers for his father. Uprightness lies in this." (Confucius 1998, bk. 13.18)

On the face of it, this sort of idea seems far removed from contemporary moral outlooks. However, it is difficult otherwise to make ethical sense of such practices as immunity that protects spouses from testifying against each other in court. At some level, it is recognized that public obligations cannot always override particularist obligations to loved ones.

[4] I have modified the quotes from D. C. Lau's translation of Mencius, as well as the quotes from the Roger Ames and Henry Rosemont Jr. translation of the *Analects* of Confucius according to my own understandings of the original text.

Even political leaders, who have the explicit mandate of caring for the people (strangers), cannot forsake obligations to family members, particularly those owed to elderly parents:

> Tao Ying asked, "When Shun was Emperor [Sage-King] and Kao Yao was the judge, and if the Blind Man [Emperor Shun's father] killed a man, what was to be done?"
> Mencius said, "The only thing to do was to apprehend him."
> "Wouldn't Shun try to prevent this?"
> "How could Shun prevent this? Kao Yao had the authority for what he did."
> "Then what would Shun have done?"
> "Shun looked upon casting aside the Empire as no more than discarding a worn shoe. He would have secretly carried the old man on his back and fled to the edge of the Sea and lived there happily, completely forgetting about the Empire." (Mencius 1984, 7A.35)

This sort of view underpinned the law in Imperial China that punished bureaucrats if they failed to retire from public service for at least two years to mourn the death of a parent (Baker 1979, 102). Mencius, however, does not simply mean to affirm the supreme importance of filial piety for rulers. In fact, it may be somewhat misleading to use the language of some obligations "trumping" others. Mencius invokes stories of this sort to illustrate the need for context-sensitive ways of dealing with plural values in conflict (Wong 2004*b*), similar to the feminist care-ethics emphasis on contextual thinking. More concretely, the point of Shun's story may be that public officials should resign from their posts if family members committed serious crimes (for one thing, they would have lost much of their moral authorty, and governing would be more difficult). The ruler need not, and should not, completely forsake family obligations or grant some sort of "lexical priority" to public ones.

IV. Politics for the family. One of the features of contemporary East Asian societies such as Japan, Korea, and Hong Kong is that they have modernized while maintaining stable family structures relative to most Western societies. Partly, this may be due to a shared Confucian heritage that places more emphasis upon nourishing relationships within the family and less on the individual pursuit of happiness and the assertion of interests that conflict with those of loved ones. Pro-family public policies, however, may also have played a role. Historically, these policies have served to buttress patriarchal rule but more recent policies need not be antithetical to women's interests. Recent reforms of marriage law in China, for example, negotiate between conflicting commitments to gender equality and respect for plural ways of life as well as showing Confucian concern for families and a willingness to use the state to support them (Wong 2004*b*). Lusina Ho has argued that

laws of succession in China were influenced by Confucian family values, and she develops a model of a law of succession with a Confucian foundation that can be accommodated with an egalitarian Western legal framework (Ho 2003).

To summarize: The history of Western ethics has largely devalued the family, with the exception of feminist theories that have highlighted the importance of restructured families for promoting women's equality in and out of the family. The history of East Asian ethics, to (over-)simplify, is almost the opposite. It has affirmed the human capacity for relationship, with the family at the center, but the great blind spot of Confucianism has been its lack of theorizing regarding the impact of family structures on the well-being of women. Recent formulations of Confucianism have attempted to remedy this blind spot, and have therefore allowed for an engagement between feminist theory and Confucian ethics.

4 What's the Point of Comparative Political Theory?

This chapter has not been an attempt to provide a balanced or comprehensive survey of Confucian thought, much less East Asian political theory. Rather, I have focused on selected aspects of Confucianism that have enriched, or have the potential to enrich, contemporary debates in Anglo-American political theory. I have argued that recent debates in Anglo-American political theory have allowed for substantial engagement with Confucianism. Such engagement also points to some of the more general benefits of cross-cultural political theorizing. The debates on universalism and human rights point to the possibility of moving toward a more genuine universalism, one founded on an understanding of and engagement between different ethical and political traditions, as opposed to the spurious "universality" traditionally claimed by the Western canon that ignores contributions by non-Western thinkers. In areas where universality is not possible, these debates point to the possibility of genuine respect for ways of life that give priority to different goods, teaching us about the diversity and richness of human cultures and the harm done when seeking to implement one single moral and political ideal in all times and places. The debates on the family and justice point to the possibility of learning about one's own unexamined assumptions and

hidden social problems from contrasting theories and ways of life, thus allowing for moral and political progress. Most of my discussion has centered on aspects of Confucianism, but other aspects of Confucianism such as the emphasis placed on the moral and intellectual quality of rulers and the importance of material well-being (Bell 2006), as well as (occasionally competing) East Asian ethical systems and political theories such as Legalism, Buddhism, and Taoism, may also contain ethical and intellectual resources with the potential similarly to enrich contemporary debates in Western political theory (Kupperman 1999).

Whatever the benefits of comparative political theory, it is worth noting the potential pitfalls of the enterprise. The most obvious sin is assimilating another tradition to one's own by unreflectively importing assumptions and agendas into one's reading of that other tradition. Alternatively, those dissenting from the main trends of their own tradition can look to an alternative tradition that "got it right," leading to idealizing of that tradition and ignoring its drawbacks. These dangers can be recognized but are not easily avoided, because productive engagement requires detailed knowledge of the other tradition (Wong 2001). In the case of East Asian traditions, it requires knowledge of difficult languages and societies far removed from one's own.

Still, the fact that political theorists in East Asia have not been paralyzed by such challenges offers reason for hope. Since the late nineteenth century, the dominant trend has been to recognize (and act upon) the importance of learning from Western political theories and practices. The early days of engagement tended to swing widely between uncritical embrace of Western political thought and totalizing hostility, but more nuanced understandings of Western theories have emerged in the post-Second World War era. The works of Western theorists have been widely translated, discussed, taught, and compared by East Asian theorists. Today, most political theorists in China, Japan, and Korea can and do read at least one foreign language (usually English) and draw on Western works for teaching and research purposes. It is almost inconceivable for an East Asian political theorist today to write as though his or her tradition has developed in isolation from other traditions or to engage in crude idealizations or condemnations of the Western "other." As Anglo-American political theorists come to appreciate further the benefits of comparative political study, they will also be willing to engage in the hard work that is necessary to overcome its pitfalls.

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CHAPTER 15

IN THE BEGINNING, ALL THE WORLD WAS AMERICA: AMERICAN EXCEPTIONALISM IN NEW CONTEXTS

RONALD J. SCHMIDT, JR.

But you have there the myth of the essential white America. All the other stuff, the love, the democracy, the floundering into lust, is a sort of by-play. The essential American soul is hard, isolate, stoic, a killer. It has never yet melted.

D. H. Lawrence

The man is too thoroughly torn by inner doubt, too constantly in danger of selling out to his opponents, for a warrior legend ever successfully to be built around him. . . . Warrior giants, if they are legendary, are also frightening, and it is probably a virtue of the American democrat that he is not a frightening man.

Louis Hartz

"American exceptionalism" is a highly adaptable narrative for commentators on the political culture of the United States. The American protagonist in exceptionalist literature is both a stoic killer and a benign sell-out; the narrative posits a republic that manages to be both murderous and banal. Variously, the USA appears as uniquely sacred, ruthlessly secular, hyper-individualistic, conformist, bland, and profoundly violent. Perhaps it would be unsurprising for any one nation to be all these things in the course of its history; but all of them at once, and in ways that define the country? It is even more striking that generations of politicians and scholars have insisted that the United States has a singular and "essential American soul," summed up by some defining virtue and a mission of global significance, inhabiting and being shaped by a continental stage that commands the attention of the rest of humanity. A classic example of this tendency is the Declaration of Independence; the revolutionaries preface their christening ("We hold these truths to be self-evident . . .") and their call to war in the New World with an appeal to the "enlightened opinion of mankind." The republic will be founded as the revolutionaries name themselves and declare their credo before a rational (and presumably rapt) audience.

The fashioning of an exemplary America continued after July 4, 1776; the Declaration was definitional but not definitive. On July 17, 1776, after members of the New York Sons of Liberty toppled a statue of George III, a bystander reacted with an extemporaneous quotation. Nothing peculiar in that; public events in Britain's North American colonies were not infrequently heralded by apropos citations of Biblical or classical texts. This gentleman, however, cited not Jeremiah or Cicero but John Milton, and in doing so conjured up an unlikely exemplar. At the beginning of *Paradise Lost*, Satan and Beelzebub lie broken in the "utter darkness" of Hell, after being flung from Heaven subsequent to their rebellion against "the Throne and Monarchy of God." The New York revolutionary quotes from the first lines of dialogue in the poem: "If you b'st he. But Ah, how fallen! How changed!" (Fliegelman 1982, 157). The obvious object of the comment is the King's statue (another witness responded that "there is not one Tory among the Seraphim," underscoring this reading of the quotation). But in repeating Satan's opening line, after losing a war against his monarch and just before pledging that "to do aught good never will be our task, but ever to do ill our sole delight, as being the contrary to his high will whom we resist," our bystander also connects the cause of the American revolutionaries with that of the rebellious

* I am greatly indebted to Elizabeth Mann for her help in the preparation of this chapter.

Angel himself. At the outset of the Revolution, there were many Americans prepared to align themselves with a holy cause; but as this passage suggests, revolutionaries were also concerned with being part of a profoundly unique and special historical moment, and were willing, so to speak, to rule in Hell before they would serve in Heaven. The American republic was to be an exceptional nation, a community of saints or, if necessary, a republic of the damned. According to the logic of American exceptionalism, the exemplary and clearly defined nature of the Republic, the illumination of its "essential soul," is all. Perhaps what is most remarkable is that this narrative is still so pervasive in American politics. My goal here is to chart the course of this concept, first by examining the history of the phrase itself, and then by charting the development of several threads of exceptionalist literature, beginning before the revolution and extending into the twenty-first century. It is difficult, as we shall see, to write about American exceptionalism without engaging in American exceptionalism; I hope rather to examine this genre of political thinking as what has amounted to a kind of confused *bildungsroman*, and to force us to confront this narrative and the need that it apparently (as a cursory glance at coverage of the American war in Iraq suggests) continues to meet.

The phrase "American exceptionalism" was first coined in the mid-twentieth century. It was part of an attempt by social scientists to explain the lack of a revolutionary socialist response to the failures of industrial capitalism in the Great Depression. American political thought, it seems, was intrinsically different from that of Europe, despite certain superficial parallels. Louis Hartz argued that the United States was a uniquely liberal nation, lacking the feudal past or the Marxian imagination that could have constructed a revolutionary alternative to the narrow political discourse of New Deal America (Hartz 1991, 5–11, 263–83). In the decades since the first formulation of this argument, however, "American exceptionalism" has become more broadly used in social science, employed whenever one discusses (or witnesses) faith that the political history of the United States was radically different from the experience of any other nation and that, indeed, its experience was exemplary to other nations. We will get to the Hartzian "liberal America" argument, with its picture of a republic living under the shadow of John Locke; but before that, we must go back further, to prior examples of national self-definition in the United States, to the faith that the USA was particularly singled out among the various nations of the earth.

We begin with the wilderness. John Locke uses the American wilderness to signify an enormous distance in space and time; America is both the colonial

possession of England and a representation of human life before the advent of money (Locke 1988, 301). It gives us an idea of what society would be like without specie (a world in which one cannot accumulate vast amounts of goods without hoarding garbage, and in which the need for the symbolic medium of trade was unnecessary) as well as a prospectus of the continent that industrious Englishmen could transform into tradable goods. For Puritans who settled New England, however, the wilderness represented a very different prehistory.

In Puritan political hagiography, the colonies of New England were new theocratic republics, proving their faith and their political principles in the "deserts" of the New World. John Winthrop's "A Model of Christian Charity" set the tone for this first example of American exceptionalist thinking: "we shall be," Winthrop promised, "as a city upon a hill, and the eyes of the world shall be upon us" (Miller 1956, 79–84). The significance of this position was monumental; to be exemplary meant paying the huge costs of covenanting with God, the constant responsibility for living as a pedagogical community, and the testing, and even scourging, of the community by a jealous deity. Election Day sermons and captivity narratives cited Hebrews 12:6: "For Whom the Lord loveth He chasteneth, and scourgeth every son whom He recieveth." To be in the New World, in short, was to be engaged in a sacred act of political covenanting, tested by God before the world.

But how does God scourge the faithful? One typical New England answer to that question establishes a leitmotif, the redemptive defining wars of the "exceptional" republic. Increase Mather's summary is representative: "That the Heathen People amongst whom we live, and whose Land the Lord God of our Fathers hath given to us for a rightful possession, have ... been planning mischievous devices against that part of the English Israel which is seated in the goings down of the Sun, no Man that is an Inhabitant of any considerable standing, can be ignorant" (Slotkin 1974, 83–4; see also Miller 1984 and Bercovitch 1975). These "heathen people" were as important (if not more so) to defining the exceptional nation as the land itself. "American exceptionalism" has been consistently defined in reference to outsiders, the racial and temporal others by which Americans define their identity and their mission. Agents of European monarchs confronted Native Americans as rival political communities; for the Puritans, however, the "heathen people" of the New World lacked that degree of agency. Native Americans were, rather, the scourges by which God identified and corrected his chosen nation. In some Puritan writings, native tribes were groupings of devils, "Satan's imps," agents

like Beelzebub; in others, they were more directly tools of Divine chastisement. But in either case, they served as a mediating presence, a physical border between the Puritan settlers and the wilderness against which they were defined. In Richard Slotkin's words, "The individual Indians ... were not to be appreciated as real, individual beings, but rather as symbolic 'masks' of the domestic wilderness. The real interaction was that which took place between the Puritan and the 'invisible world' behind the Indian world. What happened to the mediating Indian world in the course of that interaction was of secondary importance" (Slotkin 1974, 119). America's exceptional nature would be defined in its sacred wars; race would mark the barriers between chosen nation and scourge of God. Long after the fall of the Puritan elites, this narrative remains the basic structure of the "exceptionalist" history of the American republic.

This narrative was dangerous, obviously, to the Native Americans, and to anyone that stood in symbolically for America's defining enemies; but it was also potentially dangerous for the Puritan community itself. The reading of the New England colonies as Israel was an optimistic one for the Puritans; without constant vigilance and virtue, the colonies might turn out to be Nineveh. And that failure would serve, Winthrop promised, as a "byword," a lesson witnessed by the entire world of the consequences that would befall nations that failed to live up to God's promise. The first political rendering of American exceptionalism was thus a sacred and a violent one; the exceptional nature of the new society could only be proven, not assumed, and the proof lay in the capacity of the nation to destroy its enemies, endure divine scourging, and subdue the Earth.

There is an alternate founding story for British North America, one invoked by the first generation of American scholars to use the concept of "American exceptionalism" to explain the politics of the United States. "In the beginning," wrote John Locke, "all the world was America, only more so than it is now." In this founding story, the New World enabled a continent full of rational economically-driven individuals to begin over with fresh slates: the education of children, the crafting of social contracts, the invention of currency were all open for human invention. This vision of US history is what Hartz and others were conjuring when they first coined the phrase "American exceptionalism." Why was there no revolutionary tradition in the United States, no radical response to political crises after the founding? Because of the long-standing and exceptional tradition of Lockean individualism in the New World.

"Locke dominates American political thought," Hartz writes, "as no thinker anywhere dominates the political thought of a nation. He is a massive national cliché" (Hartz 1991, 140). America is exceptional in this, then: a devotion to a Lockean ideal of rational liberal individualism. The overwhelming predominance of this model was abetted by a lack of obvious enemies. There was no aristocracy in America, according to Hartz, and no one argued for absolutist monarchy; there was no North American Filmer. American liberalism is premised on the ideal of enlightened self-rule among free people, trusting as self-evident the truth that governments exist to serve the interests of these industrious and rational citizens.

In making this argument, Hartz takes exception to a third version of American exceptionalism. At the turn of the twentieth century, Frederick Jackson Turner had argued that it was the perpetually expanding American frontier (again we return to the wilderness) that had rendered the United States what it was. The American republic had been, in Turner's thesis, a constantly refounded nation, as successive generations invaded new lands, transformed them into territories and states, and removed indigenous populations. "Up to our own day American history has been in a large degree the history of the colonization of the great West," Turner writes:

> The existence of an area of free land, its continuous recession, and the advance of American settlement westward, explain American development.... Decade after decade, West after West, this rebirth of American society has gone on, has left its traces behind it, and has reacted on the East. The history of our political institutions, our democracy, is not a history of imitation, of simple borrowing; it is a history of the evolution and adaptation of organs in response to changed environment, a history of the origin of new political species. In this sense, therefore, the West has been a constructive force of the highest significance in our life. (Turner 1996, 1, 205)

With the closing of the frontier (and the US Census had declared this to be the case), Turner foretold the end of the forces that had shaped the "essential American soul," or else a call to arms across the sea, in our new post-Spanish/American War possessions—Puerto Rico, the Philippines, and Hawaii. In such places, Turner argued, "we are beginning to consider the relations between democracy and empire" (Turner 1996, 245–6). This search for dominion in new lands is somewhat problematic for Turner's definition of the development of the American republic, but the dilemma is resolvable. Conquering a perpetual west, an incessant battle between civilization and barbarism on the frontier is, for Turner, much more central to American identity than democracy per se could ever be.

Hartz finds Turner's theory to be, simply put, wrong. Many nations have frontiers; but what other republic is so dominated, what public arena so monopolized, by one ideology as the United States had been by Lockean liberalism (Hartz 1991, 95–6)? Tocqueville was correct, Hartz writes, in noting that Americans are "born equal;" this experience of equality creates a society of individual actors who do not perceive the political struggle involved in creating equality. The classic American citizen is thus primarily concerned with managing his private affairs, an exemplar of rational bourgeois industry. Believing in a natural and rational equality, Americans do not see politics as the activity that creates or maintains equality or freedom and thus are likely to treat government with suspicion while viewing popular opinion and law as the immovable bedrock on which their social lives rest. Lacking the experience of struggle against feudalism and empire which defined the revolutions of England, France, and Russia, the American liberal is suspicious of any militant movement except those that serve private security and lacks, despite the American founding, any real revolutionary tradition.

Hartz has not, however, removed the fire and conquest, the fear and insecurity, of Turner or Mather from American identity. "Even a good idea can be a little frightening," Hartz writes, "when it is the only idea a man has ever had" (Hartz 1991, 175). Hartz, following in the footsteps of Madison and especially Tocqueville, sees a profound (if somewhat shapeless) threat in American liberal democracy, a majoritarian and conformist democratic mass that destroys or absorbs the individuals in whose name it ostensibly speaks:

> Actually Locke has a hidden conformitarian germ to begin with, since natural law tells equal people equal things, but when this germ is fed by the explosive power of modern nationalism, it mushrooms into something pretty remarkable. . . . I believe that this is the basic ethical problem of a liberal society: not the danger of the majority which has been its conscious fear, but the danger of unanimity, which has slumbered unconsciously behind it: the "tyranny of opinion" that Tocqueville saw unfolding as even the pathetic social distinctions of the Federalist era collapsed before his eyes. (Hartz 1991, 11)

Why, according to Hartz, does American democratic culture pose such a threat to its citizens? Because of the need for an exceptionalist America, the desire to be able to identify what the republic is, and who its friends and enemies are. "If you b'st he," inquires Satan of Beelzebub; are even our allies really who we think they are? And how do we even know (in contrast to the spirit of effortless self-definition in the Declaration) whom the true

Americans are? The struggle to identify not just un-American outsiders but American insiders has been an important part of American law since the Revolution, and Hartz here insists upon the centrality of this dilemma to US politics. Massive conformity underscores the crisis of self-definition in American democracy; not just in the sense of the coercive identity-work of witch-hunts and red scares, but of the willingness of people to endure such conformity or the lack of effective defensive bulwarks against it. Americans insist on knowing their "essential soul," but this question of identity can never be decisively answered. In a society of private economic and political actors, after all, how does one ever know with whom one is dealing? Lockean liberalism provides a larger descriptive definition for America while at the same time undermining identity for individual Americans.

Insecure identity and the social contract have proven, writes Hartz, to be an explosive combination. "God gave the world to men in common; but since he gave it them for their benefit, and the greatest conveniences of life they were capable to draw from it, it cannot be supposed he meant it should always remain common and uncultivated. He gave it to the use of the industrious and rational, (and labor was to be his title to it) and not to the fancy or covetousness of the quarrelsome and contentious" (Locke 1988, 291). The American republic had no "covetous" or "contentious" aristocracy, in Hartz's account, but it did not lack a population barred from public life; and Americans legally defined African and African-American slaves, women, Native Americans, and the poor as those radically unproductive and dangerously irrational forces to whom political action had to be denied.

Transferring the accusations of instability and irrationality to their excluded others, American liberals maintain their belief in their own membership in the company of self-governing individuals. The price of this security is the demonization of anyone that stands outside the democratic conformity of liberal society; American liberals, Hartz argues, are quick, when threatened, to "transform eccentricity into sin, and the irritating figure of the bourgeois gossip flowers into the frightening figure of an A. Mitchell Palmer or a Senator McCarthy" (Hartz 1991, 11). And by categorizing the enemy as lunatics and sinister agents of injustice, Americans can remain secure in their Lockean faith; state power properly mobilized serves to protect the "essential" rational and industrious soul of the nation from the agents that do not belong. Thus irrational purges may be represented as a rational confinement of the quarrelsome and contentious.

Hartz offers the American South, with its militant racism and its blood-and-soil nationalism, its use of romantic (rather than rational) fighting rhetoric, as an illustrative contrast, a peculiar anomaly for an exceptionally liberal nation. But where Hartz sees an outlier, others have seen the "essential soul" of American identity. In the work of Michael Rogin (at one point a Hartz student), we can locate the fusion between race and liberal individualism that puts the war between the republic and its defining enemies back at the center of the story of American exceptionalism:

> "In the beginning," John Locke wrote, "all the world was America." Then men relinquished the state of nature, freely contracted together, and entered civil society. That was not the way it began, in America. ... America clearly began not with primal innocence and consent but with acts of force and fraud. Indians were here first, and it was their land upon which Americans contracted, squabbled, and reasoned with one another. Stripping away history did not permit beginning without sin; it simply exposed the sin at the beginning of it all. (Rogin 1975, 3)

In Rogin's account, race becomes the tabula rasa on which American identity is composed. Race serves as the singular contrast around which others are defined—whiteness is to color what industry and reason are to fancy and covetousness. "Indians did not use the land for agriculture, explained Massachusetts Bay Governor John Winthrop. Since the wandering tribes failed to 'subdue and replenish' the earth, white farmers could acquire their land" (Rogin 1988, 46–7).

The event which separates the beginning time in which all the world was America from the modern era is, according to Locke, the invention of money. In America, that event is not just enacted through the creation of a particular currency; indeed, as Rogin demonstrates, people of color serve as the currency dividing America from its pre-political paradise. "Whites consistently converted what Van Buren called 'the debt we owe to this unhappy race' into money. ... Indians were turned into things—a small reserve remaining in Ohio after removal was a 'blank spot,' a 'mote in the eye of the state'—and could be manipulated and rearranged at will. Money was the perfect representation of dead, interchangeable matter" (Rogin 1975, 243). Slaves, meanwhile, were objects of American commerce and raw material for the expanding American economy.

Rogin directs our attention to the centrality of race in all these narratives of exceptionalism. Race even becomes central to the declaration of American identity, despite the removal of most of the references to slavery from Jefferson's draft of the Declaration of Independence. In Rogin's account, the

United States had a *second* declaration of independence, a cultural assertion of autonomy, in the age of Jackson, and the American popular culture that was celebrated from the 1830s onwards was one which used blackface minstrelsy to contrast a white American republic to both the fancy and covetousness of European monarchies and the unstable and self-indulgent alterity of people of color (Rogin 1995, 14–44, *passim*).

Rogin is not completely rejecting Hartz's point here, as Hartz had Turner's. American exceptionalism in his account was Lockean and individualist, nationalist and white. And the instability of American identity that fueled (or at least allowed for) universal democratic conformity in Hartz's account also influences the actions of the exceptional Americans in Rogin's work. The problem is mirrored in Jacksonian America's favorite public hero, an exceptionally powerful individual dubbed, by Speaker of the House Henry Clay, the "self-made man:"

> If a puritan mission or a liberal tradition engendered the United States, as the classic studies of Perry Miller, Sacvan Bercovitch, and Louis Hartz maintain, then the slaveholding South is an exception outside the national consensus. Placing blackface, slavery, and race at the center, by contrast, makes the South organic to American national identity. ... Blackface places a racial division at its center. It also enacted the feature that, together with racialism, defined the exceptionalist character of American nationality: the power of subjects to make themselves over. (Rogin 1995, 49)

The principle of racialized and manly self-making promised a radical degree of autonomy. But if one is "self-made," and if much of the performance of reason and industry is a personal creation, can one be sure that there is any "essential soul" in the American? Again we are left with the obsessive question of American exceptionalism: even if we posit that the USA is the protagonist in a story of global and historical importance, we are still left with the question of identity. Who is this protagonist?

Hannah Arendt sees the Declaration of Independence as a splendidly political response, a written and performed answer, to this question. How do we know who Americans are? We "declare" that "we" are those who hold the following political assertions to be self-evident truths, and "we" are also those who have chosen to thus identify ourselves in a moment of political liberation before the eyes of a rational and enlightened mankind. Arendt also sees a disappointing retreat from the political in this moment, however; the insistence upon "self-evident truth" demonstrates a very unpolitical and coercive desire to find an a priori foundation that will establish beyond any doubt our identity and our mission (Arendt 1961, 193–5). Not two weeks after

the Declaration's signing, in the Miltonian moment of rebellion in New York, Americans begin with a question ("If you b'st he ...") that points to the radical undecidability of a willed and consensual political identity. Are we especially blessed? Particularly patriotic or treasonous? Uniquely damned? In Hartz's and Rogin's visions of American exceptionalism, this sort of undecidability is not merely an effect of radical political moments; it is central to one's life, an unavoidable part of living as a self-made individual. "Uncertain of the motives of others and worried about their own, Americans were preoccupied with natural states," Rogin writes. "They glorified the authentic, spontaneous natural man who wore no masks, played no roles, and never dissembled" (Rogin 1975, 258). The paradoxical demand of this glorification of the natural was that one *perform* the role of the genuine, spontaneous, self-made, and industrious individual. This opened a gap between performance and performer, and reinforced the anxiety that we are not who we pretend to be.[1]

Rogin demonstrates how central racial performance becomes to this dilemma. It serves, via popular pseudo-science, as the a priori foundation of identity in America. Race becomes, in American political life, a clear marker of who one is—rational or irrational, citizen or outsider, master or slave. The power of subjugation for Lockean liberalism, in short, comes from the ability to name, to identify precisely, who was rational and industrious and who was quarrelsome or covetous. White Americans could know whom they were by identifying Native Americans as the slothful wanderers who refused to labor the earth and African slaves as the victims of just wars, and both as examples of scientifically verified "inferior races." And thus we return to racial Othering, to Indian dispossession, slavery, and blackface, at the core, not the frontier, of American exceptionalism.

Race and exceptionalism have thus been intertwined, either as practice or in critique, since the beginning. Rogers Smith has attempted to untie that Gordian knot, or at least identify the different threads in the tangle. Smith has argued that this campaign for American identity suggests a combination of alternate and sometimes incoherent "multiple traditions" in US history. At times, American political thought serves racism or patriarchal authority, speaking for the sort of feudal absolutism that Hartz thought had never

[1] This also fueled the conformity that disturbed Hartz. "Liberal society, as Adam Smith and John Adams had described it, progresses by emulation. Always unsatisfied with their present condition, men copied the successes of others and sought to improve themselves. They internalized personal ambition and the desire for the good opinion of others. Since the external and internalized eyes of society provided order, men could enjoy individual freedom" (Rogin 1975, 207).

belonged in the United States; at other times, the political culture of the USA is resolutely Lockean—individualist, tolerant, and rational. Thus Smith seems to offer us an alternative to American exceptionalism—the United States, in the "multiple traditions" account, is summed up by no one narrative, it has no "essential soul." Smith makes Hartz's point, however, even as he attacks it, by his struggle to defend liberalism (his exceptionalist credo) from the disturbing indictments of Hartz's and Rogin's arguments. American democracy has been illiberal, Smith argues:

> Locke insisted that the "natural endowments" of "savage *Americans*" fell "in no way short" of "those of the most flourishing and polite nations," and he dismissed as childish the notion that "a Negro is not a Man." Unlike many of his contemporaries, he never suggested that history or nature made descent from Anglo-Saxon stock, rather than educated reason, a prerequisite for exercising basic liberties. (Smith 1997, 78)

It is as if Smith feels that America has let Locke down by being racially "ascriptive"—quarrelsome and contentious, as it were—rather than rational in its politics. America has just not been exceptionally Lockean enough for Smith. Perhaps this explains his abstractly rational proposal for stripping US citizenship from the children of "illegal aliens," a plan that, at the very least, can serve as an "ascriptive" tool for racist anti-immigrant movements, but that he invokes for the sake of resolving messy and "inconsistent," irrational and contentious, American citizenship laws (Smith 1997, 309–10, 581; see also Schuck and Smith 1985).

Smith alerts us to a consistent note in American exceptionalism, from long before Louis Hartz helped to develop the concept in the pages of American social science: the willingness, and perhaps the need, to embrace invidious distinctions in the project of defining America's special role in the history of the world. Satan is only certain of who he and his compatriots are after committing to their war, and if American democrats have always preferred to fight "with God on their side," the comparison is still apt—to know one's personal mission is "exceptional," one must know who one is, and one knows that by knowing who one is not. The fight to define the "essential American soul" has drawn together Puritan theocrat and satanic rebel, creating a political space in which Hartz's benign American democrat, "torn by self-doubt," can become a "cold, stoic … killer." At the close of his book, *Civic Ideals*, Smith asks Americans to commit to their nation, as patriots called upon to "be truer liberal democrats than most Americans have ever hoped to be," who "should give support and guidance to their country so long as it

seems the best hope available to them for leading free and meaningful lives, and for allowing others to do so as well" (Smith 1997, 505–6). American citizens are bound by duty to love their nation, at least for as long as the American republic is the "best hope" for the enlightened portion of mankind. And after that? Perhaps these ideal liberals of Smith's can begin again, rationally dividing their new public life into the spheres of the saved and the damned, the monied and the specie, citizens and illegals, rational and industrious, or fancy and covetous, and once again create a republic with an "exceptional soul" worth fighting for. If in the beginning all the world was America, we should not be surprised to find contemporary Americans like Smith again reaching out to claim yet another new beginning for themselves and their country.

Of course, Americans like Smith are not the only contemporary seekers of the "essential American soul." As Hartz pointed out, the interventionist strain in American foreign policy has long been premised upon the exportation of exceptionalism. Seeking to define the exceptional role of the United States, Americans also seek to lead the way for other nations. We have seen this happen in the Declaration, when Americans fought for colonial independence; the same is true when Americans fought to have colonies of their own. When the United States began the war to consolidate their control of the Philippines, Woodrow Wilson defined the occupation as a pedagogical duty: "They [the Filipinos] are children and we are men in these great matters of government and justice" (Wilson 1902, 728–31). In 2003, President George W. Bush invoked these lines with approval; the idea that the American occupation of Iraq is part of a lesson in democratic self-rule is premised upon the ideal of a singular and exemplary American soul that must be learned from. Indeed, the Bush national security statement is itself an exercise in American exceptionalism, asserting that "only one model of national success" survived the twentieth century, and that the United States is uniquely responsible for exemplifying and extending that model throughout the world. And in this regard, at least, Bush's exemplar has had its effect. Other people throughout the world have adopted the quest for an essential American soul. The USA is, again, variously held to be exceptionally modernist, fundamentalist, Judeo-Christian, secular, blandly homogenous, and violent. Even the recent atrocities in American prisons and detention camps overseas return us to exceptionalist narratives; when one learns that an American interrogator at Abu Ghraib identified himself to his victims as "the Devil," the dramatic conceit is

as familiar as it is alarming (Fisher 2004). One imagines, furthermore, that few readers, in the USA or elsewhere, would find that narrative surprising. If Americans were willing to use satanic rebellion to identify themselves in the months after the signing of the Declaration, why not now? But the language of crusades and satanic rebellion does not serve non-American audiences any better than it serves American ones.

The exceptionalist attempt to sum up the "essential American soul" is pervasive enough that attempting just to move beyond it is insufficient. American exceptionalism (as Smith's attempt at tracing multiple traditions reminds us) is too central to American political thought to be eradicated through legal or conceptual fiat. American exceptionalism can no more be eradicated than novelistic genres like the detective story or the romance can be. We may alter its form—as an audience we find particular variations more or less compelling. But the narrative itself is the favorite form of American national autobiography, a *bildungsroman* whose protagonist must achieve unique and persuasive narrative purity, no matter what the cost. Perhaps, then, another kind of *bildungsroman* might point us the way to a more skeptical reading of exceptionalism.

The Education of Henry Adams is a very different form of American autobiography, an attempt by the descendant of two American presidents to understand himself and his role in a nation utterly transformed by civil war. Adams insists repeatedly that he does not wish to critique or attack the "new" United States; he merely wants to find his place in it. His autobiography is essentially a record of his failed attempts—spanning a life that he insists was shaped for the eighteenth century, and that, therefore, partakes of three "American centuries"—to find out what the nation is about, and what his place in it should be. By the book's end, Adams is both utterly familiar with most of the narratives of American identity and alienated from them. Indeed, this alienation is central to the perspective of the book—the author insists upon referring to himself in the third person throughout, he writes an introduction in the name of another man, and he tells the reader in the book's preface that he is only a mannequin. This perspective on American identity, while problematic, is far better, I argue, than Smith's exhortation that Americans redouble their rational love for their country. Adams is alienated but familiar, utterly conversant with the different narratives of Americanness without ever being wed to any of them. Adams is not an ideal model. Leaping over twenty years in his autobiography, he hides from the things he finds most painful, and this is hardly an adequate policy for democratic citizens.

His anti-Semitism and racism are evident, if ironically displayed, and establish his acquiescence in some of the most pernicious narratives of the exceptionalist tradition. But then, dealing with the legacy of American exceptionalism requires that theorists stop looking for ideal models. Adams' alienated familiarity with American identity suggests to us a reader capable of recognizing the power of the exceptionalist tale without imitating it. It is all but impossible to avoid reading exceptionalism in American politics; Adams suggests a position of skeptical readership. Rather than reversing or redeeming American exceptionalism, the theorist must now confront it, finding new ways to read the role played by the United States in a new century, and refusing to be tempted by the easy and apolitical escape of identifying the one true and "essential American soul."

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CHAPTER 16

CHANGING INTERPRETATIONS OF MODERN AND CONTEMPORARY ISLAMIC POLITICAL THEORY

ROXANNE L. EUBEN

1 Introduction

Political theory is often understood as a field and enterprise at once produced by and coterminous with "the West," yet there is a rich tradition of Islamic political thought in which Muslims have long been engaged in their own "Great conversations" about the foundations of political life.[1] Threads of

[1] Despite the frequency with which "the West" is invoked by peoples all over the world, and the very real allegiances and enmities it may evoke among them, terms such as West and non-West carve

these conversations at times intersect and overlap with, at other times radically diverge from, those in Western political theory. Neither the existence of such "great conversations" across cultures nor these moments of commonality serve as evidence of universal, or "perennial," questions that arise everywhere by virtue of being human. On the contrary, the extent to which peoples across culture do or do not share certain dilemmas of coexistence must remain a permanently open area of investigation if theorists are to avoid universalizing Western preoccupations without warrant. What they do suggest, however, is that a more capacious understanding of political theory is in order, one defined less in terms of a parochial mapping of Western answers to fixed questions posed by a pantheon of philosophers than a free-ranging inquiry into the conditions of living together on which no time or culture has a monopoly.

Much like Western political theory, the tradition of Islamic political thought is complex and variegated, riven with disagreements, reversals, contradictions, and discontinuities that resist easy summary. As the "modern" period for the Islamic *umma*[2] (community) is largely framed by the rise and spread of European power, however, what perhaps most distinguishes the work of eighteenth- to twenty-first-century Muslim thinkers from previous generations is the extent to which they are explicitly or implicitly engaged in two dialogues, one across history, another across culture.[3] First and foremost, Muslim political theorists were and are engaged in a series of debates within Islamic tradition about, for example, the nature of political authority, the relationship between reason and revealed knowledge, and the proper way to be a Muslim (among others). Both during and after the confrontation with European empire, however, these thinkers have also had to engage with the West's claim to embody a "modernity" that is, in essence, an expression of the ways in which Europe has ordered its past in relation to its present.

up the world in ways that obscure their mutual historical indebtedness and cross-pollination. All subsequent references should be read as problematic, although I will omit the quotation marks.

[2] The Islamic *umma* originally described Muhammad's community, but its meaning is so varied in the Qur'an that, at a minimum, it "always refers to ethnic, linguistic or religious bodies of people who are the objects of the divine plan of salvation" (Paret 1987). It is a supranational term, in that the boundaries of such a community are meant to be determined primarily by belief and not by geography or political identifications.

[3] If unqualified, the language of "dialogue" tends to obscure the radical inequalities of power that often plague such cross-cultural encounters in a postcolonial world. It is worth noting that Muslim thinkers have been engaged with non-Muslim traditions of thought for a very long time, although the sense of cultural encroachment and threat from the rise of Western power makes the nature of the "modern" encounter somewhat distinctive.

More specifically, the West's self-defined maturity congealed in contrast to both the distant past of the ancient Greeks and the more immediate past of the European Middle Ages in which "a Great Chain of Being" issuing from God was said to hold sway. Inasmuch as this maturation was facilitated by the scientific method, the advance of which was assumed to at once presuppose and demonstrate the illegitimacy of metaphysical sources of knowledge about the natural and social worlds, the universalization of this culturally and historically specific experience as modernity *as such* posed a serious conceptual challenge to Muslims living and working in political communities where membership was defined primarily by religion. With the arrival of European military forces on Muslim territory, the challenge became quite immediate and concrete. The sense of threat from the outside arguably transformed or lent a new edge to debates which had occupied Muslim thinkers in prior centuries, but posed one set of questions rather sharply: to what degree could Islam be considered modern, using what or whose definition, and with what cost, both to the revealed truths that sustain the religion and the *umma* built upon it, and to Islamic "authenticity," the substance of which is articulated most fiercely at moments of greatest threat?

Even within these clearly specified terms, what travels under the rubric of modern and contemporary Islamic political thought is quite complex and variegated, as the section on "Pluralizing Islam" at the end of this chapter shows. Given the striking variety of ways Muslim theorists[4] have contended with common constraints, then, modern and contemporary Islamic political thought may be said to be characterized by disunity amidst commonality. The following discussion is meant to sketch, in necessarily broad brush strokes, both some sense of these constraints and the texture of a few of the important and influential responses. Here import and influence are measured not by the extent to which these thinkers or streams of thought speak to Euro-American concerns or pass canonical muster but rather their continuing purchase on contemporary debates among Muslim political theorists (even or especially when it is the very legitimacy of such purchase that is at issue) and, in some instances, on Muslim political practice.

[4] This must of necessity sidestep the reasonable but unwieldy question of what it is, precisely, that makes a theorist "Muslim," and the even more explosive issue of the criteria by which someone is adjudged a "real Muslim" and who is authorized to determine and enforce such criteria. For the sole purposes of this chapter, such matters must be determined inductively rather than deductively: these are theorists who self-identify as Muslims (although religion may not be the exclusive or even primary vector of identity for each thinker in all circumstances) and whose scholarly practices involve serious engagement with the Islamic textual sources.

2 Islamic "Modernism"

Islamic "modernism"[5] refers to a primarily nineteenth-century stream of thought that took shape in the shadow of the slow decline of the Ottoman Empire and the expansion of European political and economic power.[6] Such thought posited a golden age in the earliest generations in Islamic history, and sought to recuperate those idealized foundations as a bulwark against the encroachments of Western colonialism.[7] For many Muslim intellectuals living and working in the first half of the nineteenth century, European ascendence remained "less of a threat and more of a promise" (Sharabi 1970, 27). The years 1875–82 radically altered the geopolitical landscape: by 1877 Russia had attacked Turkey, Tunisia was occupied by the French four years later, and, by 1882, Egypt was occupied by the British. Onto the problem of Ottoman decline were now grafted increasingly urgent questions about the challenge posed by European power and its (apparently) justified claims to represent the zenith of cultural, scientific, and technological achievement (Hourani 1983, 104).

Despite real differences between them, modernists such as Egyptian Muhammad 'Abduh (d.1905) and his sometime mentor and collaborator Jamal al-Din al-Afghani [al-Asadabadi] (d.1897) sought to meet this challenge in part by redefining its terms, and more specifically by portraying Islam as the "rational religion," and characterizing science and modernity as universal rather than Western. al-Afghani and 'Abduh shared the conviction that modern rationalist methods and the scientific discoveries they produce are at once objectively true and essential to the strength and survival of the Islamic community in the face of European ascendance. Yet they witnessed first hand the ways in which rationalism, science, and philosophy too often served as the handmaiden of Western arguments supposedly demonstrating

[5] Again, I place "modernism" within quotation marks here to signal the ways in which what is called Islamic modernism is not an uncomplicated embrace of the ideas and processes constitutive of Western modernism but is itself a hybrid. There are, moreover, different strands of Muslim modernist thought, perhaps the most significant of which is Shi'i modernism, which should be distinguished from Sunni modernism, although it is precisely in their modernist guises that the differences between Sunnism and Shi'ism significantly diminish (Enayat 1982, 164).

[6] The modernist school has also included the more conservative political thought of 'Abduh's student Muhammad Rashid Rida (d.1935), among others (see Kerr 1966; Adams 1968; Kedourie 1966; Hourani 1983).

[7] Such a Golden Age of Islam is generally identified as the time from the Prophet Muhammad through the period of the "Rightly Guided Caliphs" (632–61).

Muslim backwardness and justifying European political, cultural, and economic hegemony. The challenge was thus to sever the association of science and Western power, to draw upon Islamic history to demonstrate that, in Afghani's words, science is a "noble thing that has no connection with any nation ... everything that is known is known by science, and every nation that becomes renowned becomes renowned through science. Men must be related to science, not science to men" (al-Afghani 1968, 107).

Given these presumptions, al-Afghani and 'Abduh view the survival of the Muslim *umma* and the truths upon which it is founded as dependent upon the compatibility, or more accurately, identity, of Islam and reason. They thus reject the division of the world into Islamic science and European science, a classification endorsed, for different reasons, by both Muslim traditionalists and European rationalists such as Ernest Renan (1883). For al-Afghani and 'Abduh, this bifurcation essentially entails the claim that Islam is incompatible with self-evident knowledge. They contend that those who infer an essential enmity between Islam and the exercise of critical reason from the history of Islamic practice have in fact mistaken a debased Islam for the true faith: the Qur'an and the example of the Prophet Muhammad encourage the pursuit of knowledge of the material world as the means necessary for survival and well-being, and already either contain or prefigure truths about the world that are now associated with modern scientific discoveries. Islam properly understood is thus the "rational religion," the "first religion to address human reason, prompting it to examine the entire universe, and giving it free rein to delve into its innermost secrets as far as it is able. It did not impose any conditions upon reason other than that of maintaining the faith" ('Abduh 1966, 176). But as both revelation and reason are divine creations, a contradiction between the laws of God expressed in the Qur'an and traditions and those of God embodied in the natural world is an impossibility ('Abduh 1966, 83).

al-Afghani and 'Abduh's rereading of the "authentic" Islam as rational must be seen within a long tradition of *tajdid* (renewal) and *islah* (reform) in Islamic intellectual history, one that has been ongoing from the ninth century to the present (Voll 1983). In particular, their arguments must be situated amongst long-standing Islamic debates about reasoning (*'aql*), transmission (*naql*), revealed truth, philosophy, and independent judgment/interpretation (*ijtihad*). They are thus engaged in a "great conversation" about what can be known and how in Islamic thought. At the same time, however, the course and substance of their arguments are shaped and influenced by the ways in

which the West had defined itself as the embodiment of modernity. More specifically, we see in their projects not just elements drawn from a rich Islamic tradition, but an understanding of development and maturity defined in terms of the culturally and historically specific experiences associated with the European transition from its own past to its politically and economically powerful present.

A case in point: al-Afghani's writings generally reflect an attempt to reconcile the imperatives of human reason with those of scripture, the teachings of philosophy with those of Islam, but as scholars have noted, for al-Afghani consistency was often secondary to anti-imperialist politics, and he often adapted his arguments to suit his audiences. Thus in his response to French philosopher Ernest Renan's 1883 article, "Science and Islam," al-Afghani sounds more like a French *philosophe* than an Islamic reformer when he writes "Religion imposes on man its faith and its belief whereas philosophy frees him of it totally or in part. . . . It will always be thus. Whenever religion will have the upper hand, it will eliminate philosophy; and the contrary happens when it is philosophy that reigns as sovereign mistress." al-Afghani goes so far as to agree with Renan's assessment by acknowledging that Islam historically has tried to "stifle science and stop its progress" and has halted the "philosophical or intellectual movement and [turned] minds from the search for scientific truth" (al-Afghani 1968, 183). But he insists that Islam is not the sole culprit; all religions have at some time similarly impeded the pursuit of truth.

'Abduh was more concerned than al-Afghani to protect revealed truth from the transgressions of unfettered human reason, but his arguments are just as culturally syncretic as al-Afghani's. For example, his definition of reason as the exercise of critical judgment on the basis of logical and empirical proof is, like that of al-Afghani, indebted to Islamic philosophers (*falasifa*) who where themselves influenced by ancient Greek rationalism. At the same time, it incorporates the ways in which reason came to be defined in modern European thought in opposition to the authority of the clergy, the pull of habit and tradition, and the suspension of critical judgment they were thought to presuppose. 'Abduh's fragmentary political proposals, moreover, reveal the depth of his conviction that the universalization of Western modernity will ultimately realize rather than corrupt the true Islam: he argues that the institution of the Islamic Caliphate is consistent with secular European civil law, and as Hourani points out, 'Abduh follows an earlier generation of Muslim intellectuals in linking *maslaha* (public interest) to utility, *shura* (consultation) to limited parliamentary democracy, and *ijma'* (consensus,

or the agreement of the community, one of the bases of Islamic religious law) to public opinion (Hourani 1983, 144). Paradoxically, then, both al-Afghani and 'Abduh's attempt to identify a transcendent Islamic essence beyond the world of appearances can only be understood in terms of particular historical and political circumstances, and is itself the product of multiple cultural influences.

3 Islamic Fundamentalism

For Islamist (also called Islamic fundamentalist)[8] thinkers such as Ayatollah Ruhollah Khomeini (d.1989) and Sayyid Qutb (d.1966), such modernist attempts to render Islam compatible with a set of Western achievements and standards are not a help to the *umma* but both cause and consequence of its continuing decay. As Qutb contends, such arguments are no more than defensive attempts to justify the relevance of Islam given the obscurantism of Muslim scholars on the one hand and attacks from Western and Eastern secularists on the other (Qutb 1962, 17–20). Implicit in such apologetics, Qutb argues, is that Islam is on trial because it is somehow "guilty" and in need of justification. According to Khomeini, such "xenomaniacs" have been seduced by the technological and material achievements of the imperialists. By betraying Islam from within, they deepen and exacerbate the subservience of Islam to Western power (Khomeini 1981, 38, 35).

By contrast, for Khomeini and Qutb, modernity as defined and universalized by Western culture and power is a kind of global pathology, a disease that at once degrades the true essence of Islam and Muslims' capacity to recognize their illness. Central to this pathology is modern rationalism, where reason not only determines the methods by which humans can know the world but also defines what is worth knowing in terms of what is knowable to human beings. Whereas 'Abduh and al-Afghani largely took such rationalism as a fact to which Muslims must adjust themselves, Islamist thinkers emphasize the

[8] Because the term "fundamentalism" is so widely recognized, I use it interchangeably with "Islamism," but it is understandably controversial to use a term coined to describe a turn-of-the-century Christian movement in America in connection with Islam (Euben 1999).

danger it poses to revealed truths and to the survival of the Muslim *umma* built upon them. Once reason becomes at once a method and justification for the completeness of human knowledge, Khomeini contends, human beings cease to acknowledge the unseen world and the metaphysical truths it embodies, recognizing only knowledge of worldly phenomena as worthwhile (Khomeini 1981, 394). The result of such rationalist epistemology is not only a truncated concept of the world, but an explicit justification of the right of humans to govern without divine intervention.

The challenge of the contemporary world as defined by Khomeini and Qutb is thus one of recognition and recuperation: to penetrate the haze of cultural corruption masquerading as modernity and recapture the "authentic" Islam articulated in the original Muslim community by realizing an Islamic social system on earth. This requires in the first instance a rejection of human sovereignty in any form: whether labeled democratic, communist, or liberal, by presuming that human beings may legitimately define the moral and legal rules under which they live, all such states transgress divine authority as expressed in Islamic law (*Shari'a*), the collection of prohibitions and regulations derived from the Qur'an and the example of the Prophet. Qutb calls this a condition of *jahiliyya*, a term taken directly from the Qur'an and which originally referred to the period of pre-Islamic ignorance in Arabia. As deployed by Qutb, however, *jahiliyya* becomes a condition rather than a particular historical period, a state of ignorance that obtains whenever a society "deviates" from the true Islamic path. Whereas ancient *jahiliyya* was a function of simple ignorance, modern *jahiliyya* is a conscious usurpation of God's authority (Qutb 1991, 17). All contemporary ills are the product of this foundational transgression of human hubris.

Triumph over this essentially modern pathology, then, requires establishing *Shari'a* as the sole source of legitimate sovereignty over domains often divided into "public" and "private" (Khomeini 1981, 28–30, 55). As it is seen as infallible legislation for almost all aspects of human existence, *Shari'a* "covers every possible human contingency, social and individual, from birth to death," including matters relating to administration, justice, morality, ritual washing, dispensation of property, and political treaties (Hodgson 1974, I:74; Schacht 1987). Some scholars have argued that the distinction in Islam between '*ibadat* (duties towards God, for example, observance of religious obligations) and *mu'amalat* (duties towards one's fellow men and women) provides a justification for distinguishing between the authority of religion and that of government (Gibb 1962, 198), much as liberal political theory

posits a separation between Church and State. Khomeini and Qutb both argue that this distinction violates the essential unity of political and moral domains, yet another instance of the corruption of Islam by a set of inappropriate categories derived from the history of Christian Europe (Khomeini 1981, 38; Qutb 1962, 129). Islam, Khomeini insists, "is a religion where worship is joined to politics and political activity is a form of worship" (Khomeini 1981, 275). It is thus the divine source of legislation and its jurisdiction over both religious and political realms that distinguishes Islamic government—which is synonymous with just government—from constitutional monarchies, republics, and the "unbelieving" governments of the United States, Britain, and the Soviet Union. These are governments, Khomeini writes, that "execute anti-human laws and policies for the sake of their own interests" (Khomeini 1981, 66).

For Khomeini and Qutb, the legitimate exercise of political power depends always upon the ruler's commitment to upholding to the *Shari'a*, not allegiance to the governed (Khomeini 1981, 55, 64–5; Qutb 1974, 63). The responsibility of the ruler to the ruled and ruled to ruler is thus mediated by the *Shari'a*: justice flows from adherence to Islamic law alone, not from adherence, for example, to the terms of a political contract. Khomeini maintains that the rule of Islamic law must be under the guardianship of those most knowledgeable in matters of divine law, the *fuqaha* (jurists), an argument that simultaneously draws upon and effects a radical rereading of Shi'ite doctrines regarding rulership (Akhavi 1988, 414). Unlike Khomeini, Qutb, a Sunni Muslim, rejects theocracy, claiming the traditionally elite prerogative to judge rulers for himself and for all virtuous Muslims, much as the Reformation sought to make the Biblical text accessible to laymen.

Despite such differences, however, Qutb and Khomeini both insist that divine sovereignty not only strengthens the Islamic community against those who would destroy it from without and within, but also provides the only framework through which essentially selfish and arrogant human beings are made moral. Indeed, all human behavior will be brought into conformity with God's will through daily adherence to laws large and small. Here equality among human beings is possible for the first time, for all members are equal to one another by virtue of their common submission to God. This is in stark contrast to the many *jahili* states where only some rule others, and human beings are in this way enslaved to one another. This is not the Lockean idea of equality whereby all persons are free and equal in that each has a natural right to life, liberty, and property; rather, it is the case that since all are equally

subject to God's call, they are *therefore* equal. In sum, Khomeini contends, a fully realized Islamic social system will cure the political, social, material, and moral pathologies of the modern condition, while simultaneously tending to the well-being of humankind in the hereafter (Khomeini 1981, 36).

Unlike 'Abduh and al-Afghani, Qutb and Khomeini presume that the survival and integrity of Islamic truths depend on purifying Islam from the corruption of foreign influence, or (borrowing from Jalal al-i Ahmad) what Khomeini refers to as "Westoxification." Indeed, Khomeini contends that "our problems and miseries are caused by losing ourselves" (Fischer 1983, 168). Toward that end, Khomeini locates himself entirely within a Shi'ite Islamic lexicon, drawing upon the special role of the Imam (signifying an outstanding religious leader) within Shi'ite thought. As Sami Zubaida points out, Khomeini writes largely without reference to contemporaries or predecessors, couching his arguments almost exclusively in the idiom of Islamic political theory and imagery (Zubaida 1989). Similarly, Qutb insists the survival of the Islamic community depends upon overcoming the pernicious influence of *jahiliyya*: Muslims can only be redeemed from the bankruptcy and fragmentation that plagues the rationalist, modern West by recapturing the essential, universal, constant, and a priori unity of religious and political authority in Islam. That this is the one and only authentic, uncorrupted Islam is self-evident: "what we are saying about Islam is not a new fabrication, nor is it a reinterpretation of its truth. *It is simply plain Islam* [emphasis added]" (Qutb 1949, 13; Shepard 1996, 9).

There are precedents in Islamic history for this particular brand of radicalism, and many of Khomeini's and Qutb's arguments take up themes and concerns with a long and contested history in Muslim political thought. Yet while both Khomeini and Qutb intend to recapture the timeless and pure essence of Islam uncorrupted by Westoxification or *jahiliyya*, their projects are defined as much by the contemporary world as by the putative origins of Islam. For example, Qutb is preoccupied with such distinctively modern phenomena as Enlightenment rationalism, Marxism, and liberalism; his very understandings of *jahiliyya* and divine sovereignty are defined in terms of them. His arguments, moreover, unintentionally incorporate many of the terms and concerns of his opponents at the very moment he insists on philosophical purity. For example, his pronounced and repeated concern for material equality echo precisely those of the communist and Arab socialist systems he reviles, and scholars point to a distinctively modern emphasis on the social dimension of justice not in fact present in the Qur'an and *hadith*

(the reports of the words and deeds of the Prophet) (Akhavi 1997; Carré and Michaud 1983, 84, 223). Similarly, Khomeini's work is not the expression of some kind of pure unadulterated Islamic thought: close reading reveals a quite innovative reading of Shi'i political theory which incorporates conceptualizations of nationalism, alienation, the state, and the idea of "the people" as an agent which emerge from traditions within modern Western political thought (Abrahamian 1993, 13–38; Fischer 1980, 169; Zubaida 1989, 18–20). What this means is that these tracts are the intellectual products of the interaction of Khomeini's and Qutb's version of Islamic thought with the contemporary world, a world where colonialism and the influence of Western culture set the terms of debate even for those who seek to critique, eradicate, or ignore such influence.

4 Pluralizing Islam

Intent on recuperating a pure Islamic essence from a world hopelessly soiled by human arrogance, Islamist thinkers such as Khomeini and Qutb tend to reject the authority of religious commentaries and textual interpretations in favor of what the text "really says," thereby denying that determining what the text "really says" is itself an act of interpretation. They thus claim for themselves and for a few select Muslims the status of one who, like Plato's Philosopher-King, has ceased to watch shadows on the wall, who has ascended beyond the mouth of the cave and into the blinding light of the sun. Such an anti-hermeneutical stance places Islamists—along with their counterparts in, for example, Jewish fundamentalism or the radical Christian right in US politics—in an epistemologically privileged position from which to determine, once and for all, the one and only authentic way to live in a collectivity as a Muslim, a Christian, a Jew, an American patriot. This is a far cry from the (qualified) embrace of *ijtihad* (independent judgment or interpretation) and political sensibilities of Islamic modernists. Yet inasmuch as the Islamism of a Qutb and the modernism of an 'Abduh both represent attempts to disentangle the "real" from the "false" Islam, in another sense, they may both be seen as participating in the discourse of Islamic authenticity which transforms history into a warp and woof of decadence and health

(al-Azmeh 1993, 42); the Islam of the contemporary world comes to look but a shadow of its glory days, a symptom and symbol of the decay of time, the plotting of enemies, or both simultaneously.

The claim that the essence of Islam will be disclosed as a set of unambiguous imperatives once purged of the corruption of foreign influence or internal decay is particularly prevalent in a postcolonial world now marked by the spread of globalization, but it has a long lineage in Islamic history. Yet there is an equally long if at times subterranean history of the very hermeneutic practice of interpretive pluralism Islamists reject. Here the focus is less on locating the "real" Islam once and for all, of saving it from a world supposedly intent on its transformation, degradation, or demise. Rather the emphasis is on sifting through the multiple possibilities and overlapping interpretations of a rich textual tradition given the radical transformation of Muslim communities over the centuries and the enormous challenges such changes inevitably pose to any living religious tradition. Given the outsized voice currently enjoyed by Islamists in particular, it seems appropriate to conclude this chapter by foregrounding just two examples of this second history of interpretive practices that, like an insistent counter-rhythm beating just beneath the surface, are less a final footnote to contemporary Islamic political thought than a constitutive feature of it.

Among those who comprise this second history are the diverse array of scholars and activists who have sought, for example, to engage critically the Qur'an and *hadith* literature in the name of gender equality, negotiating a path between the Islamist insistence that feminism is part and parcel of the new *jahiliyya* and essentializing arguments that reduce Islam to a series of anti-woman flashpoints such as the burqa, female genital mutilation, and honor killings. This is evident, of course, as early as Qasim Amin's *Tahrir al-Mar'a* [The Liberation of Woman] (1899) and Mumtaz 'Ali's *Huquq-al-Niswan* [The Rights of Women] (1898), but is also evinced in the less recognized voices of Muslim and Arab women over the last two centuries, often writing on the margins and without the benefit of education in the "Islamic sciences" necessary to engage the sacred texts (Badran and Cooke 2004). More recently, self-identified feminist activists and theologians such as Riffat Hassan have sought to undermine what she calls the "misogynistic and androcentric tendencies" in the Islamic tradition by pointing out the ways in which patriarchal *hadith* literature has crept into translations of the Qur'an, transforming often ambiguous and gender neutral language into readings that echo

the Genesis story of Eve's creation from Adam's rib not actually present in the texts, sustaining views of women as "ontologically inferior, subordinate, and crooked" (Hassan 1991, 67, 81).[9]

There are also many Muslim writers seeking to contest an emerging consensus that Islam is incompatible with democracy, a conclusion advanced both by Islamists insistent that popular sovereignty transgresses divine authority as enshrined in Islamic law on the one hand and, on the other, by a range of scholars and observers who argue that, for a variety of reasons, cultural, political, historical, and psychological, Islam and Muslim rulers are uniquely inhospitable to democracy and "the idea of freedom" (Lewis 1996). Positioned against this odd convergence are a long line of thinkers from some of the early Islamic modernists to contemporary Muslim democrats who argue that there is much in Islam that is not only compatible with democracy—understood both as a form of governance and as political practices of inclusion—but actually provides mechanisms for its realization.[10] A case in point is the principle of *shura* (consultation), a term that appears in the Qur'an when Allah exhorts believers to "settle their affairs" by "mutual consultation" (Sura 42: 38), and is reinforced by the admonition to believers to "seek counsel" from their brethren in all affairs (Sura 3: 159). *Ijmaʿ* (consensus), one of the most important bases of Islamic law, is another aspect of Islam particularly conducive to interpretations consistent with democratic practices, as it may mean anything from the consensus of those most qualified to make decisions on juridical matters to the unanimous agreement of all believers in the *umma*.

Rather than relying on a reinterpretation of such terms as *shura* and *ijmaʿ*, however, the Iranian Abdolkarim Soroush has sought to subvert the binary that renders Islam and democracy mutually exclusive by engaging in a double move. The first is to restore the historical context and conceptual complexity to the term democracy, showing by argument and example that any inquiry into the relationship between democracy and Islam requires interrogating the often unacknowledged secular biases of "liberal democracy" and disentangling liberal presuppositions from democratic politics (Soroush 2000, 45–6).

[9] See also Wadud (1999), Ahmed (1992), Mernissi (1991). For an alternative view to that proffered by Hassan, see Moghissi (1999).

[10] The literature on the relationship between Islam and democracy is extensive. See, for example, Cohen and Chasman (2004), Esposito and Voll (1996), Mernissi (1992), and Butterworth and Zartman (1992).

The second is an attempt to restore to Muslims those historical precedents and religious practices that sustain participatory and democratic governance. Soroush's explicit purpose is to insist, on the one hand, that a secular government in a religious society is undemocratic and, on the other, that religious knowledge must be subject to criticism by way of collective debate. Drawing upon philosophers ancient and modern, European and Muslim, his argument serves, moreover, as a reminder that democracy as both concept and practice is far richer and more contested even within the West than simple Schumpterian definitions of it in terms of "competitive elections" suggest (Schumpeter 1942, 269).

In times of crisis and threat, from the height of European colonialism in the nineteenth century to a post-9/11 world, it is perhaps unsurprising that investments on all sides deepen and congeal. Yet alongside the cacophony of voices intent on arrogating the authority to demarcate what is authentically Islamic and un-Islamic once and for all, just these brief examples demonstrate that there have long been and continue to be lively debates about, for example, Islam, democracy, and gender, informed by the dialectical relationship between rich texts that yield multiple interpretations and the lived experiences of actual Muslims past and present who live in a stunning variety of cultural contexts and regions. Attending to such historical conditionality and textual indeterminacy is not the same as moral relativism; these participants often bring deeply held political and moral convictions to such debates, although they may have no more substantively in common with one another than a commitment to the very conditions that make such engagement possible—commitment, in other words, to what might be characterized as a democratic ethos, a "politics of democratic disturbance through which any particular pattern of previous settlements might be tossed up for grabs again" (Connolly 1993, 264–5). Yet their practices at once presuppose and demonstrate that "what Islam is" is not singular and fixed but multiple and contested; that Islamic religious practices and ideas are, like any rich theoretical and cultural tradition, shaped by historically specific conditions and circumstances, and vice versa; and that, finally, Islam is a living tradition that both withstands and encourages constant interpretive re-engagement in changing historical contexts.

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PART V

STATE AND PEOPLE

CHAPTER 17

CONSTITUTIONALISM AND THE RULE OF LAW

SHANNON C. STIMSON

The Rule of Law denotes a cluster of concepts both praised and ridiculed. Commonly invoked across the political spectrum and on all sides of political debate, at the very least the Rule of Law and the concept of constitutionalism generally associated with it are seen as "essentially contested concepts" in the sense in which W. B. Gallie intended that characterization to apply. That is, they are normative concepts of sufficient complexity so as to generate continuous and independently unresolvable debate (Gallie 1956, 167).[1]

Some of its most supportive contemporary critics have been willing to go further, and to suggest that Rule of Law is not simply contestable but substantively meaningless. In this latter group, the estimable late twentieth-century political and legal theorist Judith Shklar included herself. She lamented that "thanks to ideological abuse and general over-use," the phrase "Rule of Law" could be shown with relatively little difficulty to be one of those meaningless and "self-congratulatory rhetorical devices that grace the public utterances of Anglo-American politicians" (Shklar 1998, 21).

[1] For recent and very insightful contributions on this topic, see especially Waldron (2002, 2004), West (2001), and Fallon (1997).

Of course, the frustration with public manipulations of the rule of law expressed by critical analysts and thinkers such as Shklar is not new. The noted jurist Roscoe Pound, in his entry on this topic for the renowned 1934 edition of the *Encyclopedia of the Social Sciences*, observed that "[o]bviously the doctrine of the rule of law is going through a crisis analogous to that through which it passed in the seventeenth century"(Pound 1934, VIII, 466). As Pound well knew, this view that the rule of law might be in crisis had been earlier expressed in Andrew Venn Dicey's introduction to the 1915 (8th) edition of his *Introduction to the Study of the Constitution* in which he observed that "[t]he ancient veneration for the rule of law in England suffered during the last thirty years a marked decline" (Dicey 1915, xxxviii). Dicey's pronouncement was all more notable since he had essentially coined the locution exactly thirty years earlier in the first edition of that work in order to describe what he took to be a defining constitutional feature of the political institutions of England.

American constitutional historians such as John Phillip Reid have argued that whether they employed the form of words or not, the British in fact effectively lost the rule of law much earlier, in the late seventeenth and eighteenth centuries, by virtue of the move to parliamentary sovereignty. American revolutionaries, on Reid's account as well as that of the much earlier Pound, rejected the arbitrary power of a sovereign legislature. Instead, they sought to reinstate the rule of law in a newly independent America on an earlier vision of it drawn from the "fundamental" common law jurisprudence of Edward Coke's *Second Institute*. This is the view of rule of law that is said to inform both Thomas Paine's claim that "in America, the Law is King," as well as the Massachusetts Constitution (1780), which proclaimed that its citizens were ruled by "a government of laws, and not of men" (1780, part I, art. 30).

How are we to understand this ambiguous construct "the rule of law" which it is often argued has been repeatedly won and lost over time and yet today remains in the public imagination a formative part of political discourse, and an essential element particularly of British and American constitutional discourse? And, reaching beyond the Anglo-American nexus, how are we to understand its role within the constitutional structure of a progressively more formalized European Union or within the more recently constituted post-Communist states of Eastern Europe?

It is useful to begin by considering the manner in which some contemporary jurisprudential and political thinkers have considered the rule of law. One might then consider the sources of some of those contested elements

comprising it, and finally consider how and when it might yet be said to succeed or fail to accomplish the goals expected to flow from its application.

1 Formal Standards for Rule of Law

Contemporary writers often reject the notion that law is obeyed simply by the bare fact of its being "law"—in the form of a recognized exogenous restriction antecedent to action. It is, of course, entirely possible for individuals and groups to desire and to undertake action that is both orderly and predictable in the absence of any preexisting norm. What then might it mean to say that people are ruled by law? The answer is certainly not without ambiguity. More than one commentator has criticized the concept as being "uncertain and controversial" in its origins, content, and application (Waldron 2002, 140). Indeed, wisdom has been seen in admitting from the outset that in our efforts to clarify this concept we stand on a slippery slope, covered with "the grease of jurisprudential ambiguity and the treacherous underfooting of imprecise definition" (Reid 2004, 3). Part of the ambiguity might be reflected in the differing methods—philosophical, historical and institutional, and rational choice—currently employed to interpret and evaluate this locution.

Formally, the rule of law is often characterized as if it comprised rules of a game applied to everyone, serving to regulate most if not all forms of social, political, and economic activity. According to one contemporary source, we are ruled by law on the condition that "those people who have the authority to make, administer, and apply the rules in an official capacity" do *in fact* "administer the law consistently and in accordance with its tenor." The tenor of the law then reflects at least in part those general or formal requirements converting collections of norms or rules into law (Finnis 1980, 270). Lon Fuller enumerated what are taken to be the classic formal standards for rule of law: generality, public promulgation, non-retroactivity, clarity and comprehensibility, coherence or logical consistency, feasibility, enduring, and officially obeyed (Fuller 1964, ch. 2). Joseph Raz has added to this list the requirement of a hierarchical structure requiring particular rules or norms to conform to the more general ones (Raz 1979, 210–19). Other contemporary legal theorists and philosophers, including John Rawls and Margaret Jane

Radin, have offered principled or precept driven reductions of Fuller's list without basically challenging it.

However, the formal rationality of Fuller's eight criteria has been criticized by other contemporary legal and political theorists for situating the rule of law in a "political vacuum," and rendering it potentially compatible with governments of the most repressive and irrational sort (Shklar 1998, 33). One example of the potential for abstract requirements to generate political illiberalism can be found in the demand for normative or moral coherence. In modern pluralistic societies, including those whose governments are expressly committed to constitutionalism and rule of law, legal and political decisions must often rest on compromise, where no group within society can expect to have its comprehensive moral view imposed as the law of the land (Marmor 2004, 31). To do so would be to invite accusations of political repression disguised in a cloak of suspect moral integrity. Nor are the practical failings of Fuller's decontextualized construct necessarily thought to be remedied by adding to them a prescription traceable to Ronald Dworkin that the rule of law and the rule of reason will reign "if judicial decisions are grounded in appropriate rules, principles and standards and rationally defended" (Shklar 1998, 34–5). Certainly, in a democracy, the judiciary is not alone in claiming rational standing (Waldron 1999).

Dworkin's vision of law's empire draws in important ways from Rawls' *A Theory of Justice* with its notably thin normative model of the just state and its construal of rule of law as judicial fidelity to preexisting law, or as Rawls notes, deciding like cases alike. There, Rawls suggests that "[t]o be confident in the possession and exercise of these freedoms, the citizens of a well ordered society will normally want the rule of law maintained" (Rawls 1971, 237–40). Dworkin places the capacity both for policing and for projecting the rule of law into the future in the hands of Herculean judges. His "rulebook conception" of a scheme of rights and responsibilities that flow in common law or chain novel fashion from past judicial decisions of the right sort concerning the ordinary law of the land bears an affinity to the approach of Dicey (Dworkin 1985, 9–32). That is, Dicey too provided a set of formal characteristics for identifying the rule of law, including the prohibition that "no one could be made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land" (Dicey 1915, 183). Unlike Dicey, however, the province of judicial decision-making in Dworkin's American-influenced vision may be very wide. So, to ground any interpretation of law, appeals to principles of the political order, to implicit

political morality in addition to previous rules, are a required part of providing the rule of law with its best explanation and justification.

Dworkin's emphasis on rationality and on the rule of law as rule of reason is reminiscent of Aristotle, the thinker most often considered as its ancient originator, and whose understanding of the rule of law also rests on the judging agent. However, for Aristotle, such agents are politically circumscribed much more restrictively, consisting of the citizen or citizens most capable of "right reason" and syllogism in contrast to those driven by physical and political appetites. Aristotle writes in *On Rhetoric* of settling conflicts of passions through the application of general rules (*Rhetoric* I, 1354a, 1366b). However, his perhaps more directly relevant vision of the rule of law is to be found in *Politics* III (1286a, 1287a, 1287b) and IV (1295a–1296b) and in the *Nichomachean Ethics* (V, 1134b30–5, 1137b). The implications for an understanding of the rule of law drawn from such passages are, as more than one commentator has noted, various and conflicting. What is clear is that Aristotle imbeds the praxis of the rule of law in the judgment of a moderate middle class of settled, virtuous ethical character, exceptional intellect, and constant disposition to reason syllogistically and to act fairly. Aristotle contextually nests the rule of law in a thick political and ethical setting of the "practical best" community. Of course, it is commonly noted that Aristotle's understanding of rule of law is compatible with ancient slavery and could be seen as compatible even with the modern "dual state" in its exclusion of parts of the state's population from the umbrella of the legal order (Shklar 1998, 22) This contrasts sharply with the principled generality of contemporary legal theories of thinkers such as Fuller or Dworkin, for whom also the judging agent is deliberately abstracted from the political context within which the law was generated and, as Shklar noted, for whom the actual *political* contest that has produced the cases for decision remains purposely unexamined (Shklar 1998, 34).

2 Rule of Law and Constitutional Limitation

The rule of law as the rule of reason is often contrasted with a second, distinct archetype that emphasizes institutional restraints on power holders, or forms

of protective arrangements created so as to insulate civil society from oppressive action by the agents of government. This is the general understanding of rule of law most closely associated with Anglo-American constitution-making. On this view, without a commitment to limited government, which is then identified as government under rule of law, jurisprudential thinkers such as Charles McIlwain and James Bryce argued that a state might be said to have a constitution in the mechanical sense of offices and administration, but lack *constitutionalism*.

Rule of law as constitutionalism, or limited government, is often presented as emerging together with modern liberalism. While this historical read-back of liberalism contains anachronism, the constitutional tradition within which Montesquieu stands out as combining the prescription that law should be general and proscriptive in its application, and as formulating an institutional framework of genuinely separate and balancing powers, is surely foundational to later modern liberal jurisprudence (Vile 1967). Early formulations of this view are found in the seventeenth century with the separation of legislative and executive power. Locke argues, for example, in the *Second Treatise of Government* for distinct legislative, executive, and federative (foreign relations) powers, but says little or nothing about the judicary itself and leaves the most politically potent jural power in the judging hands of "the people." The theoretical completion of rule of law as constitutionalism is contained in book XI of Montesquieu's *Spirit of the Laws* in which Locke's distinct, federative power is dropped and an argument for a separable and independent jural power (ch. 18) is introduced. It is this view that is reprised and further institutionalized as an independent judiciary in Madison's *Federalist 10* and Hamilton's *Federalist 78*. *Federalist 51* (Madison) succinctly encapsulates the central problematic of a modern rule of law as constitutionalism—that is, as limited government—when it argues that, "[i]n framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself" (Rossiter 1961, 322).

America's written constitution of 1789 as finally ratified and later amended, is not the only constitutional form recognizing the rule of law. Constitutionalism, like the rule of law with which it is here associated, is variously defined, and often connotes an entire body of ideals as well as rules—both written and unwritten, legal and extra-legal—which effectively *describe* rather than formulate a government and its operation. For example, because the British constitution refers to no single document, it has sometimes been described as

"unwritten." However, it comprises numerous written documents, including Magna Carta (1215), the Petition of Right (1628), the Habeus Corpus Act (1641), the Bill of Rights (1689), the Act of Settlement (1701), the Parliament Act (1911), and the successive Representation of the People, Judicature, and Local Government Acts. In addition, the British constitution is argued to include the rules of common law, the principle of ministerial responsibility to the House of Commons, and early twenty-first-century adjustments to the character and composition of the House of Lords.

3 Rule of Law within the Politics of Power

However historically constructed or developed, some analysts argue that constitutions are not necessarily made so as to instantiate a clear and pre-formulated *theory* of the rule of law which generates its own normative force, so much as to secure, and thus encourage, self-restraint on the part of the principal competing political interests in conflict. In this sense, Stephen Holmes suggests, somewhat counter-intuitively, that rather than overrun the rule of law, power politics often "incubates" it by dispersing power as factional interests organize (Holmes 2003, 8). In this setting, law becomes an instrument available in principle for use by everyone and differing constitutional arrangements then reflect the differing distributions of power holders in conflict at the time of their formation. So, for the ancients such as Aristotle, the constitution or *politeia* defined the entire *regime* or way of life, including the culture, religion, and mores underpinning its administrative and law-making institutions. Aristotle begins his discussion of the *Constitution of Athens* describing the conscious constitutional arrangements as they appeared in the time of Solon, as forms of clan structure organizing communal life increasingly gave way to economic struggles between rich and poor. Plutarch writes of Solon's efforts at Athenian constitution-making, that "[w]ishing to leave all the magistries in the hands of the well-to-do, as they were, but to give the common people a share of the rest of the government, of which they had hitherto been deprived" (Perrin 1989, 453), Solon created property qualifications for Athenian office holding, but not for the franchise.

Solon, Plutarch informs us, described himself as standing "with a mighty shield" in front of both classes and preventing either from prevailing unjustly" (Perrin 1989, 453; Wormuth 1949, 4, 20). However, a power politics analysis of Solon's constitution-making efforts, such as Holmes suggests, would locate the origin and success of Athens' constitution less in the willed solution of this extraordinary figure than in the answer to the question of power sharing or of how and why the wealthy chose to embrace such a self-limiting discipline of a power-sharing arrangement with the propertyless.

In the later Middle Ages, elements of a complex constitutional discourse developed out of such separable languages as that of the Bible, Ciceronianism, revived Aristotleanism, and the Roman law. Within this discourse, different answers to the question of the best constitution or the locus of sovereignty could be generated. The relationship between king and law was perhaps the greatest problematic of constitutional theory and practice. At its core lay the problem of sovereignty and it was contested precisely because, in both theory and practice, the authority of king and law depended on each other. That is, in the language of Roman law, the king was subject to the laws' moral force—*via directiva*—but not to their coercive force—*via coactiva* (Justinian 527–34, I.14.4). Such a view, ascribed to Henry de Bracton and chiefly composed in the 1220s and 1230s, coexisted within the political languages of both Roman and English law such that the very locution of king (rex) was connected etymologically with right rule (*recte regere*) (Black 1992, 136, 140–1). In Bracton's words: "The King must not be under man but under God and under the law, because law makes the King. Let him therefore bestow upon the law what the law bestows upon him, namely rule and power, for there is no rex where will rules rather than lex" (Bracton 1968, 33).

The belief that the king did not simply rule *by* law but must himself be seen morally and politically constrained by it on this view enhanced rather than simply restricted his power and served to generate voluntary cooperation of the powerful families and societal networks within his realm. This idea of a king both limited and empowered by the rule *of* law is further articulated in Fortescue's fifteenth-century terms, *dominium regale et politicum*. However, the actual constitutional restriction of the king's dominium by law in England required a decisive shift in the power system between the Crown and Parliament not undertaken until the seventeenth century. It was achieved not by Charles I's strategic self-limitation in order to acquire political cooperation, but rather in his failure to so, by his submission to force at the foot of the

scaffold and through the parliamentary imposition of a new oath of accession on his successors.

This perspective on the rule of law as inherently political rather than formal presents a puzzle to contemporary constitutionalists. On the one hand, modern constitutionalism is a system constructed so as not to be fully congenial to majority control. As Tocqueville recognized, the rule of law might easily become rule *by* bad laws in the sense of their failure to protect democratic political rights from majority tyranny. On the other, the rule of law may only come to have prescriptive force if the most numerous or powerful politically believe the law to be on their side, or once again as Stephen Holmes puts it, conversely, "when the law is the preferred tool of the powerful" (Maravall and Przeworski 2003, 3). This political model understands the rule of law not as Aristotle's rule of reason in a normative sense, which it deems "a figment of the imagination of jurists" (2003, 1), but rather as a matter of strategic bargaining over the distribution of power. In this they forgo the Aristotlean and essentialist question of "what is the rule of law?" and ask instead the modernist empiricist question, "why do people obey laws?" or "why will the powerful choose to restrict themselves by law?" It is a thoroughly modern perspective on law and one which has led thinkers such as Robert Barros to consider whether standard interpretations of authoritarian regimes, such as that of the Chilean dictator General Augusto Pinochet, might have overlooked the extent to which "even under a highly repressive dictatorship a form of rule of law is possible" (Barros 2003, 215).

4 Constitutionalism within Game Theoretic and Rational Choice Accounts

As F. M. Cornford has noted, the Greeks did not consider the larger universe as a law-like "machine," operating according to principles of cause and effect (Cornford 1931, 21, 26). Modern rule of law as the politics of power accepts a psychology of causal efficacy (rather than a strict causal logic), which as Hume

noted places considerable confidence in habituation, or the appearance of regularity, and serves to increase respect for the rule of law by making it appear both neutral and determinate in character. However, in Humean fashion, it reverses the logic of the formal theories of rule of law by suggesting that regularity and predictability are not necessarily the effect or product of laws. Rather it is the observed regularity and predictability of actions that presents the *appearance* of having been generated or "caused" by normative rules or laws.

There are game theoretic and rational choice accounts whose models "parallel" the political distribution of power model and employ the language of Humean causality and neoclassical economics, examining the "institutional equilibria" (Weingast 2003, 109) or the "self-enforcing equilibrium" (Maravall and Przeworski 2003, 10) of power relationships with law seen alternatively as an "equlibrium manual" or as a rational "mechanism" shared by all (Maravall and Przeworski 2003, 4, 9, 5, 10; Manin 1994, 57). In Barry Weingast's model, for example, the constitution is "a useful device for coordinating actions of electoral losers when the government engages in excessive redistribution or excessive manipulation of future electoral chances." (Przeworski 2003, 139; Weingast 1997, 261).

Normatively, Weingast's view of a constitution as coordinating mechanism is intended to be as thin as it sounds. In theory, neither constitutional equilibrium nor the rule of law rely in his model on any actual or preestablished political or cultural consensus. Citizens need not agree normatively, but only need to *behave* as if they do by "solving their coordination problem so that they can act in concert against potential transgression" (Weingast 2003, 111). In such an economistic view, the equilibrating of powers at stake in constitutionalism are presumably ones of material resources and organized interests as well as institutions, and will, like the market, be in continual flux around some imaginary optimum that will be identified as the locus of rule of law. Contestation in this model is then intrinsic and continual. And, in practice, no matter how neutrally expressed, the actual coordination problems of constitutional balance are no less conflictual than the political model of prudential compliance and voluntary self-restraint. Normative values underlying constitutionalism and rule of law would appear to re-enter the picture, however, with Weingast's caveat that "fundamental differences about the state make this coordination difficult" (Weingast 2003, 111). Indeed, such an observation lends some weight to the normative claim that a constitution—or rather a coordination device for placing limits on the state—is only as strong as the moral and political consensus that supports it (Waldron 2004, 31).

5 Contemporary Constitutionalism and the Rule of Law

The character and degree of moral and political consensus necessary to support constitutionalism has emerged as an important question when evaluating debates over supranational efforts at constitution-making within European integration. The process of proposing, drafting, and ratifying a constitution for the European Union has exposed the tensions of reconciling constitutions, as forming the legal basis of states, and international treaties as forming the legal basis of supranational institutions. As approved in 2004, but still lacking final ratification by all the present member states (25), the EU constitution brings together collections of treaties and agreements on which the EU is based, and determines the powers of the Union in terms of where it can and cannot act without member states enforcing a veto. Deemed previously to have been already part of a "Constitutional Legal Order"—and thus to have demonstrated constitutionalism without a constitution—under the 2004 Treaty for establishing a Constitution of Europe, the EU has in addition to its present European Parliament, a president, a foreign minister, a supreme court, a civil service, a flag, and a community anthem (Weiler 1995, 219). Centralization will be increased and qualified majority voting[2] will legitimate greater unified action with regard to immigration and asylum policy across Europe. The EU will thus have "legal personality" in that its laws will trump those of the national parliaments of the member states in the areas over which it has been given policy jurisdiction. However, issues of national defense, of explicitly national foreign policy, and of national taxation remain under the control of individual member states. In addition, both critics and supporters of the EU constitution have long recognized that this supranational form of constitutionalism leads to a disconnection between three elements that thinkers as far removed as Aristotle and Charles McIlwain have believed foundational to the concept of a constitution: nationality, citizenship, and national identity (Preuss 1995, 280; Weiler 1995, 219; Pitkin 1987, 167). Thus the difficult questions associated with the character of a European demos or of

[2] A qualified majority in the EU is defined as at least 55 percent of the members of the Council, comprising at least fifteen of them and representing member states comprising at least 65 percent of the population of the Union. This system replaces an earlier federal one within the European Union under which each country has a specific number of votes and seeks to represent a fairer balance between smaller and larger member states.

the multiple demoi underlying the democratization of the Union at the European level will remain to be answered within the context of this supranational constitution.[3]

The rule of law as political rather than formal further challenges two shibboleths of modern constitutionalism: the claim that sovereignty and rule of law are constitutive but irreconcilable elements of the modern state; and the belief that independent judges and courts are the best locus to secure the rule of law. The first belief appears at this point in contemporary debate to have been less controversially set aside as largely definitional. The second remains today a more genuinely persistent interpretive perspective of American constitutionalism, and one established with *Marbury v. Madison* [5 US (1 Cranch) 137 (1803)]. However, the modern American Supreme Court has been criticized as alternately too strong and too weak in its efforts to serve as guarantor of both constiutionalism and the rule of law. In the late 1970s, Joseph Raz warned that "[s]acrificing too many social goals on the altar of the rule of law may make law barren and empty" (Raz 1979, 210, 239). More recently, jurisprudential and legal theorists such as Robin West have argued that the rule of law remains a double-edged sword. A too idolatrous respect for it has, on her account, informed the contemporary Court's interpretation of the Fourteenth Amendment's guarantee of equal protection, leading it to thwart the development of more progressive politics in the areas of affirmative action and sex-based discrimination. (West 2001, 215). West believes that the Court's anti-progressive practice of the rule of law lies in a still dominant American constitutional perspective that the greatest threat to liberty comes at the hand of an overzealous state. Recent constitutional debates emerging from America's prosecution of the post-9/11 war on terror may have worked to reinforce the basis for this perspective. A case in point is the series of legislative acts (USA Patriot Act of 2001, Homeland Security Act of 2002) and executive orders that have significantly restructured the relationship of America's internal law enforcement powers to its domestic and international intelligence gathering and "war powers" capacities. While noting that many of these changes are needed, constitutional theorists such as Rogers Smith make clear that important constitutional protections of the rule of law are potentially at risk when foreign intelligence gathering agencies "long accustomed to acting

[3] Despite ratification by Austria, Cyprus, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Slovakia, Slovenia, and Spain, the failure of the Dutch and the French votes in late May and early June 2005 led EU leaders to extend the November 2006 deadline for ratifying the Charter, without setting any new target date for approval.

without regard to constitutional restrictions abroad are allowed to join more fully in law enforcement efforts at home" (Smith 2004, 2).

If we return to the initial observations of Dicey and Pound with which this chapter began, from at least the seventeenth century forward, there have been repeated contestations over the rule of law in the very countries mostly closely associated with its modern defense. Dicey's 1915 edition of an *Introduction to the Study of the Constitution* lamented what he took to be a weakened practical distinction in Britain between government under the rule of law in which every man is "subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary tribunals" and a regime in which persons in authority exercised "wide, arbitrary or discretionary powers of constraint" (Dicey 1915, 183). When Roscoe Pound updated Dicey's observations in 1934, he noted as significant the fact that Britain's highest judicial body had held that "in an appeal from administrative action to an administrative reviewing tribunal what had been regarded as the most ordinary requirement of a judicial appeal does not obtain. The tribunal may act on a secret inspection by an inspector who makes a secret report which the appellant may not see, may not criticize or contradict and may not explain by independent evidence or extrinsic argument" (Pound 1934, 466). Pound argued that because of America's constitutional requirement of due process of law its courts had not "gone so far." The due process requirement was in Pound's view too deeply entrenched in the American political psyche to be likely to disappear.

However, in the post-9/11 US "war on terrorism" the scope of applicability of the Fifth and Sixth Amendments to the American Constitution, which ensure due process and a speedy public trial and whose protections refer to "persons," not just US citizens, have been severely challenged. Civil liberties are considered by some more malleable than sacrosanct, and it has been suggested that the "present contours" of those protections conferred by the American Bill of Rights, "having been shaped far more by judicial interpretation than by literal text (which does not define such critical terms as 'due process of law' and 'unreasonable' arrests and searches), are alterable in response to changing threats to national security" (Posner 2001, 46; Yoo 2004; Yoo and Delahunty 2002; Gonzales 2002; Powell 2002). Perhaps most disturbing is the resurgent debate among American legal scholars over whether space may be found within the Constitution and the rule of law where the implementation of torture is not debarred and proposals for formulating an actual "policy" on the use of torture might be contemplated (Dershowitz 2002, 136; Kreimer 2003, 282). Such a debate ensures that

whether viewed formally, historically, politically, or as a coordinating device in a game of strategic bargaining, the rule of law will remain a contested concept for the foreseeable future.

It is perhaps useful to conclude by juxtaposing Judith Shklar's late twentieth-century observation that "acute fear" was at once the most destructive yet most common form of modern social control, with her belief in what she described as the "promise of the Rule of Law." Such a promise entailed the hope that a non-brutal ethos might increasingly not simply inform the practices of courts but contextually shape the political practices of the state as well. Her judgment remains astute that only in this way, as an "essential element of constitutional government generally and representative democracy particularly," might the Rule of Law persist as one of "the oldest and the newest of the theoretical and practical concerns of political theory" (Shklar 1998, 36).

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CHAPTER 18

EMERGENCY POWERS

JOHN FEREJOHN
PASQUALE PASQUINO

1 Introduction

Emergency powers have been a long-standing topic in political and constitutional theory since the experience of "dictatorship" in the ancient Roman Republic, and have recently become an object of intense debate because of the new threat to liberal-democratic order represented by global terrorism. These issues take somewhat different shapes in the United States and Europe. Some of the European constitutions have explicit mechanisms for dealing with emergencies, although these have almost never been employed and not at all to confront global terrorism. American scholars are divided as to whether or not the US Constitution contains an emergency regime, or, if it does not, whether it should (see Ackerman 2004, for one proposal). One must suppose that those in the latter camp think that such a constitutional option, if it existed, would be used in circumstances roughly like that created by international terrorism. But whatever the facts about constitutions and whatever the likelihood that constitutional provisions would actually be invoked, it seems important to clarify the notions of emergency and emergency powers.

In this chapter, therefore, we will try to disentangle and shed light on some of the main conceptual questions entailed in the doctrine of emergency powers, taking into account the theory and experience of their enforcement.

"Public emergency situations involve both *derogations*[1] from normally available constitutional rights and alterations in the distribution of functions and powers among the different organs of the State" (European Commission for Democracy through Law 1995, 4). Recognition and protection of human rights and separation of powers are, indeed, not only defining characteristics of modern constitutionalism but more, in general, distinctive elements of any non-absolutist and anti-despotic power that we shall call *polyarchy*. By this word, we mean a political and constitutional system in which powers are distributed among different branches and agencies of the government and in which fundamental rights are recognized in the constitution and enforced in some way.[2] In some constitutional circumstances, these features (separation of powers and fundamental rights) may be suspended by invoking *emergency powers*, but only under a strict stipulation: if their enforcement has the effective aim of stabilizing the constitutional *status quo ante*.[3] In other words they are a *conservative measure*, comparable to the Lockean idea of revolution, an "appeal to heaven," the function of which was to reestablish the Ancient English Constitution, which had been threatened by an attempt to establish in the Kingdom an absolute monarchy. Without that conservative principle, the suspension of polyarchical principle would not be an exercise of emergency powers but would be a constitutional innovation or transformation or, to use Carl Schmitt's (1994) expression, an application of constituent powers.

[1] The Latin word *derogare* means: to repeal part of a law, to enforce it only *in part*. The *Oxford English Dictionary* (vol. IV, p. 504; ed. 1989) gives the same definition of the word *derogation*: "partial abrogation or repeal of a law."

[2] R. Dahl uses "polyarchy" in a quite different sense, one we do not need to discuss here. Dahl was wrong in thinking that he had introduced the world in the political language. It was used by E. Sieyes, the author of the *Third Estate*, in his polemic against Thomas Paine in 1791 to qualify an executive power exercised by a plurality of members (Sieyes 2003)

[3] As Schumpeter said: "democracies of all types recognize with practical unanimity that there are situations in which it is reasonable to abandon competitive and to adopt monopoly leadership. In ancient Rome a non-elective office conferring such a monopoly of leadership in emergencies was provided for by the constitution. The incumbent was called magister populi or dictator. Similar provisions are known to practically all constitutions, our own included: the President of the United States acquires in certain conditions a power that makes him to all intents and purposes a dictator in the Roman sense, however great the differences are both in legal construction and in practical details. If the monopoly is effectively limited either to a definite time (as it originally was in Rome) or to the duration of a definite short-run emergency, the democratic principle of competitive leadership is merely suspended. If the monopoly, either in law or in fact, is not limited as to time … the democratic principle is abrogated and we have the case of dictatorship in the present-day sense" (1984, 296).

In what follows we distinguish a "constitutional" from an "epistemic/ontological" dimension of emergency powers. The emergency regime, if it exists in a constitution, is a legal/constitutional object. But such constitutions only authorize the invocation of such regimes if a certain factual circumstance has occurred or, to put it another way, when the existence of a certain kind of threat has somehow been legally "recognized." We may illustrate the difference by considering the classical example. The Roman "constitution" had one or possibly two constitutional emergency regimes: the first, which we discuss below, was the classical "dictator" who was appointed by the consuls after the Senate had recognized a circumstance of emergency. The dictatorship was employed fairly often from the inception of the republic until 200 BC when it, for various reasons, fell into disuse. The second was the *senatus consultum ultimum*, employed in the second and first centuries, in which the Senate (as before) declared an emergency but did not require the consuls to appoint a dictatorship. Rather, in the examples we have, it authorized direct action against the emergency (von Ungern-Sternberg 2004 has a description of the known cases).

The main object of this chapter is to discuss constitutional aspects of emergency powers. The constitutional dimension of our question can be summed up with the words: how is it possible to think of the position and force of emergency powers within a polyarchical constitution? We shall return to discuss the epistemic dimension only briefly at the end of the chapter.

2 Constitutional Dualism

In general, the classical or "pre-democratic" (which we shall also denote "Roman") constitutional[4] doctrine (from the Roman Republic which was discussed sympathetically by Machiavelli in his *Discourses on Livy*[5] and also by Rousseau in *The Social Contract*[6]) distinguishes between:

[4] Here in the broad sense of the word constitution, which does not imply the existence of a written text encompassing the constitutional provisions. In this sense constitutionalism tends to coincide with institutional polyarchy.

[5] Book I, chapter 34, "Dictatorial Authority did Good, not Harm, to the Republic of Rome." This text is quoted by Rousseau in a footnote of a chapter of *The Social Contract* (see next note).

[6] See notably *The Social Contract*, book IV, chapter 6, "On Dictatorship:" "The flexibility of laws, which prevents them from being adapted to events, can, in certain cases, make them pernicious, and,

(a) regular government and
(b) exceptional government,

where, as already mentioned, the purpose of exceptional government is to keep or restore the *status quo ante* (i.e. the regular government), and is in this sense a "conservative" or stabilizing device.[7] The classical constitution, in this sense, contains or authorizes two distinct governments with different distributions of powers and under which people enjoy a distinct set of rights. But these two are connected in the sense that the only legitimate purpose of the exceptional regime is to restore the regular regime and the conditions that permit it to resume functioning.

Many classical and modern constitutions specify a regular constitutional regime, which we call a "polyarchy" within the governmental structure. Polyarchies are characterized by some form of "separation of powers" in the exercise of political authority and by the recognition of some citizens' rights. Most modern constitutional regimes—those adopting their constitutions after the Second World War—have incorporated the two defining features of polyarchy. This tendency is nearly unanimous in relatively developed democracies. Here are some examples of different types of polyarchical regimes:

1. The classical mixed government (the Aristotelian *memigmene politeia* [*Politics,* book 4]); rights protection in the Athenian version rested on free access of citizens to the courts and the assembly.

in a time of crisis, they can in themselves cause the downfall of the state. The order and slowness of legal procedures require a space of time that circumstances sometimes do not permit. . . . No one, therefore, should seek to strengthen political institutions to the point of losing the power to suspend their operation" (Rousseau 1988, 162–3).

[7] The last classical formulation of this doctrine was spelled out by the great German lawyer Hugo Preuß, who played a crucial role in drafting the Weimar constitution, in an article published in 1924, the best commentary to our knowledge of the article 48 of the first German republican constitution. Here is the text of Art. 48: "If a state (8) does not fulfil the obligations laid upon it by the Reich constitution or the Reich laws, the Reich President may use armed force to cause it to oblige. In case public safety is seriously threatened or disturbed, the Reich President may take the measures necessary to reestablish law and order, if necessary using armed force. In the pursuit of this aim he may suspend the civil rights described in articles 114, 115, 117, 118, 123, 124 and 154, partially or entirely. The Reich President has to inform Reichstag immediately about all measures undertaken which are based on paragraphs 1 and 2 of this article. The measures have to be suspended immediately if Reichstag demands so. If danger is imminent, the state government may, for their specific territory, implement steps as described in paragraph 2. These steps have to be suspended if so demanded by the Reich President or the Reichstag. Further details are provided by Reich law."

2. The Roman Republic according to Polybius' description (*Histories*, B. VI) or as given by Machiavelli in the *Discourses*, I.2. This regime provided legal protections for certain due process rights.
3. Modern constitutional systems with separated powers based on mechanisms of checks and balances, with protections for individual rights of various kinds, normally specified in a written text.[8]
4. Modern parliamentary systems with constitutional courts (Germany and Italy and most recently established constitutional democracies).

Exceptional constitutional regimes have normally taken the form of a monocracy (i.e. one without internal checks or separations of power)[9] that suspends temporarily some (or all) citizens' rights. Historical examples of exceptional regimes are:

1. the *Roman dictatorship* in the first centuries of the Republic (and also the *senatus consultum ultimum*, and possibly Sulla's dictatorship[10] *rei publicae constituendae causa* 82 BC[11]);
2. the French *Comité de Salut Public* during the Terror (collegial and accountable[12] dictatorship terminated by the Convention on *Termidor* 9th);

[8] Notice that in the ancient model of mixed government the institutional polyarchy is rooted in the division of society into *ontologically* different parts, groups, ranks, or estates, and it is, so to speak, a reflection of it. Where in the contemporary post-Hobbesian constitutionalism, based on the *legal equality* of citizens, the polyarchy is essentially an artifact resulting from constitutional engineering endogenizing the polyarchy into the structure of the government according to the Madisonian principle of ambition counteracting ambition!

[9] In this perspective it is an "alteration in the distribution of functions and powers among the different organs of the State!" Sometimes this monocratic power can be exercised by a group of people acting like a *collegium* (as in the case of the French *Comité de Salut Public* during the Revolution).

[10] On the Roman dictatorship see Nippel (2000); and on Sulla, see Hurlet (1993). It is useful to remember that the Roman dictator was a magistrate appointed by the consuls for a maximum period of six months when the Senate declared the existence of an emergency situation. The dictator had the prerogative of suspending both the *tribunicia potestas*—the veto that the tribunes were able to oppose to the decisions of other high public magistrates—and the *provocatio ad populum*—the possibility for a Roman citizen to escape capital punishment in the absence of a regular trial by a popular court.

[11] The case of Sulla's dictatorship is complex as he was appointed by means of a law enacted in the assembly and not through an action of the Senate. Possibly, the epistemic authority to declare an emergency may have shifted, at least for a time, to the assembly. But it is also possible that the significance of the assembly action is found in the fact that Sulla was authorized to wield constituent power—the power to change the laws or constitution itself—and this traditionally required the assent of a popular assembly.

[12] To the Convention, each month.

3. the presidential version of the Roman Model (which we shall label "neo-Roman"):
   – art. 48 of the Weimar Constitution (1919);[13]
   – art. 16 of the French Constitution (1958).[14]

The Roman model—in which we may include the French *Comité de Salut Public*—is characterized by the fact that the exercise of emergency power involves the creation of a special agent outside the ordinary constitutional structure. The Romans may have done this in order to insulate what happened in the state of emergency from the actions of ordinary government, with the purpose of insulating the constitution from the precedents established in emergencies. In the neo-Roman model, by contrast, emergency powers are exercised by one of the branches of the regular government, normally the popularly elected executive,[15] which in emergency circumstances is empowered with special prerogatives (*pleins pouvoirs*, *Diktaturgewalt*, etc.).

The difference between the modern examples and the classical Roman model is twofold: In the Roman dictatorship the agency declaring the emergency (the Senate) is different from the agent appointing the official who can exercise the emergency powers (the Consuls), and is different from the agency exercising Emergency Powers (the dictator). Moreover, the dictator is not an active magistracy during the regular government. In the modern, or neo-Roman, model the head of the executive recognizes an emergency and the same agent exercises Emergency Powers. And, the executive is a regular (not a dormant) organ of the constitutional system. One can suspect immediately

[13] See note 7.

[14] Article 16: "Where the institutions of the Republic, the independence of the Nation, the integrity of its territory or the fulfillment of its international commitments are under serious and immediate threat, and where the proper functioning of the constitutional public authorities is interrupted, the President of the Republic shall take the measures required by these circumstances, after formally consulting the Prime Minister, the Presidents of the assemblies and the Constitutional Council.//He shall inform the Nation of these measures in a message.//The measures must stem from the desire to provide the constitutional public authorities, in the shortest possible time, with the means to carry out their duties. The Constitutional Council shall be consulted with regard to such measures. Parliament shall convene as of right.//The National Assembly shall not be dissolved during the exercise of the emergency powers."

[15] The neo-Roman model seems to be typical of the so-called semi-presidential systems in Europe and of Latin American presidentialism, where the president has direct popular legitimacy through election.

that the Romans were much more concerned with potential abuses of emergency powers than were the designers of the modern constitutions who perhaps put more faith in the fact that the executive had to stand for election.

3 Judicial control over emergency power

Many contemporary constitutions[16] include explicit provisions establishing, in various ways, an extraordinary and temporary form of government that suspends rights and the normal separation of powers, in order to face emergencies and preserve the political order from threats arising from internal or external enemies or by other exceptional circumstances.[17] It is possible to argue that, even in those regimes that do not contain explicit constitutional provisions describing emergency powers and when they can be invoked, there exists a kind of dormant or implicit power to deal with extreme situations. And of course, in some of these constitutions, one can find fragmentary textual support for such an idea. We do not pursue this interesting thesis here but concentrate on self-consciously "dualist" constitutions.

It is important to stress that constitutional powers to suspend rights, where they exist, are almost never actually employed in the advanced or "stable democracies". The last relevant example was probably de Gaulle's recourse to art. 16 of the French Constitution during the Algerian crisis in 1961. It is possible that "constitutional dictatorship"[18] as a form of provisional government tends to die out in stable democracies, perhaps because it is too

[16] There are nonetheless important exceptions like Japan, Italy, Austria, Switzerland, and most of the Scandinavian countries. The case of the USA is more difficult to classify. Art. 1 (section 9, clause 2) of the American Constitution contemplates explicitly the suspension of a fundamental right ("The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it."), but—independently from the controversial question concerning the agency authorized by the Constitution to suspend habeas—the clause has not been used after the Civil War. It has to be borne in mind that the American Constitution was originally written without listing in it fundamental rights. That may explain why it did not consider in detail the question of their suspension.

[17] Most of these provisions are specified in the 1995 European Commission for Democracy through Law booklet.

[18] This was the title of the book by Clinton Rossiter (1948).

dangerous or, perhaps, because it is politically risky to invoke such powers (that may even be a way to define stable democracies!). Or, perhaps the stable democracies since the Second World War have simply been lucky enough never to face a circumstance that was so threatening as to justify or even require the use of emergency powers.

On the other hand, unstable or young democracies tend repeatedly to resort to emergency powers, often as a way to protect or prolong the incumbent government against political opponents. India, Pakistan, Nigeria, and several Latin American countries—one can think of Colombia—have repeatedly used constitutional emergency provisions during the last forty years. We leave aside Israel, which, since its founding, has been living under a constant threat, and where there has been a constant use of and a large debate about emergency powers. The emergency powers employed there do not seem to implement monocratic rule that is characteristic of other emergency regimes.

It is worth noticing, conceptually, that the "dualistic" regime just described has been regularly rejected by what we may call monistic or parliamentary sovereignty constitutional systems (and their intellectual supporters). The most prominent contemporary example is Great Britain, of course, but New Zealand and the French Third Republic provide other examples of quasi-monocratic systems.[19] Doctrines of unified sovereignty (we mean here constitutional systems rejecting polyarchy with powers separated horizontally) in two traditional versions—absolutism (Hobbes) and popular sovereignty (associated with Condorcet, and also Kelsen)—also tend to deny the need for Emergency Powers or even to reject it as leading either to contradiction (*imperium in imperio)* or to social disorder and civil war.

First, in "monocratic" systems (either strictly monocratic in Hobbes's sense, or else systems with a vertical and functional separation of powers so that the legislature is the sovereign agency) there is no need to suspend normal separations of power or human rights as these are not polyarchical systems. If there is a need to suspend rights or consolidate powers to deal with an emergency, all this can be managed efficiently by the sovereign body itself—normally the legislature (like in the British parliamentary system).

Second, where legitimacy is based essentially on legal rules one needs legal rules to suspend rights. If legitimacy is based on express consent (through the

[19] It has to be clear that we are speaking from a purely constitutional point of view. UK and New Zealand are plainly pluralistic political systems, but in both of them "parliamentary sovereignty" seems to be still the received doctrine (see Goldsworthy 2001).

direct *election* of the legislative and sometimes of executive authorities) the suspension of rights needs less of a procedural justification. The point here is that non-despotic pre-democratic societies, like the Roman Republic or England in the seventeenth century, have been very insistent on the importance of legality or of legal regulations, and as a result they have tended to regulate rights and suspension of rights through ordinary laws (or Senatorial decrees in Rome). For the same reason, parliamentary sovereignty regimes, because they are monocratic in our sense, do not need these complex legal-constitutional provisions because their statutes can be regarded as expressions of the popular will, as expressed in elections, and the elected government is effectively under the control of the voters.

In what we call neo-Roman systems, however, constitution-makers have thought there was good reason to create special emergency powers. Perhaps, as in Rome, they settled on a constitutional system that had extensively divided powers and which was for that reason unlikely to cope well with emergencies of certain kinds. Or perhaps the "constituent power" did not think parliament capable of successfully managing in emergencies (that was the case of men like Hugo Preuß who drafted the Weimar constitution), or perhaps the constitutional drafters simply did not trust parliament at all (as with de Gaulle who did not trust the political parties—and their domain, the parliament—but only himself and the French citizens).

A new type of dualism seems nowadays to be replacing the old one. It started in the USA, probably during the Civil War. In that conflict Lincoln frequently suspended rights of habeas corpus, initially on battlefields but eventually in other places as well. In doing so he was forced to confront the courts—initially defying Chief Justice Taney's order to release a prisoner (*ex parte Merryman*, 1861). But over time, and especially after the war ended, the Supreme Court successfully challenged a number of administration detentions, especially where the arrests concerned people outside of war zones and where there were ordinary courts available to hear constitutional claims (Farber 2003 gives an account of these events; Randall 1926 discusses them from a legal point of view). In effect, Lincoln was free to fight the Civil War however he and Congress wanted, but his sphere of autonomous action was checked by courts, especially off the battlefield.[20] Thus, the Congress

[20] The critical decision was given in *ex parte Milligan* (1866) in which the Court said that the decisions of military courts could be appealed to ordinary courts where, as in Indiana where Milligan was arrested, the civil courts were open and available to hear his claims.

and the president have broad authority to take the measures to deal with "emergencies," as was the case after September 11. But there are two judges of those emergency measures: the voters at the end of the electoral mandate; and the courts, which can issue writs against the government if its powers are exercised outside of judicially determined emergency circumstances. The fact that voters can reject the incumbent government and its policies is true by definition of any democratic system, including the neo-Roman examples discussed above and does not need special comment.[21] The new role of the courts, however, was a special consequence of the American constitutional tradition according to which citizens' rights are protected by independent courts against statutes and ordinary executive actions. Following the sequence of judicial decisions during and after the Civil War, it became clear that these judicial protections extended to the decisions of the president taken under circumstances of emergency.

These constitutional developments remained a parochial American phenomenon until the Second World War. The remarkable spread of mechanisms and practices of constitutional adjudication in the postwar period has exposed democratic governments generally to the possibilities of judicial regulation of emergencies. The postwar model, that at a given moment in time (t1) politically accountable organs make decisions and later on (in t3) judges check those decisions, amounts, in our view, to the replacement of the classical dualism: regular/exceptional government. In the first model—the neo-Roman one—legal (constitutional) provisions can only regulate emergency powers *ex ante* by setting out the constitutional options. In the second model—the one we are considering now and in which courts play a role—judicial control *ex post* acts upon decisions made by political (elected) powers during what they considered emergency situations. Indeed, in the new model, courts have the opportunities to regulate government decisions in the *interim* (t2) as well: The courts may be able to order the executive accord rights to detainees during the crisis itself or even order their release. Obviously, this is a controversial and constitutionally unsettled matter in the American courts.

Two objections can be addressed to this t1–t3 model. The first objection is that courts tend to be *too* deferential to the agency exercising emergency powers. There is little systematic empirical basis for this claim,[22] and much

[21] Needless to say, we speak of regular competitive elections.

[22] The only systematic empirical research we know seems to claim the contrary: "The Supreme Silence During War" (Epstein et al. forthcoming). This article, substantive and certainly controversial,

depends on the point in time that the courts act to check executive action.[23] So the conclusions are often just an unraveling of a priori assumptions or are based on disputed interpretations of contentious cases. The second objection is that the *ex post* control being *ex post* is by nature too late. This objection has to be considered seriously. In its *thick* version it kills democracy altogether and not just judicial review of decisions made under emergency; since a prime minister or a president (with the support of Congress or the parliament) can decide to occupy militarily a country X in order to protect his own country and it may well happen that the voters will be able to repeal that decision only a couple of years later when it is too late! In principle they may be waiting for four or five years! In its *thin* version it can be taken into account and rejected.

When we analyze a decision of the American Supreme Court we have to consider three dimensions:

A. the legal effect (on the litigants);
B. the arguments (and counterarguments—when the Court is not unanimous) or opinions given in the case that provide the reasons for deciding A;
C. the role of the decision as a "precedent."

The last effect is the most important in that it establishes the rule governing future conduct by government officials and may well have a deterrent effect on their future decisions, a consequence of especially great significance when it comes to emergency powers. One can think of Marbury vs. Madison: the legal effect of the Court's decision in 1803 was favorable to the government and not to the plaintiff (who did not receive his appointment). But this is not the most important aspect of Marbury. What was and is still important was

shows in any event that the topic is largely understudied and needs more accurate and developed research. Quite different, in methodology (the book analyzes the major and more famous cases) and conclusions, is Stone (2004).

[23] Those who think that courts defer point to the fact that Milligan was decided after the Civil War was over and that Korematsu did not either stop the incarceration of the Japanese or prevent the government from doing the same thing again. On the other side, the Court had heard habeas corpus petitions during the war and indicated that it had the authority to decide on the legality of government conduct even if it did not decide that those actions were illegal. And the same Court that decided Korematsu ordered the release of the Japanese in a companion case. The recent decisions of the Supreme Court can be argued in either way: the court has not forced the government to release prisoners and has taken, at this point, four years to provide some of them with a promise of some constitutional protections. But, on the other hand, the "emergency" is, on the government's account, still continuing and so any judicial action counts as control exercised in the interim (t2) and not merely afterwards (t3).

the *argument* presented by Justice Marshall that established a precedent on the basis of which the American Supreme Court has the last word about the constitutionality of statutes.[24] Korematsu vs. United States (1944), often (and for good reasons) criticized because of its official racial discrimination against Japanese, established nonetheless the principle that made the Guantanamo decision (2004) possible: that it is up to the courts, and the Supreme Court in the last instance, to adjudicate if the measures taken by the Congress and the president under emergency are compatible with the constitution[25] and proportional to the threat.[26] Justices Jackson's and Murphy's dissenting opinions, while they were possibly right concerning the legal consequences of the specific controversy, seemed less sensible as precedent.

Justice Jackson, for example, argued that "It would be impracticable and dangerous idealism to expect or insist that each specific military command in an area of probable operations will conform to conventional tests of constitutionality. When an area is so beset that it must be put under military control at all, the paramount consideration is that its measures be successful, rather than legal.... No court can require such a commander in such circumstances to act as a reasonable man; he may be unreasonably cautious and exacting. Perhaps he should be. But a commander in temporarily focusing the life of a community on defense is carrying out a military program; he is not making law in the sense the courts know the term. He issues orders, and they may have a certain authority as military commands, although they may be very bad as constitutional law.... if we cannot confine military expedients by the Constitution, neither would I distort the Constitution to approve all that the military may deem expedient." In effect, Jackson was willing to permit very wide and unreviewable discretion to the executive in times of emergency in order to preserve the regular constitution from precedents generated in exceptional circumstances. His view reflected the kind of dualism reflected in the Roman model in that it insisted upon a strict separation of the Constitution in normal times from the Constitution during emergencies.

[24] This is at least the standard interpretation of that momentous decision; even though one has to recognize that the opinion became a precedent only quite late and that its immediate effect may have been overestimated.

[25] Opinion by Black: "It should be noted, to begin with, that all legal restrictions which curtail the civil rights of a single racial group are immediately suspect ... courts must subject them to the most rigid scrutiny."

[26] Opinion by Black: "The power to protect [the country suspending fundamental rights] must be commensurate with the threatened danger".

Had Jackson been able to persuade the Court, the judiciary would have been essentially unable to protect rights during future emergencies. By claiming that military questions are not for courts to decide, Jackson was willing to confine the court to adjudicating the legal effect of those military decisions after the fact.[27] He refused to impose any test of proportionality in emergency circumstances effectively giving the military carte blanche in those circumstances. While he permitted legal redress for illegal actions taken during emergencies—he refused to vote to convict Korematsu for violating the detention order—such determinations are necessarily ineffective as remedies for certain actions such as executions. So Jackson's opinion would not permit very much control of emergency actions *ex post*, and no control whatever during the interim while the emergency is ongoing.

Unlike Jackson's posture of temporary deference, Justice Murphy argued that "it is essential that there be definite limits to military discretion, especially where martial law has not been declared." In effect, he defended a monistic view of the Constitution—the view that there is a single constitutional regime that governs at all times and that the circumstances of emergency do not require any special constitutional procedures. "Individuals," he argued, "must not be left impoverished of their constitutional rights on a plea of military necessity that has neither substance nor support. Thus, like other claims conflicting with the asserted constitutional rights of the individual, the military claim must subject itself to the judicial process of having its reasonableness determined and its conflicts with other interests reconciled." Then, he went on to argue that "no reasonable relation to an 'immediate, imminent, and impending' public danger is evident to support this racial restriction which is one of the most sweeping and complete deprivations of constitutional rights in the history of this nation in the absence of martial law." Justice Murphy would have required the government to submit actions of this kind to judicial determination and not permitted the executive the wide, if temporary, discretion offered by Justice Jackson.[28] Arguably, had his opinion gained a majority, it would have limited the capacity or at least the flexibility of the government to deal with circumstances of the kind represented by

[27] Dissent by Jackson: "How does the Court know that these orders have a reasonable basis in necessity? No evidence whatever on that subject has been taken by this or any other court."

[28] Dissent by Murphy: "to infer that examples of individual disloyalty prove group disloyalty and justify discriminatory action against the entire group is to deny that under our system of law individual guilt is the sole basis for deprivation of rights."

global terrorism, reducing the fight against the enemy to the dimension of criminal law (intervening *ex post facto*).

Justice Black's opinion for the majority strikes a moderate or intermediate stance. It recognizes that emergencies are different from ordinary times and that the government will do things under these circumstances that it would not be permitted to do otherwise. But Black insisted that the courts ought not to stay on the sidelines as Jackson advised but should be ready to review governmental actions not only after the emergency but while it is proceeding. It seems to us that, Justice Black's opinion notwithstanding, its weaknesses[29] were very important because

(a) it established the authority of the courts to review and impose limits on the political branches for their conduct in emergencies;
(b) it established the *precedent* that the political branches have to take the possibility of judicial review of executive actions, *ex post* and possibly in the interim, into account on any future occasion;
(c) it rejects any idea that emergency measures are "political questions" excluded from the Court jurisdiction—a point that the Bush administration tried unsuccessfully to vindicate in the Guantanamo case;
(d) it makes (constitutionally) possible *preventive measures* in which courts can measure the proportionality of government actions against the actual danger they had to face;
(e) eventually, Black stresses (against Jackson) that the Court has to apply some kind of proportionality test in the time of the emergency (t2) and not only afterwards when the court is asked to decide the legality of government conduct (t3).[30]

If we consider all these aspects, the truth that courts can hesitate at the beginning to oppose the executive and the legislative powers has to be relativized considering that they seem to be, in a stable constitutional democracy, the last and the first defense against abusing emergency powers, since they cannot only check *ex post* those abusive measures, but also have a role during the emergency itself. And of course, they have an *ex ante* role as well if we take into account the precedental effect that a ruling plays in governing future circumstances.[31]

[29] Its discriminatory character vis-à-vis Japanese and American citizens of Japanese descent.

[30] That seems to be the reason for the sentence that closed the majority opinion: "We cannot—by availing ourselves of the calm perspective of hindsight—now say that at that time these actions were unjustified".

[31] The fact that the Bush administration ignored, after September 11, that the Court had a say in the legal treatment of the "enemies combatants" might be more telling about the special character of that administration than about the power of the American Supreme Court.

As to the epistemic/ontological dimension of Emergency Powers, the crucial question can be phrased in the following terms: What is an exception or an emergency? It seems clear that the question here is not a purely legal one—some factual state of affairs plays an essential role in justifying special procedures—so the answer can not simply be "derogation."[32]

Some authors claim that it can be answered objectively: If Hannibal is "ad portas" of Rome, there is an objective emergency, like those announced according to Hobbes (in the *Leviathan*'s Dedicatory Letter to Francs Godolphin) by the "simple and impartial creatures in the Roman Capitol, that with their noise defended those within it!" Likewise if the Red Army had crossed the border of West Germany, it would have been legitimate to apply article 115 of the *Bonner Grundgesetzt* (which was intended to deal precisely with this, now defunct, possibility). Nonetheless, how one should interpret "ad" (portas) is tricky. "Ad" means not far, but what does it exactly mean? Was it not true that Charles I was claiming that the Kingdom was facing an emergency because the Dutch fleet was "ad portas," threatening the English coasts? It seems that interpretation, and controversy, cannot be eliminated.

It seems to us that the only way to cope with the problem is to abandon the illusion that an emergency is a kind of "fact" and accept that we have procedures for deciding whether a constitutionally significant emergency exists: the politically accountable organs will necessarily have to make the epistemic judgment of whether or not an emergency exists that would justify the invocation of emergency powers. Within modern constitutions, of course, these decisions are regulated, eventually, by voters and courts.

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[32] Derogation is a legal act, but whether the concrete situation demands derogation or not depends on a circumstantial decision that no law can fully prescribe and specify.

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CHAPTER 19

THE PEOPLE

MARGARET CANOVAN

"The state" began its conceptual career as the estate of an anointed king, but is now supposed to derive its legitimacy from "the people." Populists and politicians alike defer to the people's authority, which can confer legitimacy upon constitutions, new regimes, and changes to the borders of states. Even informal outbreaks of "people power" seem often to be regarded as authoritative. Despite the crucial role played by "the people" in contemporary political discourse, analyses of the notion in recent political theory are meagre and scattered. Perhaps this is not surprising; whereas "the state" (belonging as it does to the realm of legal abstractions) is evidently a proper object of theoretical reflection, "the people" may seem too fuzzy, too emotive, and too closely associated with populist rhetoric to be worth analysis. This chapter will approach the topic by considering four issues, all of them aspects of one fundamental question: What does it mean to attribute ultimate political authority to "the people"?

1. *How* did the people come to have this authoritative status? The first section will attempt a brief historical survey.
2. *Who* are the people? The most pressing aspects of this question in the contemporary world concern external borders and the relationship between "people" and "nation."
3. *What* is/are the people? Is the repository of ultimate political authority a collective entity, a collection of individuals, or (somehow) both at once?

* The arguments presented here are developed and supplemented in Canovan (2005).

4. *Why* is the people the ultimate political authority? Is this best analyzed in terms of political myth?

1 How Did "The People" Acquire Political Authority?

Like most political concepts that have acquired global resonance, the modern notion of the sovereign people has a Western and Classical pedigree. Along with *peuple* and *popolo*, "people" is derived from the Latin *populus*. Within that Roman heritage the language of *populus*/people had honorific connotations (absent from *demos* and democracy) that made it worth adapting to the needs of a long series of political controversies. The notion survived classical Rome embedded in two contrasting political and theoretical contexts. Within the Roman Republic sovereign power had belonged to the *populus* and had been regularly exercised by the assembled citizens (themselves, of course, a privileged minority of the population). But the Roman imperial legacy was quite different and more influential. Starting with Augustus, Rome's military despots exercised powers formally conferred on them by popular assent. This convention was incorporated into Roman Law as the *lex regia*, according to which sovereign power belonged to the Emperor by delegation from the *populus*: popular sovereignty and absolute rule could therefore coexist.

If the only available meaning of popular sovereignty had been the direct exercise of popular power as in the assemblies of the Roman Republic, then the notion would have been no more relevant to monarchical politics than was the Greek concept of democracy. But the ambiguous discourse within which *all* governments could be seen as drawing legitimacy from the people blurred the boundary between "popular" governments and others. In the very long run (after many centuries of political competition for a divine rather than a popular mandate) that made rhetorical weapons available to those who wanted to hold kings to account. This novel use of the traditional theme of popular sovereignty was promoted by religious conflict in Europe in the sixteenth century. Faced with rulers committed to the wrong version of Christianity, Protestant and Catholic writers put forward parallel theories justifying resistance by appealing to the well-known principle that power was

derived from the people. Theorists on both sides assumed that the people of the realm in question formed a collectivity with natural leaders able to act on behalf of the people when the king forfeited his right to rule.

This practical appeal to the ultimate authority of the people was a defensive measure that did not entail anything approaching popular government on the Roman Republican model. Similarly, although the social contract theories developed about the same time also drew on the tradition that political authority had popular origins, most of them made clear that the latter was perfectly compatible with absolute monarchy. But Resistance and Contract theories alike could be creatively developed, given a political stimulus like that supplied in the seventeenth century by civil wars and revolutions in England.

"The people" were invoked by all sides in those struggles. While Parliamentarians claimed that they alone were the people (Morgan 1988, 64–5), Thomas Hobbes demonstrated to his own satisfaction that, on the contrary, the *King* was the people. "The *People* rules in all Governments, for even in *Monarchies* the People Commands; for the People wills by the will of *one* man ... in a *Monarchy* ... (however it seeme a Paradox) the King is the *People*" (Hobbes 1983, 151). Triggering fears of "the many-headed monster" (Hill 1974), the Levellers went to the opposite extreme, identifying the sovereign people with the mass of freeborn Englishmen: "the hobnails, clouted shoes, the private soldiers, the leather and woollen aprons, and the laborious and industrious people of England" (Wootton 1991, 413). Sir Robert Filmer did his best to take the wind out of populist sails with a *reductio ad absurdum*: either the supposedly authoritative "people" means every single individual in the country at every moment in time, or else it is just a cloak for the pretensions to power of conspirators of all kinds (Filmer 1949, 252, 226).

No wonder that in 1683 the doctrine that "all civil authority is derived originally from the people" was condemned by the Tory University of Oxford (Wootton 1986, 38). It took the ejection of James II in the Glorious Revolution of 1688 to bring the notion of an actively sovereign people into the mainstream of Anglophone political discourse. Although Parliament preferred the fiction that King James had "abdicated," the event gave respectability to Locke's radical interpretation of the Revolution as an "appeal to heaven" by the people.

Even for Locke, however, the role of the people was still defensive. Having reclaimed their sovereignty, the people apparently use it only to authorize a new king, not to set themselves up as rulers. The modern political discourse

of "the people" emerged only in the American Revolution. Besides justifying resistance to George III and reclaiming power for the people, the Americans went much further. "We the people" established a new constitution, thereby acting as ultimate authority, but in actual assemblies rather than an imaginary state of nature. Partially reviving the Roman republican model, they broke with the tradition of authorizing kingly rule and established a government elected by and belonging to the people (Hamilton, Jay, and Madison 1886, 292).

America was not the only place where, from the late eighteenth century, the politics of "the people" became increasingly strident. *Le peuple* erupted dramatically on to the public stage in France to challenge all established hierarchies. Understood as the *nation* (Hont 1994), but as a nation carrying a universal mission to liberate other peoples, that people also helped to set off the nineteenth-century's principal international revolutionary movement, liberal republican nationalism in the name of the people. German Romantic nationalists developed a different and equally revolutionary discourse of the *Volk*, a mixture of cultural populism and ethnic nationalism. Nineteenth-century Britain had its own distinctive politics of "the people," echoing the Levellers' claim for the common people to take their rightful place within a polity that belonged immemorially to the whole people. The reformist populism of liberals from John Bright to Lloyd George formed a bridge to the class politics of the twentieth-century Labour Party.

Modern political discourses of "the people" therefore include a medley of national and linguistic traditions. The legacy of the American Revolution is nevertheless worth stressing, for its effect was to turn "the people" into shorthand for a many-sided political project. The people are the ultimate political authority, creators of the Constitution, and also the owners of government. Although represented, they merely lend their authority to politicians and can easily be provoked to reclaim it. This "people" is both a collective, self-determining nation and a collection of individuals enjoying rights that belong to people as human beings. Although in some ways notably down to earth, referring to ordinary people here and now, the American discourse of "the people" is also visionary, for the chosen people represent a universal cause and show the way to people everywhere. Within the modern mythology of the people, the heroic tragedy of the French Revolution is capped by the American myth of triumphant political foundation by the people, and by faith in political redemption by that people when necessary.

Twentieth-century politics was largely a story of gods that failed: causes that inspired enthusiasm, caused suffering on a grand scale, and then lost their followers. But faith in the conquest of power by the people lives on. Disillusionment with what are supposed to be "people's governments" seems only to imply that power has escaped from the people and needs to be recaptured. There seems to be little political appetite for the disenchanted view that "the people" are nothing but the population, and "government by the people" nothing but the rule of some human beings over others.

A long and hectic career of use in political controversies has left the notion of "the people" potent but hazy. It seems to be at one and the same time universal and particular, abstract and concrete, collectivity and collection, mythical and mundane. The rest of this chapter will examine some of the issues raised by these ambiguities.

2 Who are the People?

Disputes over the limits of the "people" to whom ultimate authority is attributed have often hinged on rank or class, partly because of a long-standing ambiguity whereby *populus*/people could mean either the whole polity or part of it, while "the people" as part could itself refer either to a privileged class of "political people" or to the unprivileged "common people." In contemporary politics, however, boundaries *between* peoples tend to be more pressing, especially since the right of "peoples" to self-determination has been recognized by United Nations Declarations. While these peoples have at times been defined by existing state boundaries, much of the notion's force lies in its justification either of unification or of secession. The post-Communist outbreak of border conflicts in the 1990s prompted a number of political theorists to reflect on self-determination, although the liberal optimism of some of the earlier discussions was quickly dampened by events (e.g. Margalit and Raz 1990; Tamir 1993; Miller 1995; Philpott 1995; Moore 1998).

How should a "people" with claims to political autonomy be understood? Is it equivalent to a nation? A number of theorists have argued that in contemporary circumstances, only the ties of nationhood are likely to

generate a people with the kind of long-term political solidarity that is needed to sustain self-rule (e.g. Miller 1995; Canovan 1996; Yack 2001). This is not to say that either "nation" or "people" needs to be understood as any sort of natural kindred, only that nationhood supplies historical depth and a quasi-familial sense of sharing a common fate. But since the concept of popular sovereignty was first articulated in city-states, republicans and internationalists can claim with apparent justification that a self-governing people should be able to do without such bonds. The example of the USA may seem to show that a single people with powerful political solidarity can be built in conditions of ethnic diversity and large scale immigration (though see Yack 1996). The European Union notoriously lacks a single European "people" able to close the "democratic deficit" between citizens and institutions. For some theorists, however, notably Jürgen Habermas, all that is needed is political will on the part of Europe's leaders to build such a people (Grimm 1995; Habermas 1995; Weiler 1995). That debate raises issues about the scope for "people-building" (Smith 2003). Is political solidarity an artifact that can be deliberately created, or is it the uncontrollable outcome of historical legacies and political contingency (cf. Schnapper 1994; Habermas 1996; Canovan 2000)?

Such discussions touch on wider debates about political inclusion and exclusion. Within the discourse of popular sovereignty, the "people" credited with ultimate political authority often seems abstract, universal, and borderless (Yack 2001), which perhaps implies that it should include all people everywhere. This last suggestion gains some measure of plausibility from Anglophone usage in which "people" without an article means human beings in general. The politically-relevant "people" of Western states has undoubtedly expanded to include many formerly excluded, most notably the female half of the population; can that expansion stop at the borders of any specific "people," whether ethnically or politically defined? Cosmopolitans argue that both the logic of our political discourse and the facts of globalization point toward inclusion—perhaps even toward full-scale global rule by a United Nations People's Assembly (Archibugi and Held 1995) but at any rate toward the erosion of differences between "our" people and people in general (Linklater 1999). Squarely in the way of any such development, however, stand the enfranchised peoples of the powerful and prosperous nation states that sustain democracy at home and provide a base for cosmopolitan ideals (Miller 1999; Canovan 2001). Mass migration, widely seen as a threat to "our people," has in recent years provoked a populist reaction in many of those

democratic states. Since populists claim to mobilize "the people" against an undemocratic elite, this has in turn set off academic debates about the relation between populism and democracy (Mény and Surel 2002).

3 What is/are the People to Whom Ultimate Political Authority is Attributed?

Whatever its boundaries and limits, should the sovereign people be conceived as a collective entity? The grammar of *populus*, *peuple*, *popolo*, and *Volk* points to a singular subject of that kind. In English "the people" is normally plural, meaning a collection of specific individual people. But that is not to say (*pace* Sartori 1987; Holden 1993; Mény and Surel 2000) that Anglophone usage is exclusively individualist, for "people" often does refer also to an intergenerational unity of which individuals are part. To be able to ask questions about the exercise of political authority by the people, we need to know what kind of actor we are looking for—a collective or a collection. The difficulty is that both senses seem indispensable. Anglophone political philosophy is traditionally suspicious of collectivist thinking. But if we resolve the people into a collection of mortal, ever-changing individuals, we find, as anti-populists from Filmer to Riker have pointed out (Filmer 1949; Riker 1982), that there is no longer any "people" that could act as a repository of political authority. To suppose, for example, that a majority verdict in a referendum delivers "the people's choice" we have to be able to assume that the people as individuals can be regarded as members of "the people" as a body, and that the result of individual votes on any particular occasion can be accepted as the voice of the whole.

The people for which ultimate political authority is claimed has, in fact, often been conceived as a corporation. Defending self-government by Italian city-republics, medieval jurists such as Baldus described a *populus* that was not just an aggregate of individuals but a *universitas*, able to act as a body through legally-defined organs in the same way as other ecclesiastical and secular corporations. The *populus* that they had in mind was something concrete and specific, a political actor in the real world (Canning 1980).

Many of the social contract theorists working from the sixteenth to the eighteenth centuries conceived of an authoritative people that was also corporate, although more abstract and general. For Pufendorf, the people that brings a legitimate state into being is a "compound moral person" with a single will, formed by a prior contract among individuals in a state of nature (Pufendorf 1717). Corporate accounts have the advantage of presenting "the people" as a body that can take effective action. Their disadvantage (from the point of view of what became the liberal tradition and the dominant political discourse) is that the people as distinct individuals disappear into "the people" as a body, an entity that has to be conceived as speaking and acting only through official spokesmen. Hard though it may be to square the circle, our political discourse demands an account of the ultimate political authority that somehow preserves both that corporate ability to take action and our separate, plural identities as individual people.

Rousseau's theory of popular sovereignty tried to unite individual and collective aspects of the people and to make the abstract sovereign people present in politics. Reconciliation was to be achieved by means of a General Will directed to the common good, willed by the people both as individuals and as a body assembled. Lacking faith in people as they were, however, he undermined his own theory by conjuring up a lawgiver, enlightened enough to discern the General Will and charismatic enough to form individual citizens into a cohesive people that can be counted on to will it.

Locke's very different attempt to reconcile individual and collective people has its own problems. Not content with conceiving of the people as a single body able to hold the king to account, Locke simultaneously presents that sovereign people as concrete individuals in full possession of their natural rights. He tells us that men in a state of nature "enter into Society to make one People, one Body Politick" (Locke 1964, 343), after which power is entrusted to a monarch but sovereignty stays with the people. This "people" that can act to reclaim authority from king and parliament is not a constituted body of the legally corporate kind; Locke says, indeed, that when government has broken its trust, "everyone is at the disposure of his own will" (Locke 1964, 426). Nevertheless he clearly expects that the individuals concerned will be able to act *as* a body in circumstances where formal ties between them no longer exist. Richard Ashcraft has argued that what he had in mind was a revolutionary "movement" (Ashcraft 1986, 310).

It may be that the authoritative "people" that haunts our political discourse is indeed best thought of neither as a formally organized corporate body nor as

an atomistic collection of individuals, but instead as an occasional mobilization through which separate individuals are temporarily welded into a body able to exercise political authority (cf. Ackerman 1991, 1998). But why should "the people," however conceived, be regarded as authoritative?

4 Why are "The People" the Ultimate Political Authority?

This question cannot be adequately answered by pointing to the lack of alternative sources of authority since the loss of faith in king, church, and party. We cannot assume that there must be an ultimate source to be found somewhere or other; furthermore, if we think of "the people" simply as the population—an ever-changing collection of ordinary, partisan, often ignorant human beings—then their claim to be regarded as the fount of legitimate political authority is hardly overwhelming. It is easy enough to make a negative case for some involvement of the general population in politics, on the grounds that this can limit rulers' abuse of power. But the discourse of popular sovereignty is more ambitious. Thinking about the enthusiasm that greeted the outbreak of "people power" in Eastern Europe in 1989, it is hard to deny that "the people" supposed to be reclaiming its/their rightful authority appeared surrounded by a numinous haze. It is precisely the conjunction of this glamour with the reassuring sense that "the people" are also *us* that makes the notion so powerful.

Political theorists have mostly been reluctant to concern themselves with phenomena of such dubious rationality, although useful clues can be found both in Michael Oakeshott's characterization of "the politics of faith," and in Claude Lefort's explorations of the "theologico-political" aspects of democracy (Oakeshott 1996; Lefort 1986, 1988). One way of bringing the people's mysterious authority within the pale of rational analysis may be to treat it as a legitimating myth, perhaps akin to belief in the divine right of kings. The significance of myth in the politics of nationhood is widely recognized (e.g. Schöpflin 1997), while Rogers Smith has recently investigated what he calls "stories of peoplehood" (Smith 2003).

Henry Tudor's pioneering analysis of political myths (Tudor 1972) can be applied to myths of the people as past founders and future redeemers of their polity. Local foundation myths (telling how the people of a particular place and time rose against their tyrant and established their own polity) include the Swiss foundation myth and the story of the American Revolution and Constitution. These local myths gained wider resonance through their entanglement with the universal foundation myth of the social contract (Canovan 1990). Such stories of the popular foundation of politics are complemented by forward-looking myths of political renewal when the people will take back their power and make a fresh start. Generations of populists have told how the people have been robbed of their rightful sovereignty but will rise up and regain it.

While myths of the people may at times help to supply political legitimacy, they tend also to create unrealistic expectations that can generate dissatisfaction with actually existing democracy. The belief that we, the people, are the source of political authority gives the impression that we ought to be able to exercise power as a body. But although democratic processes allow us to have an input into politics as individual voters or as members of groups of various kinds, there is no sense that we *as* the people are in control. As Claude Lefort says, the place of power remains empty, or at any rate the sovereign people remain absent from it (Lefort 1986, 279). The myths leave us with an unsatisfied craving to see the real sovereign People in action, moving into Lefort's "empty place of power" and exerting their sovereign authority at last (Canovan 2002). This may be why any plausible approximation to this scenario becomes charged with mythic power, as in the East European revolutions of 1989.

If stories and images of this kind can help to set political actors in motion, then analysts of political phenomena cannot afford to ignore them. But what are political theorists to make of the mythic elements apparently inseparable from current beliefs about the source of legitimate political authority? A robustly critical reading has been offered by Edmund Morgan, who treats the sovereign people as a "fiction" that was deliberately invented to challenge and replace another fiction, the divine right of kings. During the English Civil War, "representatives invented the sovereignty of the people in order to claim it for themselves. . . . In the name of *the* people they became all-powerful in government" (Morgan 1988, 49–50).

Working in a different theoretical idiom, Pierre Bourdieu uses the language of magic and sorcery to describe the processes by which collectivities like "the people" are generated and through which "symbolic power" is wielded by

those who conjure them up and claim to speak for them (Bourdieu 1991). The individuals acting out these magical appearances, including the ordinary people identified by themselves and others as "the people," appear in his account as pawns in the hands of a manipulative elite.

Those analyses seem to discredit the authority they analyze. Yet cases of grassroots political mobilization can at times be more spontaneous and less controllable than Morgan or Bourdieu suggest. Political myths feed on the rare cases when movements recognized both by participants and by outsiders as "the people" have burst upon the public stage—often violently, as in the French Revolution, but sometimes with the impressive restraint of the Polish "Solidarity." The latter in particular struck many contemporary observers as a genuine manifestation of the People in action (e.g. Goodwyn 1991; Touraine et al. 1983). Should we then regard it as one of those moments of "fugitive democracy" (hailed by Sheldon Wolin) when "power returns to 'the Community' and agency to 'the People'?" (Wolin 1994, 21, 23; cf Goodwyn 1991, 117). Those are the moments our political myths lead us to crave; they also lead us to expect that when the People do appear they speak with authority.

If we follow Max Weber's value-free approach to legitimate authority, understanding it in terms of effective rule and willing compliance (Weber 1947, 324), then it may be fair to say that (in contemporary circumstances) widespread belief in the people's endorsement of a polity, a regime, or a movement does legitimize it. Without wanting to endorse the dangerous notion that *vox populi* equals *vox dei*, we might indeed add that if a state is to be strong enough to be effective but accountable enough to be safe, it probably needs to be backed by a people with sufficient sense of collective identity to generate and monitor political power. Perhaps we can therefore conclude that, along with an impersonal state, a "people" conceived as authoritative may be a necessary condition for a relatively non-predatory politics geared to some conception of the public good. The challenge still facing democrats is to devise institutions for representing the people-as-population that live up to the expectations generated by "the People" as myth.

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CHAPTER 20

CIVIL SOCIETY AND THE STATE

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What is civil society? Today almost everyone agrees that civil society refers to uncoerced associational life distinct from the family and institutions of the state. Civil society is also often thought to be distinct from the economy. Where to draw the line, however, is a matter of some dispute. Some thinkers, particularly liberals and especially libertarians (Walzer 2002; Lomasky 2002) include the economy in civil society. Others, especially but not exclusively those on the left, exclude the economy (Cohen and Arato 1992; Keane 1998). Still others include economic relations only to the extent that they are folded into associational life, so for example, professional associations and trade unions might be included but GE or Microsoft are not (Post and Rosenblum 2002).

Despite differences in definitional boundaries, contemporary interest in civil society focuses predominantly on associational life rather than market or exchange relations. Few theorists of civil society, even libertarians, are interested in studying GE or Microsoft as loci of uncoerced civil activity. This represents a significant shift from classical theories of civil society found in the work of Ferguson, Smith, or Hegel for example (Ferguson 1995; Smith 1976; Hegel 1991). For both classical and contemporary theorists, civil society

is understood as a sphere distinct from, yet in a particular relationship with, the state. In the eighteenth and nineteenth centuries, however, it was the hard won freedom of the economic sphere vis-à-vis the state that naturally begged to be studied, analyzed, investigated, and criticized. Today it is not so much economic freedom that interests theorists of civil society (although such freedom is often presupposed); rather, it is the power and role of associational freedom vis-à-vis the state that, for reasons we touch on below, begs to be studied, analyzed, investigated, and criticized. What sort of associations are we talking about? The kinds of associations that scholars concentrate on—whether they are choral societies, NGOs, or social movements—reflect different understandings of the relation of civil society to the state. In what follows we take up six such relations in order to illustrate the range of contemporary debate surrounding civil society:

1. civil society *apart from* the state;
2. civil society *against* the state;
3. civil society *in support of* the state;
4. civil society *in dialogue with* the state;
5. civil society *in partnership with* the state;
6. civil society *beyond* the state.

These six perspectives on society/state relations are not mutually exclusive nor do they necessarily compete with each other. As will become clear, it is possible to hold to a number of these views at the same time. What they do represent are different ways of answering the question: "what is important or interesting in the relationship between civil society and the state?" In each case we identify the empirical questions that are correlative to the theoretical articulation of this relationship.

1 Civil Society apart from the State: Freedom of Association

Civil society is a sphere apart from the state. It is a sphere in which individuals come together and form groups, pursue common enterprises, share interests, communicate over important and sometimes not so important matters.

Churches, bowling leagues, service associations, chess clubs, and public interest groups are part of civil society. Legislatures, the army, police, government administration, and courts are not (Kymlicka 2002). In thinking of civil society as apart from the state three features stand out: the voluntary nature of participation; the plural quality of activities, and the negative character of civil society's boundaries. Civil society is not just characterized by membership; it is characterized by voluntary membership. Joining a church, attending a PTA meeting, donating money to flood relief, forming a book club—these are things we choose to do; they are not mandated by law. In contrast, we are born into a state and governed by coercive laws. Although exit is sometimes an option, it is more often an option in the meaningless sense that jumping out of a ship at sea is an option (Hume 1972, 363). Of course we can also think of ourselves being born into churches that levy high costs for exit and some of us do in fact jump ship and hand in our passports. From a sociological point of view the voluntary/non-voluntary distinction can be tricky. But as a legal matter, the distinction is somewhat easier to maintain: on the one hand, while living within a state, with very few exceptions, we may not opt out of legitimately enacted laws; on the other hand, associations may not use coercion and force to retain members.

The second characteristic of civil society is pluralism. While the state is burdened with the job of pursuing collective ends and public goods, in civil society individuals come together to pursue particularist ends and group-specific goods some of which may very well also be public goods. Thus we might think of the Sierra Club as pursuing a public good while a science fiction book club pursues a particularist good. But from the point of view of civil society as a whole, each good, protecting the environment or enjoying a good time-travel novel, are group specific goods.

The final characteristic of civil society understood as something apart from the state is that it is conceived in spatial terms. What is most important is establishing the boundary, not establishing what ought to go on within the boundary. The boundary is essentially negative, designed primarily to keep the state out, not to keep anything in. This raises an interesting question for the growing research on civil society.

Are the boundaries of civil society to be understood along legal, conceptual, or sociological lines? Social scientists often talk about civil society in contexts lacking strong legal boundaries. In China, for example, individuals get together and form groups all the time, from karaoke clubs to intellectual salons (Huang 1993). These groups are voluntary in the sense that no one is

forced to join them; they represent a plurality of interests on the part of citizens; they are often quite autonomous from the state; and finally these groups perform important functions not performed by the state. From a sociological point of view, it makes sense to talk of Chinese civil society. And indeed there is a large literature on the subject. But from a legal point of view it does not make sense. Civil society, to the extent that it survives, exists not by design but by default and on state sufferance. For civil society to be apart from the state in a strong sense, the state must be bound by a rule of law that limits its interference in a meaningful way. This meaning of "apart" has clear liberal roots.

The implicit model that most theorists of civil society work with is drawn from the particular historical experience and developmental sequences of the West, especially western Europe (Ehrenberg 1999). In that model, the creation of civil society required first the separation of private and public spheres of authority. In the case of Europe, the creation of public authority separate from private authority involved a move from feudal rule in which all authority was in some sense "private" or at least personal, to the absolutist state in which the locus of authority was gradually separated from the person of the ruler and his retinue. The creation of distinct official and private realms left room eventually for the rise of civil society, that could demand specific protections and juridical guarantees from interference by the state (Poggi 1978). The appearance of a sphere of activity between the family and the state was intimately joined with the legal recognition of that sphere.

Does this mean that it makes no sense to speak of civil society outside of a liberal constitutional setting? On the one hand, associations develop even in the most legally inhospitable and insecure settings. In this sense, civil society as a behavioral phenomenon can be said to exist in virtually all modern societies. Yet, if this behavior only exists at the sufferance of states, if this behavior is tolerated by default rather than by design, if associations have no guarantee that the state will not stifle their activities in an arbitrary fashion, if only associations perceived as friendly towards the state are tolerated, then civil society as a bounded sphere with identifiable limits becomes less plausible. The model of civil society as a sphere apart form the state is very much tied to the liberal constitutional order. Those who are interested in the *apartness* of civil society are often interested in constitutional guarantees of freedom of association (Lomasky 2002; Kateb 1998). Here the debate is all about boundaries but it is a debate that is limited to liberal democracies. While associational life is ubiquitous, strong legal boundaries for such a life

are not. But thinking of civil society as essentially a sphere apart from the state is only one way to conceive of the relationship between civil society and the state. In moving away from the spatial metaphor we also move away from (but are never completely free from) the juridical definition of civil society.

2 Civil Society against the State: Politicizing the Nonpolitical

The revolutions of 1989 are often appealed to as the events that triggered a renaissance in civil society literature. In this role, civil society is not simply a sphere apart from the state; it is or can be seen as an "agent" that interacts with and indeed opposes the state. The story told is that of a totalitarian state dependent for its stability on a depoliticized citizenry. State interests lay in actively discouraging the formation of civil society organizations even of seemingly innocuous sorts. Thus, to the extent that regimes remained stable, there was little or no civil society.

Under the most tyrannical regime, civil society is hardly even a sociological category let alone a juridical one. The case of the East European dissidents under Communism is highly instructive. George Konrad's celebrated concept of "anti-politics," in which people within totalitarian societies attempt to carve out small niches of autonomy, was a call for citizens to live as if the state did not exist (Konrad 1984). Konrad considered a normal civil society both in a sociological and juridical sense to be beyond the realm of the possible. Similarly, Vaclav Havel's seminal essay on "the power of the powerless" spoke of the capacity of isolated individuals to resist the state through "everyday" actions, not through associational life (Havel 1985). Although both Konrad and Havel hoped that these small acts of autonomy and resistance, acts that amounted to "living in truth," would in the long run be subversive of totalitarian rule, they did not foresee any short-run impact of society on the state in the Communist world. "Living in truth," as a personal and individual disposition, attached to little or no organization, stands at the outer extreme of what is normally thought to be civil society.

It is worth recalling, however, that both Konrad's and Havel's essays were written very early, when there appeared to be little hope of change in the

region. The reforms in the Soviet Union initiated after 1985 by Gorbachev, policies that stopped short of the rule of law but still permitted greater freedom of association and speech, led some theorists to adopt an implicitly sociological as opposed to a purely juridical conception of civil society. Associations outside of the party might not be recognized by the state or even be formally legal, but as long as they existed, so the argument ran, they should be considered civil society.

In fact, some theorists and social scientists argued, the scope of the totalitarian state's power was never as complete as its claim (Moore 1954). Not only were churches in many of these societies able to maintain a degree of juridical autonomy, but groups ranging from Solidarity in Poland, to environmental groups in Hungary and East Germany, to youth groups and popular music clubs all over the region, managed to sustain their own group resources and even socializing functions. Once the regimes showed signs of weakness, especially during 1989, these groups quickly took center-stage and became the genuine dramatis personae of history, staffing not only the "barricades" but also the roundtable negotiations, and paving the way for the Communists' relatively smooth exit from power. In sum, the revolutions of 1989 were revolutions of civil societies asserting themselves against the state (Kenney 2002).

This is the strong version of the civil society against the state argument. The story it tells is that of resilient civic groups able under certain circumstances to assert themselves against the repressive formal institutions of the state. It is worth noting, however, that if scholars have attributed the overthrow of Communism to the power of civil society, other scholars have questioned the strength of civil society as a vehicle of the revolutionary breakthrough to democracy. Civil society might have undermined and challenged the totalitarian state but a legacy of organizational weakness and lack of trust now highlights the frailty of post-Communist civil societies vis-à-vis the state (Howard 2003). Could it be that civil society was strong enough to overthrow Communism but not strong enough to survive democracy? A further and even more interesting question is whether the kind of civil society-against-the-state dynamics that existed in late Communism is good for democracy? Street demonstrations helped bring down Communist governments in 1989. But the question remains: Is what is good for bringing down dictatorships also good for sustaining a democracy?

Theorists and social scientists do not agree on whether a contentious civil society is good for democracy. If working through formal state institutions is

a sign of a healthy and stable democracy then civil society expressing itself in the form of street demonstrations and protests may not necessarily produce political stability or good public policy (Pereira, Maravall, and Przeworski 1993, 4). Others have maintained (using data from post-Communist transitions) that protest can serve as a dialogical medium between the state and civil society when conventional democratic institutions are discredited or do not function properly. Protest under these circumstances can become a regularized and authoritative pattern of behavior. When it is widely regarded as normal and legitimate, when it is routinized and even institutionalized, and when it does not involve violence or anti-democratic ideologies, "unconventional but institutionalized political participation is a sign of democratic vitality or democratic consolidation" (Ekiert and Kubik 1999, 194).

3 Civil Society in Dialogue with the State: Public Sphere

A growing number of democratic theorists suggest that it is useful to think of civil society as in a creative and critical dialogue with the state. This dialogue is characterized by a type of accountability in which the state must defend, justify, and generally give an account of its actions in answer to the multiple and plural voices raised in civil society. In this view of the relationship, one put forth most clearly by Jürgen Habermas, civil society as public sphere becomes the central theme. The public sphere is understood as an extension of civil society. It is where the ideas, interests, values, and ideologies formed within civil society are voiced and made politically effective (Habermas 1996, 367).

The historical struggle to carve out a sphere apart from the state has the result of producing public opinion that stands apart from the state as well. In the first instance the political function of public opinion is simply public criticism. But as state actors come to heed the voice of public opinion, a new and stronger role is envisioned. "Since the critical public debate of private people convincingly claimed to be in the nature of a noncoercive enquiry into what was at the same time correct and right, a legislation that had recourse to public opinion thus could not be explicitly considered as domination"

(Habermas 1993, 82). Critical debate in the public sphere becomes a test of legitimacy. The optimistic assumption at work here is that injustice and domination cannot survive the scrutiny of an enlightened and civic-minded public. This vision of the ideal relationship between civil society and state is used more often as a framework to criticize contemporary society/state relations than as an achievable goal. The question becomes how to promote and maintain a public sphere that performs the function of critical dialogue partner.

While freedom of speech and association are a necessary condition for a strong public sphere, they are not enough, "basic constitutional guarantees alone cannot preserve the public sphere and civil society from deformations. The communicative structures of the public sphere must rather be kept intact by an energetic civil society" (Habermas 1996, 369). Not the state, but members of civil society bear the responsibility of sustaining an effective democratic public sphere. Only when actors consciously try to enhance, expand, and transform the public sphere as they participate in it can the public sphere thrive. The contrast is between mere "users" of the public sphere who pursue their political goals within already existing forums and with little or no interest in the procedures themselves, and "creators" of the public sphere who are interested in expanding democracy as they pursue their more particularist goals.

Habermas, along with Cohen and Arato, identifies new social movements as the most innovative actors in the public sphere (Habermas 1996, 370; Cohen and Arato 1992). Social movements interested in developing a dialogical relation to the state deploy offensive and defensive strategies vis-à-vis the state. Offensively, groups set out to influence the state and economy. So, for example, environmental movements try to influence legislation, shape public opinion, and contain economic growth. But at the same time, the environmental movement has consciously contributed to the expansion of associational life, to the encouragement of grassroots participation, to the development of new and innovative forms of involvement, and to the extension of public forums of debate and deliberation. This sort of activity empowers citizens within civil society, helps maintain autonomy, and expands and strengthens democracy by giving citizens effective means of shaping their world. Thus, effective social movements not only achieve policy goals; the achievement of policy goals is tied to strengthening the role of civil society as a critical dialogue partner with the state. These movements "force" the state to answer to new voices, concerns, and interests. Social movements are poised between civil society as an opponent to the state and civil society in support of the state.

The question that naturally arises, however, is: When does critical opposition strengthen democracy and its claim to legitimacy and when does it lead to democratic breakdown? When do contentious civic groups acting against the state instill civic virtues in people that help sustain democracy and when do they lead people to overthrow democracies as enthusiastically as they overthrow dictatorships? It is to the question of the relationship between civil society and public dispositions that we turn next.

4 Civil Society in Support of the State: Schools of Citizenship

In addition to the three strands we have so far identified as central to contemporary debate about the relationship of civil society and state, there is a fourth that has been particularly strong in the American context. This view centers on a neo-Tocquevillian analysis of the necessary conditions of stability. "Civil society builds social ties and a sense of mutual obligation by weaving together isolated individuals into the fabric of the larger group, tying separate individuals to purposes beyond their private interest. The reciprocal ties nourished in civil society are the wellspring of democratic life" (Eberly 2000, 7–8). Liberals and conservatives alike have embraced this idea and have championed the salutary effects of a robust civil society on the civic mindedness of individuals.

The relationship between civil society and the state to emerge from this view is complex and often reflects a love/hate dynamic. On the one hand, liberals and conservatives alike have come to realize that the viability of liberal democracy depends on reproducing the requisite democratic dispositions. Democracy without democrats is a precarious proposition. Contrary to what Kant thought, we cannot build a strong political community assuming a race of devils. Instead we need to be attentive to identity formation and the inculcation of values. From this point of view, civil society performs a function of underpinning and supporting the state. On the other hand, there is also a certain amount of hostility towards the state. For many people writing within this tradition, the state is one of the forces contributing to the

decline of civil society as a place for civic renewal. Benjamin Barber notes "Americans currently face an unpalatable choice between an excessive, elephantine and paternalistic government and a radically self-absorbed, nearly anarchic private market" (Barber 1995, 114). Occasionally these arguments merge into thinly veiled attacks on "big government" but even liberal and left-wing scholars are concerned with the ways the welfare state bureaucratizes the lives of citizens. Such bureaucratization is self-defeating. For the state to perform its functions, it requires citizens who are willing and able to take up the perspective of the public good. A state that is overly intrusive and overweening undermines citizens' competences to take on the civic responsibilities required of them.

Whereas in the view of civil society apart from the state, associational life is seen as the sphere of plural ends, in the view of civil society in support of the state, associational life is viewed as both a sphere of pluralism and a sphere that produces common values (Eberly 2000). The pursuit of plural ends *in association and cooperation with others*, has the result of creating a common civic culture that can transcend pluralism and create bonds of community. Some of the virtues acquired through associational participation are said to be toleration, cooperation, respect, and reciprocity (Warren 2001). The experience of associational life, so the argument goes, even though directed to different ends (bowling for some, religious devotion for others, a neighborhood fair for still others), is a lesson in citizenship. This experience translates into a commitment to the joint enterprise of liberal democracy (Putnam 2000). It is an invisible hand argument applied to associational life.

The debates and disputes within this view fall into four broad categories. The first dispute concerns the question of whether civil society in liberal democracies is robust or in a state of decay. This debate has centered on American culture more than any other but has also spawned a popular empirical research project measuring civic engagement across the globe (Putnam 2000; Verba, Schlozman, and Brady 1995; Skocpol 1999). A second area of dispute centers on what sorts of values need to be inculcated and how and where we ought to be promoting them. Here education policy becomes central as well as government support for such things as "faith based initiatives" (Macedo 1996). This leads naturally into the third area of contention: when does civil society as a school of citizenship run up against civil society as a sphere of freedom? When does the expectation (sometimes reinforced by the state in the form of subsidies and enabling policies) that associations will inculcate the right sort of values place intrusive limits on the freedom of

association (Rosenblum 1998)? Should we only value associations that promote democratic citizenship or would such a bias undermine values of pluralism and associational freedom?

A final set of issues regarding the civic renewal literature questions what appears to be a basic premise of the argument. Much of the literature assumes that participation in civil society is a good thing. The enemy of democracy is apathy and self-absorbed individualism. Thus the stress is on *participation* and not on what sort of groups citizens are joining. The literature fails to take seriously the possibility that there is something called bad civil society (Chambers and Kopstein 2001).

The crucial difference between good and bad civil society is that the former fosters and the latter destroys one essential value for the stability and quality of democracy: the value of reciprocity. Reciprocity involves the recognition of other citizens, even those with whom one has deep disagreement, as moral agents deserving civility. Bad civil society challenges this value through the promotion of hate, bigotry, and the negative empathy inherent in such acts as ethnic cleansing and spectacles of civic violence. Bad civil society can, however, offer participants the "goods" of cooperation and trust. They acquire a sense of belonging and meaning in their lives. They may even develop the virtues of civility and sacrifice, at least among themselves. They are asked to rise above narrow self-interest and take on a perspective of the group. These goods are internal to the group, however, and do not always transfer across group boundaries (Putnam 2000).

Civil society is not always a good thing. Prior to the 1994 genocide, according to one commentator, Rwanda had the highest density of associational life in sub-Saharan Africa (Edwards 2004, 44). In the new democracies after 1989, a disproportionate number of civic groups preached hatred and created a great deal of bad social capital. Some scholars wondered whether democracy might be better served in the short run by the continued civic disorganization of these societies rather than the mobilization of so much hatred (Kopstein and Hanson 1998). Even within highly stable democracies, the idea of civic association being an unmitigated good has been questioned (Foley and Edwards 1996). A dense network of civic life may promote the quality of democracy when the content of the associations is supportive of democracy. As one commentator has recently noted, choral societies can be important pillars of a vibrant civil society, but one inevitably wants to know what these groups are singing (Edwards 2004, 42). It matters a great deal whether they are singing the *Marseillaise* or the *Horst Wessel Lied*.

5 Civil Society in Partnership with the State: More Governance, Less Government

The sovereignty of the nation state is being challenged from many different directions not least of which is from the perspective of civil society. The idea of supplanting the functions and functionaries of the state with the *citoyen* of civil society harkens back to the classics of nineteenth- and early twentieth-century emancipatory sociology. In some ways, the new group of theorists and social scientists who envision a decentering of public administration away from a distant, uncaring, and inefficient centralized state administration into a more proximate, empowering, if less tidy system of multilevel governance, subsidiarity, and new public management draw their inspiration from these classics. The contemporary theorists of civil society, however, claim that growing complexity posses new challenges to governance, democracy, and autonomy that the nineteenth- and early twentieth-century social theorists did not anticipate. The nation state is seen as inadequate on a number of fronts. For some, it simply cannot cope, as national and even regional policies founder on local circumstance and international interdependence. The state simply cannot deliver the goods without the help and mediation of non-state sector associations (Cohen and Rogers 1995; Hirst 1994). Others argue that the problem is really a problem of democracy and self-government. Legitimacy requires more citizen participation and input into policy decisions. This in turn requires the devolution of authority onto citizen associations. Citizens gain a sense of efficacy and control over their lives (Fung 2004). Still others argue from a standpoint of autonomy. Not only is the large paternalistic welfare state not delivering the goods, it is intrusive, controlling, and dehumanizing. The answer is not deregulation but rather self-regulation. When citizens can find ways to self-regulate, they can build the basis of autonomy and self-respect (Habermas 1996: Cohen 2002). All three of these reasons lead to the hope that civil society will be home to new forms of governance.

Sometimes civil society is empowered by default. The state is simply absent. Increasingly spaces and dimensions are emerging in which the answer to the question "who is in charge?" is unclear, and where no one is in charge, new forms of governance become possible. Mark Warren for example notes

that sector differentiation often means that "the state is no longer 'head'; but rather, it functions as the most visible point of negotiation among sectors since it does not control the resources upon which it depends to organize collective action" (Warren 2002, 685). Alternatively, new governance models are sometimes conceived as hard-won victories on the part of citizens. The state is seen if not as the enemy then at least as an unwilling partner. Civil society activists must be vigilant, as state agents "often grow uncomfortable with the burdens of participation and seek to re-centralize or reinsulate their agencies from the finitudes of politics" (Fung 2003, 528). Finally, the state itself can initiate divestment of management and even decision-making authority. This is the heart of the Third Way initiative championed by Laborites like Anthony Giddens (2000). The stress here is on markets and states that cannot perform their function without citizens taking on responsibilities. But in order to get citizens to take responsibility they need to alter their expectation vis-à-vis the state: "the belief in the primacy of the nation-state ... deters responsible action by non-state actors. It encourages them to focus their energies on finding ways to get national states, their own or others, to provide services, to solve a crisis or act in some other way to address a particular issue rather than to look for ways the group can act on its own. It also reinforces the tendency of organizations to think in narrow, self-interested terms rather than to take responsibility for the broader consequences of their actions" (Clough 1999, 6).

Devolution, outsourcing to the third sector, and citizen participation and management all present risks. Privatization, loss of accountability, NIMBY (not in my back yard), and third-sector bureaucratization are only a few of the potential dangers when civil society partners with the state. As civil society takes on state functions, the boundaries between civil society and the state become complicated. The problem is not so much state intrusion; the problem is that in taking on state functions, civil society may begin to act and look like the state (Soroko 2003). The role of civil society as a check on the state is compromised if civil society supplants or even exists in partnership with the state. Ultimately this may point to a trade-off: as we have moved from the strong spatial conception of civil society as a sphere that stands clearly apart from the state, through conceptions of civil society as opponent, then critic, then supporter, and now substitute for or partner with the state, we have seen a growing rapprochement between civil society and state. Perhaps the pluralism of a healthy civil society can contain all these different roles for associational life. But it is unlikely to do so without conflict or tension.

6 Civil Society beyond the State: Global Civil Society

Civil society is a global phenomenon. Many associations and non-governmental organizations cross state boundaries. But what is their role and significance? If civil society in the West arose as a sphere separate from and often in opposition to the state, global civil society can be said to have arisen in anticipation of rather than in response to (and certainly without the protection of) a global liberal constitutional state.

Global civil society theorists criticize what they term "methodological nationalism," by which they mean our tendency to think in terms of national rather than transnational categories (Kaldor, Anheier, and Glasius 2003). This is especially true of social scientists and other scholars who usually rely in their research on national level concepts and nationally collected data. The problem with "methodological nationalism" in the case of civil society is that it restricts our understanding of the phenomenon to comparing the qualities and quantities of civil society in different states. In fact, the argument goes, some of the most interesting developments within civil society are occurring among groups who view themselves as completely unbound by political borders.

The two most visible components of global civil society are issue-centered social movements and NGOs (Keane 2003). Globalization itself has put a number of issues on activists' agendas that clearly transcend borders: landmines, human rights, climate change, AIDS/HIV, and corporate responsibility are some examples (Kaldor 2003, 588). Activists form loose networks tied by the Internet and punctuated by action across the globe. These activist networks are amorphous and slippery but their impact is keenly felt, especially during meetings of the key institutions of economic globalization such as the World Trade Organization and the G8.

Alongside social movements and often coming out of these movement are non-governmental organizations (NGOs). Mary Kaldor calls NGOs tamed social movements. Successful social movements transform themselves into established NGOs that reemerge in politics as "respectable" negotiating partners. NGOs are the key agents while social movements are the key messengers. NGOs also frequently mirror the ideological fault lines within social movements as participants set up organizations that reflect their particular sets of concerns, interests, and interpretations of the problem at hand.

Few scholars interested in global civil society are content with identifying actors. The real debate surrounds what to make of this phenomenon. Some enthusiasts argue that global civil society is nothing less than a harbinger of a new form of global governance: "a system of global governance has emerged which involves both states and international institutions. It is not a single state, but a system in which states are increasingly hemmed in by a set of agreements, treaties and rules of transnational character. Increasingly, these rules are based not just on agreement between states but on public support, generated through global civil society ... global civil society is a platform inhabited by activists ..., NGOs and neoliberals, as well as national and religious groups, where they argue about, campaign for (or against), negotiate about, or lobby for arrangements that shape global developments" (Kaldor 2003, 590).

Primarily global civil society works on the dialogue model; that is, through a global public sphere. Its most prominent weapon and resource is publicity. Human Rights Watch does nothing but publicize human rights abuses. Its primary target of influence is the media. But getting the world community to take notice and condemn abuses can and does influence behavior. John Dryzek notes that "the politics of transnational civil society is largely about questioning, criticizing and publishing." Such action can "change the terms of discourse, and the balance of different components in the international constellation of discourses" (Dryzek 2000, 131). Its weapon is publicity and its dialogue partners are mostly standing IGOs (UNESCO, UN Human Rights Commission, World Trade Organization, and the International Monetary Fund) and ad hoc international meetings and commissions. These form, in a sense, the state analogue particularly in this sector's capacity to generate and articulate international and cosmopolitan law.

The most common criticism of this view centers on a democratic deficit argument. Within democratic nation states, the relationship between civil society and the state is mediated by representative institutions. This is not true at the global level, at least not yet. Although social movements and grassroots activism can and indeed have been central in shaping both established and emerging democracies, one would not want global social movements and NGOs to be the only source of democratic expression and accountability. As two critics have put it, "Citizens do not vote for this or that civil society organization as their representatives because, in the end, NGOs exist to reflect their own principles, not to represent a constituency to whose interests and desires they must respond" (Anderson and Rieff 2004, 29). Indeed social

movements and associations have played the creative, critical, and innovative role in shaping modern democracies precisely because they have been relieved of the "possibility, the obligation, and indeed the temptation to regard themselves as representatives or intermediaries" (Anderson and Rieff 2004, 30).

The appearance of global civil society before the appearance of a global state and a global rule of law in effect reverses the sequence of civic development in the West. Global civic organizations do not have a single, clear object whose power they are attempting to limit and from whom they are demanding a sphere of legal protection. Civil society is decentered without a clear other to give it a contrasting boundary. The boundary problem is both external and internal. Not only is there no state as counterpart, but there appears to be no society as well. Even defenders of global civil society note that "the weakness of social bonds transcending nation, race, and gender" make talk of global civil *society* somewhat premature (Falk 1999, 136). This in itself does not render the concept meaningless, nor does it mean that global civil society is powerless. What it does mean is that it is an extremely amorphous concept that is often normatively over-burdened. Despite encouraging us to think outside the nation state box, global civil society still cannot do without the state and the nation state at that. The vast majority of organizations, associations, and movements that make up global civil society have their homes and headquarters in countries that offer them the protection and predictability of an established liberal legal order.

We are back to where we started, civil society as a juridically defined and protected sphere of freedom. Even the most "post-state" conceptions of civil society rely to some extent on freedoms that can only be guaranteed by a state. No doubt both global and domestic civil society will continue to constrain, challenge, and discipline the state in important ways, but they are unlikely to supplant the state in the near future.

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CHAPTER 21

DEMOCRACY AND THE STATE

MARK E. WARREN

Democracy, by which I shall mean collective self-rule, enjoys extraordinary legitimacy in today's world. The reasons are not hard to see. The citizens of well-functioning democracies enjoy greater freedom, wealth, and human development than citizens of non-democracies, and they experience less violence, deprivation, and domination. Although these goods have many antecedents, democratic institutional arrangements and practices are surely among the most important.

While elements of modern democratic institutions and practices can be found in ancient Greece, Rome, and medieval Europe, they were the exception rather than the rule until after the Second World War (Dahl 1989). Only in the last two decades have electoral democracies come to encompass a majority of the world's population (Freedom House 2000, 2). The recent spread of electoral democracies, however, depended upon two important precursors. The first was conceptual: the ancient concept of democracy as consisting in an assembled people making decisions gave way to the idea that the people could periodically choose representatives to a national legislative assembly to rule on their behalf. While this conception of democracy was less direct and participatory, it also saved the ideal from obsolescence in the face

of the large-scale political consolidations in Europe and the Americas (Dahl 1998, 17; Held 1996).

The second precursor of modern democracy came earlier, and consisted in the consolidation of modern nation states, first in Europe, and later in other parts of the world. This development is less remarked in democratic theory, no doubt because by the time democracy began its spread in the mid to late 1800s the nation state was already an old political form. Moreover, the Western democracies built on liberal constitutional revolutions, which sought to limit, tame, and refine state power on behalf of the liberties of property, person, conscience, and association. It was easy, perhaps, to overlook the impact of liberal strategies: as power was limited, differentiated, regularized, rationalized, and refined, it was also intensified, resulting in the most powerful state forms the world has known (Foucault 1978; Poggi 1990; cf. Skocpol 1979).

A key feature of today's consolidated democracies, then, is that they built on powerful, high-capacity states. Their relative successes are closely related to the state's role in managing, organizing, limiting, and intensifying the powers through which democratic self-rule is organized and achieved, as well as the boundary-setting and rule-making activities though which political life is generated. This fact is brought into sharp focus by the numerous new democracies now building on weak states, and suffering varying combinations of corruption, poor security, intractable low-level conflict, poor economic performance, and an inability to deliver services such as education, health, and basic welfare. In many cases, these features of the new democracies are undermining citizens' allegiance to the very idea of democracy.

For their part, the consolidated democracies are, as it were, exceeding their older, state-centered forms. New forms and venues of democracy as well as newly emerging "cosmopolitan" or global forms of democracy are emerging most rapidly in those countries with high-capacity states (Kaldor, Anheier, and Glasius 2003, part IV; Held 1995). At the same time, we are at a point in history at which it is especially important to understand the extent to which democracy depends upon state organization of political life, for we have entered into an era in which states, and state-like institutions and entities, are being overgrown by other forms of organization: issue-based networks, collective security arrangements, global markets, new political forms such as the EU, and political processes segmented by policy arenas (Dryzek 1996). State capacities seem to have diminished accordingly, and with this comes the irony that institutional prospects for democracy also seem to diminish precisely at the time when the democratic ethos is increasingly universal.

This chapter summarizes the logic that connects democracy to the state. I shall argue that the functions of the state in enabling democracy are as important now and in the future as they have been in the past. I shall also suppose, however, that politics today is exceeding the state, owing to forces of globalization, complexity, differentiation, culture shifts, and deterritorialization of issues. Democracy is a response to politics: it is one way among many that collectivities can organize conflict and make political decisions. If politics exceeds the state, so too should democracy exceed its state-centric forms—an argument found in the traditions of anarchist, associational, and participatory democracy that contemporary circumstances have instilled with a new relevance. In order that democracy should not seem to be exhausted by its state-centric forms, then, we shall need to think creatively about what role the state might have in underwriting, enhancing, and enabling post-statist forms of democracy. The strategy I follow here involves (a) identifying the animating ideas and values of democracy; (b) identifying the ways in which these ideas depend upon, and are entwined with, state power; (c) identifying the ways in which state institutions, carefully designed, can become generative in ways that exceed the inherent limitations of the state's media of organization: rules backed by power. This last point will be important for (d) imagining new functions for the state in generating, supporting, and organizing democracy beyond the state.

1 The Normative Logic of Democracy

As with all things we care about, democracy suffers from an excess of meaning, written into the concept by a long history of usage, and further complicated today by its identification with so many good things. And like all political concepts, the concept of democracy is stretched even further by opportunistic usages. Nonetheless, at a high level of abstraction, concepts of democracy tend to work with two sets of ideas.

1.1 Equal Moral Worth of Individuals

The first set involves the ontological proposition that a society consists of the individuals who compose it, together with the relations among them. Thus, if

a *society* is good, this means that it is good for the *individuals* in society and the relationships they maintain. Public goods, collective goods, community, and culture are relational, and irreducible to individual goods. But these greater goods are judged as good owing to their consequences for individuals. From this follows the norm of *moral equality* in collective rule: because each individual life is an end in itself, collective decisions ought to recognize, respect, and benefit individuals' interests and values equally, insofar as possible. This moral intuition is central to democracy, and makes the concept morally compelling, apart from any institutional embodiments. Moreover, because this intuition is shared by many moral theories in one form or another, democracy benefits from and expresses this moral purpose without requiring a single moral theory for its morally compelling qualities.

1.2 Boundaries of Inclusion/Exclusion: Defining "The People"

The norm of moral equality applies to those who are part of "the people" composing the collectivity within which individuals are recognized as having a moral status. Thus, every democratic theory assumes, more or less explicitly, boundaries that demarcate inclusions and exclusions. The boundaries may be *territorial*, such that every individual within a territory is included. Historically, however, territorial boundaries have been supplemented with boundaries defined by ethnic, racial, or sexual *characteristics*, such that the relevant "people" includes only, say, the native-born or whites or males within a given territory. In those cases where the principle of territorial democracy has been established, these boundaries typically become the objects of democratic struggles (Phillips 1995). More recently, it has become clear that boundaries may be based on *issues*, as they increasingly are under doctrines of subsidiarity (the notion that political units should match the scale of problems with which they deal), and in emerging global institutions and forums. In such cases, "the people" is constituted and reconstituted as a self-governing collectivity in a different way for each kind of problem and its effects—say, for purposes of occupation, defense, control of pollution, schooling children, or regulating public health. Implied in this kind of boundary is a complex form of citizenship, in which individuals have multiple memberships, depending upon the nature and domain of collective

decisions. Such a conception of boundaries generalizes and incorporates the older liberal notion that already prefigured its complexity: the notion that some matters are properly *public*—the business of the relevant people—while others are *private*—there is no relevant "people," because the issues (say, those involving intimacy) are not of a kind that should be collective matters.

If we were to combine these ideas and extract a robust norm of democracy, inclusion would follow from equal regard for the effects of collective decisions on individuals. Boundaries would follow collective effects on individuals rather than territories or individual characteristics. Such a norm would be as follows: *every individual potentially affected by a collective decision should have an equal opportunity to influence the decision proportionally his or her stake in the outcome.* The corollary action norm is that *collective actions should reflect the purposes decided under inclusive processes.* In short, the basic norm of democracy is *empowered inclusion of those affected in collective decisions and actions* (see, e.g., Habermas 1996, 107; Dahl 1998, 37–8; Held 1996, 324; Young 2000, 23).

2 The Normative Logic of the Democratic State

Where does the state fit in to this broad, normative idea of democracy? In answering this question, it is useful to consider the nature of state resources of organization. Max Weber's definition of the state as "a human community that (successfully) claims the *monopoly of the legitimate use of physical force* within a given territory" remains the most satisfying conception we have (Weber 1958, 78). The definition covers the essential elements: states monopolize violence; they attach normative reasons to their organization and deployment of violence; and they are territorial in nature. Importantly, Weber's definition retains Thomas Hobbes' basic insight that a state monopoly over violence is necessary for rendering violence safe and knowable (Hobbes 1982).

Democratic states are no different than others in this respect: they deploy violence through their police powers. All other powers—taxation, administration, establishing political and judicial procedures, economic inducements and management—are parasitic upon their capacities to use violence. What distinguishes democratic states, rather, is that (a) they are *constitutional* and

operate under the *rule of law*. The rules regulating state violence are public rather than secret—knowable by all—and universal rather than arbitrary—that is, binding upon all. And (b) the rules regulating the deployment of violence are legitimated by reasons agreed by the people in accordance with knowable and inclusive political procedures (Habermas 1996). Both elements require a state with the judicial and administrative capacities for even-handed and non-arbitrary enforcement. It was once popular to speak of "totalitarian democracy" as a way of characterizing mass participation in authoritarian and totalitarian regimes from Robespierre's France to Hitler's Germany (Talmon 1955). But the concept is really an oxymoron: "totalitarian" elements of such states undercut the powers of citizens to participate in legislation as well as to judge and revise. Likewise, at least since Madison's notion of a "majority faction" (Hamilton, Jay, and Madison 2000, no. 10) and Tocqueville's (1994) conception of "tyranny of the majority," it has been common to understand democratic procedures in tension with individual rights and liberties. But it makes little sense to attach the adjective "democratic" to any state that fails to use its monopoly over violence to generate and protect the powers of citizenship for all affected by collective decisions. Again, some refer today to *non-liberal* democracies, indicating political systems that hold regular elections but lack basic rights (Freedom House 2000). But insofar as liberalism is connected with the idea of constitutional rule that includes rights and liberties for individuals, it is hard to see how a state could function as a democratic state without these liberal elements. If "democracy" retains any connection to the normative idea of collective self-rule by individuals of equal moral worth, the rights and liberties necessary for citizen powers are inherent in the concept of democracy.

More generally, if citizens are to become agents of political action, democratic states must use their monopoly over violence not only to constrain and regularize its effects, but also to create securities upon which non-violent interactions and institutions can build. Such state capacities are basic: violence, or the threat of it, is an *ultimate* form of power: it "is the facility of last resort in shaping and managing interpersonal relations, for it operates by causing sensations and activating emotions which all sentient beings experience." Likewise, power as violence is *paramount*: it has a functional priority over other forms of power and influence (Poggi 1990, 8–9). Only insofar as violence is monopolized, controlled, and regularized can individuals exercise whatever other powers they possess—in particular, the powers of persuasion, association, and voting that are essential to democracy.

Considering these qualities, what are the proper normative functions of the state with respect to democracy? Notice that I refer to *functions*: as a corporate entity, democrats, following liberals since Locke (1963), do not assign any moral worth to the state itself. Its legitimacy and sovereignty are, according to the democratic idea, derived from the people. A democratic state will, of course, represent the normative values and aspirations of a people. But where these representations and aspirations become identified with the state itself, as a corporate body, the result is fascist rather than democratic, and the state is now positioned, normatively speaking, to claim goods that compete with those experienced by its citizens.

The normative character of a democratic state resides in five other qualities. First, already mentioned, state power "borrows" normative legitimacy from the people, expressed in constitutional designs that actualize the democratic norms of moral equality of individuals and their rights to participate in collective matters that affect them.

Second, states enable legislation that expresses and actualizes normative purposes. Because purposes are often debatable both in principle and in practice, the normative consensus that supports laws should, ideally, be renewed continually through democratic processes (Habermas 1996).

The third normative quality is indirect, but critical to democracy. In deploying its power through boundary-setting, protection, and support, the state is constitutive of citizenship, in this way providing a moral status for individuals that affects not only their rights and entitlements, but also their self-conceptions and sense of agency (Honneth 1996, 108–20). Most basic, of course, are territorial boundaries and residence status. While no democratic state has open residence boundaries, all constitute citizens as the bearers of rights and beneficiaries of protections. In addition, democratic states provide entitlements—usually to education, some amount of economic security, some medical care—which amount to moral recognitions of persons as agents, both of their own lives, and as participants in society and politics.

The fourth normative quality is indirect as well: democratic states protect social relations so they can develop autonomously from the state, and in such a way that society can develop its own distinctive and plural goods (Preuss 1995; Cohen and Arato 1992). Through status-giving and protection, states enable normative relations among and between individuals in ways that are not encompassed within state institutions, but are recognized by democratic states as constitutive of the people from which it takes directions. It is essential to the democratic state that it recognizes and enables a variety of goods while not

encompassing or directly expressing these goods. This is why democracies are associated not only with freedom, but with pluralism as well (Walzer 1983).

Fifth, and following from this logic, because they enforce the boundaries and supports implied in rights and liberties, democratic states enable the *publics* through which norms work as a directive force upon the political system itself. Where states are less than democratic—as most are—publics can and do constitute themselves against the state. Under democratic circumstances, however, states protect publics even as they challenge state policies. A democratic state is protective of normative discourse within society, because this is the source of the people's voice, will, and preferences which, ideally, are transmitted through democratic institutions and transformed into legitimate state power (Habermas 1996).

Added together, it is hard to overestimate the importance of these reciprocal relations between norms and power. Following Hannah Arendt (1970), we might say that the democratic state transforms violence into power, where power is not only the power of command, but also the power of organization that draws on the wills and capabilities of those commanded. Normative legitimacy motivates individuals, not just to acquiesce, but also to orient their wills toward collective projects. As the revolutions of 1989 showed, the apparently hard powers of the state can rapidly melt away when they lack legitimacy. That democratic states are by far and away the most powerful states today can be explained in large part by their capacities to respond to the normative discourse of society while deploying its powers to protect the very possibility of a politically-directive normative discourse.

3 The Institutional Logic of the Democratic State

It is essential to democracy not only that individuals are morally equal, but also that on average individuals are better able to know their own interests, values, and goals than any agent or class who might seek to rule over them as guardians (Dahl 1989). So, while democrats do not assert that individuals are equally competent to participate in collective self-governance, they do view the moral and epistemological claims of individuals to

self-rule as decisive considerations in matters of power distribution. Most of the institutional problems of democracy reside in three problem areas that follow: (a) distributions of decision-making powers; (b) structuring processes of collective judgment; and (c) constituting collective agents of the people.

3.1 Distribution of Powers: Checks and Balances, Rights, and Votes

Democratic theory has traditionally been concerned mostly with the first of these problems: how to distribute and reaggregate the powers of decision-making. And, indeed, these are usually the toughest problems of democratic theory, as famously recognized by Hamilton in *The Federalist*: "in framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself" (Hamilton, Jay, and Madison 2000, no. 51). Since Hamilton's time, the powers of the state have grown dramatically, so much so that bureaucracies generate their own powers, elites, and interests, often in conjunction with powerful social and economic powers, so much so that schools of democratic theory from Michels (1966) through Schumpeter (1972) and Luhmann (1990) have held to the view that, at best, the powers of the state can be checked by the people, but certainly not directed (Bobbio 1987; Sartori 1973). Likewise, the forces of differentiation out of which democratic states have grown have unleashed the powers of markets, and with this created economic power centers and structures outside the state. Democratic states have become beholden to these powers in ways that limit their responsiveness to the people through the democratic resources of voting and talk (Dryzek 1996; Lindblom 2001).

Such powers—bureaucratic, corporatist, and market-based—represent enormous challenges to the project of state democratization, and may suggest that, no matter how dependent democracy is upon state securities, further significant deepening of democracy is likely to lie elsewhere, in the forces of civil society, in quasi-political organizations, in transnational actors, direct action, and other emerging forms (Dryzek 1996; Warren 2002). Nonetheless, owing to the ultimacy of power and the dependence of new forms of democracy upon it, democratic checks upon and distributions of state power remain

central to democracy. Moreover, even if the democratic responsiveness of the state is imperfect, there is much to choose among imperfect forms.

Some kinds of controls are endogenous to the state, such as the principle of separation of powers and the resulting incentives for representatives and other political elites to watch over the powers accumulated by one another. Rights and liberties indirectly serve power distributive functions because they are, in effect, relational empowerments: they imply duties of forbearance of and equal treatment by power holders—the police, government agencies, firms, and other individuals—while also requiring governments to deploy the resources necessary to guarantee forbearance and equal treatment. The democratizing force of rights and liberties is not limited to citizenship. An exceedingly important effect is that the reduction of *social* vulnerabilities—say, between employers and employees or between men and women—tends to equalize power relations in such a way that more collective decisions *within society* are pushed out of the realm of command and into the realm of negotiated resolutions. At the same time, actionable rights reduce the risks of trust, which in turn enables horizontal networks of association (Warren 1999). As Tocqueville (1994) and Dewey (1993) understood, rights and liberties have a democratizing effect upon society itself.

Such indirect distributions of power underwrite direct distributions of voting power, the traditional measure of democratization. Many of the problems of institutionalized democracy have to do with differing ways of configuring the decision-making powers dispersed through the vote, reaggregated through elections, and then lodged within representative institutions (Lijphart 1999). From the perspective of voting power, the key questions have to do with how mechanisms of accountability enforce the representative relationship between elected officials and citizens. The more accountability, the more power resides in the vote. Electoral systems matter greatly here, as they are the principle means citizens have to enforce accountability. Some systems, notably those with single member districts, effectively empower only the votes of winners, and so do a poor job of translating moral equality into political equality. Others, such as proportional representation systems, are better in this respect, as they are more likely to translate the vote into legislative representation. But these are only the most visible of problems: the representative relationship can be disrupted by corruption, complexity, or lack of citizen knowledge and attentiveness. Moreover, nonterritorial and extra-territorial issues such as foreign policy, ecological issues, many trade issues, lifestyle and identity issues, and immigration issues

typically lack formal representation because they exceed the capacities of states (Rehfeld 2005). Other kinds of bodies—global forums and tribunals, transnational and international organizations, global civil society groups, and other entities—may increasingly speak to these deficits, especially when they are designed with democracy in view (Thompson 1999).

3.2 Collective Judgment: Democracy as Media Displacement

Until recently democratic theorists paid little attention to the consequences of power distributions for collective judgment. Although John Stuart Mill (1998) gave some heed, as did John Dewey (1993), for the most part voting and other means of distributing power have been viewed more as protections against state power than as a directive of collective judgment, a matter left to duly-checked political elites (Macpherson 1977). Some more contemporary democratic theories—notably, pluralism and rational choice based theories—view voting and elections as aggregations of preferences; political judgment is, simply, the consequence of aggregation (Dahl 1961; Riker 1988).

In contrast, more recent deliberative democratic theorists have focused directly on collective judgment (Habermas 1996; Gutmann and Thompson 1996; Bohman 1996; Young 2000). While deliberative theories are often understood as alternatives to institutional and power-based theories, their contributions are better understood as complements, building on the notion that democratic distributions of power change the nature of collective judgment, away from decisions taken by elites and then imposed by power or induced by money, and toward deliberation—that is, argument, persuasion, public justification, as well as bargaining and negotiation.

In principle, collectivities can make decisions through three media of organization: coercive power (usually organized by states), money (enabling decisions to be made by markets), or shared cultural norms (usually organized by association) (Parsons 1971; Habermas 1987). Ideally, coercive power is rationalized, organized, and legitimized through the state. Cultural norms are free to work through the associations of civil society. And many matters, especially complex economic ones, are left to markets. Ideally, democratic distributions of power and protection should function to *disenable* the powers that accumulate within each medium *whenever there is conflict over*

collective goals, in this way displacing decisions from the zones of power, money, and culture into talk. So by pluralizing powers, democratic states can induce a shift in the medium through which collective decisions are made—a shift within which resides the secret to their creative potentials. The medium shift does not require full political equality, but rather what some theorists have called "nondomination"—a distribution of rights and protections which make it difficult for the powerful to work their will without appealing to the many who possess, in effect, the powers of obstruction—if not through organized votes, then through publicity, demonstration, court-enabled rights, and even civil disobedience (Walzer 1983; Shapiro 2003). Democracy as *power distribution* and democracy as *collective judgment* are, then, two different but complementary facets of democratic systems.

3.3 Collective Agency

Democratic decisions, once made, require collective agents to execute them. If people are to rule themselves collectively, they require not only political institutions through which to decide, but also collective agents through which to act. The state is not the only kind of collective agent—there are many other forms of collective agency such as associations, firms, families, and networks. But because its powers are ultimate and paramount, the state can do things other kinds of organizations cannot, such as collect taxes, provide public goods, underwrite binding decision-making processes, and control the externalities of non-state activities. For this reason, democratic states must not only have capacities to carry out collectively-decided purposes, but they must also be trustworthy. If people lack capable, trustworthy agents to follow through on collective decisions—no matter how democratic the procedures—democracy itself becomes moot, because it will lack the agencies through which democratic decisions become effective (see, e.g., Pharr and Putnam 2000; Hetherington 2004).

Democratic theories, however, have tended to focus on legislative decision-making rather than executive processes, following the standard institutional divisions between the legislative and executive functions within democratic states. Executing democratic decisions, on the standard view, resides in the domain of (non-democratic) executive agencies, which are accountable to legislative processes, and which hold their powers as a pubic trust.

Such assumptions, however, have been challenged by several developments in the established democracies. The first is long-standing, and was the insight behind the elite theories of democracy traceable to Max Weber (1978, appendix II): executive agencies tend to concentrate power—not just police powers, but also the economic and information-based powers that build upon police powers. The standard response, strong legislative oversight of executive agencies, remains crucial to the integrity of the democratic state. More recent responses, however, seek to empower citizens and the media to engage in oversight, by enacting freedom of information laws, sunshine laws, making information available and usable for citizens, and providing whistleblower protections.

A second, more recent problem is that states have been challenged by the sheer complexity of governance. Critics from Hayek (1964) to Beck (1997) note that because states organize actions through bureaucracies—that is, through rule-based, hierarchical command systems—they are limited in the complexity of their tasks. This is not only because rules tend to be universal and simple, but also because, in their empowered, command form, they leave subordinates vulnerable and dampen the creative capacities of communication as discourse.

These limitations have long been a basis for neoliberal and public choice arguments that as many collective purposes as possible should be left to markets. More recently, however, scholars have noted that there is a third approach to complexity that builds on democracy. Just as states use their powers to enforce rules of political decision-making in elections and legislatures, they can also do so not only in their executive functions (Dryzek 1990, ch. 3), but also in structuring governance outside of government agencies—between stakeholders, for example. And, in fact, some of the most important innovations in democratic theory and practice can now be found in the arena of administration, varyingly referred to as collaborative policy-making, governance networks, reflexive law, and empowered autonomy (Fung 2004; Teubner 1983; Sirianni and Friedland 2001; Hajer and Wagenaar 2003).

A third set of problems follows from the fact that the established democracies have succeeded in part because they *displace* the powers of collective agency into society. Protections create differentiations, and within the differentiated spheres of market and society grow new powers—those of firms and associations. While these developments cause democracies to become wealthy, creative, and vibrant, they also create two circumstances that challenge the democratic functions of the state. The first is that non-state power centers—

particularly those built out of wealth—compromise and often undermine the capacities of the state to manage the economic conditions of democratic citizenship (Lindblom 2001). The second is that the state loses its status as the primary engineer of social futures, and so the focus of democracy—insofar as it is about collective futures—becomes both plural and diffuse (Offe 1996, ch. 1). As a consequence, the democratic state today looks more and more like a locus of negotiation than a locus of responsibility and direction.

4 The Future of the Democratic State?

There has been much talk of the obsolesce of the nation state, overwritten as it is with the forces of global markets, communications, trade and security regimes, new political forms such as the European Union, and issue-based transnational regimes, and challenged by increasing complexity and political congestion (Held 1995). Because the democratic project has been mostly about state-centered democracy, it may seem that democracy too will wane in importance.

Talk of the impending demise of the state, however, is premature, as is talk of diminished democracy. Forms of democracy are changing, often rapidly (Cain, Dalton, and Scarrow 2004). It falls to democratic theorists to identify these transformations and to ask what functions fall to the state, now and in the future, that would support democracy conceived generically, as the kinds of collective self-governance that enable empowered inclusion. Based on the argument so far, here are some possible directions the state–democracy relationship may take.

First, the basic functions of the state in providing security and reducing risks will remain essential to democracy in any form. Although security risks are no longer containable on a territorial basis, territorial control—the most basic defining attribute of the state—remains central to other kinds of security regimes. At the same time, territory-based communal self-understandings are increasingly challenged by migration, mobility, and multiculturalism, as well as by the complex identities of post-materialist citizens. These developments are already undermining welfare entitlements based on communal identities. Democratic states are likely to continue to provide basic welfare supports, but

it is also likely that their legitimacy will draw less on identities with national communities, and more on the universal goods of security and risk reduction. Risk consciousness is likely to congeal with rights language in such a way that citizens will claim the rights of "freedom from" bodily harm, ignorance, hunger, and deprivation, even as the entitlement language of equal treatment erodes (Beck 1997). From the perspective of democracy, rights-based risk reductions still function as empowerments, which in turn underwrite capacities of citizenship.

Second, as individuals increasingly understand themselves as the bearers and beneficiaries of rights, the judicial functions of the state will become more important in defining citizenship. Actionable claims are the basis of individual empowerments, which in turn provide political standing not only with respect to the state, but also within civil society and the economy. But because judicial actions are cumbersome and costly, we should continue to see new and innovative venues and methods of conflict management, such as mediation and arbitration. We can think of these developments as political processes motivated by the availability of judicial redress, but operating below the judicial threshold. More generally, where states have growing capacities and responsibilities to define and enforce rights, we should see a displacement of conflict into new venues with democratic potentials.

Third, the state's capacities for direct global planning and organization will continue to diminish, and with this the notion that a state is an expression of the people's will. That is, it is less likely that states can convert their police powers and administrative capacites into collective action on behalf of collective projects. States may instead increase their attentiveness to processes of conflict resolution, and use their powers to provide standing to parties without imposing solutions, which will then be deliberated and negotiated. As democratic states develop, they will act less like the social engineers of "high modernism" (Scott 1998), and function more as guarantors of procedure, providers of conflict management, and regulators of those social powers that have the capacities to externalize onto others the consequences of their activities (Teubner 1983; Offe 1996; Fung 2004). These developments will produce a "reflexive" form of the democratic state, one which is more process-oriented in nature and which displaces many political functions into civil society.

Finally, it is likely that states will support, oversee, enable, and back-up many new political processes organized around issue complexes rather than territories. Some of these developments will involve state-like structures, as

are evolving in the European Union, while others, such as the World Trade Organization, have an associative, non-territorial, and exclusive structure. Whether or not they are democratic in their origins, however, such organizations are rapidly becoming focal points of political activity in ways that their boundaries of exclusion issues, while bringing into existence new targets and venues of democratization.

Each of these possible developments represents opportunities for democracy that exceed its state-based forms—and surely there are many others. But the potentials depend upon and require the more traditional institutions of state-based democracy, since these generate the capacities upon which new forms of democracy build. New developments should be assessed, however, not on whether their institutional forms look like the familiar, state-based institutions of democracy, but on whether they further the democratic norm of empowered inclusion.

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CHAPTER 22

DEMOCRACY AND CITIZENSHIP: EXPANDING DOMAINS

MICHAEL SAWARD

1 Introduction

Contemporary political theory includes lively debates about the meaning and scope of both democracy and citizenship. To survey and comment on some key recent threads in the arguments, I adopt the frame of "expanding domains" and link the two concepts together, to ask: What impact might different innovations in democratic thinking have on our conception of citizenship? I will explore key ways in which elements of contemporary innovative conceptions of democracy—deliberative, "difference," cosmopolitan, ecological, and others—seek to reconstruct and reconstrue citizens and citizenship (and often disagree with each other in the process, within and

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across these categories of innovation). I shall do this, first, by pinpointing some key ways in which these innovations—openly or implicitly—seek to reconfigure citizenship along three key dimensions, and secondly, by showing how expanding our thinking about a third core political concept—representation—is crucial in efforts to respond to the expanded domains of citizenship and democracy. New ideas about citizenship as they impact on democracy could be taken as the driving force, too—I do not mean to imply that citizenship is always the passive, and democracy the active, concept.

Specifically, I shall ask three questions of the innovative approaches to democracy.

1.1 Where Does Democracy Find or See its Citizens?

It is common, when discussing citizenship, to ask about its "extent," who is included and who excluded.[1] My first question encompasses a concern with extent but seeks to go beyond it. Theorists and others find or locate citizens within states or other territorial communities—broader "arenas" if you like. But they also find or see citizens acting out their citizenship in specific other sorts of locale too, be they physical or functional. Some actions in some places are understood as citizen actions, even defining of citizenly action; differences about what those places and actions are take us to the heart of key debates around democracy and citizenship today. And if "citizens" are to be found in places and actions other than geographical, electoral constituencies, how are citizen interests to be represented?

1.2 How Does it Construct or Construe Them?

Discussions of both democracy and citizenship regularly take as unproblematic the identities of constituents and citizens. However, a key thread in recent theory has been the unstable and uncertain process of construction of identities and subject roles in both democracy and citizenship. Citizens are made not born, and how they are made, what casts are used to mold them in

[1] See Isin and Turner (2002). Their account of the "three fundamental axes of citizenship"—extent, content, and depth—overlaps in various ways with my three questions.

obvious and non-obvious ways, ought not to be overlooked. Hence the construction and construal of citizens, the forging of (and the failure to forge?) citizen identities appropriate to different conceptions of democracy, and the need to expand our thinking about representation into the neglected domain of the depiction, portrayal, and construction of identities.

1.3 What Does it Expect or Demand of Them?

Expectations on democratic citizens depend on how those citizens are understood, in terms of their inclinations, identities, and capacities or competences. Often expectations, or at least hopes, centre around mutual recognition and respect around certain civil, political, and social rights, and the obligations to act in certain ways that come with those rights and their protection. Democratic innovations seek to extend the domains of expectations in some revived, and some imaginatively new, directions, challenging in their wake narrow conceptions of what it means to represent citizens in democracy.

In the chapter's first section I shall ask these three questions of several partial conceptions of democracy—liberal representative, deliberative, difference, cosmopolitan, ecological, direct, and associative. Sometimes these views of citizenship flow explicitly from work within these democratic innovations. I will not cover a set number of innovations under each question, and nor do I wish to suggest that these form coherent, complete bodies of thought (far from it, contestation is great within as well as across the set). At other times, I consider what these innovations might most plausibly say, given other things they say.

2 Democratic Innovations and Citizenship

2.1 Where Does Democracy Find its Citizens?

Growing haphazardly and with multiple national variations out of the American and French revolutions, democracy came to be practiced (and only practic*able*) in a territorial entity with definite borders wrapped around

a people who constituted a nation. The primary democratic mechanism was formal political representation based on elections, in the context of liberal constitutionalism and the rule of law. Democracy, in this conception, found (and finds) its citizens inside those legal and physical borders. Citizens are nationals, members of that nation.

A common, "thin" conception of citizenship might stop the discussion right there. Formal or legal inclusion within, or expulsion from, the nation state defines where citizens are to be "found," and further differentiation is undesirable and unnecessary. According to this view, you are equally a citizen whatever your religion, cultural and ethnic background, "race," class, and so on; these particularities of your identity do not impinge on your citizenship status, which is universal for members.

On this conception, citizenship as basic membership of the nation state carries rights to freedom, redress, and political participation. These rights have often been won through bloody struggle by members of groups excluded partially or fully from citizenship status—working men, then women—in many countries. Such struggle for rights (or some other forms of recognition), or one or other notion of full inclusion or citizenship, continues in varied and contested domains, as we shall see—the struggles sometimes invoke the inner logic of the thin model, and sometimes explicitly oppose it for supposedly inbuilt limitations. How citizenship rights are understood varies from one democratic country to another, of course. Nonetheless, contemporary democratic systems are largely liberal democratic ones, where liberal conceptions of rights and freedoms underpin a broader notion of individuals pursuing their interests or happiness unimpeded.

However, within this universalist liberal conception, there are more specific spaces in which citizens are to be found—or more accurately where citizenly actions are to be seen. In recent decades in countries like the UK and the USA, sponsorship of citizen-consumer approaches has risen in prominence on the back of the systematic introduction of market principles into the organization and delivery of public services. In this respect, one could say that hospitals and schools and other domains where "choice" has been promoted have often come to be *presented as* sites of citizen activity. Arguably, however, the key specific space deriving from the liberal conception is the polling booth—citizens as individuals in paradigmatic moments exercising their rights to pursue their interests by making choices about their rulers in privacy.

Liberal and liberal democratic traditions are not uniform. Nonetheless, they largely buy into this universalist approach to citizenship with few

additional "places" to find or see citizenly acts other than the polling booth (workplaces, the home, and even the streets—apart from a measured amount of peaceful and lawful protest—are by and large not seen as "political" spaces, or at least it is not always desirable that they be treated as such by citizens). But this conception is challenged. In a nutshell, various innovative new democratic approaches press us to ask whether we should recognize citizen actions as valid and even desirable in varied other spaces too: In private as well as in public spaces and activities; outside the borders as well as in them; in the intensity of activity rather than specified activities; or even beyond the boundaries of the category of "people."

Deliberative democrats, for example, wish to add another layer of where citizens are found—namely in *forums*. According to the deliberative idea citizens come together in forums to do those things that are most citizenly, and which are most intensely connected to the heart of democracy—talk, dialogue, reasoning together, becoming informed together, and making decisions that reflect more than narrow self-interest and non-deliberative preferences (Bohman and Rehg 1997; Fishkin 1997; Dryzek 2000). The forum is a place-metaphor for clubs, parties, homes, associations, workplaces, special media locations and events, public demonstrations, and so on, each and all of which expand the domains in which citizens are found, and citizen actions (it is hoped, by advocates) occur. The contrast with the polling-booth-and-little-more liberal conception is drawn (a little too) starkly, but nevertheless the point is clear and accurate enough. A good deal of deliberative thinking is influenced by strands of republican thinking about citizenship and public life; open and equal deliberation over public matters, in public, resonates with republican themes of the virtue of active citizen participation in community affairs (Pettit 2002). Deliberative forums can be of different kinds—from familiar liberal democratic ones like parliaments to unfamiliar ones with democratic potential such as spontaneous local citizen groups and specially designed randomly-selected groups. When and where people deliberate, ideally they exhibit citizenly virtues of participation, tolerance, recognition of others, and so on. The paradigmatic liberal democratic activity of voting does not carry the promise of such virtue-fostering capacity.

"Deliberative democracy" covers a multitude of variants, however. In terms of where citizens are found or seen, consider in particular the quite restricted overall picture that emerges from a broad survey of the range of forums noted in the deliberative democracy literature (Table 22.1).

Table 22.1. A typology of deliberative forums

Deliberative forum	Formal	Informal
Representative	A Parliament and linked institutions such as select committees; deliberative opinion polls linked to referendums or initiatives?	B Deliberative opinion polls which are not state-sponsored; citizens' juries; some "focus groups"
Non-representative	C Supreme or high courts with constitution-interpreting functions; cabinets in appointive systems (e.g. USA)	D Associations (state-sponsored or otherwise); political parties (state-funded or otherwise, especially in multiparty systems); "protected enclaves;" "subaltern counterpublics;" "discursive designs"

From Table 22.1, we can see that most deliberative forums do not involve citizens directly; and that the ones that *do*, generally lack decisional power and broader democratic legitimacy. We might hope that our elected politicians, and judges, will be good citizens. But across the range of forums considered in Table 22.1, it is the informal spaces and groups which can embrace the widest array of citizens and citizenly action. Yet these are relatively marginal in our political systems—not part of conventional representative structures, and therefore lacking in conventional democratic legitimacy, as well as being detached from formal decisional processes. In sum, deliberationists extend the domains of where we might find or see citizens and citizenly acts. They offer a highly varied picture of deliberation's scope and potential, but we can say that often the domains where they see deliberation being promoted and extended are marginal ones, outside or on the edge of formal political structures and involving at best localized claims to representative legitimacy. The extent of the challenge posed to liberal conceptions is varied but overall rather limited. Note, however, that the problem here may lie in a limited conception of "representation," an issue I return to below.

So-called difference democrats have offered critiques of the limited range of forums concerned. Certainly difference democrats like Iris Young (2000) have been keen to promote societies as a single forum or a series of forums in which subordinated voices can speak of their aspirations and experiences alongside dominant groups—and with it a notion of citizenship which

emphasizes radical dialogical engagement and inclusion. We might say that one thread of deliberative thinking in recent democratic theory has been Rawlsian—a limited range of more or less circumscribed forums whose goal is achieving commonality of citizen action and outlook (Rawls 1997)[2]—and another has been radical, stressing the importance of less circumscribed or controlled sites of deliberation and contestation (and these as paradigmatic spaces, or potential spaces, for the enactment of citizenship).[3] Difference democrats do not only stress the public sphere as vital to citizen action; they stress in particular the irreducibly plural character of that sphere, and of the deliberation that may occur between and across different groups with different perspectives (Young 2000). Other influential threads stress the importance of conventional representative legislatures achieving a level of descriptive representation, in line with a "politics of presence" which is not unduly subsumed under a "politics of ideas" (Phillips 1995).

The supposedly neutral "individual" and "citizen" in the standard liberal conception is modeled on the idealized vision of the white male in Western societies and how he has been understood—independent, cultured, possessed of clear interests, and inclined to pursue them (Pateman 1987). From the earlier roots of difference-based critiques in feminist theory, we can pick up further extensions of the sites or domains of democratic citizenship, many of which are based in the critique of the gendered and "disembodied" character of the supposedly universal liberal model (Lister 2002)—for example, according to some feminist critics citizens can be found in the home and the local neighborhood, and in the school and the supermarket, as well as other formal and informal public spaces. Amongst such critics there is disagreement about whether to press for the extension of "citizenship" into caring relationships in the house, for example, or whether this might militate against a strong feminist conception of citizenship that must be based on active public participation (see Deitz 1987; Lister 2002).

Double-edged though they may be, these moves helped conceptions of citizenship to embrace many women, whose traditional roles often rendered them less visible in terms of gendered dominant conceptions of citizenship.

[2] There is much scope to question whether Rawls's later writings add up to a conception of democracy that is deliberative in any substantial sense. See discussions in Dryzek (2000) and Saward (2002).

[3] An elaboration of the circumscribed/uncircumscribed distinction can be found in Saward (2001). See Benhabib (1996) for discussion of varied kinds of deliberative democracy.

This involves a double agenda—first, granting full legal status and access to citizenship rights to women; second, to address issues of substantive gender inequalities by recognizing the domestic and private spheres as sites of citizenship practices (as additional places where citizens are to be "found"). Feminist criticisms of the public–private dichotomy in mainstream liberal (and liberal-democratic) thinking have been important here; a range of civil society sites and institutions outside the state can be regarded as "public" or "private" (Pateman 1987), a fact that occasions contestation over the range of sites that might be regarded as locales of citizenly action.

Without ironing out artificially internal differences, "difference democrats" lead us to the view that democracy can find its citizens deep in civil society and the domestic sphere, as well as in the public sphere of the workplace and politics. Advocates of associative democracy (Hirst 1994) offer a more functional version of this view. Associative democrats would find (active, empowered) citizens interacting in and through groups at local community level. There is less emphasis here on issues of appropriate forms of deliberative discussion, or of gender inequalities, and more emphasis on citizens making genuine choices through local associations. Although the associative view taps more into territorial decentralization of policy and service delivery, it overlaps with concerns with "difference" to the extent that localities for citizen engagement and participation are conceived as plural and differentiated depending on local needs and circumstances.

Deliberative and difference critiques press democrats to see citizens as formal members of the nation state—to be sure—but to go beyond that level to find them in a range of forums, outside the conventional public sphere, outside traditional "male spaces," partly by a radical, pluralizing rethinking of those very spaces and what they can be for citizens. In part this critique shows the elasticity of "citizenship" as a concept—there can be dry and formal and more intensive and less formal sites and spaces where democratic citizens might be found.

The more radical deliberative, "difference," and associative theorists force us to rethink where citizens and citizen actions are to be found. But there remain major boundaries which, by and large, they do not cross—those of nation state and species, respectively. Let us briefly consider these in turn.

Democratic theory, like other realms of political theory, has had basic assumptions challenged by variants of the globalization thesis over the past twenty years or so. There are skeptics and optimists of varied stripes

in these debates. One strand has traced the early development of the idea and potential for "postnational" citizenship (Sassen 2002). Many cosmopolitans are keen to extend citizenship, in some sense, to supranational levels—regional or global or both. If international manufacturing processes and CO_2 emissions, the deeply imbalanced terms of global trade, and the scourges of war and terrorism cannot be contained within or dealt with by single states acting alone, then we need democratic structures at these suprastatal levels. If democracy goes global—which, some argue, it has the potential to do—it could develop in various ways out of the more or less incremental development of supranational and cross-national regulatory regimes and mechanisms. However its development is understood, surely (the argument goes) democratic citizens cannot be rightly regarded as being found just within territorial states. From this perspective, people in other countries can be seen as my fellow citizens; for example, although we live in (or in an increasing minority of cases are caught between) different countries, new overarching political structures could make us common, citizenly, members. That statement rolls together radically different propositions of course—from the state-model-transposition of David Held (1995) to the proposition that democratization requires radical discursive and cross-border action outside all state structures (Dryzek 2000). But at one level such visions unite around the idea that theorists, on the one hand, and we all as citizens on the other, can and should find citizens with whom we share communities of fate which transcend simple territorial borders. Why are not those in distant places who die from weapons that our taxes buy *our* obligation, our citizenly brothers and sisters? I might have citizenly regard for non-compatriots with whom I share (say) an ecological community-of-fate.

Where does or can democracy find its citizens? The answers are increasingly differentiated and contested. But current democratic thinking is challenging and extending the location and type of domain concerned. Traditionally and more formally, liberal democracies (and other systems) find and see citizens within nation-state borders, and within that more often in "public" than in "private," more in the voting booth than the forum. Innovative democratic challengers find them in additional places. Deliberative and difference democrats find citizens in forums, some in varied spaces of civil society and in the traditional private sphere as well as the state; cosmopolitans among others tempt us to find them well beyond our national boundaries too.

2.2 How Does Democracy Construct or Construe its Citizens?

The universal conception of citizenship construes citizen identity, broadly speaking, in certain ways. First, it is seen as disembodied, in the sense that it is one's rational and abstract capacities that count, not ones' body or gender or desires. According to critics, this characteristic commonly leads to the universal conception overlooking the importance of gender and sexual differences (Phillips 1991). Secondly, it sees citizenship and citizens as disembedded, in the sense that citizen identity owes little to particular context (other than a national one in formal terms). Critics allege that this focus can lead to an unwarranted disregard for the importance of cultural context in shaping identity. And thirdly, the focus of the universalistic model in a view of individuals as autonomous and "whole" can lead to our overlooking the importance of group identity to both individual identity and experiences of partial or total exclusion.

Political actors, not least "citizens," do not come to the arena with pregiven and complete identities. Nor do they leave it with newly minted and essential identities. Liberal political theory, notably in the social contract tradition, powerfully suggests and perpetuates a view of individual citizens as in some sense formed prior to and outside of society, rather than bearers of identity that are relational and communal.

A range of critics suggest that we need to see citizenship and identity as more made than given, partial more than whole, changeable rather than fixed. In this domain, for example, post-structuralist approaches to citizenship, such as that of Mouffe, have been influential in recent years. Such approaches suggest that citizen identities, like all identities, are always contingent and subject to change and reconstruction. As Mouffe writes, "the social agent [is] constituted by an ensemble of 'subject positions' that can never be totally fixed in a closed system of differences, constructed by a diversity of discourses among which there is no necessary relation, but rather a constant movement of overdetermination and displacement" (1993, 77).

So deeply entrenched is the idea of self-seeking individualism and rights as the core depiction of the modern citizen that innovative new democratic models and approaches offer partial constructions of citizens and their potentialities which build on rather than provide alternatives to liberal democratic orthodoxy. Many do, however, shift the emphasis with respect to potentialities by shifting from citizens as the recipients of government

decisions that are made in their name, to citizens as the direct makers of decisions—or at least direct participants in the process of their making. As a part of so doing, such writers frame questions about citizen competences and capacities in ways which, for example, stress moral agency of engaged citizenship rather than technical measures of citizen knowledge (see for instance Smiley 1999). Deliberative, direct, and associative democrats variously look to the design of democratic mechanisms through which under-used and under-appreciated decision-making capacities of citizen might be channeled and exploited. So we have referendums and citizens initiatives and recalls and so on with respect to direct democracy; deliberative forums, sometimes for citizen participants and at other times for citizens as enlightened audiences; and radical budgetary decentralization and participative service-delivery through diverse associations for associative democrats (Budge 1996; Smith 2000; Fishkin and Luskin 2000; Hirst 1994). Lying just behind such mechanisms and assumptions is a view of a particular citizen capability to reach beyond one's own narrower interests to recognize and even to encapsulate the interests of a variety of other individuals and groups, including perhaps non-compatriot and even non-species ones. To capture some of these reconstructions and reconstruals of citizen identities in a blunt manner: Deliberative and other democrats see citizens as talkers and reasoners as well as calculators and choosers. Cosmopolitans, in addition to seeing empathetic capacities extended to non-national others, catch a sense of enhanced reasoning capacities, as do, even more radically in some ways, ecological democrats. The citizen here is construed as more than capable of achieving an "enlarged mentality" which enables consideration and empathy with (perhaps radically different) others.

To construe the essence of citizen capacity or character as individualistic and independent, or communal and situated, or moral and empathetic, is to take factual and normative cases about characteristics and to mold, theoretically, an image of what the citizen really is or can be in terms of identity. "Difference" democrats, in a style that works with the grain of the post-structuralist view mentioned above, seek to resist the easy or hasty assertion of common points of identity among compatriots (or other significant groups). Such efforts at "objectivity" run up against the inevitable particularity of our judgments of self and others, and the specificity of issues and problems that polities and citizens need to deal with (Young 2000, 113). Situated, differentiated perspectives are what is brought to public deliberation; "speaking across difference" rather than to put difference aside or

eliminate it, is a primary goal. Citizens may be members of states but they are culturally embedded in more particular ways. They may share outlooks and assumptions but they may also be deluded into over-emphasizing commonalities when class, gender, religious, and other perspectives differ so much and have such implications for empowerment and disempowerment. From this point of view, liberal citizenship—along with deliberative or cosmopolitan or other variants which argue for the essential and common character of specified citizen identities, competences or desires—is in tension with the notion of an irreducible plurality of other identities and identifications, chosen or otherwise. From post-structuralist and "difference" points of view, a more mature and realistic conception of citizenship would be one which allows for, and indeed embraces, the contingencies and multiplicities of identity and identification in complex contemporary societies.

At the most radical end of these debates, we can find assertions of continuity between human and non-human "identities," rather than the more characteristic sharp differentiations. Can citizen identities spill beyond the boundaries of the human? Can, for example, the fox family that lives part-time in my inner suburban back yard consist, in some sense, of my fellow citizens? Are they worthy objects of my regard (and how do they regard me?), do I share a community of fate with them, can the places and spaces they move in and claim be spaces and places of citizen action and regard in some transformed sense? The issues here are ones of boundaries of competence and communicative capacity for citizenship. However, they also hark back to the previous section on where citizens might be found: Animals are territorial inhabitants, but their "territoriality" just works very differently from that of humans (shaped by human action though their actions are), especially in contemporary, highly technological, and urbanized societies where our sense of reliance on and interdependence with our immediate natural surroundings is weak. Can democratic citizens be found in so many more spaces and places—living in forests, in holes in the ground, in the air, in the sea?

Traditionally, democratic theory has bought into view a citizen identity as individual, persistent, and universal. Recent democratic innovations have challenged this emphasis from varied angles. If citizen identities are more elastic and particular, contingent and changeable, then those identities and their boundaries can be reconstructed and reconstrued in ways that many critics would regard as deepening and extending our notions of both democracy and citizenship. The effort to rethink notions of representation are critical here. Arguably, democracy is not about the representation of

given identities and interests; particular political structures and particular political cultures promote particular conceptions of citizenship and citizen identity, and that too is a matter of political representation in the sense of particular depictions or portrayals of citizens. I explore this further below.

2.3 What Does Democracy Expect and Demand of its Citizens?

Where advocates of different views of democracy find or see citizens and citizen actions depends upon how those citizens are construed. How they are construed, likewise, has a major impact on what can be expected of democratic citizens. The main framework for discussions of expectations and demands is normally that of "rights and obligations," and specifically the obligations in terms of citizens respecting the rights of others, and acting with a certain level of independence and public spiritedness (Smiley 1999).

The liberal-representative model of democracy primarily sees citizens' obligations in terms of obeying the law and playing a political role by voting in elections. Beyond that, generally speaking, the liberal citizen can just get on with it—pursuing their interests and their leisure. However, democracy, it seems, in the eyes of many contemporary theorists, does not make sufficient demands on its citizens; or does not have a sufficiently expansive or challenging conception of citizenship which might stretch as well as capture citizens' imaginations. Cosmopolitans, for example, would expand our roles as citizens in a couple of related ways. First, in a more formal and technical sense, they would expand the range of polities within which we exercise familiar democratic roles, especially voting, from the local and national to the regional and global. And secondly—more complexly and more interestingly perhaps—cosmopolitans would have us stretch our imaginations to be public- and other-regarding not only with respect to our compatriots, but also with respect to people in other countries and regions. The first approach would have us paying greater heed to the situations and needs of others by virtue of the fact that we literally become fellow citizens in some sense; the second would do it by asking us to extend citizenly regard and sympathies despite the fact (almost *because* of the fact) that the others in question are not in formal terms fellow citizens. Ecological democrats, too, seek a stretching of our imaginations in ways that add demands and obligations to citizen roles.

Having regard for more than one's own interests is fine; having less self-serving regard for fellow human citizens even better. But being prepared to live within the natural rhythms and confines of place, in other words to live in line with sustainability, constitutes a broader set of expanded citizen obligations.

Direct democrats offer a radical extension of (nevertheless) familiar liberal-representative democracy expectations of citizens. Direct democrats such as Budge (1996) for example would have us voting on issues and not just candidates, and voting more often and more systematically—a bit like a cross between today's Swiss and Californians. Direct democrats need, on one level, simply to note that most people in Western democracies (and a range of others too) are much more educated than a few decades ago, have much more access to politically relevant information, and so on. In other words, citizens can hardly help but be better informed today than (say) thirty or forty years ago. To up the ante a touch in terms of expectations for how many times voting choices will or ought to be exercised does not seem to make an extra demand of kind, just of time and number.

To engage, to be more other-regarding and public-oriented; these are threads which are common to reformist and more radical extensions of citizen expectations and obligations. Difference democrats raise the bar of expectations in a range of ways. First, they stress the need for citizens to recognize (and by recognizing, affirm in some sense) differences and diversity (or conflicting aspects of identity and perspective) *within* individuals, as well as across social and cultural groups with highly divergent outlooks and perspectives in society as a whole. Agreement on policy or aspects of common identity across difference needs to be the result of dialogue that is open to and embraces the strength of diverse perspectives. Some feminist critics of standard notions of citizenship, in particular, have sought to extend our sense of what "counts" as citizen activity across (differently conceived and various) public/private divides, and to take seriously what happens in the domestic sphere—child-rearing and domestic labor for example—as significant collective contributions made by citizens which should be valued and appreciated as part of an extended appreciation of what being a citizen involves (although, as noted above, feminist critics also stress the importance of action in the public sphere to advance feminist concerns).

What are the places of citizenship—where citizens are found? What are citizenly acts? We tend to think of citizenship in both cases as being more about the public side of the equation. But ecologists push citizenship

more into the private sphere in the form of the home, for example, with such issues as the obligation to recycle domestic waste—a public act with public consequences but performed in a private place. Child-rearing in the home might be public-in-private in this sense too. Sexual activity is presumably private in private, but perhaps there is a public dimension even there—or, certain discourses of citizenship might push debates in that direction. And bringing supposedly private acts into the public domain can be a way of highlighting hidden or overlooked inequalities that bear on public regard.[4]

What does democracy expect of its citizens? Enlarged mentality, greater participation, and more other-regarding actions—these are some of the key recent responses from theorists. Of course, on this question there have always been minimalists and maximalists, idealists and "realists" among democratic theorists. Maximalist/idealists will always want better, more selfless, more publicly-oriented citizens. To that extent we are on familiar territory. But the sheer range and style of some of the challenges and pressures are distinctive, as we have seen.

3 Democratic Spaces and Citizen Identities: Rethinking Political Representation

Our responses to each of the three questions above prompts a concern with the notion of representation. The idea of electoral constituencies with a set of interests as the unit that requires representation is challenged by more mixed and differentiated notions of the interests and identities of citizens. In turn, the issue of who can represent, and how they can do it, looms large, challenging the boundaries and assumptions of representation theory. Further, we need to embrace the idea that political representatives construct portrayals or depictions of the represented, in order to be able to represent them. This is an unavoidable part of what it means to represent. We need to reconnect the idea of democratic representation with the practices of constituting citizen identities.

[4] On these and related issues of the public and the private, see Steinberger (1999).

Jane Mansbridge's recent advocacy of a shift in perspective from "singular, aggregatively-oriented, and district-based" criteria for representation, to what she calls "plural, deliberatively-oriented, and systemic criteria" (2003) is highly welcome. It is, however, restricted in that she develops it in the context of electoral representation only. More highly differentiated notions of citizen location, identity, and expectation prompt us to look more closely at the democratic status of non-electoral representation. Consider some of the types of new representative claim. First, a representative claim may be based on the cosmopolitan idea that larger human interests and needs that are vital and need to be represented or voiced, but are too wide to receive sufficient voice in a national political system, need to be given such voice. One might consider for example the rock stars Bob Geldof and Bono and their advocacy of Third World debt relief, famine relief, and poverty alleviation. Second, a representative claim may be based on the fact that an important perspective—often shrouded by thin conceptions of liberal universalism—within a debate is not being heard or even voiced. For example, a representative claim might be based on the idea that one is a surrogate spokesperson for a group that because of its geographical dispersion has no elected representative; or on one's role as speaking for the interests of an oppressed or marginalized group. Third, a representative claim might be based on the notion that one stands for or speaks for a group that has a material or other "stake" in a process or a decision, and therefore has a right to have its interests included in the process. Procedures which incorporate "stakeholders" in deliberative and decisional forums can be quite formal, as was the case for example at the Johannesburg World Summit on Environment and Development in 2002. Potential stakeholders might be new or potential constituencies. A radical vision of such a new constituency might be non-human animals and their interests, for example. Claims to represent or speak for human communities-of-fate which cross national boundaries may be another example (see Dobson 1996; Eckersley 2000).

A new politics of democratic citizenship may demand new modes of evaluating claims to democratic representation. How might democratic theorists evaluate such claims—not wanting to rule them out of court simply because of their non-elective basis? In practice there will be multiple and overlapping criteria, with plenty of room for deliberation over their democratic credentials. To pick on possibilities which are most unusual and newest—thus connecting more to the democratic innovations discussed above—the criteria might include the following:

1. Can a representative claim be acceptable precisely because she is untainted by formal election processes? Electoral pressures, it is sometimes argued, press those subject to them to look to short-term and parochial interests. They also force one to address—rhetorically at least—a wide array of concerns thinly rather than specific concerns in all their richness and complexity.
2. Going one step further, is a claim acceptable precisely because it is untainted by formal membership of a state apparatus? A distinctive version of this criterion is Dryzek's "contest of discourses" approach. In my words rather than his, we could say that electoral processes are linked to the state, and that the state is tied into structural imperatives that prevent it from acting systematically in the interests of its citizens. Dryzek argues that "we can step back and ask whether democracy does indeed require counting heads. I would argue that a logically complete alternative exists based on a conceptualisation of intersubjective communication in the public sphere as a matter of the contestation of discourses" (Dryzek 2000, 84).
3. Is a claim justified precisely because it taps into non-electoral modes of political participation, such as (a) deliberation, (b) through voluntary associations, or (c) dissenting activism? Deliberative forums, whether randomly chosen or part-selected, or within or between voluntary associations, can give rise to compelling claims to represent considered popular opinion. Similarly, people can "do it for themselves" (Bang and Dyrberg 2000), pursuing "individualised collective action" in new and innovative ways and in domains previously not thought of as political (Micheletti 2003). Dissenting activism can be conceived in terms of major social movements that seek to force a system to live up to its own ideals. A key argument here is that democracy is not just about deliberation within established forums. Those forums can become sclerotic and moribund if they are not subject to pressure and renewal through outsider activism and dissent arising from a renewal and expansion of domains of citizen action.

The domains of democracy and citizenship are under pressure to expand, if recent theoretical innovations are to be believed. But such expansion brings with it the need to rethink the basic concept of representation in political theory—in its identity-producing effects, on the one hand, and in the criteria

we might apply to increasingly prominent claims to be representative put forward by unelected actors in varied political spaces.

4 Conclusion

It is clear that the idea of democratic citizenship is being pushed into new, expanded domains. These domains are ones of kind (e.g. crossings of the human/non-human boundary), breadth (e.g. encompassing private spaces and actions as well as classically public ones), and depth (e.g. seeing citizens as more complex characters with more differentiated identities and potentialities). Dominant and new perspectives on democracy give us different ideas as to where citizens are to be found, what to expect of them, and how they ought to be understood. These perspectives press us, in turn, to rethink the scope and meaning of basic concepts, notably that of representation, previously imprisoned within narrow confines that resonate with a thin conception of democratic citizenship that is increasingly under fire.

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PART VI

JUSTICE, EQUALITY, AND FREEDOM

CHAPTER 23

IMPARTIALITY

SUSAN MENDUS

Discussions of impartiality usually center around three questions: first, there is the question of what impartiality is; second, there is the question of what it requires of us; third, there is the question of whether it is either desirable or possible to try to meet those requirements. On the first question, there is widespread, even if not unanimous, agreement that impartiality reflects a commitment to equality. Thus, Thomas Nagel notes: "the requirement of impartiality can take various forms, but it usually involves treating or counting everyone equally in some respect—according them all the same rights, or counting their good or their welfare or some aspect of it the same in determining what would be a desirable result or a permissible course of action" (Nagel 1987, 215). And in similar vein Brian Barry urges that the whole idea of justice as impartiality "rests upon a fundamental commitment to the equality of all human beings. The kind of equality that is appealed to by the French Declaration of the Rights of Man and of the Citizen and by the American Declaration of Independence" (Barry 1995, 8).

However, this initial, and apparently easy, agreement about what impartiality is becomes problematic when we turn to the second question: what does it require of us? Here, differences arise across two dimensions: first, there are disagreements about the scope of impartiality: Is it required of each of us, as individuals, in our ordinary, everyday actions, or is it rather a requirement of the moral and legal rules of society? Second, there are disagreements about

how the commitment to impartiality is to be worked out: Should we, for example, use utilitarian calculation, or should we take what people would agree to as our touchstone? Clearly, if we take the scope of impartiality to extend across individuals in their ordinary lives, then the requirements of impartiality will be very different from what they would be if we were to take impartiality to be primarily a requirement of moral and legal rules. And similarly, if we work out the commitment to equality via straightforward utilitarian calculation we may arrive at different practical conclusions from the ones which would result were we to appeal to what people can, or could reasonably, agree to.

To give an example, utilitarianism is an impartialist theory: classical utilitarians are committed to treating everyone equally, and they claim that the right way to do that is to count each person as one and no one as more than one. However, utilitarianism, particularly in this straightforward form, may dictate that great sacrifices be made by some people in order that overall welfare be increased. It may require that a minority live in servitude, if that is what is needed to maximize welfare. This, however, seems to some to be the wrong kind of argument against slavery, and it is this thought that prompted John Rawls to propose an alternative interpretation of impartiality, one which rests upon agreement rather than maximization of utility. Rawls writes: "while there may be some excuse for slavery in special circumstances, it is never an excuse for it that it is sufficiently advantageous to the slaveholder to outweigh the disadvantages to the slave and to society. ... since slavery does not accord with principles which they [the slaveholder and the slave] could mutually acknowledge, they may each be supposed to agree that it is unjust" (Rawls 1958, 190). In short, impartiality as efficiency is different from impartiality as agreement. So, even if the impartialist commitment to equality is clear, the scope and character of that commitment—the contexts in which it applies and the way in which it is to be worked out—are not.

Third, there is considerable disagreement about whether impartiality (however understood) is a good thing, or even a possible thing. Thus, Bernard Williams has insisted that "somewhere one reaches the necessity that such things as deep attachments to other persons will express themselves in the world in ways which cannot at the same time embody the impartial view, and that they also run the risk of offending against it" (Williams 1981, 18). He draws attention to the fact that the dictates of impartial morality may conflict with personal ties and affections that matter very much to us, and he notes that, when such a conflict occurs, we may wonder why we should

abandon our personal commitments and do the thing that impartial morality would have us do.

Iris Young goes further when she argues that, in politics, the ideal of impartiality is, in fact, an ideology. It purports to treat all equally but, by denying significant differences between people, it in fact "allows the standpoint of the privileged to appear as universal" (Young 1990, 116). Her allegation, to which we will return later, is that political impartiality is merely a form of sectarianism—the means whereby the powerful legitimize what is in fact the illegitimate imposition of their own views on others.

Here, then, are three questions about impartiality: What is it? What does it require of us? And is it desirable, or even possible, to act in accordance with its dictates? In what follows these questions will be addressed under three headings: "Impartiality in Everyday Action;" "Impartiality and Agreement;" and "Higher-level Impartiality." The first aims to show that impartiality is best understood as applying to moral rules and principles, not to everyday actions; the second to show that impartiality is best interpreted as a matter of what people could reasonably agree to; the third to show that, so understood, it can escape the charge of being sectarian or ideological.

1 Impartiality in Everyday Action

As has been noted already, impartiality is widely understood as reflecting a commitment to equality. However, in our ordinary lives we do not always treat others equally, nor do we believe ourselves morally required to do so. On the contrary, we tend to favor our friends and family over strangers, and we often feel that we are morally entitled to do so. Indeed, there are some contexts in which a requirement to treat everyone equally—to show no partiality towards my friends or family—would be positively perverse. Thus, Charles Fried notes that "it would be absurd to insist that if a man could, at no risk or cost to himself, save one of two persons in equal peril, and one of those in peril was, say, his wife, he must treat both equally, perhaps by flipping a coin" (Fried 1970, 227). Thoroughgoing impartiality—impartiality of the kind that requires us to give no greater weight to our spouse than to a

complete stranger—is, it is said, too demanding and, far from being morally required, is, or can be, morally objectionable.

A number of writers have responded to this criticism by agreeing that, if impartiality required us to set aside our personal attachments, then it would indeed be at best over-demanding and at worst absurd (see, for example, Baron 1991; Barry 1995; Deigh 1991). However, they claim that the commitment to impartiality does not require this. Their defence depends on distinguishing between two levels of impartiality: impartiality at the level of ordinary decision-making (level 1 impartiality) and impartiality at the level of principle selection (level 2 impartiality). And the argument is that, while impartiality is indeed important in moral and legal principles, those principles can (and should) be ones that themselves allow room for personal attachments.

Thus, defending the two-level distinction, Brian Barry concedes that: "there would be something crazy about a world in which people acted on an injunction to treat everybody with complete impartiality," but he goes on to insist that what the supporters of impartiality are defending is "impartiality as a test to be applied to the moral and legal rules of a society ... the critics are talking about first-order impartiality—impartiality as a maxim of behaviour in everyday life" (Barry 1995, 194). Moreover, and crucially, level 2 impartiality does not entail level 1 impartiality, so it is possible to support impartiality as a test of the moral and legal rules of society without being committed to impartiality as a requirement of everyday decisions and actions. Indeed, the defenders of impartiality are insistent that any sensible set of moral principles will allow discretion and some will even enjoin partiality: the commandment "honor thy father and thy mother" applies impartially to all children, but it permits (indeed requires) partial behavior with respect to one's own parents. It requires that each and every child honor *his* parents, but not thereby everyone else's parents.

However, even if we agree that impartiality, properly understood, does not extend to all our everyday decisions and actions, it nonetheless sets limits to the extent to which, and the contexts in which, we can favor our friends and family over strangers. As Barry notes: "there is a natural inclination to make special efforts on one's own behalf and on behalf of those whom one cares about. It is the role of rules of justice (including norms of strict impartiality) to set bounds to the working of this inclination, by ruling out actions that injure others and prohibiting such violations of impartiality as nepotism" (Barry 1995, 205). And the bounds are partly set by reference to a distinction

between two spheres of life: in my ordinary, everyday dealings with people, I am entitled to show more concern for my friends than for strangers. However, where I occupy an official position, or have public duties, the requirements of impartiality apply more strictly, and the legitimacy of partiality is restricted—or even denied. Thus, it may be that I am entitled to save my husband rather than a stranger if I am acting simply in a private capacity. If, however, I am duty-captain of the lifeboat, it is much less clear that I can simply, and without explanation, "opt" for my husband.

Considerations of impartiality can also be invoked in the opposite direction, where they serve to remind us that, although our relationships with friends and family are not governed by impartiality, impartial considerations do nonetheless apply, albeit less strictly. Thus, although the relationship between a husband and wife is (we must hope) governed by considerations of love rather than considerations of impartial justice, the requirement to treat one's spouse as an autonomous individual, deserving of equal respect, still holds. Impartiality allows that we may treat our friends more favorably than strangers, but it does not license our treating them less favorably than strangers. They may, in some contexts, be more than equal but they should not be less than equal. These reflections serve to clarify the initial claim that impartiality is grounded in a commitment to equality: while it permits favored treatment for some over others, it draws limits to that favoritism, and the limits are set, in part, by a distinction between private life and official duty; in part by the requirement to acknowledge that all are deserving of respect.

These considerations suggest that impartiality is centrally concerned with the moral and legal rules of society, not with everyday actions by individuals. The impartialist claim is that we should, collectively, adopt principles that give equal consideration to all in the distribution of societal benefits and burdens. In order to avoid absurdity and to secure compliance, those principles must be ones which allow discretion and acknowledge people's natural tendency to favor those who are close to them, but they must also draw limits to the exercise of that natural tendency.

The question now is: How are those limits to be drawn? Different writers give different responses to this question. Some urge that a form of utilitarianism provides the best response; while others favor an appeal to what people could reasonably agree to. Yet others argue that any sensible utilitarian response will be extensionally equivalent to an appeal to reasonable agreement. The next section discusses these different interpretations and traces the

differences between a utilitarian account and an account based on the concept of reasonable agreement.

2 Impartiality as Agreement

In "Contractualism and Utilitarianism," T. M. Scanlon argues that the principles to be adopted in a just society are those that could not reasonably be rejected by people who are moved by a desire to find principles that others, similarly motivated, could also accept (Scanlon 1982: 200). Much has been written about whether the concept of reasonableness invoked here can be fully explicated, but I will not discuss that, as I wish to concentrate on Scanlon's appeal to those who are motivated to agree. In criticism of this requirement, some have asked what is to be said about and to those who have no such motivation, and Scanlon, in response, has recently revised his theory so that it is grounded not in desire, but in reason. He now believes that even those who do not, as a matter of fact, desire agreement have reason to seek agreement with others. Whatever the truth on that point, Scanlon's appeal to agreement is instructive for an understanding of the justification of impartiality and for the specification of why it matters.

To see this, we should turn from "Contractualism and Utilitarianism" to *What We Owe to Each Other*, where he claims that there is a positive value in living with others on terms they could not reasonably reject, and he elaborates this claim with the following example:

> In the 1950s many Americans believed, naively, that their institutions were uniquely justifiable; that America was free of class barriers, and that it was a society in which benefits were fairly earned. They therefore felt that they could enjoy these benefits in the comforting confidence that the institutions through which they had acquired them, though not perfect, were closer than any others to being ones that no one could reasonably object to. The combined blows of the civil rights movement and the movement that arose in reaction to the war in Vietnam shattered those illusions beyond repair. Different people reacted to this in different ways, some by protesting against the war and working for civil rights, others by vehemently denying that the charges of injustice at home and criminality abroad had any foundation. What these reactions had in common was a deep sense of shock and loss; both testify, I believe, to

the value people set on the belief that their lives and institutions are justifiable to others. (Scanlon 1998, 163)

The specific examples offered suggest not only that we have a general desire to justify to others but that, in political contexts, we have a more specific desire to justify to those who do least well in society. Thus, in the case of the civil rights movement, white people have a desire to justify their institutions to black people, and that desire reflects the commitment to equality that is central to impartiality. We need to assure ourselves that the principles governing our society are such that they can be defended even to those who do least well under them. And if we cannot provide such a justification, as was the case in America in the 1960s, we stand accused, in our own eyes, of betraying the ideal of equality on which impartiality rests.

Two points are worth emphasizing here: the first is that the appeal to agreement is intended to provide a guarantee that all are considered equally; the second is that, by appealing to an agreement motive, Scanlon raises the important, but often neglected, question of compliance—of how and why people might be motivated to act on impartial principles, especially when they conflict with more partial concerns. These two features of the agreement account of impartiality make it superior to, but also more demanding than, a utilitarian defense.

To take the first point first, one problem with a utilitarian way of working out the commitment to impartiality is that insofar as utilitarianism is a maximizing doctrine, it threatens to condone arrangements that secure greatest overall benefit but do so at the expense of some individuals. As we have seen, the point applies most starkly to act utilitarianism, but it is not confined to it: to return to the two-level account discussed earlier, even if we suppose that utilitarianism operates at the level of principle selection we must acknowledge that the principles chosen will be chosen because and insofar as they tend to maximize overall benefit. There is, however, no guarantee that those principles will be justifiable to the people who do worst under them, and it is this feature of utilitarianism that prompts John Rawls to reject it because, he says, it "does not take seriously the distinction between persons" (Rawls 1971, 187). It may be that the allegation is misplaced and that some suitably sophisticated version of utilitarianism could avoid it. Whatever the truth on that, however, the crucial point here is that impartiality, understood as reflecting a commitment to equality, calls for principles that can be shown to have taken everyone into consideration. A form of impartiality that is

grounded in utilitarianism risks violating that requirement, since it could turn out that the maximally beneficial principles will be ones that condone the suffering of some by appeal to the greater benefit accruing to others. By contrast, an agreement account can be justified even to those who do least well, since it aims to adopt only those principles that it would be reasonable for all, including the losers, to agree to.

What, then, of compliance? Interestingly, it occurs in the chapter of *What We Owe To Each Other* where Scanlon is defending the priority of impartiality, and this draws our attention to a problem which survives the two-level distinction discussed earlier. The initial problem, to recall, was whether impartiality was too demanding: whether it required that individuals abandon or suppress their natural affection for those close to them. And the claim was that, properly understood, it does not require this. Impartiality, it was noted, is a requirement on principles, not a requirement of everyday life. Nonetheless, and as was also noted, the selection of impartial principles might restrict, or set limits to, people's ability to show greater concern for those close to them. But the question that now arises is, "why should they accept those limits?" Given that the requirements of impartiality might come into conflict with personal ties of affection, why might people be moved to act on the impartial principle rather than from personal affection?

Appeal to the agreement motive offers an answer to this question. In noting the lengths to which people will go to justify their behavior to others, Scanlon is suggesting that morality in general, and impartial principles in particular, are not merely a set of constraints on action imposed by the wider society, but also a very common and strong source of motivation in individuals themselves. Where Barry notes that justice as impartiality sets limits to our entitlement to favor friends over strangers, Scanlon argues that this is not merely an external imposition, but something we ourselves endorse internally. He writes:

> The contractualist ideal of acting in accord with principles that others (similarly motivated) could not reasonably reject is meant to characterize the relation with others the value and appeal of which underlies our reasons to do what morality requires. This relation, much less than personal friendship, might be called a relationship of mutual recognition. Standing in this relation to others is appealing in itself—worth seeking for its own sake. A moral person will refrain from lying to others, cheating, harming, or exploiting them, "because these things are wrong". But for such a person these requirements are not just formal imperatives, they are aspects of the positive value of a way of living with others. (Scanlon 1998, 162)

On this reading, impartiality matters both because it reflects a commitment to the equality of all, and because it supposes that people are motivated, not merely by self-interest, but by impartiality itself. In other words, this understanding of impartiality makes a substantive moral claim (about the value of equality) and a substantive claim about people's motivation (they are not motivated exclusively by self-interest but have, in addition, a motivation to impartial morality). As Scanlon puts it, we see a positive value in living in unity with others, and this suggests that we are (in some part) motivationally impartialist: we have a felt need to act in ways that are defensible to others.

So far, impartiality has been considered as primarily a matter of the moral and legal rules of society and it has been argued that, to be impartial, those rules must be ones that take everyone into consideration in the distribution of benefits and burdens. However, in modern societies, especially multicultural societies, two complications arise: the first is that there can be disagreement as to what counts as a benefit. Is it beneficial to live in a society where extensive free speech is permitted even when some will use that freedom in order to promulgate racist or sexist views? The second, and connected, complication is that the commitment to equality which underpins impartialism is not a commitment that all share. As Jean Hampton notes: "outside the West, social hierarchies and restrictions of freedom are commonplace (and Western societies derided for their commitments to liberty and equality); and even within Western democracies, beliefs that would limit liberty (e.g. within certain forms of fundamentalist religions) or challenge equality (such as racist or sexist views) are far more widespread than many would like to admit" (Hampton 1993, 304).

The very general form of the problem here is that impartiality presents a particular test for principles governing how we should live together. However, not everyone accepts that this is the correct test and, since impartiality in political contexts invokes the coercive power of the state in its support, the question of what justifies impartiality becomes pressing. Thomas Nagel puts the matter this way:

> Not everyone believes that political legitimacy depends on this condition [the impartiality condition], and if we forcibly impose political institutions because they meet it (and block the imposition of institutions that do not), why are we not being just as partial to our own values as someone who imposes a state religion? It has to be explained why this is a form of impartiality at all. (Nagel 1987, 222)

This quotation moves us on, therefore, to the challenge of showing that impartiality is not, as Young claims, an ideology which promises, but never delivers, equal consideration for all.

3 Higher-level Impartiality

At the beginning of this chapter, it was suggested that impartiality might be best understood as a test for the moral and legal rules governing societies. However, the quotation from Nagel suggests that although this may be true, it is also problematic, for impartialists, while acknowledging that their commitment to impartiality is indeed a moral commitment, also invoke the coercive power of the state in support of it. At the same time, however, they deny that the coercive power of the state can legitimately be invoked in support of other moral values, and indeed it is often on impartialist grounds that they deny this. Clearly, there is a danger here that impartialism is, as John Rawls has put it, "just another sectarian creed," except that, whereas others admit to their sectarianism, impartialists are disingenuous about the matter. In order to avoid the charge of disingenuousness, therefore, impartialists must explain why the coercive power of the state can legitimately be invoked in support of their commitment to equality, but not in support of the different and conflicting moral commitments of others. Responding to this challenge, Thomas Nagel has suggested that impartialists need to appeal to a "higher level" of impartiality. He writes:

> if liberalism is to be defended as a higher-order theory rather than just another sectarian doctrine, it must be shown to result from an interpretation of impartiality itself, rather than from a particular conception of the good that is to be made impartially available. Of course any interpretation of impartiality will be morally controversial—it is not a question of rising to a vantage point above all moral disputes—but the controversy will be at a different level. (Nagel 1987, 223)

In other words, the challenge is to show how impartiality can reflect a moral commitment—and a contested one at that—while being something other, and more, than a conception of the good which should properly take its place alongside all other conceptions of the good—an appropriate locus of value for individuals, but not something that can claim the coercive power of the state in its support. In general, of course, impartialists do deny that impartiality is a conception of the good. Barry repeatedly emphasizes that it is not a "guide to the art of living" or a "complete moral vision" (Barry 1995, 77, 192). But what is needed is not simply an assertion that this is so, but an argument to justify the claim that it is so. Failing that, impartialists stand accused of disingenuousness when they invoke the coercive power of the state in their own defense, but deny that same privilege to others.

Famously (or notoriously) Rawls has argued that impartial principles of justice may be the outcome of an "overlapping consensus" among people with very different comprehensive conceptions of the good. He concedes that this is a "speculative" matter, but then goes on to note that "the history of religion and philosophy shows that there are many reasonable ways in which the wider realm of values can be understood so as to be either congruent with, or supportive of, or else not in conflict with, the values appropriate to the special domain of the political as specified by a political conception of justice" (Rawls 1993, 140). The guiding thought here is that impartiality is not itself a conception of the good, but a way of accommodating different conceptions of the good and, Rawls tells us optimistically, history suggests that it will command support from people with a wide variety of comprehensive conceptions.

Many have doubted the possibility of a Rawlsian overlapping consensus and, in particular, have wondered what grounds his belief that there may be convergence on impartial principles of justice, despite persistent divergence about the best way to lead one's life (see, for example, Hurd 1995; Scheffler 1994; Waldron 1999). Moreover, the objection is not merely a matter of setting pessimism against Rawlsian optimism, for the supposition that there might be convergence on principles of justice appears to amount to a denial of the possibility of legitimate *political* disagreements. Here again, the specter of sectarianism stalks, and it is not clear that impartial justice can appropriately be defended simply by assuming away the disagreements that divide people. As Jeremy Waldron has noted: "pluralism of comprehensive religious, philosophical, and moral doctrines is not the only pluralism with which we have to deal in a modern democratic society. We also have to deal with justice-pluralism and disagreement about rights. Maybe political philosophy should be required to come to terms with that circumstance also" (Waldron 1999, 158–9). So, if we take impartiality to be, not a conception of the good itself, but a way of attaining convergence between those who have competing conceptions of the good, we are still left with questions about what grounds there are for the faith that impartial principles will emerge from competing conceptions of the good.

Nagel offers an alternative way of responding to the request for a "higher level" of impartiality when he appeals, not to consensus, but to "an independent *moral* argument that can be offered to those holding widely divergent views" (Nagel 1987, 223; emphasis added). However, in a later work, he goes on to acknowledge that the moral argument has limitations. He writes:

"if someone is willing to commit his own life to a particular conception, and convinced that the alternative is catastrophic, then it may be hard to resist imposing his opinion on others who, understandably but erroneously, fail to accept it ... it may be difficult to subordinate a concern for their good as he sees it to a requirement of Kantian respect, if he is really convinced that Kantian respect will allow them to doom themselves" (Nagel 1991, 168). In the end, then, and for Nagel, it is the moral idea of Kantian respect for others that provides the "higher level" of impartiality. But, in the end, he must concede that this moral idea may not be sufficient to justify forcing people to do things against their will.

For both Rawls and Nagel the "higher level" of impartiality is elusive: what is needed is a way of justifying the use of the coercive power of the state in defense of impartial principles of justice, but the justification must be one that shows impartiality to be more than a contested conception of the good. Nagel's emphasis on impartiality as a moral value makes it vulnerable to charges of closet sectarianism, while Rawls's appeal to overlapping consensus makes his account vulnerable to charges of political *naïveté*. However, the very difficulties inherent in these attempts to discover the higher level of impartiality themselves indicate exactly why impartiality matters. It matters because we must, somehow, find a way of living together despite our conflicting beliefs about the right way to live. It also matters because, in finding that way, we must at least try to go beyond mere modus vivendi.

4 Conclusion

It is widely, if not universally, agreed that impartiality reflects a commitment to equality. What is less easily agreed is what the scope of that commitment is and how it is to be worked out. The previous sections have attempted to argue for an interpretation of impartiality as primarily a requirement on the moral and legal rules of society (not, or not primarily, a requirement on individuals in their everyday actions). Additionally, they have attempted to show that impartiality is best made manifest through the concept of agreement. If we hope that the moral and legal rules of our society will be impartial in the sense that they will show equal concern for everyone, then we can best ensure that by asking what the rules are that everyone could agree to.

However, in modern society especially, agreement will often be difficult to obtain. When that is so, we must find ways of explaining why the coercive power of the state is to be invoked in defense of impartial rules, and we must also say why those rules really are impartial, rather than sectarian. The dilemma here is that, insofar as impartiality reflects a commitment to equality, and insofar as equality is itself a moral concept, impartial rules will not be impartial with respect to absolutely everything. In particular, they will not be impartial with respect to those who deny the moral value of equality. This is neither avoidable nor regrettable. No moral position of any interest can be defended to absolutely everyone, and an impartialist position cannot, and should not, apologise about its own impartiality.

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CHAPTER 24

JUSTICE, LUCK, AND DESERT

SERENA OLSARETTI

What is the relation between justice and luck? Suppose one child is born to caring parents and another to parents who neglect her, or suppose that lightning strikes one man instead of another, walking only a few yards behind him on the pavement. Such differences in luck, or at least society's failure to correct for them, may seem unjust. Other kinds of luck seem different: one person wins big on the blackjack table, while the person beside him loses all his money; someone born with good looks attracts a string of potential lovers, while someone born ugly struggles to find any. What the gambler and the lover walk away with (or without) does not seem so unjust. It appears that some but not all luck is incompatible with justice. Is this so, and what, if anything, could justify the difference between various types of luck and their relevance for justice?

One familiar answer to these questions is given by the principle of desert. On what we can refer to as the "conventional view" of desert-based justice, justice requires giving people what they deserve, and people deserve on the

* This chapter draws on material treated at greater length in S. Olsaretti, *Liberty, Desert and the Market* (Cambridge University Press, 2004). I am grateful to Paul Bou-Habib and Anne Phillips for comments on a previous version.

basis of their achievements or the quality of their performances. For example, justice requires that people be rewarded for the contribution they make to society, or for the outcome of their efforts. On this view, whether luck is incompatible with justice depends on whether it blocks the attribution of the relevant achievement or performance to persons: only luck that blocks such attributions is in tension with justice. By contrast, luck that affects the quality of a person's achievement, but which does not block the attribution of that achievement to that person, is not incompatible with justice. So, for example, if athletic prowess is what grounds the desert of the runner, the lucky athlete who wins a running race thanks to a fluke—suppose his more able competitor is seized by a sudden cramp a few meters away from the finish line—does not deserve to win. Although this lucky athlete has reached the finish line first, the achievement of "being the most able runner" is not attributable to him, and his (putative) deserts are "disrupted" by luck. By contrast, the bad luck of an aspiring top class athlete who puts in mediocre performances because of her lack of talents, does not, on the conventional view, raise any concerns of justice. Since the mediocre achievement of the aspiring athlete is clearly attributable to her, the judgment that she does not deserve to win the race is appropriate. On the conventional view, it might be desirable to neutralize or discount for luck in the first case so as to be able to make the right judgments of desert, but justice does not recommend neutralizing or discounting for luck in the second case.

The conventional view of desert-based justice can be criticized from two opposite fronts. On the one hand, it might be said that desert does not necessarily require any luck neutralization at all; on the other, it might be argued that the conventional view allows for too great, rather than too little, a role for luck. After considering the conventional view a little more fully, this chapter examines each of these two challenges leveled against it, with the aim of ascertaining what the adoption of the principle of desert implies for the relation between justice and luck.[1] A conclusion defended here is that while the conventional view is right in insisting that not all luck is compatible with

[1] Many of the points concerning the impact of luck on desert-based justice are discussed in the context of debates about the problem of *moral luck*, which concerns the way in which factors beyond people's control seem to affect our moral appraisal of those people. For example, a reckless driver who kills a pedestrian is thought be blameworthy for manslaughter, while an equally reckless driver who does not kill anyone is deemed to be guilty only of negligence, despite the fact that the only difference between them is due to luck: in the first but not in the second case a pedestrian happened to be crossing the street while the reckless driver was speeding through a red light. For classic discussions see Williams (1981) and Nagel (1979).

desert-based justice, it is arguably wrong in stopping short of neutralizing some justice-disrupting luck. Before proceeding, it should be clarified that "luck," in what follows, refers to events outside of a person's control which she could not have predicted and could not have avoided, or what has been called "brute luck" (Dworkin 2000, 73); and it should be emphasized that the focus of the discussion that follows is on distributive justice only, which concerns the distribution of the benefits and burdens of social cooperation, as opposed to retributive justice, which concerns the meting out of punishment.

1 The Conventional View

Personal desert is a three-place relation between a person, a good or treatment she is said to deserve, and the grounds in virtue of which that good or treatment is deserved. These grounds—"the desert bases"—must be some feature of the (deserving) person herself, and include, but are not limited to, features that are relevant for assessing a person as a moral agent, that is, as deserving of moral praise and blame. Desert theorists have long discussed the question of what features constitute desert bases, and have often defended different answers to this question (Feinberg 1970; Barry 1965; Sher 1987; Lamont 1994; Sadurski 1985; see also McLeod 1999). The distinctive feature of the conventional view of desert-based justice consists in its claim that we deserve on the basis of our achievements, the outcome of our actions, or the quality of our performances. This contrasts both with the claim that people deserve on the basis of the sheer possession of certain features (such as, for example, their IQ), independently of whether they act in ways which display and put to use those features; and with the claim that people deserve on the basis of the quality of their will or the effort that they make, regardless of the outcome of those efforts or the results of their exercising their will. Defenders of the conventional view include David Miller, whose characterization of desert is the main focus in what follows (Miller 1976, 1989, 1999), Jonathan Riley (1989), and, recently, David Schmidtz (2002).

With its emphasis on performance and achievement as the grounds on which people deserve, the conventional view captures many everyday judgments of desert. Consider claims about people deserving to win races or book

competitions, or of the meritocratic principle that the person who is best qualified to perform the job deserves it, or of the view that people deserve their incomes if these reflect the contributions they make to society by working: in all these cases, the conventional view seems to be invoked. In all these cases, people are said to deserve benefits on the basis of bringing about something that is positively appraised, be this some athletic performance, a literary work, or a productive contribution.[2] This is just what the conventional view states: In order to deserve, people must engage in some activity, the activity must be useful or admirable, and their deserts then vary in accordance with the degree to which they succeed in realizing what is useful or admirable.

Besides being able to capture many everyday judgments of desert, the conventional view may appear attractive insofar as it treats persons as responsible agents, while recognizing that responsible agents necessarily act in circumstances not of their own choosing.

The conventional view treats persons as responsible agents because, by insisting that some performance or action is necessary for desert, it ensures that desert claims always reflect an appraisal of persons as agents, rather than as just bearers of some attributes or as patients. To deserve something, after all, is to claim credit for it, or to earn it; so, in order to deserve something, one must be responsible for it (Miller 1999, 136; Barry 1965, 108). Now, by holding that people must be responsible for the performances that ground their deserts, the conventional view must take a certain stance towards the impact of luck on people's lives, since responsibility seems to require control and "luck" refers to what is beyond people's control. The conventional view holds that where people's performance is disrupted by luck, that performance is not properly theirs, they are not responsible for it, and desert-based justice requires that we neutralize or discount for luck of this kind, as in the case of the winning athlete's good luck of having his more able competitor unexpectedly collapse before the end of the race. Similarly, the achievements of an entrepreneur are less great, and her deserts lessened, if her very lucrative investment is the result of a happy coincidence she did not predict (Miller 1999, 144). The conventional view thus concludes that interventions of luck

[2] The meritocratic principle seems different from other desert claims expressed by the conventional view, in that the performance which grounds the desert claim is the most qualified candidate's *future* performance. For a treatment of this issue and a defense of the desert-based case for meritocracy, see Miller (1999). Schmidtz (2002) has also made a similar argument. For a critique of desert-based justifications of meritocracy, see Daniels (1978) and Cavanagh (2002).

that affect the attribution of an achievement (or lack thereof) to someone, as in the cases we have just mentioned, are problematic from the point of view of desert-based justice. We could call this sort of luck "performance-disrupting luck."[3]

It might be objected to this conclusion that in many cases we will not be able to tell whether someone really deserves what accrues to her as a result of her actions, since we do not know whether and to what extent performance-disrupting luck has affected that result. Unlike with the race example, where the advent of luck is vivid and public, most cases in which luck disrupts desert are difficult, if not impossible, to identify. As a result, we simply do not know whether we should revise our desert judgments in line with counterfactual judgments about what individuals would have achieved in the absence of intervening unforeseen influences. This objection, however, does not undermine the claim that what someone deserves does not depend on luck that disrupts performance. Rather, it only highlights that, on many occasions, we may not be able to make precise desert judgments.

While the conventional view holds that desert requires responsibility, it also insists that, in order to retain the notion of desert, we must recognize that responsible agents necessarily act in circumstances not of their own choosing, and that some background or underlying luck legitimately affects what they deserve (rather than our judgments about what they deserve). The conventional view thus adopts a different stance towards the impact of what we can term "background luck" than it does towards performance-disrupting luck. Background luck affects the conditions in which people undertake their performances (rather than disrupting those performances), and includes both the luck of being born with certain talents and traits—what is referred to as "constitutive luck" (Williams 1981; Nagel 1979)—and the luck of being faced with certain situations or being placed in certain circumstances—what is referred to as "situational or circumstantial luck" (Nagel 1979; Zimmerman 1987; Miller 1999). For example, the bad luck of not having the opportunity, because of unchosen social circumstances, to develop or put to use one's skills and abilities, is a case of background luck.

[3] Miller calls this "integral luck," and contrasts it with "circumstantial luck" (Miller 1999, 143–4). It seems preferable to talk of "performance-disrupting luck" and contrast it to "background luck," respectively, as these terms make clearer that what is crucial, on the conventional view as characterized here, is whether the events beyond a person's control disrupt the attribution of the (desert-grounding) performance to a person.

The conventional view contends that luck of this sort, unlike performance-disrupting luck, does not undermine desert (Miller 1989, 1999; Riley 1989). In support of this claim, it holds that to neutralize not just performance-disrupting luck, but background luck as well, would implausibly force us to abandon desert altogether. This is because the view underlying the commitment to neutralize background as well as performance-disrupting luck is the view that, in order to be responsible for an achievement and hence deserve on its basis, we must have full control over the factors affecting our achievement; but since we can never have full control over all the background factors that affect our achievements, we can never deserve anything. Yet—the argument continues—it is implausible to suggest that the talented athlete no more deserves to win a race than the untalented one, just because her being a better athlete in part depends on her having had the good background luck of being born with great talents. As Miller puts it:

> [C]ircumstantial luck may lead us to qualify our judgements about the deserts of those who are its beneficiaries. But if we want to keep the notion of desert and use it to make practical judgements, we cannot compensate completely for luck of the second kind. ... Circumstantial luck always lies in the background of human performances, and only when it intrudes in a fairly clear and direct way on what different people achieve relative to one another do we allow it to modify our judgements of desert. (Miller 1999, 146)

The conventional view insists that, if we want to retain the principle of desert as a principle of justice, we cannot insist on viewing all luck as a threat to desert. Instead, we must recognize that some forms of luck should ideally be screened out of people's deserts, but that other forms of luck are perfectly compatible with desert and justice.

2 The Laissez-faire View

One challenge to the conventional view's treatment of the relation between justice, luck, and desert comes from those who hold that desert-based justice is compatible with more luck than is allowed by the conventional view. Defenders of this more luck-friendly view of justice insists that people deserve benefits on the basis not just of achievements and performances, but also of

various other features, which features may include the sheer possession of skills and traits (Narveson 1995; Feldman 1995; McLeod 1999; Cupit 1996). Indeed, a defender of this view holds that we may stretch the notion of desert somewhat, and hold that deserving features may include even luckiness itself. If "being blessed by good luck" were a feature that people admire and would like to reward, then it could be said to ground desert as much as athletic prowess, effort, and productivity do (Narveson 1995). Since this view is very permissive about the things that can count as bases of desert, and suggests that people have a claim to whatever rewards their positively appraised characteristics can reap, it can be referred to as "the laissez-faire view."

To make sense of the laissez-faire view, it might help to see it as seizing on one of the claims made by the conventional view itself—namely, that what people deserve depends on what they do *for others*—and taking it to its extreme consequences. Others' appraisal of what we do and are, and their willingness to express that appraisal by giving us rewards, is all that is required for us to deserve those rewards if we display the features that are appraised. Effort, productive activities, and impressive performances are among the things that are positively appraised, and that is why they ground desert; but there are other things that are positively appraised. If faring well at the blackjack table is one of them—if others admire the luck of the blackjack winner—then the lucky one "deserves" to be better off than his unlucky competitor, and any resulting inequality between them is deserved and just. As Jan Narveson states:

> Of the qualities in persons that interest people, some consist outright of capacities to exert effort.... That's a major part of it, certainly. But not all. Just as we admire the sunset..., so we admire human qualities even if they are not ones that can respond to deliberate cultivation. (Narveson 1995, 65)

The laissez-faire view's claim that no luck-neutralization is necessarily implied by a commitment to desert is problematic, however. It might be thought that the problem with this view lies in its misusing the concept of desert, since that concept involves the ascription of responsibility to the deserving person. As was pointed out earlier, many everyday judgments of desert seem to suggest as much. However, there are many other everyday judgments that do not support this claim, as it is perfectly intelligible to say that beauty deserves praise, or that all human beings deserve respect. The problem with the laissez-faire view is in fact better described not as misusing the concept of desert, but as failing to give an account of why desert (as this view understands that notion) should have any relevance for justice.

We may think of this point as follows: while there are many different uses of "desert," only some of these are relevant for justice. In particular, in order to be relevant for justice, desert must have *pre-institutional* and *independent* normative force. That is, it must be a principle that accounts for why people are owed a certain treatment by others, where the fact that they are owed their deserved treatment is what justifies why some institutions should be in place (rather than that fact being determined by the rules and norms of institutions already in place). Furthermore, it must be a principle that expresses a distinctive demand of justice (rather than being wholly reducible to the demands made by other principles of justice). Not all uses of "desert" meet these two criteria. For example, the judgment that the person who has the longest beard deserves to be in the *Guinness Book of Records* is a purely institutional claim: if no *Guinness Book of Records* existed, with its particular rules and norms, there would be no injustice in failing to manifest a positive evaluation of the longest beard. By contrast, the judgment that someone deserves a particular medical treatment, while pre-institutional, is not independent: this claim expresses the demands of the principle of need, rather than some distinctive demand of desert. Institutional desert judgments and desert judgments that express other demands of justice do not tell us what institutions should look like in order to achieve desert-based justice. So, when we ask whether a view of desert-based justice is defensible, we must ask whether the notion of desert it uses is a notion that has pre-institutional and independent normative force, in the senses just outlined.

The answer is negative in the case of the laissez-faire view. For consider: why should the fact that others positively appraise certain features be a sufficient condition for someone who displays that feature to deserve, and be owed, anything at all? If the laissez-faire view suggests that those who display the positively appraised feature are owed a benefit because those who appraise that feature have announced that they will reward it, then the desert claim in question is institutional, akin to the desert in the *Guinness Book of Records*. If, by contrast, the fact that the positively appraised feature is, for example, something that it is fitting to respond to because it is a need, or a right, then the desert claim in question is not independent, as in the medical treatment case. In short: unless some reason is adduced for why those who display certain positively appraised features are *owed* something, the claims of desert identified by the laissez-faire view do not have any normative force; but the reasons the laissez-faire view can adduce in support of the normative force of desert claims do not point to a pre-institutional and

independent principle of desert. It is not then a notion of desert that is relevant for justice. The laissez-faire view's challenge of the claim that desert-based justice requires the elimination of luck is, therefore, unpersuasive.

3 The Fair Opportunity View

The conventional view about desert, luck, and justice may also be challenged from the opposite direction from the one we have just explored: it might be said that it allows for too great a role for luck, rather than too little. In a nutshell, the challenge holds that it is unjust for some people to be better off or worse off than others as a result of factors not within their control; insofar as desert allows for some such inequalities, it should be rejected as inadequate as a principle of justice. Defenders of the challenge just sketched, who include so-called "luck egalitarians," insist that to allow some people to claim more than others on the basis of their performance or achievements gives some unfair advantage over others, because it allows background luck to play a role in how well-off they are.[4] Now, if demanding more luck neutralization than is allowed by the conventional view of desert-based justice is incompatible with desert, then, according to luck egalitarians, this is a reason for rejecting desert, rather than for revising the demand for more luck neutralization.

There has been a sustained and rich discussion concerning egalitarianism's treatment of luck and justice over the last two decades or so, and this covers much more ground than can be explored in what follows. The focus here is only on whether the view that justice requires neutralization of unequal luck, both background and performance-disrupting, is compatible with thinking of desert as a principle of justice. In particular, the question we will address is whether there are good reasons, which are compatible with desert, for demanding that more luck be neutralized than is implied by the conventional view. Is there a version of desert-based justice that accommodates the contention that inequalities that reflect unequal luck, both background and

[4] The label "luck egalitarians" is used broadly here, following Elizabeth Anderson (Anderson 1999), to include all those egalitarians that think that their ideal should be responsibility-sensitive, so that only inequalities which people are not responsible for are unjust. They include Cohen (1989), Dworkin (2000), Arneson (1999), Rakowski (1991), and Temkin (1993).

performance-disrupting, are unjust? The answer, as we will see, is affirmative: on a "fair opportunity view" of desert-based justice, persons justifiably deserve more or less than others only if all had a fair opportunity to deserve more or less than others, or a fair opportunity to be unequally deserving. Unequal choices made against a background in which luck is neutralized can ground unequal deserts that meet this fair opportunity requirement. Let me first sketch the fair opportunity view, and then say something in its support.

The possibility of formulating a view of desert-based justice that requires more luck-neutralization than the conventional view rests on acceptance of two claims, a substantive claim about justice, and a conceptual one about desert.

The first, substantive claim about justice is this: the justice of a distribution of social and economic benefits depends not only on the (supposed) individual desert claims people have in isolation, but also on the background conditions that affect the distribution of the opportunity to deserve. In other words, for deserved inequalities to be just, they must not reflect unfair advantage of some individuals over others; and in order for these inequalities not to reflect unfair advantage of some over others, everyone must have had a fair opportunity to deserve more or less than others. The presence of unequal background luck undermines the fairness of the distribution of opportunities to deserve. If someone ends up worse off than someone else as a result of factors that were outside her control, so that she could not have ended up equally deserving, then there is an unjust inequality. If we accept this first claim about justice, we may then go on to insist that this claim should be captured by the notion of desert that we want to adopt as a principle of justice. A principle of desert that does not register this claim, we might say, is not one that can justify inequalities, much though it may reflect ordinary judgments that are commonly made.

The second claim that underpins the fair opportunity desert-based view follows on from the first claim, and is about the concept of desert. Among the various conceptions of desert that are available, there is indeed one that squares up with the conviction conveyed by the fair opportunity requirement. This is desert on the basis of the choices people make, so that people deserve unequally to the extent that they have made unequal choices against a background in which unequal luck has been neutralized. To deserve, on this view, is to be responsible for what one deserves, and one is responsible for what one deserves relative to others only if her deserving more or less than them is not the result of unequal luck. This conception of desert is not

uncommon, and it is possible to conceive of desert as expressing the demands of choice-sensitive justice (Arneson 1997; Vallentyne 2003). Indeed, some have argued that desert is in general best understood as requiring as much neutralization of luck as possible. Wojciech Sadurski, for example, observes that the idea of desert is "to screen out all those factors that are 'unearned', that are beyond human control, that are dictated by dumb luck, and for which a person cannot claim any credit" (Sadurski 1985, 134). As was suggested earlier, we need not make this claim about desert in general, as there are various conceptions of desert, including some that do not require luck neutralization, and which, however, do seem to involve proper usage of the concept of desert. But what we can say (and all we need to say) is that, in the face of various conceptions of desert, some independent conviction about what justice requires supports the adoption of one conception of desert over others. One such conviction is that inequalities in desert are only justified against a background in which people had a fair opportunity to be unequally deserving; and choice-based desert is the conception of desert that reflects this conviction.

So, the fair opportunity view of desert-based justice holds that, in order to justifiably deserve more or less than others, people must have a fair opportunity to deserve more or less. Their choice-based deserts meet this fair opportunity requirement. In order to realize desert-based justice so conceived, unequal luck should be neutralized. Against a background in which unequal luck is neutralized, if someone ends up worse off than someone else as a result of a choice she made (including a choice to expend less effort), she deserves to be worse off than someone else, so that it is permissible to leave her worse off than that someone else. (Depending on other facts, it may be required as well.) If, by contrast, she were worse off as a result of worse luck, her being worse off reflects an unfair disadvantage, and she would not deserve to be worse off.[5] This, then, is a view of desert-based justice on which more luck than is suggested by the conventional view appears as unjust and warrants redress.

By way of conclusion, we should address an objection that might be raised against the fair opportunity view, which holds that adopting a choice-based notion of desert leads to sabotaging desert. This, recall, is a point raised by the

[5] She may also have a claim of justice, which must be heeded, to being better off than she is. But note that even if we say this, it may not be true that she *deserves* to be as well off as the other person, or that the other person *deserves* to be worse off than she is. A demand of equality, rather than a demand of desert, is what underpins both these claims.

conventional view in defense of its moderate claim of the relation between justice and luck. The objection, however, does not seem fatal.

First of all, insofar as the objection voices a worry about the condition for responsibility being too stringent, so that it is impossible for that condition to ever be met, the objection is misdirected. The objection, that is, seems to point to the fact that requiring the neutralization of background luck is premised on the view that people should have full control over the factors which affect their actions, and then holds that, since no one ever has full control over all the factors on which their actions depend (for one thing, no one has control over being born, which is one such factor), requiring that kind of control undermines the very ideas of responsibility and desert. It is worth noting here that this is how John Rawls's critique of desert has sometimes been interpreted (Rawls 1999, 89; Nozick 1974, 214, 225; Scheffler 1992): Rawls has been taken to suggest that, in order to deserve, people would have to be responsible, and deserve, "all the way down;" but since it is impossible to have this kind of regressive control over the factors affecting one's achievements, no one can ever deserve anything. In fact, as some have pointed out, this interpretation of Rawls is mistaken (Cohen 1989, 914; see also Moriarty 2003). At any rate, the fair opportunity view does not need to hold that this kind of full and regressive control is necessary.[6] Rather, it holds that only inequalities in luck be neutralized, and only insofar as these affect different people's ability to bring about a specified event (such as the event of "earning as much money as Jones"). If both Smith and Jones have the same talent and choose to exercise it to different degrees, thereby producing different performances, the fact that Jones' performance reflects his talent is not a problem from the point of view of justice.

A second claim that might be made in reply to the objection is as follows: if the objection is one about the difficulty in identifying the presence of unequal luck and discounting for it (Rawls 1999, 274; Cohen 1989, 915; Moriarty 2003, 523–4), then, once again, the fair opportunity view can survive this objection. This is because we may go some way toward realizing the demands of choice-based desert by operating on the background conditions against which desert claims arise (rather than discounting for unequal luck once it occurs). Ensuring free and equal high-level primary and secondary education, for example, goes some way towards ensuring that making access to universities

[6] See Zimmerman (1987) for the distinction between full or unrestricted control of this type, and restricted control. See also Susan Hurley's discussion of the "regressive control" requirement of responsibility; Hurley (2003).

conditional upon desert (where desert is assessed by some appropriate entry test, say) is just. Such measures contribute to ensuring that all individuals have a fair opportunity to become deserving. Furthermore, and more importantly, there may be feasible ways of trying to form reliable judgments about choice-based desert (Roemer 1998; Wolff 2003). The fair opportunity view of desert-based justice, then, does provide a defensible alternative to the conventional view. We need not jettison the notion of desert to hold that justice requires the neutralization of unequal luck. If inequalities are to be justly deserved, they must reflect people's different choices, not their unequal luck.

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CHAPTER 25

RECOGNITION AND REDISTRIBUTION

PATCHEN MARKELL

For more than a decade, the concept of recognition has been a prominent part of the landscape of academic political theory. As the term is commonly used, to be recognized means to be seen or regarded—whether directly or through the mediation of social and political institutions—under some practically significant description; that is, under a description that makes a difference in the way its bearer is treated, perhaps even shaping the terms in which she understands herself, and which thereby helps to configure her powers and possibilities. Thus understood, the idea of recognition has served as a point of connection between broad philosophical themes—the relationship between freedom and intersubjectivity; the nature of identity and difference—and the analysis of a wide range of concrete political topics: multiculturalism in higher education (Taylor 1994), official language policy, aboriginal rights, and land claims (Tully 1995), gay and lesbian rights (Bower 1997), religious conflict (Thompson 2002), racism (Gooding-Williams 1998), claims to national self-determination (Patten 2001), interstate conflict in world politics (Ringmar 2002), sexual domination (Benjamin 1988), repar-

ations for historical injustice (Kutz 2004), homelessness (Feldman 2004), and the toleration of dissent (Galeotti 2002), among many others.

Each of these topics has given rise to lively literatures of its own; but they have also had an effect in the aggregate. If the explosion of interest in issues of identity and difference among political theorists in the 1980s and 1990s represented a reaction against the field's preoccupation with distributive justice, as well as against the economism of some kinds of Marxist theory (Young 1990; Laclau and Mouffe 1985), by the mid-1990s some scholars began to worry that the pendulum would swing too far in the other direction, obscuring the persistent and intensifying problem of "material inequality" (Fraser 1995*a*, 68). One aim of this chapter is to introduce the rich debate that has grown up since then over the relationship between "recognition" and "redistribution," or, more broadly, between the problem of identity-based injustice and the problem of economic injustice. Another aim of the chapter, however—and the one I shall pursue first—is to chart the surprisingly diverse range of uses of the term "recognition" in recent political thought. For all its familiarity, and notwithstanding the general definition with which I began, the concept remains deeply, although not always explicitly, contested; and attention to crucial but often neglected differences among approaches to recognition can open new avenues for thinking about its vexed relationship with redistribution.

1 The Uses of "Recognition"

The range of discourses that make use of the concept of recognition is soberingly wide. Even to focus on the two documents usually credited with provoking the recent surge of interest in the idea—Charles Taylor's (1994) "The Politics of Recognition" and Axel Honneth's (1996) *The Struggle for Recognition*, both first published in 1992—is already to confront two quite different works. Taylor's essay was partly an effort to make sense of the political landscape of the time, and partly a transposition of the "liberal-communitarian" debates of the 1980s onto fresh terrain. Taylor proposed that such phenomena as the canon wars in higher education and the Canadian constitutional crisis could be understood as examples of the "politics of recognition," in which people seek to transform the ways in which they are seen and esteemed by others, and so to satisfy the deeply rooted human need

to be recognized as the bearer of a distinctive identity. "Difference-blind" liberalism, he argued, cannot adequately respond to this need, for while it is also an instantiation of the norm of equal recognition, it is an excessively narrow one, which recognizes only those qualities that are taken to be universally shared.[1] In turning to the language of recognition, Taylor echoed other Anglophone political theorists who had employed the term, including Michael Walzer (1983) and especially Isaiah Berlin (1969); yet he also and more explicitly drew the idea of recognition from earlier thinkers, including Herder, Montesquieu, Rousseau, Hegel, and post-Hegelian theorists of the dialogical self such as M. M. Bakhtin and George Herbert Mead.[2]

For Axel Honneth, "recognition" was not primarily a means to grasp such phenomena as the rise of identity politics or new social movements: instead, the concept of recognition served as the basis for a systematic reconstruction of the tradition of critical theory, which would take the lesson of Habermas's linguistic turn—grounding critique in the norms implicit in communication, rather than in the realm of production—while also giving these norms, and thus critical theory's emancipatory aspirations, a more reliable empirical anchor in everyday reactions to injustice. On Honneth's account, injustice is felt in the first instance not as the transgression of an explicit linguistic norm, but as a denial of intersubjective recognition that violently disrupts a subject's relationship to herself, whether through physical abuse (which corresponds to the level of recognition Honneth calls "love"), the refusal of basic moral respect or legal protection ("rights"), or the "denigration of individual or collective ways of life" ("solidarity" or "esteem").[3] This approach to recognition shared some points of reference with Taylor's—most obviously Hegel and Mead, who form the cornerstones of *The Struggle for Recognition.* Unlike Taylor, however, Honneth focused not on Hegel's *Phenomenology* but on his pre-1807 Jena manuscripts—a choice that reflected the influence of Habermas (1974), and which also signaled Honneth's participation in an ongoing conversation among specialists in German idealism about the development of the concept of recognition (*Anerkennung*) in the work of Fichte and the young

[1] On Taylor's essay see the critiques in Taylor (1994) as well as Dumm (1994); Rorty (1994); Connolly (1996); Nicholson (1996); Blum (1998); Gooding-Williams (1998); Sommer (1999); Hanssen (2000); White (2000); Oliver (2001); Benhabib (2002); Cornell and Murphy (2002); Markell (2003); Elshtain (2004); Orlie (2004).

[2] For different approaches to the theme of recognition via Rousseau and Montequieu see Todorov (2001) and Krause (2002), respectively.

[3] Honneth (1996, 134). For critical discussions of Honneth see Foster (1999); Van den Brink (2000); Zurn (2000); Whitebook (2001); Heidegren (2002); Ikäheimo (2002); Kaupinnen (2002); Laitinen (2002); Kompridis (2004); and Owen and Van den Brink (forthcoming).

Hegel (Siep 1979, 1996; Harris 1980; Williams 1992, 1997; Jurist 2000; Pippin 2000). And Honneth's use of Mead, who helped him explain how identity could be socially constituted yet also open to perpetual innovation, paved the way for his increasingly intensive engagement with other strands of psychology, especially the object-relations tradition, in his ongoing effort to identify the sources of human subjects' creativity (Honneth 1996, 1999, 2002; Whitebook 2001).

Influential though these approaches to recognition may be, they do not exhaust the field. Political theorists interested in recognition are increasingly, if belatedly, engaging with the long and distinguished history of Hegelianism in twentieth-century French thought, where the idea of recognition has long played a crucial role, thanks in part to the influence of Alexandre Kojève's lectures on the *Phenomenology* in the 1930s (Kojève 1980; Butler 1987; Roth 1988). This is true not only of Sartre's (1956, 1992) account of the meaning of being-with-others, but also of Simone de Beauvoir's analysis of women's subordination in *The Second Sex* (1989); the psychoanalytic theory of Jacques Lacan (2002); Frantz Fanon's (1967) critical use of Hegel and Lacan to understand the psychological dynamics of colonialism; Louis Althusser's (1971) account of the production of subjects through the "interpellating" address of authoritative institutions; Pierre Bourdieu's (1977, 2000) work on the operation of symbolic power; and—among American philosophers who draw upon this tradition—Judith Butler's (2003) rethinking of recognition in light of her understanding of the subject as necessarily self-opaque.[4] Intersecting with this history, but also extending beyond it, is a rich body of work that critically engages Hegel's account of the master–slave relationship as part of the analysis of modern chattel slavery and racial domination (Fanon 1967; James 1989; Genovese 1974; Davis 1975; Patterson 1982; Gilroy 1993; Willett 1995; Cassuto 1996; Buck-Morss 2000). Recognition is also a continuing theme in the history of feminist interpretations of Hegel, from critiques and rewritings of his philosophical appropriation of Sophocles' *Antigone* to wider explorations of the potential, or lack thereof, of Hegel's thought for feminist politics (Irigaray 1985; Benjamin 1988; Mills 1996; Gauthier 1997; Butler 2000). And, finally, the term "recognition" has also had an active life at a greater distance from Hegel: as a term of art in poetics, for instance, it dates back as far as Aristotle (Cave 1990)—although the idea of tragic *anagnôrisis* is also an important ancestor of Hegel's concept of recognition (Williams 1992; Jurist 2000; Markell 2003).

[4] On Sartre and recognition, see Honneth (1995, 1996); Williams (1997); on Beauvoir, Lundgren-Gothlin (1996); on Fanon, Gordon (1995); Turner (1996); Hanssen (2000); Oliver (2001); and on all three, Kruks (2001).

2 Three Orienting Questions

How are we to make our way through this dense thicket? Rather than attempt to spell out the idiosyncracies of each of these authors' uses of "recognition," I offer a set of three orienting questions that can usefully be brought to the reading of any of them. These questions mark out some of the important dimensions of conceptual space within which different approaches to recognition can be located; or, in some cases, along which a single author's work may be tensely stretched or fractured.

First, *is recognition a discrete good or a general medium of social life?* Political theorists often treat recognition as one among many different objects of human pursuit, possession, and distribution. Sometimes this is an artifact of recognition's rhetorical role as a counterweight to more familiar concepts such as interest or class. At other times it is the result of efforts to integrate the idea of recognition into a theory of distributive justice, either by applying the same liberal principles that govern the apportionment of ordinary tangible goods (Patten 2001); or by insisting that recognition, like other social goods, has its own appropriate sphere of influence and internal principle of distribution (Walzer 1983). By contrast, theorists who approach the concept of recognition as part of a philosophical treatment of intersubjectivity are more likely to deny that recognition is a sharply bounded good, or even a "good" at all, in the sense of an object that can be possessed. Instead, they often regard recognition as a ubiquitous mechanism by which meaningful social relations are constituted, deliberately or otherwise. Such expansive uses of the concept can be found in the tradition of French Hegelianism I have described; among contemporary scholars of Hegel such as Robert Williams, who treats "recognition" as a general structure expressed in an enormous range of particular social practices and institutions (Williams 1992, 1997); and to some extent also in Honneth's reconstruction of recognition as a "unified framework" within which all sorts of moral issues can be encompassed (2003*b*, 113)—although, in what will turn out to be an important equivocation, Honneth also continues to treat "recognition" as something explicitly claimed or demanded.

Second, *how is the concept of recognition related, if at all, to the idea of justice?* Theorists often treat "recognition" as an intrinsically normative

concept: to be recognized means to be treated justly; conversely, an unjust relationship of recognition is in a certain sense not a relationship of recognition at all but a form of misrecognition. Indeed, much of the recent wave of work on the subject has been devoted to answering the further question of how, exactly, to distinguish recognition from misrecognition. For some authors, adequate recognition involves treating others in ways that confirm and affirm their distinctive identities (Taylor 1994) or valuable qualities (Honneth 2002). In response to the objection that the politics of recognition ignores—or, worse, undermines—the malleability of these identities, other authors have moved toward what might be called formal rather than substantive criteria of successful recognition: people are recognized properly when they are included in the ongoing collective activity through which identities are made and remade (Tully 2000, 2001); or when the institutionalized evaluations to which they are subject permit them to participate in social life on terms of "parity," as "full partners in interaction" (Fraser 2003*b*: 36); or when such recognition serves the purpose of overcoming broader "structural inequalities" (Young 2000, 105). Finally, another group of theorists further complicates the association of recognition with justice by suggesting that recognition and misrecognition are tightly connected, not opposed: Lacan, for instance, describes the formation of the ego through imaginary identification as a kind of necessary misrecognition (2002, 294–5); Bourdieu argues that the recognition of a form of social authority as legitimate is always also a misrecognition of its arbitrariness (1977, 164); and I and others have suggested that the desire for the recognition of identity may itself be an important source of dominative or exploitative social relations as well as of justice (Markell 2003; Povinelli 2002; Oliver 2001).

Third, *what is the object of recognition; that is, what does an act of recognition recognize?* Political theorists typically conceive of recognition as directed toward identity, and, in the first instance anyway, toward the identity of another person or group (although such other-directed recognition is also typically understood as part of an exchange through which recognizing subjects also come to identify themselves). Of course, "identity" can itself be understood in a range of ways. For theorists who approach recognition through debates over identity politics, identity often refers to a multidimensional set of affiliations with and differences from others along socially salient axes such

as language, nationality, gender, culture, and race. Others, especially those who approach recognition through Hegel, conceive of "identity" more broadly as individual personhood, a constellation of valuable qualities in virtue of which beings deserve respect from others, and whose forms of expression range from the idiosyncratic to the universal. Thanks to the ambiguity of the word "recognition" itself, however, it often remains unclear whether identity in either of these senses is to be conceived as recognition's object, something given in advance to which an act of recognition responds; or its product, a social relation constituted through exchanges of recognition (Markell 2000, forthcoming; García Düttmann 2000; Laitinen 2002). In response to this ambiguity, and to the deeper tensions in identity-based accounts of recognition that it indicates, I have suggested that recognition can also be understood as directed toward the conditions of one's own action rather than toward an identity, whether another's or one's own: this recasting of recognition as an "acknowledgment" of one's own practical finitude draws on uses of the term "recognition" in Greek tragedy and Aristotelian poetics as well as the work of the American philosopher Stanley Cavell (Cavell 1976; Markell 2003).

3 Fraser on Recognition and Redistribution

Keeping in mind the diversity of approaches to recognition these three questions reveal, we can now take up one of the most important responses to the prominence of this theme in contemporary political thought. In 1995, in response to what she saw as the "eclipse of a socialist imaginary" by the rise of a politics focused on identity and culture, Nancy Fraser published two essays investigating the conflicts that arise between the politics of recognition and the politics of redistribution (Fraser 1995*a*, 69; 1995*b*, 166; both reprinted in 1997*a*). On Fraser's account, the recognition–redistribution dilemma is centered on the problem of "group differentiation." In struggling against cultural injustice, the politics of recognition tends to promote the specificity

of social groups, while the politics of redistribution frequently works to undermine such specificity (for example, by trying to "abolish the gender division of labour"); thus, social groups that have both cultural and political-economic dimensions—such as those defined in terms of gender and race—find themselves caught between the competing imperatives of these two modes of politics (Fraser 1995*a*, 74). Fraser's response to this dilemma was to introduce a cross-cutting distinction between two types of remedy for injustice, whether cultural or political-economic. "Affirmative" remedies—such as mainstream multiculturalism or liberal welfare politics—address unjust outcomes, conferring respect upon misrecognized groups or transferring resources to the underprivileged. "Transformative" remedies, by contrast—such as queer politics or socialism—address the "underlying generative framework" that gives rise to unjust conditions in the first place, destabilizing hierarchies of identity and fundamentally altering relations of production (Fraser 1995*a*, 82). Fraser concluded that the best way to negotiate the recognition–redistribution dilemma would be to pursue transformative solutions in both domains, since these would be least likely to interfere with each other, to reinforce the underlying structures that give rise to injustice, or to generate resentful political backlash.

Fraser's essays provoked immediate and sometimes acrimonious debate. Although even in these early interventions Fraser had been careful to criticize economic as well as cultural reductionism, some of her readers charged that her approach effectively resubordinated the politics of culture and identity to economic concerns. That reaction may not have done justice to Fraser's intentions, but it was not groundless: because her initial description of the recognition–redistribution dilemma assumed that the typical form of recognition politics was affirmative, while the typical form of redistributive politics was transformative, Fraser's concluding endorsement of an across-the-board transformative approach did seem to imply that it was cultural politics, not redistributive politics, that was going to have to change its tune. Her critics also took issue with her placement of various groups on a spectrum from purely cultural to purely economic; objected to her reduction of justice to two and only two dimensions, which seemed to foreclose consideration of the distinctive problem of political exclusion and inclusion; and, perhaps most

importantly, charged that her conceptual distinction between recognition and redistribution, or between culture and political economy, was too rigid.[5]

In response to such concerns, Fraser has revised her approach in several ways. First, if in Fraser's initial essays the distinction between transformative and affirmative remedies was the linchpin of her argument, in her more recent work that distinction has been displaced to the margins of her approach. Now, Fraser integrates recognition and redistribution differently: by treating them as irreducible dimensions of a single, overarching idea of justice, which is expressed in the norm of "parity of participation." That norm "requires social arrangements that permit all (adult) members of society to interact with each other as peers," and it has both "objective" conditions, involving the distribution of wealth and other resources, and "intersubjective" conditions, involving the institutionalized patterns of value that assign (or fail to assign) people the status of peers (Fraser 2003*b*, 36). Second, from the point of view of moral philosophy, Fraser now defends this approach against rival accounts—particularly Honneth's and Taylor's—on the grounds that it makes recognition a matter of the right rather than the good, appealing to universal standards of justice rather than to controversial visions of individual self-realization (Fraser 2003*b*, 27–30). Third, Fraser also connects this two-dimensional norm of participatory parity to the social-theoretic position she calls "perspectival dualism," which aims to account "both for the differentiation of class from status"—that is, of objective economic mechanisms from intersubjective orders of value—"and for the causal interactions between them" (2003*b*, 48), thereby avoiding both economic and cultural reductionism as well as the "night in which all cows are grey" that she attributes to "post-structualist anti-dualism" (2003*b*, 60). Finally, Fraser now allows that there may be a third, distinct dimension of justice and injustice, analytically separable from recognition and redistribution, which concerns the inclusion and exclusion of people from political decision-making—for example, through the "framing" of what are actually transnational political problems in national terms, which unduly confines democratic participation within the boundaries of supposedly sovereign states (Fraser 2003*b*, 67–9, 87–94).

[5] For critical discussions of Fraser see Young (1997); Butler (1997); Phillips (1997, 1999, 2003); Smith (2001); Yar (2001); Honneth (2003*b*); Zurn (2003); Baum (2004); Feldman (2004); for her response to Young see Fraser (1997*c*); to Butler, Fraser (1997*b*); to Honneth, Fraser (2003*a*).

4 Dualism, Anti-dualism, and Beyond

A closer look at one disputed feature of Fraser's account—her insistence on an analytic separation between recognition and redistribution, rooted in an understanding of modern political economy as a differentiated system of social integration—will provide an occasion to return to the three orienting questions about recognition that I posed earlier. As we have seen, Fraser's interlocutors have criticized her distinctions between redistribution and recognition, class and status, culture and political economy—but they have done so in quite different ways. One version of the critique draws attention to the *causal* interconnections between culture and identity on the one hand and political economy on the other. The terms in which people are recognized often have important distributive consequences: the denigration of non-normative sexualities, for example, helps to sustain the maldistribution of resources ranging from health care to police protection (Young 1997, 157). Conversely, access to material resources can help to "sustain" cultural identity (Phillips 1997, 149); and the institutions through which resources are distributed—for instance, bureaucratic welfare states—also shape the identities of those under their jurisdiction (Benhabib 2002).[6] These are vitally important insights, but they do not cut especially deeply against Fraser: as she has pointed out, the analysis of such causal relations does not challenge—indeed, it *requires*—the underlying analytic distinction between recognition and redistribution (Fraser 2003*b*, 63; Phillips 1997).

A second, more radical critique asserts that the relationship between recognition and redistribution is not only causal but also constitutive—that redistributive claims themselves, for example, cannot be grasped without some reference to the notion of recognition, since, as claims of justice, they depend upon "some understanding of the worth of persons" (Yar 2001, 295; Sayer 1999; O'Neill 1999). Thus Majid Yar casts the politics of redistribution as a subspecies of the politics of recognition, because the economic goods with which it is concerned are actually the material embodiments of "shared human evaluations:" we struggle to possess objects that "concretize" others' respect for us, or to distribute objects in ways that confirm our membership in a community of meaning (Yar 2001, 298). Likewise, Honneth argues that the politics of redistribution is at bottom recognitive because it involves

[6] For empirical studies that highlight these interactions see the essays collected in Ray and Sayer (1999); Hobson (2003); and Rao and Walton (2004).

struggles over the meaning and value of different human activities. Modern capitalism, he suggests, replaces the old principle for the distribution of esteem—according to one's membership in an estate—with the new principle of "individual achievement within the structure of the industrially organized division of labor" (Honneth 2003*b*, 140); but because this achievement principle depends upon some background understanding of what counts as valuable work, "distribution struggles under capitalism" typically involve efforts to transform the prevailing interpretation of "achievement"—for instance, in "the feminist struggle to socially valorize 'female' housework" and reproductive labor (Honneth 2003*b*, 154).

Do these more radical critiques constitute a compelling critique of Fraser's "perspectival dualism?" One response Fraser might make—most straightforwardly applicable to Yar's challenge—is that such efforts to resolve redistribution into recognition do not satisfactorily account for the real if incomplete differentiation of modern political economy from more encompassing ethical frameworks: the distinguishing feature of capitalism is "its creation of a quasi-objective, anonymous, impersonal market order," which, while "culturally embedded," is not "directly governed by cultural schemas of evaluation" (Fraser 2003*a*, 214). Honneth, of course, does offer an account of the distinctiveness of capitalism: he reads its development as a differentiation of the field of recognition itself into three dimensions, governed by the distinct principles of love, law, and achievement, rather than as a differentiation of norm-dependent from norm-free modes of social integration (Honneth 2003*a*, 253–6). Here, however, Fraser has a second response available. While some struggles over distribution under capitalism may aim at transforming prevailing interpretations of the achievement principle, this is by no means the *typical* form of redistributive politics: "struggles against neoliberal globalization," for instance, "aim to end systemic maldistribution that is rooted not in ideologies about achievement, but in the system imperatives and governance structures of globalizing capitalism," and which is "no less paradigmatic of contemporary capitalism than the sort fueled by the nonrecognition of women's carework" (Fraser 2003*a*, 215).

Still, I think Honneth and Yar are right to suggest that redistribution—and, more broadly, the operation of political economy—cannot be understood without some reference to the notion of recognition. The question is: "recognition" in what sense? To the first orienting question I suggested earlier—is recognition a discrete good or a general medium of social life?—critics like Honneth and Yar offer an equivocal response: although they treat recognition

as the foundational ethical concept, not as merely one good among many, they nevertheless continue to treat recognition as a *good*, as something sought and demanded by individuals and groups, and which they may at various times lack or possess. And this conception of recognition as a good—perhaps *the* overarching good—fits well with their implicit answer to the second orienting question, about the relationship between recognition and justice: for them, to be recognized *is* to be treated justly. This way of using "recognition" inflects Honneth's and Yar's accounts of the constitutive connection between redistribution and recognition: since they see recognition as a fundamentally normative concept, they locate this constitutive connection at the level of norms, reading struggles over distribution as claims *for* recognition; and this makes them vulnerable to Fraser's rejoinders. But how would the relationship between redistribution and recognition look if we moved even further toward treating recognition as a general medium of social interaction rather than a good, and if we attenuated the conceptual connection between recognition and justice?

The beginning of an answer can be found in Judith Butler's response to Fraser, and in particular in a brief observation near the end of her essay about the place of the distinction between the "material" and the "cultural" in Marxism. This distinction, Butler argues, is not Marxism's taken-for-granted "conceptual foundation." To the contrary, Marx and some of his successors sought precisely "to explain how the cultural and economic themselves became established as separable spheres—indeed, how the institution of the economic as a separate sphere is the consequence of an operation of abstraction initiated by capital itself" (Butler 1997, 274). In her reply to Butler, Fraser identifies this as a "deconstructive" argument whose point is simply to dissolve altogether the distinctions between culture and economy, recognition and redistribution (Fraser 1997*b*, 286; 2003*b*, 60). But there is another way to understand the force of Butler's claim, and Marx's. The point of studying the emergence of the economic as a separate sphere through capitalism's "operation of abstraction" is not to reveal that, after all, there is no difference between culture and economy. Instead, it is to identify a contradiction within capitalist social forms: on the one hand, these forms do involve a separation of the economic from the cultural, and this separation is no mere illusion; on the other hand, the very means by which this separation is produced—such as the emergence of a distinctive mode of valuation that abstracts "exchange-value" from use—also testify to an ongoing continuity of "economic" and "cultural" forms. This is a "perspectival

dualism" of a different kind, which complements Fraser's: if her dualism allows the analyst to examine any social practice now from the standpoint of distribution, now from the standpoint of recognition (Fraser 2003*b*, 63), this dualism lets the analyst acknowledge the reality of the social differentiations that underlie the distinction between recognition and redistribution, while simultaneously understanding those differentiations as symptoms of a deep contradiction within modern social life.

By adopting a different sense of "recognition," then, we may be able to discern connections between recognition and redistribution at a different point than Honneth and Yar suggest: not only in the normative content of redistributive claims, but also and more fundamentally in the ways of seeing, regarding, and evaluating people and things—as bearers of quantitative labor-power, for instance; or as loci of exchange-value—that are constitutive of economic forms. Yet this, in turn, invites one further conceptual shift. Although the approach I have just sketched differs from Honneth's and Yar's in its answers to the first and second orienting questions about recognition, it still presumes a fairly conventional answer to the third question, about recognition's object: on this view, recognition is still a matter of seeing and treating someone or something else under some description: as a laborer or commodity, for example. But the alternative sense of "recognition" as a kind of acknowledgment of one's own condition or circumstances may be apt here too. For Hegel, it is recognition in this sense that really does critical work: his account of the struggle for recognition and the master–slave relationship is, in effect, an account of a subject's contradictory effort to secure certainty of its own independence through the establishment of a hierarchical social form—an effort that ironically testifies to the subject's continued dependence on others while materially insulating him, however imperfectly, from the force of this contradiction (Markell 2003, ch. 4). If the "recognitions" constitutive of capitalism are contradictory in a parallel way, then these recognitions might also be said to amount to misrecognitions in the sense of failures of acknowledgment; and at least some of the systematic inequalities and hierarchies characteristic of contemporary economic life might be understood to be sustained in part by modern subjects' existential investments in the capitalist imaginary.

Yet if this way of conceiving of "recognition" opens new avenues for thinking about its connections to redistribution, it also offers a new way of thinking about the difference between these terms. As I have mentioned, one of the most important changes in Fraser's position has been her increasing concern with a third, "political" dimension of justice. Sometimes, her

characterizations of injustice in this dimension seem to refer to a distinct set of obstacles to participatory parity that are "political" in a narrow sense: "electoral rules that deny voice to quasi-permanent minorities," for instance (Fraser 2003*b*, 68). At other times, however, Fraser seems to have in mind a kind of injustice that is prior to the issue of participatory parity altogether. If the norm of participatory parity tells us that "justice requires social arrangements that permit all (adult) members of society to interact with one another as peers" (Fraser 2003*b*, 36), this nevertheless begs a question: "Who are the subjects among whom parity of participation is required" (Fraser 2003*b*, 88)? Fraser's question reminds us that the application of the norm of participatory parity *always* follows a kind of distributive logic, for that norm aims to ensure that goods—whether material or cultural—are allocated in a way that promotes parity among a group whose membership is known. But just distributions of this kind depend on a prior willingness to acknowledge the networks of relationship and interdependence that make one's own actions relevant to others (and vice versa), even when those networks reach outside what Fraser calls the "frames" that we ordinarily use to map our obligations (Fraser 2003*b*, 87–8). We do not know in advance who the others are to whom this prior sort of justice is owed: that's the point; and it is what distinguishes recognition in the sense of acknowledgment—which is directed in the first instance at oneself and one's own practical finitude—from both redistribution and recognition as those terms are ordinarily understood.

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CHAPTER 26

EQUALITY AND DIFFERENCE

JUDITH SQUIRES

1 Introduction

Is equality "the endangered species of political ideals" (Dworkin 2002, 1)? It certainly seems that a concern with equality of outcome has been eclipsed in the popular imagination by an understanding of equality that focuses on formal equality of opportunity,[1] and that correlative theories of equality that focus on the redistribution of resources have been marginalized by an emergent preoccupation with the importance of cultural recognition and democratic inclusion. Contemporary "equality" policies and theories in the first world therefore tend to focus on issues of cultural and political inequality rather than inequalities in distributional goods. Those who are considered to be "unequal" are increasingly seen to be ethnic minorities, disabled, the

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[1] A recent survey of how people in Britain today think and talk about equality, for example, found that most people expressed skepticism about the idea of equal outcomes and felt more comfortable with the idea of equal opportunities, or protection from discrimination (Howard and Tibballs 2003, 7).

elderly, gays and lesbians, religious minorities, and so on, rather than the poor. A consequence of this shifting understanding of equality is the emergence of a commitment to pursuing and theorizing equality in a way that acknowledges and celebrates differences.

While attempts to address economic inequalities have traditionally focused on distributive issues, seeking to erase the (economic) differences between people as the means of securing their equality, attempts to address cultural and political inequalities usually entail calls that (cultural) differences be recognized and respected, rather than denied or eroded, as a precondition for securing their equality. In other words, the shift in concern from economic to cultural and political inequalities is accompanied by a shift in focus from sameness to difference. Equality now appears, in both policy and theory debates, to require a respect for difference rather than a search for similarities.

Some theorists are concerned that this turn to difference may have served to eclipse, rather than augment, the earlier concern with economic inequalities. Many liberal egalitarians argue that the preoccupation with groups rather than individuals undermines the principle of equal treatment and distracts attention from more pressing economic inequalities (see Barry 2001). Others, more sympathetic to the concern with group inequalities, argue that the narrow focus on cultural inequalities and recognition have nonetheless created an unnecessary split between recognition and redistribution, or between the political and the economic (see Fraser 1995; Phillips 1999). While some have come to view this debate as misguided (Parekh 2004), it has nonetheless inspired theorists to articulate theories of equality that attempt to negotiate difference by engaging economic, cultural, and political concerns.

2 Theorizing Equality

Equality is perhaps best understood as a distinctively modern value, in that "under conditions of modern social citizenship, it is inequality not equality which requires moral justification" (Turner 1986, 18). The key features of this "modern social citizenship" have, following T. H. Marshall, been widely understood to entail civil, political, and social rights. Civil citizenship refers

to equality before the law; political citizenship entails access to parliamentary institutions; and social citizenship requires a guarantee of economic and social well-being.

Debates about equality amongst contemporary political theorists—and liberal egalitarians in particular—have tended, until recently, to focus on social citizenship (implicitly assuming that civil and political equality have been assured, and therefore no longer require scrutiny). Liberal democratic polities are grounded on their commitment to civil and political equality: to equality before the law and the equal right to vote and stand for election for all citizens. The pursuit of social equality has been more fraught and contested, given the empirical existence of extensive inequality of wealth and income in capitalist societies. The tension between the principled liberal-democratic commitment to egalitarian citizenship and the continued material inequality of economic and social well-being has generated a substantial theoretical literature, which attempts to explain and justify the place of social inequality from an egalitarian perspective. This literature might, perhaps rather uncharitably, be viewed as an elaborate attempt to reconcile the demands of citizenship with the need for profitability (Turner 1986, 27). From this perspective, debates about equality amongst liberal political theorists can be understood as attempts to square the commitment to social justice with an acceptance of social inequality. Central to this project have been the notions of meritocracy and equality of opportunity, as distinct from equality of outcome or condition.

It has been suggested that political theorists tend to operate on an "egalitarian plateau," in which everyone accepts that citizens should be treated as equals (see Dworkin 1997, 179–83; Kymlicka 1990, 5). However, there is a profound disagreement as to whether "treating people as equals" requires anything beyond formal civil and political equality. Disagreement about the (il)legitimacy of inequalities of income and wealth from an egalitarian perspective has focused attention on what has come to be called (usually by its critics) a "distributive paradigm," whereby theorists reflect upon which distributions are just.

The first thing of note within this literature is that very few people indeed argue for a distribution of wealth and income that is "equal" in the sense of being the same for all. In the 1930s R. H. Tawney was happy to argue that: "Though an ideal of an equal distribution of material wealth may continue to elude us, it is necessary, nevertheless, to make haste towards it . . ." (Tawney 1931, 291) Dworkin, by contrast, states categorically that no one would now

seriously propose equality of outcome as a political ideal (2002, 2).[2] Perhaps because equalizing outcomes has come to be viewed as a politics of envy that denies choice (see Phillips 2004, 1), the liberal egalitarian literature is characterized, with a very few exceptions, not by a debate between equality of opportunities and outcomes, but on different sorts of equality of opportunity. This debate about varieties of equality of opportunity is framed nicely by Adam Swift's threefold typology of minimal, conventional, and radical (Swift 2001, 99).

2.1 Equality of Opportunity

On a minimal conception of equality of opportunity, "a person's race or gender or religion should not be allowed to affect their chances of being selected for a job, of getting and good education, and so on" (Swift 2001, 99). What matters are their skills and their talents. The conventional conception, on the other hand, holds that in addition to the minimal concern with relevant competences, one should also be concerned to ensure that everyone has an equal chance to acquire the relevant competences, skills, and qualifications. In a society that is characterized by widely divergent levels of wealth, this requirement may entail restricting parents' ability to buy education for their children and redistributing resources to the children of the less well off families to ensure that they receive an education equal to that of children of rich parents. Removing the influence of social background altogether may be a forlorn task, but this approach seeks to limit the constraints on the acquisition of skills for all. In this way, as Swift rightly points out, the distinction between equality of opportunity and equality of outcome looks vulnerable: securing equality of opportunity will require some redistribution of resources in order to compensate some for social disadvantage. By contrast, the radical conception of equality of opportunity challenges the assumption, implicit in the two approaches above, that inequality is perfectly acceptable as long as it is based on talent alone, rather than social or cultural factors. On the radical conception the talented and untalented should be equally entitled to rewards. For, if it is unfair that children who happen to be born to rich parents get superior opportunities (and therefore rewards) to those who happen to be born to poor parents, it is also unfair—advocates of this approach suggest—that children who happen to be born talented get

[2] Although Anne Phillips does precisely this in her article, "Defending Equality of Outcome" (2004).

superior opportunities, and therefore rewards, to those children who happen to be less talented.

The minimal conception of equality of opportunity has been criticized by many liberal egalitarians on the basis that the meritocratic system generated by a commitment to equality of opportunities is widely perceived to be compatible with, and indeed to generate, a society with huge disparities in income and status in which a talented elite dominate while the disadvantaged are deemed to have failed as a result of their own personal deficiencies. John Rawls describes this approach to equality as an "equal chance to leave the less fortunate behind in a personal quest for influence and social position" (Rawls 1972, 108). In its place, he famously proposed a theory of justice which entails a principle of equal basic liberties, and a second principle in which "social and economic inequalities are to be arranged so that they are (a) to the greatest benefit of the least advantaged, and (b) attached to offices and positions open to all under conditions of fair equality of opportunity" (Rawls 1972, 302). In this way the civil, political, and social citizenship rights mapped out by Marshall are bifurcated, with civil and political rights being subject to a criteria of formal equality, and social and economic citizenship being evaluated according to two other criteria: equality of opportunity and the difference principle (which states that social and economic inequality is just only when it helps to improve the situation of the worst-off).

Meanwhile, Ronald Dworkin articulates a radical form of equality of opportunity by recommending that people start with "equal resources" (which may require the state to compensate some people for their "natural" disabilities and lack of talent), and are then allowed to pursue their ambitions within the marketplace (with a laissez-faire state) (Dworkin 2002, 87). The distribution of resources must be allowed to be ambition-sensitive, but not talent-sensitive—because talents are "traceable to genetic luck" and therefore arbitrary with respect to social justice (2002, 108). In other words, Dworkin starts with a presumption of equality, asks what would justify inequality, and suggests that while differential talent would not, differential ambition would.

2.2 Distributive Concerns

The brief survey of debates regarding equality of opportunity suggests that there are significant differences amongst liberal egalitarians. However, there

are also shared assumptions—regarding the importance of individual choice and the role of the market as a mechanism for ensuring fair distributions—which critics of this literature challenge. These critics tend to focus on liberal egalitarians' exclusive preoccupation with the distribution of resources and their failure both to address the causes of structural inequality and to recognize human diversity.

Some critics suggest that Dworkin's account of equality of opportunity has been successful because it incorporates the key concerns of the anti-egalitarian right: choice and responsibility (Armstrong 2003, 415). Here equality becomes a discretionary privilege that one must earn—and whether one does so will depend upon one's "choices." The liberal egalitarian literature assumes that one can distinguish between talent and ambition and be relatively sure which part of an individual's life is the result of each. Armstrong suggests that it therefore focuses attention on the market and resonates with the neoliberal rhetoric of economic competitiveness. Indeed, liberal egalitarians are increasingly likely to advocate the free market as the most appropriate route to egalitarian justice. This means that they maintain a concern with material and financial distributions, rather than distributions of power or status, "thus facilitating the colonization of all fields of human activity by the market" (Armstrong 2003, 421).

Other theorists suggest that egalitarianism cannot be reduced to the distribution of one thing, or to a single value. Jonathan Wolff, for example, argues that there are two ideas central to egalitarianism: fairness and respect. Fairness, he suggests, demands that no one be disadvantaged by arbitrary factors and, as such, "in order to implement genuinely fair policies a great deal of knowledge of individual circumstances is required" (Wolff 1998, 106–7). The gathering of this knowledge—in order to determine whether someone is unemployed because of a lack of talent (a circumstance they face) or because of a lack of ambition (a choice they have made)—will, he suggests, require intrusive questioning, and possibly shameful revelation and humiliation (1998, 113). This puts the pursuit of fairness in potential conflict with the granting of respect. Accordingly, Wolff proposes that both fairness and respect be valued by egalitarians, and more broadly, that "distributive justice should be limited in its application by other egalitarian concerns" (Wolff 1998, 122).

Similarly, Amartya Sen argues that egalitarianism should not be reduced to the distribution of one thing. He criticizes Dworkin's account of the initial equality of resources, and Rawls's account of primary goods, as neglecting the

importance of diversity in that different people will need different amounts and kinds of goods to reach the same levels of well-being. Social diversity means that the conversion of resources into opportunities will vary from person to person: some people will need more than others to achieve the same capabilities. Differences in age, gender, disability, and so on can mean that two people with the same "commodity bundle" will have divergent opportunities regarding quality of life. He suggests, therefore, that human diversity "is no secondary complication (to be ignored, or to be introduced 'later on'); it is a fundamental aspect of our interest in equality" (Sen 1992, xi). In this way, Sen introduces the notion of multiplicity to the distribution process, broadening the focus on equality debates beyond resources to whatever people need to develop their capabilities.

Meanwhile, authors working within the framework of gender justice tend to critique liberal-egalitarian theories of distributive justice as gender-blind and androcentric. For example, many theories of egalitarian justice assume that the concept of justice applies only to the public sphere, taking distributions within the family as given. Feminist political theorists have argued that analyses of social justice that are sensitive to gender need to include the private sphere and consider the gendered division of labour within it (see Bubeck 1995; Okin 1989; Pateman 1987; Phillips 1997). They have also challenged the individualism inherent within much mainstream egalitarian theorizing, which marginalizes the impact of social structures, ignores the significance of social groups, and fails to identify structural inequalities (see Young 2001). From this perspective, the liberal theories of equality have no theory of inequality and so fail to analyse the origins of the forms of inequality that they want to eradicate. Ingrid Robeyns, for example, suggests that Dworkin's liberal egalitarianism is "structurally unable to account for the cultural aspects of gender, race, and other dimensions of human diversity that create unjust inequalities between people" (Robeyns 2003, 541). The pursuit of equal opportunities in the context of human diversity is a complex endeavor.

Feminist theorists argue that, in the context of a patriarchal society, the pursuit of gender equality is constantly entrapped by exaggeration and denial (Rhode 1992, 149). Two distinct strategies have consistently emerged, for example, when considering how employment legislation ought to be drafted in order to deal with the fact that women may require pregnancy leave and benefits. The first approach proposes that pregnancy should be included

within general gender-neutral leave and benefit policies. Such policies would be relevant to any physical condition that renders anyone, male or female, unable to work. The second approach suggests that this does not actually constitute the pursuit of gender-neutrality as it takes male lives as the norm and so disadvantages women (Williams 1984). From this perspective, the problem is not only that policies claiming to be neutral are actually partial, but also that the distinctiveness of women's contribution is not positively recognized. By contrast, some feminists propose a gender-differentiated approach that might positively recognize, and give public confirmation of, the social contribution of childbearing. This entails the recommendation of positive action strategies, based on women's differences from men. Yet, as, Deborah Rhode argues, this strategy reinforces feminine stereotypes rather than feminist principles given that "pregnancy-related policies affect most women workers for relatively brief intervals," while "the absence of broader disability, health, child-rearing and care-taking assistance remains a chronic problem for the vast majority of employees, male and female, throughout their working lives" (Rhode 1992, 154).

This unease with the oscillation between recommending equal treatment and positive action has led to the emergence of a third gender equality strategy: gender mainstreaming. Recognizing that the criteria of equivalence used to establish fairness might themselves be biased, mainstreaming aims to identify "how existing systems and structures cause indirect discrimination and altering or redesigning them as appropriate" (Rees 2002, 46–8). The aim of the mainstreaming strategy is therefore to focus on the structural reproduction of gender inequality and to transform the policy process such that gender bias is eliminated.

Meanwhile, with the political theory literature more generally, the response to the limitations of liberal egalitarianism is to broaden out the account of equality of opportunity such that it engages with cultural and political forces as well as economic ones, and considers structural and institutional barriers as well as individual ones. This refocuses attention back on civil and political rights, highlighting the extent to which these are still to be fully realized for many marginalized groups. It also replaces the liberal egalitarians' apparent dichotomy between the "choices we make" and the "circumstances we face" with a more complex account of the ways in which social institutions, and the decisions others make within them, constitute and constrain the context in which we act.

3 Theorizing Difference

Attempts to move beyond the liberal egalitarian approach to equality within political theory frequently appeal to difference, which signals an assertion of group cultural and political equality. Advocates of a politics of recognition, or difference theorists, insist that liberal egalitarianism has privatized cultural, religious, and other differences, which the state should recognize and take into account in its laws, institutions, practices, and policies. Treating citizens as equals does not entail treating them equally: laws may legitimately grant exemptions to some groups and not to others and public policies may focus on those groups whose cultures are under threat (see Kymlicka 1995). From this perspective a politics of redistribution defines justice too narrowly and fails to focus on the importance of the diversity of ways of thought, of life, tastes, and moral perspectives.

One of the most influential theorists of a politics of recognition is Charles Taylor, who explains that treating people equally will entail distributive concerns but treating them as equals need not, because this entails recognizing what is different and distinctive about them. Treating people as equals will require giving due acknowledgment to each person's identity, and this entails recognition of what is peculiar to each (Taylor 1992, 39). Accordingly, recognizing the unique identity of everyone requires not an identical set of rights for all, but public acknowledgment of the particular worth of each. The argument that each individual's unique identity ought to be recognized in order to grant that person dignity, frequently slips into a correlative—but distinct—claim that *group* identities require recognition. These two claims are linked by the assumption that the expression of one's unique identity will take the form of a group identity—that groups portray an authentic expression of one's individuality (Benhabib 2002, 53).

This second assertion of the importance of group difference challenges the individualism of liberal egalitarianism, emphasizing instead the culturally embedded nature of people. Whilst liberal egalitarians do, of course, acknowledge that individuals differ culturally and religiously, they tend to view these differences as contingent and politically non-pertinent. From the perspective of a politics of recognition, this move is suspect: far from abstracting from differences, liberal polities and policies have more frequently institutionalized the values and norms of the dominant culture. Difference theorists therefore suggest that, rather than denying the significance of these cultural norms, the

state should acknowledge the diversity of cultures within the polity, grant laws that exempt some groups from laws and not others, create political institutions that give special group representation rights to marginalized groups, and modify cultural symbols in recognition of the presence of diverse groups.

Even some theorists working within the distributive paradigm have come to acknowledge the importance of cultural recognition to the pursuit of equality. Will Kymlicka, for example, argues that genuine equality requires group-specific rights for ethnic and national minorities. Accordingly, he endorses the ruling of the Canadian Supreme Court that: "the accommodation of differences is the essence of true equality" (*Andrews* v. *Law Society of British Columbia* 1 SCR 143; 56 D:R (4th) 1). Arguing against those who suggest that equality requires equal rights for each individual regardless of race or ethnicity, he suggests that some minority claims may eliminate inequalities and are therefore just. This argument for group rights invokes a distributional perspective in that group-differentiated rights—such as territorial autonomy, veto powers, guaranteed representation in central institutions, land claims, and language rights—are argued to help rectify disadvantages associated with being outvoted by the majority group. These demands for increased powers or resources are necessary to ensure the same opportunity to live and work in one's culture (Kymlicka 1995, 110). This argument for group-differentiated land rights is based on a theory of distributive justice in that the claims are based on what groups need now to sustain themselves as distinct societies. This distinguishes Kymlicka's defense of group rights from others, which are critical of the distributive paradigm.

Cultural recognition is therefore introduced onto the egalitarian agenda, eclipsing the primary status previously given to issues of redistribution. In this way the shift in concern from economic to cultural inequalities is accompanied by a shift in focus from sameness to difference. Equality now appears to require a respect for difference rather than a search for similarities. It also tends to focus on the importance of equality between groups rather than between individuals, incorporating analyses of the systems and structures that constitute and perpetuate the inequalities under consideration in the first place. Advocates and theorists of equality who focus their attention on oppression rarely claim that maldistribution is unimportant, but they do introduce other pressing concerns, which some critics now argue diverts attention away from this agenda.

3.1 Concerns about Recognition

While this move to theorize equality as entailing the recognition of difference has been extremely influential in recent years, there are critics of this trend. Two concerns have emerged as particularly pressing: the first focuses on the degree to which the tendency to privilege groups leads to fragmentation of the wider polity; the second focuses on the extent to which the preoccupation with cultural recognition and political inclusion results in the marginalization of issues of economic distribution. These concerns might be thought of as the problems of reification and displacement respectively (see Fraser 2000).

In relation to the first of these, many liberal egalitarians have argued that the politics of recognition formalizes and freezes identities that are actually subject to constant change and thereby undermines solidarity across groups. As one critic notes, a "focus on affirming identity produces debilitating political fragmentation, diverts attention from widening material inequality, and leads to a fetishism of identity groups, reinforcing the tendency of such groups to become exclusionary to outsiders and coercive to insiders" (Kiss 1999, 194). Others have argued that the "retribalization" inherent in group-specific claims erodes a sense of public-spiritedness (Elshtain 1995, 74) and endangers national identity (Miller 1995, 132). Given the controversial status of groups, and group rights, within the equality/difference debates, it is worth focusing on the place of groups in the various articulations of a politics of recognition and difference, and noting that the move from making the "ontological" claim regarding the importance of recognition to the dialogical self, to the "advocacy" claim regarding the importance of group rights to a just society, is highly contested.

Benhabib, for instance, argues that it is "theoretically wrong and politically dangerous" to assume that the individual's search for authentic selfhood should be subordinated to the struggles of groups (2002, 53). This is an interesting challenge, because unlike many of the critics of group rights, Benhabib embraces certain aspects of a politics of difference. She challenges the view of the moral self as a disembedded and disembodied being and rejects universalistic moral theories that are restricted to the standpoint of the "generalized other" (Benhabib 1992, 159). She also suggests that the abstraction inherent in this mode of theorizing leads to the denial of difference. Yet she nonetheless claims that Taylor makes an "illicit move" from the right of the individual to pursue an authentic form of life, to the claim that groups pursuing a politics of difference would accommodate the realization of such

individual authenticity (2002, 65). For Benhabib, the conception of groups entailed within the latter claim is too unitary to be sensitive to the contradictions and antagonisms within as well as between groups.

Anxieties about "the problem of reification" (Fraser 2000, 108) have led advocates of a politics of difference to argue that groups can best be viewed in relational rather than substantial terms. Groups should be conceptualized "not as substances or things or entities or organisms or collective individuals—as the imagery of discrete, concrete, tangible, bounded, and enduring 'groups' encourages us to do—but rather in relational, processual, dynamic, eventful, and disaggregated terms" (Brubaker 2004, 53). In this way they hope to "retain a description of social group differentiation, but without fixing or reifying groups" (Young 2000, 89–90). The question remains, however, how this reconceptualization of "groups" impacts on the actual political strategies advocated in the name of these groups. Barry, for instance, maintains that—notwithstanding this relational notion of social groups—Young continues to assume that the possession of a distinctive culture is what defines somebody as a member of a group. In so doing, she misdiagnoses the problem and therefore develops inappropriate cures.

Indeed, Barry suggests in his "egalitarian critique of multiculturalism," that the proposed group-based cures are not only inappropriate, but also counterproductive, in that they erode the basis for solidarity necessary for a politics of redistribution (Barry 2001, 325–6). All policies aimed at achieving group recognition can actually achieve, he suggests, is "a minor reshuffling of the characteristics of the individuals occupying different locations in an unchanged structure that creates grossly unequal incomes and opportunities" (2001, 326). He argues that the politics of difference is mistaken in its assertion that equality requires recognition of citizens' identity-related differences (2001, 305–17), and argues that the problems addressed by difference theorists can all ultimately be reduced to problems of formal economic inequality (2001, 319). Accordingly, traditional liberal legal policies can address the problem. Moreover, the preoccupation with difference undermines the solidarity necessary for the politics of redistribution (2001, 325).

This last claim links the two broad critiques of the politics of difference: the problem of reification and the problem of displacement. The former, which relates to the inappropriate preoccupation with groups, is argued to contribute to the latter, which relates to the declining concern with economic inequality, both theoretically and practically. In this way, liberal egalitarians argue that the emergence of a politics of difference not only diverts theoretical

attention from issues of redistribution to those of recognition, but also informs diverse policy initiatives that further erode the conditions required to pursue a redistributive politics. For the claim implicit in a politics of recognition, that groups have differences that require state recognition, shifts attention away from the structures that create inequalities and on to the characteristics of the "claimant." One of the limitations of focusing on group rights therefore lies in the fact that depicting the problem of inequality as a problem relating to the group as an entity serves to obfuscate the problem of inequality as a problem of systematic structures of oppression and domination. In other words, the reification of group identities contributes to the displacement of struggles to address economic inequality.

Whilst more sympathetic to the concerns of difference theorists, Anne Phillips also interrogates the "parting of the ways between political and economic concerns" (1999, 1) in *Which Equalities Matter?* Her argument, that there has been a shift of attention from the class inequalities that undermine democracy to the gender, racial, or cultural hierarchies that subvert equal citizenship (1999, 14), grapples with the "problem of displacement." She notes that this shift has resulted in a polarization between economic and political approaches to inequalities, with political approaches appearing to jettison concern with economic issues altogether (Phillips 1999, 15). Similarly, Nancy Fraser argues that the preoccupation with cultural domination works to marginalize concerns about economic injustices (1995). Accordingly, she proposes a theoretical framework that addresses both the political economy and culture, and considers both redistribution and recognition as appropriate responses to inequality, but ones that stand in tension to one another: the affirmative politics of recognition conflicts with the transformative politics of redistribution in that the former affirms group identity whilst the latter aims to eliminate the group as a group (Fraser 2000).

The lengthy debate about recognition and redistribution (see Markell in this volume) signals the extent to which concerns about both maldistribution and cultural oppression now frame attempts to theorize equality. Yet the binary construction of this debate has perhaps obfuscated the importance of domination in relation to theorizing equality. The neat dichotomy between recognition and redistribution appears to allow no place for specifically political issues, pertaining to political participation and citizenship. It pits economic maldistribution against cultural oppression and thereby allows no conceptual space for considerations of democratic inclusion.

4 Diversity and Democratic Inclusion

While "equality theorists" have focused on economic maldistribution, and "difference theorists" have focused on cultural oppression, those who focus on political domination might usefully be termed "diversity theorists." Critical of the economic individualism of liberal egalitarians, and concerned about the essentialism of recognition theorists, diversity theorists focus both on equality of political participation, and on the process by which the meaning of equality is itself determined.

Diversity theorists, attempting to negotiate a way beyond the apparent tensions of equality as redistribution or as recognition, invoke the importance of political voice and democratic inclusion. Bhikhu Parekh, for instance, suggests that redistribution requires principles to decide who is entitled to make what claims, and these principles "can only be arrived at by means of a democratic dialogue, which generates them, tests their validity, and gives them legitimacy" (Parekh 2004, 207). This emphasis on democratic inclusion shifts attention from the perennial "equality of what?" question (resources or dignity?) to the wider issue of who partakes in this very debate. Centrally, it focuses attention on the legitimacy of the actual process by which the norms of equivalence are derived. In this way procedural norms also become central to the pursuit of equality. A concern for democratic participation therefore complements the debate on substantive equality.

As Benhabib notes, every procedure of universalizability presupposes that "like cases ought to be treated alike:" the difficulty lies in knowing what constitutes a "like" situation. "Such a process of reasoning, to be at all viable, must involve the viewpoint of the concrete other" (Benhabib 1992, 163). Reflecting on the implications of adopting the standpoint of the concrete other in relation to the liberal-egalitarian theories of equality, one is struck immediately by the unilateral manner in which Dworkin suggests that while differences of talent should not be considered relevant when treating like cases alike, differences of ambition should. Yet, as Monica Mookherjee rightly notes, rectification of unequal circumstances "cannot be achieved by applying preconceived interpretations of the term equality itself. This is because a necessary, if not sufficient, condition of equality is the enabling of excluded groups to unsettle and destabilize meanings and interpretations which the institutional culture has hitherto taken as universal and complete"

(Mookherjee 2001, 80). Enabling excluded groups to unsettle institutionally accepted conceptions of equality will require parity of participation, which makes democratic inclusion central to both the meaning and the realization of equality.

Influentially, Young argues that while there are pressing reasons for philosophers in contemporary American society to attend to the issues of the distribution of wealth and resources, "many public appeals to justice do not concern primarily the distribution of material goods" (1990, 19). They are also concerned with stereotyping and negative cultural representations, and with the justice of decision-making procedures. She suggests that while civil equality requires an end to "cultural imperialism," political equality requires democratic decision-making. In order to pursue these wider goals of equality, one needs to engage with and eradicate *oppression*, which "consists in systematic institutional processes which inhibit people's ability to play and communicate with others or to express their feelings and perspectives on social life in context where others can listen" (Young 1990, 38), and *domination*, which "consists in institutional conditions which inhibit or prevent people from participating in determining their actions" (Young 1990, 38). So, whereas Taylor's politics of recognition focuses on oppression (as defined above), Young's politics of difference aims to challenge both oppression and domination, focusing attention on democratic inclusion as well as cultural recognition. Accordingly, Young proposes that mechanisms for the effective representation of all citizens should entail institutional and financial support for the self-organization of oppressed groups, group generation of policy proposals, and group veto power regarding specific policies that affect a group directly (Young 2000, 141–1). These proposals have been echoed practically in international campaigns to introduce candidate quotas for women, reserved seats for ethnic minorities, and group representation on a wide array of governing bodies.

This marks a shift in focus, away from the substantive theorization of equality and towards a consideration of procedural norms. Here, intriguingly, the earlier equality/difference debate within gender theory, which led to the development of mainstreaming as an equality strategy, could usefully be drawn upon. However, procedural concerns cannot supplant substantive concerns, for substantial economic equality may well be necessary for us to be political equals. This demands that debates about equality be iterative processes: for whilst fair procedures are needed to define what substantial equality entails, some form of substantial equality may be required to secure fair procedures.

5 Conclusion

In sum, equality is increasingly theorized as an issue of maldistribution, oppression, and domination. While liberal egalitarianism focuses primarily on maldistribution, and a politics of recognition addresses cultural oppression, theories of democratic inclusion engage with the need to eradicate domination. This shifts the theorist's focus away from simply trying to define the meaning of equality, towards also articulating the processes whereby others might equally participate in its definition.

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CHAPTER 27

LIBERTY, EQUALITY, AND PROPERTY

ANDREW WILLIAMS

1 Introduction

Political philosophers working in the analytic tradition have now spent nearly three decades debating the idea that distributive institutions should ensure that we share fairly in each other's fortunes and misfortunes. Like various of their other recent debates, this one was launched in 1971 with the publication of John Rawls's masterpiece, *A Theory of Justice* (Rawls 1971). This chapter examines how under-acknowledged assumptions about property rights, akin to those more frequently associated with Rawls's foremost libertarian critic, Robert Nozick, have had an important influence on the debate. My aim is to show that Nozick's challenge to egalitarians has played an important role in Ronald Dworkin's alternative statement of liberal egalitarianism, and thus in indirectly shaping later non-Rawlsian egalitarianisms. Before examining those later views, I shall begin with some very brief remarks about Rawls's initial formulation of the luck-sharing project.

2 Rawls

Very few, if any, relatively affluent individuals can credibly claim that those less well-off could have enjoyed their standard of living had they been willing to make the same choices. Instead, as Rawls often emphasizes, it is more plausible to claim that the material inequalities present in modern societies arise from factors beyond the control of those less well-off, most obviously their lesser luck in the social and natural lotteries that determine family and class background and genetic endowment. Rawls's response to this sociological commonplace is "to look for a conception of justice that prevents the use of accidents of natural endowment and the contingencies of social circumstances as counters in a quest for political and economic advantage" (Rawls 1999*a*, 14, and chs. 11, 13, and 63). Proposing principles to share the effects of luck, he focuses initially on inequalities in occupational opportunity, and appeals to the unease many feel toward inherited variations in career prospects (Rawls 1999*a*, 63; Marshall, Roberts, and Swift 1997). Rawls then argues that because it is incoherent to limit our concern only to these involuntary inequalities, we should adopt a similarly critical attitude to inequalities in income and wealth that arise from differences in natural as well as social luck (Rawls 1999*a*, 64). Unlike more radical egalitarians (Temkin 1999), Rawls sees no reason to waste benefits by "levelling down." So, he does not conclude that justice condemns all involuntary occupational and financial inequalities. Instead his famous "difference principle" and principle of equality of opportunity require distributive institutions to arrange inequalities in income and wealth work to everyone's benefit, with priority given in distributive conflicts to those who are less advantaged, and to ensure positions are allocated through a fair competition.[1]

[1] Many interpret Rawls's conception of democratic equality as favoring a more permissive attitude to inequalities in income and wealth than to inequalities in occupational opportunity (Arneson, this volume). So construed, democratic equality permits inequalities in income and wealth provided they are maximally advantageous to the least advantaged, whilst prohibiting all inequalities in occupational opportunity, except ones than can be removed only by decisions that violate the lexically prior basic liberty principle, which protects the institution of family and the inequalities in starting point that accompany it. There is some textual evidence, however, that democratic equality permits inequalities in opportunity if they enhance the opportunities of the least advantaged. See, for example, Rawls's remarks about the priority of fair equality of opportunity over the difference principle (Rawls 1999*a*, 265), and the Second Priority Rule in the final statement of his two principles (Rawls 1999*a*, 266). The Rule states that "an inequality in opportunity must enhance the opportunities of those with the lesser opportunity," thereby prohibiting inequalities in opportunity that increase the income and

3 Nozick

As explained by Richard Arneson in this volume, there have been various critical reactions to democratic equality. Some endorse Rawls's concern to share the effects of luck in a fair way, but argue that his pursuit of that objective is insufficiently thoroughgoing. According to Susan Okin, for example, Rawls fails to recognize the extent to which his principles condemn injustice arising from gender-based inequalities in the distribution of labor within the family (Okin 1989; and Rawls 2001, 162–8), whilst G. A. Cohen has argued that Rawls's defense of incentive-generating inequalities depends on an arbitrary restriction in the scope of his difference principle (Cohen 1997).

One of the most widely discussed early critiques of democratic equality was far more hostile. In *Anarchy, State and Utopia*, Robert Nozick denied that justice requires any attempt to mitigate the differential effects of the social and natural lottery (Nozick 1974, 213–31). The main positive strategy Nozick employed to support this conclusion involved claiming that an adequate account of distributive justice will be an *historical entitlement theory*.

In making this claim, Nozick meant not just that any such account must treat the past as relevant when assessing distributions. He also, and more controversially, assumed that individuals possess entitlements, or extensive private property rights (Waldron 1988, ch. 2) over their bodies and labor, the products of their labor, and non-produced, or natural, resources. These entitlements encompass not only claim rights against certain forms of interference by others in an owner's property, but also extensive powers to dispose of property via waiver, donation, bequest, and market exchange. Emphasizing their stringency, Nozick suggested that entitlements have near absolute importance, and implied that they can be defeated, if at all, only in exceptional circumstances; for example, when "catastrophic moral horror" would otherwise be unavoidable (Nozick 1974, 32).

wealth of the least advantaged but implying that ones which increase their occupational opportunities are permissible. Admittedly, some of Rawls's statements do support the more familiar interpretation. Consider, for example, his remark that "positions are to be not only open in a formal sense, but that all should have a fair chance to attain them," and immediate explanation, "it is not clear what is meant, but we might say that those with similar abilities and skills should have similar life chances. More specifically, assuming there is a distribution of natural assets, those who are at the same level of talent and ability, and have the same willingness to use them, should have the same prospects of success regardless of their initial place in the social system" (Rawls 1999*a*, 63). Note, however, Rawls refers to this as merely a possible interpretation of his view.

In addition to these general assumptions, Nozick advanced some more specific claims about how best to flesh out an entitlement theory. Thus, he claimed that persons possess rights of *full self-ownership* that rule out not only involuntary slavery, but also any involuntary redistributive taxes on income from labor. Explaining how individuals could unilaterally acquire ownership rights in previously non-owned natural resources, he relied on a modified *Lockean proviso*, stating that appropriators of a previously unowned resource need only ensure that others are made no worse off than they otherwise would have been had that resource remained unowned. Since non-ownership is inefficient, Nozick argued his proviso would be easily satisfied, and so only infrequently require political action to redistribute wealth or limit powers of transfer.

Given Nozick's entitlement theory contained no measures requiring a system of property rights to protect individuals from differential luck, it was relatively straightforward for him to conclude that it was possible for a system of property rights to be just without mitigating the differential effects of the social and natural lottery, or eliminating destitution. In addition, he argued that justice prohibits many redistributive public policies. Such policies, he objected, implicitly assume that resources are available for distribution (Nozick 1974, 149–50), but that assumption is unsound since individuals are self-owners, and will have acquired unequal claims to material resources due by exercising their powers to appropriate and transfer property. Any policies required by the difference principle, Nozick concluded, could be justifiable, at best, as remedial measures to rectify previous violations of individuals' entitlements, given ignorance about what would have happened in the absence of injustice (Nozick 1974, 231).

4 Economic Liberty

Because of humanity's record of genocide, slavery, and violent expropriation, Nozick's failure to defend any particular principles of rectification meant that his view's positive implications for public policy were severely indeterminate. Even if they had been less indeterminate, however, it is unlikely that Nozick's own version of entitlement theory would have won more converts. For

although Nozick's work on distributive justice is often memorably ingenious, and did much to renew political theorists' interest in property (Becker 1977; Christman 1991; Reeve 1986; Ryan 1984; Waldron 1988; Sreenivasan 1995), it also generated many persuasive critiques (Cohen 1995; Nagel 1975; Scanlon 1975; Ryan 1977; Wolff 1991).

One reaction to Nozick's counter-intuitive conclusions about even modest redistribution is to object to their dogmatic reliance on under-argued assumptions about the types of right a theory of distributive justice should allocate. The charge is well-illustrated by Nozick's infamous attempt to show "How Liberty Upsets Patterns" (Nozick 1974, 160–4; Hume 1998, 91).

The argument begins by inviting proponents of alternatives to the entitlement approach to imagine that their favored distribution obtains; for example, with everyone enjoying an equal share, or with shares distributed in proportion to some personal attribute, such as deservingness. Now suppose that Wilt Chamberlain is willing to display his prowess at basketball only if he receives 25 cents from each of his spectators, and all 1 million spectators are willing to make such an exchange. Granted these assumptions, Nozick first suggests we should accept that if the relevant exchanges voluntarily occur then the subsequent distribution, D_2, is no less just then the initial distribution, D_1. To do so, however, we have to abandon our commitment to egalitarian or patterned principles since Wilt's privileged position in D_2 violates those principles. Nozick then goes on to suggest his example also shows that the distributions favored by egalitarian or patterned principles can be maintained only by restricting the ability of individuals to dispose of their holding as they see fit, thereby implying that this renders them objectionable.

As many critics have noted, the force of Nozick's example, and the plausibility of his positive assessment of D_2 and resistance to restricting transfers, depends not merely on the assumption that D_1 confers on individuals the power to relinquish an extra quarter to see Wilt play. The example also implicitly assumes that individuals have the power to bestow on Wilt a highly unequal or disproportionate reward for his services, which Wilt himself may then use in ways that have even further disruptive repercussions. Given their effects, however, it is far from obvious why any of us, not to mention egalitarians and pattern theorists, should share Nozick's assumption about the extent of individuals' powers.

Moreover, Nozick himself makes claims elsewhere that suggest he should not take for granted the content of individuals' ownership rights. Thus, he disingenuously concedes that his Lockean proviso requires "a more complex

principle of justice in transfer" (Nozick 1974, 179) that limits owners' powers to dispose of their holdings, and the same presumably holds for the terms of a bequest that limit future owners' powers. More generally, Nozick's remarks about individuals partitioning their self-ownership rights in order to sell some of the elements (Nozick 1974, 282) indicate he accepts that ownership involves a complex bundle of rights, capable of disaggregation (Ryan 1977). Despite such acceptance, however, Nozick does little more to justify his assumption about individuals' powers in D_1 than ask the question, "If ... people were entitled to dispose of the resources to which they were entitled (under D_1), didn't this include their being entitled to give it to, or exchange it with, Wilt Chamberlain?" (Nozick 1974, 161). The fact that Nozick does so little to pre-empt a negative answer tends to support Thomas Nagel's charge that *Anarchy, State and Utopia* is an example of "Libertarianism Without Foundations" (Nagel 1975).

5 Nozick's Challenge

Despite its counter-intuitive and incomplete character, it would be a mistake merely to dismiss Nozick's work on distributive justice. Self-styled *left-libertarians* have followed Hillel Steiner's lead in arguing that measures designed to redress inequalities in fortune can be justified from within an entitlement theory, and are consistent with some version of full self-ownership (Otsuka 2003; Steiner 1994; Vallentyne 1998; Vallentyne and Steiner 2000). Whether such arguments are persuasive in their own right is debatable (Fried 2004, 2005; Risse 2004; Vallentyne, Steiner, and Otsuka 2005), but they merit attention and serve, at the very least, as plausible *ad hominem* arguments against libertarian critiques of the luck-sharing project.

There is an additional reason why Nozick's work should remain important even for those who reject full self-ownership, or any presumption of full ownership right over impersonal resources, namely that it poses an important challenge for any philosophical account of distributive justice. Having argued that "the particular framework of property and contract rights which Nozick proposes does not constitute an adequate account of the claims of economic liberty" (Scanlon 1975, 25), T. M. Scanlon states the challenge well when making the following remarks about *Anarchy, State and Utopia*:

It is a virtue of the book that it forces us to consider economic institutions not merely as mechanisms for the distribution of goods but also, like political institutions, as placing restrictions and demands on us that raise questions of obligation. When things are seen in this way it becomes apparent that *questions of economic liberty must be considered, along with political and civil liberty and fair distribution, as conditions for the legitimacy of social institutions*. I hope that this will have an impact on contemporary moral and political philosophy, where economic rights and liberties have generally been neglected in favor of political and civil liberties and rights of other sorts. (Scanlon 1976, 24; italics added)

Even if we reject Nozick's implausibly permissive conclusions about inequality and destitution, and his assumptions about income tax and extensive powers of transfer, Scanlon's observation reminds us that Nozick shows we still have to decide what forms of control over their holdings individuals can reasonably demand of social institutions.

One simple way to make this challenge vivid is to imagine a scenario in which a group of equally capable individuals has to distribute fertile land and other natural resources amongst its members. Any adequate solution to the distributive problem facing the group will need to explain not only *how* to distribute those assets but also *what* to distribute, or the content of the ownership rights that a just distribution should confer on individuals. Suppose that we favor some egalitarian explanation in the first case and for the latter favor resourcist over welfarist explanations.[2] We still need to answer various additional questions about what individuals owe one another when allocating rights to control and benefit from their resources. Individuals could enjoy more or less extensive rights to make various unilateral decisions about the transformation, consumption, or productive use of resources, and the generation of externalities. They might also possess quite different rights to exclude others from the benefits generated by their decisions, and, as we have seen, to produce transfers in the distribution of rights over resources.

Suppose, for example, we need to decide between ownership rights that enable individuals to use their holdings only as a means of consumption from rights that enable individuals also to use their holdings as a means of production and exchange. Moreover, if we allow productive use, and individuals have equal productive talents, consider the choice between rights that distribute the proceeds of individuals' decisions in different ways; for example, rights that entitle the producer to retain their entire product

[2] For arguments relevant to the latter controversial assumption, see Arneson (2000); Cohen (1989, 2004); Dworkin (1981*a*, 2000, 2004); Williams (2002).

versus rights that permit others to take an equal share of the product. It will not suffice to resolve these additional disputes merely by appeal to comparative convictions that it is unfair for individuals to possess more ownership rights than any other due to factors beyond their control. In addition, we need to decide the contours of the rights to be allocated to individuals.

One way to address these disputes appeals to strategic arguments about which regime of ownership rights provide incentives that optimally shape individual decisions. Rawls appears to adopt this approach when claiming that "the principles of justice are compatible with quite different types of regime," and suggesting that the choice between liberal market socialism and property-owning democracy is contingent on "the traditions, institutions, and social forces of each country, and its particular historical circumstances" (Rawls 1999*a*, 242, 249). Relying only on strategic arguments, however, is not entirely satisfactory. To require equally capable individuals to share everything they produce, for example, seems objectionable because of the limited control it gives individuals over their holdings, and that objection persists even if the requirement does not lead to inefficiency. Nozick's impact, I suggest, was to challenge egalitarians to explore these issues in ways that assumed there were non-instrumental reasons why individuals could demand substantial decision-making powers over material resources.

6 Dworkin

Ronald Dworkin was the most influential philosopher to take up Nozick's challenge. In papers published over more than two decades (Dworkin 1981*a*, 1981*b*, 1987, 2002, 2004) and his book *Sovereign Virtue* (2000), Dworkin defended a theory of economic justice designed to ensure individuals share in each other's fate whilst also enjoying a range of economic liberties. Dworkin's description of his theory—*equality of resources*—is complex, but begins with a simplified illustration.

Suppose a group of shipwrecked survivors have to divide a desert island's resources equally amongst themselves. When the survivors do so, Dworkin suggests that they should attempt to satisfy an appropriate version of what

economists term the "envy test" (Dworkin 2000, 67).[3] Thus, they should ensure that nobody prefers anyone else's resources, and that each individual plays an equal role in determining the character of the resource bundles available for distribution. Dworkin then argues that a market is the best device to eliminate envy in this way. More specifically, he describes an auction in which everyone has the same bidding power, and an auctioneer continuously divides lots until the market clears and no bidder wishes to repeat the process. Dworkin then asks whether a market procedure remains appropriate once production, investment, and trade complicate the island's economy, and differences in luck as well as ambition shape the islanders' prospects.

Here Dworkin draws an important distinction between an individual's luck in the decisions she makes, and in the conditions she finds herself in regardless of her decisions. As he explains these two types of luck, "Option luck is a matter of how deliberate and calculated gambles turn out— whether someone gains or loses through accepting an isolated risk he or she should have anticipated and might have declined. Brute luck is a matter of how risks fall out that are not in that sense deliberate gambles" (Dworkin 2000, 73). Where everyone has the same brute luck, and there is no variation in productive talent and other natural abilities, Dworkin argues that equality of resources entitles individuals to make productive use of their resources, and keep the proceeds. Dworkin also argues that individuals are entitled to use their resources in ways that expose them to differing degrees of option luck. Thus, he concludes that if some islanders choose to gamble with their endowment, and have good option luck, then there is no reason to object to their having more resources than similarly situated islanders who declined to gamble, or who chose to gamble and had worse option luck.

Once Dworkin's simplifying assumption about the absence of differential brute luck is relaxed, his conclusions about the fairness of option luck inequalities play a crucial role in equality of resources. To understand why, suppose that some individuals are sighted whilst others become blind (Dworkin 2000, 76), or that Adrian has a higher income than his similarly motivated counterpart Claude simply because he is more naturally gifted (Dworkin 2000, 83). To deal with such inequalities in fortune, Dworkin appeals to the idea of a *hypothetical insurance market*, where purchasers make decisions based on their own attitude to risk, but—unlike in actual insurance

[3] It is notable that the economist Hal Varian (1975) highlighted the possibility of replying to Nozick by appealing to the idea of an envy-free competitive equilibrium some time before Dworkin presented equality of resources (Dworkin 1981*b*).

markets—are fairly situated because equally endowed and aware only of the overall distribution of brute luck rather than their personal fortunes. He then argues that the victims of brute luck are entitled to the level of compensation delivered by the average package of cover purchased in such a market. Such compensation is, furthermore, to be financed by a system of general taxation, which includes a progressive income tax.

To summarize, then, Dworkin's core claim is that a distribution of resources is fair only if the individuals involved, given their convictions and ambitions, might have produced such a distribution through a specific market process. The process involves those individuals exercising certain rights to produce and trade, using resources they have acquired in an equal auction, and to pool risks in a manner mimicking a fair insurance market.

Thus summarized, the extent to which equality of resources continues the luck-sharing project initiated by Rawls, and opposed by Nozick, should be apparent. Various features in Dworkin's argument serve to redress inequalities in fortune, most obviously individuals' equal endowment in the initial auction and subjection to the same veil of ignorance in the later insurance market. At the same time, however, the argument accommodates convictions about economic liberty far closer to Nozick's than Rawls's view. For Dworkin it is a matter of principle that individuals are entitled to become private owners in the means of production rather than merely in what Rawls terms "personal property" (Rawls 2001, 114). Dworkin's view, therefore, accepts far more readily Nozick's suggestion that socialism objectionably restricts the liberty of potential entrepreneurs who prefer to transform their personal possessions into means of production, and employ others to labor with them (Nozick 1974, 162). Indeed, equality of resources might even provide more robust support for private ownership than the views of either Rawls or Nozick, given that both display only a contingent commitment to capitalism, which depends respectively on instrumental arguments or historical assumptions about how earlier owners exercised their powers of bequest.

It is also noteworthy that assumptions about economic liberty play a fundamental role in Dworkin's explanation of the way in which justice requires individuals to share in each other's fortunes. As mentioned, equality of resources compensates individuals for misfortune in a way that depends on how actual individuals, given their values and attitude to risk, would have chosen to exercise certain rights to purchase protection against misfortune. Because it assumes the existence of such rights, and so seeks to secure "endowment-insensitivity" in an "ambition-sensitive" manner, Dworkin's

approach differs significantly from that favored by Rawls (Williams 2004, 131–3). On the former view, what qualifies as misfortune, as well as the appropriate form and level of redress, is dependent on individuals' diverse preferences, amended only to correct for standard cognitive and informational errors. Rawls's view, in contrast, does not involve any attempt to mimic hypothetical market behavior. Indeed, the thought that the type of protection against misfortune secured by democratic equality is optional seems alien to his enterprise.

So far, I have constructed a narrative in which Dworkin's account of equality of resources figures as an attempt to combine elements from the apparently deeply opposed views of Rawls and Nozick. My aim has been largely diagnostic, although admittedly I have taken for granted the implausibility of Nozick's own version of historical entitlement theory. I did not suggest, however, that the brief history so far described is one of progress, in which Dworkin ingeniously combines the best elements from two opposed views. Nor did I suggest the history is one of decline, whereby Dworkin corrupts the luck-sharing project with an excessive zeal for rights in private property. My remaining remarks explore the latter possibility, whilst also introducing some of the other egalitarian proposals Dworkin's view has generated.

7 The Agency Objection

Anti-egalitarians sometimes argue that certain plausible assumptions about responsible agency, individual liberty, and personal liability provide grounds to reject egalitarian distributive principles. As an example, consider the following argument, which I shall term the *agency objection*:

> We are responsible agents, capable of acting freely in a sense that renders our conduct subject to moral appraisal as blameworthy or commendable. As such, provided we respect the entitlements of others, we should be at liberty to make our own decisions about how best to advance our aims. Moreover, under appropriate conditions, it is unfair to make us liable to bear certain costs arising from others' decisions, or to relinquish certain advantages gained through our own efforts. Egalitarian principles, however, demand that outcomes remain within a certain range. Consequently,

implementing those principles involves unjustifiably denying our decision-making powers, or forcing us to share the costs of others' decisions. Egalitarian principles should, therefore, be rejected on the grounds that they unjustly limit liberty or unfairly spread liability.

My previous remarks should indicate why equality of resources suggests a relatively conciliatory response to this objection, which dispenses with the outcome-based conception of egalitarianism the objection targets, allocates various choices to individuals, and then holds them liable for their different responses.

Since the original presentation of equality of resources in 1981, political philosophers have followed Dworkin's lead in defending other examples of what I shall term *post-libertarian egalitarianism*. They include rival resourcist proposals, such as Eric Rakowski's *equality of fortune* (Rakowski 1991) and Philippe Van Parijs's *real libertarianism* (Van Parijs 1995), as well the left-libertarian views already noted. In addition, there are welfarist alternatives, such as Richard Arneson's *equality of opportunity for welfare* (Arneson 1989), along with hybrid proposals like G. A. Cohen's *equality of access to advantage* (Cohen 1989).

Several post-libertarians appear to have accepted that well-informed, voluntary choice against a background of equal opportunity can render any unequal outcome just, even if some individuals fare extremely badly as a result. For instance, in the example involving the risk of blindness mentioned earlier, Dworkin writes that "if everyone had an equal risk of suffering some catastrophe that would leave him or her handicapped, and everyone knew roughly what the odds were and had ample opportunity to insure ... then handicaps would pose no special problem for equality of resources" (Dworkin 2000, 77). In the case of two individuals who face the same risk of blindness, and the same insurance options, but who make different purchasing decisions, Dworkin then adds: "the bare idea of equality of resources, apart from any paternalistic additions ... would not argue for redistribution from the person who had insured to the person who had not if, horribly, they were both blinded in the same accident". Finally, he draws the stark conclusion that "the situation cannot be different if the person who decided not to insure is the only one to be blinded" (Dworkin 2000, 77).[4]

[4] Dworkin has more recently appealed not only to "the need to protect people from mistakes they are very likely to regret" but also to the need to correct for imperfections in insurance markets in order to show that, in practice, equality of resources would not condone extreme forms of voluntary inequality (Dworkin 2002, 114). His argument will not satisfy those who are convinced such inequalities are objectionable in principle, and even in the absence of likely regret or inefficiency.

Similarly, both Arneson and G. A. Cohen have suggested that the appropriate genesis can render even an extremely unequal outcome just. Thus, Arneson writes that, "When persons enjoy equal opportunity for welfare ... any actual inequality of welfare in the positions they reach is due to factors that lie within each individual's control. Thus, any such inequality will be non-problematic from the standpoint of distributive equality" (Arneson 1989, 88). Similarly, on G. A. Cohen's conception of egalitarian justice, "When deciding whether or not justice (as opposed to charity) requires redistribution, the egalitarian asks if someone with a disadvantage could have avoided it or could now overcome it. If he could have avoided it, he has no claim to compensation, from an egalitarian point of view" (Cohen 1989, 920).

The willingness of post-libertarians to accept that extreme inequality can be just when cleanly generated has recently provoked a backlash against their view, which Elizabeth Anderson has dubbed "luck egalitarianism." (Anderson 1999; Scheffler 2003*a*, 2003*b*, 2005).[5] Although I persist in thinking the aim of sharing in each other's fortunes should be central to egalitarianism, I agree with critics of luck egalitarianism in regarding the post-libertarian attitude to voluntary inequality as implausibly permissive. Adopting that attitude is too high a price to pay to show that egalitarianism can withstand the agency objection. Nevertheless, as we shall now see, problems remain in deciding which element of the post-libertarian view to reject.

[5] Although Anderson has popularized the term "luck egalitarian" to describe the authors mentioned earlier, there are at least two reasons to prefer the term "post-libertarian," with its connotation that their work is, in part, a response to libertarianism. First, the term "post-libertarian" captures more effectively the major difference between the views of those authors, especially Dworkin, and their egalitarian predecessors, most importantly Rawls, namely their contrasting attitudes to our decision-making powers over material resources, the source of the most objectionable feature of the later authors' view. Second, the term "luck egalitarian" obscures the important similarity between Rawls and the later authors insofar as they all, on my reading, require social institutions to ensure that we share fairly in each other's fortune and misfortune, and so often appeal to the relative misfortune of those less advantaged to justify describing a specific inequality as unjust. Those sympathetic to Rawls's view should note Anderson omits to mention Rawls's frequent references to the social and natural lottery in *A Theory of Justice* (Rawls 1999*a*, 11, 14, 87, 156). It is also notable that Anderson appears to reject Rawls's difference principle (Anderson 1999, 326).

8 The Trilemma

One natural way to avoid the excesses of the post-libertarian view is to adopt a mixed conception of justice concerned with absolute as well as relative deprivation, which I shall term *sufficientarian egalitarianism*.[6] On this view, individuals have weighty claims against suffering certain forms of absolute deprivation that cannot be relinquished through voluntary decisions, no matter how favorable the background conditions. Thus, only some inequalities can be justified by appealing to personal responsibility. Egalitarians who adopt the mixed conception can endorse Marc Fleurbaey's view of the reckless motorcyclist who brings disaster upon himself, namely that "however criminal and stupid his behavior may have been, there is a limit to the kind and amount of suffering he should endure" (Fleurbaey 1995, 41). Similarly, they can share Anderson's conviction that "justice does not permit the ... abandonment of anyone, even the imprudent," and that "starting gate theories, or any other principles that allow law-abiding citizens to lose access to adequate levels of ... [certain] goods, are unacceptable" (Anderson 1999, 298, 314).

The sufficientarian view provides a less conciliatory response to the agency objection than post-libertarianism, and challenges the objection's fundamental moral assumptions rather than its portrayal of egalitarianism. More specifically, the view rejects the objection's refusal to limit liberty or to extend liability in order to save some from absolute deprivation. It is important to note, however, that there are at least two possible variants of this response. Those variants differ depending on whether they recommend limiting liberty rather than extending liability.[7] Consequently, they also differ in how they treat *externalities*, or the unintended effect on others of individuals' decisions.

One variant argues that limiting our liberty to relinquish certain claims against others is justified when necessary to avoid absolute deprivation without requiring some to bear the costs of others' decisions. I shall refer to this view as *internalizing sufficientarianism* since it aims to protect individuals from bearing costs arising from others' decisions. The other variant claims

[6] See Casal (forthcoming) for a discussion of sufficientarian egalitarianism, and convincing criticisms of the anti-egalitarian sufficientarian claim that when everyone has enough, there are no reasons to distribute according to egalitarian or prioritarian principles.

[7] For the insight that a principle allocating personal responsibility "presupposes an assignment of rights to act ... so as to provide a legitimate sphere of choice," see Barry (1991, 142).

that it is defensible to force some individuals to bear the costs of others' decisions if doing so is necessary to avoid absolute deprivation without restricting individual liberty. Since this response countenances cost displacement, I shall refer to it as *externalizing sufficientarianism*.

Suppose that compromising sufficiency, limiting liberty, and extending liability are all unpalatable options to some degree, but that the agency objection shows that egalitarians sometimes must select at least one of these options. One way to sum up my remarks is to conclude that egalitarians appear to face a trilemma that invites at least three different responses. The first post-libertarian response exhibits a (more or less explicit) willingness to sacrifice sufficiency. In sharp contrast, both sufficientarian variants refuse such a sacrifice. They differ, however, in the compromises they recommend in order to safeguard sufficiency. Thus, internalizers limit liberty and curtail liability, whilst externalizers uphold liberty and extend liability.

To illustrate the trilemma, and the differences between the post-libertarian, internalizing, and externalizing responses, consider some individuals who voluntarily decide to engage in some potentially harmful activity against a background of equal risk and opportunity.[8] If some urgently need medical care as a result, post-libertarians are most likely to favor funding it only from private health insurance, and countenance denying it to those who exercised an entitlement not to insure. Internalizers and externalizers both reject such a denial, and supply care even to those who would decide not to insure. Internalizers, however, will prefer special taxes on the activity, compulsory insurance, or even outright prohibition, whilst externalizers might fund medical care through general taxation. Note also that these are pure views. It is clearly possible to devise impure views, which compromise more than just one of the three objectives.

Suppose, like the critics of luck egalitarianism, we reject the post-libertarian willingness to sacrifice sufficiency. Even so, we might be unsure about the relative merits of the internalizing and externalizing sufficientarian responses. Reflection on actual critiques of post-libertarian egalitarianism is unlikely to eliminate our doubts. For those critiques normally focus on the post-libertarian view's most counter-intuitive implications rather than its animating assumptions about liberty and liability. Dwelling on that view's most apparent defect rather than its underlying appeal, they do not clearly differentiate the two ways of securing sufficiency. Nor do they evaluate the relative importance of individuals possessing powers to make their own choices rather than enjoying immunities from bearing the costs of others' choices.

[8] For further illustration, see Bou-Habib (forthcoming).

Anderson, for example, does remark that luck egalitarians "have been most responsive to criticisms of equality based on ideals of desert, responsibility and markets" (Anderson 1999, 291), but provides little diagnosis of the appeal of their view. Her claim about desert is unsupported, and there seems no reason to believe desert plays a larger role in defending luck egalitarianism than its egalitarian predecessors, including justice as fairness. Admittedly, her claims about responsibility and markets are more relevant, particularly in relation to resourcist forms of luck egalitarianism, but Anderson omits to note that those considerations are salient to luck egalitarians because they endorse a particularly expansive conception of economic liberty that empowers individuals to jeopardize their own access to minimum levels of certain essential goods. Moreover, she fails to recognize that there is a price to be paid for maintaining individuals' access to those goods since doing so requires a more restrictive conception of economic liberty or a less restrictive conception of our liability to bear the costs of others' exercising their liberty.

9 Conclusion

According to Will Kymlicka's influential history of the recent debate over egalitarian justice, later egalitarians have extended Rawls's argument that welfare inequalities are a matter of personal responsibility because individuals can avoid relative frustration by exercising an ability to revise their ends (Kymlicka 2002, ch. 2; Rawls 1999*b*, 369–70). There are good reasons to doubt Kymlicka's interpretive suggestion, which have been pressed by Samuel Scheffler (Scheffler 2003*a*). There are also good reasons to doubt that much would be lost by abandoning Rawls's argument, given the availability of persuasive objections to welfare egalitarian principles that eschew appeal to contested assumptions about what is avoidable. For example, anti-welfarists might fall back on Rawls's own worries about the informational demands of welfarist principles, or argue those principles are objectionable because they either pander to individuals with voluntarily-acquired expensive tastes or penalize those with involuntarily-acquired inexpensive tastes (Dworkin 2000, 48–59; Williams 2002, 379–80).

Pursuing G. A. Cohen's suggestion that "Dworkin has, in effect, performed for egalitarianism the considerable service of incorporating within it the most powerful idea in the arsenal of the anti-egalitarian right: the idea of choice and responsibility" (Cohen 1989, 933), I have sketched an alternative history that takes seriously the presence of non-Rawlsian elements in more recent statements of egalitarianism. Although I am less sanguine than Cohen about the extent to which Dworkin's achievement is a service to egalitarians, I have suggested that Cohen is correct to recognize the role played in equality of resources by conceptions of economic liberty and liability more often associated with critics of equality, such as Nozick. I have also argued that those conceptions render post-libertarian egalitarianism too hospitable to cleanly generated inequality. To avoid that problem, egalitarians now need to examine more carefully the relative merits of liberty-restricting and liability-spreading means to ensure that inequality remains within acceptable limits. It is only by scrutinizing the assumptions about liberty and property that Dworkin injected into contemporary egalitarianism that they can hope to do so.[9]

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CHAPTER 28

HISTORICAL INJUSTICE

DUNCAN IVISON

1 Introduction

Historical injustice is ubiquitous in human history. The origins of just about every institution relevant to human political life have a pedigree stained by injustices of various magnitudes. Slavery, genocide, mass expropriation of property, mass internment, indiscriminate killings of civilians, and massive political repression are all depressingly familiar features of human history, in both the distant and the more recent past. Should any of them be redressed? Can historical injustice be redressed? Should states be held accountable for their bloody origins, such as the brutal colonization of the indigenous peoples of the Americas and Australasia? Should former imperial powers have to redress the descendants of those whom they colonized? Should the descendants of slaves and holocaust survivors be compensated for the harm done to their people? Dealing with historical injustice has also become a major task for countries struggling to found new institutions and forms of collective life after years of oppression or civil conflict—for example, in Central and

Eastern Europe after the fall of Soviet Communism, as well as in post-colonial Africa, South America, and Asia.[1]

So in what sense do these historical injustices matter? They mattered to the victims at the time, to be sure. But do they have any moral consequences for the descendants of both the perpetrators and the victims? Why should an injustice that occurred long ago, by people now dead against people who are also dead, be a matter of *justice* today? On the one hand, it just seems obvious that history matters, and especially to those for whom it is not even past yet. It would be morally callous and possibly unjust to simply dismiss every historical injustice as superseded by the passage of time. And yet, on the other hand, the passage of time surely does change things; it changes the facts on the ground, and arguably it should change our understanding of the moral significance of what occurred. Is the justice associated with claims for reparations necessarily backward looking, and for that reason deeply problematic politically speaking? As much as these are complex philosophical questions, they are politically charged ones too. In fact, the skepticism of many philosophical accounts of the plausibility of reparations for historical injustice has been matched by their increasing political relevance. And so my emphasis on the *politics* of historical injustice is deliberate. As a general issue, the challenge of dealing with historical injustice touches on a range of deeply contested yet essential concepts in contemporary political philosophy, such as the nature of justice, rights, and responsibility. And yet there are practical urgencies as well. At the heart of many serious conflicts in the world today lie some kind of historical grievance. Many of these claims are dubious, and the historical tales lying behind them often bogus. But many are not. So grappling with the nature of historical injustice is often a necessary feature of political life.

Any plausible defense of the idea of making reparations for past injustices must deal with six questions: How much normative weight should we give to the past in deliberations about what we owe to each other? Which historical injustices matter and why? To whom are reparations owed? Who should pay them? What form of reparation? And finally, what kind of prudential and political considerations need to be taken into account when defending (or criticizing) reparations? I shall try to work through these questions as a means

[1] Despite frequent claims about the impossibility of redressing historical injustice, note that there have been extensive reparations programs in the United States and Canada, as well as elsewhere, since at least 1946. For a detailed list see Posner and Vermeule (2003, 696–7). Note also the emergence of "truth and reconciliation" commissions and programs in many countries since the 1970s; see Hayner (2001, 291–317) for details, and below for a general discussion of the variation in modes and forms of reparation.

of providing a critical survey of recent work in political theory that addresses the problem of historical injustice. In the final section, I offer a modest defense of making reparations for past injustices. But there are no easy answers. Understanding and dealing with the moral consequences of the past is one of the most important political issues of our time, and yet also one of the most intractable.

2 Modes of Reparation

By historical injustice I mean those harms or wrongs committed by individuals, groups, or institutions against other individuals and groups who are now dead, but whose descendants live today. And by "descendants" I mean not only individuals, but various kinds of groups made up of individuals who identify with a collective identity (embodied in various institutions and practices) that has persisted through time. It follows that where there are no descendents of either the victim or the perpetrator, there is no case of historical injustice to answer, although a great harm might indeed have been done. (The situation is more complicated where one exists but the other does not.)

Historical injustice is usually thought of in close relation to demands for reparations. And reparations are usually thought of as involving payments to claimants on the basis of past wrongs, but where the transfer between identified wrongdoer and victim is complicated by the passage of time and where an ordinary legal remedy is unavailable. There are, at least, three different modes of reparation—restitution, compensation, and what I shall call "recognition" or "acknowledgment"—all of which can then take various practical forms (such as cash, or "in-kind" payments such as apologies, affirmative action programs, new legal or constitutional provisions, truth and reconciliation commissions, etc.). Although these modes are often combined, it is worth noting the differences between them. One reason why is that often both skeptical and vindicatory arguments assume that defeating (or vindicating) one mode of reparation works for the rest. But this does not follow. For example, if full restitution is impossible, it still has to be established why some form of compensation or acknowledgment is not due. So by

restitution I mean the restoration, or handing back of the thing that was originally taken. If my wages are stolen, I get them back; if our land is stolen, we get it back. By *compensation* I mean the attempt to make amends for, or offset the consequences of, a harm, accepting that literally restoring what was taken is impossible. We tend to talk about compensation when the consequences of the wrong are such so as to render literal restitution impossible. No amount of money can compensate for the loss of a child, or for being tortured, or for the legacy of colonialism. Much is often made of this fact by skeptics about claims for reparations. But various forms of compensation—including money—can go some way to repair a harm. It can help someone make a new start in life, or cope with some of the consequences of the harms, without ever pretending to make that person (or group) whole again (Kutz 2004). Finally, by *recognition* or *acknowledgment* I mean the sense in which reparations force the recognition of the basic humanity and subjectivity of the victims denied in the perpetration of harm against them. Recognition is, of course, built into the act of restoring to or compensating someone for a harm they have suffered. But recognition of responsibility takes on other meanings, too, especially when embodied in a public apology and forms of collective remembrance. In fact, public recognition of past injustices is a uniquely political act, something often missed by an overly legalistic analysis of these issues. The law can restore certain legal powers or rights to a victim, but it cannot address (alone, at least) the denial of their social or political agency. In this context, reparations are intended to help reconstruct or refound a political community that has been broken by civil conflict, or scarred by historical injustice. That is, reparations are seen as contributing to an ideal of democratic inclusion, to what it means to treat each other equally, and thus to preserving and maintaining a democratic way of life.

As we shall see, there are a series of powerful counterarguments to the thought that historical injustices matter for the determination of justice in the present. But one general thought that is often expressed in both public and academic debates is worth highlighting here. It is often suggested that paying too much attention to historical injustice is a symptom of political correctness, and that it promotes victimization and resentment, much of it unjustified. A slightly different objection, deeper and more challenging in my view, is that the ubiquity of historical injustice is not simply a reminder of human fallibility, but confirmation of some hard truths about human nature and the naive moralism of much normative political philosophy. Too much emphasis upon historical injustice is undoubtedly a bad thing. But at the

same time, these objections overreach themselves. First of all, as I have already tried to show, the attribution of guilt is premature; what is at stake is the attribution of responsibility, and attribution of guilt is only one of the possible outcomes—and not necessarily the most likely or productive in each and every case. Context matters. The details of the particular histories matter. But if we value living in a society in which freedom is taken seriously, then we should take responsibility seriously (Scheffler 1992; Ripstein 1994). And so we should take historical injustice seriously.

3 Responsibility and Justice

To begin with, we need a basic sense of the relation between responsibility and justice. When is it justified to hold someone, or a group, responsible for their actions and when is it not? Responsibility is central to considerations of corrective justice, of course, but it is also central to distributive justice. Corrective justice involves the rectification of the wrongful invasions of legitimate entitlements that people hold, for example, to movable or fixed property, or to bodily integrity and well-being. Thus it is often associated with what a person is due as punishment. Distributive justice, on the other hand, refers to what we are legitimately entitled to in the first place, both negatively and positively, and thus the appropriate distribution of benefits and (non-punitive) burdens within a political order. What is the relation between corrective and distributive justice? This is a massive topic, but roughly: Corrective justice must surely presuppose a community of persons who enjoy (or at least who ought to enjoy) certain entitlements—such as basic liberties, rights, and opportunities and thus a political order within which they are provided. Therefore, corrective justice cannot be completely independent of considerations of distributive justice. In fact, our intuitions about distributive justice play a crucial role in providing a normative baseline against which we judge whether or not the violation of an entitlement merits a "correction" of some kind.

Thus, both corrective and distributive justice presuppose that people can be held responsible in various ways, in the sense that they can be held blameworthy. This can sometimes get lost in political debates. "Liberals,"

for example, are often supposed to believe that no one can ultimately be held responsible for their actions, given their emphasis on taking the background conditions of people's actions seriously as a precondition for holding them responsible. "Conservatives," on the other hand, are accused of rushing to infer liability from culpability, no matter what the circumstances in which someone acted. But the debate is not between one side that believes in responsibility and the other that does not (Ripstein 1994). The real debate is over more basic political questions. Thus, liberals tend to think of someone as responsible when we attribute to her the consequences of her actions such that, other things being equal, the resulting benefits and burdens should fall to her (Miller 2001, 2004; Ripstein 1994). But in order to figure out which benefits she should have (or burdens she should bear) in the first place, we need a sense of what the overall distribution of them should be. Thus the purpose in assigning responsibility here is *normative*. As Arthur Ripstein puts it, the idea that people should take responsibility for the costs of their activities to others "gets its content from an interpretation of equality, not vice versa" (Ripstein 1994, 8). Whether or not we can attribute the consequences of an action to someone will depend on whether my action "revealed proper respect for you ... some sort of balance has to be struck between my interest in going about my affairs and your interest in security" (Ripstein 1994, 9). In other words, we take responsibility claims seriously in part because of the importance of the underlying social and political relationships to which these claims refer and help protect.

Now, can something like this basic idea of responsibility be attributed not only to individuals, but to groups? Can groups be held collectively responsible for their actions? There is a continuum of possible agents eligible for attributions of responsibility: crowds who become mobs, firms who pollute rivers, as well as various kinds of private and political associations—up to and including nations and states (Feinberg 1970; May 1993; Miller 2004). But what are the conditions required for doing so? This is a complicated question, but here is a rough sketch of one influential model: We begin with an agent with some locus of decision-making power, and then some capacity for acting on the basis of its decisions. We need, in other words, a collective agent with a "unit of agency," that is, a way of "resolving conflicts, making decisions, interacting with [others] and planning together for an ongoing future" (Korsgaard 1996, 373). In the case of both nations and states, these interactions are shaped through the mutual identification of the members with each other, and who share a public culture and set of embodied arguments over time about a particular set of aims or values. Moreover, membership

provides access to various kinds of benefits which people value, and which help to make their lives go well. Now, we find something like these characteristics present in most nations and states, although to varying degrees. And these variations are important for distributing responsibility. So, for example, the more individual members have the opportunity to shape (or contest) the decisions and actions their representatives take, and the more they are able to identify with (or at least, not be alienated from) the results, the more confident our ascription of collective responsibility. Then again, most of us have not chosen to be members of the states in which we live, nor is it easy to leave if we were deeply unhappy with what our state or nation was doing (or once did). The citizens of Saddam Hussein's Iraq had little opportunity to shape or contest the decisions he took, and thus bear less collective responsibility—if any—for his genocidal treatment of the Kurds (and others). Having said that, it does not follow that if a nation or state is deeply undemocratic or autocratic its members never bear *any* responsibility for its actions. Members of autocratic states have a duty to take whatever steps they can, however small, to ensure that they do not participate in the perpetration of great harms on others, as long as it is not too costly or difficult to do so. (The duty is stronger in states which offer greater opportunities for voicing one's opposition safely and effectively.) Or, we might think that dissidents and others who have resisted the regime are much less morally blameworthy for their state's actions than those who did nothing (Feinberg 1970, 222–51; Miller 2004, 248–57). Having said all this, the ascription of collective responsibility to entities like states and nations is fraught with difficulty. Nations undergo constant change and transformation. States emerge but also disappear. Sometimes states and nations coincide, but often they do not, which further complicates the ascription of responsibility.

Finally, it is important to note that responsibility cannot be made sense of exclusively in terms of consent, and thus there are limits to thinking of it exclusively in terms of personal or criminal liability (Williams 1993). Buying products made by sweatshop labour does not make me criminally liable for those conditions, but the anti-sweatshop labour movement does want me to feel responsible for them in some way. Here the idea is that just by participating in interconnected and interdependent social, economic, and political processes that produce such unjust conditions—that form the background to many individual actions—I have some responsibility for alleviating them (Young 2001, 11–15; 2004). I shall return to this wider sense of political responsibility below.

4 Against Reparations

If it is hard enough to establish how both individuals and groups can be held responsible for their actions in the present, how can we hope to ascribe responsibility to them for things that happened in the past? Can we—as members of political communities, for example—inherit responsibilities or obligations? The property of the dead cannot be restored to them. The living cannot be punished for the misdeeds of the dead. Guilt cannot (and should not) be transferred through the blood. It is a basic rule of the common law, for example, that actions for redress are extinguished by the death of the wrongdoer. Then again, we often feel bound to honor the desires of the dead in various ways. We usually respect their wishes concerning the distribution of their property, although not absolutely. We care about remembering them, and how they will be perceived in the future, at least for a while, just as we care about how others will remember us. And some have argued that we can actually benefit the dead by helping to satisfy their (morally sound) preferences or desires—for example, that their descendants flourish (Wheeler 1997; Mulgan 1999; Ridge 2003). Still, relying on the preferences of the dead to guide our judgments about reparations is a murky business. Should the preference of the recently dead count more than the long-lost dead? Do present generations not have the right to override the preferences of their ancestors?

The *most* skeptical thought would be that the imposition of any intergenerational burdens or duties is unjustified because the present generation did not consent to the arrangements that generated the obligations. But this standard of legitimacy is bedeviled by serious problems—mainly, that almost no political institution could survive the categorical emphasis on meaningful voluntary consent (cf. Simmons 1993). It not only seems to make the very idea of political society impossible, and neglects the problem of how institutions and social practices are sustained across time, but also suggests a deeply implausible conception of personhood—a kind of heroic self-shaper, constructed only out of materials he chooses to use.

Similarly, an emphasis on the inviolability of property rights faces equally serious problems. Robert Nozick famously justified property rights on the grounds of a Lockean appropriation from the state of nature, or through chains of (genuine) voluntary exchange, extending all the way back to the original (legitimate) expropriation (Nozick 1974). It followed that property

not acquired in this way was unjustified and should be returned to its original owners. However, an appeal to these rights does not help to resolve conflicts over justice, since the dispute is in part over the justifiability of those very property rights in the first place (Waldron 1993, 21). And secondly, the consequences of such a theory would be deeply unjust, as well as impractical. In relation to land, at least, just about every title in existence would fail the Nozickean test. And in the case of other kinds of physical property, what if the original were destroyed, or the economic value of the confiscated property ruined? As Tyler Cowan and others have pointed out, the sum total of claims may exceed the resources available for rectification along strong rights-based lines (Cowan 1997; Elster 1992). The point applies more broadly. When the injustices are widespread and yet the resources for reparations limited, there are moral and practical constraints on trying to rectify them. For some, this adds up to a *reductio* of reparations arguments: If past injustices are ubiquitous, then almost everyone is in principle eligible for reparations, or only some are. But if the former is absurd, then how to distinguish (non-arbitrarily) between those that deserve reparations and those that do not?

One response is to shift away from pure rights-based claims and focus on counterfactuals. Why do we not ask what my situation would be like if the stealing of land from my ancestors had never occurred? This might provide us with a sense of just how much damage has been done by the original injustice up until now. If the Aboriginal peoples of Canada, for example, had retained most of the land promised to them in various treaties negotiated with the Crown in the seventeenth and eighteenth centuries, then their economic situation today would be very different than it actually is. But there are at least three problems with this approach.[2] First, counterfactuals are inherently under-determined. Even if we are modest about the possible futures envisioned, there are still problems with producing any kind of determinate answer to the question of what would have happened had X not occurred, given a set of relevant alternatives. Although we know that Aboriginal leaders, for example, would not have gambled their land away in a poker game, what else do we mean? It is very hard to resolve these matters, not only because our knowledge is imperfect, but because there is no fact of the matter to discover in the first place and no natural stopping point for our calculations (Cowan 1997; Waldron 1992). Note that this means that political judgments based on

[2] See Lyons (1977); Sher (1981); Parfit (1984); Cowan (1997); Waldron (1992, 2002); Simmons (1995); Elster (1998); and Vernon (2003).

counterfactuals can cut both ways. Opponents of reparations for slavery in the United States have suggested, for example, that the relevant alternative future is that the victims and descendents of slavery remained in Africa, and hence that African-Americans today are not so badly off, compared with their situation had slavery never occurred. A second major problem is the elapse of time. The longer the time and the greater the number of generations between the present and the past injustice, the more complicated and difficult it is to put counterfactual reasoning to work. It becomes more difficult, in general, to disentangle and attribute clear lines of cause and effect from the multitude of intervening acts by different agents between the time at which the injustice occurred until now (Sher 1981; Parfit 1984). Finally, even if all of these difficulties could be overcome, why assume that restoring the status quo prior to the injustice is itself justified? What if the prevailing property system at the time was deeply unjust? What if, for example, it would have excluded some of those modern descendents who are now pressing for reparations for the injustices that dislodged that very property system? If we reject the pure rights approach, and do not simply want to endorse the status quo, then why should we take for granted that a claim based on an entitlement from 100 years ago—let alone 300 years ago—is valid today (Lyons 1977)?

These kinds of considerations undermine another intuitively attractive way of thinking about the moral basis of reparations. Call it the "benefits argument." If my well-being is tied to historical injustices committed against others, then surely I bear some responsibility for that historical injustice? Or, if the unpaid labor of slaves laid the groundwork for the economic success of my family, or even my country as a whole, surely I owe something to the descendents of those slaves, especially if they continue to suffer from the legacy of slavery in various ways?

The benefits argument seems straightforward. But once again there are complications. In many cases, and especially given the passage of time, there are great difficulties in tracing who, exactly, is a net beneficiary (or loser) given the consequences of past injustices. This problem has been prominent in debates over slavery reparations (Robinson 1999; Fullinwider 2000). What if it could be shown that slavery, and even the post-Civil War legal and social oppression of blacks, provided no net positive economic benefit to slave-owners or whites in general? And even if it could be shown that whites benefited from slavery in various ways, why should the argument depend on *that*? Slavery and Jim Crow constitute great wrongs, *whether or not* whites benefited from them. Interning Japanese Americans and Canadians during

the Second World War was wrong, whatever the putative benefit to Americans and Canadians might have been. Taking Aboriginal children away from their families without their consent or for good reason was wrong, whether or not anyone else benefited from the policy.

However, our sense of how badly off indigenous people or African-Americans are today (both as individuals and as groups) seems an important aspect shaping our judgment about the plausibility of reparations. So change the examples slightly. Imagine if I was worse off (economically speaking) than the descendants of those whose land was stolen, or whose wages my ancestors never paid, and the capital I had enabled me only a bare subsistence. Does the claim for reparations against me still stand? What if the land to be returned, or the amount of compensation owed, was so great that it affected the state's ability to meet the basic needs of all of its citizens, or involved massive economic dislocation? Even if the resources required to meet reparations were not as great as this, there would be opportunity costs; the resources could be used in other ways, perhaps to the benefit of a wider range of people in greater need (Elster 1998; Kutz 2004). Thus critics of reparations argue that our intuitions in these cases suggest that what is *really* driving apparently backward-looking claims for reparations are forward-looking claims of distributive justice, or for the "reconciliation" of a divided society. "It is the impulse to do justice now that should lead the way," argues Jeremy Waldron, "not the reparation of something whose wrongness is understood primarily in relation to conditions that no longer obtain" (Waldron 1992, 27; Vernon 2003; cf. Patton 2004). And this means the connection between redressing the past and doing justice in the present is essentially contingent. There may be other ways of doing justice in the present for historically disadvantaged groups—and to promote reconciliation or non-humiliation—other than by making reparations to them.

5 Reparations Revisited

So the case for reparations for past injustices faces some difficult philosophical and political hurdles. Does this mean that we should let bygones be bygones and wipe the slate clean? Is the obligation to forget, rather than to

remember? History would matter then only in the broad sense that it provides important facts about what has happened in the past, and these should feature in our practical judgments in various ways, but no extra moral weight should be given to past injustices compared to those that exist today.

As I mentioned above, while many philosophers have been quick to reject the case for reparations, their political significance has grown. It is striking that at one point in his important article, Jeremy Waldron says that although "full" or "genuine" reparations are not owed to indigenous peoples for the injustices committed against them in the past, something else is due, namely forms of public remembrance: "Like the gift I buy for someone I have stood up," suggests Waldron, public remembrance or symbolic payments are "a method putting oneself out, or going out of one's way to apologize" (Waldron 1992, 27). There is something jarring about comparing the acknowledgment of past injustice with a gift you buy a date you have stood up. But Waldron's struggle to articulate what is due suggests that even when we reject the pure rights approach and accept that the passage of time can change the nature of various entitlements, we still cannot simply wash our hands of the past (Kukathas 2003; Ivison 2002; Posner and Vermeule 2003). But what are we do?

Instead of trying to shoehorn the problem of historical injustice into our existing models of responsibility, we should use these claims and the issues they raise as an opportunity for critically reflecting upon them, and seeing how they point to new ways of conceiving of responsibility. Many claims for reparations and for the recognition of historical injustice today are intended as political claims not only about the past, but also the present. And many are linked to deeper claims about the structural nature of injustice in our societies today; for example, the way the legacy of slavery is tied to racial injustice in the United States, or the way colonialism persists in relations between indigenous peoples and the state in the Americas and Australasia. Much of the intuitive appeal of the skeptical arguments derives from the difficulty of establishing something like *legal* liability for the actions of past generations. And this is certainly reflected in the public debates about these questions. Assigning moral responsibility to individuals or corporate agents who do not deserve to be blamed or punished for the harms that occurred in the past is unjustified, and bound to generate resentment. But in considering the legacy of slavery, or of the expropriation of indigenous lands, we are usually not talking about personal liability, and certainly not criminal liability. Instead, they pull us away from standard legal models of liability and

towards something more like civic or political responsibility, and thus a form of collective responsibility.

Now there are two ways of conceiving of collective responsibility in this sense, one less historical than the other. The first is to see claims about historical injustice as being essentially forward-looking, insofar as their main purpose is to link present-day injustices to a long history of injustice and to motivate and mobilize collective action to get people to take political responsibility for changing the situation. History matters here mainly in terms of what we might call the "politics of memory" (see Margalit 2002; Young 2004). The differing ways in which "we"—both individually and collectively—remember the past and situate ourselves in relation to it, significantly shapes our sense of whether and how the past persists in the present. Remembering the past as we struggle against injustice in the present can help to forge understanding and possibly greater trust between estranged racial, cultural, or national groups. But then again, it might not.

The second sense of collective responsibility keeps certain aspects of the liability standard, but places them in a slightly different context. Here collective responsibility inheres in the personification of a political community as a collective agent—whether a state, a nation, or a group. And responsibility is distributed down to each member, not necessarily in terms of their personal complicity with past injustices, such as slave-holding or the maltreatment of indigenous people, but rather in terms of their civic membership or identity (Fullinwider 2000; Ivison 2002; Miller 2004). Thinking of collective responsibility for the past in this way relaxes the standard of establishing strict causal links between individuals today and the actions of those in the past, which is extremely difficult to establish. It is crucial for this conception of responsibility that membership in a political community be understood in a particular way. The libertarian consent standard has to be jettisoned, but that does not mean we are literally constituted by the past. Instead, we need to pay attention to the transgenerational structure of a political association, and especially a democratic one. A political community is constituted not only by the actions of those in the present, but also by those in the past, through the construction and maintenance of its identity over time. The anchors of legitimacy in a democracy are thus not exclusively present-centered, but also tied to the past—not only through legal practices such as precedent, but through ideals and norms associated with constitutional "foundings." This temporal dimension of political membership manifests itself in other ways. When we identify with a nation or state we often associate ourselves

with its past as much as its present, not only in terms of things about which we take collective pride, but also those for which we may feel a sense of shame or regret. (Whether or not that sense of regret can be matched with the attribution of responsibility is what is presently at issue.) For example, when we make commitments in the present we often intend for them to bind our successors in various ways (Thompson 2002). And when we honor arrangements and obligations made in the past, we see ourselves as sharing a set of moral commitments with our predecessors, ones that form part of the reasons we have for identifying with that political community in the first place. However, the mere fact that such commitments are made does not entail that honoring transgenerational promises is *always* morally required; circumstances can change, and past commitments might now be considered morally dubious. Thus it is perfectly possible that citizens today, as well as future generations, will decide not to honor various commitments made in the past, without necessarily undermining the value of promise-keeping in general.

A variation of the benefits argument can be put to work here. Citizenship entails a set of special obligations with others, namely those with whom one shares membership in a political community. In particular, we have special obligations to help maintain and support those political institutions and collective social practices which enable us to live decent lives. These are not the only obligations we have. We also have general moral duties towards others both within and outside of our boundaries. Special obligations are always, at least in principle, defeasible. But they help constitute valuable relations. As citizens we inherit a territory, institutions, practices, and various kinds of physical and cultural capital that have been added to, developed, and nurtured by past generations. What connects us to these institutions are the historical facts; that we share a history of being shaped by and participating in sustaining this way of life, on these lands, over time (Hurka 1997; Margalit 2002, 84–105). Now, if have special obligations in this sense, then we also have special responsibility for the *wrongs* that have been committed through those very same interactions and by the institutions we value. The underlying principle is something like this: If we claim the inheritance of the goods of our political community and the obligations that flow from them, then we also inherit responsibility for the harms that have occurred in relation to them as well. Of course, very difficult questions remain about what *kind* of redress or action is appropriate. But remember that there are different ways of understanding what follows from taking responsibility for the past, including

different *modes* and *forms* of reparation, which can be combined in various ways depending on the context. Substantive and prudential considerations interact in complex ways here (Posner and Vermeule 2003). Monetary compensation is not the only option. As I mentioned above, various other forms of reparations in-kind are possible—such as affirmative action programs, apologies, group rights of different kinds (to land or self-government, for example, or voting rights), truth and reconciliation commissions, and hybrid combinations thereof.

6 Conclusion

There are important objections to these arguments, and to conclude I shall consider four. First of all, something like the objection to an earlier version of the benefits argument can be applied to the version just discussed. If someone feels they have not particularly benefited from being a member of a society, or they (or their ancestors) were coercively assimilated into it, there may be just as strong reasons *not* to value those relations and indeed to reject them. The argument presupposes, in other words, that everyone shares a view about the relevance of the past. And that is deeply problematic. What about recent migrants, or descendants of immigrants, who are being asked to redress events that happened long before they even conceived of joining that community? What about refugees, or other kinds of "resident aliens," who may lack the rights and capacities associated with full citizenship? As long as migrants are given equal opportunity to participate in and benefit from the collective practices and institutions of that community, then arguably they too form part of the intergenerational structure that underpins civic responsibility for the goods (and bads) produced by the community over time. In the case of refugees or other resident aliens, it is less clear. They are usually not given equal opportunity to participate and share in the collective benefits of society, and as such should not be asked to bear the same burden of helping to rectify past injustices.

Another problem is that political associations like states and nations, or cultural groups, as well as other kinds of legal persons such as corporations, change over time and often dramatically. This is particularly true of states. So,

if responsibility for past injustice depends on the persistence of both the wrongdoer and victim over time, what happens when one of them disappears, or is absorbed into another (Posner and Vermeule 2003, 738; Spinner-Halev 2004)?[3] It might be that descendants of the victims in these cases have no remedy, because there is no agent to whom responsibility can be assigned in any meaningful way. Sometimes a new state is advantaged by an injustice it did not commit; and sometimes descendants of the victims have gone on to live decent lives without ever receiving any remedy (or even asking for one). Are they still owed some form of reparation? Not all historic injustices matter, because not all of them feature in the shared history and collective memory of people, or a state, in the same way (Margalit 2002, 94–104). And collective memory can be manipulated to dreadful effects, as we know. However, that does not mean the best strategy—moral or prudential—is simply to ignore claims about historical injustice. Although they can be forms of interest-group special pleading, they also often point to wider issues of structural injustice and unfreedom.

This leads to a third problem which has also been mentioned above, but bears repeating. Is it not the case that most claims for reparations that we find compelling overlap with ongoing disadvantage? And if so, what real work is the *historical* nature of the injustices doing? Maybe it reminds us of how badly people have been treated in the past, or the harm that states and peoples can do. But that does not necessarily give us any additional reason for doing justice now; our reason for helping people now has to do with their current situation, not the fact that they were badly treated in the past. So when historical injustice and contemporary disadvantage overlap, the case for reparations is considerably stronger, but mainly because of forward-looking reasons (distributive justice, reconciliation, non-humiliation) not backward-looking ones. But I think our intuitions are pulled in different directions here, and we should acknowledge the tension as opposed to eliding it. The relative wealth of present-day African-Americans or Jews does not lessen the wrongs of slavery or the Holocaust, and so we should not, by definition, reduce all claims for reparations to claims about contemporary disadvantage. Facts about relative and absolute levels of well-being matter for making political judgments in these cases, but the historical facts also matter. They matter because historical injustice plays a crucial role in shaping how the rules and

[3] I am grateful to Jeff Spinner-Halev for pressing me on this point and for helpful conversations about these issues in general.

norms of a political society (and arguably, the international system) evolved, and thus in shaping the kinds of inequalities that become entrenched and replayed within various extant institutions and practices (even those intended to address them; see Pogge 2004). The tension is this: If you reject historical obligations completely, then you risk ignoring the transgenerational structure of political relations that are integral to the reasons we have for valuing them. And yet if these obligations always take precedence over our wider moral duties, we can end up entrenching injustice in the name of redressing the past.

This leads to the final objection, which is to reject the significance I have placed on the special obligations altogether. Since we are morally bound to ensure every human being can lead a decent life, and not just our fellow-compatriots, and since the resources we inherit as citizens are often the result of arbitrary and unjust circumstances (war, conquest, etc.), they should be treated as a common asset to be distributed equally amongst the people of the world according to a global theory of justice. The emphasis on *civic* responsibility clashes with our *transnational* moral responsibilities to those beyond our borders, and with whom we are increasingly enmeshed through the processes of globalization.

This touches on a deep debate between the value of self-determination and the scope of justice. The problem is this: If nations and/or states cannot be held responsible for the collective assets under their control, or for the decisions they make about using them, then it is hard to hold them responsible for their actions in general, past or present (Miller 2004). So, on the one hand, it is morally unacceptable to hold a poor nation entirely responsible for its fate, given what we know about the distribution of resources in the world and the way the world economic order is structured (Pogge 2002). On the other hand, we have good reason to value collective self-government, a corollary of which is attributing to that "unit of agency" some form of collective responsibility.

But taking historical injustice seriously is compatible with moral cosmopolitanism in at least one way. If, as economists and other social scientists tell us, path dependence plays a crucial role in explaining how social institutions and practices actually work, then understanding the history of these processes helps us understand the nature of various kinds of inequalities that persist today, and maybe also what we can do about them. Distributive justice should not be reduced to historical injustice, but no scheme of distributive justice, global or domestic, can ever fully escape the legacy of the historical injustices

that precede it, except in the pure realm of philosophy. So it behooves those whose aim is to overcome the inequalities and distortions of the past to recognize the ways in which it continues to shape what we think we owe to each other and why, as well as who we think that "we" is in the first place.

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PART VII

PLURALISM, MULTICULTURALISM, AND NATIONALISM

CHAPTER 29

NATIONALISM

DAVID MILLER

1 Introduction

Articles of this kind often begin with a short and snappy definition of the concept to be discussed, but, desirable as this might seem, in the case of nationalism any attempt at such a definition would inevitably exclude some part of this large and complex idea. There are many forms of nationalism to be found in political theory, just as there are many varieties of nationalism in practical politics. In lieu of a precise definition, we can perhaps characterize nationalism as having three core elements.

The first of these is simply the idea that nations are real: that there is something that differentiates people who belong to one nation from those who belong to its neighbors. Poles are different from Germans, Canadians from Americans. There are different views about what that something is—the criteria we use to identify nations—but all nationalists believe that it is more than just the fact of membership in a particular state. Germans are not simply people who happen to be citizens of the Federal Republic of Germany. Nationalists need not deny that political boundaries have, over the course of history, helped to form the nations that now exist, but the key point is that, whatever story we tell about their historical origins, nations today are real, and people who identify with them are not simply deluded.

The second element is that membership in a nation has practical implications: it confers rights and imposes obligations. Nations are communities in the sense that by virtue of belonging we recognize special ties to our compatriots, and we owe them certain things that we do not owe to outsiders. They are also valuable communities that we have a duty to preserve, which may involve a greater or lesser personal sacrifice. The extent of these obligations can be questioned, as we shall see shortly, but all nationalists recognize that a person's nationality is ethically significant, even though in normal cases it is unchosen.

The third element is that nationhood is politically significant. Nationalists argue for political institutions that will allow the nation to be self-determining—to decide on its own future course, free from outside coercion. In most cases this means political independence, the nation having a state of its own, although for practical reasons nationalists will sometimes settle for more limited forms of autonomy, such as devolved government. The key idea is that because each nation has its own character, it cannot flourish unless given the political freedom to develop in its own way; it cannot be made subject to laws designed for another people. So political boundaries must be drawn in a way that respects the national identities of the peoples in question, whether these are the harder boundaries between states, or the softer boundaries that divide, for example, the members of a confederation.

Although these three elements are common ground among nationalists, they can be interpreted in quite different ways. Taking each in turn, national identity can be understood *objectively*, in terms of physical or other characteristics that fellow-nationals share, or *subjectively*, in terms of a common *belief* in membership or *will* to belong (see, further, Gilbert 1998). Thus, some nationalists have pointed to features such as language, religion, or even race as a way of defining "national character" and drawing lines between different nations, whereas others have argued that what makes a nation distinct are not any objective features common to its members—which may in any case not discriminate adequately between one nation and others who may share its language or religion, say—but simply their wish to associate together. This was the view expressed by Ernest Renan in a famous lecture when he described a nation as "un plébiscite de tous les jours" to underline the point that national identity always depended upon members' recognition of one another as having memories, traditions, etc. in common (Renan 1882, 27).

Moving to the second element, the ethical significance of nationality, we have a spectrum of views running between those who see the nation as the

highest form of ethical life—in other words, who see obligations to compatriots as being the most demanding moral commitments that we have—and those who deny that nationality has any significance at the fundamental level. On this second view, our basic duties are owed equally to human beings everywhere, and we should only recognize special obligations to compatriots insofar as this proves to be the most effective way in practice to perform such duties. In between are those who want to hold national and cosmopolitan ethical demands in some kind of balance.

Coming finally to the political implications of nationalism, we again find a spectrum of views. At one extreme we find cultural nationalists—nationalists who believe that the cultural life of the nation must be allowed to flourish and develop, but whose only political demand is for an environment that provides enough freedom for this to happen. At the other extreme stand nationalists for whom political self-determination is central: a nation is a body with a general will (often understood as an historic purpose) that must be allowed to govern itself, to control the national homeland, and if necessary to assert its rights against other nations. Nationalism of the first kind is liberal and pacific; nationalism of the second kind may, depending on the circumstances, be authoritarian and aggressive. Politically, therefore, much depends on how national self-determination is understood, and why it is valued. I shall return to these contrasts later in the chapter.

2 A Brief History

Nationalism as I have identified it is a modern ideology. It appeared first in the late eighteenth century, and is associated in complex ways with other features of modern society: industrialization and social mobility, democracy, the sovereign state (for one influential interpretation, see Gellner 1983). However, it borrows certain features from the much older idea of patriotism, and it is important to be clear about how the two concepts differ. To be a patriot is first of all to love one's country, and then to be committed to advancing its interests in various ways, by defending it against attack or working to help it prosper. A country here means a physical place, but it may also include a political system—thus a Roman patriot might be

committed not only to the city of Rome, but also to the Roman Republic or Empire (see Dietz 1989; Viroli 1995). Nationalism goes beyond patriotism in two respects. First, culture plays a much larger part in defining national identity: A nation certainly has a territorial homeland, and its political system may be one of its distinguishing features, but over and above that it has, or is believed to have, distinctive cultural traits—a language, a religion, a national style of art or literature, forms of music or dance, perhaps a national cuisine, and so forth. And these are seen as forming an integral whole, so that a particular type of injustice is perpetrated when one nation is forced to live under laws or institutions designed for another nation. Second, nations are understood as collective agents with their own distinctive aims and purposes, which are therefore entitled to self-determination, often in the form of political self-rule. Although not all nationalists have been democrats, there is an implicit connection between the two ideas: Nations are the units within which democratic institutions should operate, and since each member of the nation has something to contribute to its cultural development, political democracy becomes the natural vehicle for national self-determination. Patriotism has no such specific political entailments.

These two elements are weighted differently in Herder and Rousseau, the earliest political philosophers to put forward recognizably nationalist ideas. In Herder the cultural element dominates. Reacting against the Enlightenment idea of the uniformity of humankind, Herder emphasized the profound differences between national communities. Nations, he thought, were like plants: each needed different conditions to blossom most abundantly. And each had its own excellences and faults, so it was ludicrous to try to rank nations on a single scale of achievement. In consequence, for one nation to be made subject to the laws of another was profoundly wrong. Herder abhorred empires and multinational states. "Nothing, therefore, is more manifestly contrary to the purpose of political government than the unnatural enlargement of states, the wild mixing of various races and nationalities under one sceptre" (Herder 1969, 324). But his idea of rightful government was vague; enlightened leaders should devise laws that reflected the traditions and culture of each people.

Rousseau's nationalism, by contrast, was driven by political considerations. In his *Social Contract* he spoke of people forming a union that is "as perfect as it can be" in which "each of us puts his person and his full power in common under the supreme direction of the general will; and in a body we receive each member as an indivisible part of the whole" (Rousseau 1997, 50), but he did

not specify the conditions under which this might be achieved, except to say that the state should be small and the society simple. Later, however, when advising the Corsicans and the Poles on the best means to preserve their independence against internal corruption and foreign oppression, he emphasized the cultivation of distinct national cultures and the rejection of foreign elements. "It is national institutions," he wrote in *The Government of Poland*, "which form the genius, the character, the tastes, and the morals of a people, which make it be itself and not another, which inspire in it that ardent love of fatherland founded on habits impossible to uproot" (Rousseau 1997, 183). Accordingly, he recommended that the Poles should stage ceremonies to commemorate historical events, preserve their national dress, institute national sports festivals, and adopt a system of public education that would give every child a thorough knowledge of Polish history, law, economy, etc. Although Rousseau cherished national diversity and lamented that "there are no more Frenchmen, Germans, Spaniards, even Englishmen, nowadays ... there are only Europeans" (Rousseau 1997, 184), his nationalism was ultimately instrumental. National unity was the only guarantee of political freedom, especially for states like Poland with large and despotic neighbors.

Both streams of thought came together in the post-Enlightenment nationalism of the early nineteenth century, when German philosophers especially—including Fichte, Adam Müller, von Humboldt, and (with some qualifications) Hegel—combined the idea that each nation formed a culturally distinct community with the idea that such nations could only fulfill their destiny when politically organized as independent states. (These thinkers at first envisaged Germany as a confederation of smaller states, but later nationalists called for the creation of an encompassing German state.) Two further ideas followed: the idea that each individual could only find ethical fulfillment through participating in the life of the nation state—Fichte spoke of "the devouring flame of higher patriotism, which embraces the nation as the vesture of the eternal, for which the noble-minded man joyfully sacrifices himself" (Fichte 1922, 141)—and that states, in their pursuit of national destiny, might be justified in using force against other states. Indeed war was positively valued: War, Müller wrote, "gives states their outlines, their firmness, their individuality and personality" (cited in Meinecke 1970, 110). For Hegel, war preserved "the ethical health of peoples," bringing home to them "the vanity of temporal goods and concerns" (Hegel 1952, 210). Nationalists in this tradition could recognize social pluralism, and often advocated that the internal constitution of the state should take a liberal

form. Nevertheless, their views about the ethical subordination of the individual to the nation, and their rejection of cosmopolitan constraints on the external behaviour of states, opened a gulf between liberalism and nationalism that, as we shall see, persists to this day.

The gulf was bridged in the mid-nineteenth century by liberal thinkers who forged links between individual freedom, national independence, and representative government in opposing the imperial powers of Europe. Typical figures here were Mazzini, who argued passionately for Italian unity and independence while defending individual rights and republican government (Mazzini 1907), and J. S. Mill who supported the independence movements in Poland, Hungary, and Italy, and argued in his *Considerations on Representative Government* that free institutions could only be sustained within a national community with a "united public opinion" that could keep government in check (Mill 1972, 359–66). For these thinkers, national loyalties had to be counterbalanced with duties to humanity; indeed these latter duties were fundamental, according to Mazzini: "You are citizens, you have a country, in order that in a limited sphere, with the concourse of people linked to you already by speech, by tendencies, and by habits, you may labour for the benefit of all *men* whatever they are" (Mazzini 1907, 41). Mill likewise distinguished his conception of nationality as a basis for political union from vulgar meanings: "a senseless antipathy to foreigners," "a cherishing of absurd peculiarities because they are national," etc. (Mill 1963, 138–9).

This early flowering of liberal nationalism was, however, submerged during most of the twentieth century by authoritarian doctrines that in many respects mirrored the writings of the German philosophers a century before. Charles Maurras, for example, argued that France could only preserve its unity and flourish as a nation by abandoning democracy in favor of a royalist restoration; he called this "integral nationalism" (Maurras 1968). For Carl Schmitt, states had to be internally homogenous and sharply separated from the outside world. National differences served, therefore, to demarcate "friend" from "enemy," whose antagonism defined the political relationship (Schmitt 1996). When the authoritarian nationalism of thinkers such as these was combined with political activism, fascism was born. Liberal political philosophers were either openly hostile to nationalism (see, for instance, Hayek 1944 or Popper 1992), or at most embraced its mildest forms while cautioning against the excesses to which it was seen to be prone (see Berlin 1991). Only in the last decades of the century did nationalist ideas again receive a sympathetic treatment from political thinkers in the liberal tradition. How

has the gulf between liberalism and nationalism been bridged, and with what success?

3 Liberal Nationalism and its Critics

Liberal nationalists claim not only that national self-determination can be pursued consistently with liberal principles, but also that liberal values themselves can only be realized in a political community whose members share a common national identity. For this reason nationalism, properly understood, should be seen by liberals as an ally, not an enemy. How is this claim defended? There are three main arguments.

The first is an argument about the conditions for personal autonomy. At the heart of liberalism stands the idea that each individual must choose his or her own path in life after reflection on alternatives. But no one chooses in a vacuum. The alternatives themselves are contained within the culture that the person in question belongs to, and only national cultures are comprehensive enough to provide the full range of choice (see Kymlicka 1995, ch. 5; Margalit and Raz 1994). So it is important for autonomy that the national culture should be sustained, and that those who participate in it should be respected rather than disparaged. This requires, in practice, that the community in question should enjoy political self-determination. In theory one might imagine a multinational state or empire in which each national culture enjoyed adequate protection and respect, but in reality, liberal nationalists claim, such states always privilege one particular culture at the expense of the others. To be free you must live in a society whose culture you share and where the choices you make within that culture are recognized as valuable.

The second argument connects democracy and nationality, and builds on J. S. Mill's claim that "free institutions are next to impossible in a country made up of different nationalities" (Mill 1972, 361). To work successfully, democratic institutions require a body of citizens imbued with a certain level of civic spirit. For example, elections must be conducted fairly, and the results accepted by the losing side; governments must be scrutinized to ensure that they are keeping their electoral promises; and minorities' rights to free speech

and political association must be respected. This, in turn, requires citizens to trust one another to behave in accordance with democratic norms: Why accept electoral defeat unless I know that the winning party and its supporters will relinquish office when they are defeated in turn? Trust springs from what Mill called the "common sympathies" that shared nationality creates. In multinational states, each group considers its own interests first, distrusts the other groups, and tends to regard politics as a zero-sum game. In these conditions civic spirit disappears and democracy is difficult if not impossible to maintain.

The third argument presents nationhood as a precondition for social justice (see Miller 1995, ch. 4; Canovan 1996, ch. 4). The welfare state and the other institutions of social justice represent an agreement to pool resources to provide every citizen with a certain level of protection against the contingencies of life. If you fall ill, you have access to medical care; if you are thrown out of work, you receive income support. Built into the system is some degree of redistribution from the talented and the resilient to the more vulnerable members of society. We agree to share our fate in this way because of a sense of solidarity with fellow-citizens, but this again stems from a common identity, and a resulting confidence in our compatriots that they will reciprocate when it is our turn to need protection. Thus contemporary liberals such as John Rawls, without overtly defending nationalist ideas, nevertheless present their principles of justice as holding within a self-contained political community whose "members enter it only by birth and leave it only by death" (Rawls 1971, 90)—in practice, a nation state.

Many liberals, however, reject these arguments, and argue that liberal principles can be divorced completely from nationality. The ethical issues will be addressed in the next section: Here I focus on three political arguments against liberal nationalism.

The first of these challenges the claim that autonomy requires the secure cultural background that nationality provides. Observing that most contemporary societies are multicultural, liberals in this camp argue that autonomy is often a matter of picking and choosing elements from different cultures—the more cultures one has access to, the greater one's independence from the traditions of any culture in particular. Thus Jeremy Waldron has celebrated what he calls cultural "*mélange*"—"the chaotic coexistence of projects, pursuits, ideas, images, and snatches of culture *within* an individual"—as a way

of life that is at least as autonomous as a life lived within the framework of a single community (Waldron 1995).

The second anti-nationalist argument again begins from the premise that contemporary societies are multicultural, and that as a result individuals typically have multiple identities—they see themselves as members of families, local communities, ethnic groups, religious congregations, work or professional associations, and so forth, with no single identity overriding the others. A liberal state ought, as far as possible, to treat such identities even-handedly, creating institutions that give equal recognition to each of them (see Buchanan 1998). Nationalism, however, involves the arbitrary privileging of one identity in particular: National culture is given public recognition and state support, often to the detriment of minority cultures. Some citizens, therefore, find their main identity affirmed by the state while others do not, and this violates the liberal principle of equal citizenship.

Finally, the claim that democracy and social justice presuppose a shared sense of nationality can be challenged. All that is necessary, liberal critics have argued, is that citizens should identify with and feel loyal towards their political community, and this can be a strictly *political* identification without the cultural baggage that comes with nationhood (see Mason 1999; Abizadeh 2002). And this makes it easier for minority groups—for instance immigrant groups who may not share the language or other cultural characteristics of the natives—to feel that they belong, and can be respected as equal citizens. An idea that has often been used in this context is the idea of *constitutional patriotism*—the idea that the focus of loyalty should not be the cultural nation but a set of political principles laid down in a constitution (Habermas 1996; 1999, chs. 4, 8). Such loyalty, it is claimed, is a sufficient basis for democratic institutions and policies of social justice; no thicker social cement is needed.

These disputes between liberal nationalists and their critics are hard to settle: We do not know, for example, whether cultural coherence or cultural mélange is more likely to foster personal autonomy; nor can we say, conclusively, how much cultural commonality is required for the successful working of democratic institutions. But at the very least liberal nationalists have focused attention on an important issue: Under what circumstances can liberalism itself be a workable political creed and not just a distant aspiration?

4 Is Nationalism Irrational?

A charge frequently leveled by critics of nationalism is that it represents the triumph of our primitive instincts over our capacity to reason. This charge breaks down into two others: that when we identify with a nation, we inevitably embrace false beliefs, for instance about the nation's history and the special characteristics that allegedly set it apart from other nations; and that by allowing our compatriots' interests to count for more with us than those of foreigners, we breach the elementary moral precept that tells us that every human being is worth as much as every other. How do nationalists try to deflect these charges?

The first step is to concede that national identities are imaginative constructs: they are selective interpretations both of the history of the nation in question, and of the characteristics of its present-day members. Certain events and ways of behaving are treated as emblematic; other occurrences are regarded as aberrations or ignored completely. A nation may celebrate its military victories or the achievements of its writers and painters, while overlooking shameful defeats, or the fact that a large part of its population now spends its time watching reality TV and Australian soap operas. In this respect, however, national communities are much like individual people, who construct narratives to make sense of their lives that leave out or downplay much that has happened. They do this because a secure sense of personal identity requires a coherent narrative, and because acting well in the future depends on a sense of self-worth. Likewise with nations: To identify with a nation is to align yourself with a community that has persisted over generations and that has a coherent, albeit evolving, character. It is also to give yourself something to live up to. When national histories recount the glorious deeds of our ancestors, they have a moralizing purpose. In both respects, nationality responds to well-known facts about human nature: Our need to place our lives in the framework of a supra-personal narrative (a need often met in earlier centuries by religious belief) and our need to be morally inspired by more than just the cold precepts of reason.

National identities involve selective interpretation, but need they rest on beliefs that are literally false? Where they do, these identities should be treated as morally or politically suspect. For instance, all nations make territorial claims that involve the identification of a national homeland, and that in some cases confront the rival claims of neighboring nations. Outright denial

of historical fact—for example the claim that a certain territory was voluntarily ceded, whereas in fact it was taken by force—may suggest that present-day national claims are not legitimate. Or a ruling elite may promulgate falsehoods designed to consolidate its rule, and these may be accepted as fact by an ignorant population. Where national identities are secure, and openly debated by the public and through the media, simple falsehoods are unlikely to survive. Instead, a much more open recognition of shameful deeds perpetrated by compatriots in the past may occur—witness the recent spate of apologies delivered by democratic nations for historic injustices inflicted on indigenous peoples and other minority groups. This is sometimes regarded as a sign that we are moving into a postnational era, but paradoxically an ongoing national identity is required to make sense of the practice: How can we apologise for what our predecessors have done unless we see ourselves as linked to them by something more than the accident of living in the same place?

Even if outright falsehood can be avoided, there is still likely to be some tension between a nation's self-understanding and what (to borrow a phrase from Nagel 1986) we can call "the view from nowhere"—the account that a detached observer might provide. At least half-aware of this, citizens in contemporary liberal societies often embrace the national story in their hearts while their heads tell them that it contains elements of fiction. If the needs that national identities meet are real ones, however, this seems no more irrational than, for example, believing at one level that your child is the cutest baby ever born while at the same time recognizing that all parents think the same.

What, now, of the claim that it is irrational to recognize special obligations to compatriots—irrational in the sense that a morally arbitrary fact (whether a person is born into this nation or that) is being used to determine our moral responsibilities towards them (see, for instance, Caney 2001; Pogge 2002). Cosmopolitans argue that every human being should be counted as having equal worth, so restricted obligations can be justified only where this proves to be the most effective way of discharging duties that, at bottom, are universal in scope (Goodin 1988). Given the extent of global inequality, and the dire conditions under which many of the world's inhabitants are currently living, institutions and practices of mutual aid among compatriots—for example the extensive welfare states found in developed societies—cannot be justified unless accompanied by extensive programs of international redistribution.

In reply, nationalists have pointed to the logical gap between the claim that every human is of equal worth and the claim that every agent, individual or collective, has equal responsibilities to every other (Miller 1998). We owe something to every person—respect for their human rights, for instance—but we also owe more to some than to others, by virtue of our past histories, the practices we are involved in, our communal relations, and so forth. And these special ties are integral to the relationships in question, in the same way as friendship, for instance, would be impossible to sustain without giving special weight to the needs and interests of our friends (Scheffler 2001). The nationalist vision is of a world in which each national community has adequate means to support its own members, so in the short term nationalists and cosmopolitans can agree about the need for international redistribution to support nations that fall below this threshold. However, the underlying principle is different: Cosmopolitans base their demands on a global principle of equality, whereas nationalists argue that partiality towards compatriots can be reasonable if it is accompanied by global duties of a more limited nature. And they also argue that an ethics that recognizes the motivational importance of national attachments as well as other forms of community is more realistic than one founded on abstract reason alone.

In short, the answer to the question that heads this section depends on how one understands rationality. Nationalists argue that both identifying with a nation and acknowledging special obligations to fellow-nationals can be reasonable, on a view of reason that takes proper account of the psychological needs and limits of human beings.

5 National Self-determination and Secession

For real-world nationalists, achieving political independence for the people you represent is often the primary objective, and this is reflected in the importance nationalist ideology attaches to self-determination. We need nonetheless to draw some distinctions. For cultural nationalists in the tradition of Herder, political self-determination matters only insofar as it allows the cultural life of the nation to develop spontaneously, secure from outside

interference. A nation cannot flourish when it is dominated by another and made subject to its laws. A stronger view is that cultural flourishing requires positive political support. Especially in a world of global communication, native languages and other cultural features will be swamped unless they are protected by a state that provides cultural subsidies, supports the national media, creates barriers to the import of foreign films, TV, etc.—and only a state staffed by fellow-nationals is likely to do this. So far national self-determination is being valued for instrumental reasons. But some nationalists find intrinsic value in political autonomy. Nations are seen as collective actors with a common will that can only be expressed in political action, whether this is directed at other states or at their own members. National autonomy is valuable in the same way that personal autonomy is: Just as an individual who cannot act freely in the world cannot express her personality, so a nation deprived of political independence cannot make its distinctive mark in the world.

This last justification is open to the objection that it assumes that nations have common wills whereas in reality they do not—political decisions at best express the will of the majority, at worst the will of an elite that claims to speak for the people. However, there are also more practical objections to national self-determination. One is that nations attempting to make policy are in fact severely constrained by outside economic forces and the decisions of other nations, so self-determination can be a myth that disguises, for example, neocolonial relations of domination between rich and poor nations. Another is that the geographical distribution of populations means that state boundaries can never be drawn in such a way as to correspond to national boundaries, except in a few special cases (Iceland, for instance). Nearly all existing states contain national minorities, so self-determination cannot mean that the members of each nation have an equal chance to decide on their future—there are favored nations whose members dominate a particular state, and disfavored nations, like the Kurds and the Tamils, who form minorities in one or more of the national states of other peoples.

Under what circumstances are such minorities justified in breaking away to form a state of their own? This is the far-from-academic question of secession, an issue that has fueled violent conflicts in many parts of the world—the Soviet Union, the Balkans, Indonesia, Sri Lanka, and elsewhere. In political theory, broadly three positions have been taken on the issue. The most restrictive is that secession is justifiable only in the case of minorities whose rights are being violated by the state that they now belong to, or whose

territory has been illegitimately seized (Buchanan 1991). Secession, in others words, can be defended only as a remedy for injustice, where the absence of national self-determination per se does not count as an injustice. In contrast, the most permissive position is that any territorial majority is entitled to secede from the state it now belongs to, so long as it is prepared to grant minorities on its own territory an equivalent right (thus if a majority of those living in Quebec vote in favor of independence, they should be allowed to secede from Canada, provided they respect the right of the inhabitants of Montreal to decide by majority vote to become a city-state or to rejoin Canada). This view treats secession as an individual right with no intrinsic connection to nationality, even if in practice it is most likely to be exercised by majorities who are also compatriots (Beran 1984).

The nationalist view of secession occupies the middle ground between these two positions. Secessionist claims are justified only insofar as they promote national self-determination, taking into account not only the would-be secessionists, but also the claims of those who would be left in the remainder state after the secession had occurred, and the claims of minority groups within the secessionist territory (Miller 2000). These claims must be treated even-handedly. By losing part of their territory, the national majority may find its opportunities for self-determination are reduced, as well as being robbed of places, monuments, etc. of national significance. The minority groups in the new state may find that their culture is treated with less respect than previously, if the original, larger, state had an active multicultural policy. Secession nearly always creates winners and losers, culturally as well as economically, and from a nationalist perspective the optimal solution is one that comes closest to giving each nation an equal opportunity to be self-determining.

The charge often made, that nationalism encourages a secessionist free-for-all whereby each state will break into smaller and smaller pieces, is therefore erroneous. It is important to keep in mind that there are two strategies nationalists can pursue in nationally diverse territories. One is to redraw political boundaries so that they are more closely aligned with national boundaries, whether this means secession or less radical ways of achieving self-determination, for instance federal arrangements that give minority nations partial control over their own affairs (see Kymlicka 1995, chs. 2, 6, 7). The other strategy is nation-building: encouraging all the groups within the borders of the state to participate in creating a common national identity that they can share, using cultural materials contributed by each

group (see Moore 2001, ch. 5). Nation-building practices have a long history in most of today's nation states, but in the past this usually meant the more or less coercive imposition of the majority's culture on the minority groups. Today national identities must be reshaped by democratic means, through dialogue between the component nationalities as well as ethnic and other minorities who lack a territorial base.

These two strategies are not mutually exclusive: achieving self-determination may mean developing new and more inclusive forms of national identity while, at the same time, recognizing the distinctness of national minorities through devolved government or federal arrangements. But nor can they be applied in all cases of national conflict. Where two or more nations have a long history of mutual antagonism, building a common identity may be impossible, in the short to medium term anyway, while separation via secession may simply create further conflicts and leave minorities on the wrong side of the new border vulnerable to ethnic cleansing or worse. It is important to recognize that not all national conflicts are soluble by nationalist means. In these cases, self-determination may have to take second place to creating a political regime—some form of externally-guaranteed power-sharing, for example—that can dampen down conflict and ensure that basic human rights, at least, are protected.

6 Conclusion

In a world of many distinct cultures, nationalism of some kind is unavoidable. We can now better appreciate its strengths and weaknesses. On the one hand, it serves to bind people to the place that they regard as their national homeland; it encourages them to cooperate and to protect their more vulnerable compatriots; and it gives them a sense of controling their own destiny. On the other hand, it is liable to generate indifference or even hostility towards outsiders; incoming groups who do not already share the national identity may have difficulty in integrating; and it has destablizing effects when political borders and national borders fail to coincide. As a guide to political practice, liberal nationalism tries to retain these strengths while circumventing the weaknesses. But it may only be possible to achieve this in favorable political circumstances.

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CHAPTER 30

MULTICULTURALISM AND ITS CRITICS

JEFF SPINNER-HALEV

Cultural groups and group rights had not been a focal point for political theory until the late 1980s. The rise of nationalism in Eastern Europe after the fall of the Berlin Wall in 1989, the attraction of communitarian thinking in the 1980s, the increased political activism of religious conservatives in the 1980s in the USA, and the increase in Muslim immigrants to Western Europe in the 1970s and afterwards, however, all brought about an enlarged interest in the role that groups play in theory and practice. Since then liberal and non-liberal theorists alike have become interested in a whole range of groups, arguing whether groups can or should have rights, or something weaker like recognition; and if so, what sorts of rights these groups should be granted. The term multiculturalism can mean many things, but in this chapter I will focus on what are called ethnocultural groups, which are often ethnic and national cultural groups—intergenerational communities that have some shared practices and history that members believe are constitutive of the group.

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1 Respect and Recognition

Liberal multiculturalists tend to view respect for cultural groups in instrumental terms—that is cultural groups are respected because doing so helps secure the liberal goal of individual autonomy. Non-liberals, by contrast, often argue that cultures deserve respect because they are intrinsically valuable. The liberal respect argument traces its pedigree back to John Rawls, who argued quite briefly that self-respect is a primary good in his lengthy *Theory of Justice* (Rawls 1971, §67). Liberal states, on Rawls's account, ought to secure the social basis of self-respect for their members. Liberal multiculturalists take up this argument, and argue that people's self-respect is bound up with the respect in which their cultural group is held. If a culture is not generally respected, then the dignity and self-respect of its members will also be threatened (Tamir 1993; Nielsen 1999; Kymlicka 1989, 1995; MacCormick 1991, 1996; Margalit and Raz 1990; Caney 1997; Taylor 1992; Raz 1994). If a person lacks self-respect, then she will not feel confident about pursuing her plans and projects. Self-respect on this account is a crucial underpinning to autonomy, since without it we are not apt to do much of anything with vigor or interest.

A related argument is that people need a secure culture, or a "cultural structure," for people to make meaningful choices (Kymlicka 1989, 1995; Raz 1994). It is "only by being socialized into a culture can one tap the options which gives shape and content to, individual freedom' (Raz 1994, 178). A dying culture will undermine people's self-respect and ability to make choices, and so it may need active state support to continue to exist. This is especially true for smaller cultures, which are typically in danger of losing their distinctive characteristics in the face of the larger majority. Since the majority culture often receives enough implicit and explicit cultural support from the state, multiculturalists usually focus their arguments on minority groups. The liberal argument for cultural support, it is worth emphasizing, is not because cultures themselves are valuable, but because of their support for individual self-respect and autonomy. Most supporters of cultural rights recognize that cultures change over time, and do not want cultural support to ossify cultures.

One objection to this liberal argument for multiculturalism is to admit that people need to be situated within a secure culture to live an autonomous life, but that says little about which culture (Waldron 1992). Since some cultures

will be secure, even if others are not, why argue for state support for any culture? If a culture is dying, the solution may not be to buttress the vanishing culture, but to help its members join a different, more vibrant culture (Buchanan 1991). After all, people have changed cultures, or lived between or among two or more cultures, throughout history. In his study of Russians living in Latvia and Estonia after they became new states following the collapse of the Soviet Union, David Laitin found that some did have a loss of self-respect; in places where their citizenship was revoked they often felt humiliated (Laitin 1998). Yet these Russians adapted—they tried to learn the titular language of the new state to gain citizenship, and while it was difficult for many adults, their children were more successful in adapting. Laitin predicts that after a generation or two, the Russian-speaking population will probably successfully assimilate.[1]

Others contend that while the argument for cultural support is often couched in liberal language, many cultures are not liberal, leading to a contradiction in some versions of liberal multiculturalism. Will Kymlicka argues that strong group-based protections should not be secured at the price of violating rights fundamental to individual well-being. According to Kymlicka, the aim of multicultural citizenship and minority rights is to provide groups with external protections from outsiders; it does not aim to allow groups to restrict the rights and autonomy of their own members (Kymlicka 1995, ch. 3). This argument has led some observers to think that Kymlicka aims to liberalize non-liberal groups, but this is not the case. Kymlicka is unwilling to have the state ensure that national minority groups do not impose internal restrictions; Kymlicka merely says that these groups should not have internal restrictions, an idea he hopes they agree with. This leaves groups that receive rights the ability to do what they want, except in cases of systematic and gross human violations, like slavery or genocide, which Kymlicka argues are the same grounds for intervention in states as well (Kymlicka 1995, 169–70). One critic has argued that it "is hard to see what work Kymlicka's liberal principles, emphasizing the importance of [individual] autonomy, are doing here," since in practice Kymlicka refuses to grant the liberal state the right to intervene in illiberal groups (Kukathas 2003, 185). Yet since Kymlicka grounds his theory in a

[1] Laitin also looks at Ukraine and Kazakhstan, where the dynamics are different than in the Baltics. In Kazakhstan, the Russians are moving to Russia in large numbers, not because they are prevented from assimilating, but because they do not want to do so, partly because they view a Kazakhstan identity as lower in status than a Russian identity (unlike a Baltic identity), and partly because of the larger cultural distance between Kazakh and Russian culture.

liberal ideal of individual autonomy, one may ask why the state should not, on Kymlicka's own grounds, intervene in cultural groups to ensure that they uphold individual autonomy?

Kymlicka's argument is partly a response to feminist criticisms of multiculturalism. Susan Okin contends that cultures that do not respect some of their own members, particularly women, do not in turn deserve respect (Okin 1998, 2002). On this account, members of the cultures that do not support the liberal values of autonomy and gender equity will be better off if these cultures were "gradually to become extinct" or (perhaps even better) should change to reinforce the equality of women (Okin 1998, 2004). Ayelet Shachar also worries about patriarchal cultures, but is perhaps more sympathetic to granting them some kinds of protection than is Okin (Shachar 2001; see also Benhabib 2002, ch. 4; for a discussion of gender and multiculturalism in the Indian context, see Mahajan 1998, 2002).

While some criticize the liberal instrumental argument for cultural rights for too readily granting rights to cultures that may undermine individual rights, non-liberals argue that the instrumental argument's emphasis on individuals' rights will too readily withhold respect from cultures that deserve it. The non-liberal critics argue that the reigning theories of liberal multiculturalism are really arguments for homogeneity, since the idea that one will support cultural diversity as long as the cultures are liberal is a rather limited argument for diversity. They argue that liberal multiculturalism is narrow: since its base is in a liberal theory of autonomy, it does not give enough support to non-liberal cultures (Deveaux 2000; Tomasi 1995; Parekh 2000). These non-liberal multiculturalists argue for the intrinsic worth of culture. On this argument, cultures are worthy of respect not because they enable some other good to flourish, like individual autonomy, but because cultures are valuable in and of themselves. One prominent example given is indigenous peoples, who do not necessarily prize individual autonomy, yet on these critics' account are worthy cultures deserving of respect. Cultures are human creations and people's identity are interwoven within their cultures, making cultures intrinsically worthy of respect. Since we ought to respect people, we then ought to respect culture, since there is little more deeply human than culture. Both non-liberal and liberal cultures are worthy of respect on this argument. In addition, we should respect cultures—liberal and non-liberal alike—because their presence culturally enriches us all and because cultural diversity provides an important background in which people may reflect upon their own beliefs and practices.

Respecting a culture, however, need not mean a blind acceptance or support of every cultural practice. When it comes to questionable practices, these multiculturalists oppose the state simply imposing its values on cultural minorities. Instead, they often recommend some form of deliberation and dialogue between the majority and minority (or among the minority members themselves, shielded from the majority) to discuss what may be seen as problematic practices, and to see if any kind of negotiated settlement is available that each side can agree upon (Deveaux 2000, 2003; Parekh 2000; Tully 1995).[2]

Similar to the non-liberal respect argument is the contention that people's identity is quite important to them, and so they have a right to preserve their "way of life and the traits that are central identity components" for their culture (Margalit and Halbertal 1994; other identity arguments include Margalit and Raz 1990; Gans 2003; Moore 2001, ch. 2; Tamir 1993, ch. 2; Eisenberg 2003, 2004). Because people's personality and way of life are so connected to their identity, people have a fundamental interest in maintaining their identity. "People who speak a particular language, for example, consider it important to preserve their language not because giving it up would mean giving up the use of language altogether, but because their culture is phrased in terms of the language, and they find particular linguistic treasures in it which they could not find in any other language" (Margalit and Halbertal 1994, 505). People's identity are partly constituted by the groups they are part of; since people's identity are part of who they are, and they have an interest in preserving this identity in some way, then they have a justifiable interest in preserving their group.

Identity and culture are not the same, as Margaret Moore points out (Moore 2001, ch. 2). Still, the group identities that multiculturalists discuss have some cultural component, though they can rarely be completely defined by culture. Part of what constitutes an ethnocultural group is culture, but it also the view that those in the collective are bound together in various ways, perhaps because they have a shared history, or a shared fate, or simply because the members believe they belong together. The demand for more Québécois autonomy came as the Francophones became more like the

[2] Liberal deliberation theorists are less interested in compromise and more interested in establishing the right conditions and procedures for deliberation. Seyla Benhabib, for example, argues that deliberation must take place in the context of moral autonomy for the agents involved, along with the principles of equal respect and egalitarian reciprocity. These background conditions do not insist on any particular outcome, but nevertheless heavily influence it, since they make outcomes that endorse traditional hierarchy rather unlikely (Benhabib 2002).

Anglophones—they moved to the cities, especially Montreal, leaving Catholicism and the rural life behind them (Kymlicka 1995, 87–8). Québécois nationalism coincided with a dramatic *decrease* in cultural distinctiveness. The Protestants in Northern Ireland see their fate as tied to one another, and so identify with each other, although culturally they are little different from the Catholics (Moore 2001, 58). The Bosnians and Serbs see their fate as tied with members of their own group more than with each other, although their cultural differences are small. Cultural practice is surely part of ethnocultural group identity, but it is not the only component.

2 Boundaries and Equality

The non-liberal respect argument and the identity argument (which is put forward by both liberals and non-liberals) avoids some ambiguities involved in liberal multiculturalism, since they do not argue for group-differentiated rights because of autonomy or self-respect. Still, these arguments do little to satisfy feminist concerns, and are vulnerable to the response that identities can and do change over time. Identity may be important to people, but the next step—to then argue the state ought to support peoples' identities—is not necessarily obvious.

Both the liberal and non-liberal versions of multiculturalism are criticized for attempting to freeze the boundaries around cultural groups and nominating some of them (but not others) for special treatment. People are, after all, often members of several groups. Which ones ought to be respected? A political community that aims to give support to every group that contributes to people's self-respect will be supporting an impossible array of groups. Some of the self-respect theorists get around this problem by privileging national groups over others, but they rarely say why this is so. Surely some religious groups contribute to some people's self-respect; so too might neighborhoods, sports teams, or a variety of ethnic groups. Which groups require recognition is a "moveable feast" (Vincent 2002; see also Charney 2003; Levy 2000, ch. 3). One way around this criticism may be to follow the idea behind the term "encompassing group," coined by Avishai Margalit and Joseph Raz. An encompassing group is one which "shapes to a large degree

[the] tastes and opportunities" of members and "provides an anchor for their self-identification and the safety of effortless secure belonging" (Margalit and Raz 1990, 448). Encompassing groups are usually also competing groups—members of the group usually cannot belong to another encompassing group of the same type. One cannot usually be both Muslim and Jewish, for example (Margalit 1996, 177–8). While there may occasionally be some difficulty in identifying encompassing groups, it is usually the case that we can with little trouble figure out which groups shape much of people's identity.

Critics of multiculturalism also argue that cultures do not have clear boundaries. Cultures meld and mesh with one another; they are also "internally riven and contested" (Benhabib 2002, 16). Jeremy Waldron argues that people do of course need cultural meanings, but this hardly means that people need to live within a single cultural framework. On the contrary, our cultures are a mix of many different elements, taken freely from one another. Particularly in our globalized world, "we draw our allegiances from here, there and everywhere. Bits of cultures come into our lives from different sources" (Waldron 1992, 110). The problem with cultural rights arguments is that they try artificially to preserve cultures: "Cultures live and grow, change and sometimes wither away; they amalgate with other cultures. . . . To preserve a culture is often to take a 'favored' snapshot version of it and insist that this version must persist at all costs" (Waldron 1992, 109–10). This criticism accuses the multiculturalists of wrongly assuming that we have attachments to specific cultures that can readily be identified and preserved. In our globalized world, people have myriad cultural attachments, and cultural boundaries themselves are fluid.

Yet this criticism of multiculturalism wrongly assumes that multicultural arguments automatically protect cultures from change. This depends on the sort of protection given. A distinction between what Geoff Levey calls personal cultural rights and corporate cultural rights helpfully shows that some cultural rights are not retained by groups, but by individuals (Levey 1997). Some cultural rights are held by individuals, which do not reify group boundaries, since the exercise of these rights is optional. The language laws in Finland that give Swedish-speaking Finns the right to speak Swedish in official settings where their population is over 8 percent in the relevant district does not require them to speak Swedish or bolster cultural boundaries. These are personal cultural rights that are held by individuals who may or may not choose to exercise them. Corporate cultural rights, like determining membership rules, are held by the group. It is not even clear that corporate

cultural rights preserve cultures, although they might preserve certain identities. Insisting that French remain the primary language in Quebec, for example, does not prevent Québécois culture from changing in many ways (Carens 2000, ch. 4). While some may object that preserving French is somehow artificial, the Québécois can point out that nearly every state preserves the dominant language in various ways. Exempting Jewish ritual slaughtering from laws regulating animal slaughter is a corporate cultural right, but does not preserve Jewish culture as it currently stands, since individual Jews have the option of not buying kosher meat. Since cultural rights are sometimes bestowed upon groups, and sometimes on individuals, Will Kymlicka uses the term group-differentiated rights, a practice I will follow here (Kymlicka 1995, ch. 3).

Another criticism of multiculturalism comes from liberals who argue that traditional liberal solutions should be enough to satisfy multicultural demands. They suggest that the liberal model of religion and state can be followed with ethnocultural groups: just as the state should not favor one religion over another, but simply disentangle itself from all religions, and allow each to survive as best it can in the private sphere, the state should disentangle itself from culture and identity (Barry 2001, 65). The sanctity of the private sphere has a long and important history in liberal theory, and Barry argues that one can simply invoke its importance in the context of culture. Similarly, liberal equality can also be useful. If we want to correct the injustices of the past, or treat equally members of groups that were previously invisible in the public sphere, we do not need a new fancy theory of multiculturalism. What we need is simply to apply the idea of equality in new contexts (Barry 2001; Phillips 2004). On this argument, equality and multiculturalism are mutually supportive. There is considerable merit to this argument: if Christian schools in the UK receive government funding, then equality demands that Muslim schools that fulfill a similar set of requirements also receive funding. In some ways, then, the term multiculturalism simply alerts us to a new way of thinking about equality as liberal polities become more heterogeneous.

Yet equality and privacy, important though they are, need to be interpreted before we will know if they are antagonistic or hostile to multiculturalism. The privacy argument for one underplays the difficulties minority groups often have in keeping up their identities. Multiculturalists (liberal and nonliberal alike) argue that this theory of "benign neglect" does not work in the case of culture, since culture and language cannot be disentangled so

readily from public life like religion can (Taylor 1992; Young 1990; Shachar 2001; Parekh 2000; Deveaux 2000; Kymlicka 1995). A state can distance itself from religion, but not from language. Government can avoid religion but not language; nor can it use an infinite number of languages in which to conduct business. It must instead usually settle on one or two; similarly, most state education systems use one or two languages. The linguistic groups that are not favored by the government are bound to have a hard time surviving. Since language and culture are so closely tied together, this means that the state will inevitably favor some ethnocultural groups over others. Moreover, multiculturalists point out that state holidays often favor some groups over others: Christmas is a Christian holiday, for example, but is celebrated as a state holiday in many places. Benign neglect, some multiculturalists argue, does not produce neutrality, but favors some groups over others. Equality and fairness on this argument does not mean similarly ignoring all languages—rather, it may mean supporting minority languages (Patten 2003).

Similarly, the meaning of equality has to be defined in education before we know how it interacts with multiculturalism. Some multicultural educators, for example, argue that equality means respecting and catering to the different learning styles of different cultural groups. This is a flawed argument, filled with dangerous stereotyping of different groups, and with little empirical evidence to show that it works (Reich 2002, ch. 7). Does equality mean rewriting textbooks so all groups are represented? Or does the need for a common citizenship require that commonalities instead of differences be emphasized? So too the debate about education and religion is not readily resolvable in the language of equality before we define what we mean by equality: does equality mean that the demands of religious conservatives be accommodated in schools? Or does equality mean that their children learn the same liberal curriculum taught to other students (on this debate see Callan 1997; Gutmann 1995; Swaine 2003; Burtt 1994; Galston 2002; Macedo 2000; Spinner-Halev 2000; McDonough and Feinberg 2003)?

Another view of equality is to simply say that fair treatment of all ethnocultural groups is simply impossible and so should not be attempted (Kukathas 2003, 236–46). Chandran Kukathas also tries to undermine the benign neglect argument by arguing for a reduction in the size and importance of the government (Kukathas 2003, ch. 5). Kukathas envisions a political society with many different associations, who govern themselves as they see

fit. As long as their members can formally leave, there is no role for the central government within them. These groups can educate and treat their members as they wish; they simply cannot bar members from leaving if that is what the members want to do. Groups will only exist as long as they receive support from their members; group cultures can change in response to their members' wishes; and the state does not favor any group over any other. Kukathas emphasizes how easily power is abused, which he argues means we should avoid putting too much power in the state's hand; a society with many associations will have power spread in many places, and so it will not be particularly dangerous. Yet many will find important parts of Kukathas's theory objectionable: Without any kind of mandated education his theory leaves children at the mercy of the group, which may refuse to give them the tools to leave; Kukathas's group-centered theory leaves no room for central governments to prevent injustice—Kukathas admits that under his theory groups will be allowed physically to abuse their members. It is noteworthy too that Kukathas's many examples of state power abuse come from non-liberal societies. These examples, however, are not necessarily a reason to reassess our views of contemporary liberalism, since liberals of all stripes worry about oppressive state power. That is why liberals argue for limited democratic government, separation of powers, and so on. Kukathas actually praises American democracy, with its checks and balances, and says we ought to recognize that "democratic states have generally been kinder and gentler rulers" (Kukathas 2003, 195).

If we accept the argument that some groups deserve state recognition and support, we still have to figure out which ones. Some theorists, like Iris Young, argue that *all* minority languages and cultures ought to be supported, in addition to the mainstream language (Young 1990). Yet it is hard to know how this might be done. Supporting all minority languages is hard to do in centers of immigration—cities like Toronto, New York, and Chicago have sixty or seventy linguistic groups within them. Supporting each is a logistical nightmare that probably could not even be done if tried. Young's arguments have also been criticized for underplaying the importance of a common public sphere and citizenship. Without some sense of unity, these critics argue, the democratic polity will not be able to pursue common goals. People in the state need to have some solidarity for democratic politics to lead to justice (Barry 2001; Miller 1995; Moore 2001).

3 Which Groups? What Kind of Support?

What we are left with is the idea that states support some groups more than others, and that since group identity is important to many people, some people are unfairly denied this state support. But figuring out which groups ought to receive state support, and what kind of support they deserve, is not easy. There are many different kinds of groups, after all, and many ways to support them. They cannot all be supported, and those that can be supported cannot all be supported in the same way. One route is to argue that a general theory of multiculturalism cannot work, since the particulars of each case matter so much. Joe Carens argues for what he calls justice as evenhandedness, which embraces the particularities of each case, instead of searching for a way to abstract from them. Evenhandedness means a sensitive balancing of competing claims for recognition and support in matters of culture and identity. Lots of things matter in each case: history, numbers, the relative importance of the claims made by the claimants, and so on (Carens 2000). Yet without presenting a general theory, Carens does not supply us with guidelines on how to treat future cases, although he is right that context cannot be ignored, as I shall presently explain.

One general guideline to multiculturalism might be this: historically oppressed groups have a good claim to recognition, and perhaps to group rights as well. Instead of benign neglect, some groups have been treated malevolently. These groups were not merely ignored, but are or have been forcefully oppressed by the state. The strongest arguments for multiculturalism began by using the case of indigenous examples as their main example, although other oppressed groups are also used (Kymlicka 1989; Deveaux 2000; Parekh 2000; Williams 1998; Young 1990, 2000). It may be that the examples of oppressed groups convinced many people to be sympathetic to multiculturalism. Yet there are three pitfalls that need to be watched when using oppressed groups. The first is when oppressed groups are used as the main examples, which leads the reader to sympathize with the argument, but then the argument generalizes about all groups, oppressed or not. This is what Kymlicka does in his first book (Kymlicka 1989). The case for oppressed groups, however, is stronger than for the non-oppressed and arguments for each should be kept distinct from one another. The second problem is to define oppression so widely that most of the country's population is considered

oppressed. For Iris Marion Young, for example, over 80 percent of the American population is oppressed.[3] We could narrow the category of oppressed groups, however, by insisting on the distinction between benign neglect and malevolent policies. Neglect may have some troublesome consequences, but it is not the same as being purposefully suppressed in various ways. The third problem is when we assume that all group oppression necessitates a group remedy. This is sometimes, but not always, the case. Economic oppression and discrimination can sometimes be readily alleviated simply through anti-discrimination laws or better labor conditions. A better enforcement of a liberal ideal of equality may obviate the need for group-differentiated policies in some cases.

If we can avoid these pitfalls, we will see that sometimes alleviating group oppression will mean a group remedy. If a group was torn asunder by the state, like many indigenous peoples were, its members may need special assistance to live decent lives. When critics of multiculturalism insist that group boundaries are opaque and the same rights belong to all people, they implicitly view the relationship between all citizens and the liberal democratic state in the same way: as an unmediated relationship between state and citizen. The citizen has certain rights, including the right to vote, and the state in turn has full authority over the citizen. This normal liberal model, however, does not anticipate the state marking out and oppressing a particular group. Part of the need for multiculturalism does not emerge in academic writing, but in the brutal group-oriented policies of the Western liberal democracies. When this happens, matters of justice cannot only be a matter of the state protecting individual rights and ensuring equality. Sometimes, the unmediated relationship between state and citizen needs to be questioned, with the group sometimes deserving to have or to retain some amount of autonomy. Complications arise when the group has internal oppressive practices, but the motivating argument here is that the justice of individual rights and equality for all must be balanced against the injustice of a state imposing reform upon a group it oppresses (Herr 2004; Perez 2002; Spinner-Halev 2001).

Context does matter here, since what kind of recognition and rights that are deserved will often depend on the particularities of the case. Not every group should have or deserves rights. Numbers and cost may matter; so too

[3] Young's list of oppressed groups include old people, poor people, gay men, lesbians, Jewish Americans, Asian-Americans, Arab-Americans, Black Americans, Hispanic Americans, women, physically and mentally disabled people (Young 1990).

might the severity of the oppression. My amendment to Carens's argument is this: context does not tell us which groups have the strongest case for rights and recognition, since we can in principle decide that oppressed groups have the strongest case. Yet context does tell us what kind of rights and recognition are reasonable and justifiable in particular cases.

A second general guideline is based on the criticism of the benign neglect argument and might be this: since states are not culturally neutral, they ought to accommodate the cultural practices of non-oppressed groups within the constraints established by a common liberal citizenship and where the cost is not prohibitive. This is what fairness requires. This is not an argument from self-respect or autonomy—immigrants and refugees show that people can change their context of choice readily enough—but an identity-based argument. Again, the principle helps to identify which groups are candidates for group-differentiated rights, but context matters, since certain groups will be accommodated more readily than others because it might be easier or less costly to do so.

The second guideline is vulnerable to the too-many-groups problem. One way around this difficulty is to divide national groups from immigrant or polyethnic groups, and argue that the former deserve more support than the latter (Kymlicka 1995; Gans 2003, ch. 2). National minorities are groups that have a historical relationship with a territorially contiguous piece of land, while polyethnic groups do not have a claim to a particular piece of land, and are usually more recent members of the polity. This division reduces the number of groups that receive a robust package of rights, which is both practical and reduces the worry about creating unity within the political community. The state might need to make some new accommodations as new immigrants with new practices arrive, and can perhaps give some financial support for some polyethnic celebrations, but doing so hardly threatens the state's cohesiveness. For example, a Sikh might want to wear his turban while becoming a Canadian Mounty, and thus eschew the traditional Mounty hat; or a Jew might want to join the American army but still wear his yarmulke. Multiculturalists argue that these new practices ought to be allowed and recognized. As long as they are not harmful, they pose no threat to the state nor do they undermine the state's solidarity, the multiculturalists argue. These examples show how new immigrants are eager to join their new state's institutions—what's more Canadian than becoming a Mounty?— but they do not want to do so at the price of complete assimilation.

Still, some want to know why immigrants or refugees do not have the same rights to language or culture as national minorities do. After all, if a secure

cultural context is important for the self-respect and autonomy for national minorities, why is not the same true for immigrants? One answer is that immigrants voluntarily gave up the right to a secure cultural context when they moved. But this is not very convincing, since we have many rights (speech, free trial, and so on) that liberals do not think we can waive (Carens 2000, 80–1). Refugees certainly do not move voluntarily. Moreover, if immigrants do waive their cultural rights, why give them any kind of polyethnic rights (Carens 2000, 57; Gans 2003, 61)?[4]

Yet if we skip over the cultural context argument, we can simply say that the identity of national minorities can usually receive more protection than immigrants or refugees because they will often have the economies of scale that allow doing so without a large cost. This is a contingent argument, however, simply a rough way to decide which groups will receive more or strong group-differentiated rights. A dispersed or small national minority may have to be treated like an immigrant group when it comes to group-differentiated rights. Similarly, there are undoubtedly some groups that do not fit well into either category, but this simply means that we need to examine the particular case to see if a set of group-differentiated rights is appropriate. Separating national minorities from immigrants should be treated like a loose guideline, not a hard and fast distinction. On this argument, a national minority like the Québécois is large and concentrated enough to support French-language schools, universities, government offices, and so on without tremendous cost. As long as the Québécois aspire to set up a liberal French-speaking society, it is hard to see how liberals can object to their doing so.

The many immigrant groups in Canada, fewer in number, more dispersed, and with fewer institutions than the Québécois, should (and in fact do) receive much less in the way of group-differentiated rights. Immigrants and refugees ought to receive less robust ways to protect their identity because the cost of doing so is often very high. It is also the case that if states were expected to pay for costly ways to support the identity of immigrants and refugees, they may close their doors to newcomers. The common citizenship test is also one that is best viewed in a particular context. Supplying bilingual instruction to sixty different language groups would be too costly and might undermine a common citizenship. An immigrant group that wants state

[4] Chaim Gans argues that one possible way to save the polyethnic/national minority distinction is to argue that groups that have a homeland elsewhere—like the Chinese in Malaysia, Indians in Fiji, and so on—are only entitled to polyethnic rights since their nation already has more robust rights, albeit elsewhere (Gans 2003).

protection for practices that include gender discrimination would fail the test of liberal citizenship.

Underlying these guidelines is an admission that group attachments, while not perhaps as a dominant a value as some multiculturalists argue, do deserve some respect; they can be dismissed, but should not be until there is good reason to do so. This all points to what multiculturalists have not done well enough, which is to explain people's attachments to groups. While critics readily dismiss these attachments as loose, perhaps weak, and certainly shifting, it appears to be the case that some people at least are strongly attached to a particular group. Multiculturalists are right to point out that group attachments need to be noticed, but why people are so closely attached to their groups is under-explained. This is perhaps because this is an empirical question that theorists are ill-equipped to answer. But questions abound: why do many immigrant groups—or their descendants—in the immigrant countries (Canada, the USA, New Zealand, Australia) manage to integrate into the larger society, while retaining only mostly symbolic attachments to their ancestral culture? Why have many indigenous peoples failed to integrate, but have found their confrontation with the West to leave them with such a bitter and enduring legacy? Why do some nations fight to unite with their co-nationals in one state, while others do not? What is the relationship between multiculturalism and globalization? The theoretical arguments between the multiculturalists and their critics are not over, but these questions suggest that many empirical matters, about group life, the contemporary state, and liberal democracy, remain unexplored. These questions, too, suggest that the multiculturalism debate would be enriched if scholars set their sights on non-Western countries, something that the multicultural literature—heavily focused on the USA, Canada, and Western Europe—has only just begun to do (Kymlicka and Opalski 2001; Carens 2000, ch. 9). Answers to these questions and expanding the debate beyond the West may yet, in turn, change the nature of the multicultural debate.

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CHAPTER 31

IDENTITY, DIFFERENCE, TOLERATION

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Toleration is the social virtue and the political principle allowing for the peaceful coexistence of individuals and groups holding different views, practicing different ways of life, and having different characters within the same society. This very general definition points out that the conditions under which toleration is required are situations in which social differences exist which do not coexist harmoniously; if they were to do so, there would be no need for such a principle. Potentially or actually conflicting differences are required for toleration to be necessary in order to bring about social order and peace. The link between toleration and difference is thus immediately established. Contrasting differences are the prerequisites for toleration issues to arise. Yet, as circumstances for toleration, social differences need to be further qualified. The discussion around which differences constitute the proper subjects for toleration is crucial for contemporary theory of toleration. Alternative considerations of differences correspond to distinct views

where identity may or may not play a relevant role. I shall therefore start my analysis focusing on the connection between ways of considering differences and corresponding views of toleration. Four different conceptions of toleration will thus be singled out: (a) the view of tolerance as a moral virtue; (b) and (c) the two liberal views of toleration, according to the perfectionist and to the neutralist perspective in turn; (d) toleration as recognition. Only the latter properly acknowledges differences as features of collective identity and, hence, sees identity as an issue for toleration. Given that the most divisive differences of contemporary pluralism have to do with collective identities, theories of toleration that exclude identities from their proper scope simply do not meet a main challenge of contemporary democracy.

According to a conception which has been very influential within contemporary moral and political philosophy, toleration (or tolerance in this case) is explored as a moral virtue and is defined as the disposition leading to the suppression or at least suspension of the power of interference with others' disliked or disapproved behavior, which is considered important both by the tolerator and by the tolerated (Mendus and Horton 1985; Mendus and Edwards 1987; Mendus 1988, 1989, 1999; Horton and Nicholson 1992; Horton 1993, 1999; Heyd 1996; Galeotti 2001). In order for tolerance to be defined as a virtue, differences need to have the following features. They should be both *disliked* and *important* for the potential tolerator, otherwise tolerance would not be clearly marked off from indifference. It is then an open question whether the proper differences to be tolerated are only moral or also non-moral ones (Warnock 1987), and in the latter case, only elective or also ascriptive (King 1976). I hold that if the moral model is to be consistent, the ideal candidates for tolerance are differences that must, at least in principle, be subject to choice. In order to be seen as a virtue, tolerance should be the overcoming of one's feeling of dislike or disapproval for higher moral reasons such as respect for others and their autonomy. But obviously one's negative attitude should be backed by some reasons, otherwise dislike or disapproval are unjustified in the first place, and respect for others instead of requiring tolerance, requires one to stop disapproving altogether (Williams 1996).

Ascriptive differences, about which the person has no choice, cannot be the subject of tolerance, given that it is morally wrong to disapprove of or dislike them. Likewise, the disapproved differences must belong to the area of the morally objectionable, but not universally condemned (Horton 1996). Attitudes such as racism and practices such as slavery or torture, which are universally acknowledged to be morally wrong and unjust, cannot be subjects

for toleration. Being tolerant with reference to these practices is definitely not a virtue, but a moral wrong. To sum up: The differences which can be proper candidates for the virtue of tolerance are (a) disliked or disapproved; (b) important; (c) choosable or revisable; (d) not belonging to the realm of what is universally condemned. As a result, the moral model of tolerance turns out to be rather strict in its meaning and scope, because, on the one hand, it implies only the negative meaning of putting up and non-interference, and, on the other, it leaves out much of the most relevant and divisive differences of contemporary pluralism, having to do with ascriptive traits, such as race, sex, nationality, and collective identities, more than with eccentric opinions and heterodox behavior. One obvious way out is simply to state that ascriptive differences do not fit into, and therefore do not belong to, the field of tolerance, but pertain to the special domain of anti-discrimination, which does not concern modifiable behavior or opinions, but identity (Bobbio 1986). Yet, this solution is self-defeating, insofar as it amounts to a declaration of failure. It is the recognition that the moral theory of toleration cannot cope with the most relevant and divisive differences characterizing contemporary pluralism. It does not even accommodate the usages of common language, where tolerance and intolerance refer to racial, sexual, and ethnic differences as much as, if not more often than, differences in moral, political, or aesthetical values. In conclusion, the moral model, not being able to capture both chosen and ascriptive differences, cannot constitute the microfoundation for social and political toleration which is meant to provide a solution for peaceful and respectful coexistence of many different and potentially conflicting ways of life, practices, traditions, and cultures.

Alternatively, toleration can be construed as a political principle characterizing the liberal tradition. Contemporary liberalism includes two influential strands which bear on the conception of toleration: neutralist or political liberalism whose most outspoken representative is John Rawls (1971, 1993), and perfectionist liberalism which has been distinctively outlined by Joseph Raz (1986), and then taken up by many others.

The neutralist argument starts from pluralism as a problematic fact, and then goes on to generalizing the model of political toleration which provided the solution to the religious wars of early modern Europe. Political toleration works for peace and civil coexistence, demarcating between matters pertaining to the political order and public affairs and matters concerning issues that are irrelevant to order and peace. The latter realm defines the private sphere,

where the state has no business, hence no reason to intervene with coercive action. The principle of toleration therefore relies on the public/private divide, and properly applies to private–personal questions, while in the public domain it requires the principle of state neutrality. If toleration is the suspension of the political power of interference in individual's religious and moral views, neutrality means not favoring any such views, or their holders, over others in the public sphere. From this model, contemporary political liberalism has generalized the ideal of neutrality into a constitutional argument for political legitimacy. In this way, neutrality is not simply a guideline for the public treatment of citizens, whose differences in opinions and affiliations ought to be publicly ignored for the sake of equal treatment before the law, but also the central feature of liberal institutions which ought to be designed independently from any substantive moral outlook, so as to be recognized as legitimate by people who widely disagree about values and morals (Dworkin 1978; Ackerman 1980; Larmore 1987; Nagel 1991; Rawls 1993).

Perfectionists acknowledge the value of non-discrimination in public treatment; they nevertheless deny that liberalism be a political ideal devoid of any substantive value and principle, and maintain that it exhibits its moral outlook, just as any other political ideals (Haskar 1979; Raz 1986; Wall 1988; Flathman 1989; Hurka 1993; Caney 1995; Kraut 1999). In their view, liberal politics presupposes a certain kind of human character (autonomous, independent, self-reliant), and is sustained by a corresponding set of substantive virtues and values, among which are tolerance, pluralism, and diversity. The values of autonomy and independence require that the individual be actually presented with real choices concerning her life plan and style of living (Raz 1988). Thus pluralism is a precondition for developing an autonomous personality and, hence, the toleration of diversity is a necessary constituent of a liberal society. Consequently, differences are positively valued as options allowing for the meaningful and free choice of individuals even though they can give rise to disagreement; yet only the differences which are compatible with autonomy and which can, generally speaking, be accommodated within the hospitable boundaries of the liberal conception of the good are the proper subjects of liberal toleration. By contrast, the differences that appear incompatible with liberalism should in principle be excluded from tolerable pluralism in order to preserve the liberal order and its ethical integrity. However, for many incompatible social differences state coercion would be useless and counterproductive. In these cases, toleration should instead be adopted, but

only as a second best, provided that there is no risk for the social order as a whole and that no right has been infringed. In this way, perfectionist liberalism contemplates two notions of toleration: a positive one, as recognition and acceptance, when applied to differences that fit within the boundaries of the liberal good; and a negative one, as putting up with, when applied to differences deeply at odds with liberalism, differences which it is nevertheless counterproductive or useless to forbid or repress. Accordingly, three classes of differences are implicitly distinguished. *First of all*, there are the social differences which can be accommodated within the moral outlook of the liberal order and which allows autonomous personalities to develop. They are the proper subjects of full liberal toleration. For, they are differences which, whether chosen or received and no matter how socially disliked, are in principle the subject of autonomous individual choice about what is of value in life and how life should be lived, which is what commands respect. *Second*, there are the social differences which are at odds with the liberal outlook, but which do not threaten the liberal order and do not cause evident harm to anyone, apart from keeping their bearers in a position of cultural dependency. Wearing the veil, as many devout Muslim women do, can be an example of this kind of difference, the veil being not only a religious symbol but also a cultural one, implying women's subordination and public invisibility. Concerning this second kind of differences, toleration in the strong sense of recognition is out of order for the liberal perfectionist, since the difference in question is not the outcome of an autonomous choice. Their bearers, in a sense, are considered only potential moral partners, in that they have not yet developed rational faculties and capacities for autonomy. Yet, coercion would prove ineffective and ethically too costly: hence these differences must be tolerated by default, which implies that they cannot acquire proper legitimacy in the liberal order, but only a limited space outside the public domain. *Finally*, there are the social differences which are not only at odds with the liberal outlook, but which undermine the liberal order and/or individual rights. Differences of this type are intolerable under any interpretation of liberalism and should simply be excluded from the liberal society.

In sum, toleration emerges as dealing with contrasting individual choices, and it is meant to protect personal liberty from state or third party interventions. By contrast, different collective identities are, in case, only put up with for lack of viable alternatives and only within the limits of the harm principle. In this way, liberal perfectionism underlines the limited compatibility of

liberal society with different illiberal cultures, but also, by the same token, shows its inadequacy to deal politically with contemporary pluralism.

Recent developments in perfectionist thinking have, however, pointed out a different attitude towards social cultural differences that suggests a distinctive liberal perspective on multicultural issues. Yet the opening up to other cultures does not imply a revision of the conception of toleration which is supposed to represent only an early stage of liberal politics, definitely incapable of dealing with issues of cultural diversity. The perfectionist position, pro-multiculturalism, is best represented by Joseph Raz (1994*a*), and it is shared by an increasing number of scholars, sometimes called the new-autonomists (Kymlikca 1992, 1995*a*, 1995*b*; Raz 1994*b*; Margalit and Halbertal 1994; Margalit and Raz 1995). They assign a special role to culture for autonomous choices and individual well-being which leads to the right to culture and imposes on the state the duty to support cultures. In this way, new-autonomists endorse cultural rights and multicultural policies. But, as I said, their conception of toleration is unchanged, since they regard toleration as a politics of state abstinence from religious and moral questions, hence utterly unfit to grasp identity issues.

By comparison, political or neutralist liberalism looks more open toward differences, and really inclusive of anyone's identity under the common principles of justice. From the neutralist point of view, the nature of toleration is less the suppression of the power of interference with disliked differences than the adoption of a neutral attitudes vis-à-vis conflictual social differences, which have been recognized as irrelevant for political life. Therefore, while in the perfectionist perspective, for toleration to be the case, dislike or disapproval of the difference in question are necessary conditions, in the neutralist interpretation, moral disapproval, even if it may be at the origin of the conflict among certain social differences, is definitely a circumstance to be politically disregarded. In fact, the reasons for toleration are independent from the content of the difference, deriving instead from a general position against repression and coercion in certain matters. Therefore, the only relevant circumstance for political toleration is *conflict* among social differences; conflict which, moreover, is *non-negotiable*, and *not easily adjudicable* by universally recognized procedures. Furthermore, if the generalization of the model of political toleration implies the principle of public neutrality, then any public moral judgment over differences is excluded as a matter of principle. In this framework toleration follows from the principles of justice and, at the same time, is the condition of their possibility. Its

justification presupposes the principles of justice, being grounded on fairness, but its adoption as a political principle is the condition for the possibility of generalizing the principles of justice as the core of liberal legitimacy well beyond those people who belong to the liberal tradition and already share the liberal culture. Openess and potential inclusiveness are indeed the traits characterizing the neutralist versus the perfectionist interpretation; these traits are meant to constitute the appeal and the specificity of liberalism over other political ideals. The liberal commitment to them is precisely what, in the neutralist version, makes liberalism a universalist project where *anyone* and *everybody* of whatever origin, culture, or creed can find a just and respectful social arrangement where their expectations and life-plans can in principle be fulfilled.

Yet the neutralist program aimed at openness, inclusiveness, and non-discrimination turns out to be largely self-defeating, because of the constitutional framework of the argument and of its reductive interpretation of pluralism which jointly induce a basic insensitivity to social differences. In the first place, the constitutional structure of the argument makes differences look all *equally different*, thus disguising the fact that some are *more different* than others. Yet, some differences, notably race, ethnicity, sexual orientation, and culture, are markers of oppressed and excluded collective identities to which various kinds of disadvantages are attached, amongst which non-membership or second-class membership in the polity are especially prominent. But given that differences are disregarded in the public sphere, this fact is overlooked and the issue of inclusion is simply conceived as the extension of rights to individuals despite their identity. The resulting difference-blind attitude, far from neutralizing the exclusionary effect of certain differences, actually reinforces it. Moreover, pluralism is conceived of as pluralism of potentially conflicting conceptions of the good (Rawls 1988). Conceptions of the good, whether shared or not, are in principle reducible to individuals who hold them and can in principle change or revise them. Once again differences in collective identities are made to disappear. Therefore, the neutralist model is indeed open to anyone, but only as individuals; and this approach does not help bearers of different identities to become members on an equal footing with the majority whose collective identity is settled, taken for granted, and deposited in societal standards.

As a result, the neutralist model suffers from a special paradox which the perfectionist model avoids. The neutralist model proposes liberalism as the political ideal for an open, inclusive, and free society, whose basic principles

can allegedly be recognized and accepted also by people from alien cultures, given the neutrality of liberal political legitimacy. Thus openness and inclusiveness are a prominent part of the liberal appeal and represent crucial commitments for liberal justice. Yet, this move towards openness, which actually underlies the generalization of the ideal of toleration and neutrality by the constitutional argument, comes down to a fundamental insensitivity to social differences as marks of collective identity and to the issue of their inclusion, via public recognition, into the public space of liberal polity. The quest for inclusion of "different" collective identities is in fact perceived by the neutralist as a breach of public neutrality (either because it entails an invasion of particular memberships and loyalties in the allegedly neutral sphere of liberal politics, or because it implies a demand for special consideration in contrast with public blindness). Consequently, the original liberal promise of openness towards the inclusion of anyone independent of her origin, culture, language, religion, and race, turns into resistance to accepting alien or oppressed groups into full citizenship. Such resistance is explained by the alleged threat to the neutral public sphere represented by groups who do not accept the principle of neutral citizenship. In other words, it is an argument for the self-defense of the liberal order. Yet, I contend that this argument cannot be granted if the liberal state has not first made a move toward inclusion into full citizenship of the marginalized groups, consistent with its promise of openness. Moreover, the commitment to justice, which is fundamental and which, in the neutralist perspective, constitutes the ground for the neutralist conception of toleration, has to face a failure in this respect. The neutral public sphere, which is strenuously defended against invasion, is in fact already inhabited by particular and partial identities—those of the majority—so the rigorous exclusion of different ones sounds flatly unfair. And to this inequality it is not enough to respond that it is a case of practical failure, since there are good reasons, conceptually and logically, to suspect that neutrality can never be absolute.

All three conceptions of toleration considered above come to share the view that the proper circumstances for toleration are differences which can be reduced to conceptions of the good, *held by individuals*. Under this reading, ethnical, linguistic, and cultural differences condense into world-views, engendering incompatible and irreducible moral positions, social practices, and ways of life. Being an Arab is thus conceptualized as endorsing a certain religion, beliefs, and morality. This is consistent with the original formulation by Locke who, for example, stated that being a member of a church was never

a matter of ascription, but of choice; and allows toleration to be seen as pertaining to the private domain. This notion of pluralism, however, is no more capable of solving the toleration issues of today. In contemporary democracy, freedom from persecution and non-interference with religious conscience are taken from granted; toleration is therefore asked for something more. In order to grasp what is at stake, pluralism needs to be reconsidered. Behind conceptions of the good, there are in fact *groups in marginal and subordinate positions*, demanding to be recognized on an equal footing with societal majorities, and conflicting over the public acceptance of their different identities. Thus the present-day conflict does not primarily concern incompatible differences of values and cultures (which are mostly taken care of by toleration as non-interference embodied in civil rights), but the unequal public standing of those professing minoritarian views who, therefore, demand toleration as a fair access for their differences in the public space (Leader 1996). On the whole, we can say that contemporary issues of toleration take for granted liberal toleration, but struggle for the fulfillment of its promises of equal liberty, inclusion, and respect (Waldron 2003).

Only if pluralism is seen as the pluralism of groups, cultures, and identities excluded or unequally included in democratic citizenship, can the conflict underlying issues of toleration be seen as going beyond the disagreement about values, beliefs, and practices (Phillips 1993). The fight over the public acceptance of differences can then be understood not simply as an issue of compatibility with the ideal and the practice of liberal values and principles, but rather as a contested attempt to reverse marginality and exclusion, and to conquer fair access. Since marginality or exclusion come to individuals as the consequence of membership of minority groups, the positive assertion of differences in the public space is seen as the first symbolic step towards full inclusion. Therefore, non-trivial contemporary questions of toleration are basically made up of conflicts concerning the assertion and the recognition of collective identities linked to the excluded, marginalized, or invisible groups inhabiting contemporary democracies. Ideological and moral disagreement is present as well and reinforces the identity conflict, allowing us to single out and identify the issue as pertinent to toleration, according to the traditional definition of the problem, but it is neither the primary, nor really the salient issue.

If the collective dimension is crucial, what differences between which groups constitute the circumstance in which toleration is called for needs further exploration. In general, sources of issues of toleration are

group-differences that are disliked by the majority of a society. Majorities can be more or less homogeneous, but what is relevant is the fact that they are in command of the standards of that society, standards which can be more or less pluralistic, but which in any case define the status quo. Any aspects of the powerless group, which I will call "minority" in a broad sense (Sigler 1983, 5), can be picked up as *different*, and become a mark for the majority's definition of the collective identity of the group: these aspects may be physical or cultural traits, exclusive of the group or not, and may or may not be acknowledged by the members of the group in question as their own. What is relevant is not the actual content of the difference, but the fact that, no matter whether its nature is ascriptive (such as race and ethnicity) or elective (such as culture and morality), the difference is actually construed as if it were ascriptive, that is as a fixed character of the group, by means of which the group is readily identified and marked off from others. Therefore, whether or not the individual member has indeed the possibility of rejecting these different attributes, she is automatically socially identified with them, and social perception of her identity will not easily be freed from such an association (Young 1990). In this respect, incidentally, the reduction of social differences to differences in the conception of the good, that is, to an elective element, is deeply misleading: indeed for members of minority groups, elective aspects of their collective identity also count as ascriptive.

The conception of toleration which I propose here implies a double extension compared to liberal models: first, a spatial extension from the private to the public domain; second, a semantic extension from the negative meaning of non-interference to the positive sense of acceptance and recognition (Apel 1997). At a first glance, both extensions look troublesome for liberal theory, apparently questioning the central notion of a neutral and impartial sphere. Yet, such liberal worries are misplaced insofar as toleration as recognition turns out to be compatible both with a revised notion of neutrality and with impartiality (Galeotti 1999). Briefly, the outline of the argument for toleration as recognition is the following. Considering pluralism as the presence of several groups and cultures in the same society—occupying unequal positions in relation to social standing, public respect, social and political power—circumstances of toleration are thus reconceptualized as produced by the majoritarian (negative) perception of traits, habits, and practices of minority groups which are singled out as "different" and excluded from societal standards. Such circumstances of cultural domination then develop into contests over public toleration of differences

whenever the visibility of some groups' practice in public space is perceived as loud and provocative and hence as an invasion of particular identities into the political domain and a plea for special consideration infringing neutrality. In these cases, I defend toleration of differences in the public sphere, not on the grounds of an argument showing the compatibility between the differences and neutrality, but on the grounds of justice. Indeed, public exclusion of differences is first unfair, because it treats members of minorities differently from members of the majority, whose identity is openly visible everywhere in the political domain. Secondly, it is unjust because the invisibility of differences concurs to keep minorities in a marginal position of second-class citizenship. Toleration can meet these questions of justice concerning minorities' unequal social standing if it is conceived of as public recognition of excluded, marginalized, and oppressed identities (Galeotti 2002).

Yet, if the argument for toleration as recognition has been shown to be grounded on principles of liberal justice, namely non-discrimination, equality of respect, inclusion, some may object that it nevertheless implies a conflict with liberal principles, that is with neutrality, universality, and impartiality. Recognition in fact seems to imply that differences should be considered in their content in order to be valued; and in doing so, the state and its officials have to refer to some ideal of the good as the criterion. In this way, the liberal state would give up its neutralist stance. Moreover, public recognition of differences cannot be granted universally, but always specifically, and only for the differences which have passed the test for recognition. Thus, impartiality too would be sacrificed in the name of identity politics. I hold that this objection is, however, dependent on a questionable conception of recognition. Recognition is interpreted here as acknowledging, or even endorsing, the intrinsic value of the difference in question (Taylor 1993). In this strong interpretation, recognition definitely cannot apply to democratic institutions. But public recognition of differences admits of another less problematic meaning (Galeotti 2002; Fraser 2003).

Differences can be recognized not for their intrinsic value, which is not up to the political authorities to appreciate, but instrumentally, for the value they have for their bearers. To be more precise, differences can be acknowledged to have the same value for their bearers as that which the "normal" characteristics and practices have for the majority. In other words, the public recognition of differences has nothing to do with the public appreciation of a difference and of its value, not to say its public endorsement. Here, this notion more modestly means the acceptance, and hence the inclusion of a

different trait, practice, or identity in the range of the legitimate, viable, "normal" options of an open society. In this respect the public recognition of differences, being independent of their content, is in fact compatible with public neutrality, although under a revised interpretation.[1] It neither means the equal banning of all differences and particularities from the public sphere, as implied in the *laïcité* ideal, nor the disregard of all differences in public action, as implied in the notion of public blindness. If differences have been markers of invisibility and exclusion, then, as compensation, a positive public attention and consideration is precisely in line with what neutrality stands for. A revised neutrality which makes room for public recognition of identities should not aim at the final cancellation of all differences, as a result of compensating the disadvantages attached to them; but to make all citizens positively at ease with their full-blown identities in public as well as in private. If public recognition can be reconciled with a revised notion of neutrality, it can also be reconciled with impartiality. Although recognition works only if granted to single identities, this does not mean singling out and favoring any group in particular, hence giving up the principle of universal justice. Symbolic recognition is not exclusive, that is, it is not a scarce commodity, posing problems of distribution. Provided that the difference in question does not infringe any right, public recognition, although it must be granted to each difference separately, can be generalized to all claimants.

Toleration as recognition thus acknowledges different identities as its proper subjects and points out that cultural contrasts are invariably fueled and inflamed by asymmetries in social standing, status, respect of different groups struggling to improve their status, or alternatively, resisting any such change. Focusing on the power relationship between groups, however, does not automatically solve the cases of incompatibility sometimes arising between certain cultural practice and legal norms or individual rights. The hotly debated issue of headscarves at state schools in France; practices concerning arranged marriages; various demands of exemption of state mandatory education for children; up to perhaps the most controversial issue, female genital mutilation, are all instances of incompatibility, questioning the limits

[1] The revised notion of neutrality I am advocating is very close to the notion of "evenhandedness" put forward by Joseph Carens (2000). Carens prefers the label evenhandedness instead of neutrality in order to stress the different attitude with more usual notions of neutrality. While I can see his point, I think it important to retain neutrality because of the implication of content-independence which I entrust to my conception of a recognition of differences.

of toleration towards cultural practices, especially those oppressive of women and children (Okin 1998; Nussbaum 1999; Shachar 2000).

Does toleration as recognition face these controversial issues any better and more smoothly than other liberal views? I hold that the perspective of toleration as recognition also makes a difference in the normative approach to hard cases. The general point is that compatibility plays the role of side-constraint, while the focus is on equality of status, respect, and justice. From such a vantage point, the legal framework is not taken for granted, given that it may well be culturally biased. In this way, the French position against headscarves at state schools, although grounded on *laïcité*, is nevertheless seen as implying double standards and heavier demands on Muslim students than on Christian or non-religious ones (Galeotti 1993). The latter do not have to change their appearance and dressing code, no matter how eccentric and decent, while Muslim girls must either change their appearance or drop out of public school. And such a decision is based, first, on a questionable interpretation of neutrality as requiring the public sphere devoid of any particularities; and, second, on a biased interpretation of headscarves, as signs of women's subordination, fundamentalism, and stubborn refusal to integrate.

Other hard cases, however, point to a conflict which has less to do with biased legal standards in our democracies than with the infringement of individual rights of weak members of the cultural community, typically women and children. Generally speaking, when individual fundamental rights are at stake, they should take precedence over the toleration of community practices. Yet, a blunt application of this general principle usually worsens the cultural conflict without significantly helping the people whose rights are jeopardized (Perez 2002). Strong legal predicaments against female mutilations in France, for example, have not reduced the number of victims, while worsening their physical and practical condition by making their family risk imprisonment and expulsion. Toleration as recognition is less concerned with the principled defense of liberal values than with effective just treatments of people; hence it shares the view that the approach to hard cases should always be contextual (Carens 2000), that is, careful in the interpretation of the claims at issue and of the positions of the various parties involved. Moreover, toleration as recognition makes a distinction between the symbolic recognition of a collective identity, implying its public visibility and legitimate presence in the "normal" range of the open society, and the actual acceptance of specific practices and claims. If, as I contend, much of the debate over

cultural issues has to do with the recognition of the equal status of minority groups and their identity, and if this represents the non-negotiable aspect of identity politics, then, once symbolic recognition is granted, specific issues are open to negotiation and accommodations. In a context of a more understanding and sympathetic attitude towards alien cultures, sticking to the defense of individual rights becomes easier. With reference to female mutilation, the proposal to change it into a symbolic ritual with no physical risk and consequence for girls' future sexuality seems a plausible accommodation between cultural practices and rights, at least in general terms.

There cannot be a general normative answer for all instances, nor should the answer to such questions ever be regarded as final, given that cultures and groups intermingle and transform constantly. And yet, adopting the standpoint I have proposed allows an unveiling of the power of majorities and its embodiment in institutions, which is disguised if we stick to concepts such as neutrality, equal treatment, and equal rights, and adopt a more pragmatic attitude. Toleration as recognition is aimed not at a mosaic society or at the preservation of cultures as endangered species, but at making people, whatever their differences and identities, feel at ease with themselves, and at ease with their choice to identify or not with certain differences.

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CHAPTER 32

MORAL UNIVERSALISM AND CULTURAL DIFFERENCE

CHANDRAN KUKATHAS

1 Origins and Nature of the Moral Problem

Reflection on cultural diversity has been a significant element of Western political theory since European encounters with people of the new world in the sixteenth century (Pagden 1994). The Spanish conquests in the Americas in particular gave rise to philosophical debates, notably amongst theologians, about the very humanity of the peoples across the Atlantic. Fascination with the diversity of human customs grew with the appearance of travelers' reports detailing the exotic practices and beliefs of people in the East and in Africa, as well as in the Indies and Americas. For philosophers, the diversity of human experience provoked the question of whether there were universal standards of morality—or whether morality was simply a matter of custom. These

questions held more than mere philosophical interest. On the contrary, they bore directly on the issue of how the peoples of distant lands should be treated by the Europeans who traveled there, particularly if they came as representatives of princes or of the church (Todorov 1992; Watner 1987). For Juan Ginés de Sepúlveda (1494–1573), the Spanish colonists were right to regard the native Americans not as humans but as natural slaves, inferior to Europeans as children were to parents, women were to men, and cruel people were to the mild. In the controversy at Valladolid in 1550 this theologian and philosopher defended these views before Charles V, against the arguments of Bartholomé de las Casas (1484–1566), who contended that the natives of America were human and could not rightly be enslaved. Although both men thought that the natives could not be left to govern themselves, Las Casas held that they should be governed just like the people of Spain, according to the universal standards of natural law (Hanke 1994).

The Dominican theologian, Francisco de Vitoria, went further to make it clear that the wish to extend the empire could not serve as a basis for just war. Nor could conquest be justified by pointing to the idolatory or unnatural sexual practices of the natives. The Spanish had the right to engage in lawful commerce with the Indians of America, but no right to expropriate their property; the right to preach but not to convert; the right of free passage but not the right to inflict harm (Vitoria 1991).

These writings and disputes reveal the emergence of a debate within Western thought that remains salient today. In part this is because discussions of the status of the peoples of the new world did much to shape the development of international law. But more broadly, these discussions established the idea that all people should be viewed as participants, if not members, of a global moral community—all of whom were bound to acknowledge universal rights and obligations. In a stroke they established both the humanity of distant peoples and the duty of these peoples to abide by universal laws—regarding free passage or rights of commerce—of which they knew nothing. In denying European princes the right of conquest, the theologians and philosophers invoked moral principles that also denied native peoples any claim to moral separateness or independence.

Today, the issues which first provoked such controversy in the sixteenth century are very much alive, although in a different guise (Keal 2003). Four centuries of colonialism have seen the economic and political transformation of Asia, Africa, and the Americas, as well as important changes to the cultural composition of Western societies that have seen an influx of immigrants of

different backgrounds. Yet, in spite of these developments, there has not been a complete convergence on common ethical standards. Customs remain diverse. Even in the face of pressure to sign up to or abide by international declarations of human rights, many states insist on cleaving to their own ethical traditions. Many immigrants also have attempted to continue to live by the moral standards laid down by their cultural communities of origin, rather than conform to those of their host societies. At the same time, there has been a resurgence of claims by indigenous peoples around the world to recover some of the lands they have lost to colonizers, and to reassert the ethical vitality of their own native traditions. While the native peoples of the past four centuries tried, with limited success, to resist the advance of Christian morality into their lands, cultural minorities now resist the intrusion of the morality of Western liberalism into their communities. A significant part of contemporary political theory now wrestles with the problem of how to measure the claims of particular cultures against the demands of universal morality (Benhabib 2002).

2 The Differentiated Rights Solution

One prominent solution to the problem attempts to resolve it by identifying special rights to be accorded to cultural groups to enable them to hold on to their particular customs and traditions. The best-known and most influential theory here is that developed by Will Kymlicka, who put the case for the protection of cultural minorities in terms that were consistent with the universalist commitments of a liberal political outlook. Liberals, he contended, had failed to take proper cognizance of the claims of cultural minorities wanting to hold on to their cherished traditions, and wishing to avoid being assimilated into the dominant culture of the wider society. Yet there was no reason why liberalism, with its universalist aspirations, should find this problematic, for it was perfectly capable of marrying its commitments to universal moral standards with respect for cultural difference (Kymlicka 1989, 1995, 2001).

The key to Kymlicka's position is his claim that what matters for all human beings is being able to live autonomously. Liberalism, he contends, has always

recognized the importance of autonomy, which it views as a good to which all persons have an equal claim. But far from this mandating the assimilation of cultural minorities into the ways of cosmopolitans in liberal states, respect and concern for autonomy requires respect and concern for cultural communities, through which the capacity for autonomy is nurtured. The destruction of cultural groups could only portend disaster for the lives of those who are dependent upon such communities to learn what has value, and to learn the art of making choices.

To protect cultural minorities, Kymlicka suggests recognizing three kinds of group-differentiated rights: (1) self-government rights, to be enjoyed by national minorities, such as indigenous peoples, whose communities have their own "societal cultures" and are able to sustain independent political structures; (2) polyethnic rights, to be enjoyed by ethnic minorities, such as immigrant communities, who have no claim to being allowed to govern themselves but should be allowed—and enabled—to preserve their cultural heritage with the help of laws exempting them from some obligations as citizens, and recognizing their special needs as speakers of different languages or adherents of different religious faiths; and (3) special representation rights, to be made available to groups whose numbers and circumstances warrant separate provision being made to ensure their access to the political process. Armed with these rights, Kymlicka thinks, the different groups in a liberal society would be suitably equipped both to enjoy the protection of their particular cultural values and to live as citizens in the liberal nation state.

This solution strikes the balance between moral universalism and cultural difference in a particularly interesting way. According to Kymlicka, cultural groups must be protected from external interference from the outside society to ensure that they are able to maintain their cohesiveness and integrity. Without "external protections," many groups would wither. For example, without laws restricting the purchase of tribal lands by outsiders some Indian communities would be undermined, as individual members of the tribe were tempted to give up their portions for high prices. Without subsidies to sustain their community services, some cultures would wither. Without special language rights, some groups would see their languages decline and their communities disadvantaged. At the same time, however, Kymlicka insists that cultural protection does not entitle communities to impose "internal restrictions" on their members, who remain members of the universal community and bearers of the rights enjoyed by all citizens. Thus, groups that wish to restrict the education of women and girls, or attempt to deny freedom of

religion to dissenters in their midst, or insist on illiberal (even if not "unnatural") sexual practices (such as female genital mutilation), cannot escape regulation by the authority of the state, which must protect the rights of individuals established by appeal to universal principles. That this standard might also threaten the viability of the cultural groups otherwise offered "external protections" is not, for Kymlicka, enough to warrant tolerating any more substantial departure from the universal principles of liberalism. Like the Spanish scholastics of the sixteenth century, Kymlicka is moved by an appreciation of the plight of many minority peoples to argue for extending to them the protection of universal moral law. Nonetheless, like Las Casas and Vitoria before him, Kymlicka cannot extend to them the right to take themselves beyond the authority of that law. In the end, a liberal society cannot encompass highly illiberal elements: universal principle cannot tolerate deep difference.

3 The Cosmopolitan Solution

If the differentiated rights solution cannot tolerate deep difference, it is worth noting that it is nonetheless an attempt to go further than earlier liberal theory to accommodate difference on a principled basis. Toleration might have to be circumscribed by the universal standards of liberal justice. All the same, at least in Kymlicka's theory, it has a place of its own. But for a number of critics of differentiated rights, toleration cannot have a principled place in a theory of the good society in the way that Kymlicka might wish. If moral standards are truly universal, the case for group differentiation diminishes, along with the basis for cultural toleration. This point has been pressed by a variety of critics of group-differentiated rights, including some feminists and liberal egalitarians. It would be unfair to liken these critics too much to Sepulveda, for whom native Americans were so far inferior to Europeans as to be fit only for slavery. Liberal egalitarians and feminists (of all stripes) are strongly committed to principles of human equality. Nevertheless they have at least this much in common with Sepulveda: they view the distance between universal morality and the particular moralities of (illiberal) groups as too great to warrant either protection of the groups or toleration of their ways.

This view is defended from a feminist perspective with especial vigor by Susan Okin, for whom feminism and multiculturalism are clearly in tension (Okin 1998). Far from thinking that the liberal state should protect minority cultures, Okin argues that it should act positively to discourage certain cultures from perpetuating their traditions because they do not accord women equal dignity or consider that women should have the same opportunity to live as fulfilling and as freely chosen lives as men. Minority group rights exacerbate rather than resolve the problem of human development:

> In the case of a more patriarchal minority culture in the context of a less patriarchal majority culture, no argument can be made on the basis of self-respect or freedom that the female members of the culture have a clear interest in its preservation. Indeed, they *might* be much better off if the culture into which they were born were either to become extinct (so that its members would become integrated into the less sexist surrounding culture) or, preferably, to be encouraged to alter itself so as to reinforce the equality of women—at least to the degree to which this value is upheld in the majority culture. (Okin 1999, 22–3)

Cultures that practice female genital mutilation, give women or girls no say in choosing a marriage partner, or raise women to serve men, should not be protected. They should not even be tolerated but encouraged—or forced—to reform themselves. Ideally, for Okin, this should be done in a way that gives women themselves the opportunity to participate in the transformation of their cultural communities. (Here she is sympathetic to the arguments of Shachar 2001, and Friedman 2003.) While she is well aware that state power is open to abuse, even when the intention is to ameliorate oppression, Okin nonetheless holds firmly to the view that the use of that power is necessary to ensure that the interests of women are not subordinated to the interests of particular cultural groups. And although she admits the importance of recognizing the complexity of cultural communities, which are not always sharply separated from the wider society or from each other, and that many women belong to more than one community, this does not lessen the need to judge cultures by the moral standards she holds significant. These are, broadly speaking, the principles of liberal feminism (see also Okin 2002, 2005; for a critique see Kukathas 2001).

This stance is adopted even more stridently by Brian Barry, who sees in the claims of multiculturalism not the appeal to respect for difference but the pleadings of cultural relativism. For him, this simply will not do. The principles of liberal egalitarianism have universal validity; and all societies, including the communities within them, must be judged by liberal standards.

To the extent that cultural groups fail to meet them they deserve not toleration, much less protection, but condemnation. Where necessary, the state should intervene in such communities to ensure that liberal principles are honored. The liberalism to which Barry appeals is that embodied in the thought of John Stuart Mill (Barry 2001).

The practical implications of this view are spelt out in some detail by Barry. Religious minorities cannot expect to be exempt from the requirement to ensure that their children receive a broad general—that is, liberal—education, and the inculcation of religious doctrines, such as creation science, is not an acceptable substitute. Cultural groups which attempt to enforce strict codes of behavior by the power of social pressure will have to temper their approach if it is too harmful or coercive. Thus, for example, the Amish, who shun those who leave their communities, should be required to compensate those whose livelihoods are affected by their inability to trade with their former neighbors; otherwise, many people will remain in Amish communities not because they long to but because the costs of exit are too high. Muslim and Jewish groups will also have to modify their behavior, since their wish to consume only halal or kosher meat cannot be granted without violating the proper standards governing the humane slaughter of animals. Ritual slaughter, Barry opines, is indefensible; and those whose cultures prohibit the eating of meat from animals not killed in the proper way should become vegetarians (see also Casal 2003; for a critique of Barry see Kukathas 2002).

Although not every liberal egalitarian has taken as much delight as Barry in writing against the multicultural grain, many have been skeptical about the importance of culture and community. The "cosmopolitan alternative," as Jeremy Waldron calls it, is not only a feasible way of life—one that eschews the morality of cultural community—but a form of living which is, in many ways, more suited to the modern world. Indeed, paying too much attention to the claims of minority cultures runs the risk of pandering to forces that are not only self-serving but also disruptive and threaten to undermine the peace of otherwise stable modern societies (Waldron 1997). Although we should be sympathetic to the plight of those indigenous cultures that have suffered as their communities have been damaged or destroyed by the coming of settlers, we have to move on. Political theory must be forward-looking rather than backward-looking, and should consider how justice can serve all people considered as equals rather than how justice must compensate those whose ways of life have been compromised

(Waldron 1992; on rectifying historical injustice see also Kukathas 2003*a*; Ivison, this volume).

For those who adopt the cosmopolitan stance, the claims of cultural minorities are not to be dismissed, but neither are they to be given the weight that minorities themselves demand, or that theorists like Kymlicka defend. Some, like Joseph Raz, for example, argue that the morality of autonomy cannot license toleration of societies or communities that violate or repudiate individual autonomy. If such societies are to be tolerated, the justification must be entirely pragmatic. Intervention in the lives of other people or communities is an enterprise fraught with danger, and should not be undertaken lightly. Moral universalists need not be Jacobins in politics (see Raz 1985, 424; Fitzmaurice 1993, 14; see also Levy 2004). Nonetheless, there is, for these theorists, no principled reason for non-intervention: universal principles simply trump cultural differences.

Some cosmopolitans, however, argue that the issue is not so much one of whether universal principle should override cultural particularity as one of discovering what is universal in the particular. Martha Nussbaum is the most notable exponent of this view, arguing that most, if not all, cultures recognize certain goods as essential for anyone to live a good life (Nussbaum 1992, 1993, 1995). To the extent that they do, all are capable of recognizing our common humanity, and acknowledging that we are all citizens of the world: cosmopolitans. Every culture therefore has its own internal resources from which to draw to criticize and attack injustice and oppression. In the Third World, no less than in the First, therefore, women and oppressed minorities can stand up to their cultures and make claims of justice which are at once universally defensible and yet locally grounded. Those who would deny them the right to do so in the name of culture must themselves go against aspects of their own traditions as well as against universal moral principle. The problem with Nussbaum's universalism, however, is that it assumes, mistakenly, that identifying a list of capabilities desirable for any good human life is sufficient to show that there are universal values shared by all societies. But what distinguishes communities of value is the fact that, while they may share a conviction that life, liberty, attachments, and recreation are important, they interpret and rank these values very differently (for a fuller critique see Ackerly 2000, 102–10). To be fair to Nussbaum, however, she does acknowledge the reality of cultural difference and the fact of people's attachments to cultural traditions. Moreover she consistently maintains that the appropriate attitude to take towards other cultures is one of humility

(Nussbaum 1999). While she is a cosmopolitan, she is clearly not a liberal Jacobin (Levy 2004).

In spite of their differences, cosmopolitans share a conviction that universal moral judgments can be made, and that cultural differences cannot be invoked to justify failure or refusal to abide by the demands of morality. No one can rightly declare an unwillingness to enter or remain within the universal moral community. Like the Spanish scholastics, their stance is intolerant of difference at least to this degree: Difference is to be condoned for as long as it remains within the bounds of a standard of morality no one could reject. Toleration, in this picture, is only a minor virtue, circumscribed as it must always be by other, more fundamental, concerns—such as justice.

4 Difference and Recognition

Unsurprisingly, the cosmopolitan outlook, and liberalism more generally, have been criticized, and sometimes rejected entirely, by theorists for whom difference and particularity have not been duly recognized. For Michael Walzer, for example, the idea of citizenship of the world simply carries no meaning, so the cosmopolitan ideal makes little sense (Walzer 1996, 125–7). More broadly, he questions the idea that societies can readily be judged or criticized from the standpoint of universal morality, since a large part of morality is tied to local understandings and meanings. Social criticism is most effective when it comes from within, from those who understand their communities and grasp the meanings implicit in their practices. Only then can there be genuine criticism and a serious confrontation with oppression (Walzer 1981, 1983, 1987, 1994). There will always be a temptation for greater powers to repress particular, "tribal," loyalties; but the reality is that these communities will have to be accommodated, for parochialism cannot be overcome, since individuals have a commitment to their own histories, cultures, and identities (Walzer 1994, 81).

Walzer's inclination is to advocate toleration of difference, although he is also wary of the capacity of groups to disrupt social harmony as they seek political advantage in any society prepared to condone their activities (Walzer 1997*a*, 98). But toleration has its limits, and cannot be extended to groups

which are oppressive, particularly to the extent that group practice goes against the norms of the host society, which will have its own, "thick," shared understandings of what is right and wrong (Walzer 1997*b*). For Charles Taylor, the offer of toleration, particularly in liberal societies, has generally been of little value, for it has failed to appreciate what groups really want, and has all too often turned out to deliver even less than promised.

Taylor's writings pose a challenge to liberal solutions to the problem of dealing with difference because he insists that all such solutions have failed to appreciate the nature of the demands made by particular groups. Understanding that groups have wanted recognition of some kind, liberal regimes have responded by offering them equality: equal rights, equal status, even a measure of material equality and, ultimately, equal dignity. "With the politics of equal dignity, what is established is meant to be universally the same, an identical basket of rights and immunities" (Taylor 1994, 38). The problem, however, is that what groups desired was recognition of their dignity not as members of a universal community but as individuals and groups distinct from everyone else. For these groups, non-discrimination and toleration are not enough; and the idea that the liberal state might be seen as a neutral framework in which they, along with all others, might flourish under difference-blind principles was simply an illusion. The reality is that liberalism is not the meeting ground for all cultures but "the political expression of one range of cultures, and quite incompatible with other ranges" (Taylor 1994, 62). For Taylor, Kymlicka's group-differentiated rights solution is too weak, for it does not go far enough to recognize how much groups matter to their members. Granting different groups rights to enable them to pursue particular cultural goods works only "for *existing* people who find themselves trapped within a culture under pressure, and can flourish within it or not at all. But it does not justify measures designed to ensure survival through indefinite future generations" (Taylor 1994, 62).

The charge that liberalism fails to accord groups the right measure of recognition is also pressed by Iris Young, for whom assimilation lies at the heart of the liberal impulse. The "politics of difference" she advocates is a politics of group assertion (Young 1990, 167) that looks to extend the scope of democracy to include the marginalized and oppressed within the political process. It is exclusion that does most to reinforce oppression. The problem with liberal humanism is that, for all its universalist pretensions, it simply perpetuates existing patterns of dominance, albeit in the name of individual liberty and justice as impartiality.

5 Deliberative Democracy

Can respect for difference be duly honored within the perspective of a universalist moral and political theory? The democratic solution offered by theorists of deliberative democracy suggests that it can. Seyla Benhabib in particular has argued that, in the modern world, the deliberative model of democracy offers the best prospect of accounting for the kinds of institutions needed to deal with the salience of cultural difference in modern society.

The distinctiveness of the theory of deliberative democracy, according to Benhabib, lies in "its vision of the interaction between liberal commitments to basic human, civil, and political rights, due process of law and democratic political struggles in civil society" (Benhabib 2002, 114). Benhabib herself offers a "two-track model" of deliberative democracy according to which cultural disputes are regulated directly and indirectly by the state, but without ending the "dialogue and contestation" that is a marked feature of the "civil public sphere [that is] essential for a multicultural democratic polity" (Benhabib 2002, 115). When disputes arise, for example over laws governing cultural minorities, it is not enough to argue about whether or not groups should have cultural rights. What is needed is a political process in which cultural minorities can put their case. Yet this also means minorities recognizing that they themselves cannot simply demand to be left alone since their traditions themselves are often under pressure precisely because members of their communities demand change. Cultural communities must themselves be willing to take their place in the political process of democratic deliberation. Indeed, for Benhabib, this is something that such communities cannot escape, since they are not fixed and homogeneous entities but bodies comprising different and contesting perspectives. The very boundaries of cultural communities are not permanently settled but capable of being reconfigured in the deliberative process.

There are two objections to the deliberative approach, both of which Benhabib rejects. The first is that the deliberative model is biased to the extent that it does not accommodate deep differences of belief and cultural practice. In demanding that consensus be sought, it in effect excludes many groups that will do poorly when consensus is not reached, as will often be the case. The second is that deliberative politics itself has limitations that cannot be overcome if it is to do justice to the need for pluralist cultural power-sharing arrangements and also to secessionist cultural and nationalist

demands (Benhabib 2002, 133–46; see also Valadez 2001). For Benhabib, consensus is achievable; and group secession from public life has to be resisted. It is important not to overstate the significance of consensus, since it is at times important to defend claims made in the name of universal justice. Equally, the "requirement of morality and those of compromise need not be mutually exclusive, as Habermas sometimes suggests they are" (Benhabib 2002, 145). Moral universalism and cultural difference might be in tension, but the point is to resolve it through a democratic politics.

6 Radical Toleration

The tension between moral universalism and cultural difference is indeed difficult to resolve. Some have attempted to deal with it by simply asserting that universal morality must take precedence over any claims of culture. Others have tried to find in the principles of a universal morality a basis for giving some weight to the demands of cultural groups. And, of course, some maintain that the very idea of universal morality should be viewed skeptically, at the very least because many claims to universal morality are simply the claims of particular moralities masquerading as universal; but also because morality is the product of community and not a universal standard accessible to human reason (see in particular Alasdair MacIntyre 2002). Disagreement appears to be a feature of the analysis of difference as much as it is a feature of difference itself.

Yet in contemporary discussions, no less than in the debates of the sixteenth century, insufficient attention has been paid to an alternative, more radical, option of moral separation. The Spanish theologians, convinced of their capacity to achieve moral knowledge through an investigation of natural law, saw no option but to judge other peoples by the standards of universal morality. That those people demonstrated no appreciation, or even cognizance, of the moral law could not exculpate them from moral responsibility. The possibility that Europeans might simply leave other peoples to their own practices and traditions was simply beyond consideration—particularly for those, like Vitoria and Las Casas, who insisted on the humanity of the peoples others regarded as savages. In contemporary political theory, most writers are

concerned to emphasize the equality of all persons and groups, and therefore to ask how they might be included as participants within the framework of a single moral community. The idea that social unity is not important, and that we might do better to maintain greater moral distance among groups, may, nonetheless, have something to offer.

To adopt this stance would mean taking a particular view of the nature of groups and of the claims of culture. Rather than think of the world as made up of fixed groups, whose claims need to be considered by those in power, we should begin by recognizing that groups themselves are not permanent or stable entities but more or less temporary associations of individuals. How they associate, who they encompass, and how strong their identities, is determined not simply by their "shared" histories but by the conditions in which they find themselves. Australia's Aborigines did not view themselves as a single people before the arrival of European settlers, although now they find themselves united to some degree as a people with a common cause. Differences can be identified along many dimensions (from religion to language to ethnicity), although any one of these dimensions might easily supply the basis of a form (more or less stable or enduring) of social unity. A good society is one that leaves people free to form, or persist in, the forms of association they find congenial.

On this view, there are no cultural rights (Kukathas 1992*a*, 1992*b*). Groups are to be regarded not as established with the right to protection or guarantees of perpetuation into the distant future, but as associations of people who are entitled to continue in association with one another if they so desire. Each is free to depart and the authority of the group's leaders rests only on the willingness of the members to acquiesce in their rule. The outside world, however, is neither entitled to intervene in its activities nor obliged to help it sustain them. The proper stance here is one of radical toleration: groups are tolerated even when their practices are themselves highly intolerant of dissenters in their midst. There is no expectation that groups or their members must conform to the standards of the wider society, although those who wish to leave their groups may not legitimately be prevented from doing so—and no one is under an obligation to help groups retain their unwilling members.

Implicit in such a view is a certain kind of universalism. Everyone has a duty of forbearance from intervention in the affairs of others, which only self-defense can defeat. It is certainly a view that acknowledges the humanity of all peoples. But it takes a step that Vitoria and Las Casas were unwilling to contemplate in suggesting that those who do not acknowledge this universal morality may withdraw from its ambit, and continue to live beyond its frontiers. There is no

obligation on the part of any of them to enter into moral association with the dominant society. A good society is, thus, one that makes room for dissent even from its deepest commitments. It tolerates difference even when differences seem intolerable (for a fuller defense see Kukathas 2003*b*).

This is a position that will appear uncongenial to those who attach great importance to the *inclusion* of all groups as properly "recognized" members of a single moral community. It will also be rejected by those who consider some groups worthy not of toleration (let alone recognition) but of moral condemnation for their failure to abide by the universal standards of morality. The virtue of this position, however, is that it does not compel those who repudiate the moralities of particular groups to embrace them. Nor does it compel those groups who dissent from prevailing standards to embrace those who reject them. The cost, however, is that groups can be offered no assurance that they will survive; and the moral majority can be offered no assurance that the universal morality will prevail universally.

In practical terms, it must however be conceded that it is hard to expect that such a view will find many adherents. It demands a level of toleration that most states, liberal democratic or otherwise, will find difficult to sustain.

7 The International Dimension

In some respects, the trend of contemporary discussion is moving precisely in the other direction. In international political theory, the tide is moving with those who argue that universal standards of justice should hold across the globe, and that political institutions should be established to ensure that distributional inequalities are reduced or eliminated, and that oppressive or simply illiberal regimes are pressured to conform to global moral standards. Charles Beitz, for example, has argued that the standards of justice defended by John Rawls in *A Theory of Justice* (Rawls 1971) could serve as a standard not only for all societies but for justice between societies (Beitz 1979; see also Pogge 1989, 2002).

Rawls himself has dissented from this view, arguing in *The Law of Peoples* (Rawls 1999) that the principles of justice do not extend to international society, which must be governed by different principles altogether. In this, however, he seems to have retreated from any kind of commitment to moral

universalism, now regarding moral principles as the distillation of the ethical convictions of particular moral communities rather than as insights reached through the power of human reason. Such a position has also been elaborated by David Miller, for whom principles of justice are tied to national communities (Miller 1995, 1999, 2001).

Most theorists, however, have rejected the Rawlsian view of international order, and begun to argue for global institutions to enforce global standards of justice (Moellendorf 2002; Jones 1999). Allen Buchanan, for example, has suggested that a cosmopolitan outlook should govern our reflections on international order, and that what is most urgently necessary is a restructuring of global institutions to bring them into conformity with universal standards of morality. States, in the end, should be governed not by a primary concern for the interests of their citizens but by a commitment to protecting human rights everywhere in the name of the natural duty of justice (Buchanan 2004). If it is important that human rights be protected within domestic society, consistency, it is argued, requires that they be protected across the globe. "In fact, just as institutionalizing an arrangement that permitted individuals to be unjust could be seen as being complicit in the injustice, so institutionalizing principles of international conduct that licensed oppression could be seen as being complicit in the oppression" (Moellendorf 2002, 28).

Consistency is undoubtedly a virtue; and complicity in oppression is, at the very least, a questionable form of conduct. But if the danger of an aggressive universalism can be seen clearly anywhere, it may be in the international realm, where the ultimate purpose of political institutions should perhaps be not the pursuit of justice but the preservation of peace (Kukathas 2006). It is my suggestion that consistency dictates that we pursue no more than this in both the domestic and the international sphere. This is not because no universal standards of justice exist, but because peace is really the first virtue of social institutions, and is the universal standard most readily embraceable by cultures and communities of every different kind.

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PART VIII

CLAIMS IN A GLOBAL CONTEXT

CHAPTER 33

HUMAN RIGHTS

JACK DONNELLY

Human rights are, literally, the rights we have simply because we are human. They are equal rights: One either is or is not a human being, and thus has exactly the same human rights as every other human being. They are inalienable rights: One cannot stop being a human being, and therefore cannot lose one's human rights, no matter how horribly one behaves nor how barbarously one is treated. Human rights are also universal rights, held by every human being, everywhere. This chapter offers a conceptual analysis of human rights, a brief account of their historical evolution, and an introduction to some leading theoretical controversies.

1 The Practice of Human Rights

Human rights are a complex and contested social practice that organizes relations between individuals, society, and the state around a distinctive set of substantive values implemented through equal and inalienable universal

rights.[1] This and the following section give strong emphasis to the universality of human rights, on the grounds that this is the way human rights have actually been presented both in theory and in political controversies. The first half of the final section, however, is explicitly devoted to challenges to universality.

1.1 Human Rights as Rights

"Right" has two principal moral and political senses, rectitude and entitlement, characteristically expressed in talk of some*thing being* right (or wrong) and some*one having* a right. Denying you something that it would *be* right for you to enjoy in a just world is very different from denying you something—even the same thing—that you *have* a right to enjoy. Claims of rights ordinarily "trump" utility, social policy, and other grounds for action (Dworkin 1977, xi, 90). And you can do special things with rights.

Adam's right to x with respect to Beth is not reducible to Beth's correlative duties. Should Beth fail to discharge her obligations, besides violating standards of rectitude and harming Adam, she violates his right. This makes her subject to special remedial claims. Furthermore, as the language of "exercising" rights suggests, Adam is actively in charge of the relationship. He may assert his right to x. If Beth still fails to discharge her obligation, he may press further claims, choose not to pursue the matter, or even excuse her, largely at his own discretion.

Exercising rights is cumbersome and costly both to the parties and to society. It is thus to be avoided when possible. Nonetheless, the power to claim rights distinguishes having a right from simply being the (rights-less) beneficiary of someone else's obligation. "Having" (possessing) a right is of special value precisely when one does not "have" (enjoy) the object of that right. Possessing a right must not be confused with the respect it receives or the ease or frequency with which it is (or is not) enforced.

Having a human right also should not be confused with enjoying the substance or object of that right. The fact that people are not executed arbitrarily may reflect nothing more than a government's lack of desire or

[1] This section draws heavily on Donnelly (2003, chs. 1, 2). Nickel (1987, chs. 1–3), Shue (1996, chs. 1, 2, afterword), and Hayden (2001, chs. 16–22) cover similar ground.

limited capabilities. Even active protection may have nothing to do with a right (title) not to be executed. Rulers may, for example, act out of a sense of justice, instrumental calculations, or a divine injunction that does not endow subjects with rights. And even a right not to be executed arbitrarily may rest on custom or statute rather than being human.

Human rights, as we shall see below, principally regulate relations between individuals, conceived of as citizens, and "their" state. But as rights (entitlements) they do more than establish standards of political legitimacy. They authorize and empower citizens to act to vindicate their rights.

Human rights are not just abstract values such as liberty, equality, and security. They are *rights*, entitlements that ground particular social practices to realize those values. Human rights claims express not mere aspirations, suggestions, requests, or laudable ideas but rights-based demands. And in contrast to other grounds on which goods, services, and opportunities might be demanded—for example, justice, utility, divine donation, or contract—human rights are owed to every human being, as a human being.

1.2 The Source and Substance of Human Rights

Turning from the "rights" to the "human" side of human rights, the central theoretical question is how being human gives rise to rights. To use an older idiom, what in (our) "nature" gives us "natural rights?"

Needs is a frequent answer (e.g. Maslow 1970, xiii; Green 1981, 55; Bay 1982, 67; Pogge 2001 [1995], 193; Gordon 1998, 728). But as Christian Bay, a leading advocate of a needs theory of human rights, admits "it is premature to speak of any empirically established needs beyond sustenance and safety" (Bay 1977, 17). And how needs give rise to rights is obscure.

A closer examination suggests that human rights rest on our *moral* nature. They are grounded not in a descriptive account of psycho-biological needs but in a *prescriptive* account of human possibility. We have human rights not to the requisites for health but to those things "needed" for a life worthy of a human being.

The "human nature" that grounds human rights is more a social project than a pre-social given. Human rights are at once a utopian ideal and a realistic practice for implementing that ideal; a sort of self-fulfilling moral prophecy. If the underlying moral vision of human nature is within the

"natural" limits of possibility, then implementing those rights will make real that previously ideal nature.

Human rights *constitute* individuals as a particular kind of political subject: free and equal rights-bearing citizens. And by defining the requirements and limits of legitimate government, they constitute states of a particular kind.

Contemporary international human rights law presents one politically important vision of this process. There is a surprising degree of international consensus—at least at the interstate elite level—on the list of rights in the 1948 Universal Declaration of Human Rights (see Morsink 1999) and the 1966 International Human Rights Covenants.[2] As of December 2005, the International Covenant on Economic, Social, and Cultural Rights had 151 parties and the International Covenant on Civil and Political Rights[3] had 154 parties, representing 80 percent of the total UN membership of 191. Few of the remaining states have expressed serious systematic objections of principle.

These two documents can be read as envisioning the mutual co-constitution of equal and autonomous citizens and democratic states fit to govern such rights-bearing citizens (Howard and Donnelly 1986; Donnelly 2003, chs. 3, 4, 11). The state must treat its citizens not just with concern for their capacity to suffer and respect "as human beings who are capable of forming and acting on intelligent conceptions of how their lives should be lived," but with *equal* concern and respect (Dworkin 1977, 272).

1.3 Justifying Human Rights

International human rights law, however, is silent about its theoretical foundations, except for scattered assertions that "all human beings are born free and equal in dignity and rights" (Universal Declaration, Article 1) and that human rights "derive from the inherent dignity of the human person" (Covenants, Preamble). The social contract tradition of political theory, which from Locke through Rawls has been closely associated with natural rights ideas, likewise simply assumes that they exist. Human rights are absent from the traditions of Western moral theory, among deontologists and teleologists alike. Even today, general justifications of human rights are

[2] http://www.ohchr.org/english/law/index.htm.
[3] http://www.ohchr.org/english/bodies/docs/Ratificationstatus/pdf.

peripheral to most theoretical discussions. (The principal exception is Gewirth 1982, 1996.)

For example, rights are absent from Kant's *Grounding for the Metaphysics of Morals* (1981) and the first part of "Theory and Practice" (1983, 61–92), which consider our categorical duties under the moral law; that is, right in the sense of rectitude. The second part of "Theory and Practice," however, addresses "political right." Here the discussion revolves around the rights of individuals, considered as human beings, subjects, and citizens—roughly what we would consider human rights today. Yet even as systematic a philosopher as Kant assumes rather than argues for the existence of these rights.

I have thus suggested (Donnelly 2003, 40–1, 51–3) that we understand human rights as what John Rawls calls a "political conception of justice" rather than a comprehensive religious, philosophical, or moral doctrine. Because a political conception of justice addresses only the constitutional structure of society, defined (as far as possible) independently of any particular moral or religious theory, adherents of different comprehensive doctrines may, despite other profound differences, come to an "overlapping consensus" (Rawls 1996, xliii–xlv, 11–15, 133–76, 385–96; 1999, 31–2, 172–3).

This has happened nationally in the West, where Christians, Muslims, Jews, and atheists, Kantians, utilitarians, neo-Thomists, Critical Theorists, and postmodernists, socialists, capitalists, and many others have come to endorse—for varying reasons and with varying degrees of enthusiasm—the liberal/social-democratic welfare state. The consensus is overlapping (rather than complete) and political (rather than moral or religious). Nonetheless, it is of immense theoretical and practical importance. I would argue that something very similar explains the wide international legal and political endorsement of human rights.

Although human rights do not depend on any *particular* religious or philosophical doctrine, they are incompatible with fundamentally inegalitarian comprehensive doctrines. Any egalitarian comprehensive doctrine, however, could in principle adopt human rights as a *political* mechanism. And, in practice, a growing number of adherents of more and more comprehensive doctrines, both religious and secular, have moved in this direction. For example, Muslims of various political persuasions across the Islamic world have elaborated Islamic doctrines of human rights that are strikingly similar to the Universal Declaration. This seems analogous to the process by which Western Christians, who prior to the seventeenth century had never expressed their political aspirations in terms of equal and

inalienable rights, gradually came to endorse political societies structured around such rights.

1.4 Duty-bearers of Human Rights

Henry Shue (1996, 51–64) argues that most rights, and all human rights, entail three kinds of duties: not to deprive the right-holder of the enjoyment of her right; to protect against deprivation; and to aid those whose rights have been violated. These duties, however, may be held by different actors.

In both national practice and international law, duties to protect and aid fall almost exclusively on the state of which one is a national.[4] Even deprivations by private individuals and groups are not typically called human rights violations. If an irate neighbor blows up a house killing a dozen people, it is murder. If irate police officers do the same thing, it is a violation of human rights. If foreign soldiers do it during war, it may be a war crime.

One might imagine different allocations of duties. The rights of children in all societies are implemented primarily through families. Many countries have significantly privatized old-age pensions. In Singapore, children have certain legal obligations to support their aged parents. Claims asserting duties of business enterprises not to deprive are appearing with some frequency today. And it does not strain credulity to imagine a world in which regional and international organizations acquire obligations to implement and enforce human rights.

In practice, however, virtually all human rights today are implemented and enforced by states operating within recognized territorial jurisdictions. Although the holders of human rights are universal, implementation and enforcement lie with states, which have duties to protect and aid only their own citizens (and certain others under their territorial jurisdiction). Neither states nor any other actors have either rights or obligations to protect or aid victims in other jurisdictions.[5]

[4] For brief accounts of the (extremely weak) international mechanisms that support implementation of international human rights treaties, see Donnelly (2003, 129–51, 173, 177), Forsythe (2000, ch. 3).

[5] A limited legal exception has emerged for genocide. Holzgref and Keohane (2003) and Wheeler (2000) provide overviews of the current state of mainstream discussions of "humanitarian intervention."

2 A History of Human Rights

In the Western and non-Western worlds alike, politics and society typically have been organized on hierarchical rather than egalitarian principles, around duties rather and rights, and around ascribed roles rather than individuals. Human rights are a "modern" invention initially developed in seventeenth- and eighteenth-century Europe and North America. The history of human rights[6] is the story of the (often violent) struggles through which political communities in the modern world have constructed a particular vision of the political requisites of a life of dignity worthy of a human being.

2.1 Early Natural Rights Ideas

Greeks of the Classical era radically distinguished Hellenes (Greeks) from barbarians. Aristotle's famous definition of "man" as a *zoon politikon* ("political animal") (*Politics* 1253a2–3) held that a truly human life was possible only in a *polis* ("city-state"). Outside the *polis*—that is, among barbarians—there were, at best, creatures capable of becoming men. And rights, for which there is no term in the language, were peripheral to Greek understandings of politics and society.

More universalistic ethical and religious doctrines attained greater prominence in Hellenistic Greece and Rome. Nonetheless, Greeks and Romans continued to distinguish themselves categorically from barbarians. (The Hebrew conception of the Jews as God's chosen people established a functionally similar qualitative distinction.) And during both the Republic and the Empire, Romans thought about and practiced politics with no reference to universal individual rights.

Medieval Christendom was ordered around hierarchical distinctions of birth, gender, religious status, and feudal obligations. Natural law expressed natural right, in the sense of rectitude, not natural rights (Strauss 1953;

[6] See also Ishay (2004), a lively and well-written history of "human rights" understood not as equal and inalienable rights but as any relatively egalitarian and moderately universalistic moral or political ideas, and Douzinas (2000), an eclectic account combining critical legal theory with postmodern and psychoanalytic perspectives. Shapiro (1986) offers an excellent critical account of the liberal rights tradition.

Donnelly 1980). The idea of equal and inalienable rights held by all individuals against society and political rulers, had it been seriously contemplated, would have been considered an abomination.

The decisive break came in the mid-seventeenth century. Tuck (1979, chs 1, 2) identifies important medieval and Renaissance precursors. The English Civil Wars provoked a wide range of assertions of equal natural rights (Haller 1965; Sharp 1983), including proto-socialist claims by Winstanley and the Diggers on behalf of the poor, oppressed people of England; Leveller tracts (Haller and Davies 1944) by Lilburne, Overton, and many others; and the famous debates at Putney in the fall of 1647 (Woodhouse 1938). In "high theory," natural rights featured prominently in Grotius, Selden, Hobbes, and Pufendorf (Tuck 1979). Locke's *Second Treatise of Government* (1689) put equal and inalienable rights at the center of a prominent and influential political theory.

In practice, "universal" natural rights were interpreted in highly particularistic ways. Religious toleration was extended only to some Christian sects. The political claims of high birth were supplemented rather than supplanted by natural rights, which were further restricted by a substantial property franchise. Women were "naturally" excluded. And none of this applied to "barbarians" and "savages."

Nonetheless, natural rights did significantly undermine feudal and aristocratic privilege. And, as later struggles have shown, the logic of equal and inalienable universal rights has a certain self-correcting character. It shifts the burden of proof to those who base their own rights on shared humanity to show why others do not qualify for those same rights. The oppressed and despised have always had to force their way into politics, usually in the face of violent resistance. But over the past three centuries, universal human rights have facilitated the entry of many oppressed groups, beginning with the bourgeoisie.

2.2 Expanding the Scope of Natural Rights

Although natural rights were prominent in seventeenth-century British political debates, the Bill of Rights (1689) refers principally to "ancient rights and liberties" and the powers and prerogatives of Parliament. The American and French Revolutions were more genuinely revolutionary, rooting sovereignty

in the people and, in their still famous declarations, basing political legitimacy explicitly on equal natural rights.

These projects too were, in practice, limited by, for example, slavery, the exclusion of women, and a (reduced but still significant) property qualification for voting. And for all their impact, they were more the exception than the norm. In the decades following the defeat of Napoleon, a conservative backlash predominated, especially on the Continent.

Nonetheless, nineteenth-century claims of human rights grew steadily more radical. And they increasingly were advanced by the popular and working classes, now not only against royal and aristocratic privileges but also against the bourgeois beneficiaries of previous natural rights claims.

This change is often presented as a shift in focus from civil and political rights to economic and social rights. Such a reading, however, misrepresents both phases. Economic rights were central to Locke's list of life, liberty, and property and Jefferson's life, liberty, and the pursuit of happiness. Conversely, nineteenth-century radicals and progressives agitated as strongly for an extension of the franchise and equal civil and political rights as for new economic and social rights.

Disagreement on the substance of economic and social rights certainly was a central line of political cleavage. Both groups, however, treated civil and political rights and economic and social rights as interdependent and indivisible. Although natural rights "for all" in practice typically meant natural rights "for us," both groups advocated the full range of (their own) civil, political, and economic rights.

Our focus on the emergence and evolution of human rights practices, however, should not obscure the fact that human rights continued to be rejected categorically by religious and secular traditionalists of various sorts, who controlled Russia and Austria-Hungary and remained powerful in most other countries. Romantics, historicists, and many nationalists saw "nations" or "peoples" as organic moral entities that were both unequal and superior to individual human beings. Scientific racism and Social Darwinism were powerful nineteenth-century movements. And so on.

In fact, even among progressives, the hegemony of human rights is, at best, only a late twentieth-century phenomenon. Most nineteenth-century struggles for political, economic, and social equality—in sharp contrast to 1776 and 1789—were waged under a different banner. For example, Bentham (2002) famously described imprescriptible natural rights as "nonsense upon stilts." Many other radicals rejected natural rights because they had been

co-opted by conservative defenders of property. Liberal nationalists stressed national rather than individual rights. Marx accepted human rights only as tactically and instrumentally valuable parts of the bourgeois political revolution that would be left behind by socialism.

2.3 Internationalizing Human Rights

As the case of the nineteenth-century working class suggests, dominant understandings of human rights have evolved primarily through new groups demanding full political recognition of their equal humanity by creating rights-based remedies to the distinctive "standard threats" (Shue 1996, 29–34) to their dignity. The twentieth century saw notable progress in recognizing and responding to discrimination against women and racial and ethnic minorities. It also introduced the victims of Western colonization into the ambit of human rights through the right of peoples to self-determination.

In many ways, however, the most radical twentieth-century innovation was the crafting of a system of *global* human rights norms. The Universal Declaration presents itself as "a common standard of achievement for all peoples and all nations," an aspiration given some real practical significance by the development of international human rights law. By the late 1970s and 1980s, the language of human rights had been reintroduced in most "progressive" political projects. With the collapse of party-state socialism in Central and Eastern Europe and of developmental dictatorships and national security states in the non-liberal Third World, a loosely liberal-democratic vision of human rights has become hegemonic. Today, no vision of political legitimacy systematically incompatible with internationally recognized human rights can hope to be taken seriously internationally. And human rights has become the leading language of resistance in all regions of the globe.

There remain marginalized and despised groups (e.g. the disabled and homosexuals) whose claims to equal rights continue to be denied. National implementation of international human rights norms excludes many from effectively enjoying their human rights because of accidents of birth. The logic of universality, however, continues to be a powerful critical resource for combating exclusionary understandings and implementations.

Universal human rights demand an unending struggle to realize an always evolving and receding vision of human dignity. Equal concern and respect—

"All human rights for all," to use the slogan of the High Commissioner for Human Rights in 1998, the fiftieth anniversary of the Universal Declaration—will always contain a certain utopian element, as we develop richer substantive conceptions of human dignity and more fully inclusive conceptions of "all" human beings. But it remains a *realistic* utopia (compare Rawls 1999, 7, 11–12, 126) that provides the means (human rights) for its own realization.

3 Theoretical Controversies

David Kennedy (2004, ch. 1) offers a brief but extensive and powerfully presented inventory of common criticisms of human rights. Space restricts us here to arguments that challenge the universality and individualism of human rights and criticize the tendency to rely excessively on (human) rights in pursuing social justice and human well-being. Although this is a reference work, my presentation here as in earlier sections eschews bland neutrality. While laying out the principal alternative views, I stake out clear substantive positions on these controversies.

3.1 Cultural Relativsm

Many authors contend that non-Western societies have indigenous conceptions of human rights that differ substantially from Western/international understandings (see, e.g., Unesco 1949; Pollis and Schwab 1980*b*; Thompson 1980; Hsiung 1985) Such arguments, however, typically confuse human rights, in the sense of entitlements that we have simply because we are human, with broader notions such as human dignity and social justice. For example, Asmarom Legesse argues that "distributive justice, in the economic and political spheres, is the cardinal ethical principle that is shared by most Africans" (1980, 127). Justice, however, involves much more than respecting rights. And the rights recognized in traditional African societies were rooted in social status rather than shared humanity. Although most non-Western societies have emphasized duties of rulers in areas currently regulated by

human rights, those duties either were not correlative to rights or were tied to rights based on social, legal, or spiritual status (Donnelly 2003, chs. 5, 7). "Individuals possess certain obligations towards God, fellow humans and nature, all of which are defined by Shariah. When individuals meet these obligations they acquire certain rights and freedoms which are again prescribed by the Shariah" (Said 1979, 73–4).

However we read the past, though, we should not emphasize it too much in interpreting and evaluating the present. It may be true, for example, that "the view of society as an organic whole whose collective rights prevail over the individual, the idea that man exists for the state rather than vice versa and that rights, rather than having any absolute value, derive from the state, have been themes prevailing in old as well as new China" (Kent 1993, 30). But culture is *not* destiny. It is dynamic and contested, constantly changing through often violent conflicts for control over social meanings. Contemporary Chinese are no more bound by such traditional understandings than contemporary Europeans are bound by their medieval and early modern traditions, which were equally distant from human rights.

Elsewhere I have argued (Donnelly 2003, ch. 4) that human rights have a structural rather than a cultural basis: They respond to the distinctive threats to human dignity and the particular social and political opportunities created by modern markets and modern states. The universality of human rights is thus functional and historically contingent. Markets and states have penetrated the globe and human ingenuity has (so far at least) proved incapable of devising more effective responses.

But whatever historical and theoretical account we adopt, the crucial fact is that more and more individuals and groups across the globe have come to interpret their religious, moral, and cultural values as supportive of, even demanding, human rights. People with extremely varied cultural traditions—consider, for example, India, Japan, France, and South Africa—have embraced practices such as freedom of religion, social insurance, and the right to education. And it is worth noting that these and most other rights in the Universal Declaration are specified in sufficiently general terms to allow varied implementations that take into account local culture, history, and tastes.

Human rights are neither tied to a particular culture nor incompatible with any egalitarian culture. Politically active individuals and groups across the globe today are increasingly grappling with the meaning, for them, of "universal" human rights (compare Preis 1996; Nathan 2001; Svensson 2003). The

universality of human rights has been, and continues to be, constructed by individuals, groups, and national and international political communities that have adopted equal and inalienable universal rights as a standard of political legitimacy.

3.2 Further Relativist Challenges

Relativist arguments need not be based on culture. Many are political. Furthermore, many ostensibly cultural arguments are made by repressive elites whose behavior offends local cultural values no less than international human rights norms.

During the cold war, the universality of human rights was often challenged by arguments that different political systems may appropriately select different subsets of the list of internationally recognized human rights. A minority in the West (e.g. Cranston 1973; Bedau 1979) rejected or radically downgraded economic and social rights. Although such arguments had no impact on, and in fact were completely contradicted by, the practice of all European states (that is, the Western mainstream), analogous criticisms of civil and political rights did dominate both ideology and practice in the Soviet bloc and much of the Third World.

Theoretically, however, there are no categorical differences between civil and political and economic and social rights (Shue 1996, chs. 1, 2; Donnelly 2003, 27–33). For example, "positive" and "negative" rights do not match up with economic and social and civil and political rights. Periodic and genuine elections, jury trials, and the presumption of innocence, for example, are positive goods and practices that the state must provide. State restraint or inaction is at best secondary to realizing these rights. Even significantly "negative rights," such as protection against torture, require extensive positive state action (e.g. police training and access to the legal system) to be effectively realized.

Today it is generally accepted that categorical exaltation or subordination of one set of rights cannot sustain political practices that support a plausible conception of human dignity. The 1993 Vienna Declaration and Programme of Action (para. 5) thus presents all human rights as "indivisible and interdependent." The underlying vision of human dignity is comprehensive and integrated, the whole being much more than the sum

of the parts, with each set of rights contributing essentially to the realization of the others.

A different kind of relativist critique presents international human rights standards as an instance of "false" universality. Cultural-political versions of such arguments usually involve a claim that human rights are "a western construct with limited applicability" (Pollis and Schwab 1980*a*). Feminists often present a more structural version of such arguments.

"Human rights are gender specific. . . . Both in application and in theory, human rights are based on the male as the norm" (Peterson 1990, 305; compare Agosin 2001). The historic marginalization of women's rights issues is now widely appreciated and has become an important area of remedial action locally, nationally, and internationally (Askin and Koenig 1999). Whether a deeper masculinist bias remains—for example, in defining the boundary between public and private, in the adversarial nature of legal mechanisms of enforcement, or in the individualism of rights—continues to be a matter of considerable controversy.

3.3 Individualism and Groups

Many critics charge that human rights rest on a vision of "the isolated, lone individual, afraid of other humans" (Felice 1996, 57; compare Strauss 1953, 248; Douzinas 2000). In fact, however, many internationally recognized human rights—for example, to freedom of association, to marrying and founding a family, to organizing and bargaining collectively, to freedom of religion, and to participating in cultural life—have a primary social dimension. Countries where internationally recognized human rights are most fully implemented, such as Norway and the Netherlands, bear no resemblance to a world of "possessive individualism" (Macpherson 1962). Strong, attractive, and inclusive communities actually are facilitated by individual human rights (Howard 1995). Elements of atomistic individualism, such as the treatment of the poor in the United States, rest on and reflect systematic human rights violations rather than an unusually high degree of implementation.

It is true, however, that all the rights in the Universal Declaration and the Covenants, with the exception of the right of peoples to self-determination, are rights of individuals. The fact that much of the suffering in the world

is rooted in group membership has led many to advocate establishing new collective human rights (e.g. Marks 1981; Felice 1996). The most powerful arguments for such rights appeal to a combination of protective grounds, rooted in a history of collective suffering, and expressive grounds, based on the contribution of the group to the meaning of the lives of its members.

Many groups with strong protective and expressive claims, however, are incapable of effective agency, especially where the group is large, geographically dispersed, or heterogeneous. Consider, for example, women almost everywhere and African-Americans in the United States. "Group rights" that no one can exercise are largely an empty formula. (It is conceivable, however, that rights might enhance some groups' capacity for agency.)

In addition, if a group right is to be of any real theoretical significance or practical value, it must not be reducible to rights of the members of the group (compare Galenkamp 1993). The right to self-determination meets this condition. Most other ostensible group human rights do not.

The practical purpose of group human rights also is difficult to discern. For example, Felice claims that "[group] rights based on race and ethnicity are necessary because of the often genocidal policies of majority groups" (1996, 58). But can we really imagine a genocidal regime changing its behavior because of collective human rights held by that group?

Perhaps the most serious problem, however, is that group *human* rights must be universal—that is, held by every group of that type—but virtually all persuasive arguments for group rights depend on particular contingent conjunctions of protective and expressive arguments. For example, even the strongest defenders of minority rights do not claim that every minority everywhere ought to have group rights, let alone the same rights.

Human rights for groups cannot be categorically excluded. Beyond self-determination, an emerging exception would seem to be indigenous peoples, whose way of life is fragile, under attack, and fundamentally incompatible with mainstream legal and social institutions. Most oppressed groups, however, need not new rights, either individual or collective, but a deeper commitment to, and perhaps new strategies for implementing, already recognized human rights. It is hard to think of even a handful of additional types of groups that can advance strong protective and expressive justifications, have the capacity to exercise rights, and might achieve benefits with group human rights that cannot be achieved by effective implementation of individual human rights.

3.4 Rights, Justice, and Politics

Human rights, however, do prioritize the rights of individuals, drawing attention away from (although without denying) the legitimate interests and claims of states, societies, and families. Human rights also deflect attention from duties, responsibilities, and other individual and societal interests and values that are part of any adequate comprehensive account of the good life. We must be careful, therefore, not to exaggerate the place of human rights in our political practices, let alone in our understandings of morality or human flourishing.

Human rights are *not* a complete vision of social justice or human emancipation. They define (only) a limited range of (primarily political and legal) requisites for a particular understanding of a life of dignity. In principle, this is unproblematic. Different moral, ethical, legal, and political practices appropriately play different roles in a well-ordered society. In practice, however, human rights today often squeeze out, rather than complement, other concepts, languages, and practices. And the ways human rights are implemented often have socially and morally perverse unintended consequences.

For example, in traditional families one's life chances are largely determined by family roles. Such roles were, and remain, immensely fulfilling for many people. For others, however, they are highly oppressive. One of the great human rights accomplishments of the twentieth century was to liberate countless individuals, especially women, from the tyranny of the family. If families have changed because of the choices of their members, human rights advocates see nothing requiring apology. Unless equality and autonomy extend to the family, all other human rights are unacceptably vulnerable. But the substantial financial disincentives in the United States to caring for elderly parents at home, for example, perversely weaken families and undermine important values of respect and responsibility. More generally, when legal and political attention is focused narrowly on individual rights—especially in a litigious culture, which an emphasis on rights fosters—non-state mechanisms of provision frequently receive short shrift, potentially harming not only groups and society but individuals and their rights.

There is also an unfortunate tendency to shoehorn all important social goods into a human rights framework, implicitly treating internationally recognized human rights as a one-size-fits-all solution for all social and political problems. This can choke off creative thinking about the meaning of and strategies for realizing social justice or human emancipation. As the

hegemony of human rights insinuates itself more deeply in more and more places, we need to be especially sensitive to an inappropriate imperialism of (human) rights.

Claiming a human right does not *necessarily* halt legitimate discussion. Human rights frequently conflict with one another. Different defensible implementations of a particular right may have very different intended and unintended consequences. In extreme cases, human rights may even appropriately give way to other values. Human rights are not "considerations overriding all other considerations," "absolutes to be defended in all circumstances" (Brown 1999, 109, 110). Rights are only prima facie "trumps." The International Covenant on Civil and Political Rights (Article 4) thus permits derogations from most enumerated rights.

We must be careful to keep in view both sides of this fundamental, and inescapable, tension. Human rights are in an important sense "above" or "prior to" *ordinary* politics. In many ways, their point is to take these guaranteed goods, services, and opportunities out of the day-to-day give and take of politics. But human rights represent a *kind* of politics, not a politically neutral humanitarianism. They reshape the contours of, rather than eliminate, politics. Human rights practices—their respect no less than their violation—both reflect and alter distributions of power, opportunities, and values. The politics of human rights, and of accommodating human rights with other social values and practices, thus must remain a central theoretical and practical concern.

For most of the past three centuries, the politics of human rights has been emancipatory. Historically, the claims of families, churches, ruling elites, societies, and states have, at least from the perspective of human rights, been greatly overemphasized. Even today, far more people suffer far more, and far more intensely, from oppressive social, political, and legal duties than from oppressive or limiting implementations of human rights. And we *do* want claims of human rights, ordinarily, in their appropriate sphere, to put an end to, or at least radically restrict, further political discussion.

But all of this can be taken too far, with unfortunate consequences for human dignity, social justice, and human rights. We must avoid what Michael Ignatieff (2001) calls human rights idolatry, treating them as a be all and end all above politics. And we must recognize, even seek out, what David Kennedy (2004) calls the dark sides of virtue, the undesirable, unintended consequences of an excessively enthusiastic pursuit of human rights. Our human

rights practices must be evaluated just as critically and as intensively as we evaluate other moral, legal, and political practices.

Human rights are no more, but no less, than a standard of political legitimacy that specifies a set of social and political practices that aim to establish a framework for equal and autonomous individuals, acting separately and collectively, to make for themselves a world worthy of truly human beings.

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CHAPTER 34

FROM INTERNATIONAL TO GLOBAL JUSTICE?

CHRIS BROWN

The meaning of "justice" is, of course, always highly contentious, but, on this occasion, perhaps not as problematic as the choice of adjective to qualify the term. Should it be "international" justice, or "global" justice? The former implies that what we are interested in is the relations of states or nations, the kind of entities that make up the membership of the United Nations; justice in this case points us towards the normative principles that underlie such relations, as encapsulated in, or summarized by, the practices of international society, most particularly the discourse of international law. Global justice, on the other hand, does not privilege the nation state in this way; here, the referent object of justice is humanity taken as a whole, all the people who share our planet, and it is by no means to be taken for granted that their interests are best served by the normative principles that underlie interstate relations. The *procedural* account of justice that is represented by traditional conceptions of international law comes up against notions of global *social* justice. But things are not that simple, because, independent of notions of global social justice, the traditional conception of international relations is under challenge, both by the growth in significance of global social and economic forces and by the position of the United States which has achieved,

or had thrust upon it, a degree of hegemony unprecedented in the last 400 years. Between them, globalization and American hyper-power (which may be different aspects of the same phenomena) are reshaping the international agenda, and notions of international/global justice will not escape this process. The first two parts of this chapter will explore the traditional agenda of international versus global justice, while the third will focus on these new features of the international scene.

1 International Justice, Properly So-called

What does it mean for states to deal justly one with another? "Nothing," opines one influential body of international relations theory—so-called realism. States act in accordance with their interests defined in terms of power, and there is little more to be said about the matter; international law never acts as a genuine constraint on state behavior. As a modern realist puts it, in a self-help system "logics of consequences," that is, ends–means calculations, always trump "logics of appropriateness," including international norms and laws (Krasner 1999). It is easy to see why this position is superficially convincing. Wars and lower-level conflict are perennial and seemingly ineradicable features of international relations, international treaties are unenforceable because there is no effective international court system or police force and thus states routinely act as judges in their own cause—all this is, indeed, a recipe for anarchy and a norm-less world. But this is to see the glass as half empty; what is actually more striking about international relations, given the absence of government, is the extent to which violence and conflict are *not* prevalent. Most nations most of the time are at peace with one another, and, within the advanced industrial world at least, we take for granted that goods, services, and individuals can cross national boundaries without too much difficulty, and that a complex network of international institutions will engage in standard-setting and regulation for a whole range of activities—these institutions have been created by states but nonetheless do constrain their behavior, even if compliance does not reach the level that a well-run national bureaucracy would regard as acceptable. Interstate

conflicts are legion, but the vast majority are settled without even the threat of violence. A good question is how this comparatively peaceful and well-organized world is possible in the absence of international government. Why does anarchy not mean chaos?

One very influential answer is to say that although international relations are anarchical, states nonetheless consider themselves bound by various norms and practices; that, in short, there exists an anarchical *society* (Bull 1977/1995). The central institutions of this society are permanent diplomatic missions and international law; the former provides a means for states to negotiate their disputes without resort to force, while the latter provides a set of normative principles and procedures that underlie the activities of diplomats. These institutions are unique to the European order that was established sometime in the sixteenth and seventeenth centuries (the so-called "Westphalia system") which has since, through imperialism and decolonization, become genuinely global. The core principles of Westphalian international law are the sovereign equality of states and the norms of non-aggression and non-intervention. Law is intended both to buttress and to constrain state sovereignty; on this account, law is not necessarily incompatible with war, which is the prerogative of states, but which ought to be conducted in accordance with commonly agreed rules, and, in principle, does not involve civil society, although the emergence of nationalism as a force in international relations, and the destructive capacity of industrial society, have made this constraint more difficult to achieve.

International justice in this Westphalian order rests on an ethic of coexistence and is therefore procedural and not devoted to any substantive ends, except those connected with facilitating coexistence. Drawing on the work of the English political philosopher Michael Oakeshott, Terry Nardin has argued persuasively that the society of states is analogous to an association of citizens (*cives*) as opposed to an "enterprise association;" that is, an association devoted to the pursuit of some substantive common goal (Nardin 1983). It is central to Oakeshott's conservatism that the state itself should not be an enterprise association, but it is interesting that John Rawls, whose theory of justice as applied to national societies is the polar opposite of Oakeshottian, also endorses the general idea that, as between societies, notions of social or distributive justice are inappropriate—the pluralism that international society is designed to foster is not necessarily to be associated with either conservative or progressive ideologies (Rawls 1999). There is, incidentally, an important general point here: normative thinking about

international relations rarely maps neatly onto domestic distinctions between right and left which were developed in another context altogether (Brown 2002*a*).

It can certainly be argued that this account of international justice overestimates, even romanticizes, the degree of order in the Westphalian system, but in any event, there are several reasons for skepticism as to its adequacy in the twenty-first century. First, the old European order was just that, European. It supported pluralism in Europe but was frequently intolerant of "difference" when it encountered it in the rest of the world. Moreover, European diplomacy may itself be a culturally specific social activity; it can certainly be argued that the old order worked as well as it did because diplomats were drawn from the same social class, spoke a common language (metaphorically and actually), and, for the most part, represented sovereigns who were linked by ties of family and religion. It may be that in a non-European world order the state form itself—a European export widely welcomed by governing elites in the rest of the world—will impose its own culture and provide its own support for a legal system based on coexistence, but this is unlikely to be as reliable as the older cultural framework.

Second, the rise of industrial society has created the need for state cooperation across national boundaries in a way that the predominantly agrarian societies of old regime Europe never did, and this has had an impact on the distinction between the practical and enterprise associations alluded to above. On this latter account, states are obliged to sign up to the practices of coexistence, but further cooperation is optional, at their discretion—but is it really true that states have the option nowadays to opt out of the international economy and the network of institutions that support it? Possibly, but the costs of exercising this option are too high for most. Third, another feature of industrial society has been democratization, which has played a part in undermining the old diplomatic culture, but has also led to ideas such as universal human rights, which threaten to undermine the ethic of coexistence upon which conventional international justice is based.

The post-Second World War settlement is instructive in this regard. On the one hand, the United Nations actually strengthened the norm of sovereignty and national independence, making the protection of norms of non-aggression and non-intervention available (in principle, if not in practice) to all states; on the other hand, the Universal Declaration of Human Rights of 1948, and the subsequent development of an international human rights regime has severely restricted (again in principle, if not in practice) the way states are

supposed to behave towards their own people. There is an obvious contradiction here—moreover, as the human rights regime has developed, economic and social rights have come to the fore, with even greater implications for national sovereignty than the political and civil rights upon which the Universal Declaration concentrated. Taken together, these three factors have led many writers to think that conventional notions of international justice are radically inadequate and that what is required are principles of global or social justice.

2 Global Social Justice

Procedural justice involves impartial rules impartially applied, but, as many writers have argued, impartiality is difficult to achieve between rich and poor, and theorists of social justice argue that for a society to be just, outcomes as well as procedures must be rationally defensible—justice is a matter of substance as well as procedure. It is easy to see how this argument could be extended internationally; it may be the case, for example, that a norm under which foreign-owned assets may not be nationalized without compensation is technically impartial between British assets in Bangladesh and Bangladeshi assets in Britain, but in substance this proposition resembles the famous observation that the Ritz, like the law, is open to rich and poor alike. On the other hand, it is certainly possible to argue that, between different societies, the sort of considerations that apply within any given society are simply not relevant; scholars of international society including the most important theorist of social justice of the last century, John Rawls, take this line, arguing that distributive justice between societies is not possible because there is nothing to distribute. Rawls argues that the society of states (he says "peoples") is not a scheme of cooperation for mutual advantage and so there is no social product whose distribution is a proper matter for social choice—although he does argue that existing members of the society of peoples should be obliged to help "burdened societies" to achieve membership status (Rawls 1999; Brown 2002*b*). It is fair to say that most theorists of justice, including many who think of themselves as, in other respects, Rawlsians, find this

position wrong, indeed perverse. Characteristically, they deploy, individually or in combination, three arguments for the notion of global social justice.

The first argument, associated in particular with Charles Beitz's seminal account of *Political Theory and International Relations*, is that, under contemporary conditions of interdependence, national societies are not sufficiently discrete to justify their being treated as separate, self-contained entities (Beitz 1979/2000). Rather, the world has to be seen as, in certain respects, a single society and therefore the Rawlsian idea that differences in outcome vis-à-vis the distribution of social and economic goods must be justified applies. Beitz argues that Rawls's "difference principle" to the effect that such inequalities must work to the benefit of the least advantaged should be applied internationally which would, of course, require wholesale redistributions of wealth and income between different national societies. Apart from the obvious practical problems associated with such a position, there is a further difficulty which Beitz later acknowledged, namely that a Rawlsian society is, as noted above, to be understood as a cooperative scheme based on mutual advantage, and it is by no means clear that the current world economic order could be seen in this light (Beitz 1983). Straightforwardly Rawlsian principles of social justice may apply in areas where Rawls thought they did not—for example, it might be argued, as Beitz does, that the principle that states own the raw materials found on their territory is indefensible since they have done nothing to deserve this wealth and thus resource-poor countries should be compensated by the equivalent of a global wealth tax—but a full-blown global difference principle seems to be taking the argument a step too far.

Unless, perhaps, existing international economic inequalities are actually created by, rather than reflected in, the international economic order, in which case the second argument in favor of global social justice kicks in—namely that rich countries are responsible for the poverty of poor countries and it is therefore right that they should acknowledge extensive obligations to the latter. This is a position that is associated with some post-Leninist theories of imperialism, in particular dependency theory and centre-periphery analysis as developed in Latin America in the 1960s (Frank 1971; Galtung 1971; Wallerstein 1974/1980/1989). This position is post-Leninist because Marxist theorists up to and including Lenin argued that the role of capitalism was to develop the non-capitalist world as a way of (temporarily) staving off the inevitable crisis of accumulation in the core capitalist countries, rather than to hold down the non-capitalist world in perpetual poverty (Warren 1980; Brewer 1990). Dependency theory is no longer widely supported in the

academy—although for political reasons it remains popular in those parts of the South where development has not taken place and where local elites wish to deflect the anger of the people away from themselves—but the general argument has been taken up with great rhetorical force recently by Thomas Pogge, whose *World Poverty and Human Rights* is a seminal work (Pogge 2002). Pogge argues that environmental degradation, mass poverty, malnutrition, and starvation are the price paid by the poor to support the lifestyle of all the inhabitants of the advanced industrial world; global redistribution via a tax on the use of natural resources is a requirement of global social justice. This is a powerful argument, although is not simply neoliberal apologists for the International Manetary Fund (IMF) and World Trade Organization (WTO) who would wish to argue that the neo-mercantilism upon which Pogge's work is misplaced is ill-judged. Old-style liberals and unreconstructed Marxists can agree that genuinely free trade—that is, an end to industrial and agricultural protection in the advanced industrial world—would do more to help the poor than Pogge's global welfarism (Desai 2002; Bhagwati 2004).

Both of the first two arguments rest on questionable empirical propositions about how the world actually is; arguably the interdependence argument overstates the unity of global society while the dependency argument understates it. A third argument for global social justice is less dependent on facts about the world, resting on a priori moral principles which envisage all individuals as deserving of equal respect independent of national boundaries. The Kantian principle that a wrong done anywhere is felt everywhere comes into this category, as does his formulation of the categorical imperative which in turn forms the basis for Beitz's (1983) account of cosmopolitanism, and Onora O'Neill's account of our obligations to distant strangers (Kant 1970; Beitz 1983; O'Neill 1986, 1991). Peter Singer's ultilitarian account of the obligations of the rich to the poor is, of course, different in form from the Kantian position, but leads to the same general result, as does Brian Barry's espousal of the principle that the basic needs of all should be met before the non-basic needs of anyone are satisfied, a cosmopolitan principle that he derives from the idea of justice as impartiality (Singer 1985; Barry 1994, 1998). As it happens, most of these writers also endorse a version of Pogge's empirical account of the world economy, but their arguments do not rely upon it—from the perspective of this third set of approaches to global justice, the very existence of extremes of wealth and poverty in itself creates obligations on the rich to help the poor, regardless of the reasons why such extremes emerged.

What, however, this general approach leaves open, is the extent of such obligations, and whether they are necessarily best met by wholesale state-intervention to redistribute resources. As to the first of these points, most writers agree we have different and more extensive obligations towards those closest to us, family, friends, and, by extension, fellow-citizens, than we have towards distant strangers; the key question is how different and how much more extensive. Rawls's proposition in *The Law of Peoples* is that our obligations extend only to helping societies that are not capable of sustaining internal schemes of social justice to reach the point at which they would be so capable (Rawls 1999). This would, as he acknowledges, leave many global inequalities in place, but it is not self-evident that impartiality or Kantian/utilitarian principles actually require that we promote global equality. As to the means by which assistance is given, Rawls argues that the transfer of actual wealth is not necessary to put burdened societies on the road to social justice—what such societies require is the right kind of civil society and sociopolitical values, and the promotion of these values does not require that wealth be transferred, or income redistributed. This may understate the importance of grinding poverty in keeping societies burdened, but Rawls is on firmer ground when he argues that, in fact, it is very difficult to transfer wealth from rich to poor countries—all the evidence of the last forty years suggests that designing effective programs of development aid is well near impossible, which is why economists such as Bhagwati and Desai put so much emphasis on free trade and access for developing countries to developed-world markets (Cassen 1994).

The arguments presented so far have revolved around the obligations of the rich to the poor, and in these terms, defenders of a traditional conception of international justice are somewhat on the defensive in the face of the claims of global justice—although part of the purpose of this discussion has been to suggest that, even in these terms, the former have better arguments than they are often credited with. Still, the strongest case in favor of international as opposed to global justice rests on a political defense of pluralism, and the merits of communal autonomy. Although many critics of communal autonomy (including all those cited above) consider themselves on the left politically, it is worth stressing that those societies where functioning and effective social democratic polities have existed have usually been strong defenders of the idea of national sovereignty—the Scandinavian social democracies being the obvious example. Writers such as Michael Walzer and David Miller would argue that there is a clear affinity between social democracy and moderate nationalism (Walzer 1983; Miller 1995; Miller and Walzer 1995). On the one hand, it is

argued, social democracy and a strong welfare state requires a degree of commitment to one's fellow citizens, expressed via high taxes, that is difficult to achieve except on the basis of a national community, while, on the other hand, the kind of benefits that an effective welfare state will provide must rest on distinguishing between those entitled to such benefits and those not so entitled, that is, on the control of national borders. It is striking that the Scandinavian social democracies , although good, law-abiding, international citizens with an excellent record of support for the UN and in the giving of development aid, have been very reluctant to surrender power to supranational institutions within Europe, and have always enforced strict immigration controls.

In short, the pluralism that international justice defends has a positive as well as a negative side. It provides the benefits of coexistence to both progressive and reactionary social systems, those that deny many of the basic human rights, but also those that provide the most effective expression of such rights. It is clear that the replacement of this pluralism by cosmopolitan principles of global justice would bring costs as well as benefits for those who favor progressive causes. Still, it may be that this pluralism is doomed by the forces of globalization along, indeed, with those principles of global social justice which employ the building blocks of national communities, which is the case with, at least, the Kantian version of cosmopolitanism. It is noteworthy that preserving national welfare states is increasingly difficult in the face of the pressures of global forces, while, equally, schemes for international redistribution which rely on the existence and relevance of discrete national economies are under threat. Moreover, all this is taking place in a world where the Westphalian assumption that power would be divided amongst a plurality of national actors no longer holds true. It may be that the debates examined so far in this chapter are becoming overtaken by events.

3 Globalization and American Power

At the beginning of this discussion the realist proposition that international justice is a meaningless notion was put to one side in favor of the idea that there exists a norm-governed international society. But how is an anarchical

society possible? The classic answer to this question is, "the balance of power." Because no one sovereign state is in a position to dominate all the others, they each have an interest in supporting a set of norms and practices that regulate their relations (although each also has an interest in preserving as much freedom of action as possible); such international order as exists rests upon this somewhat insecure foundation. The contemporary power of the United States, military and economic, unprecedented in the Westphalia system, puts this foundation under question (Wohlforth 1999). It is important not to overstate this point. Other powers have briefly been dominant in the Westphalian system (including the USA itself immediately after the Second World War) and the USA is not in a position to be able to carry out a program of global conquest on the model of Napoleonic France; moreover, it cannot enforce its will on the international community in general, although it may be able to get its way on particular issues and with particular countries. Still, the old notion that when the great powers wish to act collectively they need to form a "concert" no longer seems relevant (Brown 2004). The USA is now capable of pursuing a great many projects without reference to any other state, and, more to the point, other states find it difficult to pursue their projects unless the USA is on board, as the Kyoto Treaty on the environment and the International Criminal Court (ICC) illustrate. The Kyoto Treaty has come into force, and the ICC exists, but in both cases the future of these initiatives remains doubtful in the absence of US support.

Further, the rise to dominance of the USA has been accompanied by, indeed may be another aspect of, the process of globalization. The latter is a deeply contested term, and some authors argue persuasively that "internationalization" of the world economy is a more appropriate term than globalization, but, whether or not one wishes to argue that a qualitative change has taken place, it seems difficult to deny that there has been a kind of transformation of both global society and the global economy in recent years (Held et al. 1999; Hirst and Thompson 1999; Scholte 2000). This is partly a matter of an increasingly integrated global economy, with global brands and global firms, but also involves the emergence of a global society, with identities and social structures shaped increasingly by global forces. Also part of globalization is the emergence of resistance movements: fundamentalisms of all varieties, national groups such as the Chiapas in Mexico, and the uneasy coalition of environmentalists, trade unions, farmers, and socialists who make up the anti-global-capitalism movement that has been so effective in disrupting meetings on the WTO and other bodies in recent years—all of

these movements can be seen as stimulated and made possible by globalization. Is globalization the same as Americanization? Many of the economic and social forces that drive globalization emerge from the USA, but it should also be noted that American society itself is placed under pressure by these forces: insofar as "real" jobs are being replaced by "McJobs" and local, regional variations are increasing being ironed out, this process has gone farther in the USA than elsewhere.

What both American power and globalization, taken together and singly, suggest is that the contradictions in the old Westphalian system that has been there since 1945 have now sharpened to near breaking-point. In the twenty-first century, Westphalian states are unable to cope with the problems thrown up by environmental degradation or the management of the global economy, and unable to protect their populations from the consequences of this inability—indeed, following the prevalent neoliberal orthodoxy, most of them have given up the attempt to perform this latter task (Strange 1999). This quite obviously constitutes a challenge to the contemporary significance of ideas of *international* justice. The most important defense of the notion of an international society is that it promotes a healthy pluralism, allowing national communities to define and pursue their own projects. The difficulties that the social democracies are experiencing in preserving their welfare states in the face of global pressures to cut taxes, reduce costs, and improve competitiveness suggests that this defense of communal autonomy is increasingly becoming difficult to sustain—it is doubtful whether even the USA is actually capable of pursuing its own national projects at home or in the world, but certainly the next largest industrial countries are finding this difficult, and for most countries nowadays autonomy is barely a meaningful notion.

Many cosmopolitan theorists of *global* justice would regard this development as no bad thing. As we have seen, a quarter-century ago, Charles Beitz argued against the notion that an international society based on discrete sovereign states existed, positing that global interdependence had created a world in which neither realism nor a "morality of states" could be defended. His resistance to Rawls's position was largely based on the belief that communal autonomy is an illusion under modern conditions, a position also held by most other theorists of global social justice. From one angle, globalization can simply be seen as the continuation of this process, a development in global society which makes the necessity for the establishment of principles of global justice even more imperative. Indeed, many theorists of global social justice have given support to the anti-global-capitalism movement while at

the same time making it clear that this did not involve their opposition to globalization as such.

Still, even if globalization is easier to take for theorists of global justice than it is for adherents to the older Westphalian account of international justice, it nonetheless requires some quite substantial adjustments to the former mode of thought. Although for Beitz, Pogge, O'Neill, and other cosmopolitan theorists the ultimate reference point for their thinking was the demand for justice made on behalf of individuals, still a great deal of their thinking assumed that collective actors would remain relevant. Both Pogge and Beitz were clear that they were "moral" as opposed to "institutional" cosmopolitans—that is to say they relied on changes of policy in national units in response to the demands of global justice rather then the development of effective global institutions of governance. (Beitz 1994; Pogge 1994). Given current conditions, in practice this means changes in US government or European Union policy become a prime objective, since only the USA and the EU are actually capable of delivering on schemes of global social justice; this is not an encouraging situation, since the more powerful Americans are currently unimpressed by the idea of multilateral action in any area, let alone in pursuit of goals most Americans do not share, while the rather more multilateralist EU operates by satisfying the interests of its comparatively wealthy member states rather than those of the poor of the world.

In any event, old-style cosmopolitanism had a clear spatial dimension—it was about the obligations of people who lived *here* to people who lived *there*, whereas nowadays it is arguable that within the emerging global society this spatial dimension is much less easy to pin down. Civilizations are interpenetrated, the "South" is now in the suburbs of Paris and Los Angeles as well as those of Rio or Calcutta, borders are increasingly difficult to police, and attempts to establish zones of safety and privilege, whether via the North American Free Trade Area or the Schengen Agreement in Europe, look increasingly doomed. Only the kind of global institutions envisaged by David Held and his colleagues look likely to be able to cope with this new situation—and Held's faith that these institutions will be democratic seems highly implausible (Archibugi, Held, and Kohler 1998).

Of course, as this last paragraph (deliberately) illustrates, it is very easy to get carried away by the vision of an ultra-globalized, borderless world. The sort of meltdown of national societies that such an apocalyptic vision portrays is unlikely to happen in the foreseeable future; instead, national societies will try to cope with the new problems as best they can, occasionally creating

innovatory institutions, but more usually adopting the sort of "make do and mend" approaches that are characteristic of all politics. But this does not mean that the challenges of globalization to both conceptions of justice, international and global, are not real. Rather, it suggests that we currently live in a kind of "interregnum" (Cox, Booth, and Dunne 1999). Just as, in 1945, a set of human rights norms which were laid over the sovereignty norms of the old Westphalian system in a way that clearly created, without resolving, a great deal of international cognitive dissonance, so now both sets of norms are being challenged by the emergence of a genuinely global society. Moreover, this new global society is not accompanied by any sense of a genuine global community—it is striking that such while new institutions of normative global governance as the International Criminal Court have strong support in Europe and the Americas (apart from the USA), they have no appeal in Asia or the Muslim world; no significant Asian or Muslim state has signed, let alone ratified, the Rome Statute which led to the creation of the ICC. A similar division is visible when it comes to the putative new norm of "humanitarian intervention," whose supporters are almost exclusively drawn from the rich and privileged sections of the world. In short, for the time being, the conventional agendas on international and global justice will continue to dominate the discourse, in spite of being fairly obviously unsatisfactory, in the same way that the national state continues to dominate global politics, even though it is not too difficult to demonstrate that it is an outmoded institution that no longer serves the cause of either communal autonomy or human freedom.

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CHAPTER 35

POLITICAL SECULARISM

RAJEEV BHARGAVA

Secularism is a beleaguered doctrine. The predicted decline of religion or its privatization has failed to occur, in non-Western and Western societies alike (Casanova 1994). And political secularism, the doctrine of the separation of state and religion, felt a seismic tremor with the establishment of the first modern theocracy in Iran. Soon other religious voices began aggressively to occupy the public domain. In Egypt, people were exhorted to free themselves of the last vestiges of a colonial past and to establish a Muslim state. In 1989, an Islamic state was established in Sudan. In 1991, the Islamic Salvation Front won the election in Algeria. Islamic movements emerged in Tunisia, Ethiopia, Nigeria, Chad, Senegal, Turkey, and Afghanistan (Westerlund 1996; Kepel 1994). The states of Pakistan and Bangladesh increasingly acquired theocratic and Islamicist overtones (Ahmed 1987; Mohsin 1999).

Movements that challenged the seemingly undisputed reign of secularism were not restricted to Muslim societies. Sinhalese Buddhist nationalism in Sri Lanka, Hindu nationalists in India, religious ultra-orthodoxy in Israel, and Sikh nationalists demanding a separate state—partly on the ground that Sikhism does not recognize the separation of religion and state—all signaled a deep challenge to secularism (Juergensmeyer 1994). Strong anti-Muslim and

anti-Catholic movements of Protestants decrying secularism emerged in Kenya, Guatemala, and the Philippines. Religiously grounded political movements arose in Poland, and Protestant fundamentalism became a force in American politics. In Western Europe, where religion is a personal response to divinity, still largely private, change has come from migrant workers of former colonies and intensified globalization. This has thrown together a privatized Christianity with Islam, Sikhism, and pre-Christian, South Asian religions that do not draw a boundary between the private and the public in the same way. These strange bedfellows have created a deep religious diversity the like of which has never before been known in the West (Turner 2001, 134). As the public spaces of Western societies are claimed by these other religions, the weak public monopoly of single religions is challenged by the very norms that govern these societies. This is evident in both Germany and Britain but was most dramatically highlighted by the headscarf issue in France (Freedman 2004). The suppressed religious past of these societies is now foregrounded and their supposedly robust secular character comes under question.

Secularism is also contested in political theory, with Indian academics among the first to voice their opposition (Nandy 1998; Madan 1998; Chatterjee 1998). The argument here is that the external threat to secularism in India is a symptom of a deeper internal crisis, and that the conceptual and normative structure of secularism is itself terribly flawed. Secularism is said to be linked to a flawed modernization, has a mistaken view of rationality and its importance in human life, makes an impractical demand that religion be extruded from public life, fails to appreciate the importance of communities in the life of religious people, and has a wholly exaggerated sense of the positive character of the modern state. The critics of secularism also include several Western scholars. Up until the 1990s, Western critics mostly wished to fine-tune secular states, making them a littler more sensitive to religion, and tended to focus narrowly on two issues: (1) Can citizens in liberal democracies *justify* political decisions by relying exclusively on religious reasons? (2) Can they *make* such decisions by relying solely on religious rather than secular considerations? Critics argued either (a) that while the justifications may be public and secular, actual decision-making may be grounded solely on a religious rationale (Greenawalt 1998) or (b) that not only political decisions but their justification, too, could in certain contexts rely solely on a religious rationale (Perry 1991).

Critiques of Western secularism have since become more trenchant. Several Western scholars claim that by enjoining believers to leave behind religious

convictions when they step into public life, secularism shows hostility to believers, inhibits diversity, and homogenizes the public domain. Others say it is suited to Protestantism and religions that are weakly protestantized, but excludes or is inimical to other religions. Secularism is said to be a parochial doctrine with universalistic pretensions (Keane 2000, 14–18; Connolly 1999, 23–5; Asad 2003). It denies its own dependence on a visceral register it publicly denounces as irrational; it purports to fight religious hegemony but establishes itself as the authoritative basis of adjudication in public life (Connolly 1999, 38–9). Secularism is seen as failing to accommodate community-specific rights and unable to protect religious minorities from discrimination and exclusion; its peace-talk is represented as mere sham because it is a conflict-generating ideology that threatens pluralist democracies.

Critical writing on secularism is ambiguous, however, between two claims: Whether we need alternatives to secularism, or alternative conceptions of secularism. Therefore, I begin by asking what distinguishes secular states from their competitors and what precise alternatives critics have in mind when they seek to replace them. I consider the merits and demerits of secular and non-secular states, exploring what ethical gains or losses might ensue in the movement from a secular state to one that grants more importance to religion. If secular states are more worthy, is this true of all forms of secular states or only some? If only some, which? I elaborate the conceptual and normative structure of secularism, so as to identify a version that meets the most important objections. Finally, I consider whether the search for alternative conceptions enables us to cut through the division between a modern West and traditional East. I propose that the Indian version of secularism is a modern alternative to its mainstream Western counterpart, one from which everyone may benefit in the future.

1 Theocracy and States with Established Religions

To identify the conceptual structure of secularism, I begin by contrasting it with the anti-secular doctrines to which it is related and opposed. Anti-secular doctrines favor not separation but union or alliance between church/

religion and state. A state that has union with a particular religious order is a theocratic state, governed by divine laws directly administered by a priestly order claiming divine commission (*The Catholic Encyclopedia of Religion*, Volume 14, 13). The Islamic republic of Iran as Khomeni aspired to run it is an obvious example. A theocratic state should be distinguished from one that establishes religion. Here religion is granted official, legal recognition, but while both state and religion benefit from a formal alliance, the sacerdotal order does not govern the state. States with an established church are therefore in some ways disconnected from religion. In particular, there is a degree of institutional differentiation between the two, with distinct functions performed in each by different personnel. Yet there is a more significant sense in which the state and church *are* connected to one another, sharing a common end largely defined by religion. There may also be a connection at the level of policy and law, with these flowing from and being justified in terms of the union between state and church. The institutional *dis*connection—at the level of roles, functions, and powers—therefore goes hand in hand with a first- and third-level *connection* of ends and policies. It is the second-order disconnection of church and state that differentiates a state with established church-based religion from a theocracy.

Just as theocracy is not always properly distinguished from the establishment of religion, so a distinction is not always drawn between the establishment of religion and the establishment of the church of a religion. Not all religions have churches. Yet a state may grant formal recognition to a church-free religion. A majority of Hindu nationalists in India, for example, wish to establish Hinduism as the state religion but have no church to establish. Early Protestants wanted to disestablish the Roman Catholic Church without wishing the state to derecognize Christianity as the favored religion. The establishment of a single religion is consistent with the disestablishment or non-establishment of a church, with the establishment of a single church, or with the establishment of multiple churches. Establishment of multiple religions, with or without church, is also possible. There are, therefore, five types of regime with a close relationship between state and religion. First, a theocracy, where there is no institutional separation between church and state, and the sacerdotal order is also the direct political ruler. Second, states with the establishment of single religion, subdividing into three types: (a) without the establishment of a church; (b) with the establishment of a single church; and (c) with the establishment of multiple churches. Third, there are states which establish multiple religions.

When anti-separationists imagine the replacement of a secular state with some other type, which of these do they have in mind? Some religious activists clearly desire a theocracy or a state that establishes their own religion or church. However, most anti-separationist academics neither endorse nor explicitly reject this, attacking separation but distancing themselves from a wholly religion-centered polity. This is not surprising, for a cursory evaluation of such polities shows that all are deeply troublesome. In states that established a single church—the unreformed established Protestant Churches of England, Scotland, and Germany, and the Catholic Churches in Italy and Spain—there was not only inequality among religions but also among churches of the same religion (Levy 1994, 5). When members of other church or religious groups gained strength, the multiple-denominational society was wracked by inter-religious or inter-denominational wars. When they did not, religious minorities faced persistent religious persecution (as was the case with Jews in several European countries untill the nineteenth century).

The persecution of minorities and internal dissenters continues as a problem wherever one religion is both formally and substantively established. It is important to stress this because recent critiques of secularism often recommend a more accommodative stance towards religion while neglecting elementary facts about what this might entail. Consider Pakistan, where the virtual establishment of the Sunni sect has proved disastrous to minorities, including Muslim minorities. For example, under Article 260 of the constitution, Ahmedis have been deemed a non-Muslim minority and forbidden from using Islamic nomenclature in their religious and social lives (Malik 2002, 10; Bhargava 2004, 30). Ahmedis have been tried and convicted for calling themselves Muslims or using the word "mosque" to designate their place of worship. Or consider the pogrom in Gujarat, which shows how disastrous the establishment of a Hindu *Rashtra* in India would be for Muslim minorities. In the Jewish state of Israel, it would be hard to claim that religious minorities enjoy the same rights as Jews.

States which substantively establish multiple churches or religions—New York in the middle of the seventeenth century, the Vijayanagar Kingdom in the fourteenth century—are in some ways an improvement. They are likely to be relatively peaceful. Members of different denominations are likely to tolerate one another. There may be general equality among churches or religions. Schools run by religious institutions may be financially aided on a non-discriminatory basis (Levy 1994, 12). The state may grant each denomination considerable autonomy in its own affairs. But states with an establishment

of multiple churches have their limitations, for they may continue to persecute members of other religions and atheists; and they are usually indifferent to the liberty of individuals within each religious group. Closed and oppressive communities can thrive in such contexts. These states may not have legal provisions allowing individuals to exit their religious community. They may give recognition to particular religious identities but fail to recognize multiple or what may be called non-particularized identities. They are usually unconcerned with the *non-religious* liberties of individuals or groups, and often indifferent to citizenship rights.

2 Secular States

So are secular states better, from an ethical point of view? From a moral point of view, at least some secular states are deeply troublesome. To show this, it is important to distinguish three levels of disconnection, corresponding with the already identified levels of connection. A state may be disconnected from religion at the level of ends (first-level), of institutions (second-level), and of law and public policy (third-level). A secular state is distinguished from both theocracies and states with established religions by a primary, first-level, disconnection. It has free-standing ends that are substantially, if not always completely, disconnected from the ends of religion. Like states with established religions, secular states are institutionally disconnected. But secular states go considerably further in their disconnection: they break away completely, refuse to establish religions, or formally disestablish these by withdrawing privileges established churches had earlier taken for granted. In a secular state, no official status is given to religion. No religious community can say the state belongs exclusively to it. No one is compelled to pay tax for religious purposes or to receive religious instruction. No automatic grants to religious institutions are available.

Theoretically, two things follow. First, a non-theocratic state is not automatically secular, because it is entirely consistent for a state neither to be inspired by divine laws nor run by a priestly order, but still have a formal alliance with one religion. Second, the institutional separation of state and religion cannot be the distinguishing mark of secular states, because this is

also a feature of states with established churches. Political secularism cannot be identified with church–state separation.

3 Varieties of Secular States

A state may also be disconnected from religion at the level of law and public policy. In some cases, this disconnection is entirely opportunistic, serving the self-aggrandizing purposes of the state and its political class. I shall call these amoral, secular states. Usually, they are imperial and autocratic. A good example would be the British colonial state in India, which despite the frequent allegation of Christian bias, was a predominantly secular state motivated almost exclusively by power, wealth, and social order, had a policy of tolerance and neutrality towards different religious communities. This is not so surprising, for empires are interested in the labor or tribute of their subjects, not their religion. Distinct from amoral secular states are value-based ones, states guided by values such as peace, liberty, or/and equality.

This third-level disconnection may be made for different ends but also take different forms. In some cases, disconnection means strict exclusion. Secularism here becomes a doctrine of political taboo and prohibits contacts with religious activities. This exclusion itself may take two forms. The first (one-sided exclusion) is typified by the early French and Turkish model. Here, religions are excluded in order to control, regulate, sometimes even destroy them. These states are anti-religious and may justify the disconnection on epistemological grounds; for example, that religion is obscurantist or superstitious. Or they may refer to a value such as equality, arguing that important values can be realized only by controlling or eliminating religion. The second form, exemplified by the American model, conceives of disconnection as mutual exclusion. Here, religious and political institutions live as strangers to each other, at best with benign or respectful indifference. When a state is disconnected from religion at all three levels in this particular way, we may say that a "wall of separation" has been erected. On this conception of secularism, religion must be outside the purview of the state, and in this sense, privatized. These states (typically liberal-democratic) are

not *anti*-religious, but give religion a particular form, protecting religious liberty, liberty more generally, and the equality of citizenship.

Liberal-democratic secular states defend the rights of individuals to criticize the religion into which they are born, and at the extreme, reject it; to freely embrace another religion, or remain without one. They make active citizenship rights, such as the right to vote or stand for public office, available without discrimination, regardless of religion. They usually enjoin their citizens to support only those coercive laws for which there is public justification. Why so? Because if others are expected to follow a law in terms they do not understand and for reasons they cannot endorse, the principle of equal respect is violated (Audi 1993, 701; Larmore 1996, 137; Solum 1990, 1095; Macedo 1990, 249; Rawls 1971, 337–8; Weithman 1997, 6). If other reasonable and conscientious citizens have good reason to reject a particular rationale in support of a coercive law then this rationale does not count as public justification. Because a religious rationale is a paradigmatic case of a reason that other citizens have good reasons to reject, it does not count as public justification. Because of this, a law grounded solely on a religious rationale must never be enacted. In short, purely religious convictions or commitments have no role to play in democratic and pluralist polities.

Critics who wish to rehabilitate religion in political life usually contrast states more hospitable to religions with self-aggrandizing amoral or mindlessly anti-religious secular states. This is an unfair comparison. This attempts to shift judgment in favor of religiously friendly states by pitting them against the worst forms of secular state. This comparison may occasionally serve a point: there is not always much to choose between theocracies or states with established churches on the one hand, and amoral or absolutist secular states on the other. Both fare miserably on indices of freedom or equality. But when evaluating the relative merits of religious and secular states, it is the liberal-democratic model which must be kept in mind, not the routinely debunked, severely anti-religious, or self-aggrandizing secular states. Little is to be gained from damning secularism, as Talal Asad does, by citing the atrocities of Hitler and Stalin or crimes committed by "secularists" such as Saddam Hussain or Ali Hyder (Asad 2003, 10). Nor is any point served by deriding secularists for failing to realize that Sharon does not need to invoke passages of the Torah to kill and terrorize the Palestinians. Secularism, a value-based doctrine, is as committed to denouncing these secular regimes as it is to berating religious states that violate principles of liberty and equality. Likewise, it is astonishing to read the claim that "in modern democratic politics, there is not much

reason to fear a religious majority more than a secular majority" (Veer 2001, 20). Charles Taylor's arguments about the exclusionary tendencies in modern democratic states with religious or ethnic majorities point clearly towards the inherent possibilities in these states towards de facto singular establishment, and the wide range of exclusions and injustices that make them what they are. (Taylor 1999, 138–63) To say, at this point, that religious majorities are no worse than secular majorities because different religious communities have coexisted in the past without violent conflict both is ambiguous and misses the point. It is ambiguous because it is hard to understand what a secular majority means. If this means a group of hard-nosed secular absolutists who are deeply anti-religious, then the statement is true. But if it means a majority that wishes not to politicize religion in unprincipled ways, then this statement is wrong. It misses the point because peace between communities is entirely compatible with all kinds of exclusions from the domain of freedom and equality. A fearful minority is willing to buy peace at any cost—something that Indians painfully learnt again after the Bombay riots in 1992–3.

4 Critiques of Mainstream, Liberal-democratic Secularism

The question remains: What, if any, are the problems with this mainstream Western model? There are many criticisms. First, the requirement that religious reasons be excluded from liberal-democratic politics is said to be offensive to religious persons who (like others) wish to support their favored political commitments on the basis of their conscience (Sandel 1993, 483–96). If people believe that their politics must be consistent with their morality, why should they be discouraged or stigmatized for doing so? It is a mistake to assume that only religious people bring passion and sectarianism into politics or, as Richard Rorty believes, that only religion is a conversation stopper (Rorty 1994, 2; Eberle 2002, 77). By asking a religious person to exercise restraint and exclude religious reasons in justification for a coercive law, liberal secularism forces her to act against her conscience; in doing so it fails to respect her moral agency and violates its own principle of equal respect. Indeed,

the demand that restraint be exercised may be counterproductive, because exclusion from the larger public sphere forces the religious to form their own narrow public where resentment and prejudice may flourish (Spinner-Halev 2000, 150–6). This can lead not only to the freezing of identities but to the building of unreachable walls between the religious and other citizens. Therefore, "engagement with religious people is typically better than shunning them" (Spinner-Halev 2000, 155).

Second, this kind of secularism does not understand the believer's life as it is lived from the inside. It misses out on perhaps the most significant feature of most religions: that they encourage their members to choose to live a disciplined, restricted, rule-bound, and desire-abnegating life. A religious life is not just a life of whimsical attachment to a personal God, but one in which one submits to his commands and lives obediently by them. This may be a nightmare for a standard liberal but it captures the constitutive features of most religions rather better than liberal secularism. Third, interpreting separation as exclusion betrays its own sectarianism; this is a secularism that can live comfortably with liberal, protestantized, individualized, and privatized religions, but has no resources to cope with those that mandate greater public or political presence, or have a strong communal orientation. This group-insensitivity makes it virtually impossible to accommodate community-specific rights and therefore to protect the rights of religious minorities. In short, while this secularism copes with inter-religious domination, it does not possess resources to deal with inter-religious domination.

Fourth, mainstream Western secularism is said to be a product of the Protestant ethic. Therefore, its universal pretensions are perhaps its greatest drawback. It presupposes a Christian civilization that is easily forgotten because over time it has silently slid into the background. Christianity allows this self-limitation, and much of the world innocently mistakes this rather cunning self-denial for disappearance (Connolly 1999, 24). If this description is correct, this "inherently dogmatic" secularism cannot coexist innocently with other religions (Keane 2000, 14; Madan 1998, 298). Given the enormous power of the state, it must try to shape and transform them—a clear instance of illegitimate influence, if not outright violence. Thus, with all its claims of leaving religions alone, of granting religions liberty, this secularism is seen as hostile to non-liberal, non-Protestant believers (Hamburger 2002, 193–251). Overall, it seems to force upon us a choice between active hostility or benign

indifference. Fifth, liberal secularism relies excessively on a rationalist conception of reason that imposes unfair limits on the manner in which issues are to be brought in the public domain. Some issues are constitutively emotive; others become emotive because they are articulated by people who are not always trained to be rational in the way liberals mandate (Connolly 1999, 27). In short, secularism's model of moral reasoning is context-insensitive, theoreticist, absolutist (non-comparative), enjoining us to think in terms of this or that, and too heavily reliant on monolithic ideas or values considered to be true or superior or wholly non-negotiable.

These are powerful critiques, but it would be a mistake to see them as rebutting secularism altogether. In our imagination of social and public life, greater space must be given to non-liberal religions; such ways of life have moral integrity that liberal secularism frequently fails to realize. Yet, in our effort to accommodate such religions, we cannot deny that they continue to be a source of oppression and exclusion. States that align with non-liberal religions frequently condone morally objectionable practices. In Pakistan, for example, the religiously sanctioned law of evidence, *Qanoon-e-Shahadat*, holds on par the evidence of two women or two non-Muslims with that of a single male Muslim, thereby establishing the intrinsic superiority of Muslim men over women and minorities, and contravening the principle of equality (Malik 2002, 18). In Hinduism, religiously sanctioned customs related to purity and pollution, for example, the bar on the entry of menstruating women in to several temples in India, continues to exclude women from the affairs of their own religion and perpetuate an institutionalized system of subordination. This violation of the religious rights of women severely compromises the secular character of the Indian state.

What does all this show? It demonstrates three things. First, we must be sensitive both to the moral integrity of liberal and non-liberal religious ways of living, *and* to religion-based oppression and exclusions. Second, states that are strongly aligned to religions may be sensitive to the moral integrity of non-liberal religions but not always to their oppressions. Third, that the policy of non-interference (mutual exclusion) that is typical of liberal secularism can be self-defeating. In short, a conception of secularism is required that goes beyond but does not ignore liberal values, and does justice to both dimensions referred to above. I suggest that such a model has already been developed in the Indian subcontinent: a model that is neither wholly Christian nor Western; that meets the secularist objection to non-secular states, *and* the religious objections to some forms of secularism.

5 An Alternative Conception: Indian Secularism

Seven features of Indian secularism make it distinctive. The first is its multi-value character. Indian secularism more explicitly registers ties with values forgotten by mainstream Western conceptions—for example, peace between communities—and interprets liberty and equality both individualistically and non-individualistically. It has a place for the rights of individuals to profess their religious beliefs but also the right of religious communities to establish and maintain educational institutions crucial for the survival and sustenance of their religious traditions. Second, because it was born in a deeply multi-religious society, it is concerned as much with inter-religious as with intra-religious domination. Although community-specific political rights (special representation rights for religious minorities such as Muslims) were withheld for contextual reasons, the model allows conceptual space for this. Third, it is committed to the idea of principled distance: poles apart from one-sided exclusion, mutual exclusion, strict neutrality, or equidistance. Fourth, it admits a distinction between depublicization and depoliticization as well as between different kinds of depoliticization. Because it is not hostile to the public presence of religion, it does not aim to depublicize it. It accepts the importance of one form of depoliticization of religion, namely the first- and second-level disconnection of state from religion, but the third-level depoliticization of religion is accepted on purely contextual grounds. Fifth, it combines active hostility to some aspects of religion (a ban on untouchability and a commitment to make religiously grounded personal laws more gender-just) with active respect for its other dimensions (religious groups are officially recognized, state-aid is available non-preferentially to educational institutions run by religious communities, there is no blanket exclusion of religion as mandated by Western liberalism). This is a direct consequence of its commitment to multiple values and principled distance. The Indian model accepts the view that critique is consistent with respect, that one does have to choose between hostility and respectful indifference. In this sense, it inherits the tradition of the great Indian religious reformers who tried to change their religions precisely because it meant so much to them. Sixth, it is committed to a model of moral reasoning that is highly contextual and opens up the possibility of different societies working out their own secularisms. In short, it opens out the possibility of multiple secularisms. Seventh, it breaks out of the

rigid interpretative grid that divides our social world into the Western modern and traditional, indigenous, non-Western. Indian secularism is modern but departs significantly from mainstream conceptions of Western secularism.

6 Principled Distance

Let me further elucidate two features: contextual character and principled distance. As seen above, mainstream Western secularism conceives separation mainly as mutual exclusion. The idea of principled distance unpacks the metaphor of separation differently. It accepts a disconnection between state and religion at the level of ends and institutions but does not make a fetish of it at the third level of policy and law. Recall that political secularism is an ethic whose concerns relating to religion are similar to theories that oppose unjust restrictions on freedom, morally indefensible inequalities, inter-communal domination, and exploitation. Yet a secularism based on principled distance is not committed to the mainstream Enlightenment idea of religion. It accepts that humans have an interest in relating to something beyond themselves, including God, and that this manifests itself as individual belief and feeling as well as social practice in the public domain. It also accepts that religion is a cumulative tradition (Smith 1991, 154–69) as well as a source of people's identities. But it insists that even if it turned out that God exists and that one religion is true and others false, then this does not give the "true" doctrine or religion the right to force it on others who do not believe it. Nor does it give a ground for discrimination in the equal distribution of liberties and other valuable resources.

Similarly, a secularism based on principled distance accepts that religion may not have special public significance antecedently written into and defining the character of the state or nation; but it does not follow from this that it has no public significance at all. On some versions, the "wall of separation" thesis assumes precisely this. But so long as religion is publicly significant, a democratic state simply has to take it into account. Indeed, institutions of religion may influence individuals as long as they do so through the same process, by access to the same resources as anyone, and without undue

advantage or unduly exploiting the fears and vulnerabilities that frequently accompany people in their experience of the religious.

But what precisely is principled distance? The policy of principled distance entails a flexible approach on the inclusion/exclusion of religion and engagement/disengagement of the state, which at the level of law and policy should depend on the context, nature, or current state of relevant religions. This engagement must be governed by principles undergirding a secular state; that is, principles that flow from a commitment to the values mentioned above. Religion may intervene in the affairs of the state if such intervention promotes freedom, equality, or any other value integral to secularism. For example, citizens may support a coercive law of the state grounded purely in a religious rationale if this law is compatible with freedom or equality. The state may engage with religion or disengage from it, may engage positively or negatively, but which it does will depend on whether these values are promoted or undermined. Principled distance differs from strict neutrality, which insists that the state must help or hinder all religions to an equal degree and in the same manner. Rather, it rests upon a distinction drawn explicitly by Dworkin between equal treatment and treating everyone as an equal (Dworkin 1978, 125). The principle of equal treatment, in the relevant political sense, requires that the state treat all its citizens equally in the relevant respect, for example in the distribution of a resource or opportunity. The principle of treating people as equals entails, on the other hand, that every person or group is treated with equal concern and respect. This second principle may sometimes require equal treatment, say an equal distribution of resources, but may also occasionally dictate unequal treatment. On this view, treating people or groups as equals is entirely consistent with differential treatment.

Religious groups have often sought exemptions from practices in which states intervene by promulgating a law to be applied neutrally to the rest of society, arguing either that the law requires them to do things not permitted by their religion or that it prevents them from doing acts mandated by it. For example, Sikhs demand exemptions from mandatory helmet laws and police dress codes to accommodate religiously required turbans. Elsewhere, Jews seek exemptions from Air Force regulations to accommodate their yarmulkes. Muslim women and girls demand that the state not interfere in their religiously required chador. Principled distance allows that a practice that is banned or regulated in one culture may be permitted in the minority culture because of the distinctive status and meaning it has for its members. Religious

groups may demand that the state refrain from interference in their practices, but may equally demand that the state interfere in such a way as to give them special assistance, the argument being that this will enable them to secure what other groups are able to get routinely by virtue of their social dominance. Principled distance may grant authority to religious officials to perform legally binding marriages, to have their own rules or methods of obtaining a divorce, rules about relations between ex-husband and ex-wife, ways of defining a will, or laws about post mortem allocation of property, arbitration of civil disputes, and even its norms of inheritance, child custody, and adoption.

However, principled distance does not merely allow special exemptions. Considering the historical and social condition of all relevant religions, it may require state intervention in some religions more than in others. For example, if the aim of the state is to advance social equality, this may require that the state interfere in caste-ridden Hinduism more than, say, Islam or Christianity. However, if a diversity-driven religious liberty is the value to be advanced by the state, then it may have to intervene in Christianity and Islam more than in Hinduism. If this is so, the state can neither strictly exclude considerations emanating from religion nor keep strict neutrality with respect to religion. It cannot antecedently decide that it will always refrain from interfering in religions or that it will interfere in each equally. Indeed, it may not relate to every religion in society in exactly the same way or intervene in each religion to the same degree or in the same manner. What it must ensure is that the relationship between the state and religions is guided by non-sectarian motives consistent with values and principles.

7 Contextual Secularism

I describe a context-sensitive secularism, based on the idea of principled distance, as contextual secularism. Contextual here captures the idea that the form and content of secularism will vary from one context to another; and that the process of moral reasoning should itself be contextual (Taylor 1994, 16–43; see also the argument in Parekh 2000; and Carens 2000). This

reflects its character as a multi-value doctrine. To accept that secularism is a multi-value doctrine is to acknowledge that its constitutive values may come into conflict with one another. Some degree of internal discord and a fair amount of instability is therefore an integral part of contextual secularism. For this reason, it forever requires fresh interpretations, contextual judgments, and attempts at reconciliation and compromise. No general a priori rule of resolving these conflicts exists; no easy lexical order, no pre-existing hierarchy among values or laws that enables us to decide that, no matter what the context, a particular value must override everything else. For example, the conflict between individual rights and group rights cannot always be adjudicated by recourse to some general and abstract principle. Rather it can only be settled case by case and may require a fine balancing of competing claims. The eventual outcome may not be wholly satisfactory to either but still be reasonably satisfactory to both. Multi-value doctrines such as secularism encourage accommodation—not the giving up of one value for the sake of another but rather their reconciliation and possible harmonization; that is, to make each work without changing the basic content of apparently incompatible concepts and values.

This endeavor to make concepts, viewpoints, and values work simultaneously does not amount to a morally objectionable compromise. Nothing of importance is given up for the sake of a less significant thing. Rather, what is pursued is a mutually agreed middle way that combines elements from two or more valuable entities. The roots of the attempts at reconciliation and accommodation lie in a lack of dogmatism, a willingness to experiment, to think at different levels and in separate spheres, and a readiness to take decisions on a provisional basis. This captures a way of thinking characterized by the following dictum: "why look at things in terms of this or that, why not try to have both this and that" (Austin 1972, 318). In this way of thinking, it is recognized that although we may currently be unable to secure the best of both values and therefore forced to settle for a watered-down version of each, we continue to have an abiding commitment to search for a transcendence of this second-best condition. Two things follow. First, the practice of secularism requires a different model of moral reasoning than one that straitjackets moral understanding in the form of well-delineated, explicitly stated rules. Second, secularism is an ethically sensitive negotiated settlement between diverse groups and divergent values.

35.8 Is Secularism a Christian and Western Doctrine?

What then of the claim that secularism is a Christian, Western, doctrine and unable to adapt itself easily to cultural conditions elsewhere? The link between secularism and Christianity is exaggerated, if not entirely mistaken. It is true that the institutional separation of church and state is an internal feature of Christianity and an integral part of Western secularisms. But we have seen that this church–state disconnection is a necessary but not sufficient condition for the development of secularism even in societies with church-based religions. It is clearly not a necessary condition for the development of all forms of secularisms. Similarly, the mutual exclusion of religion and the state is not the defining feature of secularism, because the idea of separation can be interpreted differently. Nor are religious integrity, peace, and toleration (interpreted broadly to mean "live and let live") uniquely Christian values, for most non-Christian civilizations have given significant space to each. Although we find some of the most systematic articulation of this doctrine in Christian writings, even the mainstream Western conception of secularism is not exclusively Christian.

Secularism is not just a Christian doctrine, but is it Western? Up to a point, secularism is certainly a Western idea. More specifically, as a clearly articulated doctrine, it has distinct Western origins. Although elements that constitute secularism assume different cultural forms and are found in several civilizations, the idea of the secular was first properly theorized in the West. One might therefore say that the early and middle history of secularism is almost entirely dominated by Western societies. However, the same cannot be said of its later history. Nationalism and democracy arrived in much of the West after the settlement of religious conflicts, in societies that had been more or less religiously homogenized (with the exception of the Jews, who continued to face persistent persecution). The absence of deep religious diversity and conflict meant that issues of citizenship could be addressed almost entirely disregarding religious context; the important issue of community-specific rights to religious groups could be wholly ignored. This had a decisive bearing on the Western conception of secularism. However, for non-Western societies such as India, the case is different. Both national and democratic agendas had to face issues raised by deep religious difference and diversity. In

India, nationalism had to choose between the religious and the secular. Similarly, the distribution of active citizenship rights could not be conceived or accomplished by ignoring religion. It was necessary actively to disregard religion (as in political rights) or develop a more complex attitude to it, as in the case of cultural rights, where the state had to balance claims of individual autonomy with those of community obligations, and claims concerning the necessity of keeping religion "private" with its inescapable, often valuable, presence in the public. In doing so, Indian secularism never completely annulled particular religious identities.

The later history of secularism is more non-Western than Western. Mainstream theories or ideologies in modern, Western societies take little notice of features constitutive of the Indian model, and struggle to deal with the post-colonial religious diversity of their societies. To discover its own rich and complex structure, Western secularism can look backwards, to its own past, or sideways, to an Indian secularism that mirrors not only the past of secularism, but in a way, also its future. A good hard look at Indian secularism could change the self-understanding of Western secularisms.

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CHAPTER 36

MULTICULTURALISM AND POST-COLONIAL THEORY

PAUL GILROY

Most commentators on the political genealogy of post-colonialism have emphasized that there is no single unified body of post-colonial theory (Young 2003). The political and intellectual enterprises that combined to create a platform for contemporary post-colonial critique are extremely diverse. They involve a far longer history than scholastic memory can usually appreciate and their impact has not, as much recent theorizing might suggest, been confined to the analysis of literature, art, and culture. The critical commentary they articulate has been both explicitly political and theoretical. It turns out to be as long and as varied as Europe's colonial expansion which was contested and debated even in its earliest manifestations (Todorov 1984; Pagden 1982).

Post-colonial theory is built upon debates over the legitimacy of colonial power that stretch back through complex theological and anthropological arguments about the morality of European expansion and the consequent ethical and political problems raised by conquest, violent administration, and

native revolt as well as more obvious issues like trade and cultural variation. Looking at the evolution of post-colonial theory from this angle means that the progressive unfolding of critical commentary on European expansion might be understood best as part of an expanded counter-history of colonialism.

Even when practical or administrative issues were to the fore, discussion of what we can broadly call colonial government encompassed disputes over universality, sovereignty, freedom, democracy, property, and justice. The earliest debates around these problems attended the opening phases of Europe's colonial expansion. They soon spread out from the churches to fuel a wider shift in political thinking that ended a divinely-instituted, locally-bound, social life centred on notions of a unified humankind that had been seen without difficulty as children of God.

The drawing of global lines in the 1494 treaty of Tordesillas and the ritual reading of the *Requirimento* from the prows of Spanish warships anchored safely off the shores of the New World were important symptoms of this large change in political and ethical rules which, although it may not have been triggered only by proceedings in the colonial contact zones, transformed the way that government could be practiced there.[1] Long before anthropology was constituted as a specialized variety of knowledge, it would become possible and necessary, as part of new kinds of legal and moral argument, to distinguish barbarous or naturally-slavish, indigenous peoples from their civilized betters. These modern debates were increasingly marked by anxiety and ambivalence about the child-like and innocent condition of savages and primitives whose plight would be thought to necessitate care and uplift as well as rationally applied coercion.

Arguments of this type recurred in Enlightenment debates over human particularity, rationality, progress, and universal value (Hulme 1990; Todorov 1994; Vyverberg 1989). They shaped the contours of secular rationality and stimulated the formation of new varieties of scientific thinking aimed at explaining human difference and making it a stable, calculable component in the rational ordering of an expanding world, populated by new political and social actors: movements, classes, corporate powers, armies, national states, and contractual governments. In time, similar conflicts would become integral to bitter arguments over the value and character of the race idea and the scientific, historical, and aesthetic discourses that it generated. Susan

[1] Seed (1995, 70). The term "contact zone" derives from Pratt (1991).

Buck-Morss (2000, 821–66) and others have shown how plantation slavery in the New World became fundamental to these discussions. European political theorists debated the revolution in Haiti. Their interpretations of politics, justice, and, indeed, philosophy itself were altered as a result.

The transnational anti-slavery movement, the later campaigns to protect aboriginal and indigenous peoples, and the uneven struggles to render the dubious civilizing missions of colonial government just and accountable, were some of the other political fruits of this protracted conflict. Those initiatives wanted not only to win recognition for slaves and natives as human beings of equal value, endowed with moral personality and in need of salvation, but also to amend European self-understanding in profound ways. The latter task could be accomplished by emphasizing the issues that arose from seeing European life and settlement in relation to the habits and practices of other groups (Dussel 1995).

Primary concern with religious and cultural divisions among Europeans gave way to new conceptions of difference that could produce and explain the more substantive divisions being discovered between Europeans and other kinds of barbarous and savage people. These inquiries did not always or immediately generate an explicit or simple hierarchy of racial groups. That emerged later from attempts to place European colonial authority on the novel footing of rationality once the revolutionary idea of essential human equality was in play (Frederickson 2003). After those shifts, differences would be contained by notions of culture, character, place, and climate or conceptualized on a temporal scale in which human groups were thought to be at various stages on a common journey towards the same ultimate destination. Once again, the idea of race was central to this process. Criticism of its institutionalization as a political, economic, historical, and philosophical concept provided much of the eventual impetus for the anti-colonial projects that eventually lent their energy and insight to post-colonial analysis.

Another strand of what would become post-colonial theorizing descends from Michel de Montaigne's unsettling ethnographic encounter with the insightful, perplexed Cannibals that he met, not on the far-flung shores of the New World, but much closer to home, in Rouen (Montaigne 1991, 228–41). This pattern of reflection unfolded inside a Europe that was violently divided along religious lines. As a result, different questions were being asked about the character and significance of visible, bodily difference and the cultural variations that made it seem potent. Intra-European conflicts were

instrumental in complicating the issue of barbarism so that it could not remain wholly external to Christendom.

As the historic unity of Christendom was fractured, this painful conversation about human variation became not just relational but more systematically comparative. Gulliver and Crusoe, whose informal anthropological procedures started to settle into a coherent precursor of comparative method, were two of its early geo-poetic icons. Some of the same spirit underpinned Montesquieu's principled exposure of unsettled European singularity to the test of infinite cultural diversity. On its way into the present, this plural view of social life touched the humanism of Vico and the culturalism of Herder as well as the cosmopolitanism of Kant before emerging, through the mazes of Hegel, Marx, and Nietzsche, into the desolate, inhospitable landscape of the twentieth century where a disenchanted and fearful Freud—observing both Zionism and the rise of Nazi antisemitism—became its most notable custodian.

Each of those thinkers bequeathed a complex body of theory that was addressed to problems discovered in colonial contact zones. All of them can benefit by being read in relation to the emergent forms of imperial geopolitics, the concerns with racial conflict, hierarchy, and degeneration that accompanied it, and other nascent anthropological preoccupations. The meanings of human variation and the value to be placed upon both natural differences and social divisions were subjected to protracted consideration. The frightening and disgusting figures of the Jew, the Muslim, and the Negro were only the most notorious alien characters that recurred inside this strand of commentary on the boundaries between civilization and barbarity which were being redrawn during the nineteenth century as a consequence of European settlement in colonial territories that had previously been considered inhospitable. This variety of debate and reflection should be distinguished because it was not focused on the alien and savage as they were featured within the remote spaces where they could be thought to be at home. Instead, they were observed with a special intensity when they appeared elsewhere, as strangers at large in Europe's modern, metropolitan core. "How can one be Persian?" the famous question voiced by one of Montesquieu's baffled, fashionable Parisians in the face of fascinating and exotic otherness, subsequently found many parallel expressions: how can one be an Arab? a Jew? an African? Or most recently, how can one wear a hijab?[2]

[2] See Montesquieu (1973, 83, Letter 30).

Numerous problems of religious tolerance, and civil and political rights, were compressed into the formulaic "Jewish Question." They were articulated as part of enlightened Europe's exploration of rational political culture and the position of aliens within it. This discussion also contributed indirectly to what would become post-colonial theory. European thinkers examined toleration from a variety of standpoints, not all of which prized it as a virtue even where it could be associated with the establishment of peace and prosperity. In some cases, the award of political rights was imagined to require conversion or some other form of moral purification that would foster recognition as human while simultaneously disposing of the less socially desirable aspects of Judaism. Several historians have challenged the assumption that the writers who supplied many of the conceptual pillars of official liberalism were united by a philosemitic disposition (Rose 1990; Poliakov 1974; Mosse 1978).

Significant difficulties arise because many of the most valuable and insightful contributions to European political thought appear compromised by what are, at the very least, ambiguous statements about Jews and the possibility of accommodating them within the workings of a healthy national state. Their character and history supplied political and philosophical thought with an evolving case study of how difficult it was to manage a stubbornly alien presence within a civilized polity.

Conventional understanding of the components of contemporary post-colonial theory usually emphasizes the ways in which it has been based upon insights adapted from the decolonization and national-liberation movements that first contained and then undid European expansion. Those radical initiatives were twentieth-century phenomena organized from what is now called the global South. Often they arose from national states which opted not to be aligned with either capitalism or communism. These governments were committed, not only to the redress of rationally-determined political and economic wrongs that had arisen during the colonial period, but also to explore alternative conceptions of politics that would mark their distance from Europe's tainted conventions by being incompatible with the colour- and culture-coded hierarchies which had guided the practical terrors of colonial rule and the Darwinian imperatives of imperial administration. Traditional or pre-conquest conceptions of kinship, property, authority, and space might, for example, be allowed to determine the direction and priorities of the political community (Nkrumah 1965).

Richard Wright, the African-American novelist and intellectual living in Parisian exile during the 1950s, traveled to the famous meeting of non-aligned

countries in Bandung, Indonesia. His book, *The Colour Curtain*, discusses the political direction that would arise "beyond left and right" once the residual constraints of colonial domination were surpassed. Wright's excited stance, avowedly against both communism and capitalism, voiced a desire for new varieties of politics that could only be apprehended once racial and colonial hierarchies had been overthrown (Wright 1956).

Strong reactions against racialized ways of understanding and ordering the world as well as the manifold injustices and exploitation involved in colonial rule had led many thinkers to seek new forms of political expression. They could be deduced from pre-colonial cultures and traditions, and discovered in the religious outlooks of colonized people. They were important, not just because they valued those despised resources, but because they encouraged an approach to Europe's political recipes which saw them not as universal, but rather as ethno-historical accomplishments limited to the specific settings in which they had first appeared.

Mahatma Gandhi (born 1869) and W. E. B. DuBois (born 1868) were two of the best-known political advocates and interpreters of this anti-colonial tide. Their legacies remain fundamental to the project of post-colonial theory and help to organize it as a field of inquiry. Both asserted that neither history nor humanity could be the exclusive property of Europe and its imperial offshoots. Both saw also that there were significant cultural resources in the pre-conquest traditions and hidden everyday life of subaltern groups which could be used to channel their dissent and to bolster resistance as well as the pursuit of long-denied human recognition, citizenship, and thwarted independence.

Gandhi had witnessed the power of racial divisions and the special brutality of colonial warfare during his time in South Africa. He extracted political lessons from the national struggles of the Irish and Welsh, revered Tolstoy and Thoreau, and argued, in effect, for a form of cultural nationalism which combined Hindu values and morality with radical elements of European thinking about nationality, autonomy, and change. DuBois, whose itinerancy, like Gandhi's, seems to have fed his indictments of injustice, understood the significance of black America's desire for citizenship in Hegelian terms. Adapting notions of world history and world citizenship from German sources, he created a dialectical theory of African-American political identity that concealed his cosmopolitan inspiration by enveloping it in a folkish poetic idiom. The warring selves—one Negro, the other American—that characterized the plight of US blacks under segregated "Jim Crow" rules, would eventually be reconciled in a higher, better unity which offered to an

eager world new conceptions of political freedom. These innovations were derived expressly from the overcoming of racism and racial hierarchy wherever they were located.

DuBois' magisterial volume, *Black Reconstruction in America 1860–1880* (1935), articulated these aspirations in a challenging historical narrative. He reformulated the significance of the period immediately after slavery so that it could be understood as part of a conflict over the character and quality of US democracy. African-Americans were repositioned among those with whom DuBois felt they shared a common world-historic destiny: "That dark and vast sea of human labor in China and India, the South Seas and all of Africa; in the West Indies and Central America and in the United States—that great majority of mankind, on whose bent and broken backs rest today the founding stones of modern industry"(DuBois 1973, 15).

Many of the intellectual leaders of what was becoming a global opposition to imperial rule had benefited from elite colonial education. They had entered fully into the theoretical and philosophical idioms of Europe and were steeped in those traditions of thought which were actively redeployed against imperial rule. This group wanted to show, first, how distinctive theories of political agency might be devised; second, where the acquisition of independent national states could supply a means of historic reparation; and third, how civilization and democracy could be produced in more inclusive and internally-differentiated forms.

Marcus Garvey, the peripatetic Jamaican leader of the century's great transnational, Ethiopianist (Post 1970) movement of black people, the United Negro Improvement Association (UNIA), attended London's Birkbeck College. His more philosophical reflections can be used to typify what we can call a reparationist political tendency. His sometimes militaristic organization drew its philosophical inspiration from ancient and modern sources (Moses 1978). A Platonic notion of the ideal state was folded easily into some of the more authoritarian conceptions of social life that Garvey derived from reading Aristotle (Hill 1987).

The reparationist impulses that inspired his mass movement had to contend with another less militaristic approach to political struggle. This shared Garvey's emphases on nation-building and the reversal of Africa's diaspora but placed the issue of redress in the background. Priority was given instead to the problem of vindication. The suitability of ex-slaves and colonial peoples for the burdens of democratic citizenship and modern self-possession could be demonstrated on the basis of their evident educational, creative, and

moral progress. A great deal of the social and political writing by nineteenth-century African-American thinkers underscored this second tendency's debts to Victorian conceptions of nationality, kinship, and uplift in which race and family were melded into a single dynamic entity.

One particularly powerful illustration of this second conception of political community and nation-building resides in a collectively authored 1893 pamphlet which explored the exclusion of African-Americans from the four-hundredth anniversary celebrations of Colombus' discovery of the Americas. The document was dedicated "to the seeker after truth" and contains a preface which was printed in three languages, suggesting both an outward gaze and the authors' anticipation of a global audience. Ida B. Wells and her radical collaborators specified their distinctive political outlook in the matrix of several interrelated social problems all of which were intensified and augmented by the centripetal force of US racial inequality. These issues included the repudiation of legal inequality, in particular the operation of an unjust prison system which had slyly reinstated aspects of the slave past, and a resolute opposition to the ritual terrors of lynching as a means of political administration. All of these difficulties were offset against the American Negro's impressive record of educational achievement which made them not only fit for citizenship but also recognizable to their rulers as human beings (Rydell 1991). The larger battle for freedom from the yoke of colonialism was a constant point of reference and inspiration.

It is essential to correct any impression that these influential interventions by African-Americans were remote or disconnected from the thinking of colonial and anti-colonial theorists and activists in other parts of the world. Garvey conceived his "Zionist" scheme for the eventual repatriation of New World blacks to Africa, on a hemispheric scale. UNIA publications, distributed covertly by seafarers, made their way across the elaborate networks of imperial trade. The organization's transnational activities soon aroused the anxiety of colonial administrators fearful that a blending of his ideology with Bolshevism would be destabilizing. In a 1922 cable to the Prime Minister, David Lloyd George, Garvey set out his political project in these alarming and seditious words: "We are for the freedom of India and the complete liberation of the African colonies, including the Nigerias, Sierra Leone, Gold Coast and Southwest and East Africa. We wish your nation all that is good, but not at the expense of the darker and weaker peoples of the earth."[3]

[3] Foreign Office 371/10632: copy of press release from the UNIA 13 March 1922.

Inside the French Empire, the Senegalese statesman, poet, and philosopher Leopold Sédar Senghor was an early and important proponent of Négritude, another culturally-oriented, philosophical, and aesthetic theory of black resistance and rebirth which did not defer to national boundaries. Senghor's many theoretical and poetic contributions reveal where the anglophone and francophone worlds of anti-colonial activism touched and influenced each other. He described his own interest in the work of African-American thinkers thus: "During the 1930s, when we launched our Négritude movement from Paris, we drew our inspiration especially—and paradoxically from 'Negro Americans' in the general sense of the word: from the Harlem Renaissance movement, but also from the 'indigenist' movement in Haiti. It is true that in those years black thinkers and writers from the United States stood out brilliantly, for the first time gaining international renown" (Senghor 1976).

This oppositional history underlines that the bulk of what is now considered to be post-colonial theory is an emphatically twentieth-century affair. All of these itinerant, world-historic personalities combined political activity in several locations with extensive writing for an unusually wide range of readerships. Their various critical projects were developed through challenging encounters with nationalism, socialism, and communism. At the same time, they also opposed the liberal standpoints which had tamely dissented from Europe's crimes but nonetheless counterpointed the desire of the colonized to be free to determine their own political and economic destinies.

This multinational body of writing shows that the complex formation of a cosmopolitan critique of colonial power can only be reconstructed from a number of different angles. If we are to understand the global history of post-colonial thought, we need to be sensitive to the breadth and diversity of components that were both religious and profane, narrowly nationalist and expansively cosmopolitical. Until recently, it has been difficult to see these constituent parts as forming a single inclusive narrative. The pursuit of civil and political rights is, for example, like the struggle for nationhood before it, usually explained exclusively in national or regional terms. An implicit geopolitics gives automatic privilege to the national or regional settings from which the critique was offered. That parochialism obscures the commonalities and correspondences which marked the evolution of post-colonial politics. If we are, for example, to grasp how the language of rights acquires such a powerful political resonance during the twentieth century and how, as a result, the idea of Human Rights becomes so attractive and so widely

translated, we must pay attention to Gandhi no less than the liberal traditions he engaged and bent to new purposes.

The lives of Gandhi and DuBois were connected in a more practical way by their attendance at the 1911 Universal Races Congress held in London. This humanitarian gathering was aimed at a "reunion of east and west" and its optimistic spirit would be wrecked by the eruption of the World War a few years later. Nonetheless, the event remains an important early staging-post in the development of the distinctive, post-colonial perspective Robert J. C. Young has dubbed tricontinentalism.[4]

The political imagination that underpinned this formation hoped that local struggles in Asia, Africa, and Latin America could be combined into a movement capable of remaking and improving the world, purging it of the unwholesome fruits of colonialism. H. G. Wells, Ernst Haekl, J. A. Hobson, and Georg Simmel were just a few of the others who joined Gandhi and DuBois for visionary discussions. The prospect of this dangerous fusion of political horizons would be of growing concern to the imperial powers during the interwar period. Their anxieties were boosted further by the desire of many colonial peoples to export Woodrow Wilson's postwar principles beyond the small space in which he had imagined they would apply and by the alarming political alliance created in opposition to the Italian invasion of Ethiopia in 1936. The great powers were also apprehensive lest the effects of the Russian Revolution seeped into their colonial territories. This possibility had been underlined by the growth of the UNIA, which was said to result from the Bolshevik ability to use colonial discontent as an instrument with which to undermine both capitalism and imperial authority.

A number of anti-colonial and New World black thinkers did turn towards Marxism. They hoped to find in it a set of conceptual resources which could unlock the causal logic of racial oppression and the agency of its victims to resist and overthrow colonial rule. Cedric Robinson has shown in detail that in almost every case, the ready-made versions of Marxist theory that were on offer were judged to be insufficient. They were too economistic, insensitive to the political significance of culture, and often unhelpfully Europe-centered. These problems had long been evident in discussions of the Asiatic mode of production or in a view of the struggle for existence among nations that divided them into the authentically historic and the abjectly non-historic.

[4] Young (2003) adapts the term "tricontinental" from the 1966 Havana Conference of the Organisation of Solidarity of the Peoples of Africa, Asia and Latin America which is popularly known by that name.

However, these quarrels with Marxism, conducted by C. L. R. James, W. E. B. DuBois, Frantz Fanon, and many others, are also a significant and neglected part of the formation of post-colonial theory. They too can help us to understand the theoretical approaches to political agency that were specific to post-colonial conditions, to introduce a periodization of the broad anti-colonial movement in the twentieth century, and to track the development of post- and anti-colonial theory through the cold war and beyond.

Fanon spoke for many of his peers when he concluded that "Marxist analysis should always be slightly stretched every time we have to do with the colonial problem"(Fanon 1965, 31). Among the most accessible and important writings that assist in assessing the impact of Marxism in this area are notable contributions by the Trinidadian leftists C. L. R. James and George Padmore. James, as is well-known, wrote a path-breaking study of the Haitian revolution which had, as a subtext, a great deal to say about the functioning of revolutionary organizations and the character of insurrectionary leadership. Padmore is less celebrated and had a longer and deeper, although certainly critical, association with the Soviet Union. Like many of their political generation, both men invested a great deal of hope in the opportunities for change that commenced with the establishment of an independent Ghana under the leadership of Kwame Nkrumah (Hooker 1967).

That newly independent state would constitute the institutional hub of a Pan-African movement which could provide a political alternative not just to the polarized options of the cold war period, but to the oversimple opposition between tradition and modernity. Padmore's *Pan-Africanism or Communism* (1956) began with an epigraph from Rabindranath Tagore and concluded thus: "In our struggle for national freedom, human dignity and social redemption, Pan-Africanism offers an ideological alternative to Communism on one side and Tribalism on the other. It rejects both white racialism and black chauvinism. It stands for racial co-existence on the basis of absolute equality and respect for human personality" (Padmore 1956, 379).

The humanistic tone, evident there, represents more than just an echo from the influential rhetoric of the United Nations' declaration on human rights. It is also an effect of the commitment to struggle explicitly against racism, race-thinking, and racialized hierarchy. Similar universalistic language is common to the writings of many others. It links Aimé Césaire, Léopold Sédar Senghor, and Frantz Fanon to the work of Amilcar Cabral and a host of more ephemeral anti-colonial sources. Their sometimes lofty, sometimes eschatological, but always doggedly non-racial humanisms are

extremely significant, although they have proved to be an embarrassment to the more abstract, sophisticated, and scholastic contemporary versions of post-colonial theory. Those humanistic speculations bear a precise, negative imprint of racial systems of thought and power. The specific commitment to overthrow racism and ethnic absolutism endows in them a distinctive quality which is not shared by anti-racist universalism of the UNESCO variety, even when the respective rhetorics seem to overlap. The same tone is also audible in the more recent post-colonial writings of figures like Nelson Mandela, Edward Said, Albert Memmi, and Eqbal Ahmed. Their contributions to the emancipation of former colonies from imperial rule and the consolidation of independent political life were bolstered by a common desire. They wanted to elevate the struggles of colonized people to a universal level while simultaneously holding on to the historical and cultural specificity of the particular groups involved—an approach pioneered, as far as political theory is concerned, by Senghor (1964, 84–6).

This difficult commitment was elaborated in the work of numerous colonial intellectuals and anti-colonial strategists. It was especially pronounced among those who served in the European armies and resistance movements during the struggle against fascism and who tried, as a result, to adapt the ethical and political analyses of evil, racism, and democracy found there to the different cause represented by decolonization.

The insights left by this group of thinkers, particularly by Jean-Paul Sartre, Fanon, and Senghor, were decisive in generating a distinctive voice for post-colonial theory after the creation of the United Nations. Sartre built upon Richard Wright's view of the Negro as "America's Metaphor" and Simone de Beauvoir's parallel sense of woman as a social rather than a natural entity, to create a more general and historical theory of racial ontologies. For all of them, the infrahuman objects of racial hatred were generated by the dominant group. The dominated were, as Fanon would show, victims of racial hierarchy. Unable to enjoy the more authentic modes of being in the world that could develop an account of racial differences with reference to the future, they were condemned to live out an "amputated" humanity within the restricted categories of epidermalization (Fanon 1986, 112).

For these thinkers, there were strong historical and political connections between the genocidal racism of the Nazis and the racisms securing colonial rule in Algeria and Indochina. Aimé Césaire confronted these issues in his 1955 (1972) *Discourse On Colonialism*. He was one of the first theorists of post-colonial social and political order to argue for an interpretation of the

industrial killing of Europe's Jews and other minorities as an amplified instance of the routine brutality of colonial government. It had, he suggested, looped back into the core of European civilization. As a result, Césaire argued, for the European bourgeois class, Hitler's unforgivable crime was not a crime against man as such but rather "the crime against the white man, and the fact that he applied to Europe colonialist procedures which until then had been reserved exclusively for the Arabs of Algeria, the Coolies of India, and the blacks of Africa"(Césaire 1972).

There are now many versions of this proposition. It has received support from historians of the concentration camp—a political technology that emerged from colonial wars—and from some of the survivors of the Third Reich. Today, post-colonial theory mobilizes all these seemingly discrepant historical and ethical resources and places them in dialogue. Primo Levi wrote about the components of the racialized terror he knew in ways that were not prescriptive and invited thoughtful comparison across historical and cultural distances without being drawn into a competition over the relative dimensions of different histories of suffering. Most notably, in his theoretically rich discussion of the experience of being an intellectual in Auschwitz, Levi's fellow inmate, Jean Améry, identified Fanon's work on violence as one place where he had been able to find an analysis that could help restore physical and metaphysical dignity to the damaged being of the tortured prisoner (Améry 1980, 91).

These connections were fostered because, after 1945, the evolution of post-colonial theory took place in a special atmosphere shaped by widespread condemnation of the Nazi Reich as a racist regime. The political analyses that followed can be triangulated by several interrelated political developments tied to the decomposition of the British empire. The cataclysm of 1948 saw the partition of India, the institution of Apartheid, and the reparative establishment of the state of Israel in Palestine.

The most prominent figures in the next phase of post-colonial reflection were people like Eqbal Ahmed, Edward Said, Stuart Hall, Ranajit Guha, Gayatri Spivak, and most recently, Mahmood Mamdani. These successors to the combatant generation can be distinguished by the fact that all of them had migrated from formerly imperial and colonial locations into the unsteady core of overdevelopment's metropolitan systems. Their views of both politics and culture had consequently been enriched by formative experiences of migration and exile, cultural plurality, and hierarchy as well as by the everyday complexities of social life under race-conscious, colonial rules.

The immediate progenitors and earliest practitioners of self-consciously post-colonial thought are found among this intellectual stratum. They have, in different ways, promoted a refined sense of culture as a political and para-political field, creating broad critical enterprise that, at its best, has spanned academic and political concerns. The intellectual energy of this group was directed towards analyzing some especially difficult problems: the residual potency of colonial arrangements in constraining nominally independent states, the specific power of racism which tied colonial history to the lives of immigrants/settlers and deformed the polities of nations that had benefited from their colonial potency, the difficulties which the ex-colonies discovered in the process of forming new governmental arrangements undamaged by their histories of brutal rule, and so on.

Opposition, first to the wars in Algeria and Vietnam and then to South Africa's undeniably racialized government, dominated post-colonial theory during this period. In particular, South Africa became the object of an unprecedented international movement of resistance. The one country in which the political force of racial hierarchy could not be disputed, supplied a moral and methodological test to all would-be analysts of the distinctive patterns of statecraft found in post- and neo-colonial regimes (Fanon 1965, 29). The interventionist projects pioneered by this transitional group laid the foundations for their more scholastically inclined successors, many of whom were interested in understanding the post-colonial articulation of culture and politics through rapidly-expanding global circuitry.

Following the publication of Said's *Orientalism* in 1978, attention to the historical, cultural, and philosophical formations that had produced the Orient as an object of knowledge and power were combined with a very different sense of the politics of race and ethnicity. This additional element was supplied by the history of immigration by formerly colonial peoples and by their own interpretations of their political fate and duty in circumstances where having access to formal citizenship did not mean either that equality could be taken for granted or that complacent democracy would set aside its historic associations with racism. This was the stage in which post-colonial analysis began to be consciously undertaken.

The institutional take-off point for post-colonial theory was marked by an extensive encounter with feminist concerns. They were imported from activist sources and from the contributions of colonial historians and anthropologists. Writers such as Kenneth Ballhatchet, Vron Ware, and Anne Mclintock argued that gender hierarchies, sexuality, and unexpected forms of intimacy

were intrinsic to the functioning of colonial societies and to their continuing impact on metropolitan life. In the colony, space for transgressive and intimate interaction did not conform to any tidy formal separation of public and private. Attention to gender dynamics demanded a revised account of personal, political, and cultural relationships that had been illuminated by feminist historical scholarship. If they could be considered together, relationally, the braided lives and experiences of colonized and colonizer women could reshape fundamental analytical categories: class, nation, family, household. It was only after this encounter with feminist critique that the intersection of post-colonial and multicultural theory assumed a stable academic shape.

Contemporary debates over multiculturalism suggest that there is no consensus over how the term should be defined politically or employed in the human sciences. That heterogeneity has awkward consequences for attempts to build a more conceptual and abstract discussion of its value and for comparative approaches to the range of phenomena to which the term can refer. Multiculturalism has acquired several different disciplinary inflections. It has also been coloured by a number of distinctive local histories. Various, incompatible claims have been made upon it from England to South Africa and North America where, for example, Canadian and US debates about the interpretative potential of the term have not converged.

This situation becomes even more difficult once we appreciate that, like post-colonialism, multiculturalism is also often a coded way of speaking about race and about the dangerous processes through which race becomes a matter of culture. It was culture openly, and race tacitly, that provided the meeting ground for these two bodies of theoretical reflection and supplied the protocols that governed their interaction. Most contemporary disputes over multiculturalism can be traced to a series of conflicts about the status of north American racial and ethnic relations and their place within the political processes unfolding in the other parts of the globe to which US racial and ethnic systems are now being exported.

We must note that for many political theorists, the term multiculturalism suggests what might be called a mosaic plurality. This is a highly specific conception of the relationship between diversity and unity. It derives from uniquely North American historical conditions. In this approach, fragments of culture—which is always already ethnic and racial—are mutually positioned by minimal civic cement and by the maximal force of market relations which host a richer and more dynamic public sphere than government has

been able to manage or is interested in maintaining. However beautiful they may be when considered in isolation, these fragments are expected to remain unmodified and unchanged by their proximity to other similar components of a larger picture which, when seen from a distance, can look very attractive. This model promotes and sometimes seeks to legitimate a form of interpretation in which race and ethnicity are elevated and reified as absolutes and in which difference gets contained within symmetrical or at least similarly-configured social and cultural units that are arranged, in spite of any hierarchy they might be made to compose, so that they form a national unit.

This particular view of ethnic difference and cultural variation is not a fruitful way to think about the contemporary workings of multiculture. These ideas are haunted by an older conception of plural society which was rooted in colonial statecraft (Furnivall 1948; Smith 1961). It is evident in resistance to conceptualizing economic, social, cultural, and political differences in a hierarchical pattern and a preference for seeing the same differences organized laterally or combined like the slices of a circular cake that touch one another only at its center. By replaying the political habits, models, and styles that were once characteristic of colonial government, this approach to multiculture offers a repudiation of post-colonial theory which has insisted on the primal significance of cultural conflict and its relation to political processes.

It is easy to overlook that some of the most important and influential strains of political commentary on multiculturalism have arisen from negotiation with indigenous populations in various national states. Those debates have been focused on problems of recognition, reparation, and sovereignty but those are not the only ways that commentaries upon rights, culture, and difference can be accented. A different, although related, variety of discussion about citizenship, tolerance, and plurality—linguistic, religious, and cultural—has grown out of encounters between "hosts" and immigrants. The latter may be post-colonial peoples with citizenship claims or they may be drawn from refugees, asylum seekers, guest workers, and their locally-born descendants whose affiliations are contested on other grounds. The marginal positions occupied by all these groups have typically been associated with a more culturally-oriented kind of commentary on the problems and opportunities represented by assimilation, national identity, and belonging. A third variant of multiculturalism has emerged from a few explicit attempts to undo unjust racial orders. Reforms of this type have been instituted by independent post-colonial governments like South Africa. They also arose from attempts

to reckon with the damage done to democracy by genocide, by segregation, and by importing the mentalities and techniques of colonial administration from the periphery into the metropolitan centre. This third form of multiculturalist discourse encompasses several historical cases. It acquired a global reach when, for example, the political legacies of the Third Reich, of the overthrow of Jim Crow, and of the formal destruction of Apartheid were deemed to have more than merely local significance.

Of course, any single political formation may include elements drawn from each and perhaps all of these approaches. They have overlapped and influenced each other, creating conceptual and ethical exchanges with the theories produced by movements aimed at decolonization. These histories of theoretical reflection and political conflict need now to be disentangled.

The desire to conceive of difference innocently, that is, without having to reckon with the hierarchy and conflict that distinguish imperial and colonial power, reappears periodically. However, faced with those revisionist impulses, there are specific gains involved in steering discussion back towards the histories of race-thinking and European colonial rule. A worthwhile understanding of modern government can be extracted from those timely investigations. It has implications not only for theories of law, state, and the administration of power but also, as post-colonial theory insists, for the concept of culture itself, for the embattled idea of multiculture, and thus for the politics and the ethics of multiculturalism.

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PART IX

THE BODY POLITIC

CHAPTER 37

POLITICIZING THE BODY: PROPERTY, CONTRACT, AND RIGHTS

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1 Body as Metaphor

The human body has long been used as a source of metaphor for political theorists. The very notion of a "body politic" leans on the image of a unified and discrete entity that has commanding parts and obeying parts, that may be robust or ailing, strong or weak. One of the better known depictions of "the body political" in early modern political thought appears in Hobbes' *Leviathan* (1991), where he describes the sovereign in terms of a gargantuan "artificial man" whose body parts correspond to the various functions of government (see *Leviathan*, Introduction). Foucault drew attention to the central but problematic role of the body as metaphor in modern and

contemporary political thought when he asserted that political theorists have yet to cut off the king's head (Foucault 1978, 88–9). Foucault's point is that theory lags behind history insofar as law and right continue to be caught up in the image of the power of a sovereign will commanding the body politic. Rather, the operation of contemporary relations of power "is not ensured by right but by technique, not by law but by normalization, not by punishment but by control" (Foucault 1978, 89). This view of power and politics involves a shift in metaphor from a unified and autonomous sovereign body to one based on complex networks of power relations characterized by decentralized, multiple, and dynamic connections. Foucault's influence on contemporary political thought may be figured in terms of a turn towards a contextual and materialist "history of bodies," in contrast to a shifting "history of ideas" about "natural bodies" and "natural law." On his view, human bodies as well as political bodies are themselves mutable historical entities (Foucault 1978, 152). I will return to this notion below.

As well as having supplied political theory with a rich source of metaphor, the human body also serves as the nexus where political conceptions of the "universal" and the "particular" meet. When grasped as part of nature, and so presumed to be governed by natural law, the human body is conceived as the basis for a universal conception of humanity and for those rights that all bear by nature. All share basic bodily needs—for water, food, shelter—and all are vulnerable—to violence, illness, or death. As Hobbes put it, in the absence of polity, "the weakest has strength enough to kill the strongest" and so all live in fear (Hobbes 1991, ch. 13). Guaranteed, if limited, political rights are preferable to unenforceable natural rights and so reason bids us to seek protection through enforceable covenants or contracts. Universal natural rights are thus transformed into particular historical and political rights whose precise form will vary from polity to polity, along with the attempts made by political theorists to justify them. For example, Hobbes' account of covenant, and the necessity for the absolute authority of the sovereign, do not square with Locke's account of the social contract as a limited device to protect the property that all should, but do not, enjoy by natural right.

At the same time that the body underpins universalism it is also the site and support for the moral uniqueness of each particular individual, insofar as the experience of the needs, desires, and vulnerabilities of individuals are irreducibly "private." Cultural mores and traditions ensure that the "privacy" of individual experience is nevertheless imbued with specific local meanings that function to bind each individual to a particular community or polity. As Ignatieff has argued, "it is not the naked body we share in common, but the

astoundingly different ways in which we decorate, adorn, perfume, and costume our bodies in order to proclaim our identities as men, women, members of this tribe or that community" (Ignatieff 2000, 41). In this way, the culturally and historically specific body is figured as the ground of difference as well as identity, of particularity as well as universality. "Humanity" is an abstraction, whereas individuals are always members of some particular group. Throughout the modern period, at least in the West, citizenship increasingly has become the means through which both the abstract rights of the individual and the need "to belong" to some particular group that recognizes such rights, are brought together. Different cultures (along with different religions) will conceptualize and distribute social and political burdens and entitlements to their members in a variety of ways. In this chapter the main focus is on the way in which these issues have been conceived in the West. (But see Sen (1997) for an account of some similarities and differences between "East" and "West" in relation to conceptions of rights and responsibilities.)

2 Body and "Property-in-person"

A distinctive element in the history of early modern Western views is to conceive of (at least certain kinds of) human beings as possessors of natural rights, including the right to their own persons (understood by some to be equivalent to self-ownership). It is the possession of these rights that entitle individuals to enter a social contract in which largely ineffectual (because unenforceable) natural rights are exchanged for, or transformed into, protected political rights. Locke's theory of "property in the person" provides one such influential account. Locke's commitment to a Christian world-view is crucial to understanding his views on the moral status of human beings, along with the inborn capacity for reason (see Waldron 2002). Without rationality, people would be unable to discern the natural law that, ultimately, grounds political rights and social justice. Although Locke includes under the general term "property," an individual's "life, liberty and estate" (see Locke 1967, *Second Treatise*, ch. 9), it is the narrower notion of "property in the person" that underpins this more general term. In chapter 5 of the same text he writes: "Though all the earth and all inferior creatures be common to all men, yet

every man has a property in his own person; this nobody has any right to but himself." From this natural title to one's own person flow rights to freedom, to possessions and, with the invention of money, the right to accumulate wealth. The admixture of an individual's labor with nature transforms what was held in common into private property, thereby "exclud[ing] the common right of other men." The invention of money allows the extension of legitimate proprietorship to "the grass my horse has bit" and "the turfs my servant has cut" (Locke 1967, ch. 5, § 27, 28). Although God gave the world to all men in common, extensive proprietorship is thus reserved for "the industrious and rational" (Locke 1967, ch. 5). As Section 3 will show, some theorists take Locke's account of property to have had dire consequences for those whose capacities for "industry" or reason were deemed inferior or absent.

In contemporary political theory, various schools of thought have taken Locke's notion of "property in the person" in quite different directions. The otherwise opposed approaches of libertarianism and Marxism both base their arguments about legitimate and illegitimate entitlements to property on distinctive interpretations of Lockean self-ownership. Nozick, for example, finds justification for his libertarian principles of justice in Locke's theory of property (Nozick 1974). Marxist accounts of the injustice of exploitative wage-labor derive from the idea that the worker "owns" his capacity to transform nature through labor and so should be entitled to the products of that labor. In Nozick's case, Locke's theory of property is used to argue *against* the redistribution of social goods because this would involve the theft of what rightly belongs to those who have produced them. In the Marxist case, only the socialization of (non-human) property can prevent the exploitation and alienation of the wage-laborer who, in a capitalist economy, owns nothing but the capacity to labor. More recently, G. A. Cohen has drawn attention to the problems associated with the very idea of self-ownership, and the role it plays in contemporary capitalist societies. He argues that, if the values of equality and freedom are to be realized, we need to move beyond the idea of self-ownership. Instead, we need to develop a new ethos of "mutual service" amongst citizens in the economy as well as in political relations (Cohen 1995). Although the details of these contemporary debates cannot be treated adequately in this chapter,[1] the issue of property in the person will reappear in a different context in the following section.

[1] See Will Kymlicka (2002, chs. 4 and 5) for a very clear and comprehensive account of the complex role of Lockean notions of property in both libertarian and Marxist accounts.

C. B. Macpherson has pointed out that "Locke's deduction starts with the individual and moves out to society and the state" (Macpherson 1962, 269). On his view, the "possessive individualism" of early modern liberal political thought failed to take any account of the social conditions and relations necessary in order for such conceptions to appear plausible.[2] Part of the problem is that Locke, and his contemporaries, paid little attention to the ways in which the rights and property of "possessive individuals" depended on the subordination of certain others (women, the propertyless, the colonized, the enslaved). The very coherence of the notion of owning one's "person," arguably, depended upon the existence of others who were politically constituted as the property of someone *other* than his or her own "person." Distinctions between individuals—of sex, race, class, age, ability, and the like—pose a series of problems for the modern conception of the freely contracting individual. Who may enter the contract? How are rights and obligations to be distributed across the political body? Who is to count as a person? Are all "status" identities to be abrogated in favor of the modern "abstract individual" and "contract?"

3 Body as Source of "Status:" The "Somatic Norm"

Many feminists have argued that Western political theory is imbued with a masculine bias insofar as the notion of the "individual" implies a norm that favors white, propertied, Western men (see, for example, Young 1990; Phillips 1993; Benhabib 2003). But cross-cultural work shows that even in relation to those who have been marginalized by Western political theory (for example, Third World peoples, indigenous groups), the pattern of a privileged masculine norm that excludes women is repeated *within* these groups. So the universal category, "individual," is not only particularized from culture to culture, but *intra*cultural designations also construct some bodies as

[2] Admittedly, Macpherson's views on modern political thought have been widely disputed. See, for example, Tully (1993). However, his general argument about "property in the person" has had a marked influence on Pateman's conception of property in the person (see Section 3).

"naturally" subordinate or inferior: for example "women" as opposed to "men". The category "person" suffers from related problems. For example, English law did not recognize all human individuals as "persons." The law of coverture meant that women did not count as "persons" at law. These exclusions are important to the issue of property in the person because of the pivotal role that notion has played in grounding rights claims and in the formation of juridical and other institutions. It is only those who enjoy legally and politically sanctioned rights over their "persons" who are entitled to freedom. In Sir Henry Maine's famous words, the modern period inaugurated a new "movement from status to contract" (Maine 1917, 100). But did it? For those bodies that fell outside the norm the response to this question must be equivocal. The abstract individual, assumed by modern contractual society, is not a posture that all may easily adopt (Gatens 1991, 34–47). Sexual and racial distinctions—widely perceived as differences in natural kinds—appear to be status identities that function to predetermine one's place in the polity.

In *The Racial Contract*, Charles Mills (1997) has employed the apposite term "somatic norm" to convey the way in which bodies may be normalized, excluded (or included as different, but inferior), within racist, sexist, and colonial contexts. Mills builds on Carole Pateman's work in *The Sexual Contract* (1988). In this work Pateman argues that the main institutional ties of modern civil societies, namely, citizenship, employment, and marriage, "are constituted through contract" (Pateman 1988, 180). She reads Locke's quarrel with Sir Robert Filmer over whether patriarchal rule is conventional or natural in a novel and provocative way. Locke's defeat of Filmer's "natural" (or divinely ordained) patriarchalism, she argues, should not be taken as the definitive defeat of patriarchy itself. Rather, the "sons" defeated the "fathers," thereby instituting *modern* patriarchy, which is fraternal in form. The social contract, which is supposed to theorize the advent of modern civil societies, tells only part of the story. Modern contractual society, Pateman argues, cannot be understood until the sexual contract is exposed as the necessary underside of the fraternal social contract. The sexual contract provides one missing part of the story and exposes the dependence of modern political and civil society on the subordination of women as wives and mothers in the private sphere. Her thesis puts under scrutiny terms central to modern political theory: "property in the person," the "individual," "freedom," and "contract" are each subjected to a rigorous analysis. The importance of *The Sexual Contract*, for present purposes, lies with its proffered critique

of the notion of property in the person and its putative role in securing the freedom of the "modern" individual.

Pateman acknowledges the important work of previous socialist and feminist political theorists, as well as the paradoxical nature of socialist and feminist demands for rights. In the modern period such rights, unavoidably, are based in the questionable notion of self-ownership that is, in turn, often associated with autonomy. How are women or workers to struggle against their subordination without arguing for the right to the "possession" and control of their bodies and capacities (Pateman 1988, 13)? However, the endorsement of the modern "political fiction" of property in the person is to the ultimate detriment of women and workers. In spite of Locke's claim, property in the person does not and cannot underpin the freedom of the individual. Rather, this political fiction is what makes possible specifically modern, contractual forms of subjection: "[c]ontract always generates political right in the form of relations of domination and subordination" (Pateman 1988, 8). As she repeatedly stresses, contract in its modern form typically is an exchange of obedience in return for protection (Pateman 1988, 61–2, 137–8). The worker is subjected to the capitalist through the wage contract and women are subjected to men through the marriage contract.[3]

There is a further crucial feminist dimension to Pateman's account. The fiction of property in the person, she maintains, was never intended to be applicable to women. Women's equivocal inclusion in civil society is not through citizenship or labor contracts but rather through the marriage contract which constructs her as "civilly dead," that is, as deprived of the legal status of "person." Although the "natural" powers of the father over the sons historically gave way to conventional relations between brothers in the fraternal polity, the power of men over women and the family retained its supposed foundation in nature. Unlike men, women are incorporated into civil society not as "persons," or individuals, but *as women* (Pateman 1988, 181). Women's bodies lack the necessary features of the abstract individual and so women cannot enter civil society on the same footing as men. Thus, the sexual contract becomes the device through which women's bodies, and their capacities, become politicized. Ironically, this politicization is achieved

[3] According to Pateman, modern contractarianism "displaces" the sexual contract onto the marriage contract. "Only the marriage contract—the contract into which women must enter, women who lack the standing of owners—includes the explicit commitment to obey. If the promise of universal freedom heralded by the story of an original contract is not to appear fraudulent from the start, women must take part in contract in the new civil order" (Pateman 1988, 181).

through the "naturalization" of women's subjection to men. On the early modern contractarian view, women are constructed as being "naturally deficient in a specific *political* capacity, the capacity to create and maintain political right" (Pateman 1988, 96). The politicized female body—paradoxically politically constituted as part of nature; paradoxically included in and excluded from civil society—is neither self-owned nor capable of providing the basis for women's freedom to contract on equal terms with men. Although Pateman does not conclude that sexual difference is therefore a status distinction that contractual society is impotent to transform, the point stands that sexual difference remains problematic from the perspective of contemporary conceptions of self-ownership that were considered in Section 2.

Why should the history of conceptions of "rights," "persons," and "contract" matter to contemporary political theory? Women are no longer denied the status of persons at law, so why should past ideas and institutional arrangements be of interest apart from their value to the history of ideas? Pateman argues that inattention to the historical contexts in which certain political conceptions took hold can blunt the critical edge of contemporary political theorizing. Cohen's critique of self-ownership, for example, is ineffective against contractarianism because he fails to note the difference between the concepts of "property in the person" and "self-ownership." An adequate critique of libertarianism (or contractarianism) requires attending to the conceptual, legal, and moral distinctions between self-ownership and property in the person. Two of the major institutions of contemporary contractual society—employment and marriage—"developed in tandem" and crucially depended on the "political fiction" of property in the person for their development (Pateman 2002, 32–4). As Pateman writes: "When the individual is conceived as an owner of property in the person, rights are seen in proprietary terms. The major mark of private property is that it is alienable, so it is legitimate to alienate the right to self-government, at least in the 'private' sphere of economic enterprises" (Pateman 2002, 49). Contractarianism thus creates relationships where the fiction of property in the person allows the illusion that a person's capacities and skills can be separated from the "person." The ability to labor, in other words, is falsely conceived as able to be "hired out" without compromise to the integrity of the individual. On Pateman's view, contemporary debates over self-ownership have been highjacked by moral philosophy with the result that such debates fail to note the *political* problem posed by contemporary marital and economic relations, namely that the "marriage market" and the labor market are markets in

property in the person. These markets, which deal in the "renting of persons," are incompatible with a genuinely egalitarian and democratic understanding of the third major social institution: citizenship. The fiction of property in the person, along with the alienability of proprietorial rights, is what allows relationships of domination and subordination, in the "private" spheres of family and employment, to appear legitimate. On this view, attending to the concept of property in the person, and its historical and institutional vicissitudes, exposes why contractarian society is incompatible with democratic citizenship.

Like Pateman, Mills insists on the continuing relevance of past political constructions of bodies that were marked as "different." Reworking Pateman's argument on the sexual contract, he states that the *racial* contract is a contract between whites for the global subordination of non-whites. The modern political story of freedom, contract, and consent is not a story for, or about, those whom it racialized as inferior. It is white men who leave the (hypothetical) state of nature and it is women and non-whites who (actually) come to be identified with nature, thus justifying their political subordination. In a manner that resonates with much feminist political critique, Mills argues that in the racialized polity non-whites are conceptualized as "*carrying the state of nature around with them*, incarnating wildness and wilderness in their person" (Mills 1997, 87; emphasis original). Like the sexual contract, the racial contract depends on "a politics of the body:" "[t]here are bodies impolitic," and such bodies "are judged incapable of *forming* or fully *entering into* a body politic" (Mills 1997, 53; emphasis original).

Mills' account of the white male body as a "somatic norm," implicit in modern political theory, shows the dependence of the free abstract individual on excluded others in at least two senses. First, as Orlando Patterson's work suggests, the Western political conception of freedom derives from the phenomenon of slavery: conceived as subhuman "the slave establishes the norm for *humans*" (Mills 1997, 58; emphasis original). Second, the somatic norm allows the positing of race as a biological or natural category through its concealment of the sociopolitical construction of the norm. Put differently, "whiteness is not really a color at all but a set of power relations" (Mills 1997, 127). On Mills' account the racial contract does not subject only bodies to a norm but also space itself (Mills 1997, 41–3). Space and sex and race are "normalized" by white fraternal patriarchal bodies politic. The private sphere, colonized land, or civil society, are not neutral but politicized spaces that serve to confirm the status of the "impolitic" or "politic" bodies of those who occupy them.

It is significant that neither Pateman nor Mills see the abolition of sexual and racial discrimination to lie with women and racialized groups achieving self-ownership. For Pateman, this would involve the ultimate commodification, alienation, and exploitation of all aspects of human life. As her criticisms of the prostitution and surrogacy contracts make clear, the freedom to contract in such contexts would socially entrench, and so further legitimize, the destructive political fiction of property in the person (Pateman 1988, ch. 7). Both theorists gesture beyond conceiving persons in terms of property toward what they see as a more sustainable and equitable form of individuality that values autonomy conceived in terms other than self-*ownership*.

However, in contrast to Pateman, Mills does not see contract, as such, to be the central problem. On this point his thesis is closer to Susan Moller Okin's account of "gender" than to Pateman's account of sexual difference (Mills 1997, 136–7, n. 9). Just as Okin envisions a future in which gender is irrelevant to social and political status (Okin 1989), Mills aims "to eliminate race ... altogether" (Mills 1997, 126–7). Again unlike Pateman's analysis of sexual difference, Mills understands the racial contract to be an historically contingent organization of bodies that could have been otherwise. Furthermore, his "demystification" of the racial contract, which he presents as a kind of "*ideologiekritik*" (Mills 1997, 129), ultimately aims at the "voluntarization" of race (Mills 1997, 126–7). I will return to this issue in the following section.

More recently, Nirmal Puwar has taken up the notion of the somatic norm to show how the specificity of raced and sexed embodiment constrains one's ability to occupy putatively "neutral" public space. Building on the work of both Pateman and Mills, she presents the body as a thoroughly politicized entity that may be both enabled and constrained through the social practices and public spaces that help constitute it. By analysing contemporary examples of "bodies out of place" (e.g. black bodies and women's bodies in parliament) Puwar shows "the ways in which bodies have been coupled with and decoupled from specific occupational spaces" (Puwar 2004, 78). Puwar's research casts new light on the issue of the universal and the particular. The particularity of the purportedly "universal" body of the social contract theorists is put under the spotlight in a way that emphasizes the constructed privilege of the "unmarked" white male body and its ability to naturalize its exclusive right to be master of political spaces.

4 Body and "Affect"

It may be thought that the notion that the body is constructed, normalized, or "materialized" in different ways across history and culture introduces a kind of contingency into political *praxis*. If subjects are constructed and reconstructed across space and time, what is to prevent a radical voluntarism with regard to political identities? If identity is understood to be contingently constructed, what is to prevent individuals from "choosing" new identities? Is it this notion of "choice" that underpins Mills' idea of "voluntarizing" race? When Okin advocates the abolition of gender is she suggesting that this could be achieved through choice? Are the historically and politically constituted privileges of "whiteness" or "maleness" able to be cast off by mere acts of will? This question forms the focus of recent work on the body, affect, and "micropolitics." If the Foucauldian approach to identity formation as an ongoing process that involves innumerable micropolitical power relations is granted, then work on and through the body, as a form of political *praxis*, seems viable, but such work cannot be reduced to a simple-minded voluntarism.

Citing Nietzsche and Foucault as inspiration, William Connolly has stressed the ethical and political importance of micropolitical (as well as macropolitical) *praxis* through what he calls the "relational arts of the self" (Connolly 1999, 143–53). Although this "art" cannot be reduced to mere acts of will, it is a political practice open to those prepared to cultivate their critical capacities and reflect on the means through which identity is constructed and reconstructed. Recommending an "ethos of engagement" with different others, characterized by "generosity and forbearance," Connolly endorses "[w]orking on yourself in relation to the cultural differences through which you have acquired definition. Doing so to render yourself more open to responsive engagement with alternative faiths, sensualities, gender practices, ethnicities, and so on" (Connolly 1999, 146). Connolly does not limit his analysis to intersubjective relations. He also notes the need to work on the *intra*subjective, or the infrasensible self, arguing that the "cultivation of sensibility" is necessary if we are to alter the structure of habitual affects as well as the cognitive self (Connolly 2002, 129–37).

Whether such practices are vulnerable to accusations of self-indulgence on the part of the politically privileged (Connolly argues they are not), or to

criticism on the grounds of presenting an implausible political voluntarism, are live questions in the work of contemporary theorists of "body politics" (see, for example, Rothenberg 2000). One response is to point out that the contingency of the histories that have constructed present identities need not imply that such identities are therefore arbitrary. Furthermore, past historical contingencies may come to constitute present material necessities (an idea that should be familiar to theorists of both "path dependency" and "genealogical analysis"). This view of things, however, does not amount to the supposition that a Foucauldian approach to the materiality of power disallows human agency (Patton 1998). Rather, a Foucauldian approach may reveal those aspects of contemporary subjectivity that are unstable or aporetic thus providing possibilities for ethical and political experimentation and transformation. Such experimentation cannot be reduced to political voluntarism since it involves attentiveness to and careful genealogical analysis of the possibilities for change that are immanent to the "present."

5 Beyond Self-ownership? Interdependence and Autonomy

In Sections 3 and 4 the notion of the historical, social, and political construction of certain kinds of body through power relations was considered. This contemporary micropolitical approach is far removed from the assumptions of the modern contractarian theorists where bodies, rights, and law were conceived in ahistorical, naturalistic terms. Human history does not float around bodies, temporarily covering them with the attire of this or that period; rather, the capacities, form, and very materiality of the human body are themselves historically configured. Yet, in these contemporary accounts, the body continues to play a liminal role in the articulation of the distinctions between particularity and universality; autonomy and dependence; and identity and difference. Arguably, however, contemporary "body politics" theory is better equipped to show how these distinctions need not lead to irresolvable paradox. One is neither simply an historical construction nor an ahistorical self-owning individual. Rather, one's autonomy, identity, and

particularity are always inextricably bound up with specific historical, social, and political practices. Moreover, relations of interdependence are universal (in the sense of being natural to the human condition). On this approach it is not a question of "either/or" (identity or difference) but rather of "and" (for example, conceiving of identity through difference, or of autonomy through interdependence). This view is particularly prevalent in much contemporary feminist political theory.[4]

An example of this type of approach is Martha Nussbaum's work on human capabilities that, while presenting a universalistic theory of human being and entitlement, nevertheless attempts to be attentive to the particular cultural contexts in which human beings invariably dwell. Nussbaum moves away from the association between autonomy and self-ownership characteristic of much contemporary political theory. Although there is debate over the ultimate success of the capabilities approach, and the claim that "certain human abilities exert a moral claim that they should be developed" (Nussbaum 2000, 83), one element of its exposition is especially pertinent here. The central human functional capabilities that Nussbaum lists (see Nussbaum 2000, 78–9) are described as "*combined* capabilities." A person's ability to labor, for example, is not understood as a "given" property of that person. Rather, each "internal" capability (for example, to work, or to reason) of any human being always assumes the presence of appropriate "external" conditions for its realization (Nussbaum 2000, 84–5). And these external conditions will necessarily affect the particular way in which any given "internal" capability will be expressed or realized. Human capabilities are inevitably a *combination* of latent human capacities and specific economic, cultural, and political circumstances. For example, the capacity for autonomy, or self-determination, is dependent on appropriate social contexts, certain kinds of ongoing relations with others, and so on, if it is to be actualized and maintained. But this does not imply that each human capability will be realized in precisely the same way in all contexts. The particular realization of a universal human capability necessarily will be culturally specific. This is one consequence of closely tying the realization of the internal capabilities of an individual to the specificity of external conditions, which include that individual's cultural context. It also highlights the way in which any human power, ability, or capacity is necessarily relationally realized. Any given capacity of an individual

[4] Many examples of this kind of feminist work in political theory come to mind. For example, Kittay (1999) on dependence and independence; Nedelsky (1993) on conceiving rights in relational terms; Friedman (2003) on relational autonomy; and Hirschmann (2002) on freedom.

therefore—to labor, to create—cannot be viewed in terms of that individual's "personal property." I cannot claim "ownership" of my self or my capacities precisely because they require a social and cultural context before they can be developed or expressed. In spite of her preference for "capabilities talk" rather than the more contentious "rights talk," Nussbaum concedes that "the best way to think about rights is to see them as *combined capabilities*" (Nussbaum 2000, 98; emphasis original). Although Nussbaum does not put it this way, her account may be viewed as a relational, embodied, and historically contextualized account of rights. Moreover, it is an account that shows why political theory needs to go beyond the notion of self-ownership.

6 Rights and Citizenship

It was suggested in Section 1 that notions of the universal and the particular are increasingly brought together in contemporary political life through practices of citizenship. Rights are neither "natural entitlements" nor alienable bits of "personal property" but rather denote specific historical and cultural ways of regulating human interactions. Conceived in this manner, the notion of "human right" is not at odds with the materialist, historical, and embodied approach, outlined above. However, it does suggest that if any individual's "human rights" are to be secure then the rights of all individuals must also be secured. Human rights, to be effective, must be globally distributed. Some political theorists argue that the growing multidimensional (ecological, economic, political) interdependence of all the cultures and nations of the world, calls for a universal system of human rights to be underwritten by cosmopolitan governance (e.g. Held 2002). However, if this project is conceived in terms of the imposition of a fixed "list" of "universal rights" that must be implemented uniformly in every cultural and political context, then it will fail (Gatens 2004). Such a plan would directly contradict the previous analysis of the materiality of the body and the powers through which it is constituted in specific times and places. It acknowledges the ideal of achieving universal justice but fails to attend to the variety of contexts in which justice may be realized. Moreover, ideals of global justice run the risk of continuing a politics of Western cultural imperialism.

Rather, political theory and *praxis* must acknowledge the ongoing and open-ended nature of negotiations between different historically constituted identities and polities. For this reason, national or local practices of citizenship are likely to remain the crucial mechanisms through which rights are implemented (or struggled for). To suggest this is to acknowledge cultural difference as a deep, historical, and embodied difference rather than a superficial or merely "ideological" difference.

There is another reason to exercise caution in relation to the idea of a fixed list of universal human rights implemented through "cosmopolitan citizenship" and regulated by global governance. Hannah Arendt's post-Second World War reflections on those bodies that fell outside the protection of any particular body politic provide sombre materials for considering the complex questions raised by the politics of "rights talk," self-ownership, and "the body" today. Universal human rights that have been "merely proclaimed" but not "politically secured" are of no use to a human being once she has lost her polity and been reduced to a naked body (Arendt 1968, 447). Ironically, the most intensely politicized bodies are often those that are denied any secure specific political membership. Arendt's reflections on "the decline of the nation-state and the end of the rights of man" (Arendt 1968, 267–302) act as a sharp reminder to political theorists not to lose sight of those actually existing human bodies that extant bodies politic treat differentially: exploiting, excluding, even destroying some, and all this, often enough, for the purported protection of those who are deemed "proper" citizens of "properly constituted" polities. As Benhabib reminds us: "No human is illegal" (Benhabib 2004, 221).

To become a human being "in general" is "to belong to the human race in much the same way as animals belong to a specific animal species:" it is to be reduced, in other words, to a naked body (Arendt 1968, 302). Such reduction involves "the loss of the entire *social texture*" into which all are born and which provides each with "a *distinct* place in the world" (Arendt 1968, 293; emphasis added). Being human is not (only) about being a member of a genotype or species; it is above all about membership in some particular culture, locatable in place and time. "The survivors of the extermination camps, the inmates of concentration and internment camps, and even the comparatively happy stateless people could see ... that the abstract nakedness of being *nothing but human* was their greatest danger" (Arendt 1968, 300; emphasis added).

Citizenship, the right "to belong," and stateless persons raise urgent questions for political theory today. In the absence of robust institutional

embodiment, rights quickly reduce to "mere proclamations" and the citizen to "a naked human body." The critiques of the rights-bearing individual of contractarianism considered here offer a different vision of rights and their importance. Above all, rights create relationships *between* human beings. They manage and distribute human powers and capacities for action and for being acted upon. Understanding human being and human societies in relational terms draws attention not only to the complex and always particular ways in which we *become* human, but also to what we must do in order to preserve our humanity.

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CHAPTER 38

NEW WAYS OF THINKING ABOUT PRIVACY

BEATE ROESSLER

1 New Problems Need New Theories

RFID (Radio Frequency Identification) chips are an electronic "label" with specific code numbers allowing them to be identified at any time. If the chip is brought near a reading device, the electromagnetic impulses emitted provide it with enough energy to radio back its unique code number. RFID chips do not require a built-in source of power. These "smart labels" can be attached, for example, to a pair of trousers, and the radio-transmitted identifiability means that whenever you are wearing these, you can be located and recognized. It becomes permanently possible to track down and identify everything one buys. In future, RFID chips are to take on a further function. It only takes a small operation to implant them under the human skin, in this way making it practicable to read and retrieve the data of medical patients, for example, at any time (for a fuller discussion of the themes of this article, see Roessler 2005).

* Translated by R. D. V. Glasgow

These chips are just one example of the enormous and radical technological developments of recent years. The developments have led to completely new technologies for obtaining information about people, observing them, listening to their conversations, and monitoring their activities: technologies that invade people's privacy in new ways and pose new threats to this privacy. There are also social changes of an entirely different sort that have shifted the boundary separating the private and the public realms and led to changes in their social significance. These include the fact that women can no longer be assigned to the realm of domestic and family labour, but are increasingly playing—and wanting to play—an equal role in gainful employment and the public sphere. They include the fact that intimacy and sexuality are no longer banished to the private domain, but are openly portrayed and displayed in magazines and periodicals, on television, and in the whole range of media. They also include the emergence of a new genre of television programs in which the "private life" of the contestants can be observed on an almost one-to-one basis, as in reality TV shows like *Big Brother*.

Recent interest in reconceptualizing privacy therefore reflects three historical processes: developments in information technologies, capable of threatening the protection of personal privacy in completely new ways; radical changes in the relation between the sexes and a concomitant reconfiguration of the private sphere; and the intrusion of intimacy into the public realm through previously private themes that have turned public, and shifts in notions of individuality and authenticity. These examples also suggest that there is not *one* history of privacy, and that what counts as "private" at any particular time varies (Ariès and Duby 1987; Elshtain 1981; Moore 1984; Benn and Gaus 1983; Westin 1967, 8ff; Weintraub and Kumar 1997). They bring to light the thoroughly conventional nature of the separation between public and private life.

In what follows, I look briefly at some of the older theories of privacy and more specifically at why these are becoming obsolete. This makes it easier to see what is new about new theories. In a second step, I look more closely at new conceptions of the term. This overview is then followed by a systematic account of the problem as a whole in which I differentiate three dimensions of privacy. Finally, I provide a brief sketch of the normative problems associated with privacy.

2 Old Ways of Thinking about Privacy

What is new about new ways of thinking about privacy? What, by contrast, were the old ways of thinking about privacy? The opposition can be clarified by conceiving of the accepted division between the private and the public realm as either "naturally given" (the "old" view) or "drawn by convention" (the "new" view). In the traditional self-description of civil societies, the private and the public spheres are separated in quasi-natural terms: to the realm of privacy belong feelings, hearth and home, emotional care for the male members of society, as well as the raising of the children, while reason, "brains," and professional life, by contrast, characterize the (male) public realm. As this indicates, the "natural" coding of the separation between private and public follows the borderline separating the sexes. It is because of this natural coding that the private domain has a twofold significance in the evaluative semantics of civil societies. On the one hand, the domestic sphere, including the family, is valued and prized as the realm sheltered from the demands of a hostile world, a realm where love and affection prevail rather than competition and the pursuit of profit, and which provides a haven both from the hard laws of the economy and from the implacable rules of politics. Yet alongside this interpretation, there exists another version, a negative one, which unambiguously associates the private sphere with "women" and the public sphere with "men." This version represents the private as inferior to the public, just as nature is inferior to culture (Landes 1998; Okin 1989, 1991; Roessler 2005).

This is the traditional self-description of civil societies. This separation of public from private, and gender-coded disparagement of the private, can be found in one form or another throughout Western political philosophy. In this sense, it is not restricted to liberal theory, but finds its classic articulation in Aristotle, according to whom the private domain is one of necessity, restriction, confinement, and subjection to the (unpleasant) laws of nature and reproduction. For a modern Aristotelian such as Hannah Arendt, there is a clear social ontology that makes it seem natural, as it were, for certain things, persons, and activities to be regarded as private and others as public: the private domain is the domain of the household, "the sphere where the necessities of life, of individual survival as well as of continuity of the species, [are] taken care of and guaranteed" (Arendt 1989, 45). Even if Arendt no longer sees this differentiation as necessarily coinciding with a gender-specific

division of labor, her conception can in this respect be described as an "old" theory of privacy (Arendt 1989; Benhabib 1996; Honig 1992).

It is above all classical liberal theory, however, that postulates a necessary link between a natural concept of privacy and a gender-specific division of labor, and designates the household as the sphere appropriate to women. Even though liberal theory since (Hobbes and) Locke has advocated equal civil rights and liberties for all citizens, it has simultaneously clung to a natural conception of privacy that patently contradicts the notion of equal rights. This, of course, has little to do with nature and a great deal to do with power and culture: seen in purely normative terms, nature provides us with no argument why certain activities—or persons—should be considered "private" and others "public" (Ortner 1998). On the contrary, the division is *always* conventional in character, this being one of the reasons why new approaches to privacy can call for a redescription of the private and reformulation of equal rights to privacy and freedom that is no longer inconsistent with the principles of a liberal democracy based on equal rights (Cohen 1992, 2002; Allen 1988, 1998).

The natural and gender-specific coding of privacy singles out just one aspect, one sector, from the whole spectrum of social meanings given to privacy. The private is distinguished from the public in static terms, as though we were dealing with clearly defined domains (the private house versus the public street) rather than dimensions or dynamic boundaries drawn to determine what, for example, should be regarded as private in public spaces (matters such as how I dress, or where I send my children to school). The coding of privacy as something natural, female, or static, as the "household," or a realm clearly and unambiguously defined in opposition to what is public, is, therefore, the old, traditional coding. As such, it is no longer convincing in either normative or empirical terms.

3 New Ways of Thinking About Privacy

Along with this natural conception of privacy, the history of liberal theory reveals another, fundamentally different, connotation of the term. Since

Hobbes, Locke, and most explicitly Mill (1910) and Rorty (1989), "privacy" has *also* meant something akin to "freedom from interference by the state or society in general" (Roessler 2005, 43ff). Within this tradition, privacy is closely and genuinely bound up with the concept of freedom, and it is on this meaning of privacy that most of today's normative conceptions are based.

It is worth noting at this point that theories of privacy—of the changes it has undergone, the threat it faces, the function it fulfills—are to be found in widely differing and often wholly separate discourses, each approaching the problem from a different angle, referring to different histories of privacy, and focusing on different aspects of the term. For example, sociological theories of the public sphere, as well as sociological studies of the transformation of the family, employ a concept of privacy that cannot be reduced to the natural sphere of the household, but that nonetheless remains general and—standing in simple opposition to the concept of the public sphere—is not further specified (Habermas 1992; Sennett 2002; Fraser 1992). The same goes for theories of civilization and modernization that operate with a concept of privacy, yet fail to specify this in any greater detail. For the most part, therefore, privacy simply remains a matter of "the private family" after all.

By contrast, the discourses of legal studies, philosophy, and feminism have focused more closely on the concept, definition, and meaning of privacy itself. The diverse branches of *legal studies*, reflecting the very broad spectrum of case law (Turkington and Allen 1999; Lacey 2004), have witnessed an extremely heterogeneous debate on the distinct interpretations of a *right to privacy*, a debate that has been triggered in particular by famous legal cases. In philosophy, specific discussions of the concept and definition of privacy date mainly from the 1960s. This has connected with and responded to social and legal developments, and has generated theories about the value of privacy and the connection between intimate relationships and what, if anything, it means to have a right to privacy (Thomson 1975; Chapman and Pennock 1971; Schoeman 1984).

Feminist theories have exerted a particularly important influence on these discourses, in sociology, philosophy, and legal studies alike. From the outset, feminist approaches have levelled their criticism at the natural concept of privacy and the accompanying gender-specific division of labor, thus also at those varieties of liberal theory that were grounded on a male social contract that excludes women (Pateman 1989). Strictly speaking, one cannot here speak of feminist theory in the singular form: not only are a great variety of

definitions of privacy used in the relevant literature (Olsen 1991; Okin 1991; MacKinnon 1991; Morris 2000; Cohen 2002), but accompanying these are critiques of the distinction between private and public that vary greatly in their radicalism. In general terms, it can nevertheless be said that feminist theories challenge the traditional, repressive, concept of privacy, and attempt to describe and interpret privacy in new ways.

By way of a provisional generalization, we have already seen that more recent theories of privacy conceptualize the private as relating to, constituted by, or interested in individual, personal freedom or autonomy. This is the case in jurisprudence, philosophical theories, and feminist accounts alike. The focus on *freedom and autonomy* is present in the most diverse theories of privacy, ranging from those addressing questions of sexual self-determination (Cohen 2002), to those that concentrate on informational privacy (Reiman 2004; Agre and Rotenberg 1998), and those that attach central importance to the privacy of the home (Young 2004).[1] This new association of freedom and privacy has not, however, gone without criticism. Here I present three kinds of criticism, before looking in more detail at the individual conceptions of privacy that are oriented towards freedom. These three kinds of criticism should be understood as skeptical responses to the new conceptions of privacy, but I argue that they are skeptical responses founded upon misunderstanding.

3.1 The Communitarian Critique

Theorists from the communitarian tradition find it suspicious that theories of privacy represent individual freedom as the *raison d'être* for privacy. In general, they call into question the connection between (decisional) privacy and autonomy. They argue that privacy should not be conceived as a realm or dimension of individual freedom, that is, as functionally related to the individual self, but rather as a realm or dimension of life concerned with

[1] Opinions vary greatly on the definition and meaning of privacy. Approaches that emphasize control contrast with others that seek to define privacy in terms of access, and yet others for which the central definition would simply be the general right to be left alone (Schoeman 1984; Bok 1983; Chapman and Pennock 1971). It also remains a matter of debate whether privacy should first and foremost be a right that protects individuals (Inness 1992; Reiman 2004) or one that protects relationships (Rachels 1975; Fried 1968) or practices (Etzioni 1999; Sandel 1982).

specific *practices* also relevant to the community at large. Privacy must accordingly be understood not as a realm to which the individual has a claim qua autonomous being, but as one conceded to the individual as a member of the community (Sandel 1982; Etzioni 1999, 2004; Elshtain 1995). The idea underlying this is that liberal theories of privacy conceive the self as disembedded and egocentric in nature. This is said to be inconsistent in epistemological terms, and normatively undesirable from a political perspective, for communities and communal practices always already have priority over the formation of the individual identity. Accordingly, say communitarians, privacy should not be primarily understood as an individual right to (physical or sexual) self-determination, but as protection given to practices that depend upon being sheltered from the view of others (Etzioni 1999, 183; 2004, 30).

This communitarian critique is not convincing, however, as a number of authors have pointed out (Cohen 2002, 42; Roessler 2004, 98). It is a misconception to hold that a theory of privacy based upon the idea of individual freedom and autonomy cannot at the same time also conceive of the self as relational in nature and as constituted and contextualized in a variety of respects (Mackenzie and Stoljar 2000). It is, moreover, a politically troubling misconception. Feminist theories of privacy, in particular, insist that individual rights come before communal duties, because otherwise it is impossible to guarantee *equal* freedom to take decisions pertaining to one's life and one's body. Communal practices and traditions may prove repressive and discriminatory, making an individual right to privacy indispensable.

3.2 The Radical Egalitarian Feminist Critique

Radical egalitarian feminist approaches are on principle skeptical of any conceptualization of privacy that represents privacy itself as emancipatory. The best-known of these is that developed by MacKinnon (1987, 93ff; 1991; Olsen 1991). For MacKinnon, the appeal to juridical or moral rights to privacy is but a further manifestation of the attempt to push women back into an ideologically constituted realm of privacy defined as the non-political or pre-political, and only ever concedes them rights insofar as they are seen as different or deviant. Such a concept of privacy, according to MacKinnon, fails to call the sexual hierarchy into question. Instead, it simply preserves the

social power structures that find expression in the correlation of women with the private and men with the public realm.

In response to this, it can be objected that MacKinnon fails to make a sufficiently clear distinction between a natural, pre-political, concept of privacy (rejected equally by the radical egalitarian feminists and those who see privacy as based in some way on the concept of freedom) and a legal-conventional concept. With the help of the latter, both societies in general and traditional conceptual divisions between the private and the public can be criticized and revised. To renounce a concept of privacy that can prove crucial to women in general and to the self-determination of the female sexual body in particular seems an unnecessary step, if one can hold to a concept of privacy that is not in the gender-specific, natural tradition, but is oriented towards the notion of freedom.

3.3 The Theory of Power Critique

The third type of criticism of freedom-oriented theories of privacy comprises approaches from the perspective of the theory of power (for example, Brown 1995; Cornell 1995). These criticize the liberal concepts of freedom and autonomy on a more fundamental level. They are skeptical of those who conceptualize privacy in relation to autonomy because and insofar as this follows on from, and is consonant with, other (liberal) dichotomies; and because dichotomies as such tend to be exclusionary and to this extent repressive in nature. Furthermore, they argue, such conceptions fail to take into account—and sufficiently criticize—the power structures inherent in society, because they focus too much on a male, "rational," understanding of autonomy. These arguments are far from homogeneous, ranging from those that appear to reject any conceptualization of privacy (Brown 1995; and on different grounds, Geuss 2002) to others that propose alternative ways of determining privacy. One example of the latter is Morris (2000, 330), who suggests that privacy should be conceived as "intractable" and a "reprieve from scrutiny and public judgment." This third approach is particularly problematic when it seems to oppose the very possibility of a normative conceptualization of privacy. In Morris's case, by contrast, it remains unclear why her position is so incompatible with freedom-oriented approaches: the main difference

seems to be that these state precisely why privacy is valued and why it should be understood as a right.

In my view, none of these three types of critique can genuinely invalidate the normative nexus between freedom and privacy. Accordingly, I regard conceptions of privacy based upon a notion of individual freedom as providing the most interesting and forward-looking possibilities for the term: I argue that theories of privacy are always at the same time theories about the protection of individual liberty. In this context, it is possible to distinguish various dimensions of privacy, each of which realizes and facilitates distinct aspects of individual freedom, and is thus also characterized by a distinct potential for conflict with other rights or values.

4 Three Dimensions of Privacy

Three such dimensions of privacy should be distinguished. These dimensions—not realms—of privacy serve, or from a normative viewpoint should serve, to protect, facilitate, and effectuate individual liberties in a variety of respects. We saw above that freedom-oriented theories of privacy are to be found within the whole range of theories of privacy, from those that deal with the privacy of (intimate) actions to those concerned with informational privacy or the privacy of the household. It makes sense, therefore, to discuss these different aspects of freedom and privacy separately.

4.1 Decisional Privacy

It is only in recent years that decisional privacy, or the privacy of actions, has become a specialist term in the literature. A decisive factor here was the ruling of the US Supreme Court in the *Roe v. Wade* case, where for the first time in US legal history women were granted a right to physical, sexual self-determination and to terminate a pregnancy, this being grounded upon an appeal to a *right to privacy*. As the explanation formulated by Justice Blackmun famously put it, "this right to privacy … is broad enough to encompass a

woman's decision whether or not to terminate her pregnancy" (*Roe v. Wade*, 410 US 113 (1973) 153).[2] This verdict and the discussions that preceded and followed it exerted enormous influence on the subsequent conceptualization of privacy, and not only in the United States. Largely as a result, feminist theorists have treated sexual freedom of action, the privacy of intimate and sexual acts, and the woman's right of sexual self-determination as central elements in the theory of privacy. Decisive significance is given to the *privacy of the body* (Gatens 1996, 2004). This includes the woman's newly-won right to conceive of her body as private to the extent that she can decide for herself whether or not to bear a child, and thus enjoys rights of reproductive freedom. The discussion in Europe took a slightly different tack, primarily because the right to terminate a pregnancy is not grounded, in most European countries, in the right to privacy but in the woman's right of self-determination; also because in Europe, it has traditionally been the right to informational privacy that has been to the fore (Roessler 2005, 93).

The idea of physical privacy, in the sense of the privacy of actions that concern the intimate sphere of women and men, lies at the heart of decisional privacy. We should mention here two further aspects of this form of privacy, both of which also concern the link between sexuality, the body, and identity, and are decisive for the societal coding and meaning of decisional privacy. These relate to the issues of sexual harassment and sexual orientation. Protection from sexual harassment and respect for diverse sexual orientations both form aspects of decisional privacy, because and to the extent that it is the privacy of the body that is here vulnerable to infringement (the most comprehensive discussion of this is in Cohen 2002; see also Nussbaum 2004, 396ff).

Privacy with respect to intimate, sexual decisions is considered vital because these decisions are said to form the core of general decisions that may have far-reaching consequences in terms of who one wants to be and how one wants to live: the core, in other words, of one's freedom to form one's own authentic identity. When decisional privacy is placed within such a context, and understood as serving to secure the possibility of a self-determined, authentic life, of individual projects, individual ways of life, and an individual

[2] It had previously also played a crucial part in the *Griswold v. Connecticut* case: "The *right to privacy* gives an *individual*, married or single, the right to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person *as the decision whether to bear or beget a child*" 405 US 438 (1972) 358 (emphasis added).

practical identity, it becomes clear that it is called upon to secure autonomy not only in the most intimate sphere, but in private acts and behavior in public contexts, too. It emerges, that is, that the protection of decisional privacy is necessary so that freedom in *social* space and with respect to *other* individuals in society can be enjoyed in such a way that modes of action, ways of life, and projects can be pursued without undesired interference. Restraint, inattention, reserve, and indifference—as forms of respect for this decisional privacy—are expected from others when it comes to the private aspects of the life a person leads in public.

One must here distinguish very different aspects of decisional privacy according to their social context, but the argument underlying the claim to protection of such privacy remains structurally the same. If one understands a person's self-determination and autonomy to consist in her right to be the (part-)author of her own biography, this must mean, among other things, that the person can demand that her decisions and actions should be respected (in the sense that they are "none of your business") by both social convention and state law. The limits to such privacy are regulated by convention and of course subject to constant renegotiation, yet this sort of respect for a person's "privacy"—in public contexts as well—is especially relevant for women. (For concrete examples, see Nagel 1998*a*, 1998*b*; Allen 1988; Cohen 2002; Fraser 1996; Gatens 2004). The spectrum of decisional privacy thus extends from reproductive rights to freedom of conduct in public space.

4.2 Informational Privacy

Discussion about informational privacy also goes back to the interpretation of the US Constitution, in this case beginning with an essay written by Justices Warren and Brandeis after what they felt was an invasion of privacy by intrusive paparazzi at the wedding of Warren's daughter (in 1890). It was here, for the first time, that the *right to be left alone* was described as a constitutional right to privacy in the sense that information about a person is worthy of protection even when it involves something that occurs in public. This is grounded in an appeal to the protection of individual freedom and thus known as the *right to be left alone* (Warren and Brandeis 1984).

Since Warren's daughter got married there have, of course, been enormous technological advances that radically transform not only the possibilities for surveillance but also our concepts of privacy, freedom, and autonomy, and that threaten to continue to do so (Westin 1967; Gandy 1993; Lyon and Zureik 1996; Agre and Rotenberg 1998). These opportunities for monitoring people apply equally to private households, to public spaces, and to surfing the Internet. In discussions of the new "surveillance state," the literature constantly invokes both Bentham's panopticon and Foucault's interpretations of it (Whitaker 1999; Foucault 1977).

The idea of informational privacy, however, also incorporates a further element. At issue here is not only not wanting to have one's phone tapped or be kept under surveillance, but the more general point that people like to keep the knowledge that others have of them under control and within limits they can expect. This brings to light the deep-seated connection between informational privacy and autonomy: people want to have control of their own self-presentation; they use the information others have about them to regulate their relationships and thus the roles they play in their various social spaces. If everyone knew everything about everyone else, differentiated relations and self-presentations would no longer be possible, nor would autonomy and the freedom to determine one's own life. As the German Federal Constitutional Court argued as early as 1983: "A person who cannot tell with sufficient certainty what information concerning him in certain areas is known to his social environment, or who is unable to assess in some measure the knowledge of his communication partners, may be substantially restricted in his freedom to make plans or take decisions in a self-determined way" (BVerfGE 65, 1 (43)).

My intention here is to provide just a brief sketch of the very different social contexts in which violations of informational privacy may coincide with restrictions on freedom. Informational privacy is relevant, first, in friendships and love relationships, serving both as a protection *of* relationships and as protection *within* relationships. In some theories of privacy, this even constitutes the very heart of privacy, "relational privacy" guaranteeing the opportunities for withdrawal that are constitutive for an authentic life (Fried 1968; Rachels 1975). It is relevant, secondly, to the electronic data interchange and data synchronization that are an inevitable consequence of any purchase made over the Internet, the now vast opportunities for data abuse in citizens' social dealings with one another (Whitaker 1999). In Europe, recent attempts to provide legislation,

through European Union Directives, for example, have broken new ground, yet these are still a long way from being able to control the complex issues of privacy on the Internet and in cyberspace (Lessig 2000).

The third aspect is *state* data collections and the opportunity these provide for misuse through discrimination. The problems and dangers of state control have become particularly manifest in recent years with anti-terrorist legislation both in the United States and in European countries. As is well-known, one of the principles of recent state politics in all these countries has been to avert the threat of terrorism by constant improvements in identifiability; in other words, imposing increased restrictions on informational privacy and thus also on civil rights and liberties. The rationality of this approach is hotly disputed, and the dangers of the progressive erosion of individual liberty in Western democracies have been repeatedly underlined.

At this point, however, it emerges that society is fundamentally ambivalent when it comes to privacy, for although public discussion in recent years has made it plain that restrictions in informational privacy also entail restrictions in civil liberties, the level of public protest has been moderate: there has not been a mass movement to protect informational privacy. People, it seems, are willing to pass on their data in business dealings and when shopping on the Internet as well. Finally, it is clear that many citizens themselves attach much less importance to the protection of informational privacy in the media (for example) than is being called for in political theory and by civil rights movements. This is evidenced by such phenomena as reality TV.

4.3 Local Privacy

With local privacy we have come to the classic, traditional place of privacy, its most genuine locus: one's own home, which for many people still intuitively represents the heart of privacy. It is within our own four walls that we can do just what we want, unobserved and uncontrolled. Yet it should be made clear from the outset that local privacy is not derived from a "natural" separation of spheres, but from the idea that one of the vital conditions for protecting individual freedoms in modern liberal democracies is to be able to withdraw to one's own four walls. This has nothing to do with "nature," but a great deal to do with the notion that (culturally or

conventionally constructed) opportunities for withdrawal are a constitutive element of a person's freedom.

Two different aspects of privacy are relevant here: solitude and "being-for-oneself" on the one hand, and the protection of family communities or relationships on the other. First, people seek the solitude and isolation provided by the protection of their private dwelling in order to avoid confrontation with others. This brings us back to the privacy of the body and the desire to shield one's body from the sight of other people, thus securing a realm of personal intimacy that may even be bound up with feelings of shame (see Nussbaum 2004, 296–304). Another aspect of such privacy comes to light in the work of literary models such as Virginia Woolf or George Orwell, for both of whom the privacy of the room—the privacy to write or think—is a precondition for self-discovery and an authentic life (Orwell 1954; Woolf 1977).

Second, local privacy offers protection for family relationships: the privacy of the household provides the opportunity for people to deal with one another in a different manner, and to take a break from roles in a way that is not possible when dealing with one another in public. As is known, however, this is a dimension of privacy that is especially prone to generate conflict. From the outset, this has been an important starting-point for feminist criticism, which has associated this realm and the understanding of privacy that accompanies it with the oppression of women, on account of the gender-specific division of labor, domestic violence, and in general, the notion that the home constitutes a pre-political space. This is a very important criticism, but I do not believe it entails a radical rejection of privacy as such. What it does mean, however, is that in discussions about local privacy it is especially important to recall the meaning and function of privacy: to protect and facilitate freedom and autonomy, and more specifically, to protect and facilitate *equal* freedoms and *equal* opportunities to lead a rewarding life, for women and men alike. Conflicts can arise here with traditional conceptions of privacy as the loving family haven, but these have nothing to do with demands for justice or equal rights (Honneth 2004; contrast Rawls 1999). It should be clear by now that traditional conceptions of the gender-specific division of labor have nothing to do with a protection of privacy that is oriented towards the protection of individual freedom; and that this reconceptualization thus has repercussions for the justice of the family (Okin 1989, 1991).

5 Future Directions

For the analysis of the meaning and normative conception of privacy, certain insights strike me as fundamental: these include the feminist critique of the traditional separation between private and public, and the interconnection of privacy, freedom, and autonomy. It also seems clear that theoretical endeavors should not cling to the image of a realm or domain, but should conceive of privacy rather as a multidimensional concept calling for an interdisciplinary approach.[3]

There remain a number of problems. First is the question of what privacy can mean in a multicultural state, and how cultural differences—often motivated by religion and with a special bearing upon the privacy of the body—should be normatively treated in a conception of privacy. Such problems in turn indicate that the boundary between the private and the public calls for constant reinterpretation, is always open to dispute, and will never be fixed for good.

A second question concerns the relationship between the individual and the community at large. Especially for more conservative critiques of contemporary culture, one central issue is how far restrictions on individual privacy might prove necessary in order to protect communal practices or institutions, and how far certain privacies might have to be limited in the interests of "privacy as an obligation." The lines of conflict between such communitarian discourse and feminist approaches based on personal liberties continue to be a matter of dispute, not only in philosophical and normative terms but also with respect to the juridical paradigm (Cohen 2002, 151ff).

Third, and finally—and this I consider the central issue—a theory of privacy cannot ultimately be elaborated without a theory of democracy. Because the negotiation of the fragile boundary separating private freedom from social or state control—with regard to the Internet no less than the fight against terrorism—is what constitutes this boundary in the first place, the question of how such negotiation is to be democratically legitimated and

[3] This interdisciplinary approach should also include, next to the mentioned disciplines, media studies, and cultural studies more generally; cf. Koch (2004). Quite a number of films thematize the threat to personal privacy in very interesting ways, for instance (one of the first films to do so) *The Conversation* (Francis Ford Coppola 1974) and, famously, *The Truman Show* (Peter Weir 1998) and *Enemy of the State* (Tony Scott 1998), to name but a few. Most of these films criticize control and surveillance from a quasi-liberal point of view; but compare, equally interesting, *Arlington Road* (Mark Pellington 1999) which is decidedly communitarian in outlook.

which model of democracy might correlate with the freedom-oriented concept of privacy is crucial. Moreover, recent conflicts concerning restrictions on privacy have made it clear not only that Western governments are quick to restrict rights to privacy when the security of the state is at issue, but also that the citizens themselves do not seem to set great store by the protection of their privacy—neither from state intrusion, nor on the Internet, nor in the media. If the normative connection between autonomy and privacy is right, then this indifference towards privacy is also an indifference towards autonomy. Yet democracy relies upon citizens who value their autonomy, both in public and in private. Threats to privacy, therefore, are always also threats to democracy.

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CHAPTER 39

NEW TECHNOLOGIES, JUSTICE, AND THE BODY

CÉCILE FABRE

1 Introduction

Theories of justice differ from one another on the extent to which redistribution should take place, but they agree that justice requires of some individuals that they transfer material resources to some other individuals who are needier, or worse off. (For the view that the needy ought to be helped, see Anderson 1999; Frankfurt 1987; Gewirth 1996; Harris 1987; Jacobs 1993; Nussbaum 2000. For the view that the worse off have such a claim, see Arneson 1989; Cohen 1989; Dworkin 2000; Rawls 1999.) Moreover, in line with libertarians as well as many a liberal proponent of reproductive rights in general and abortion in particular (e.g. Thomson 1971), proponents of coercive taxation for the purpose of helping the needy, or worse off, take it for granted, without argument, that all individuals have a very strong right to bodily integrity. When faced with the libertarian objection that coercive taxation

implies the coercive taking of body parts (Narveson 1983; Nozick 1974), proponents of the former typically reply that we should draw around the body "a prophylactic line that comes close to making [it] inviolate, that is, making body parts not part of social resources at all" (Dworkin 1983, 39). In sum, then, the contemporary literature on distributive justice has it that we owe material, but not bodily, help to one another.

However, in the light of ever more sophisticated medical technologies, the assumption that, as a matter of justice, individuals do not owe anything to one another with respect to their body can, and must be, challenged. So let us assume for the sake of argument that, at the bar of justice, individuals have rights against the comparatively well-off to the material resources they require so as to lead an autonomous life (where autonomy is defined as the capacity to frame, revise, and pursue a conception of the good), provided that they are not responsible for their predicament, and provided that the well-off would not jeopardize their own prospects for such a life by providing such help. By the same token, or so we shall see here, individuals also have rights to some of the bodily resources of those who are in a position to help them. I make my case by reference to three medical technologies, to wit, organ transplants (a rather routine procedure), genetic engineering (which is in its infancy), and artificial wombs (which are a distant, but real, prospect.) In so doing, I point to the ways in which those technologies lead us to rethink the content and the scope of our obligations of justice to one another.

2 Organ Transplants

Thousands of people, throughout the world, are so medically needy that they must get an organ or tissue transplant in order to be autonomous or even to survive; the majority of them will not get a transplant, and some of them will die as a result. Scarcity of organs, in short, is an acute problem. And yet, the literature on justice tends to focus on the distributive issues raised by scarcity of material resources. When it addresses the problems attendant on the scarcity of organs, it mostly addresses the question of selling them. Works on alternative ways of procuring organs, and in particular compulsory taking, are scant. There is, thus, a presumption, which is sometimes, but not often

challenged, in favor of conferring on individuals the right to control what happens to their body, before and after death.

However, if one thinks that the needy have a right to the material resources they need in order to be autonomous, one must be committed, in some cases, to conferring on the sick a right to some of the organs they need to be autonomous (Fabre 2003, 2004. See also Rakowski 1991 and Audi 1996, for a different argument in favor of the *post-mortem* confiscation of organs). Let me briefly state the case. First, it makes sense to say that the sick *can* have a right to someone else's organs, because organs are resources. That is, they are not constitutive of the person: rather, they are things which persons use to implement their conception of the good, and which can be transferred from one person to another.

Second, the sick *do* have a right to the healthy's organs, for the following reason. An advocate of compulsory taxation who believes in the moral importance of promoting individual autonomy is claiming the following: "some people are not autonomous for they lack material resources. In cases where they lack such resources through no fault of their own, for example through being born in a certain family or social class, they have a right that those who are in a position to help them do so, by way of taxation." That argument rests on two considerations: (a) the fact that some resources are needed to render a life autonomous, which are the proper subject matter for duties of justice; (b) how one came not to lead an autonomous life.

Now, it is quite clear that we must have access to body parts in order to be autonomous. Someone who is totally blind lacks a fundamental resource and consequently can take up far fewer opportunities than someone who is not. Someone who does not have kidneys and needs to undergo painful, two-hour long dialysis three or four times a week has less well-being and less time to take up whatever opportunities society offers than someone who has two kidneys. And so on. Furthermore, the distribution of body parts is largely a matter of brute luck. Indeed, people are often not responsible for needing body parts: they are often not responsible for developing cancer and needing bone marrow; for having to undergo an operation and needing a blood transfusion; for kidney failure; for being born blind, etc.

Thus, prima facie, and *pace* proponents of coercive taxation for distributive purposes, it is arbitrary on the one hand to claim that the rich are under a duty to help the poor by way of transfers of material resources, and on the other hand to deny that the "medically rich" are under a duty to help the "medically poor" to provide such help by way of transfers of body parts.

Two objections are standardly leveled at the foregoing argument, namely that individuals, whether alive or dead, should be treated as separate persons, and that they should not be threatened in their bodily integrity (Cohen 1995; Fried 1970; Veatch 2000). The confiscation of body parts is unjust, it is thought, precisely because it violates both requirements. As we saw at the outset, the claim that we all have a right to bodily integrity is widely accepted as true, and it seems that the objection it grounds is all the more powerful for it. In fact, neither objection works. The fact that I may be required to give you parts of my body does not violate the Kantian requirement that we treat one another as a separate person with their own ends. For the requirement states that we should treat one another not merely as means but also as ends, which implies that we *can* be treated as means provided we are also treated as ends. The objection works, therefore, only if the compulsory taking of body parts amounts to treating people solely as means. And yet, it is not true that it does: my having to give blood from time to time, my having to give a liver lobe under local anaesthetic, my losing a kidney or a cornea after death do not prevent me from leading a minimally autonomous life; and in being required to undergo those procedures for the sake of someone who desperately needs the relevant organ, I am not thereby treated as a means only to his ends.

It is true, however, that I am thereby threatened in my bodily integrity. In so far as we need to have control over our body in order to be autonomous, it is objected that bodily integrity is important enough to be protected by an absolute right. But so to object to the confiscation of organs is problematic: for in conferring on the healthy the absolute right to control what is done to their body, we would allow for a world where a number of people are left without the body parts that they need in order to be autonomous; we would, in fact, undermine the very value from which bodily integrity gets its appeal. To promote the value of autonomy, thus, might require undermining the bodily integrity of some individuals.

3 Genetic Engineering

Organ transplants, thus, lead us to redefine the content of justice. So does genetic engineering. In addition, genetic engineering has a bearing on the

scope of justice: as we shall see, it leads us to consider the possibility that justice is a property of the relationship between parents and children.

Many contemporary theorists of justice routinely distinguish between suffering misfortune through bad brute luck and suffering it through choice; they also assume, no less routinely, that our circumstances, such as our talents and handicaps, given to us as they are by nature, are a matter of luck (e.g. Dworkin 2000; Cohen 1989). The role of principles of justice, they argue, is to regulate the distribution of burdens and benefits that accrue to us in virtue of having, or not having, those talents and handicaps, and of the various choices we make in our life.

However, the claim that nature, and not other people, is responsible for our talents and handicaps is clearly false: to a large extent, as parents and citizens, we shape our successors' opportunities through care and education; we also contribute to determining, pre-conception, during pregnancy, and post-birth, how healthy they will be. The development of medical technologies which give us greater control over our genetic make-up further increases our influence over our children's prospects: it is already possible for doctors to detect whether a given individual is likely to pass on certain genetic diseases to his future children and, in the not too distant future, it will be possible for them to remove the genes which carry those diseases and to replace them with healthy ones. In a more distant future still, it might be possible to detect which combinations of genes contribute to the development of physical attributes, traits of characters, mental capacities, and talents; accordingly, it might well become possible for prospective parents to pick and choose certain genetic combinations such that their future children have a greater chance than they currently do of, say, being tall, driven, kind, good at mathematics, and musically gifted.

In the last few years, it has become commonplace to note that genetic engineering shifts the boundaries between chance and choice, since our circumstances, or so it appears, will increasingly become the product of our parents' choice, and will be left to chance to a much lesser extent than they currently are. That third parties can be, and often are, responsible for some of the ills that befall us has lead some authors to argue that we need a new account of justice (Dworkin 2000; Buchanan et al. 2000). It is unclear, however, what transformations exactly are required to existing accounts. For a start, the fact that the precise contours of our genotype, and therefore of our phenotype, will one day perhaps solely be determined by other people's choices does not alter the fact that, from our point of view, our circumstances

will still be down to the brute luck of having parents who made, or failed to make, certain choices. Moreover, we already know that some individuals do not have prospects for autonomy because their parents have, for example, systematically abused them, or failed to provide them with the emotional care and the material resources they needed whilst growing up, and we already have some views as to whether or not they have a claim for help (for example, in the form of publicly funded health care).

Although we already have the tools to address the issues raised by genetics, doing so requires a shift of focus from the question which theorists of justice most often deal with to one which they tend to overlook. The most pressing question raised by genetics is not "does an individual who incurs some harm through bad brute luck have a claim for compensation?" but rather "if someone is in a position to inflict harm on someone else, how should he act?"

In answer to that question, some philosophers argue that parents are under a duty to undergo genetic therapies for the sake of their future children (Harris 1998; Buchanan et al. 2000). Their argument goes like this. If it were the case that individuals have an unconditional right to have a child, someone would not wrong his child by refusing to undergo genetic treatment, since on that view, he could exercise complete sovereignty over his child. However, as we saw, justice requires that individuals be given the material resources they need in order to lead an autonomous life if they are not responsible for the fact that they lack those resources. Although this, *in itself*, does not tell us *who* should provide resources to the needy, one can adduce (at least) two reasons for asking parents to do so vis-à-vis their children. First, and to state the obvious, whether or not we have prospects for an autonomous life depends, in good part, on the degree and kind of care with which our parents provide us, and more specifically but not exclusively, on the resources—food, clothing, and health care—they give us. In the first years of our existence, our parents are the best placed to discharge the obligation to provide us with those resources, precisely because we are more vulnerable to them than to (almost) anyone else. If, then, one is committed to the view that providing the needy with prospects for an autonomous life is a requirement of justice, one must be committed to the view that parents are under a duty of justice to their children to promote those prospects (O'Neill 1979; Feinberg 1980; LaFollette 1980). Second, in bringing us into existence, our parents do not only benefit us: they also

impose on us a number of burdens to which we clearly have not consented. The least they can do, then, is to equip us to cope with those burdens, by providing us with the necessary resources (Shiffrin 1999, 138–9).

Thus, from some widely held views on parental responsibility in general one can derive the more controversial claim that, at the bar of justice, parents are under a duty to ensure that they do not pass on serious disabilities to their offspring. Note, moreover, that this claim does not merely apply to cases where, absent genetic treatment on the parent, the child would suffer a serious disability or impairment. In some cases, although lacking a particular human functioning does not constitute a disability, it nevertheless prevents us from choosing and implementing certain conceptions of the good. (I have in mind, for example, total insensitivity to the arts, lack of physical abilities and moderate intelligence.) Accordingly, parents are not simply under a duty to ensure that their child lives free of diseases and disabilities; they are also under a duty to ensure that their child is equipped with the full range of the human functionings which enable us to frame and pursue a conception of the good.

This point might seem extremely controversial: after all, do we really want to say that parents *ought* as a matter of justice to ensure that their child has a disposition for appreciating the arts? I believe so. Liberals object to the fact that many children whose parents are poor simply do not have access to artistic opportunities, and advocate a state-funded educational system such that it would expose children to a wide range of opportunities, irrespective of their social and familial background. In so interpreting the right to education, they are claiming, in fact, that citizens are under a duty of justice to pay taxes to that effect. That duty, crucially, is not owed to parents who may want to send their children to those schools: it is owed to the children themselves. Now, if children's interest in leading an autonomous life justifies holding citizens under a moral duty to make the relevant educational resources available, surely it holds parents under a moral duty to provide them with those resources. For there would be something incoherent in claiming that individuals as citizens are under a duty to pay taxes towards an autonomy-enhancing educational system, and in denying that they are under a moral duty, as parents, to send their children to those schools.

If the foregoing argument is valid, it implies that parents are under a moral duty to ensure that their future child enjoys the whole range of species functionings. For if we can object on liberal grounds to the fact that some

children lack exposure to the arts because of their parents' poverty, why not, then, object to the fact that children whose parents have failed to make relevant genetic choices lack the personal capacities for appreciating the arts? To be sure, there is a difference between those two cases. In the former case, it is taken as a given that children have the personal capacity to enjoy the arts, and it is argued that they are illegitimately prevented from deploying it as a result of their parents' poverty. In the latter case, it is argued that they are illegitimately denied that very capacity. However, this difference is irrelevant in the present context, simply because the argument that children should be able to deploy their artistic capacities irrespective of their parents' deprivation derives its strength from the value of having those capacities in the first instance.

Now, one of the most often deployed criticisms of medical procedures which aim to ensure that disabled children will not be born is voiced by spokespersons for some disability rights movements, who argue that in defending genetic engineering, one is assuming that the unborn, if given the choice between being disabled and not being disabled, would choose not being disabled (International League of Societies for Persons with Mental Handicaps 1994). In making that assumption, the objection goes, one is showing disrespect to those individuals who are currently disabled, since one is judging their life to be unworthy, and since one is imposing on the unborn an understanding of what counts as a disability with which the disabled themselves may well disidentify.

There are (at least) three reasons to doubt that the objection is successful. First, if it works against genetic engineering, it must, by the same token, work against medically treating children *post-birth* for disabilities, since in so treating children, one is also assuming that, given the choice, they would opt for a disability-free life. It must also work against forbearing to conceive on the grounds that one's children would not lead a worthwhile life. Proponents of the disability objection who would hold parents under a duty to seek traditional medical treatments for their disabled children, have absolutely no reason *not* to hold them under a duty to resort to genetic treatments which would ensure that their children do not have that very disability in the first instance. As to proponents of that objection who deem it permissible to avoid conceiving, precisely so as to ensure that one's children do not have the disability in question in the first instance, they have even fewer reasons to oppose genetic treatments for such purpose.

This first point, of course, does not address the claim, most often made by radical deaf activists, that what we regard as a disability is not, in fact, one. Those activists would concur with my point that standard medical treatments post-birth and genetic engineering pre-birth are on a par, but they would draw the opposite conclusion that standard medical treatments—in that instance for deafness—should be forgone. I do not see how that view can be successfully defended, although it is hard to rebut it without begging the question. It pays to note, however—and this is my second point—that the claim that we standardly need normal species functionings in order to be autonomous does not imply that no one who lacks such functionings can be autonomous. Yet, it is unquestionably true that someone who is deaf—especially someone who becomes deaf in adulthood—can be autonomous only at a tremendous cost. The only way really to judge whether someone would choose deafness over hearing is to see what those who have experienced both conditions would choose. It is quite clear, judging by the number of once fully-hearing people who are seeking treatment against deafness, that against a background of full information, full hearing is on the whole regarded as preferable to deafness. And conversely, it is probably not coincidental that radical deaf activists are, by and large, congenitally deaf.

Third, to assume that a life lived with disabilities is not one most people would willingly choose in no way amounts to considering the disabled *themselves* as less worthy of concern and respect. Accordingly, my argument so far does not imply that deaf activists who promote deafness over full-hearing and who refuse to undergo treatment are incapable of judging where their best interests lie. Indeed, in so far as they have spent their whole life not hearing, and have built a professional, social, and familial life accordingly, *not* undergoing treatment might be the rational thing to do *for them*. But it might not be for many others, who would be treated unjustly if not given the opportunity to be able to function well in a society where the vast majority of individuals are full-hearing.

This objection to genetic engineering rests on a deeper fear—the fear that, in a society where genetic therapies are available, individuals who nevertheless *are* disabled (for example, because their parents did not undergo treatment, or because their disability is not genetic) will be even more discriminated against than they are now, on the grounds that bringing them into existence was, after all, avoidable. In the light of the long history of discrimination against the disabled, it would be foolish to dismiss such

worries as groundless. Yet, it would be unwise to stop using and developing genetic procedures for that reason—just as it would have been unwise to stop developing treatments against deafness for fear that those who remain deaf would suffer discrimination. The right thing to do, in short, is to explore genetic procedures and to try harder to eradicate the prejudices held by the able-bodied against the disabled.

To conclude, then, parents are under a duty to subject their body—more specifically their gametes—to relevant genetic procedures so as to ensure that their children do not suffer from autonomy-undermining conditions. In making my argument to that effect, I applied relatively familiar arguments to the new and complicated issue of genetics. Moreover, I also claimed, in effect, that parents' obligations to their children are obligations of justice. And *that* is less familiar. For justice, it is standardly thought, regulates our conduct towards one another qua members of political institutions, not our conduct towards one another as parties in personal relationships. Yet, in so far as we can have as much of an adverse effect on others in those relationships as we can via state institutions, there is no reason to restrict the scope of justice to the latter. In what follows, I draw on this view to examine yet another bodily obligation of justice, that of a woman towards her unborn child.

4 Artificial Wombs

In Section 2, we saw that proponents of the coercively directed distribution of resources are committed to the claim that those who need bodily resources from others, so as to be autonomous, have a right to such resources. However, that claim, if correct, might well cast doubt on the permissibility of abortion. For a fetus, after all, is entirely dependent on its mother's willingness to provide him, through her own body, with the resources it needs in order to survive, and indeed to develop into a healthy infant. Are not women, then, under a duty of justice to make their womb available to the fetus they are carrying for as long as it needs it?

Not so, in fact: for as Judith Thomson notes in her seminal article on abortion, a woman has a right to bodily integrity, and accordingly is generally

not under a duty to provide sustenance to her unborn child (Thomson 1971). Clearly Thomson is not alone in so thinking: by and large her view is one that is widely endorsed in the pro-choice literature.[1] Strictly speaking, however, her reasonable unwillingness to carry her fetus to term merely justifies terminating the pregnancy; it does not justify causing the fetus to die. True, one cannot at present do the former without doing the latter. But recent news reports have confirmed that scientists are developing "artificial wombs," that is, plastic tanks filled with amniotic fluid, where embryos are fed through the equivalent of the umbilical cord (Rifkin 2002; McKie 2002). It is hoped that artificial wombs will be used, amongst other things, to host a fetus originally conceived in a woman's body, in cases where the woman cannot carry it to term.

Although the literature on abortion is overwhelmingly voluminous, it does not address the distinction between terminating a pregnancy and causing a fetus to die (with the notable exception of Kamm 1992). And yet, it is a crucial distinction. As I argue here, when artificial wombs are available, a pregnant woman may indeed have the right to terminate her pregnancy, but, in two cases at least, is under a duty to do so by having her fetus transferred to an artificial womb, as opposed to aborting it. Thus, in those two cases, a pregnant woman is sometimes under a duty to subject her body to a medical procedure necessary to secure her fetus' survival and development into a healthy infant. One can make such an argument on the least controversial of all the assumptions on the moral status of the fetus, namely that it acquires moral status, and thus a prima facie right not to be killed, towards the twentieth week of pregnancy, when it becomes sentient. One can further assume, first, that past that point, a woman may abort if and only if a weighty interest of hers, such as her physical and psychological health, would be compromised by the continuation of the pregnancy, and, second, that abortion is legal before the twentieth week.

The two cases involve a pregnant woman faced with a choice to abort, carry on with the pregnancy, or transfer her fetus to an artificial womb, past the twentieth week of her pregnancy:

[1] To be sure, some feminists thinkers claim that women currently are not exercising real control over their sexuality, and thus their body; on their view, merely to appeal to the right to bodily integrity in order to defend a right to abortion is to show undue lack of sensitivity to the context in which women try to exercise the former (see, e.g., Shrage 1994; MacKinnon 1987). However, implicit in their critique of that particular pro-choice argument, and in their defense of the legalisation of abortion, is the view that women ought to be able to exercise *meaningful* control over their body.

1. Anne gets pregnant through consensual sex. If she carries her fetus to term, she will incur serious damage to her health.
2. Beth gets pregnant through rape. She does not want to bring up that particular child.

On the aforementioned assumptions, both women are allowed to have an abortion and thereby to cause their fetus to die, after twenty weeks, although the strength of their claim diminishes as the fetus comes closer to acquiring the full moral status of a person. However, not all of them will be allowed to do so once artificial wombs are available. Anne, for example, can justify terminating her pregnancy on the grounds that she is morally entitled not to sacrifice her health for the sake of her fetus' life, but she will not be able so to justify electing to bring about the death of her fetus. For it is not the existence of the fetus itself which thwarts her weighty interest in remaining healthy: rather, it is the fact that the fetus happens to be in her womb. To be sure, Anne may well be willing to have her fetus transferred to an artificial womb anyway; but this does not render moot the point that she ought to do so.

Beth's case is trickier. Standardly, there are two different reasons why women who become pregnant as a result of rape are deemed morally allowed to have an abortion: it is entirely understandable, or so it is argued, that they do not want to take responsibility for a child created without their consent; it is also entirely understandable, or so it is argued, that they do not want to carry, for nine months, in their body, a reminder, indeed a part, of their abuser. Accordingly, although a woman who has been raped can avoid taking responsibility for the child by carrying it to term and putting it up for adoption, one cannot *make* her carry on with the pregnancy if she does not want to.

Now, if the rationale for permitting Beth to abort is her (understandable) repugnance at being pregnant with a child for which she (understandably) does not want to take responsibility, then she is under a moral duty to resort to an artificial womb. That is, one may agree that Beth ought to be made neither to take responsibility for the child nor to carry it to term, and yet hold that, in so far as she would violate its prima facie right not to be killed by bringing its death about, she should have it transferred to an artificial womb, and put it up, as it were, for adoption.

This is a tentative suggestion, to which someone might be tempted to object that to hold a woman who has been raped under a moral duty to

subject herself to a medical procedure for the sake of her fetus might seem impossibly harsh. So, let us distinguish three possibilities (Kamm 1992). First, the physical and emotional costs of undergoing the removal procedure do not exceed the cost of having an abortion. If that is true, then Beth is under a duty to remove the fetus to an artificial womb. Second, the cost of removal is higher than the cost of abortion, but not so high as to jeopardize Beth's chances for a minimally autonomous life. In that case, I submit that she ought to go through with removal, as opposed to abortion. For whilst the fetus' neediness, as we saw above, does not confer on it a right to be carried to term in her body, it does confer on it a prima facie right that she subject her body to the removal procedure, provided that she would not jeopardize her prospects for an autonomous life as a result. But if—and this is the third possibility—removal is more costly than abortion, in that it jeopardizes Beth's chances for an autonomous life, then in the light of the aforementioned argument for the provision of bodily services to the needy, she cannot be held under a duty to go through with it.

In effect, then, Anne and Beth are under a moral duty, in some cases at least, to transfer their fetus to an artificial womb and, should they not wish to bring it up, to put it up for adoption. Many would find such a claim unacceptable. No woman, they would argue, should be faced with the following dilemma: either bring up this child, even though you do not want it, or put it up for adoption and live with the guilt attendant on having abandoned it. On that view, abortion is justified not merely so as to enable the woman not to carry on with the pregnancy, but also so as to give her a way out of that dilemma. I should like to venture, however, that once the fetus has acquired moral status, and the closer it gets to acquiring the moral status of an infant, it is hard to justify bringing its death about on the grounds that its mother should not have to feel guilt at having abandoned it at birth. For at that point it has acquired a prima facie right not to be killed, which can only be overridden by weighty considerations, for example pertaining to its mother's health and well-being. *Ex hypothesi* the mother could have chosen to have an abortion earlier, before it acquired such a right: I believe that she cannot, past twenty weeks, suddenly decide that she cannot cope with abandoning a child and bring about its death. Of course, absent artificial wombs, one may think that she has the right to abort, on the grounds that she ought not to be made to go through with the pregnancy and the birth; but once artificial wombs

become available, and if the cost of removal is not such as to jeopardize her chances for a minimally autonomous life, then she is under a moral duty not to bring about the death of her fetus, and to transfer it.

5 Conclusion

The three medical technologies I examined in this paper lead us to rethink justice in the following ways: (a) our obligations to one another are not merely obligations to give them the material resources they need; they are obligations to subject our body to sometimes invasive procedures, should they need our bodily resources (organ transplants), particular genes (genetics), or nutrients and oxygen which we no longer want to provide through our body itself (artificial wombs). (b) As we saw when looking at genetics and artificial wombs, if justice consists in mitigating the effect of bad brute luck, then theorizing about justice requires not merely an answer to the question of whether compensation should be given to the unlucky, but also an answer to the question of how we should act towards one another, insofar as some of our choices can adversely affect others without their having any control over them. (c) Moreover, when examining the requirements which justice imposes on our conduct towards one another, we should accept that they extend not merely to such conduct as mediated by political institutions, but also to our conduct vis-à-vis those with whom we have more personal relationships, most notably our children.

If I am correct, then, a fairly uncontroversial stance on the requirements of justice with respect to the distribution of material resources, when seen through the prism of some new medical technologies, yields fairly controversial conclusions with respect to the body, and interesting insights into justice itself.

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CHAPTER 40

PARANOIA AND POLITICAL PHILOSOPHY

JAMES M. GLASS

1 Paranoia as a Marker for Theory

Thinking psycho-dynamically about political concepts raises the larger issue of the relation between political theory, as a mode of organizing the public, and defenses within the self, modes of organizing or protecting the inner or private self. Hannah Arendt (1958) and others have argued that such correspondences do not exist; to see a connection is to mystify the public space, distort motive and intention, and posit a false link between unconscious dynamics and actions in the public. However, in opposition to this view, I would suggest that internal psychological conflict affects political reality through the force of belief systems. And belief derives from the complex interplay between the structuralization, or its lack, of the inner self, its affective and developmental foundations, and what the external world produces as data and sensation. While it is an oversimplification to suggest that the internal life completely patterns external reality, internal psychological

structures, through their presence in ideology and belief, exercise considerable influence on what happens in and to the public.

People believe "x" or "y" not only because they come from a certain class in society or have had instruction in philosophic reasoning or represent the interests of a specific and culture-bound historical setting. In addition, internal psychological dynamics having their origin early in the developmental process may push the self towards identification in which *affect* takes shape as belief or theory. What we construct as psychological defense, particularly in its primitive forms, may appear in the adult as moral and ethical belief, as ideology, or as religious commitment or fanaticism. Paranoid political systems and theory, therefore, may be a symbolic reflection of emotional fears stated indirectly or projectively through conceptions that organize a culture's politics. Politics is understood here as symptomatic of broader pathologies in the culture. And what we are unable or unwilling to accept or acknowledge in our fantasies about human motivation and desire, we embrace in our political life as a kind of repository for bad self-representations: murderous rage, destructive aggression, paranoid schemes of surveillance, the institutionalization of deceit, the lack of superego constraint. Politics, as a vital psychological space within the culture, comes to hold split-off, unwanted, and shed parts of the self; it acts out literally the language of the unconscious. Narcissistic rage in the self, fantasies of domination, political arrogance may possess a significant impact on public policy.

Both realms of experience, the psychological internal and the political external, infuse each other; each depends on the other. A paranoid politics or political philosophy is impossible without an audience to refract its concepts and significance. Think, for example, of the public space as mirroring fractures in the self; it may, like the self, be more or less "cohesive;" or it may be subject to massive disintegration and fall into a kind of schizoid nonidentity or confusion. Or the public may be enveloped in terrifying belief systems that posit enemies everywhere, that conceive of the world as perpetual threat.

Paranoia is an attack on the self, on its capacity to discern inner from outer: it subverts the will, confuses the relation between self and other. It is symptomatic of the paranoid to defend the self rigorously and with considerable energy from the power and fear of infection by "external" forces that endanger life (Meissner 1978). Consciousness, in psychoanalyst Leo Kovar's terms, works to make the self as "invulnerable as possible to future incursions by the scourges of doubt and uncertainty." It is believed by a paranoid that

"thoughts and feelings" are "directed from the outside, as they were in childhood." For the "success of this most perfect form of imprisonment," the paranoid "must employ the perfect jailer," a persecutor who constantly threatens the self's survival (Kovar 1966, 300). Experience holds threat and pain; and the self suffers an internal tyranny as deadly as any form of external oppression. Innocence, safety, pleasure, or joyfulness have no meaning for the paranoid; and the universe appears as nightmare, the descent into terror, and the fear of consensual reality. Emotions find themselves defined by what D. W. Winnicott (1965) calls compliance demands; and an urgent inner compulsion, reinforced through external demand, drives the self into a state of distraction and terror.

Because of the power of pre-verbal affect and the globalizing emotions of pre-verbal thought, the Freudian notion of the origins of paranoia in repressed homosexuality is not useful in looking at the politics of paranoia and its presence in canonic moments in political philosophy.[1] Freud's analysis of Dr Schreiber, while clinically an interesting case study, bears little relevance to understanding the political and theoretical operations of paranoia in the public space. It is a narrow view of the origins of radical suspicion and possesses no utility in deconstructing the political origins of paranoia. What works in understanding the power of paranoia in the conscious self is to acknowledge the dynamic of paranoia as central to the development of perception and affect. But this dynamic is not derivative of confusion over sexual object; rather, it is a state of mind that may or may not turn pathological, that derives from archaic disintegration anxieties whose origins lie in distant, forgotten realms of pre-verbal experience. The fear that the world is falling apart may have as much to do with the resonance of this pre-verbal universe in consciousness, as it does with an objective appraisal of existing experience. It is, of course, impossible to know, outside of a clinical interrogation, with any certainty the extent of theoretical exaggeration of existing reality in paranoid conceptual systems. But given what contemporary psychoanalytic theory suggests about the ability of the unconscious to influence consciousness, it is a reasonable *psychological* assumption that paranoid

[1] Freud's (1958) analysis of Dr Schreiber is regarded as the seminal study in the psychoanalytic approach to paranoia. For a detailed discussion of Freud's analysis of the Schreiber case, see Morton Schatzman (1973). Freud, throughout his clinical work, holds to this general line of interpretation in looking at paranoia in the self. Subsequent psychoanalytic object relations research in the Kleinian tradition offers less confining and sexualized accounts of the origins of paranoia. The work of Michael Eigen, Thomas Ogden, and James Grotstein on paranoia and distrust in early psychological development offers a more interesting, plausible theoretical interpretation than the early Freudian accounts.

anxiety, the fear of disintegrating, may be a factor in accounting for the theorist's conscious organization of the world.

Psychoanalytic evidence suggests global pre-verbal percepts may be significant in defining morality, action, and the perception of experience.[2] Similarly the psychotic realm of human experience, intense pre-verbal affect literally consuming consciousness, may have a significant impact on political thought and action. The work of Melanie Klein, Wilford Bion, Michael Eigen, Thomas Ogden, James Grotstein, and Vamik Volkan on paranoia and distrust in early psychological development offers more interesting and plausible theoretical interpretation than the early Freudian account. These psychoanalytic theorists see paranoia as originating in pre-verbal affect and trauma, leaving a lasting impact on the self. Paranoid projections, intense distrust magnified to a pathological degree through delusional constructions, derive from spaces in the self far more undifferentiated than Freud's sexual etiology. The power of disintegration anxiety in the self, the exaggeration of real world fears and embellishing them through delusional imagery, turn into defensive scenarios that possess an emotional valence far more global than what Freud conceived as anxiety over homosexual, erotic cravings. In the clinical discourse, the association of paranoia with the projection of enemies is a psychological dynamic producing extraordinary anxiety. The "enemy" is evil and threatening and needs to be destroyed; to allow the enemy to survive endangers political and psychological reality.

Paranoia, therefore, is a real factor both in the theoretical constructs of political theorists and the actions of political leaders. I want to focus on Hobbes in this chapter, but it is also the case that modern political leaders use paranoia as a weapon of political mobilization. To separate the internal psychological dynamics of political leaders from the actions of state ignores the close connection between political affect and political action. Modern psychoanalytic theory exploring paranoia demonstrates the close connection between public institutions and leaders, and powerful psychodynamic factors that affect political decision-making and administrative authority.

Reading Hobbes' *Leviathan* from the perspective of paranoid affect means that theory itself constitutes a defense against both the self and the world falling into a timeless disconnected universe of chaos and terror. Or to put it

[2] See, for example, Melanie Klein (1957); Juliet Mitchell (1986); Fred Alford (1989). Klein's study of infantile anxiety is particularly instructive and both she and Wilfred Bion (1959) point succeeding generations of psychoanalysts in the direction of studying the importance of pre-verbal affect and the psychological origins of psychotic perceptions (see Thomas H. Ogden 1989, 1994; Michael Eigen 1986).

another way: paranoid imaginings constitute a defense against psychotic disintegration or madness; the paranoid perception (for example Hobbes' argument in chapter 13 on the natural condition of mankind) justifies strong political will, a psychologically grounded commitment to defending individuals and communities from the horror of political fragmentation. This I would submit troubled Hobbes: the power of the emotional world to drag down both the self and the political realm. He had good reasons for this view; it was evident in the civil wars, in the struggles over power, in the debates over belief and religion, and the pursuit of individual ambition and glory.

Paranoia may indeed be fueled by real-world activity; but for a theorist like Hobbes, real-world activity demands that political will (in the form of the sovereign) support paranoid political institutions. Hobbes believed that authority wrapped in a world-view of suspicion and scrutiny could bring order to chaotic political environments. It is a theoretical faith, but a faith that in *Leviathan* drew not from religion but from the propositional logics of geometry and unquestioned belief that geometric reasoning held the key to objective "reckoning." Yet it is also the case that paranoid theory rather than bringing security and safety can reinforce the very emotional and structural dynamics that brought the regime to the brink of disintegration in the first place. The fear and power of madness, and its presence in the natural condition, account for Hobbes turning to a political will distinguished by its absolute and repressive structure. *Leviathan* is a theoretical imaginative leap partly grounded in reality, but embellished through paranoid projections designed to prevent the disintegration of political order and the order of the self. The falling into madness, both in the self and the regime, is an omnipresent fear that Hobbes articulates throughout *Leviathan*.

2 Paranoia as Action

Hobbes demonstrates no sympathy toward a politics infused by participation, mutuality, spontaneity, or pleasure. It is quite the opposite. The spontaneous becomes the dangerous, the "decaying sense" of imagination leads to all sorts of phantastic imagery which has no interest in order; the unpredictable transforms into the threatening, And the avoidance of strict adherence to

political law and rules is seen to be intolerable. In *Leviathan,* liberty, rather than being understood as expanding the boundaries of participation, is seen as a restrictive dynamic on the effectiveness of rule. Individuality, at least in the way John Stuart Mill uses the term in *On Liberty* (1974), the use of political words or rhetoric as legitimate questioning of authority, becomes an absolute danger in the political realm. For the paranoid political theorist (and regime), it is always the fear of sinking into nothingness, a psychotic unhingeing of the world that underlies political recommendation. Hobbes attacks the "Babel" of political speech because too many words without common meaning inflame political imagination and undermine a single, absolute sovereignty.

Leviathan is a good example of how paranoia might be used for political ends; how the dynamics of the paranoid process infuse the theorist's view of what is just and right; how paranoia as a structure of control defines philosophical choice and the approach to and use of reason. Hobbes consigns cooperation, dispute, mutuality to the economic realm, the pursuit of what he calls the "commodious life." He provides a theoretical argument designed to dominate and tame an unruly nature through the imposition of political structure employing surveillance, sanctions, and the possibility of punishment for transgression. Theory fights tainted speech or political words (what today we might call ideology) turned upside down by the unpredictability of passion. *Leviathan* is a peculiarly modern statement about repressive values governing political perception and action, and a reminder that not everyone regards civic freedom or political tolerance as absolute goods.

Threats to the state and the self are, of course, real; however, theoretical imagination may take the real threat and transform it into an inviolable law of political governance. Paranoid readings of reality produce overkill, and trust disappears in what political nature requires to make reality governable. Hobbes justifies order and stability through a persistent and relentless scrutiny, watchfulness, or hyper-vigilance. An effective authority in Leviathan is one that sacrifices the free play of political speech for unquestioned obedience to the will of whoever decides the "rules." Authority thrives on fear: the fear of breaking limits, the fear of transgressions, the fear of speech that might contradict what Hobbes calls the common "names" or signs of the entity, or person who rules. Philosophy, then, in the hands of Hobbes, transforms the real into the paranoid; and the rationality of philosophic form becomes the instrument that removes from the polity ambivalence, questioning,

uncertainty, contingency, and political passion or intensity that might undermine the order of the sovereign's domination.

I am not arguing from the character of the philosopher to the status of the theoretical construct. The evidence is in the construct itself, in the imaginative premises that sustain the theoretical model. Nor is my argument an attempt to show that mysterious paranoid forces drive Hobbes, although with many in the tradition that dynamic certainly was present. I want rather to reflect on paranoid structures within Leviathan's governing regime, within the theoretical imagination, and to suggest it might be useful to see these structures as part of a complex pattern of paranoid defenses that emerge from the theorist's view of human nature and the motives behind action. For example Nietzsche's (1968) hatred of slave morality and Plato's (1961) fear for the *demos* demonstrate the contempt each holds for human selves acting because of desire and self-interest rather than a higher, more "purified" perception. Hobbes' cataloguing of the passions in *Leviathan*, Part I shows an awareness of the power of desire to influence choice and define action; Plato's description of the decline of the state and its relation to human character in Book 9 of the *Republic* reveals a human nature ("monstrous winged drone ... unsatisfied yearnings" running "amuck," infected with "frenzy") that, with all its imperfections, cannot be trusted to make right and correct decisions (Plato 1961, 573b, 799–800).

In Plato's *Laws* (1961), the purpose of the nocturnal council, the pivotal administrative body charged with overseeing law, is to enforce obedience to the polity, fidelity to the laws and their operation. Yet this organization at the heart of Plato's political argument meets in darkness; its deliberations take place in mystery after nightfall; its objective lies in enforcement; and its aim is to guarantee compliance to the laws of the state. Plato demands that the political function maintains scrutiny of all potential threat. "The world is full of good things but no less full of their contraries, and those that are amiss are the more numerous" (line 906). Thus the governing council of the *Laws* must be on guard against the possibility of decay, decline, disintegration, and madness. "The fight we have in mind is, we maintain, undying, and calls for a wondrous watchfulness" (line 906). How different is this from Nietzsche's purified breeder in *The Will to Power* (1968), who makes sure the elect, those who truly "see," are not contaminated by the corrupting morality and desires of the mass? What contempt here for the political intelligence of the *demos*! Watchfulness is the central function of institutions

like Plato's nocturnal council, the Hobbesian sovereign, and the imagery of discipline and self-control that recurs in Nietzsche's thought.

3 Domination and the Psychology of Command

Leo Kovar (1966) argues that the paranoid personality is obsessed with command, with the "physiology, as it were, of interpersonal power," and "power over people may be implemented either by force or by influence" (1966, 290). Harry Stack Sullivan (1953) suggests that the paranoid obsession with control is an effort to defend the self against intimacy. Domination replaces tenderness; the conflicts of the intrapsychic absorb the consensual. Harold Searles (1965) sees the paranoid self as a product of internal objects, whose objective lies in persecution. "The patient lives characteristically under the threat, that is, not only of persecutory figures experienced as part of the outer world but also under that of introjects which he carries about, largely unknown to himself, within him" (1965, 467).[3] These agents imposing themselves on the self (autonomous persecutors) are experienced as coming from "without;" the paranoid views these "foreign bodies" in the self as real, having the power to harm or injure, and develops elaborate strategies to dominate and control their power.[4] The paranoid self, then, spends an enormous amount of time engaged in complex imaginative power operations whose

[3] Harold Searles (1965). The introject persecutes; it is power assaulting the self. For Searles the paranoid introject literally consumes the self and defines the world, including values in the world.

[4] For the paranoid what is felt as real is real, even if consensual reality demonstrates little "real" grounding for the fear. Some theorists may be overtly paranoid; others conflate the real world of political conflict with the imaginative world of containment and domination. Given, however, the power of disintegrating anxieties in the self, to exaggerate real-world fears and to put forward sometimes repressive theories of containment are not implausible, projective scenarios. This is often the dynamic motivating the construction of delusion and it holds as well, I would suggest, for paranoid political constructions (see Alistair Munro 1999; James M. Glass 1985, 1994).

Plato's Athenian, the narrator in the *Laws*, harbors powerful anxieties about a polity falling apart, about its constituent elements being infected by the poison of passion, poetry, and tragedy. Plato in the *Laws* seems as obsessed with what is "enemy" to reason as he is with constructing a regime regulated by administrative authority. In the clinical discourse, the association of paranoia with the projection of enemies is a psychological dynamic producing extraordinary anxiety. Anxiety over the corrosive power of poetry and desire appears consistently in the Athenian's narrative. For a

objective lies in domination, even though, psychologically, the origins of these perceptions lie "inside" the self, in the intrapsychic domain of experience.

The fear of being attacked, the knowledge of the world as persistent malevolence, the frantic effort to escape threat and danger, consume consciousness in a dialectic that oscillates between the compulsion to dominate and the fear of imminent annihilation and disintegration. Further, much of this psychological effort is a struggle to avoid the terror and boundlessness of falling into a condition of non-identity and chaos, what Eigen (2002, 168) calls an "evasive, hallucinatory exoskeleton." The paranoid world-view, then, provides certainty; it defends against dissolution; it constructs a peculiar but nonetheless very real identity. At its extreme, paranoia defines the self's core identity. I recall a patient at the Sheppard and Enoch Pratt Hospital who told me he could never go outside, because the hills around Towson were filled with long-range cannon that would immediately explode and kill him, if he were to leave the building. His strategy inside the hospital was to build (in his own phantastic imagination) more powerful cannon to destroy the ones "outside." Delusion produces hermetically sealed images of power (Glass 1985, 1989).

Similarly with Hobbes; threats to the polity come from agents or presences or phantasms or impure moralities attacking from outside. Granted many of the threats are real; but do they require for their containment the extraordinary measures advocated by *Leviathan*? Is protection of the body politic from infectious agents a fundamental political objective? And what are the political and cultural implications in projecting paranoid defense as the primary task of the theorist and the state? Power, as Barrington Moore, Jr., argues in his remarkable study, *Moral Purity in History* (2000), attaches itself to the demand for cleansing, vigilance, the elimination of the impure, the disruptive, the chaotic. Moore's historical analysis is at times uneven, but the material showing the power of phobia and aversion, and its attachment to the fear of being poisoned by the "unclean" and toxic, is fascinating. His discussion of the French revolutionary terrorist, Saint Just, persuasively demonstrates the origins of the terror in the hatred of the unclean, decadent, and impure. Power steeped in a "vision" strives for the ideal of a political environment liberated from contaminating and entropic forces. But what kind of Power demands these kinds of actions? For Moore the impact of the righteous political will on the body politic is horrendous. And while Hobbes disavows righteousness as

multi-perspective study of paranoia, including psychological, cultural, and institutional factors, see Joseph H. Berke, Stella Pierides, Andrea Sabbadini, and Stanley Schneider (1998). For an extraordinary psychoanalytic and political analysis of the role of "enemies" to the self and regime, see Vamik Volkan (1988).

the motive behind the power of Leviathan, he nonetheless sees his construct as an ideal model, the only theoretical venue that will guarantee an orderly and ordered political environment. The redemptive hope Hobbes held for authority modeled on Leviathan should not be underestimated. The sovereign would save the political space from the entropy of unleashed, competing, and angry political wills. Unrelenting scrutiny guarding against the intrusion of what is defined as impure or poisonous governs action in the paranoid political universe. It is essential therefore for Power, in Hobbes' view, to censor public speech, to monitor public pronouncements, to guard against infectious political words. It is not fortuitous that Hobbes uses the imagery of "sickness" and madness to describe dangers to the commonwealth.

Philosophy, impelled by the paranoid will, defines the world in split images of good and bad. Like the psychological paranoid system, philosophy isolates "enemies" in relation to forces ordering the polity. It roots out the "boils and scabs on the body politic" (Hobbes), the "drones" (Plato), the "slaves," the "weak" (Nietzsche). Logic appears as argument banishing the "bad" or as biting attacks on presences the philosopher finds repugnant. Hobbes rails against the "schoolmen," those who chase "phantasms;" he mocks "unnatural" spirits, political ideology with "wind in the head" or "hot bloods" who "Having gotten the itch, tear themselves with their own nails, till they can endure the smart no longer." He warns his audience against the political diseases of "distemper," "venomous matter," "incurable wounds," "seditious doctrines," the "consumption of riot and vain expense" (Hobbes 1957, 209–18). He decries the "vain absurdities" of political claimants; he has no patience "for the misguided spiritualists," "unlearned divines" who speak of "kingdoms of fairies ... darkness and ghosts ... working on men's minds, with words and distinctions that of themselves signify nothing" (1957, 215). Sedition, religious ideological conflict, and political confusion: all contribute to the weakening of sovereignty and the threat of dissolution and the sinking into madness.

Paranoia destroys the epistemic and psychological structure of consensual reality, not to mention a participatory politics and its delicate balancing of interest and restraint. Paranoia and distrust is particularly damaging to democratic forms of deliberation and action, to the operation of a tolerant civil society, which requires a considerable measure of trust and interdependence.[5] If a paranoid politics is fueled by the terror so characteristic of

[5] For insightful and thoughtful analysis of the dynamic of trust in the democratic process, see Eric M. Uslaner (2002); Mark Warren (2001).

paranoia in the self, the impact on culture can be disastrous. A paranoid politics in its effort to defend against madness, however it is defined, may paradoxically produce that which it most fears; and anxiety generated by the public space might intensify terror and increase the vigilance of paranoid political structure. The paranoid's "primary task," Kovar writes, "is to lock himself into a system that is foolproof and cannot be tampered with." And that system or delusion "must include him in such a way that it constitutes a prison in which he can reside over ... after having slammed the gate shut behind himself" (Kovar 1966, 299). Does not Hobbes slam the gate against those who would threaten the paranoid and disciplined vigilance of the sovereign authority?

For Hobbes authority is more than a necessity; in *Leviathan* it becomes a fetish. Is the system of *Leviathan* not hyper-vigilant against the corrupting power of desire and the always-present forces of impurity? How odd it is that such pure, non-ideological authority, as Leviathan, this great geometry of political form, would never fall to the temptation of enforcing in the name of an ideal, principle, or ideology. Can authority ever be so purged of passion-laden words or beliefs? This is one assumption of Hobbes that history has disproved. The power vested in agencies such as the sovereign rests on the fear of the "inside" (in the sense of the self's passions) breaking up the outside—the world of rules, laws, common names, order. But the threat is seen as coming from the outside. Yet, the more anti-democratic and anti-liberal the political environment, the more paranoia may come to dominate public consciousness and feed the uncertainty and fear it was designed to repress. Political authority believing in the paranoid projection, even in the face of convincing evidence to the opposite, uses that conviction or faith to frighten and therefore control its own political audience, and to buttress its own vision of political will.

4 The Vigilant Ruler and Paternal Authority

The Hobbesian sovereign possesses a mechanical, disembodied, non-human almost schizoid quality. The schizoid self relentlessly represses emotion or

affect. Without feeling, particularly empathy, the exercise of power becomes easier; little constraint exists in doing harm, in imposing will. It is easier to repress or kill those who elicit little or no sympathy, those seen to be noxious or impure or diseased (Glass 1997). The sovereign functions according to this distance of command, claims omnipotence, and possesses properties very much like what Victor Tausk (1956) has called the "delusion" of the "influencing machine."[6] Hobbes' sovereign is attached to the collective psyche; it speaks directly to consciousness; it operates mechanically and appears to be hooked up to the minds of the subjects. In Tausk's analysis of the schizophrenic mind, he was impressed by the delusion of being hooked to, literally, a force of vast power and influence; that sense or feeling of being hooked up appears as a voice or an agent so powerful it defines the self's identity. Indeed, Hobbes' greatest fear echoes the horrifying dread that Julia Kristeva sees in a universe without boundary or constraint, "the unleashing of drive as such, without object, threatening identity, including that of the subject itself." For Kristeva, such a state is madness. "We are then in the presence of psychosis" (1982, 138).

Hobbes' political environment is a desperate attempt to avoid this unleashing of drive and a falling back into the madness of the natural condition. "Men for the attaining of peace and conservation of themselves thereby have made an artificial man, which we call a commonwealth;" but the commonwealth assures its own preservation by making absolutely certain that the laws will be obeyed. "So also have they made artificial chains, called civil laws, which they themselves, by mutual covenants, have fastened at one end, to the lips of that man, or assembly, whom they have given the sovereign power." The ears of the subjects are chained to command; no mistake here about the rigors of obedience. Sovereignty literally becomes a voice in the head. And the bonds will be made so strong that "breaking them" produces "danger" and retaliation (Hobbes 1957, 115).

Kristeva speaks of the "uncertainty" of the self's borders; its fragility in the midst of drive, desire, and violence. A similar preoccupation with borders appears in Hobbes; to strengthen the borders of the commonwealth and thereby prevent the sinking into psychotic nothingness requires strong authority. The Sovereign suggests a theoretic structure that moves to enhance, solidify, and make impervious the polity's boundaries to invasion, threat, and

[6] Victor Tausk's essay, "On the Origin of the Influencing Machine in Schizophrenia" (1956), is a small masterpiece of the analysis of the phenomenology of delusion.

disintegration. In Kristeva's terms, part of the "paternal function," with all of its contradictions and injustices, is to shore up the walls of the self; to create a skin ego, as it were, that resists invasion, or in Hobbesian terms to prevent the descent into madness. A weak paternal function in the self, or, another way of putting this, a non-existent superego, opens "the door to perversion or psychosis." Patients struggling with narcissistic disorders (or a terrifying regression) find themselves consumed by "horror" and "its terror and the ensuing fear of being rotten, drained, or blocked" (Kristeva 1982, 63). Hobbes' sovereign, as a strong paternal function, blocks the countervailing forces in the self provoking violence, political contentiousness, and the loss of boundary. But it is at a considerable cost to liberty.

Mechanism and command, as political styles, enforcing the commonwealth's boundaries, appear consistently in *Leviathan*. "He that hath the sovereign power is also generalissimo" or "the power of all together, is the same with the sovereign's power" or "by all together, they understand them as one person" (Hobbes 1957, 119). Identity with the common power, fusion of will, and acceptance of authority: all these themes describe what is expected of the subject. Obedience to the will of the sovereign banishes dread and uncertainty and horror from the public space. The will of the sovereign is the will of the subject on matters political. Order in this paranoid political household constitutes the highest good; yet, it is precisely that demand for order that may produce psychically disastrous consequences. While Hobbes moves to prevent violence in the commonwealth, the practical effect of repressive authority may be just the opposite: encouraging civil rebellion and the assertion of political and ideological claims through the use of violence. To live under a regime of fear is to internalize paranoid beliefs and "messages;" it is to suffer what Kristeva calls the potential "collapse of the border between inside and outside" (Kristeva 1982, 53).

But it is Hobbes' belief that sovereign authority prevents that *political* collapse, the psychic movement backwards towards Kristeva's version of the "natural condition" of mankind: "an inescapable, repulsive ... abomination ... an archaic force, on the near side of separation, unconscious, tempting us to the point of losing our differences, our speech, our life; to the point of aphasia, decay, opprobrium, and death" (Kristeva 1982, 107). A paranoid politics, whose aim is to prevent this sinking back, or better, the fantasy of its ever happening, inevitably proscribes freedom; justifies oppression; and because of this terrifying potential, denies the free expression of will and defines specific political relations that are accorded legitimacy and those that are not. The consequence, then, of

the hyper-vigilant political will may be the negation of order, the rise of entropy, and the sinking back into the chaos of the natural condition.

5 Paternal Authority, Psychological Nature, and the Unruly Self

In the parent's obsession to order the universe, to dominate psychological "nature," the child identifies power and order as the central dynamics in an emotional life. Note how Hobbes expresses this relation: "I put for a general the inclination of all mankind, a perpetual and restless desire of power after power that ceaseth only in death" (Hobbes 1957, 64). Or as a theorist of paranoia puts it: "The paranoid character renounces 'Love' for the sake of 'Power'" (Nydes 1963). The only epistemic outcome of this situation is the knowledge of the world as power: *the self comes to know its own "interiority," its own frame of being, its own existence, through the projection of power, fear, and threat as the underlying structures of all human experience.*

In Hobbes, nature demands a strong will to combat disruptive passion. "Passions unguided are for the most part mere madness" and may lead to the "seditious roaring of a troubled nation" (1957, 41, 48). Under the sovereignty of reason, Hobbes' theoretical commonwealth, nature is made less seductive, less prone to filling consciousness with desire, ambiguity, sensuousness, spontaneity, and the potential for madness. Science provides the antidote; it combats the unpredictability of nature with the unambiguous certainty of reason and the "reckoning" of consequences: "[T]he light of human minds is perspicuous words, but by exact definitions first snuffed, and purged from ambiguity; *reason* is the *pace*, increase of *science* the *way*; and the benefit of mankind, the *end*" (1957, 29–30). The demands of the sovereign are unmistakable; but unmistakable in the sense that the "truth" of geometric proof is unshakeable and admits no error. "Law in general is not counsel, but command; nor a command of any man to any man, but only of him, whose command is addressed to one formerly obliged to obey him" (1957, 172). The paranoid structures of the law, or what Hobbes calls command, protect

against the dissolution of both the boundaries of the self and the state; it is an absolute constraint.

It is extraordinary, for example, the extent to which punishment as a defense against vulnerability is institutionalized in the Leviathan. Hobbes speaks of these defenses as fortresses against the "venom of heathen politicians and ... the incantation of deceiving spirits." It is not overstating the case to suggest that the mechanics of punishment contain overtly repressive components. Compare, for example, how infrequently John Locke in the *Second Treatise* (1963) invokes punishment, aggression, or the *threat* of coercion or punishment as an inducement to live peacefully in political society.

Fear, terror, dread: all these feelings beset the child who faces the parent-as-tyrant. It is a human world very much like Hobbes' natural condition, a place filled with "force and fraud ... where every man is enemy to every man ... continual fear, and the danger of violent death; and the life of man, solitary, poor, nasty, brutish and short" (Hobbes 1957, 82, 83). For the "paranoia-genic parent" (Kovar 1966, 294), spontaneity, playfulness, autonomy on the part of the child represent dangerous assaults on parental power and parental definition of reality. Alice Miller (1990) carefully documents the destructive impact of these practices in her analysis of parental domination, *For Your own Good.* Similarly, with the non-compliant subject who intrudes into the political "space:" to act in any self-willed fashion, moving against the commands of authority brings swift and uncompromising retribution. The Hobbesian sovereign has no use for imagination (what Hobbes calls "decaying sense") in his lexicon of political "signs." What the Hobbesian sovereign *decides* is right by virtue of the fact that the sovereignty *utters* the law, embodies it in language. It is not a matter of justice or injustice, guilt or innocence, but of power, domination, and the prerogative to define *meaning.* "The law is made by the sovereign power, and all that is done by such power is warranted, and owned by every one of the people" (Hobbes 1957, 227).

A political environment that lacks strong authority leads in Hobbes' words, to the "error and misreckoning, to which all mankind is too prone" (1957, 227). It is therefore essential that "the end of obedience is protection," and "the obligation of subject to the sovereign is understood to last as long, and no longer, than the power lasteth, by which he is able to protect them" (1957, 144). The subject has no choice; it is a massive acquiescence, even though Hobbes believes that such an arrangement will serve the life of the commonwealth and counter the natural "ignorance and passions of Men," the political "Babel" and confusion which inevitably produce "intestine discord."

6 Conclusion: Paranoia and Reason—The Assault on Liberty

The paranoid political theorist avoids questioning epistemic foundations because the purpose of theory construction is not to engage in dialectic, but to enforce the regime of certainty. What emerges is a closed system of explanation of interpretation, an anti-liberal position in the sense of John Stuart Mill's plea for tolerance regarding opposing views. It is this drive that determines how facts will be put to use, how the belief structures of the world will be composed, how knowledge will be interpreted. In extreme cases, fact becomes absorbed into delusion, even though delusion distorts socially based interpretive frameworks.

Hobbes *assumes* that "reason" or better, science has the power to remain uncorrupted or, at least, analytically detached from the human and passionate bases of political life. It is a hubris attached to reason that from a psychoanalytic perspective would suggest a serious misreading of the relation between the conscious and the unconscious self. It is also true that Hobbes saw realistic threats to political life that had a concrete historical meaning and significance. Yet, what is important for our purposes is the way theory approaches conflict over political will and how conflict is handled as a matter of interpretive reason, Hobbes' "perspicuous words."

For Hobbes, passion corrupts "perspicuous words" and confuses the mind. And it is the non-human, Tausk's mechanical influencing machine, the rational projection with its properties of force and omnipotence, the formalistic project removed from the spontaneous flows of nature, that brackets political geography and represses the passionate and restores order to the world. Yet what kind of order is this, the order of mechanism of bureaucratic fiat, of soulless human beings? What sorts of persons rule who are soulless? Is Eichmann the apotheosis of the soulless bureaucrat? Or does the bureaucrat perform the scrutiny and punishment because of a strong belief in order and the righteousness of political will; and this strong belief allows actions that appear to be soulless, mechanistic actions (like the railroad managers, construction supervisors, banking managers, physicians, and scientists for the Third Reich), but whose consequences are in fact brutal and unyielding (Glass 2004).

Yet, there is a curious paradox in these paranoid theories and world-views; paranoia as a pathology derives from serious distortions in the structure and

process of desire; it embodies and represents a struggle (having its origins in early psychological development) whose consequence is a terrifying rage and anger having no outlet except in the omnipotent and frightening constructions of the theoretical imagination. But *Leviathan*, as political treatise *and* imaginative action, bureaucratizes anger and retributive authority and attacks the human, the passionate, the embodied, and the indeterminate as absolute civil dangers. Hobbes argues his concept of political form is free from passion; yet in the paranoid pathology, the fascination with power, domination, and control implies a massive inversion of anger and rage, fear and dread. In other words the paranoid is full of passion, but it is the passion of fear and hate.

It is a mystification of human experience to suggest that any person or regime can be free of passion or the intrusions of desire; but that is precisely the claim made by Hobbes for authority. To demand that action be given up for order, that a rigid security replace a more spontaneous play of political energies, to enshrine institutional interest to the exclusion of antibureaucratic and democratic forces is to perform an operation on political expression no less radical than the effort to contain the eccentric or anarchic self by chains or lobotomy simply because its actions refuse to be controlled or fall outside of what reason projects as appropriate.

What fails for the paranoid, what is drowned in *fear*, is volition, agency, and the *autonomous* will. Domination, power, not reciprocity and mutuality, become the prototypes for human relationship. Spontaneity has been annihilated and the political self turns into a marionette, a thin dangling figure at the end of the puppeteer's string. This is what happens politically to the subject in Hobbes' commonwealth, to the hapless victims of administrative fiat in Plato's *Laws*, to the pathetic masses at the other end of Nietzsche's will to power and limit-shattering hero, Dionysius. For the political philosopher, this kind of power finds itself inviolable precisely because it is controlled by the narcissism of its own self-contained logic, the paranoid's "insistence on doing the impossible" (Kovar 1966, 303). What is sacrificed is the unpredictable, yet generative quality of the contingent, what Ludwig Feuerbach (1972) called the "sensuous;" as it is expressed in the interplay of desires composing political and cultural life. It is a mark of a democratic society that trust and participation, community and cooperation, distinguish its politics from those of tyrannical domination.

John Stuart Mill's *On Liberty* is a fine example of a non-paranoid set of assumptions governing political recommendation. Liberty, tolerance, the acceptance of deviance drive Mill's understanding of the individual's relation

to the public realm. It is not suspicion that defines the theory but trust; the political life-world embraces reciprocity, the acceptance of justice, and compassion. Community would not be tyrannical; nor would it require what Rousseau (1950) in *The Social Contract* demanded as the profession of a civic faith, a civil religion. Rather the public space would celebrate the possibilities of trust, its creative dimension, and its ability to forge alliances built not on paranoid projections, but on the hard work of democratic consensus building. Indeed, such political alliances and actions are possible; and paranoia need not be a threat to democracy or the creative individualism of Mill's liberalism. This seems also be a fundamental assumption of John Rawls' *A Theory of Justice*; paranoia has no place in the assessment of either the least advantaged or the original position.

One of the most eloquent expressions of a non-paranoid political universe is to be found in Herbert Marcuse's (1955) *Eros and Civilization*. But Marcuse extended Freud's concept of Eros, even more so than Freud himself was willing to go. For Freud and modern psychoanalytic theory, paranoia possesses considerable power in eroding the social and political foundations of trust. Contemporary psychoanalytic object relations theory reflects pessimism grounded in Freud and Klein's view that Thanatos persistently erodes both the human and political bases of cooperation. Bounded on one side by the presence of imaginary and real persecutors and on the other by the need for order and control, the political self moves in a narrow field. In the face of uncertainty and the attack on its borders, the political leader or group may retreat into the hermetic fantasies of power and domination or may see the world as full of enemies that need to be tamed and brought to justice. The paranoid regime or leader may reject love, compassion, and trust as luxuries unsustainable in a world full of threat, disintegration, and the micro-centers of power dominating civil society. The success of democratic and liberal political institutions may hinge on the ability of leaders and their constituencies to see beyond their fears, to reject paranoid resolutions of political conflict, and to build coalitions for whom trust is rooted in a collective self-interest.

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PART X

TESTING THE BOUNDARIES

CHAPTER 41

POLITICAL THEORY AND CULTURAL STUDIES

JODI DEAN

> It is clear today that culture and economy have both so thoroughly transformed politics that it becomes difficult to recall when they did not.
>
> Sheldon Wolin, "What Time Is It?"

1 Introduction

A central question of political theory is "what is the political?" Political theorists pose this question in various ways. Some approach the political from what they understand to be beyond politics, as in divine or natural principles, say, or

* I am grateful to Paul Passavant and Bonnie Honig for critical readings of earlier drafts of this chapter.

the acts of constitutive violence that establish polities. Others begin in the middle, in the messily materialized and embodied cultural, economic, affective vastness in which they happen to find (or search for) themselves and their world.[1] From this expansive givenness, they try to discern why what is taken to be political is configured one way rather than another, whether change is possible, and how it might come about. These theorists tend to be interested in questions of what it means for something to be political and of politicization. They are thus likely to engage critically the problem of how the political is produced.

In recent decades, such engagement has benefited from interlinking with cultural studies, a shifting configuration of the academic left that began in England and became particularly strong in US humanities in the 1980s and 1990s. Encompassing a range of inquiries into visual, material, textual, consumer, national, popular, sub-, and techno-cultures, cultural studies as a field imagines theory as informing practice, as transforming the world.

In this chapter, I describe an interface between political theory and cultural studies, one that emerged with particular force and clarity in the work of American political theorists writing at the end of the twentieth century. I specify the methodological contributions that resulted, contextualizing academic practices of political theory and cultural studies within national institutional histories. Moreover, I employ the methods I describe, problematizing the result in light of the demands of globalized capitalism and the hegemonization of the political field as a war on terrorism. In the context of globalized capital, fundamentalist resurgence, mass immiseration, and governance through spectacle, fear, and control, the possibilities initially opened up by interfacial work need to be brought together into an integrated account of contemporary state power within the global capitalist economy.

2 An Interface

Given the spectacularized politics of networked entertainment culture, on one hand, and the mass attractions of fundamentalist visions of unified

[1] I take the idea of beginning in the middle from Bill Connolly's response to questions from Charles Larmore at a symposium on weak ontology held at Northwestern University, March 2004.

community in the face of extreme economic division, on another, it seems reasonable to assume that political theorists would be fully absorbed with cultural politics and the politics of culture. In a time and place where actors become governors and presidents, one would expect political theory to concentrate on the critical analysis of the production of political meanings, values, and expectations, on the generation of consent. Instead, in the United States most theorizing about politics carried out in political science departments displaces politics from its cultural and economic contexts. Research on the politics of culture, on the workings of power in a multiplicity of discursive fields apart from the state, has been carried out by scholars in the humanities, in departments of literature and language. The few political theorists institutionally located within the social sciences who have been part of the move to "theory" associated with (and often denigrated as) cultural studies tended to be marginalized by real or serious political theory.

For most of the 1970s and 1980s, political science journals and conferences gave center-stage to a theoretical debate between liberals and communitarians. This debate often branched into discussions of deliberation, justification, freedom, and rights. At the same time, and on into the new millennium, readings of canonical figures occupied much of the field. Only rarely did political theorists explicitly and deliberately produce their academic work as interventions in specific struggles. Or, perhaps it makes more sense to say that only rarely was such work published in mainstream journals in political science and political theory. *Theory and Event*, published electronically by Johns Hopkins University Press, was inaugurated in 1997 in part to provide a location for politically engaged theory. Despite the obviousness of political and cultural interconnection, then, the academic practice of political theory has repressed inquiry into the cultural workings of power as if to disavow any trace of political bias and engagement.

One explanation for this rejection of cultural inquiry stems from the difference in the institutional sites, disciplinary histories, and methodological commitments of political theory and cultural studies. Political theory addresses the historical and contemporary relations among subjects, rationalities, and practices that go under the name of the political. In the United States, origin stories narrating the long and venerable history of political theory as a vocation played a crucial role in defending normative political theory from behavioralist and scientistic attacks. For example, in an oft-cited intervention at a key point in this battle, Sheldon Wolin writes, "Testimony

that such a vocation has existed is to be found in the ancient notion of the *bios theoretikos* as well as in the actual achievements of the long line of writers extending from Plato to Marx" (Wolin 1969, 1078). Although Wolin is careful not to reduce political theory to a tradition of textual analysis—and, indeed, he asserts the importance of "epic" political theories that address problems in the world—he conceptualizes it nonetheless in terms of a line of thinkers all of whom sought to "reassemble the political world" (Wolin 1969, 1078).

In contrast, cultural studies consists of a loose affiliation of dispersed interdisciplinary research and political projects that span a wide variety of subjects and concerns and rarely claim a history much earlier than Antonio Gramsci. The stories of its origins in studies of English working-class culture and the political character of postwar Britain emphasize this diversity, linking cultural studies to popular and subcultural sites of semiotic resistance and avowedly political intentions. "Cultural studies is not one thing," Stuart Hall asserts, "it has never been one thing" (Hall 1990, 11). Cultural studies presents itself, then, less as an ongoing conversation than as an intervention (Grossberg, Nelson, and Treichler 1992, 5).

Despite the institutional asymmetries between political theory and cultural studies, in the last decades of the twentieth century there emerged an interface between them useful for thinking about the inextricability of politics and culture. I use the term "interface" because these approaches do not constitute a discourse or debate. The work at the interface of political theory and cultural studies is not a blending of the strengths and insights of two fields into something new. Instead, this interface is a contingent, interlinked, and changing configuration of thinking from two sites about the contemporary world and the production of the political.

As it affirms the importance of understanding *how* something is political, interfacial work attends to the risks of presuming in advance that a specific cultural, discursive, or institutional site is already or necessarily political or that an analytical intervention is political enough. Put bluntly, political theory risks oversimplifying its accounts when it fails to acknowledge the present imbrications of politics in culture. Cultural studies risks a similar oversimplification as well as non-intervention by presuming its political purchase in advance. Mindful of these risks, interfacial work suggests four methods for engaged research into the production of the political: problematization, contextualization, specification, and pluralization.

3 Four Methods

The first way interfacial political theory/cultural studies frames questions of the political is *problematization*. Problematization involves critical reading and theoretical interrogation of practices and performances that disrupt "the way things are done around here." Why, we might ask, is security more often a stated goal of politics than is pleasure? Or, what sort of politics do cars and computers have? What's at stake in asking and answering these questions? To problematize the political renders customary patterns of thinking about politics strange, out of place, and in need of explanation.

For example, Thomas Dumm explores the ordinary as a repository of political imaginings, something distinct from the objectively known "facts" of positivist social science, on the one side, and the disruption of events, on the other (Dumm 1999, 2000). His work reminds us that democracy as a living, breathing practice entails more than this doublet, where too much thinking today remains trapped. Attunement to the ordinary problematizes this configuration, drawing attention to the way the opposition of technocracy and spectacle depoliticizes democracy. In sum, to problematize the political is to ask why and how a political formation comes to have a particular shape. It is to appreciate the contingency present in any conception of politics so as to think better about how arrangements might be otherwise.

Second, interfacial political theory/cultural studies situates political questions in the contexts of the present. The method of *contextualization* contests political theories claiming to provide an Archimedean point or "view from nowhere" that can set out universal principles of justice or the basic tenets of a consensus about justice common to late-capitalist democracies. Contextualization foregrounds the excesses that always escape and subvert the concepts through which the political is formatted, materialized, and lived.

Anne Norton's work on representation demonstrates the importance of an attunement to the contexts in which political ideas circulate. She translates key tenets of American liberalism into everyday practices like eating, dressing, and shopping. Such practices enact assumptions that freedom means choice and that people represent themselves and exercise authority when they choose freely. By contexualizing liberalism in quotidian activities, moreover, Norton draws out the way these activities challenge its basic premises. "They reveal coercion in the context of choice. They show the power of the representation to overcome that which it purports to represent" (Norton 1993, 85–6).

Concepts are more than text-dwelling word assemblages or sound-bites spewed from the mouths of politicians. They are loci of continued hope, aspiration, critique, and appeal.

Contextualization involves the effort to sort through the various elements linked together in a given political constellation (Laclau and Mouffe 1985, 96). Perhaps most importantly today, under conditions of communicative capitalism and permanent war, contextualization enables political and cultural theorists to analyze depoliticization, the means through which issues, identities, and events are taken out of political circulation, blocked from the agenda, or presumed to have already been solved.

A third way of framing questions of the political is *specification*. By this I mean not simply an attunement to difference, but to the relations through which differences are produced, through which generalities and specificities are observed, measured, demanded, and replicated. Thus, Michael Shapiro, in a nuanced account of political theory as a textual practice, specifies the "preconstituted meaning systems" underlying conversations about politics (Shapiro 1992, 10). Explicitly presenting his work as a critical intervention, Shapiro differentiates and politicizes the linguistic forms, economies of meaning, productions of space, and narrative conventions enabling political theory and policy processes. Such an operation is at work in Shapiro's reading of Robert Bellah et al.'s *Habits of the Heart* in light of Don DeLillo's novel about the Kennedy assassination, *Libra*. Although *Habits of the Heart* is ostensibly a realistic presentation of data gathered through systematic, in-depth interviews with a variety of American citizens, by juxtaposing *Habits* with *Libra*, Shapiro demonstrates the underlying univocity engendered by the authors' failure to specify the diverse and antagonistic identifications and spatializations that mark contemporary lives. In contrast, *Libra* sets out conflicting voices grappling with circumstances and meaning. Paradoxically, the conflicts of split subjects shine through the fictional words of one author even as they are erased by a multiply-authored work that draws from so-called "real life" conversations with actual people. Through specification, then, work at the interface of political theory and cultural studies theorizes the connections between immediate images and events and larger structures, relations, processes, and assemblages of power.

Finally, interfacial work addresses the production of the political through *pluralization*. To pluralize the political is to reject the idea that politics must be centered in the state, understood as the activity of parties, and explained

through analyses of voting behavior. Inspired by Marx's focus on the economy, critical race scholarship on ethnicity, feminist accounts of privacy, and queer theory's attention to sexuality, pluralization multiplies the sites and categories that "count" as political. William Connolly's compilation of a list designed to stimulate further pluralization gives a sense of this rich surplus of political possibilities. He includes a micropolitics of action, a politics of disturbance, a politics of enactment, a politics of representational assemblages, a politics of interstate relations, and a politics of non-statist, cross-national movements (Connolly 1995, xxi). Not surprisingly, pluralization encompasses the methods as well as the contents of political analysis. Different modes of politics will suggest different protocols of research (Grossberg, Nelson, and Treichler 1992, 2).

Nevertheless, even as pluralization opens up thinking about politics, one might ask about its limits: Could the radical extension of pluralization eliminate collectivity and culminate in a multitude of singularities, to use Michael Hardt and Antonio Negri's term (Hardt and Negri 2000)? Is pluralization another word for fragmentation or even a variation of post-Fordist economics' emphasis on market differentiation? Although such risks are possible, the outcome is not inevitable. When conjoined with the three other methods characteristic of interfacial work—problematization, contextualization, and specification—pluralization can prove a reminder of the productive abundance flowing through and exceeding the political. Conversely, as components of political intervention, these other three methods will entail or demand constraining, if only momentarily, urges to pluralize. Stuart Hall explains that cultural studies "can't be simply pluralist. . . . It does have some will to connect; it does have some stake in the choices it makes" (Hall 1992, 278). That something is *at stake* is what makes cultural studies political. And politics, Hall rightly argues, is impossible without "arbitrary closure" (Hall 1992, 278). Contextualization and specification help dissipate this arbitrariness somewhat, but of course not entirely: Closure must itself be subsequently problematized, its own arbitrariness opened up and made subject to critical inquiry.

I turn now to the institutional contexts of political theory and cultural studies, briefly considering the emergence of cultural studies in Britain before focusing on developments in the United States. The same themes have different meanings and impacts in different contexts. In the following sections, I explore these contexts. To show how British cultural studies enabled

a powerful analysis of a particular state formation, I concentrate on the contributions of Stuart Hall. To consider the way institutional arrangements in the United States led away from emphases on the state and the economy, even as they provided insight into American political culture, I highlight the work of Michael Rogin.

4 Stuart Hall and British Cultural Studies

Inspired by Richard Hoggart's *The Uses of Literacy* (1958, 1970), Raymond Williams' *Culture and Society* (1958) and *The Long Revolution* (1961), and E. P. Thompson's *The Making of the English Working Class* (1963), the birth of British cultural studies is generally associated with the 1964 founding of the Centre for Contemporary Cultural Studies in Birmingham by Hoggart and Stuart Hall. Over the next two decades, as education in England faced severe economic hardship, cultural studies came to be offered as an undergraduate degree in nine British polytechnics (and two universities, including Birmingham): It provided a useful umbrella for humanities departments under economic pressure to reorganize (Steedman 1992, 620).

Generally speaking, the research associated with the Birmingham school focused on the processes shaping postwar British society: the rise of mass communications, the increase in consumerism and resulting commodification of more domains of life, and racial and national forms of oppression. Some of this research is linked to a frustration with Marxism. Not only are Marx's categories of base and superstructure and false consciousness too reductive and determinist for cultural analysis, but the British New Left had already, in the wake of the Soviet invasion of Hungary in 1956, distanced itself from Marxist politics (Hall 1992, 279). On one hand, and no doubt paradoxically, this distance from Marxism appears in the systematic engagement with Gramsci and the extension of his accounts of hegemony, civil society, the wars of position and maneuver, contradictory consciousness, and the organic intellectual. On the other hand, it appears in the study of subcultures: Class needed to be specified, perhaps in terms of sex or race, perhaps in terms of consumption-based patterns of identity construction.

This specification helpfully sheds light on the production of class identities, offering thereby a corrective to Marxist essentialism, and providing a useful analysis of the construction of hegemony, while, however, sliding into a celebration of style. Innovative appropriations of popular culture are viewed as forms of resistance, as part of a political struggle taking place in everyday life. One problem with such accounts, which have been heavily criticized *within* cultural studies, is that they presume their political purchase in advance, fail to link to a larger politics, and fail to explain why a particular stylistic performance resists rather than shores up a hegemonic formation or why its resistance connects it to progressive struggles for social justice rather than fascist aspirations for domination (Slack and Whitt 1992, 578–84; Grossberg 1992, 93–5). The strongest work in British cultural studies was shaped through struggle—theoretical and practical—with Marxism. Engagement with Marxism means retaining an emphasis on the economy while problematizing Marxist categories when researchers are led to ask how it is possible for workers, the people, the least well-off, to support policies clearly contradictory to their material interests.

For example, Stuart Hall contextualizes the Thatcher government in postwar Britain. In the initial decades after the Second World War, Britain was headed toward European-style social democracy. The postwar combination of "big state and big capital" was the result of a compromise between left and right: the right settled for the welfare state and Keynesian economic policy while the left agreed to work within the fundamental terms of capitalism. Responding to the massive upheavals of the late 1960s and 1970s (world economic recession, inability to finance a welfare state *and* sustain capital accumulation and profitability, industrial conflict, strikes, and violent racism against immigrants), Thatcherism reversed the previous consensus, reconstructed the social order, and "changed the currency of political thought and argument" such that "free" meant "free market" (Hall 1988, 40). Instead of supporting the welfare state, Thatcherism sought to "break its spell" by combining an emphasis on the free market with the traditional Tory elements of order, nation, unity, and patriarchy. The result was the previously paradoxical articulation of "free market *and* strong state" (Hall 1988, 39). Thatcherism effected a revaluation of British values: what had been positively articulated with the state (providing for basic needs, say) came to be understood as a private benefit of a free market.

For Hall, one of the most striking aspects of Thatcherism is its popular support, especially among those sectors of society a stereotypic Marxist

analysis would expect to oppose it. Presenting itself as a force on the side of the people, Thatcherism enlisted popular consent "through a combination of the imposition of social discipline from above—an iron regime for Iron Times—and of populist mobilization from below," a combination Hall characterizes as "authoritarian populism" (Hall 1988, 40–1). Thatcherism was the result of ideological struggle, a transformation and reconfiguration of right-wing discourses to enable a new way of thinking to be dominant. How did this new common sense emerge? Hall's specific analysis of concrete institutions makes clear that there was nothing automatic or magical (like some spell over consciousness) about it. The emergence of Thatcherism was the result of decades of ideological warfare, the securing of authority or consent prior to the taking of power. Thus, well before Margaret Thatcher became Prime Minister in 1979, the Institute for Economic Affairs and the Centre for Policy Studies were advancing free market doctrines and supporting anti-Keynesian economists. Likewise, the tabloid press took up the emphases on order, unity, and nation glorifying Thatcherism and Thatcher herself. As Hall explains, "these organizations prepared the ground, were the trenches and fortifications, the advance outposts in civil society itself, from which the counteroffensive to the reigning consensus was launched. ... They helped make the 'intolerable' thinkable" (Hall 1988, 47).

Thatcherism was the product of battles of ideas, opinions, and values fought out in the space of civil society, a space not reducible to the media. Academic institutions, think tanks, and private organizations contributed the ideas and helped articulate them together into Thatcherism. For Hall, what is crucial to understanding Thatcherism is not simply the plurality of discourses (race, crime, nation, sexuality, market) that produce it within civil society, but the formation of this plurality of ideological elements into a unity, or discursive formation, at the level of the state (Hall 1988, 53). Thatcherism was a hegemonic structure with authority constituted through the production of common sense, a rendering of what was heretofore unimaginable as the new fact of life ("yes, the market is imperfect, but we have no other choice ...").

In sum, the position of British cultural studies at the margins of the British economy, in a context of struggle with Marxism, and as an effort to engage an emerging right-wing alliance that had come to power in the wake of widespread social, economic, and political disruption—"authoritarian populism"—gave it analytical power and political purchase, indeed, truth (cf. Zizek 2001, 220). The projects associated with cultural studies endeavored to make sense of the specific condition of Britain after the Second World War,

in terms of new forms of mass culture and in light of the restructuring of British social democracy and the dissipation of left politics (cf. Smith 1994).

I turn now to the American context, to consider the specificity of the situation of American political theory as it encountered the culture wars of the 1980s. What will become clear is the way that a sense of the dominance of cultural politics (as opposed to the marginality of a venture called cultural studies), on the one hand, combined with the demands of political *science*, on the other, formatted political theory's cultural turn so as to distance it from the state.

5 Culture War in the USA

Sometime in the late 1980s and early 1990s, intellectual common sense in the USA came to reflect a consensus that *everything* was political. Voices raised from a variety of sectors joined in the observation that culture had become political and politics cultural. In the words of Sheldon Wolin, "It is hard to think of an action, much less a relationship, that someone has not declared to be 'political' or involve 'politics' or, its shorthand 'power.' It is not at all clear today what would not count as politics" (Wolin 1997). Following feminist theorizations of the personal, familial, and sexual as sites of power and domination, anti-racist accounts of the widespread practices of discrimination and disempowerment accompanying—and often negating—formal gains at the level of rights, hot debates over public art and education, not to mention the emergence of new experiments in living associated with the rejection of the Eisenhower-era establishment, by the end of the 1980s, it seemed clear that the term "political" referred to more than the competition between parties for a leading position in government. Indeed, with the end of the cold war and the intensification of financial and information flows through the networks of communicative capitalism, the state ceased to be the primary site of political engagement; the nation no longer served as a central locus of political identification, and the sovereign configuration of political power began to be reformatted. How might democratic concerns for equity, justice, freedom, and right represent themselves under such conditions? To whom, for example, should rights claims be addressed? How might a specific instantiation of violence or suffering be universalized so as to represent harms that extend beyond it?

The observation that "everything is political" is not simply descriptive, however. It is a lament. That politics is everywhere is thought to be a *problem*: "too much" politics "drives out" other important human practices or modes of being. Former chair of the National Endowment of the Humanities, Lynne Cheney, captured the moment when she writes: "Every statement in every text (or not in a text, for that matter) was said to be political, said to be aimed at advancing the interest of the speaker or writer ... Politics writ small had become politics written so large that it drove out the possibility of human beings doing anything nonpolitical—such as encouraging the research for truth" (Cheney 1995, 15). Prominent political theorists voiced similar concerns. Amy Gutmann treated multicultural education as the "deconstruction" of intellectual life into "a political battlefield of class, gender, and racial interests," reducing "every answer to an exercise of political power" (Gutmann 1992, 20).

During the culture wars, the charge that "everything is political" evoked nostalgia for a time before politics actively politicized culture even as it itself intensified the politicalization of culture. Organizations such as the Traditional Values Coalition, Concerned Women of America, and the American Family Association, for example, mobilized during the 1980s and 1990s in opposition to changes in cultural norms governing gender and sexuality. In the name of decency, security, and basic values, activists targeted museums, school districts, entertainment, workplaces, and the Internet. Their goal was to recapture a culture gone astray amid a general crisis of governability. And, as Barbara Cruikshank argues, even as they ostensibly supported an end to big government, many of these neoconservatives nevertheless understood that reclaiming the culture would necessarily require a strong state, to enforce personal responsibility, buttress heterosexual marriage, prohibit abortion, promote sexual abstinence, and instill respect for law and order (Cruikshank 2000).

Like the differentiated strands of the British right, then, those in the USA have operated in a variety of domains in civil society. They have reasserted the primacy of the free market, urged privatization, dismantled the minimal entitlements left from the New Deal, and shrunk the welfare state through massive tax cuts. And, they have reaffirmed (while redirecting) the political messages of the 1960s, namely, the centrality of raced and sexed identity and the importance of culture as the tool and terrain of struggle. Thus, the charge that "everything is political" is a powerful weapon of cultural warfare. It shields those who wield it as it blames academic "deconstructionists" and "multiculturalists" for widespread cultural dislocations resulting from movements in transnational corporate capital; shifts to information, consumption,

and distribution-based economies; expansions in entertainment media and content; the violence of urban decay and rural despair.

The lament that everything is political is also depoliticizing: if *everything* is already political, there's no need to bother with organizing, consciousness-raising, or critique. The cliché that everything is political does not tell us what makes an event or text a matter of politics, or how disconnected figures and themes become linked together into a particular power formation. In assuming the fact of politics, the totalizing shorthand of "everything" neglects the ways concepts and issues come to be political common sense and the processes through which locations and populations are rendered as in need of intervention, regulation, or quarantine.

Despite the depoliticization the claim perversely effects, the notion that everything is political marks a change in the political situation of late-capitalism, namely, the decentering or changed role of the state. Everything seems political because the political is not confined to one specific location or set of actions. The new social movements of the 1960s and 1970s, for example, targeted families, media, churches, schools, medicine, consumption, identity, and sexuality, making specific economic, cultural, and social practices political (Cohen and Arato 1992; Dean 1996). Through global capital and networked communications technologies, the new social movements often traversed national, ethnic, and racial barriers producing new formations of identity and affiliation. One of the strengths of cultural studies in the USA has been its connection with these movements, extending them into universities and providing supporting research and analysis. The formation of women's, ethnic, and African-American studies departments, as well as the opening up of traditional disciplines to the study of non-traditional populations, texts, arrangements of living, and cultural productions has been a political struggle.

6 Michael Rogin and US Political Theory

Although some academic political theorists (primarily feminists) have been active participants in the creation of women's and ethnic studies programs, many argue against pluralizing political inquiry into cultural domains.

Sheldon Wolin worries that the dispersion of politics is part of political theory's "inability or refusal to articulate a conception of the political in the midst of widely differing claims about it, some issuing from nontraditional claimants" (Wolin 1997). David Held invokes the specter of totalitarianism, the risk that widespread politicization opens up the door to an intrusive state (Held 1991, 6).

A partial explanation for this opposition toward an expanded sense of the political may be found in the institution of American political science. In the last decades of the twentieth century, the field was beset by methodological battles. Many emphasized the *scientific* component of political science, hoping to discover methods for empirical analysis that would enable political scientists, like orthodox economists, to measure and predict with reasonable accuracy. Grants and funding opportunities, of course, were also awarded within this context. Bluntly put, the big money in political science was concentrated in the subfields of international relations and American politics (where the use of scientific methods predominated), and this may have had an impact on political theory.

Political theorists, particularly at leading institutions, sought to delimit the field in accordance with political science's concept of the state. As Dumm explains:

> This perspective on power, which reduces it to state power, informs the recent detente between the followers of Habermas and Rawls. Advocates of procedures that would somehow ensure communicative action and their counterparts who embrace a liberalism of fear recently have found a common ground in the slogan "procedural democracy." That form of democracy has as its exclusive site of struggle the contemporary state. Moreover, it is a state that is itself understood to be largely devoid of struggle and is presented as a place where through adequate procedures, all differences might be successfully negotiated. (Dumm 1994, 170–1)

State-centered, mainstream political theory dismisses such alternative forms and sites of politics as consumption and consumerism, science and technology, and the constitution of subjects and objects of politics. To echo Foucault, if politics is analyzed on the basis of the state, then the political subject can only be conceived as the subject of law (Foucault 1997, 300). The possibility of politics in other fora starts to sound invasive, an invitation to massive state intervention, or naive, a misunderstanding of what politics is. Under the presumption that the state remains the political center, the idea that politics is everywhere in culture sounds like an alarmist rant, evoking the propagandistic machinations of the Soviet Union, Nazi Germany, and cold

war America. Presuming that politics necessarily targets the state, in other words, contributes to the depoliticizing effects of the claim that everything is political. It makes non-state centered action, and, more specifically, cultural politics, seem at best ineffectual or irrelevant, and, at worst, paranoid. It also allows those ready to mobilize on a variety of terrains to proceed without a fight.

Perhaps surprisingly, even within this context, innovative thinking emerged. Exemplary in this regard is the work of political theorist Michael Rogin who worked against the grain of 1980s political theory to analyze mass cultural productions of political identities. His work, along with that of previously mentioned scholars such as William Connolly, Thomas Dumm, Anne Norton, and Michael Shapiro, helped to establish a place, however marginal, within political theory for culturally engaged and politically committed scholarship.

In his introduction to *Ronald Reagan: The Movie*, Rogin presents his emphasis on film as an attempt, "against dominant tendencies in the study and practice of American politics, to use cultural documents to connect political action to its meaning and makers" (Rogin 1987, xx). To this end, Rogin explores practices of demonization and counter-subversion in the United States. One of the first works in American political theory to engage seriously with images, seeing, surveillance, and mass political integration, *Ronald Reagan: The Movie* rejects liberal individualism to consider how leaders come to embody the body politic. It takes neither identity nor affiliation for granted, theorizing instead the ways in which specific cultural productions stimulate the fears and anxieties mobilized in right-wing politics. Drawing from psychoanalysis, film theory, cold war science-fiction, and the B-films of Ronald Reagan and incorporating critiques of racism, sexism, and anti-communism, this text seems easily an exercise in cultural studies.

Yet, Rogin never linked his work to cultural studies. Indeed, he distanced himself from cultural studies in a later significant contribution to cultural history and political theory, *Blackface, White Noise: Jewish Immigrants and the Hollywood Melting Pot*, asking, "Does resistance to elite domination appear when we turn our attention from traditional political arenas and reconceive politics in broad, cultural terms?" (Rogin 1996, 23). Answering no, Rogin situates his historical analysis of the role of blackface in producing an American national identity at the interface of a critique of liberalism and a rejection of a celebratory (ahistorical and unspecific) approach to racial masquerade as subversion and resistance. He demonstrates how, despite

some 1990s excitement over the parodic performance of identity, blackface was not a radical practice but a mode of integration: it facilitated the move of ethnic settlers into normalized whiteness. By accepting their difference from blackness they were able to claim and access the privileges of white identity. For Rogin, liberal rights and blackface are reciprocal enactments of racial crossing, the one promising whiteness for the black man even as the other reinscribes racial difference. As he concludes, "There are, finally, no simple, morally reassuring splits between egalitarian politics and exploitive popular culture, or (from the other point of view) between admiration for distinctive cultural contributions and a falsely universal uniformity. Instead of choosing sides between mass culture and liberal politics in America, it is better to untangle the knot that ties them together" (Rogin 1996, 67).

By the time of *Blackface, White Noise*, cultural studies in the United States had become associated, perhaps wrongly, with celebratory approaches to popular culture that found resistance everywhere, in all sorts of performances of transgressive identity and acts of creative resignification of dominant cultural images. Such approaches are rightly criticized for announcing their political efficacy in advance; that is, for eschewing the analytical and organizational work necessary to political struggle. In place of concrete attention to political institutions, practices, organizations, or norms, celebratory cultural studies tends to label its analysis "political" without exploring what, exactly, is political about it. Occluding the tensions and contradictions traversing cultural productions, problematization is reduced to simply taking a position, repeating and reinforcing the flattening effects of the political everything.

7 Integration, State, and Economy

What, then, of the interface between cultural studies and political theory in the new millennium? At the outset, I pointed to four methods emerging at this interface: problematization, contextualization, specification, and pluralization. To continue my own contextualization of this interface, I will conclude by specifying those aspects of post-millennial life that indicate the need to problematize the emphasis on pluralization, attending not simply to proliferating micropolitics but also to the continued importance of the state.

During the 1990s, the neoliberal economic policies of privatization, markets, and the elimination of key social services pursued by Thatcher and Reagan intensified and accelerated across the globe (UN Habitat 2003, 36). Reduced trade barriers, deregulated financial systems, and networked communications technologies led to dramatic increases in the flow of goods, capital, jobs, and information worldwide. Economies floundering in a brutally competitive environment could receive loans, but only under strict conditions determined by neoliberal doctrine—state services had to be cut, utilities privatized, price subsidies removed, and restrictions on capital flow eliminated. "In a number of cases," *The Global Report on Human Settlements 2003* explains, "the conduct of privatization was done in a great hurry under overwhelming pressure from foreign advisers, and the result was 'outright theft.' Public assets were sometimes sold to the private sector for a fraction of their true worth" (UN Habitat 2003, 44). The clear result of globalized neoliberalism has been dramatic increases in inequality and insecurity, within countries as well as between them.

Such an economic context is accompanied by an ideological matrix polarized between fundamentalism and pluralism; that is to say, between dogmatic and irreconcilable positions, on the one side, and a seeming multitude of endless choices and possibilities, on the other. Fundamentalist emphases on limits, boundaries, and order and pluralist enthusiasm for multiplicity and diversity unfold within the frame of global capital.

In the course of the presidency of George W. Bush, the culture war entered a new stage of Republican hegemony. The right's cultural successes won for it control over the three branches of government and the general political discourse. Previously extreme positions—regressive taxation, cuts in benefits for veterans, time limits on welfare benefits, privatizing social security, and the torture of prisoners of war—became acceptable policy alternatives, debated by both political parties in the context of their unquestioning endorsement of neoliberal capitalism (Brown 2003). The intolerable is thinkable.

Just as contemporary capitalism relies on market segmentation, selling previously transgressive identities as lifestyle choices with their own entertainment networks, websites, and accessories, so does the political right thrive on pluralization. The more conservatives have to be outraged about—as talk radio, right-wing blogs, and Fox News have realized—the more engaged and active they are. And, the more they fight on the terrain of culture, protesting gay marriage and partial birth abortion and asserting the primacy of their

particular values, the more the politics of the economy are displaced (Frank 2004).

Pluralization and limit recombine into the guise of mobility and fixity when we consider intellectual labor in the context of the flows and fears of communicative capitalism (Dean 2002, 2004). Intellectuals privileged by citizenship and institutional affiliation travel frequently, spending time in transitional spaces such as planes, hotels, and airports. They may think of themselves as cosmopolitan world citizens, as participants in world-historical discussions that transcend disciplinary or national boundaries. Other intellectuals are forced to migrate, to serve as itinerate, contingent, academic piece-workers. They teach heavy loads with few benefits and less security. Often they are pushed out of the academy altogether, forced into exile and deported. Those with time to write may lack the resources and opportunities to attend academic meetings and publish their work. Those who do publish may despair at the unlikelihood that what they write will register in the discussions that matter to them. Institutions like universities and nations are thus bars separating privileged from forced mobility. Communicative capitalism's claims to cosmopolitanism, inclusion, and significance notwithstanding, its mobility depends on fixity.

An insight shared by some structuralists and post-structuralists is that the subject is a position within a structure. Outside a structure, there is no subject. As an example, one might imagine Sean "Puffy" Combs and Dennis Thompson (or Budd Hopkins and Judith Butler) encountering each other in an airport privileged flyers lounge. Known in their respective fields and recognized as important and powerful within specific institutions, their work cannot easily traverse the barriers that enable their mobility. The significance of their writings is limited to particular contexts, contexts with only limited porosity. Citationally invoking one to the other as an authority is incomprehensible.

The point is that multiplicity coexists with and relies on positionality. Multiple discourses and institutions entail multiple fixed positions and these different positions are not interchangeable. The positions that enable meaning also set its limiting conditions. Conviction in one's fundaments unfolds within the conflictual space opened up by encounters with others; an appeal to the truths of one's faith, like the drive to justify one's principles, is a response to doubts, challenges, differences. Similarly, the linking and sampling of various terms and ideas in new and evolving contexts occurs against the background of a more fundamental bar or limit.

This interdependence of plurality on positionality presents several challenges to interfacial work today. First, it suggests that critical scholars need to attend to the contexts of pluralization, to specify the ways in which capitalism's absorption of ever more domains of life operates through differentiation, multiplication, and fragmentation. Second, insofar as fundamentalist and neoconservative orientations thrive on various and repeated opportunities for renewing rage, critical political theorists need to emphasize and develop understandings of underlying patterns and systems so as to replace fragmented rage with engaged commitment to building broader alliances and solidarities. How might work at the interface of political theory and cultural studies redirect animosities currently constituted as oppositions between Christian and atheist, conservative and liberal, and patriotic and traitorous, into an economic struggle capable of using state power for common ends? Third, current oscillations between mobility and fixity challenge us to think through current limitations on thought: Can political theory conceptualization commonalities capable of inspiring us to move against the deadly brutality of capitalism run amok?

8 Conclusion

The interface of political theory and cultural studies is neither a debate nor a discourse. Rather, it is a loose set of thinkers and texts sharing some political and methodological concerns. Cultural studies emerges in Britain in the context of the weakening of the left in the wake of the collapse of the welfare state and the rise of Thatcherism. Connected to but critical of Marxism, thinkers affiliated with cultural studies sought to provide rich accounts of the cultural productions of subjectivity, hegemony, and resistance. These thinkers worked outside traditional disciplines and outside most universities. In the last two decades of the twentieth century, academics, pundits, and politicians in the United States exchanged salvos in culture wars over sex, race, class—and family values. Cultural studies was associated primarily with the humanities, seemingly the academic wing of the left in the culture war. Most political theory within political science was disciplined by the field's infatuation with formal modeling and the lingering effects of cold war anti-Marxism.

Political theorists pushing against these constraints problematized the presumptions regarding the nature of the political generally presumed by the rest of the field, pluralized their inquiries, and thereby opened up thinking to a multiplicity of domains beyond the state.

The methodological commitments of work at the interface of cultural studies and political theory—problematization, specification, contextualization, and pluralization—make this mode of inquiry particularly compelling today. Problematization pushes theorists to consider how both the political right and global capital thrive on the proliferation of seemingly political instances even as this proliferation insures that nothing really changes, that the fundamental neoliberal economic framework remains intact. Specification and contextualization attune thinkers to the cultural habitats of political concepts, to the practices, aspirations, harms, and fears in and through which our basic ideas of living together are materialized. Finally, the pluralization of the political compels interfacial scholars, even as they methodologically pluralize their inquiries, to orient political theories toward opposition, struggle, change, and a fundamentally different arrangement of power.

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CHAPTER 42

POLITICAL THEORY AND THE ENVIRONMENT

JOHN M. MEYER

1 Introduction

The most familiar view of "the environment" in politics today, at least in liberal-democratic societies, is that it is an issue area. This "issue area" may be understood to include a number of particular concerns on a scale ranging from the local to the global, including toxic pollution, forest destruction, global warming, biodiversity loss, and so forth. Viewed in this manner, environmentalists are seen as representing a particular set of interests—one among many—that a nominally democratic or pluralistic political system should attend to when making policy. Consistent with this view, environmental concerns have become a recognizable part of the political landscape in a great many places over the past generation.

* Many thanks to John Barry, Robyn Eckersley, Joel Kassiola, David Schlosberg, and editor John Dryzek for helpful comments on earlier drafts.

If the view of environmental concerns as interests or preferences—a private conception of the good—were either the only one or an unequivocally successful one, then there would be little point in discussing a relationship between the environment and political theory. Yet among thinkers who have discussed environmental concerns, there is a widespread conviction that this view is neither accurate nor adequate. The first, and perhaps still most provocative, basis for this conviction was rooted in the idea of biophysical "limits to growth," an idea popularized in a report by the Club of Rome with that title in 1972 (Meadows et al. 1972). If these limits are real, then attention to them is far more vital than the received notion of environmentalism seems capable of accommodating. This drew far greater attention to the centrality of humans' embeddedness within the natural world and led to an outpouring of writings seeking to move beyond "issue area" environmentalism. It is here that the possibility for a field known as *green* or *environmental* political theory—or sometimes *political ecology*—has emerged.[1]

Academic books, articles, conferences, and other discussions have blossomed in this field in recent years; it is particularly significant to note the increased level of international communication and even collaboration—at least in the English-speaking world—that has emerged. At the same time, parallel activities in such cognate (and somewhat more established) fields as environmental ethics, environmental policy analysis, and global environmental politics have also grown. On the one hand, of course, these activities have the potential greatly to enrich environmental political theory. On the other hand—even in the absence of a misguided attempt to police strictly the boundaries of these fields—the question of the distinctive identity or contribution to be made by environmental political theory emerges as an important one.[2] In this chapter, I describe characteristics that seem to distinguish environmental political theory at the present and thereby to raise the question of how the project of environmental political theory might be usefully construed in the future.

[1] There is no consensus upon which of these labels is most appropriate. Some theorists embrace the "green" moniker on the grounds that it enables clearer connections with other issues and social movements, while others distance themselves from it, sometimes expressing a concern that the term implies a partisan connection to Green parties. Some prefer the "ecological" descriptor because of its connotation of interconnectedness, although the label "political ecology" is more frequently identified with scholars in geography and anthropology. Others find the "environmental" label either more encompassing or less controversial. While remaining somewhat agnostic about this, I am compelled to choose a label in this chapter and—as will be evident—have selected "environmental political theory," in part because it may be more recognizable.

[2] This question should not be confused with a presumption that there is or should be a unified normative agenda for environmental political theory.

2 Neither "Ethics" nor "Ideology"

A connection between political theory and environmental conditions or concerns can be traced back at least as far as Aristotle. Nonetheless, a self-conscious field of academic inquiry emerged primarily in the 1990s. In the 1970s and 1980s, landmark works that fit this mold were published—William Ophuls' *Ecology and the Politics of Scarcity* (1977), Murray Bookchin's *Ecology of Freedom* (1982), and John Dryzek's *Rational Ecology* (1987), for example—but there was no larger body of work that spoke to recognizably political-theoretic concerns. When and where this body of theoretical work does begin to emerge, it can be differentiated both from the academic field of environmental *ethics* and from discussions of a political *ideology* of "ecologism."

The study of "environmental ethics" emerged prominently in the 1970s; the initiation of the journal *Environmental Ethics* in 1979 reflected a certain coming of age for the field. This body of literature has been the most identifiable form of normative environmental inquiry over the past generation. In some instances, at least in the USA, the label "environmental ethics" has been treated as synonymous with normative environmental inquiry itself. Moreover, in recent years the range of views expressed by "environmental ethicists" has clearly diversified—often in a direction more attentive to the political concerns discussed below.[3] Nonetheless, a distinction between environmental political thought and environmental ethics will prove to be a useful heuristic. In making this distinction, it must be clear that we are seeking to clarify dominant tendencies within these academic fields, rather than to divorce ethics from politics.

Environmental ethics as an academic enterprise tends to focus upon individual convictions, consciousness, and actions toward the non-human world, thus suggesting that strategies for change also be located at the individual level. In this context, political theory is often neglected. When environmental thinking in this mold does speak to questions of political or social order, moreover, it has tended toward a certain exuberance. Robyn Eckersley's *Environmentalism and Political Theory*, pathbreaking when it was published in 1992, reflects this tendency with its implicit confidence that newly adopted environmental values could lead to a new social and political

[3] See, especially, work by "environmental pragmatists" including Anthony Weston, Bryan Norton, Ben Minteer, Andrew Light, and others; Light and Katz (1996).

order. The language of a "paradigm shift" or "worldview transformation" has often been invoked to capture this notion of a large-scale change in ethics and consciousness that will subsequently transform society (Fox 1990, 22–40; Meyer 2001*a*, 21–34). Yet as John Dryzek argues persuasively:

> macro consequences (in terms of policies, institutions, and events such as revolutions) are rarely if ever a simple extrapolation of micro causes ... so even if there were large-scale conversion of individuals ... it is quite possible that nothing at all would change at the macro level. (Dryzek 1997, 170)

Despite the vital connections between ethical and political inquiry, therefore, recent environmental political thought has come to be distinguished from environmental ethics by its greater attention to these "macro consequences."

A second normative approach has been to describe environmental concern as the basis for a distinct political ideology—labeled "green" or "ecologism"—that can be contrasted with existing ideologies including conservatism, liberalism, and socialism. While this approach is less vulnerable to Dryzek's criticism of inattention to "macro consequences," an obfuscation of politics seems also embedded within it. By suggesting a radical distinctness from other ideologies, the idea of a green or ecological ideology implies that transformative political commitments can follow from a proper understanding of environmental concern. By contrast, in his expansive new survey of the field, Peter Hay makes it quite clear that rather than settling upon the core tenets of an ideology, serious environmental thinkers have proliferated a wide array of political ideas and ideals in recent years (Hay 2002, esp. chs. 7–10). How can this diversification be reconciled with the "ideology" label? Some authors do this by offering a more nuanced treatment in which ecologism is not wholly new or distinct from strands of liberal, conservative, socialist, or feminist thought (e.g. Dobson 1995, 14; Ball and Dagger 2004, 245–6). Yet labeling ecologism as a distinct ideology seems intended to offer a clear conceptual distinction from these competing schools. To do so while also detailing its growing engagement with other traditions of political thought serves to muddy the conceptual clarity promised by the notion of a political ideology in the first place. Thus, we can locate the obfuscation in the *idea* of ecologism as an ideology, which holds out this unfulfilled promise of clarity and distinctiveness (cf. Barry 1999, 3–7).[4]

In turning away from confident yet under-articulated visions of transformation often found in discussions of "environmental ethics" and "ecological

[4] Of course, a "green" ideology remains as something that can be studied empirically.

ideology," environmental political thought can be understood as what I'd like to term a *post-exuberant* mode of inquiry.[5] By labeling it in this manner, I do not wish to suggest that it has (or should have) lost interest in meaningful—or radical—social or political change. The environmental and political challenges that we face demand that we reject complacency, and many environmental political thinkers have retained the critical edge needed for such a task. Instead, it is to suggest that it is no accident that environmental political theory's emergence as a distinct form of analysis is concomitant with the loss of the innocent conviction that such change can be accomplished in the absence of close and careful consideration to relationships of political and economic power and inequality within the human community, as well as the role of current political ideas, values, and institutions in either challenging or reinforcing these.

Despite this common tendency, Hay is surely correct to note the proliferation of voices, approaches, and concerns within environmental political theory and so we must attempt to sort these out in order to get a handle on the diversity. Hay sorts these theories using familiar ideological categories, identifying authoritarian, conservative, liberal, and socialist variants of environmental political theory. In what follows, I discuss two other ways in which recent discussions of environmental political theory might be surveyed and sorted. The first is primarily attentive to categories of method or approach, while the second focuses more upon the substantive controversies that have emerged within environmental political theory.

3 Formal Categories

In a brief "Afterword" to a 1993 collection of essays entitled *The Politics of Nature: Explorations in Green Political Theory*, Andrew Dobson identifies

[5] I am borrowing the term, but *not* the meaning of, "post-exuberant" from a classic essay by environmental sociologists William R. Catton, Jr. and Riley E. Dunlap, "A New Ecological Paradigm for Post-Exuberant Sociology." In Catton and Dunlap's telling, the exuberance of mainstream sociology is a reflection of its failure to acknowledge society's embeddedness within the larger non-human world. By contrast—although these claims are *not* mutually exclusive—I suggest that the exuberance of much environmental theorizing (including Catton and Dunlap's "new ecological paradigm") is a reflection of its failure to grapple adequately with social and political ideas and practices.

three areas for contribution and development.[6] Using his categories, we can develop a sense of the character and scope of recent work in this area. Yet his categories—especially the second and third—are largely formal, and in that sense attention to them tells us relatively little about the substantive concerns or commitments that environmental political theory embraces or with which it struggles.

The first area, according to Dobson, is rooted in the argument "that the natural world—normally 'invisible' to political theory—affects, and is affected by, political decisions in a way which makes it necessary to consider it a site of political activity" (Dobson 1993, 230). This redefinition of the political has been central to the work of environmental political theory in recent years. For example, Douglas Torgerson (1999) has offered a systematic challenge to the instrumental rationality of what he terms the "administrative mind" in favor of a vibrant "green public sphere" within which concerns for and about the natural world emerge as central subjects of debate. Similarly, John Dryzek presents ecological resistance in, and democratization of, civil society as a force promoting a politics beyond the state—especially necessary in an age dominated by the power of global capitalism (Dryzek 1996, 2001; Dryzek et al. 2003). He also points to mechanisms by which political communication might be extended beyond the human sphere, offering yet another challenge to the existing boundaries of the political (Dryzek 1995).

Others have pressed at the boundaries of the political in different ways. Val Plumwood has argued for the centrality of "remoteness" (in time, distance, consequences, and knowledge) to the genesis of ecological problems, and hence for the expansion of the political in order actively to incorporate ecologically vital perspectives of those "closest" to these problems (Plumwood 2002, 71–80). Here, issues of equity and voice become central, thus arguing for the importance of a restructured political economy to the reduction of remoteness. Timothy Luke's "eco-critiques" problematize the political boundaries of liberal-democratic societies by focusing on the "sub-political" realm, which he argues is "all too often depoliticized by the professional-technical rhetorics of civil engineering, public health, corporate management, scientific experiment, technical design, and property ownership" (Luke 1999, 112). To the discomfort of many of his environmentalist readers, Luke argues that similar depoliticizing tendencies inhere in the practices of environmental advocacy organizations themselves (Luke 1997).

[6] All of these can be seen as having useful parallels in the emergence and growth of feminist political theory.

These challenges to familiar boundaries of political action are central to recent environmental political theory. Strikingly, this politicization of environmental concerns also has the effect of highlighting the diversity of voices and views encompassed within the environmental debate. Some, including Torgerson, explicitly embrace the "inescapably broad and diverse nature of the green movement" (Togerson 1999, 25) and other authors seem, at least implicitly, to concur. Yet in doing so, these authors illuminate the distance between such a politicizing project and an earlier confidence that environmental concern might be offered as a unified world-view or ideology. Whatever unity or commonality is to be found in this context is at the level of pragmatic collaboration around specific political objectives (cf. Norton 1991).

The second of the three areas that Dobson identified is the study of familiar political concepts from a "green" perspective (1993, 231). Here, again, there is much recent work. Dobson himself has contributed important studies of both justice (1998) and citizenship (2003); John Barry has advanced an ecologically inflected conception of political virtue (1999); Tim Hayward is examining constitutionalism and rights in relation to environmental claims (2002); David Schlosberg has explored political pluralism (1999); and Sheryl Breen has addressed conceptions of property (2001), to name but a few.

Finally, Dobson argued that environmental political theory might have a distinctive contribution to make to the study of the history of political thought, by rereading familiar theorists in a new light, and by resurrecting previously under-recognized theorists who offer a distinctive insight. One historical strand is the literature on Marx's ecological implications and legacy, in works such as *Marx's Ecology* by John Bellamy Foster (2000) and Paul Burkett's *Marx and Nature* (1999). John Meyer has considered the ideas of Aristotle and Hobbes (2001), while William Ophuls' recent book also engages extensively with Hobbes (1997). John Gillroy has reinterpreted Kant (2000). Two political theorists with environmental interests have completed book-length treatments of Thoreau: Jane Bennett (1994) and Bob Pepperman Taylor (1996). Terence Ball has explored Jefferson's views on intergenerational relations (2000). Twentieth-century theorists including Dewey (Chaloupka 1987; Taylor 1990), Frankfurt school critical theorists (Eckersley 1992; Brulle 2002), and Arendt (Whiteside 1994) have been examined by political theorists for their ecological insights. A new generation of political theorists will soon be publishing additional studies in this genre.

Utilizing Dobson's framework retrospectively, we are able to appreciate the growing breadth, depth, and complexity of environmental political theory

since the early 1990s. It reflects a body of work poised to emerge from the shadows of the non-discipline of political theory,[7] and it offers reason for confidence in Dobson's earlier speculation that meaningful new contributions could be made to each of these three forms of inquiry. At the same time, however, this framework reveals relatively little about the *content* of recent environmental political theory; about its distinctive and emerging concerns, challenges, or characteristic topics of debate. Any attempt to identify such a distinctive set of concerns will be inherently more controversial and incomplete than Dobson's framework could be; yet it is to this task that I now turn.

4 Substantive Categories

There are three nexuses of concern within which much recent work in environmental political theory can be understood to have emerged. The first of these surrounds the question and meaning of "nature." The second explores the relationship between apparently politically dominant conceptions of "liberalism" or "liberal democracy" and environmental advocacy. The third identifies—and seeks to remedy—a gulf between theory and the practices of environmental activists and policy-makers. By exploring each of these, we can also begin to develop a sense of the possibilities and anxieties that afflict environmental political theory today.

The contested meaning of nature has been of concern to a far greater array of academics and activists, of course, than just environmental political theorists; it is tied to questions of ontology and epistemology, and has been central to discourse about postmodernism. In fact, the particular concern of environmental political theory seems to be both a bit broader and narrower than this. It is narrower in the sense that the debate about nature is central to the extent that it is focused on whether claims to know nature can provide a basis for political authority. It is a bit broader in the sense that this attention to the link between nature and political authority is an exemplar of a contested claim that environmental features can—in some form—serve as a

[7] Thanks to Harlan Wilson for this characterization.

direct and perhaps deterministic source of guidance for political ideas and institutional arrangement (Soper 1995).

The second nexus surrounds the question of the role and limits of liberalism as a political philosophy that is compatible with effective action on environmental problems. Perhaps the most familiar stance within environmental political theory has been one that highlights the limits of liberalism, often focusing upon its individualism and its rigidity, especially in the context of global capitalism (e.g. Ophuls 1997; Benton 1998; Meyer 2000; Maniates 2002). Avner de-Shalit has developed a more nuanced view, arguing that on the one hand, liberalism is particularly effective at promoting environmental talk; while on the other, it is characteristically unsuccessful at enabling environmental action (de-Shalit 2000, 63–92). This sort of analysis has led de-Shalit and others to explore the possibilities for reading liberalism more expansively, in order to accommodate environmental sustainability as a public good (cf. Barry and Wissenburg 2001; Eckersley 1996; Friedman 1992; Hailwood 2004; Liebell 1999; Miller 1999; Sagoff 1988; Stephens 2001; Wissenburg 1998, 2001). In this context, they frequently appeal for a re-examination of the distinction between what has been termed "classical" or "economic" liberalism and more "social" or "political" interpretations of liberalism.

This attention to liberalism is closely related to the third nexus, which aims to connect theory to practice. De-Shalit summarizes this quest as follows:

> to discover how [environmental political theorists] might construct a theory that is much more accessible to activists and the general public (without relinquishing any of our goals), and which can be harnessed to the aims of political philosophy. (de-Shalit 2000, 4)

The quest to make environmental political theory both relevant and accessible to a broader public drives many theorists. Here, for example, we see overlap with the work of philosophers advocating an "environmental pragmatism," as reflected in a volume co-edited by political theorist de-Shalit and philosopher Andrew Light, with contributions by members of both disciplines (Light and de-Shalit 2003; cf. Light and Katz 1996).

As suggested above, I believe that this triad of concerns over nature, liberalism, and practice share something that I have labeled a post-exuberant approach to theory. In the face of environmental crises, the tendency of an environmental political theory oriented in this manner is to probe the contours and ideas of the present for their ability to shape, constrain, limit,

and enable effective environmental action and social change. For some, this approach seems to parallel a tempering of the radical impulse in environmental thinking—an impulse seen at the outset of this chapter in the conviction that environmental concern cannot be readily accommodated into the conceptual mainstream. Yet a post-exuberant approach need not be equated with moderation. In fact, environmental political theorists often argue that resolution of environmental problems requires clear-eyed attention to their differential impact on human communities based on class, gender, race, and position within the global economy. Rather than a radicalism expressed through arguments for a transformative, ecocentric world-view, therefore, it is more likely to be seen in a critique of existing relations of power and privilege, and arguments for restructuring of social, economic, and political power.

5 Democracy and Environmental Ideas

When considering democracy, environmental political thought has grappled with a question posed most directly by Robert Goodin: "[t]o advocate democracy is to advocate procedures, to advocate environmentalism is to advocate substantive outcomes: what guarantee can we have that the former procedures will yield the latter sorts of outcomes?" (1992, 168). Indeed, there are a number of recent works in environmental political theory that are explicitly focused upon democracy; many of these challenge Goodin's framing of this question by connecting environmental concern with a commitment to more discursive or deliberative forms of democratic participation (Smith 2003; Minteer and Pepperman Taylor 2002; Dryzek 2000; Sandilands 1999; Doherty and de Geus 1996; Mathews 1996).

There is a simple, reassuring narrative sometimes evoked about democracy in environmental political theory. It goes like this: Once upon a time (i.e. in the 1970s), environmental thinking about politics was dominated by voices such as those of Garrett Hardin, William Ophuls, and Robert Heilbroner. These authors suggested that recognition of *biophysical* "limits to growth"

necessitated the imposition of *sociopolitical* limits through coercive and authoritarian political rule. Yet as the years passed, this narrative suggests, environmental political theory recognized the errors of this anti-democratic perspective and came to embrace democracy as either compatible with or necessary for the project of addressing environmental problems (e.g. Eckersley 1992, 11–21; Humphrey 2004, 115). Unlike earlier authors, today we find almost no one who identifies their own theory as anti-democratic; the position has become one attributed to theories by critics.

The limitations of this storyline lie, first, in the suggestion that democracy is at issue primarily when it is an explicit subject of debate and, second, in the overly confident assessment that we are (almost) all democrats now. By contrast, I wish to suggest that questions of democracy are both more pervasive and engender less unanimity than the above narrative suggests. An excellent illustration of this can be found in an unconventional book edited by John Martin Gillroy and Joe Bowersox (2002). In this book, leading empirical analysts offer a series of specific environmental policy prescriptions, which are intertwined with both essays and transcripts of actual dialogue among prominent environmental theorists. The latter's comments are initially structured around a variety of particular themes, including the role of science, the relationship of environmental to social justice, and the valuation of nature. Yet by the conclusion of the volume, it has become clear that these diverse discussions have all converged (in a manner seemingly unintended by the organizers) upon a singular set of questions about democratic competence and accountability (Gillroy and Bowersox 2002). In a similar manner, the substantive debates sketched above can all be reconstructed as converging upon core democratic questions—more particularly, as questions about the level of, and conditions for, one's faith in a democratic public as an agent for positive environmental change. In its broadest sense, the post-exuberant tendency in environmental political theory centers its project squarely upon this question of democracy, whether or not it is the explicit topic of study.

Consider the debate over "nature." Much of the public vehemence of this debate seems difficult to explain if it is centered on a disagreement over ontology or epistemology. Instead, the worry expressed by many is a pragmatic and political one.[8] In his critique of social constructionist arguments about nature, for example, poet Gary Snyder confesses to "getting a bit grumpy about the dumb arguments being put forth by high-paid intellectual

[8] An excellent and evenhanded guide to this terrain is Soper (1995).

types in which they are trying to knock Nature." His anger is driven by the view that:

> [t]he attacks on Nature and wilderness from the ivory towers come at the right time to bolster the global developers, the resurgent timber companies, and those who would trash the Endangered Species Act. (Snyder 1998)

Conservation biologist Michael Soulé makes a similar claim, arguing that a constructivist view represents a "social siege of nature" that has served to justify a "physical siege" upon the land itself (Soulé 1995, 146). The vehemence of such attacks represents a belief that only a "realist" conception of Nature provides the basis for identifying or imposing *limits* upon the public, without which environmental arguments for social or political change are left floating as mere preferences in a sea of pluralistic interests. Thus the danger of calling "nature" into question, from this vantage point, is that it serves to undermine its truth-value, where this truth-value is seen as a necessary bulwark holding relativism, developers, *and* the demands of a democratic public at bay.

By contrast, a socially constructed view of nature is argued to be politically salient to the extent that it may allow for a more inclusive set of environmentally concerned constituencies, once the concern with "nature" is understood to include "home" as well as "wilderness;" urban as well as rural places; and working as well as pristine landscapes (Cronon 1995; Chaloupka 2000; Braun 2002). Here, it is argued that a danger of failing to recognize "nature" as a social construction is that it can reify it as a source from which to justify illegitimate exercises of political authority. A second argument is that it excludes the prominent environmental concerns of less privileged classes of people and those in more densely populated regions, while privileging a conception that is particular to Western cultures (Guha 1989).

To take a stance in this debate is to articulate a position regarding the role of truth claims in circumscribing or motivating democratic political participation, a position regarding one's level of faith in "the people" to express "environmentally responsible" sentiments and values, and regarding the relative importance of building environmental movements that cross cultural, class, race, and gender boundaries. Among an increasing number of environmental political theorists, there seems to be a developing consensus that democratic practice is the only way to mediate between an external nature and our socially constructed understandings of it.[9]

[9] Thanks to David Schlosberg for this observation.

While debates about the character and scope of liberal theory tend to be carried out at a high level of abstraction, this abstraction is again often driven by pragmatic concerns. These draw upon two related views to reinforce a focus upon liberalism. The first is a belief that "liberal democracy is ... here to stay" (Barry and Wissenburg 2001, 1). Here, political realism is used as a basis for testing the ability of liberalism to accommodate environmental change, whereas those less convinced of liberalism's longevity often characterize it in more rigid but also potentially more fragile terms (e.g. Ophuls 1997; Kovel 2002).

A belief in the stability of "liberal-democratic" political institutions is often conflated with the view that public opinion in Western societies also reflects liberal norms. Thus, even in a book in which he makes an extended case for a "post-cosmopolitan" form of citizenship as necessary in our globalizing age—a form he presents in stark contrast to a liberal one—Andrew Dobson next turns to the question of how liberal citizens can be educated and otherwise encouraged to address environmental concerns. In making this turn, he seems to presume that whatever ought to be the case, speaking a liberal idiom is necessary for social criticism to be persuasive in a democratic context (Dobson 2003, 159–60). By contrast, those who reject liberalism's compatibility with environmental politics often do so on the grounds that liberalism circumscribes effective democratic accountability, often by disembedding the process of capital accumulation from institutions of social or political control (e.g. Benton 1998).

In this way, differing interpretations of the boundaries of liberal theory can be a surrogate for disagreement about whether environmental concerns resonate with public attitudes. The core question, once again, is centered upon the feasibility of democratic environmental change. In the debate about liberalism, however, questions about power, the role of and control over the economy, and the limits imposed by a dominant discourse upon the popular imagination all must become vital.

The debates over nature and liberalism among environmental thinkers also speak to the quest to connect this work to a practical effort to effect social change. This effort to connect theory to practice is intimately related to the question of the role of effective social criticism itself. Some political theorists have argued that the field as a whole has become so highly specialized and inwardly oriented as to have severed any meaningful connection with existential political practice (Gunnell 1993; Ball 1995, 39–61; Isaac 1995). Seemingly by definition, environmental political theory

represents a rejection of this complacent orientation in favor of what Ian Shapiro terms a "problem-driven" form of political theorizing (Shapiro 2002). Nonetheless, the answer to the question of how one might go about creating and maintaining the link between theory and practice remains far from obvious.

At least two distinct—although perhaps not mutually exclusive—models can be found in recent works. The first presumes that environmental political theory should offer practitioners (activists and policy-makers) a vision that can strengthen their sense of purpose and clarify the obstacles along their pathway toward positive environmental change. Reflecting this approach, de-Shalit argues that environmental political theory "should relate to real cases and should be relevant to real life ... [t]he best way to achieve this would be to start with the activists and their dilemmas" (de-Shalit 2000, 29). Here, the theorist utilizes her or his privileged position to reflect upon the dilemmas of practitioners and then to offer these reflections back to them as a form of guidance. Theory can guide practice, in this view, *if* it is adequately attentive to the character of practice in the first place.

By contrast, Tim Luke offers an approach that seeks to develop theory *out of* an analysis of both actual socioeconomic relationships and what he terms "populist" practices (1999; cf. Dryzek et al. 2003). Here, practice guides theory, rather than the other way around. David Schlosberg, in his analysis of the theoretical implications of the environmental justice movement, offers a further example of this approach (Schlosberg 2003, 1999; see Guha and Martinez-Alier 1997 and Lohmann 1995 for a similar approach in relation to Third World movements of environmental resistance). These movements' constituencies have often been described as rooted more in a material connection to and dependence upon ecological resources than in the post-materialist concerns with quality of life issues said to motivate more privileged environmentalists in Western nations. To base theory upon such movement perspectives thus has the potential to restructure the categories and conceptions of environmental thought, since it is not just the questions, but also the perspectives and voices, of activists and other practitioners that become central subjects for insight and reflection. The implicit democratic faith, here—both in the movements and in the possibilities for democratizing the practice of political theory—is striking.

6 Conclusion

With no faith in "the people," but much in the likelihood of enlightened rulers, environmental political theory might echo an earlier generation's call for authoritarian solutions. Conversely, with unquestioned faith in "the people," environmental political theory could argue unflinchingly for the removal of all restraints upon popular rule. Neither seems likely. In between these poles, the great work of contemporary environmental political theory is to grapple with the relative merits of a wide variety of potential strategies for reconciling forms of democracy and environmentalism. Among these are arguments for deliberation, environmental education, scientific authority, or constitutional limitation as strategies for tempering environmentally destructive actions; for empowering those most vulnerable to, or most affected by, environmental harms to ensure their voices and votes count; for shifting the decision-making between the private and public—to ensure that collective goods can be adequately expressed and narrowly self-interested preferences are not privileged—or conversely to preclude narrow political calculation in favor of enlightened local knowledge.

The pressing democratic challenges outlined in the last paragraph are not particularly new. Other challenges have attained prominence primarily as a result of an accelerated process of globalization. Among these are the shifting role of the nation state as a locus for democratic citizenship; growing possibilities for participation in global civil society; the increasingly apparent global impact of local consumption in the First World and among Third World elites; and the growing separation of social and economic policy from popular influence in many nation states. A number of prominent new books tackle just these challenges (e.g. Eckersley 2004; Dobson 2003; Paehlke 2003).

Construed in this manner, the question of democracy's relationship to environmental concern is a multifaceted one that admits of no easy, self-congratulatory answers in the writings of environmental political theory. Yet it also appears central and unavoidable. If so, then attention to this relationship might also strengthen environmental political theory's ability to connect with the popular practices that will then be at the center of our attention.

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CHAPTER 43

POLITICAL THEORY AND POLITICAL ECONOMY

STEPHEN L. ELKIN

Political theorists neglect at their peril the relation of political theory to political economy. With such neglect comes the implication that it matters little for political life how the productive apparatus of the society is organized.[1] This is unlikely to be so. In theorizing about the contemporary world, political theorists especially need to take account of political economy because, as Marx noted, capitalism is the most powerful force at work in shaping the modern sociopolitical world. More specifically, for those living in democracies, political theory should, in significant part, be a theory of political economy because, at the core of the political life of these polities, are economic questions concerning economic growth, the distribution of wealth

[1] For an example that comes perilously close to saying this explicitly, see Barber (1984), preface to the fourth printing, where Barber says "if democracy is made to work politically, the American people will be positioned to choose the economy they deem compatible with their liberties and with prosperity" (see also Barber 1986).

and income, the political power of large business corporations, the role of markets, and the rights of property.[2]

A fundamental concern of political theory, at least if it is concerned with the actual world in which we carry on our lives, should then be the relation between capitalism and democracy. This is even more so the case because there are few, if any, strong arguments in favor of something other than democracy, at least for the long haul and even for places where it is presently more or less completely absent. Moreover, the world's experience with forms of economic life other than capitalism has not been a happy one (Kaminski 1991; Kornai 1992). And while we do have outlines of alternative economic systems that may well be more attractive than either some form of capitalism or state ownership, they are largely "economies in speech."[3] Thus, the question of the relation between capitalism and democracy is unlikely to go away any time soon. Friends of a full democracy need to understand in some detail the marriage of capitalism and democracy because they should care about improving the democracy we have while we wait for the democracy they prefer. The same should be the case for advocates of new forms of economic organization. They too should think about what might be done with the economic life we have while we wait for their preferred economic life to put in an appearance.

1 Capitalist Democracies as They Are

A common account given in contemporary political theory and political science is that capitalism undercuts democracy (Lindblom 1977). For those who believe in any real measure of democracy, the most troubling form of the argument is that capitalism inevitably produces a class of owners of large-scale capital who form a ruling class that directs the political life of the society.

[2] On the interconnections between other kinds of political and economic orders see Kaminski (1991) and Kornai (1992).

[3] For some examples of these economies in speech, see Roemer (1994) and Dahl (1985). For the original, focusing on polities in speech, see Plato (1968).

Any claims to democratic control are largely window dressing (Marx and Engels 1955; Lenin 1949; Domhoff 1986). Much ink has been spilt over this question of capitalist control of democratic political life. Perhaps the clearest result of this discussion is to make it apparent that any strong form of the ruling class thesis is impossible to sustain since it requires Herculean rationality on the part of capitalists, which they do not even display in economic life, and it disregards the significant political resources that other actors are able to deploy. Much defense of the ruling class argument indeed shades into a more easily defensible claim that a truncated pluralism is at work (Elkin 1985).

A contrasting account, held especially by American political scientists, is that the core of the relation between capitalism and democracy rests on the powerful interest groups that business forms. Most of those who share this view argue that business groups are the most powerful type of interest organization but that the political regimes being considered can still be called "pluralist" and broadly democratic (Dahl 1961; Truman 1993). There are two fundamental difficulties with this view. One is whether pluralism is itself a sufficient account of how an attractive and long-lived form of democracy should or can operate. There are reasons to doubt this, not the least of which is that competing groups are unlikely to pay any serious attention to maintaining the rules and institutions that make pluralism and democracy possible. The second difficulty is simply that pluralism requires that all the major interests that compose a society be organized, and there is reason to doubt whether anything like this is or can be at work in an existing democracy.

A more compelling view of the relation between capital and public officials can be built around the proposition that in any form of democratic capitalism those who control large-scale productive assets—big businessmen—will have a privileged political position (Lindblom 1977; Offe 1984; Block 1988). This politically privileged position results from the fact that:

1. given property rights, the state cannot command[4] property holders to do its bidding;
2. controllers of productive assets need discretion if there is to be economic prosperity: It is unlikely that government officials possess the requisite information or skill to direct economic decisions (Hayek 1944);

[4] Except in wartime.

3. the political calculus of public officials includes that they will be penalized for poor economic performance and will be rewarded for good performance;[5]
4. most businessmen—having discretion in how they will deploy their assets—will not, without inducement, make the kinds of long-term significant investments that are needed for high levels of economic performance.

Among the most important inducements is that public officials will not, except in the most pressing circumstances, raise issues that deeply affect what might be called the prerogatives of property. Three are of the greatest importance: the large returns in the form of profits and salary to those controlling productive property, and concomitantly the significantly unequal distribution of wealth and income; the power to move capital from one locality to another at will; and the control of productive assets to remain largely in private hands. There are also specific inducements in the form of tax breaks, subsidies, and various kinds of legal permissions.

Business privilege, at its most general, means that businessmen have special access to public officials. They are consulted *as a matter of course* on all major economic issues, and more so than any other interest in other matters. The extent of large-scale business's privileged position is greater than that of other interests because of the kinds of choices they have. To take an obvious possibility, workers need to work if they are to eat, since even government provision of employment and strike benefits are limited in size and duration. Large-scale controllers of productive assets do not need to invest to any great extent or even at all. They can consume their capital. They can, moreover, also employ their capital abroad, depriving their home countries of its use.

If businessmen have a common view on a policy matter—or, at least, if a large number of them do—their privileged position makes their views especially weighty. But public officials are not ciphers. Still, because of electoral considerations, most officials will see the need to induce economic performance. This special access by controllers of productive assets does not depend on businessmen being an especially powerful interest group, better organized and with greater resources than their competitors. They have such organization

[5] Harold Wilson, a British prime minister in the last half of the twentieth century, said that "all political history shows that the standing of a government and its ability to hold the confidence of the electorate at a general election depend on the success of its economic policy." Quoted in the *New York Times*, 10 August, 1990.

and resources, but their special political access depends on the privileged position itself. Even given these two kinds of advantages—a privileged position and significant political resources—businessmen, of course, do not win all battles. In conflicts with businessmen, public officials, when they need it, have the resources of law and popular will to set against the former's control of capital and of substantial political resources.

Much of what we need to know about business–state relations within contemporary capitalist democracies can be captured by the following formulation: controllers of productive assets will, must, and ought to have substantial discretion in how these assets are to be employed. They will have such discretion since, if all else fails, they will succeed in taking it because they control vital resources. They must have it if there are to be reasonable levels of economic efficiency and high economic performance. Even if their actions could be carefully controlled—which they cannot—it would be counterproductive to do so. And finally, controllers of productive assets ought to have such discretion because, given the reasonable concern of citizens for at least moderately high levels of economic well-being, there appears to be no other way to secure it other than giving asset-controllers considerable discretion. The result of this discretion is also inevitable: the privileged political voice of large-scale controllers of capital. That it is inevitable, however, does not entail that the privileged voice be a dominating one nor that the interests for which it speaks be narrow or adverse to broad public interests.

It is worth emphasizing here that in *any* complex political economy those who control the day-to-day operation of productive assets will have a privileged political position. This will be as true for state officials under state socialism as for worker-owners under market socialism. To be sure, state managers can be commanded to invest but there are real limits to such commands. After all, shooting the present group of managers will make it harder to find competent people to take on the task of planning investment. As for worker-owners, since they will usually have little wealth, they may be even more risk averse than private owners, and may thus require even greater inducements from public officials (Miller 1990, ch. 3). This pervasiveness of the politically privileged position of large-scale asset-controllers reinforces the point made earlier that political theorists should give their principal attention to democratic capitalism. Looking elsewhere will not change the major questions as much as is often supposed.

2 Capitalist Democracies as They Might Be

Political theorists can take one of two tacks once they accept that controllers of large-scale productive assets will, must, and ought to have a privileged position in any form of democratic capitalism. They can join with political economists and try to devise forms for the control of productive resources other than private ownership. But, as noted, if they go down this road, it cannot be because such forms of control will obviate the need for democratically elected officials to offer inducements to invest and the political privilege that flows from it. The more promising alternative, however, is to consider whether anything significant can be done with regard to how capitalist democracies now work—proposals that take due account of the privileged position of business but do not allow that privilege to undercut significantly the kind of extensive popular control of authority that is part of democracy's value.

A strategy is needed if we are to discuss in brief compass the broad question of whether a democratically supportable relation between capitalism and democracy is possible. Given that capitalist democracies have in common that business has a privileged position, we can focus on a particular case, a particularly useful one being the United States. It poses in the clearest fashion the question of how to accommodate the privileged position of capital since in this case the privilege is difficult to miss. By contrast, in what might be called party-corporatist regimes the political privilege of capital is partly disguised by the presence of disciplined political parties that make it possible to carry out programs aimed at securing a significant measure of economic equality. Hence the designation "party." The regimes are "corporatist" in that labor is sufficiently organized to enforce a system of peak organization bargaining with business leaders. Moreover, much state policy is shaped by a civil service with a strong sense of its corporate prerogatives. Thus, the politics of these regimes—which are broadly social democratic in orientation—revolve around the interaction of parties, peak organizations, and senior civil servants (Esping-Anderson 1990; Goodin et al. 1999; Schmitter and Lehmbruch 1975). Proposals for reform of the relation between capital and democracy which emerge from the American case will therefore need to be modified to fit these and other broadly democratic political systems.[6]

[6] See footnote 14 below.

A useful starting proposition for analyzing the United States, as well as other democracies, is that the broader the politically expressed interests of capital, the greater the justification for its privileged position. In understanding this proposition for the United States, the political theory of James Madison, one of the founders of the American republic, is particularly useful. While Madison did not see that controllers of large-scale productive assets must have a privileged political position—this came with the advent of advanced capitalism—he did argue that in the new broadly democratic regime, the interests of the propertied must be given special attention. While the political economy that came into being did not, in fact, work in the fashion he hoped for, Madison did see the importance of how the special political position of the propertied might be handled in a political order built on popular sovereignty.[7] Madison also shows us that to think effectively about the position of large-scale asset-controllers, we must think about the design of the whole political economy, what Aristotle called the political regime (Aristotle 1962).

Madison believed that the fully realized commercial republic that he hoped the United States would become could not rest solely on institutional design. He understood himself as presenting a theory of political constitution—and that required not just a design for the framework of government, including how its major political institutions are to work and what will make them work that way. Such a theory, he thought, also needs to specify the sociological foundation of the regime, its basis in the dominant strata of the political community. More generally, Madison understood that a regime is a set of institutions harnessed to the realization of a certain conception of justice—and that conception must at least be consistent with the one held by the powerful political strata of the regime. He himself looked to the propertied class to provide the foundation in self-interest for the regime's operation, in particular by increasing the likelihood that the rights of the citizenry and the permanent interests of the regime would be given due attention.[8]

There were thus to be two principal sources of energy in this new government: non-factional majorities[9] and a propertied class with broad interests.

[7] For an extended discussion of Madison's political theory, see Nedelsky (1990); Banning (1995); McCoy (1989); Elkin (1996, 2001).

[8] For a very useful discussion on this point—a discussion I have learned much from—see Jennifer Nedelsky (1990).

[9] On faction, see below.

Men of property were to be given political advantages—political influence greater than their proportion in the population would call for—in order to increase the odds that they would be a significant portion of those elected to office. It was likely, thought Madison, that they would predominate in those offices filled by indirect election. Additionally, large electoral districts would mean that most of the people widely known in a given electoral district would be major property-holders whose holdings would allow them to engage in a wide variety of civic and political affairs, and whose resources would allow them to take the time to run for office (Farrand 1911, III, 454). Moreover, popular government itself would confer an advantage on the propertied class. Those with economic resources are more able to get their views disseminated; they will be opinion leaders.

Men of property would naturally be drawn to protecting the rights of property, Madison thought, and he believed that property rights were essential to republican government. Without such rights, the commerce that produced the economic prosperity that the new government promised, and on which it rested, would be impossible to achieve. Moreover, if property rights were eviscerated, other rights would soon follow. Additionally, a government that regularly was the scene of intense struggles over property could not long survive, and thus keeping such struggles off the public agenda by making the right to property secure was crucial to the success of republican government. The propertied would also be drawn to the limited government that Madison believed was a fundamental feature of an attractive regime of popular sovereignty since such limits would make it likely that their property rights would be respected. Although Madison was clear that men of property might be drawn to deeply flawed versions of these matters—versions built around their immediate and narrowly defined self-interest—he believed that protection of property rights was necessary for republican government, that limited government was its very essence, and that promotion of commerce was a part of the republican public interest, what he termed the permanent interests of the community.[10] Madison thus believed that there was a providential overlap between the interests of the propertied and the security of a right to property and the permanent interests of the community.

[10] I have elsewhere discussed in some detail the content of the public interest. See Elkin (2001, 2006).

Still, even if the interests of the propertied did, to some degree, overlap with the rights the regime was to secure and the permanent interests of the community it was to serve, the overlap in private and public interests, Madison believed, was unlikely to be sufficient. The same political advantages that the constitutional design gave to the propertied in order to protect property rights and serve the permanent interests of the community could, and plausibly would, be used to serve narrow versions of these. Moreover, the propertied would be in a position to prevent the serving of other rights than to property, and aspects of the permanent interests of the community other than the promotion of commerce. If the political sociology of the regime was to do its job, the regime's institutional design must increase the odds that the interests the propertied promoted were not of the narrowest kind.

There are several features of the Madisonian design that were meant to promote an enlargement of the interests of the propertied. The first is simply elections. After all, men of property in seeking public office would be unlikely to say to voters that politics is a business and they themselves are in it to fatten their bank accounts. The impact of deliberation in law-making that Madison supposed would characterize the new republic would work in much the same fashion. Those who advocate narrow interests would need instead to provide reasons why their concerns should receive attention from their fellow law-makers, and in making such arguments they would inevitably be drawn to a formulation of their interests that emphasizes the broad nature of the benefits to be gained.

This tendency for legislative deliberation to enlarge interests would be reinforced by the separation of powers. The separation is janus-faced: It both inhibits factional government[11] and promotes a broadening of the interests of those at work in the several branches of government. Madison likely supposed that different kinds of property holders would, in seeking political influence, be drawn to the different branches of government depending on the manner of selection that characterizes each of them. If this occurred, then various parts of the propertied class would each have a measure of legal authority, and they would need to find common ground if they were to act in concert. In itself, this would broaden their interests. Moreover, the separation of powers—because it is a representative form of

[11] Following Madison, we may say that a faction is a group of people united by "some common impulse of passion, or of interest adverse" to the rights of the citizenry and the permanent interests of the community (Madison 1987, no. 10).

government—would force disagreements among the propertied to be played out publicly, as the protagonists would seek public support to induce the cooperation of other holders of political authority. The need to address the citizenry would again broaden interests.

How far might this broadening of the interests of the propertied go? Madison certainly thought that the propertied could be induced to rise above indifference to the fate of their propertyless fellow citizens. If they saw clearly, the propertied could not be indifferent in this fashion, nor would they behave factionally, stripping the propertyless of their civil and political rights in an effort to contain them—not if they valued free government, even if it was confined to men like themselves. Democratic government could not withstand such conflict, and the propertied would need to be and could be induced to see that they had a substantial interest in its maintenance.

Madison believed, therefore, that the political advantages given to the propertied would be legitimated by the breadth of their interests. He understood that an essential problem of securing democratic government in the context of a commercial society is that there will inevitably be a division between the propertied and the propertyless. But commerce is valuable. Indeed, a commercial society offered the best hope for the have-nots (Nedelsky 1990). The desideratum was republican government, the essential difficulty was class division. At bottom, the problem was how to get the propertied to serve in a government that would not be an exercise in class rule, while at the same time getting the propertyless to accept a regime that was not constructed with the express intent of alleviating their distress.

3 Broadening the Interests of the Propertied

Madison's approach to the role of the propertied in a political order built around popular sovereignty is part of his general analysis of how to constitute a republican form of government in which the people rule but not as they please. If Madison's design would actually work as described, it would be a very attractive solution to the problem of how, in a regime where the people

are to rule, property rights can be protected, other rights secured, and the permanent interests of the community served. Even if men of property proved to be as self-interested as the ordinary run of human beings, their private interest would be harnessed to securing rights and serving the public interest, and majoritarian electoral controls would constrain any factional behavior on their part. However, there are serious flaws in Madison's political theory that become apparent once we look at how the American political economy has, in fact, come to work. To the political advantages given to the propertied, as Madison argued should be done, has been added the privileged position of business. Together, these have resulted in large-scale controllers of productive assets having a very powerful role indeed in the political life of the society. At the same time, however, the interests of the propertied have remained relatively narrow. The result is a politics of narrow interests with controllers of productive assets at its center, and with little political energy directed to serving larger public interests.[12] Madison's account of how to broaden the interests of the propertied is then deficient, and a principal source of that deficiency is the insufficient attention he paid to how to foster the attentive citizenry his design requires. Two fundamental questions for the political theory of democratic capitalism are therefore: how to broaden these interests and how to foster an attentive citizenry.

There are at least two ways to broaden the interests of the propertied. One is to alter the ownership and control of capital so that the interests pursued by those who control capital through their privileged position will be broader than is now the case. This is an effort to broaden the interests of the propertied directly by altering its composition. The other method is indirect and aims to make effective the Madisonian effort to use the separation of powers to broaden interests.

There have been various proposals to enlarge the ownership of capital through a wider distribution of stock. It has been argued[13] that if a large number of ordinary citizens own significant amounts of stock, they may succeed in pushing business corporations to take a broad view of business interests. Corporations would be more likely than at present to worry, for example, about the impact of their decisions on local communities because ordinary citizens are vulnerable to what large corporations do there, and citizen-owners will take this into account in exercising their authority.

[12] For some evidence, see Lowi (1979) and Elkin (1987).

[13] This is the implication of the original argument for broadening stock ownership by Kelso and Adler (1958).

There are several problems here. First, the extent of stock ownership by ordinary citizens would have to be significant if they are to have any noticeable impact on corporate policy given how corporations are now governed. Widely distributed stock ownership is not now the case in the United States where its extent is very likely greater than elsewhere. Moreover, most ownership of stock in the United States is in small amounts (Wolff 1996), even though Americans have a larger proportion of their wealth in stock compared to other industrial democracies (Bertaut 2002). Second, the argument assumes that ordinary citizens would not have as their primary concern the return on their investment. If they in fact do, they will presumably vote in much the same way as present shareholders do. Perhaps most important of all, it has long been clear that corporations are not run by their shareholders but by their chief executives (Berle and Means 1933). It is their interpretation of their duties to shareholders, their self-interest, and the impact of competition that are the sources of the narrow interests of corporations. Broadening ownership and doing nothing else is unlikely to change significantly any of these.

Another compositional alternative here is to change the character of capital ownership itself in a way that is consistent with the basic principles of a capitalist democracy. The possibilities run from various kinds of publicly constituted investment funds, in which all citizens own stock, to forms of worker ownership. In the first, most investment capital in the economy would be provided by such funds, and business firms would be run by much the same sort of people as at present. In the second, some, or even all, of the business organizations that compose the economy would be owned by those who work within them, and professional managers would typically be hired to run the firms. At the risk of oversimplification, in these schemes ownership is cooperative. That is, each person owns property but can only dispose of it in ways consistent with cooperative ownership. Thus, shares in the funds and firms cannot be bought and sold at will. Worker-owners, for example, may only be able to sell them either to incoming workers or to existing workers; that is, back to the firm (Simon 1991). Similarly, in some versions of investment funds, the shares cannot be converted to cash but only into shares of other funds. These restrictions are meant to ensure that cooperative ownership continues.

It is not possible here to do more than make one essential point about these alternative forms of ownership. In all of them capital is held "privately," that is, not by the state in any of its guises. To this degree, the proposals are

consistent with democratic capitalism. Moreover, such decentralized forms of ownership provide a counterweight to the state as does, it is widely argued, the usual form of private ownership. These alternative forms also provide the independent sources of income that is probably necessary for the individual liberty that democracy promises. Moreover, they all use the market system, and to the degree that the market is central to securing a high degree of economic well-being, they promise the high levels of prosperity that democracy seems to require. In short, these cooperative forms will plausibly provide much the same benefits as the present form of private ownership. Moreover, these forms can and likely would make use of the same large-scale business organization that may also be necessary for high levels of economic well-being.

The fundamental question, however, is whether such forms of widespread ownership would broaden the interests of those who control capital. Robert Dahl, for one, thinks so, at least with regard to worker ownership, and his arguments are difficult to dismiss (Dahl 1985). The case for investment funds is less clear, since those who run them will presumably act as fiduciaries for their citizen-owners, and they are likely to interpret this as meaning that they should focus on increasing the value of the fund's holdings. In short, they are likely to act much like present providers of capital.

As to indirectly broadening the interests of the propertied, Madison, we have said, looked to the effects of the separation of powers. As noted, crucial to the separation of powers doing its work is the presence of an attentive citizenry. This will prompt controllers of different kinds of productive assets to look to a version of their common interests that would be broad enough to attract significant support from such a citizenry. The rise of the administrative state increases the importance of such a citizenry. An attentive citizenry is needed to prompt legislators to engage in oversight of the administrative branch sufficient to prevent components of the business class from successfully serving their particular interests by concentrating their efforts inside this branch (Lowi 1979).

This leaves us with the very difficult question of how an attentive citizenry might be fostered, since few will claim that one is presently at work in most if any existing democracies. Moreover, the engendering of such a citizenry is a substantial and complex undertaking. We cannot here pursue the question very far (Elkin 1999, 2006). But we can point to a piece of the puzzle that does not require any great feats of citizenship from a citizenry that, on the basis of much evidence (Miller and Shanks 1996), is not greatly inclined to be very attentive. The separation of powers can work to broaden the interests of

capital, as Madison hoped it would, if there is a secure and confident middle class. Why is this so?

The principal source of income for the middle class comes not from controlling large-scale productive assets; nor does it come from selling muscle power in the manner of much of the traditional working class. Most members of the middle class will be salaried, and the skills they exchange for a salary are in greater demand than for relatively simple bodily exertion. This position, in between asset-controllers and those who rely on exchanging unskilled labor for a wage, is likely to make the middle class both skeptical of some of the claims of the other classes and sympathetic to others. Thus, a middle class secure in its political views and confident in its political power is likely to argue that a markedly unequal distribution of income in which controllers of productive assets routinely get paid twenty or even thirty times more than the middle class is unjust. They are likely to be at least moderately suspicious of those who do work that bears some relation to their own but that garners vastly greater rewards. Very great political influence on the part of large asset-controllers will likely also make such a middle class uneasy. Many middle-class people are also likely to share the view of America's greatest exponent of the dignity of work and free labor, Abraham Lincoln, that idleness is to be discouraged and high regard given to those who work for a living (Shklar 1995, 81–2). All able-bodied people should work for their keep they will think. After all, most middle-class people do, and they likely believe that their own class status is the consequence of hard work. And, although it does not necessarily follow, many such middle-class people will at least find plausible the idea that reasonably paid work should be widely available. The result of such a policy, many are likely to think, will be to reduce substantially the extent of poverty and thus the number of people who lack the self-respect and proud independence necessary to be democratic citizens. With regard to secure work, the point is likely to be much the same: most middle-class people can understand the importance of economic security since it plays a substantial role in their own well-being. For similar reasons, they are likely to be skeptical of the value of governmental agencies giving great benefactions, that is, favors, to particular business interests. This smacks too much of not playing by the rule that we all ought to work for a living and thus deserve what we get.

The argument might be further embroidered but the essential point has already been made: A secure and confident middle class will seek to build coalitions that, in the context of a separation of powers system, will increase the likelihood that the definition large asset-controllers give of their interests

will, at least, not be hostile to efforts to strengthen democracy, and may well support them. In particular, controllers of such assets will, as a result of the political efforts of such a middle class, at least be likely to acquiesce in policies aimed at securing a modest measure of economic equality and a substantial measure of political equality, both of which democracy requires. If this is so, a key to constituting an attractive form of democratic capitalism is the state of the middle class. This conclusion supports a proposition to which many have been drawn: For there to be a well-ordered democratic capitalism, there must be a well-ordered middle class. It is worth noting here that a strong labor movement will help to foster a secure and confident middle class because many of its members work in occupations that are unionized or that present no overwhelming obstacles to being so, most notably in the public sector (Pierson 1991; Greenberg 1995). How, in turn, to secure such a class looks to be a, perhaps the, crucial question for a political theory of capitalist democracy that meets the minimum standards of popular self-government.

It is worth adding here that, in addition to efforts to broaden the interests of the propertied, we might also look to an institutional design that gives them fewer political advantages than they now possess. In particular, we might look to diluting Madisonian-style advantages. If we can do so, it will matter less to the success of democratic government that the propertied have narrow interests.

4 Conclusion

The problem of the relation between capital and democracy cannot be understood by any of the following simplicities: That capitalists control an ostensibly democratic politics; that controllers of large-scale capital present no special problem for democratic polities since they are part of a pluralist political order; that the problem of the political privilege of those who control large-scale productive assets can be solved by ending private ownership of the means of production; that the task of democrats is to rein in as much as possible the political activities of those who control capital; and that there is little of value that can be done to harness better the political energies of large asset-controllers in democratic political orders. Instead, it is both possible

and necessary to harness the political energy of capital and the key to that is to broaden their interests. Such a broadening, in turn, requires a secure and confident middle class. Otherwise said, the question of the political role of capital is a problem in regime analysis. We will understand more about what is possible and desirable if we think through how a democratic regime can be best constituted.[14] An essential point in this regard is that democratic theorists are mistaken when they argue that the more direct citizen political participation in governing there is the better. As Walter Lippmann argued, that the people will rule has long been settled, at least in the West (Lippmann 1937). The essential question is no longer whether they should rule but how they shall do so. In the case of the control and use of the political energies of capital, the problem for democratic practice is how to organize the rule of the people so that it promotes broad interests on the part of capital. It is unlikely that any sort of increase in the political participation of the people will increase the likelihood of this occuring. In a well-ordered democratic regime, the people must attend to particular matters which it is the task of democratic theory to help define through an account of the political constitution of democracies.

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[14] Note here that the problem in party-corporatist regimes of how to broaden the interests of capital will differ from how this can be done in the United States and in other commercial republican regimes. In party-corporatist regimes, there are at least two reform paths to take: (1) attempt to increase the ability and interest of senior civil servants to resist narrow definitions of the interests of capital; and (2) attempt to increase the likelihood that parties of both the left and the right will believe that significant private ownership of the means of production is acceptable but that big business' conception of how to run such a system should not be taken at face value.

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CHAPTER 44

POLITICAL THEORY AND SOCIAL THEORY

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How should we think about the relationship between political theory and social theory? The account of the division of academic labor set out in the opening chapter of *The New Handbook of Political Science* (Goodin and Klingeman 1996) presents us with the image of an intellectual territory which has come to be occupied by distinct and sometimes overlapping disciplines and sub-disciplines. It suggests that the partitioning of territory between these should itself be regarded as the product both of the expansion of academia and of growing professionalization within it. The number of disciplines and sub-disciplines, and the boundaries between them, are thus seen as developing over time, partly as a result of the growth of the academic profession and the specialization which this makes possible, but partly also as a consequence of new discoveries and theoretical approaches. Following this account, we might be tempted to identify political theory as a sub-discipline of political science that has differentiated itself from

closely related specialisms in the course of a long process of professionalization. What particularly distinguishes it from other sub-disciplines of political science would be less its concern with the clarification of concepts and other methodological issues—which is a feature of most disciplinary endeavors—than the fact that it is the only one to specialize in the examination of normative issues relating to political life. Where the other sub-disciplines focus on explanatory and descriptive issues, political theory deals with the rights and obligations that citizens ought to have, especially, but by no means exclusively, as these relate to the work of government. It addresses these issues in a variety of ways, ranging from the exegesis of canonical texts to the exploration of rational choice analysis, but is primarily concerned with the way politics ought to work, rather than with how it actually does work in known societies.

While it is not difficult to find a place for political theory in such an image of the division of academic labor, the location of social theory is not so clear. Indeed, the term is sometimes used to cover the many kinds of theory to be found in the empirical social sciences, most particularly in sociology and anthropology. What enables us to keep the size of this chapter within reasonable bounds is the existence of a more specific usage. Social theory, in this sense, focuses on the nature of society and/or human sociality. But it would be incorrect to interpret this as a purely explanatory activity in contrast to the normative ambitions of political theory. The founders of modern social thought saw their work as having a directly normative character. Its aim, in August Comte's view, was to place social reform on a strictly scientific footing (Comte 1998). Likewise, Emile Durkheim's (1982) programmatic *The Rules of Sociological Method* presents sociology as a diagnostic discipline, aiming to identify the causes of society's ills and thus to offer appropriate remedies. Where the image of a division of labor outlined above relies on a distinction between normative and empirical expertise, Durkheim's analogy between the sociologist and the medical practitioner ties these forms of expertise together. The task of the sociologist, in his view, is to identify social problems and advise on how they should be addressed; here, the descriptive/explanatory and normative elements of analysis are seen as inseparable. In spite of their differences, however, political and social theory share the one set of historical roots and, partly in consequence, a core set of assumptions. As a result, they can be seen as having much more in common than political theorists, in particular, often suppose.

1 The Separation of Political Theory and Social Theory

The separation of political and social theory (and of political theory from other areas in the study of politics) is a relatively recent development. Few significant figures in the history of political thought, at least until the early part of the twentieth century, have tried to separate their normative arguments from the analysis of society and human sociality in the manner suggested above, and some have explicitly rejected the idea that they can or should be separated. There is a clear normative agenda in all of Marx's work, for example, but he denounced the utopian socialisms of his own time and argued that his socialism had a real foundation in the scientific analysis of society and history. What we now think of as the separate traditions of political theory and social theory were clearly intertwined in the early modern period. John Locke's work on the idea of an original, pre-political human condition provides a good illustration of this point.

A recent paper by John Dunn insists that the account of the state of nature which Locke presents in his *Second Treatise on Government* is neither a hypothesis nor a description. Rather, he claims, it is normative in character: a "theoretical analysis of the fundamental relations of right and duty which obtain between human beings, relations which are logically prior to the particular historical situations in which all actual human beings always in fact find themselves" (Dunn 2001, 33–4). This claim places Locke's "state of nature" firmly in the lineage of twentieth-century contract theory, whose "original condition" has an equally unrealistic, "theoretical" character. Yet it ignores the fact that for Locke and his near contemporaries the state of nature was not a simple theoretical artifice, but was also regarded as empirical truth, and it consequently obscures the broader significance of the early modern idea of a state of nature for the broader development of Western social and political thought.

There are certainly important parts of Locke's *Second Treatise* which support Dunn's interpretation. He describes the law of nature, for example, as teaching "all Mankind, *who will but consult it*, that ... no one ought to harm another in his Life, Health, Liberty, or Possessions" (Locke 1988, #6). This tells us that while the teachings of the law of nature are available to

anyone who cares to look, at least in principle, not everyone will be familiar with them in practice. Locke's account of the law of nature, then, is not intended to be a description of, or a hypothesis about, the laws that were actually recognized by people in the earliest stages of human development, but rather an analysis of the laws that all human beings ought to follow. Indeed, he argues that our rights and obligations under the law of nature follow from the fact that we are "all the Workmanship of one Sovereign Master, sent into the World by his order and about his business, ... made to last during his, not one another's Pleasure" (Locke 1988, 6).

Yet, like other early modern advocates of the idea of a state of nature, Locke is clearly concerned to establish that there was indeed an original condition of freedom and equality. If his account of this condition was to serve as an effective counter to the patriarchalist view that subjection to others is the natural human condition, then it had to work as a description of the true natural condition of humanity. Locke tries to establish the reality of this condition in various ways: through his attack on Filmer's interpretation of the Book of Genesis which dominates the *First Treatise*; through appeals to Greek and Roman sources and the classical myth of a Golden Age; and via the use of evidence from the Americas. Indeed, he sometimes uses recent evidence from the New World to reinforce his claims about the ancient peoples of the Old—for example, in the *First Treatise,* #144. His account of the state of nature, then, is not only normative, but also descriptive/explanatory, in character. His *Two Treatises* provides an early example of the now familiar Western view that the peoples of the West have advanced further than other sections of humanity. This perception remains influential, even today, not only in the treatment by Western states of their indigenous inhabitants and in the broader geopolitical order, but also, as we shall see, in both political and social theory.

The era of the American, French, and Haitian Revolutions, and of the first global conflict between European powers, was also, not surprisingly perhaps, an era of significant developments in Western social thought. In *The Great Transformation: The Political and Economic Origins of our Time*, the economic historian Karl Polanyi argues that one of the most important of these developments was the discovery of society in late eighteenth- and early nineteenth-century England. Debates about the English Poor Law, he tells us:

> shifted the vision of men towards their own collective being as if they had overlooked its presence before. A world was discovered the very existence of which had not been suspected, that of the laws governing a complex society. (Polanyi 1957, 84)

However, Polanyi's own discussion presents us with two rather different understandings of this new reality, both of which emerged around this time. One is the liberal view, which continues to provide the most influential basis for political theory's normative aspirations. The economy is seen here as a field of interaction in which the conduct of individuals is regulated by the real or anticipated actions of others. Its proper functioning thus requires that individuals are free to act in response to signals provided by other economic actors. It operates most effectively, we might say, in the absence of direction from above. In this view, the economy appears as a model for the analysis of social life more generally. Society is seen in liberal thought as a collection of overlapping spheres of interaction—the economy, the family, civil society, politics—each of them regulated by the decisions of the individuals concerned. The role of the state, on this view, is to provide a framework of laws, maintain security, and pick up the pieces on those occasions when something goes wrong.

The other is the view of functionalist sociology, adopted by Polanyi himself, which saw society as a law-governed unity made up of interdependent parts. Each part contributes towards, and is in turn both sustained and constrained by, the larger social whole to which it belongs. It is, in Polanyi's words, "embedded in society." Economic liberalism, in his view, fails to appreciate the interdependence of society's parts, and it therefore promotes a dangerously misleading understanding of society and especially of the place of economic activity within it. This second, sociological view of society was elaborated in the work of August Comte, writing at around the same time as the political economists discussed by Polanyi, and it remains central to contemporary functionalism, without doubt the most influential tradition of modern social theory.

According to the functionalist view, society should be seen as a reality which, in Emile Durkheim's words, is "*sui generis*." It cannot be understood, in the manner suggested by early modern contract theory, as constituted by the individuals who, in one sense, make it up. Talcott Parsons uses the idea of emergent property to make the same point. In his view, societies, like other social systems, have properties which cannot be derived from the nature of their lower-level components. Functionalist social theory suggests not only that people are social beings, and thus that there can be no purely asocial human condition of the kind which appears in early modern accounts of the state of nature, but also that they are constituted by the society to which they belong. Durkheim argues that humans are both biological and social organisms, that our drives come from the one aspect of our being and our moral

and cognitive ideas come from the other. Such a view of the individual as a product of society has always been influential within sociology and anthropology. It has also been disputed, most powerfully perhaps by the methodological individualism of Max Weber, whose view of the individual is, in certain respects, remarkably close to that of liberal political theory. The functionalist view was elaborated further in the work of Talcott Parsons and his associates during the 1950s and 1960s (Parsons 1951; Parsons and Shils 1962), leading many sociologists to respond by endorsing Dennis Wrong's influential complaint that modern sociology had an "oversocialized conception of man" (Wrong 1976).

One can perhaps see functionalism as paradigmatic within twentieth-century social theory, with American sociology and Marxism offering competing accounts of the functioning of the social whole and of how individual subjectivity should be seen as the product of social structure. In one of his most influential papers (Althusser 1971), for example, the French Marxist Louis Althusser argues that subjectivity is an ideological construct, and that ideology functions to interpellate individuals into their structural positions within society. The continuing appeal of methodological individualism nevertheless resulted in recurrent debates concerning the allegedly conflicting roles in social life of "agency" and "structure"—that is, of individual and society—and equally recurrent claims to have resolved the issue: for example, in Talcott Parsons' analysis of the structure of social action (Parsons 1937), Pierre Bourdieu's concept of "habitus" (1977), and Anthony Giddens' theory of structuration (Giddens 1984). The dominance of functionalism has also been disputed by post-structuralism which, while retaining the view of subjectivity as social artifact, rejects many other aspects of functionalism. It sees subjectivity as an artifact of diverse practices and conditions, with no common source or origin; modern individualism, in the Foucaultian view, arises in large part from the proliferation of disciplinary practices (Foucault 1979), and from liberal attempts to govern, as far as possible, through the promotion of suitable forms of individual liberty (Rose 1999).

There are, then, important differences between conventional social theory, with its emphasis on the socialized character of human subjectivity and behavior, and conventional political theory, with its emphasis on the autonomous individual. The latter appears to most social theorists as an artifact either of structural complexity or of discipline, government, and techniques of the self. In neither case is it seen as providing a reliable foundation for social explanation or normative reflection.

2 A Shared Intellectual and Cultural History

However, the differences between contemporary political and social theory are too easily overstated, and the fundamental similarities—arising from their shared intellectual history and rootedness in the same set of cultural assumptions—too easily overlooked. There are two closely-related points to be made in this regard. First, all conventional contemporary political and social theory rests on the "figure of man" as both "an object of knowledge and a subject that knows" (Foucault 1970, 313): the largely unquestioned and unexamined acceptance of the human "individual" as an autonomous, self-directing subject of its own representations and behaviors, and as the locus of agency, reason, and will. In *The Order of Things* Foucault argues that the very possibility of the human sciences is dependent on "an absolutely singular event" (1970, xxii) in the history of European thought. This event is the emergence of the figure of man which, at the start of the nineteenth century "marks the beginning of the modern age" (1970). Foucault's own later discussions (Foucault 1997) of the links between the liberal critique of police and the claim to an abstract and theoretical knowledge of society suggest that his treatment of the figure of man in *The Order of Things* may be too restrictive: the figure of man is not simply an epistemic or cultural construct, but also a *political* one. The reliance of liberal political theory on this figure is obvious. What is perhaps more surprising, given our earlier depiction of social theory as promoting a view of subjectivity as social artifact, is that it is fundamental to social theory as well. Functionalists and methodological individualists may have disputed the relative significance of agency and structure, but both operated with a version of the figure of man, disagreeing only over the impact of social conditions on the individual's interests and values.

Foucault and others—such as the anthropologist Marilyn Strathern (1988)—have shown that the figure of man in turn gives rise to a specific conception of human sociality. That conception involves, in particular, viewing sociality in terms of highly discrete, bounded unities held together by shared values and concepts (including language): states, societies, cultures, nations, civilizations (Helliwell and Hindess 1999). Such unities are central to the work of both political and social theory, where they present increasingly pressing problems for attempts to theorize processes such as globalization,

multiple citizenship, and various forms of population mobility and transnationality which cut across the boundaries between them.

Second, for all the differences between them, both political and social theory normally take for granted some historicist and developmental understanding of humanity. This follows in part from the constitutive role of the figure of man in both, since this readily leads to a view of those states or societies in which individual autonomy is valued as superior to those in which it is not. But the existence of such elitist views of human difference within Western thought long predated the emergence of the figure of man. Aristotle, for example, describes man as being "by nature a political animal," that is, as belonging to a *polis* (Aristotle 1988). Nevertheless, while treating the *polis* as a natural collectivity, he also saw it as a relatively unusual form of human development. Not only, in his view, had much of humanity not advanced beyond the lesser forms of human collectivity, the family or the village, but many of those who had done so belonged to states that were tyrannical and deformed. The view that much of humanity had not advanced beyond the lesser forms of collectivity identified here, the family and the village, effectively treats many of Aristotle's contemporaries as representing an earlier condition of the Greeks themselves. The modern elaboration of this developmental understanding of humanity began with European attempts to come to terms with the peoples encountered in the Americas (Pagden 1982). We have already noted its significance for Locke's political theory, but the same understanding of humanity underlies early modern social and political thought more generally. Social and political theorists have rarely questioned the assumption that states are more advanced than non-state forms of social organization, although the eco-anarchist, Murray Bookchin (Bookchin 2003) is a notable recent exception. Indeed, some have taken this developmental understanding of humanity beyond the confines of the state. If the absence of a single overarching authority is regarded as perhaps the most problematic feature of non-state forms of social organization, then a similar deficiency can be seen in the international system of states. Thus, while disputing much of the detail in Immanuel Kant's projected future of humanity, many political theorists (for example, the contributors to Bohman and Lutz-Bachmann 1997) have nevertheless been attracted by some version of his vision:

> that after many revolutions, with all their transforming effects, the highest purpose of nature, a universal *cosmopolitical existence,* will be at last realised as the matrix within which all the original capacities of the human race may develop. (Kant 1991, 51)

If political theorists have favored state over non-state forms of social organization, they have especially favored states of a recognizably Western kind, tending to regard other states as falling short of the Western norm. We can take John Rawls as a significant contemporary example. His later work (Rawls 1985, 1993) clearly acknowledges that his theory of justice is political, not metaphysical, and that it aims to explicate norms which, in Rawls' view, are already embedded in the major institutions of liberal-democratic societies. There seems to be no suggestion here that these norms are universally valid and that they should therefore be accepted even by those who live in societies of a very different kind. However, his account of the international order in *The Law of Peoples* presents a more disturbing view. The Law of Peoples, he tells us, "is developed within political liberalism" and it must therefore be seen as "an extension of a liberal conception of justice for a domestic regime to a *Society of Peoples*" (Rawls 1999, 55). His discussion proceeds, first, by adapting the idea of a social contract to a "society" whose members are not human individuals but "liberal-democratic peoples," and then by extending the idea of such a society further to include "decent nonliberal peoples" among its members. Finally, Rawls acknowledges that there are peoples in the world who are neither liberal nor decent, but they would not be admitted to membership of his society of peoples and they may well be targets of military or humanitarian intervention by the society of peoples or some of its members. Thus, while his theory of justice might seem to apply only to liberal-democratic societies, it is clear that these societies nevertheless set the standard by which other peoples are to be judged.

Elsewhere in the social sciences, with the partial exception of anthropology, theories of development reign supreme. The idea of a developmental continuum, in which humanity is seen to move from its original asocial condition through the progressive establishment of social institutions, reached its apotheosis in the great eighteenth-century project of conjectural history and the nineteenth-century systems which built upon them. Together with the figure of man, this developmental understanding suggests that the autonomous individual should be seen, not only as the product of a long process of institutional development, but also as the fullest expression of human nature. The idea of an original asocial condition was finally abandoned under the influence of evolutionary ideas, but the social sciences and history have nevertheless generally retained their allegiance to the idea of a developmental continuum. Sociological theory, functionalist or otherwise, routinely distinguishes between the modernity, or even postmodernity, which characterizes

the societies of the West and the condition of other societies which are not so modern. The use of a temporal adjective here to describe differences between contemporaries clearly implies that the latter still inhabit an earlier period and are thus in need of modernization or development. Similarly, anthropological textbooks commonly distinguish between different "types" of society in terms of a developmental framework, with hunter-gatherer peoples treated as the earliest social forms, and industrialist groups as the most recent. Johannes Fabian terms this "the denial of coevalness:" the treatment of some of our contemporaries as if they belong to an earlier time (Fabian 1983).

The view that subjectivity is a social artifact need not entail a developmental perspective, but here too the presumption that Western societies are in some sense ahead of the rest of humanity is commonly taken for granted. Even Foucault's account of the emergence of the figure of man insists that there is a real and substantial difference between Western and other cultures. He describes, for example, Western culture's "fundamental relation to the whole of history" both as one of its distinguishing features and as enabling it "to link itself to other cultures in the mode of pure theory" (Foucault 1970, 376). His discussion here draws on a conception of culture as a self-contained unity which itself results from the emergence of the figure of man, thereby illustrating his own claim that reliance on the figure of man is difficult to avoid. It also draws on the familiar conceit that what particularly distinguishes Western culture from all others is the possession of a scientific rationality, a capacity to relate to the world in the mode of pure theory.

The sophisticated account of the emergence of modern forms of subjectivity laid out in Charles Taylor's *Sources of the Self* (Taylor 1989) offers another telling example. Taylor insists that the view of the human individual as an autonomous agent, endowed with a sense of inwardness, freedom, and individuality, is an invention of the modern West. Non-Western cultures, and earlier cultures in the West itself, have operated with very different understandings of the individual. Yet, rather than simply acknowledge this diversity and then proceed to ask what lessons might be drawn from it, Taylor presents the contemporary Western view as fuller, more complete, than the available alternatives. His argument is thus a qualified defense both of modernity itself and of its claims to be more advanced than other human ways of living.

The publication of Edward Said's *Orientalism* in 1978, and the debates which followed its appearance, had a salutary impact on the treatment of this issue in the humanities. Unfortunately, as the editors of *Orientalism and the Postcolonial Predicament* insist, the social sciences "have been particularly

recalcitrant when it comes to self-reflection on their representational strategies in respect of the non-western world" (Breckenridge and van der Veer 1993, 16). This is one of the most substantial legacies of their joint past which political theory and social theory have yet seriously to confront.

Given these fundamental commonalities between political theory and social theory, it is hardly surprising that much contemporary political theory relies on general accounts of society and sociality similar to those developed by social theorists. Sometimes—too often, in fact—these accounts are implicit or relatively undeveloped. John Rawls describes his analysis of justice as fairness, for example, as founded on two "basic intuitive ideas" which are, in his view, "embedded in the political institutions" of the culturally plural societies of the modern West and in "the public traditions of their interpretation" (Rawls 1985, 225): the idea of society as a fair system of cooperation between free and equal persons, and that of the person as a "citizen, that is, a fully cooperating member of society over a complete life" (1985, 225, 233). Rawls goes on to describe the institutions in which these ideas are embedded as fitting "together into one unified system of social co-operation" (Rawls 1985, 225). His argument thus goes beyond the uncontroversial claim that these ideas permeate the public rhetoric of contemporary Western societies to suggest that they also provide a reliable view of how these societies operate.

In effect, Rawls sees contemporary Western societies as institutionalizing the interrelated ideas of the person as citizen and of the citizens themselves as free and equal individuals. His discussion thus draws on an implicit and, partly for this reason, rather simplistic, version of American sociological functionalism, which understands society precisely as the institutionalization of central values. Moreover, in locating these values in the area of citizenship, he effectively endorses the claim of T. H. Marshall's *Citizenship and Social Class* (1950) that, in spite of the divisive effects of market inequalities, the prosperous Western states of the mid-twentieth century had finally secured an overall equality of citizenship for their inhabitants. Both the image of society as organized around central values and the Marshallian account of the successful realization of citizenship have been widely debated in the sociological literature (e.g. Gouldner 1970; Bulmer and Rees 1996). Rawls' normative analyses take no account of these disputes. Instead, they invoke a contentious description/explanation of contemporary Western societies, and present it as unproblematic.

Or again, the communitarian critique of liberalism draws on a particular view of human sociality to argue that liberalism has an incomplete and, in some respects, seriously misleading view of human individuals and the

interactions that take place between them. Yet, in most cases, the communitarian's own account of sociality shows little of the richness and sophistication of, say, American functionalist sociology or symbolic interactionism. The most notable exception here is the work of Charles Taylor, whose *Sources of the Self* is, for all its limitations, a major contribution to the study of human sociality.

3 Concluding Remarks

In summary, the most significant difference between conventional political theory and conventional social theory concerns the relationship between normative and descriptive/explanatory issues in the analysis of social/political life: most (but not all) political theorists focus on the first set of issues, while social theorists generally believe that the two cannot be separated. Partly for this reason, most social scientists regard political theory as simply a sub-branch of social theory. Whether or not one agrees with this view, our discussion above suggests that political theorists would do well to acknowledge how much is shared between political theory and social theory. This is, in part, a product of their common intellectual history, but it also stems from their shared Western cultural origins, and their consequent basis in the same set of unquestioned assumptions. Both are dominated by the figure of man which, as we have noted, is not simply an epistemic or cultural construct but also a *political* one. Consequently this figure—and the developmental and elitist view of humanity which it promotes—will continue to shape both bodies of thought while the current system of states and societies, and the forms of government which operate within, above, and through them, continue to dominate political and social life.

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PART XI

OLD AND NEW

CHAPTER 45

THEN AND NOW: PARTICIPANT-OBSERVATION IN POLITICAL THEORY

WILLIAM E. CONNOLLY

Political theory was widely held to be a moribund enterprise when I began graduate school at the University of Michigan in the 1960s. Empiricists were pushing a new science of politics, designed to replace the options of "constitutional interpretation," "impressionistic theory," and "traditionalism." They disagreed, of course, on which model would succeed, with public choice theory, systems theory, power theory, communications theory, structural functionalism, decision-making theory, and, most encompassing of all, "behavioralism" constituting the leading alternatives. What these schemas had in common was the promise, first, to offer rigorous explanations with predictive power, second, to anchor these explanations in observable facts in order to resolve differences between contending explanations, and, third, to avoid metaphysical speculation and the murky, "subjective" domain of "value judgments."

Associated with this spirituality was a wider claim, advanced vigorously by Daniel Bell and Seymour Martin Lipset, that ideology had finally come to an

end in advanced industrial states (Bell 1960; Lipset 1960). The "end of ideology" meant the collapse of radical, all-encompassing theories—represented by Marxism, fascism, and Nazism—into the consensus of secular, liberal democracy. It also meant the end of intense political struggles through the turn to a problem oriented social science hewing close to facts on the ground. Government grants supporting research into "developing nations" were becoming lucrative. The government could be trusted to make the needed value judgments in applying this research, and the general populace could be trusted to leave the micromanagement of problems to professionals. There was little sense that the theory of developing nations was itself ideological.

A 1961 essay by Isaiah Berlin entitled "Does Political Theory Still Exist?" conveys the dominant mood of the day among theorists. The little word "still" tells it all. Berlin more or less ceded the field of facts and explanation to scientists, while carving out a place for theory in the domain of belonging and existential meaning. Political theory "differs from political science ... in being concerned with somewhat different fields; namely with such questions as what is specifically human and what is not, and why; whether specific categories, say those of purpose or of belonging to a group or of law, are indispensable to ... the source, scope and validity of certain human goals" (Berlin 1979, 157).

Berlin soon regained his feet. And theorists as diverse as Sheldon Wolin, Leo Strauss, and Eric Voegelin kept the tradition of theory alive during this deadly period. Wolin's book, *Politics and Vision* (1960), indeed, enlivened a whole generation of political theorists. But it took a series of new political events to invigorate the debate between the scientific, value-neutral, professional aspirations of behavioralism and the value-laden, critical, and existentially rooted practices of political theory. By the mid-1960s, growing outrage about the Vietnam War, worries among college students about the draft, the emergence of a civil rights movement, and an emerging feminism altered the culture of the academy.

The end of ideology screeched to a halt. In the academy a series of studies emerged to challenge the fact–value dichotomy, the difference between science and ideology, the "elitist" conception of democracy extant models of explanation, and the public roles of academics (Bachrach 1967; Connolly 1967; Kariel 1966; Kaufman 1968; McCoy and Playford 1967). A particularly impressive challenge was posed by Charles Taylor. If others exposed how "biases" of the social scientist enter into concepts and assumptions, the underlying question was: What do biases matter if test procedures are sound and there is no value import of scientific study? In "Neutrality in

Political Science" (1967), Taylor argued that every explanatory theory—in the language it uses, the constants it assumes, and the variables it recognizes—"secretes" a set of norms and standards of the good society. He showed, for instance, how Seymour Martin Lipset's (1960) own explanatory account of *Political Man* carried preliminary judgments about how to organize the good society, breaking with Marxism, radical democracy, and conservative doctrines in doing so. But what if Lipset himself had refused these implications, supporting, say, Sorelian violence?

> Supposing he just maintained that violence was better than its opposite, not qua stimulus to creativity, or essential element in progress, but just qua violence; [or] that it was better that only the minority be served, not because the minority would be more creative but just because it was the minority? A position of that kind would be unintelligible. We could understand that the man was dedicating himself to the furtherance of such a society, but the use of the words, "good" or "better" would be totally inappropriate here, for there would be no visible grounds for applying them. (Taylor 1967, 111)

Others pursued the related idea that many concepts used in empirical research describe from a normative point of view (Barry 1965; Connolly 1974; Flathman 1966). And some of these are "essentially contestable," exposing a political dimension in the very grammar of these concepts. If power, politics, interests, authority, and freedom were subjected to such scrutiny, terrorism, identity, secularism, sovereignty, and the territorial state would be added to the list now. The neutrality bubble burst. The war was devastating for the Vietnamese, young Americans, the economy, the future of the democratic party, and the staid view of political science. But it invigorated teaching and theory.

Now that political theory had found its feet again, the issue was which variety to adopt. Rawlsian theory captured many (Rawls 1972), particularly in philosophy departments. But by the early 1970s the hermeneutics of Hans Gadamer and Charles Taylor (1971), the critical theory of Marcuse, Adorno, and Horkheimer, and, above all, the new critical theory of Jürgen Habermas were also on the agenda. I recall a meeting of the fledgling Conference for the Study of Political Thought in 1970 when Habermas was introduced in person to American theorists. Fred Dallmayr (1981), if I recall, was one of the few in the audience prepared to engage his work with confidence. The debts of Habermas to Hegel, Marx, and Kant were difficult at that point for many to assess. With the publication of the English translation of *Legitimation Crisis* in 1974, Habermas became perhaps the leading figure invoked in America to

contest Rawlsian liberalism, Straussian conservatism, and the historical contextualism then emerging. Habermas already pursued the counterfactual ideal of a rational consensus. But at this time he also linked this pursuit to "motivation" and "legitimacy" crises in capitalist states that could not be resolved without changing the structural relation between the state and the economy. Here are a few statements that spoke to many, sending us back to Hegel, Marx, Kant, and Adorno for further sustenance:

> We can speak of the "fundamental contradictions" of a social formation when, and only when, its organizational principles necessitate that individuals and groups repeatedly confront one another with claims and intentions that are in the long run incompatible. In class societies this is the case. As long as the incompatibility of the claims and intentions is not recognized by the participants the conflict remains latent.
>
> The definitive limits to procuring legitimation are inflexible normative structures that no longer provide the economic-political system with ideological resources. ... If this rough diagnosis is correct, a legitimation crisis can be avoided in the long run only if the latent structures of advanced capitalist societies are transformed or if the pressure for legitimation ... can be removed.
>
> From this reflection [a critique of decisionism and conventionalism] it follows that we cannot explain the validity claim of norms without recourse to rationally motivated agreement or at least to the conviction that consensus on a recommended norm could be brought about *with reasons*. In that case the model of contracting parties ... is inadequate. The appropriate model is rather the communication community of those affected, who as participants in a practical discourse test the validity claims and ... arrive at the conviction that in the given circumstances the norms are right. (Habermas 1974, 27, 93, 105)

A critique of the capital–state relation anchored in the inability of the state to maintain legitimacy and of corporations to secure worker motivation; a theory of legitimacy grounded in a revised form of Kantian rationalism; and a vision of potential community derived from a conjunction between Marx and Hegel. The theory of legitimacy crisis illuminated the capitalist state, but the irony was that it eventually turned out to be even more applicable to the Soviet Union.

Habermas did not remain at this juncture long, later moving closer to Rawls. And the critical edge that drew many to him lost some of its power to inspire. Many liberals settled further into Rawlsian theory or, later, pursued the virtues of liberal individualism (Flathman 1989; Kateb 1992), with neither group pressing hard on the Rawlsian demand for distributive justice. A communitarian movement emerged in response, with Charles Taylor (1979)

and Alasdair MacIntyre (1981) leading the way. The communitarian challenge that Rawlsians could not ignore, however, was delivered by Michael Sandel in *Liberalism and the Limits of Justice* (1982). Sandel argued that Rawls depended upon a Kantian metaphysic of the person he had not redeemed, and he contended that Rawls' own agenda pressed him to move closer to a communitarian conception of the good:

> Liberalism teaches respect for the distance of self and ends. ... But by seeking to secure this distance too completely, liberalism undermines its own insight. By putting the self beyond the reach of politics ... it misses the pathos of politics and also its most inspiring possibilities ... ; it forgets the possibility that when politics goes well, we can know a good in common that we cannot know alone. (Sandel 1982, 183)

Sandel almost singlehandedly motivated Rawls to redefine his theory in an attempt to remove metaphysical elements from it (Rawls 1992). For many theorists the pressing question became whether liberal individualism was self-sufficient or the ideal of community provided necessary corrections to it.

During the late 1970s and early 1980s some of us thought that the liberal-communitarian debate closed off as many important issues as it opened. Critical theory conveyed that sense in one way. The turn to Foucault (1970) and Derrida (1974) expressed it in another. Committed to the project of "theoretical self-consciousness," in which you enter the thought of reflective adversaries to test the conceptual contours of your own theory, I decided to test my left-Hegelian perspective through an engagement with Foucault's thought. At first things went well for me, as I read *The Order of Things* through a neo-Hegelian lens (Foucault 1970). That lens began to crack, however, when I engaged *Herculin Barbin* (1980), Foucault's collection of early nineteenth-century journalistic, ecclesiastical, juridical, bio-scientific, and popular judgments of Alexina, a youngster whose anatomy did not fit either prescribed category of gender. He joined these accounts to his/her autobiography of a life ending in suicide. In his brief commentary he asked, "Do we *truly* need a *true* sex?" suggesting that the very demand for truth in sexual identity oppressed something in us and engendered intense suffering for many deemed by the regime of truth of the day to be abnormal, perverse, or biologically unfit. I gradually became convinced that I, too, projected profoundly contestable concepts of nature, biology, identity, and ethics into political thought. I started to rethink the shallow ideal of pluralism

bequeathed to political theory by Rawls and to challenge the sufficiency of the debate between those who treated nature as an object of lawful explanation amenable to human use and those who sought a higher design in it to which we can become attuned.

Many theorists remained less taken with Foucault, however. Habermas (1987) charged that Derrida and Foucault promoted neoconservatism and decisionism because they lacked a rational basis for norms. And Charles Taylor (1984) contended that Foucault, by the very nature of his enterprise, could not articulate a positive ideal of freedom, the subject, truth, or politics. In an exchange with Taylor, I proposed another option: An engagement with Foucault might teach us how the subject is "an essentially ambiguous achievement," providing positive modes of action and judgment *and* also pushing many issues outside of critical interrogation through the abnormalities, immoralities, and unfreedoms connected to the positivity of the subject (Connolly 1985). To head this way is to adopt a double entry orientation to democratic politics, expressing preliminary respect for established rights, identities, and entitlements while periodically initiating, or responding with presumptive receptivity to, social movements through which *new* goods, identities, rights, and freedoms might be ushered into being. Some of us now suspected that the demand for a definitive juridical grounding of the subject, legitimacy, morality, rights, and identity obstructed the task of coming to terms with changing conditions under which new identities and rights periodically emerge from fugitive modes of suffering simmering below the gaze of liberal theory. Under the combined influence of Foucault and Nietzsche, I gravitated toward an ethic of cultivation grounded in the first instance in gratitude for the abundance of life over identity rather than a morality of law or contract grounded in a theistic, juridical, or rationalist mode of legitimation. I asked Taylor whether his "opposition to Foucault embodies a residual commitment to ... teleological philosophy" and how "this ontology is to be sustained in the modern age?" (1985, 375).

Taylor responded by reiterating his critique of Foucault on truth, conceding a bit on the question of the subject, and embracing a flexible, teleological ontology:

> But if we mean by this expression that there is a distinction between distorted and authentic self-understanding, that the latter can in a sense be said to flow from a direction in being, I do indeed espouse such a view. And that makes a big part of my "ontology." (Taylor 1985, 384–5)

The ontological dimension of political theory was becoming visible again, even though it appeared in scare quotes. You could now identify at least a four-way debate, between Straussians, liberals, communitarians, and those called "postmodernists" by their adversaries. The latter term is dicey because Foucault and Gilles Deleuze explicitly refused to embrace it, partly because neither eschewed metaphysics (as postmodernists were said to do), and partly because Foucault eventually joined Deleuze in drawing upon an ethic of cultivation indebted to the tradition of Epicurus, Lucretius, Hume, Nietzsche, and James, thereby dissipating the charge of amoralism generally leveled against postmodernists. Indeed, the irony was that Rawls and Habermas were the ones most happy to call themselves "post-metaphysical" during this period (Habermas 1992; Rawls 1992). Others focused on the ineliminability of metaphysics from theory, while seeking to come to terms with its contestable character in a way hospitable to a democratic culture of deep pluralism.

Several American theorists challenged the liberal–communitarian debate, armed in part with ammunition provided by Foucault and/or Derrida (Bennett 1989; Butler 1990; Coles 1997; Connolly 1995; Dumm 1994, 1996; Honig 1993; Johnston 1999; Norton 1988). Butler and Honig made particularly timely interventions. Butler's (1990) study of *Gender Trouble* dropped one stick of dynamite into neo-Kantian liberalism and another into the genital presumptions of feminism in liberalism and critical theory. Drawing from Derrida and Foucault alike, she explored links between performance, identity, and the politics of ontology. She pressed liberals and feminists to look again at how established theories unconsciously marginalize gays and lesbians. Bonnie Honig (1993) challenged Rawls and Sandel together, arguing that Rawls failed to come to terms with "remainders" in his theory and to explore injuries imposed upon minorities by a theory of justice too confident of its own grounding. She contended that Sandel, though much more conscious of the ontological dimension, failed to engage the contestability of his own philosophy. That is, each theory "displaces" politics by deriving it from something not to be brought into question by political means.

During the 1980s and 1990s many political theorists, particularly in feminist theory, drew sustenance from the work of Hannah Arendt. In some cases this opened up dimensions of the Habermasian tradition (Dryzek 1994); in others it created new lines of communication with the thought of Derrida and Foucault (Benhabib 1996; Honig 1993; Kateb 1984; Keenan 2003; Villa 1996; Zerilli 2005). Arendt challenges the Habermasian attempt to ground politics

and ethics in the very structure of language, but she also appreciates public life as the place where the most fundamental dimension of being is disclosed and enacted. Her thought forms potential links to Derridians, Foucauldians, and Deleuzians (1985) in its focus on the open-ended character of enactment, the ambiguity of freedom, and time as becoming in a world that is not entirely given (Arendt 1971). These last two themes are blunted, however, by Arendt's hesitancy to carry them into the center of nature and human biology. If and as Arendt is placed into conversation with the work of Ilya Prigogine, the Nobel Prize-winning inventor of complexity theory, and Brian Goodwin, a leading theorist of complexity in biology, the conversation may take yet another turn (Prigogine 2003; Prigogine and Stengers 1997; Goodwin 1994). Their work, resonating with the biocultural theories of Friedrich Nietzsche, William James (1996), Gilles Deleuze (1994), and Henri Bergson (1998), rejects the primacy of efficient cause in natural science, approaching physical systems and organisms with what might be called a theory of emergent causality (Bennett 2001; Connolly 2002; De Landa 2002; Widder 2002). Prigogine (2003) explores those physical systems (e.g. cells, hurricanes, tornadoes, human body/brain processes, biological evolution, and the evolution of the universe) that contain protean capacities of "self-organization." When triggered by novel forces outside them, they periodically generate modes of organization that transcend efficient causation, escape human powers of prediction, and usher new modes of being into the world. Goodwin opposes genetic reductionism while exploring how living organisms "at the edge of chaos" both preserve their form and periodically evolve from one species to another. If and as Arendtians tap this conception of nature, they may deepen their appreciation of the biocultural character of political life, come to terms with multiple affinities between human beings and the rest of nature, and deepen their conversations with Nietzschean, Foucauldian, Deleuzian, Bergsonian, and Jamesian perspectives in political thought. Recent studies forging connections between figures such as Walter Benjamin, Wittgenstein, Arendt, and Foucault point in this direction (Brown 2004; Flathman 1989; Zerilli 2005). It would not hurt if Rawlsians joined such explorations.

If Arendt, Butler, Rawls, Habermas, Taylor, Derrida, and Foucault played defining roles in American political theory in the 1980s and 1990s, by the 1990s perhaps the most powerful *public* philosophy of the day was informed by Leo Strauss. Public intellectuals indebted to him today include William Bennett, Paul Wolfowitz, and William Kristol. Strauss himself had both

dramatized the fragility of modern civilization and attacked those who sought to expand tolerance, extend cultural pluralism, and legitimize new social movements. It is illuminating to see how the labels given by Straussian publicists to "postmodernists" today echo those Strauss gave to a 1950s liberal named Eric Havelock. Havelock (1957), seeking to draw sustenance for liberalism from ancient Greek thought, dramatized the contingent character of the universe and sought to extend tolerance. Strauss framed him sharply:

> the greatest enemies of civilization in civilized countries are those who squander the heritage ... ; civilization is much less endangered by narrow but loyal preservers than by the shallow and glib futurists, who, being themselves rootless, try to destroy all roots and thus do everything in their power in order bring back the initial chaos and promiscuity. (Strauss 1968, 40–1)
>
> Through that philosophy the humane desire for tolerance is pushed to the extreme where tolerance becomes perverted into abandonment of all standard and hence all discipline.... But absolute tolerance is altogether impossible; the allegedly absolute tolerance turns into ferocious hatred of those who have stated most clearly ... that there are unchangeable standards founded in the nature of man and the nature of things. (Strauss 1968, 63)

Strauss's use of phrases such as "enemies of civilization," "squander," "perverted," "shallow and glib futurists," "rootless," "abandonment of all standards," and "ferocious hatred" to characterize the ideas of Havelock set an agenda through which later Straussian publicists characterize advocates of democratic pluralism and postmodernism.

It may be pertinent to note that deep pluralists today actively support civic virtues and seek to limit the power of those who would curtail diversity in religious faith, household arrangement, ethnic performance, gender practice, sexual affiliation, and artistic styles (Coles 1997). One side in the debate over the essence of civilization (not well represented on electronic news and talk-shows) argues that the acceleration of pace in late-modern life amplifies pressures and possibilities for pluralization that could be blocked only through massive repression; the other advances a vision of moral order that seems to require a pace of life slower than that operative in late-modernity.

As the 1990s unfolded, many political theorists, particularly in the Arendtian, Habermasian, Foucauldian, and Derridian camps, addressed cosmopolitanism and cross-state citizen movements to defend old rights or put new rights on the agenda. These inquiries were motivated by the collapse of the Soviet Union, the contraction of distance by the late-modern acceleration of pace,

the hegemony of world capitalism, the intensification of cross-national religious movements, and a growing awareness in Euro-American states that the "Judaeo-Christian tradition"—a neologism coined in the aftermath of the Nazi Holocaust—covers less than 30 percent of the globe's population. Although the field boundaries between international relations and political theory are still jealously guarded by many, a significant minority now crosses it. From the side of political theory there is Benhabib (2002); Connolly (2002); Dallmayr (2002); Held (2004); Honig (2001); and Tully (1995). From the side of IR theory there is Campbell (1998); Grovogui (1996); Der Derian (2001); Shapiro (1997); and Walker (1993). The consolidation of this nexus may transform the operational categories and assumptions of political theory, producing new studies of sovereignty, territory, cross-state citizen activism, global capitalist processes, and international organization.

There is a related development. Perhaps because of the heightened visibility of radical religious movements within and across states, increasing attention is now paid to the role that ontology, metaphysics, faith, and/or religious traditions play in theory and practice. In the 1960s many theorists either assumed that secularism would gradually shuffle religious faith safely into the private realm or, less often, pursued a state governed by one fundamental religious tradition. In the immediate decades following, many purported to be post-metaphysical (Habermas 1992; Villa 1996), more or less shuffling religion into the category of metaphysics. Supporters of post-secular pluralism today, however, assert that citizens do not really leave faith in the private realm when they enter the public realm. We seek a public ethos that allows citizens to bring chunks of their faith with them into public life when it is relevant to the issue while recoiling back upon their own faith with a degree of relational modesty out of respect for its deep contestability in the eyes of others.

The contestable metaphysic/faiths that infuse political theories themselves are also explored more actively today. One study by Jane Bennett (2001) brings out the incorrigibility of the ontological and spiritual dimensions of theory, as she herself draws upon a Deleuzian spirituality of vital materiality to inform a positive sensibility. Stephen White (2000) presses the issue hard. He once sought to abide by the post-metaphysical strictures of Habermas, but he now concludes that such a call is impossible to sustain. He thus excavates the active role of ontology in several theories, using the occasion to propose criteria to inform the ethos of engagement between them. He doubts whether all contests at this level will be resolved definitively, and he

thinks that the theory enterprise is advanced by rendering this level of debate more explicit.

There is certainly one area where theory has retreated by comparison to its predecessors in the 1960s and 1970s. Concern about extensive economic inequality within capitalist states, and between regions of the world, has not found as active an expression in recent political theory. There are notable exceptions (Benhabib 2002; Brown 1995; Frazer 1997; Held 2004), although it is fair to say that few match the desire for egalitarianism with institutional analyses showing how to promote it. Some theorists who engage this question identify a deep tension between reducing economic inequality and expanding cultural diversity. Another view is that the very institutional ethos needed to sustain pluralism would also carry within it a promising basis from which to build a majority assemblage to reduce inequality in the domains of income, job security, educational opportunity, and retirement prospects (Connolly 1995, 1999). If pluralism and egalitarianism do set conditions of possibility for each other, the political paradox may be that to make progress on either front it is also necessary to have already made some progress on the other. Theorists committed to both egalitarianism and multidimensional pluralism today must come to terms with the distinctive conditions in which contemporary states operate, constrained on one side by the global reach of capital, on another by domestic corporate interests, and on another by evangelical groups prepared to subordinate their own economic grievances to a theocratic agenda. The current hegemony of neoliberal economic theory over left-Keynesianism translates this triangle into a square, as Mark Blyth (2002) has shown so effectively. At the very least, new versions of the issues that Habermas placed high on the agenda in 1974 have moved front and center again.

In taking this romp through the last four and a half decades, I have not only ignored several highways and byways, I have so far bypassed intersections between the debates of each decade and orientations to the history of political thought. However, each time a new movement in contemporary theory emerges, the established canon of historical texts shifts as well; and each time the canon shifts, new issues emerge in need of engagement. In my graduate school, courses in modern political thought were typically Anglo-centered. Hobbes, Locke, Burke, and Mill were on the list. Plato, Aristotle, Rousseau, and Tocqueville were thrown in for good measure. Marx, Kant, and Hegel hovered in the wings. And Lucretius, Spinoza, Diderot, and Nietzsche were outside the canon altogether. All of these latter figures have

since moved front and center. Ten years from now many of us may be ashamed for our failure to engage Chinese, Indian, Arab, and Japanese theory closely. Some theorists are now pressing the rest of us to extend the geopolitical reach of political theory in response to changes in the circumstances of global politics (see Asad 2003; Dallmayr 2002; Euben 1999).

It is also useful to recall that in the 1980s Habermasian and Rawlsian theorists often defined post-structuralist and postmodernist theory to be anti-Enlightenment. To them, "the Enlightenment" meant, roughly, a stream of thought starting with Descartes and Locke and culminating in Kant, with the latter's transcendental deduction of the subject, "apodictic recognition" that morality must take the form of law, understanding of nature through Newtonian laws, and appreciation of aesthetic judgment as the spontaneous accord of the faculties (Coles 1997; Saurette 2005). The limits of this story are exposed, however, when it is recognized that what is being heralded is merely the moderate wing of the Enlightenment. Spinoza initiated a "Radical Enlightenment," a subterranean force far more pervasive in Europe than heretofore acknowledged in most intellectual histories (Israel 2001). Spinoza not only contested (in advance) Kant's concept of reason with an alternative that purported to penetrate deeply into the thing itself, he opposed the "postulate" of a personal God, contested the idea of morality as law with an ethic grounded in intellectual love of the complexity of being, emphasized the importance of affect inside thought, replaced mind/body dualism with a parallelism in which a change in either "attribute" finds some expression in the other, and pursued a democratic pluralism more robust than that advanced by advocates of the moderate Enlightenment. If Habermas and Rawls today can be said to rework the moderate Enlightenment, Deleuze and Foucault can be said to transfigure the radical Enlightenment, with Derrida having a toe in each camp. The attempt to define Deleuze, Foucault, and Derrida as anti-Enlightenment founders, once you discern how the images of body, mind, morality, and public reason invoked to do so reflect the modernization of only one wing of the Enlightenment.

There were other components of the Enlightenment, too, with the multiple parties linked together by life and death struggles against the Church of the day and adopting a more ambivalent orientation to the state. Is it possible to respect this plurality within the Enlightenment while challenging the self-certainty of the two most confident concepts of reason that emerge from it? Deleuze and Habermas may both require critical attention in this respect. Each sometimes acts as if he poses a definitive argument, the first to secure

the necessary counterfactual of the pursuit of a warranted consensus, the second to deliver a transcendental argument in support of a world of immanence, an ethic of cultivation, and rhizomatic pluralism. William James, writing in 1909 (see James 1996), contests both of these tendencies in advance, even while carrying forward the spirit of Enlightenment in his support of democracy and pluralism. He seeks neither to be post-metaphysical nor to present his fundamental stance as grounded in subjective necessity. He proceeds, rather, by subtracting the aura of necessity from the "monist," "rationalist," and "logical empiricist" philosophies he contests. Then, after presenting arguments in support of a "pluralistic universe"—contending that it is populated by actors of multiple types and appreciating the "litter" in it that periodically enables new formations to emerge—he acknowledges the profound contestability of his own philosophy too:

> The only thing I emphatically insist upon is that it [pluralism] is fully coordinate with monism. This world *may* in the last resort, be a block-universe; but on the other hand it *may* be a universe only strung-along, not rounded in or closed. Reality may exist distributively just as it sensibly seems to, after all. On that possibility I do insist. (James 1996, 328)

James adopts what might be called a *bicameral* orientation to public life, first putting his basic philosophy/faith into play and then recoiling back upon it a bit with invitational self-modesty. In a world in which no philosophy or faith to date has established itself so definitively that everyone must bow to it to meet minimal standards of rationality or civilizational decency, a political theory worth its salt will emulate the explicit duplicity of expression found in the work of William James. This is not "relativism"—the view that all theories are equally plausible—although some will be tempted to read it that way. It is theoretical pluralism, with several theories pressing their cases hard and the premises of no single theory attaining (so far, at least) a pinnacle of rationality endowing it with the right to set the standard against which all other theories are measured. Self-conscious practitioners of theory today may, first, concede that they have not to date pulled themselves above the world of partisanship by their own bootstraps; second, seek to enact their theories in political life; and, third, recoil back upon their perspectives with a degree of relational self-modesty. When political theorists purport to seal their own fundaments in certainty, or pretend to float above the metaphysical dimension of thought, or insist that their own faith alone must be recognized if civilization is to survive, the risks of bad faith and ugly politics proliferate.

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CHAPTER 46

EXILE AND RE-ENTRY: POLITICAL THEORY YESTERDAY AND TOMORROW

ARLENE W. SAXONHOUSE

1 Yesterday

In the landmark book *A Preface to Democratic Theory* published in 1956, Robert Dahl takes the "normative" out of theory and replaces it with "empirical." Carefully parsing Madison's *Federalist Paper* #10, Dahl turns that

* The field of political theory is so vast and the current expansion draws on such a wide range of disciplines outside political science that any comprehensive account is impossible. The following is an effort to think about the form of political theory that attends in some fashion to "texts" as the resource from which to build. There is a multitude of other ways of approaching the topic of political theory that I do not address below. One of the issues the world of "political theory tomorrow" will need to confront is that of the "separate tables" that Gabriel Almond applied to the political science profession at large (1988). One question (among many) I do not address below is whether that conversation between the different orientations will ever begin again.

document primarily into a definitional, empirical, predictive piece—and finds it severely lacking for its failure to offer hypotheses that are testable (Dahl 1956, 27). Instead, Madison's supposed hypotheses are dependent on ambiguous phrases such as "the tyranny of the majority" and even "tyranny" itself. "[A]s political science rather than as ideology the Madisonian system is clearly inadequate," Dahl concludes. The explanation of Madison's logical and empirical deficiencies, according to Dahl, lies in Madison's effort to reconcile the conflicting goals of equal rights with the guarantees of liberties for minorities—and privileged minorities at that (Dahl 1956, 31). The ambition of Dahl's book is to replace the ambiguous definitions with precise ones and to offer testable hypotheses that will transform the normative theory of Madison into a theory amenable to the emerging demands of an empirical political science.

In order to accomplish this goal, Dahl must eliminate the normative: "Why are political equality and popular sovereignty desirable? To undertake an exhaustive inquiry into these ethical questions, which demands some theory about the validation of ethical propositions, is beyond my purposes here," he admits (Dahl 1956, 45). The problem of justifying such claims has arisen especially in modern times. "Historically the case for political equality and popular sovereignty has usually been deduced from beliefs in natural rights. But the assumptions that made the idea of natural rights intellectually defensible have tended to dissolve in modern times." The defense of natural rights is dismissed as irrelevant for his endeavor because "such an argument inevitably involves a variety of assumptions that at best are difficult and at worst impossible to prove to the satisfaction of anyone of positivist or skeptical predispositions," presumably one such as himself (Dahl 1956, 45).

Not only do we lack the wherewithal to convince the skeptic of natural rights, but Madison, by articulating preferred political structures, expressed preferences that depend on predictions about the behaviors of a people within the political regime. And yet, Dahl argues, Madison has not given us the tools to test those predictions. All he has done is give us a logical system which "tells us nothing about the real world," leaving us unable to assess whether we would indeed prefer a populist to a Madisonian democracy "in the real world" (Dahl 1956, 47). This failure to address the "real world" is a concern that repeatedly motivates Dahl throughout his *Preface*. He himself explores an alternative to Madisonian democracy with a study of the theory of populist democracy, but concludes: "[T]he theory of populist democracy is not an empirical system. It consists only of logical relations among ethical

postulates. It tells us nothing about the real world. From it we can predict no behavior whatsoever" (Dahl 1956, 51). The question to address is instead whether some specific proposal would lead or not lead to some specific goal without excessive cost to other goals. And in order to answer that question, "one must go outside the theory of populist democracy to empirical political science" (Dahl 1956, 52) and escape from "the counsel of perfection" and the "operationally meaningless" (Dahl 1956, 57).

With this call for a turn to the "operationally meaningful," political theory as it had previously been practiced, as the study of canonical texts of political thought, was exiled to the undistinguished category of "intellectual history" or tossed into the bin of irrelevancy. It became the unwanted and awkward family member in departments of political science, tolerated, perhaps because of sentiment, but not to be taken too seriously. Plato and Aristotle may still have surfaced on occasion, but they were innocents in a world that knew better than to accept political normativity when statistical analyses might provide the "empirical," "real world," "operationally meaningful" answers. Hobbes may have endured, he who worshipped at the altar of Galileo and geometry. And Machiavelli. He could be translated into the scientist who looked at men as they are and not as they ought to be. Machiavelli's advice to princes could be reduced to "maxims" and with his abandonment of the "oughts," he could be assimilated to a practice that was scientific. Yet, the hierarchy was clear. The present trumped the past and political science with the goal of predictions looked to the future.

And then the explosions of the 1960s and 1970s occurred, both within the academy and in the world beyond, unsettling the satisfaction with the new model of political and democratic theory, bringing the practice of political theory back into the ken of political science. It returned, though, in a quite different form than, for example, the simple effort to retell the slightly differing stories of the social contract according to Hobbes, Locke, and Rousseau that had marked the earlier attention to the canonical authors.

1.1 Inside

Within the academy, Leo Strauss and his followers did not accept politely the appropriation of political science by the empiricists and the operationally minded such as Dahl. In a dense book entitled *Essays on the Scientific Study of*

Politics edited by Herbert Storing and appearing in 1962, vituperative language flooded the discourse of the students of Strauss who took on one sub-field of political science after another in an effort to demonstrate the shallowness of what political science had become. The volume concluded with an (in)famous salvo from Strauss himself and the battle lines between the two parts of the discipline were firmly drawn. Strauss, in his "Epilogue," had defended the "old political science" against the new political science. The new political science studied the "sub-political" in an effort to find what was "susceptible of being analyzed." The concern with the observable "sub-political" came at the expense, however, of "genuine wholes" such as the common good. Thus, the new practitioners dominating the discipline, for instance, had chosen to replace the public interest with the interest group (Strauss 1962, 322–3). But the greatest insult to the new political science came at the very end of his essay when Strauss wrote: "Only a great fool would call the new political science diabolical: it has no attributes peculiar to fallen angels.... Nor is it Neronian. Nevertheless one may say of it that it fiddles while Rome burns. It is excused by two facts: it does not know that it fiddles, and it does not know that Rome burns" (Strauss 1962, 327).

The gauntlet had been thrown down by Strauss, but the challenge was never officially accepted by the profession of political science. It was instead, curiously, political theorists (not the operationally minded empiricists themselves) who picked up the gauntlet and came to the defense of political science. Gentleness had not been a treasured virtue in the attack on the new political science, nor was it practiced by those theorists who responded in kind to the book of essays with an extensive book review in the March 1963 *American Political Science Review*. While similarly critical of the "political science," which was exiling political theory from its central perch in the study of politics, John Schaar and Sheldon Wolin attacked the set of essays in the Storing volume for its Manichean view of the world. "So many are the charges, and so grave," they write about the essays in the Storing volume, "that the new scientists take on a stature of near-satanic grandeur: all that is lacking is a Milton to immortalize it" (Schaar and Wolin 1963, 127). More seriously, Schaar and Wolin attack the attackers of the new political science for basing at least some of their criticisms of the new political science on the atheism of the new approach to politics. The introduction of religion into the debates about the practices of the new political science threatened, they argued, the world of political philosophy; the language of orthodoxy undermined the legitimacy of their arguments and made them more threatening

than the discipline they were criticizing. Their efforts would feed, Schaar and Wolin worried, an intellectual fervor that would allow for "teachers who believe that scholarly scruples may be suspended when combating evil." The tone of the Storing volume, they claimed, was such that it would undermine the detachment necessary for "serious thinkers" in "troubling" times (Schaar and Wolin 1963, 150).

The book and the review created a schism among political theorists who were left to squabble among themselves in their isolation from the discipline at large and to create their own Manichean divisions between Straussians and non-Straussians. Meanwhile, the discipline at large began a practice of benign neglect for their increasingly marginal sub-field, ignoring both the accusations that had been made against them and the proffered defense. The early practitioners of the behavioral movement may have written books on political theory and on the canonical authors with titles such as *History of Sovereignty since Rousseau*[1] at the same time that they encouraged their colleagues and students to collect the statistical data that would provide the "numbers and measurements ... related to the significant hypotheses and patterns."[2] Yet, the incursion of positivism into the practice of a political science eager to provide the data for political and social reform exacerbated the schism that left political theory a poor cousin in the discipline. Political theory was denigrated and shunted aside for the glory of the new methods of analysis, ones that opened up new vistas of politics unstudied and even inaccessible before—public opinion, socialization, voting patterns.

Although the political scientists at the dawn of the behavioral movement, such as Charles Merriam, may have looked to Aristotle as a proto-social scientist, "scour[ing] all of the countries of the world for political information to be placed at his disposal" (quoted in Karl 1974, 118), and some residual attachments may have kept Plato and Rousseau within the ken of political scientists, they paled in importance in a field that had the new quantitative

[1] Charles Merriam is often seen as the founder of behavioralism. His doctoral thesis was *History of the Theory of Sovereignty since Rousseau* (1900) and his first book was *A History of American Political Theories* (1920), and he left such work only under the pressure of his mentor William A. Dunning to turn his attention to comparative constitutional law. Merriam had wanted to "do further studies in political theory, to become, as he had implied, the first American Tocqueville or Bryce" (Karl 1974, 46–8).

[2] Merriam (1926, 7). In this APSA Presidential Address Merriam also comments, in his remarks on the "striking advances in research during the last twenty-one years [since APSA's founding in 1903]," noting in particular: "Political theory has been embellished by the scholarly treatises of our distinguished presidents, Dunning, Willoughby, Garner and many other fields, both historical and analytical" (Merriam 1926, 1–2).

techniques ready at hand to investigate the actual practice of political activities. Plato's *Republic* offers the parable of the boat where the philosopher stands at the stern of the boat gazing at the stars while the politicians vie with one another for control of the boat. The political theorist was treated like the star-gazer on Socrates' boat, of little immediate help to captain or to the sailors, worried about distant inaccessible places rather than the boat on which he or she was sailing. And mostly the stars at which the theorist gazed were the books of the great theorists of the past, texts that had long outlived their usefulness. Although the rhetoric of fiddling while Rome burned had been Strauss' way of attacking the social scientist of the 1950s and 1960s, the insult was regularly reversed and turned against the political theorists enamored of an intellectual history that had little to say to the challenges emerging in the contemporary world.

I certainly do not want to reject this study of the great texts of political theory and side with the political scientists who were so eager to cast the study of such works out of their disciplinary boundaries and, as my conclusion will emphasize, I believe political theorists have put aside too readily the practice of reading the great texts with sufficient care in order to study them as the expression of the historical contexts in which they were written,[3] but during the period of the 1950s and 1960s the study of these texts (with obvious significant exceptions) did focus on reporting what was said and "getting it right." George Sabine at that time ruled the field of political theory with his *History of Political Theory*. His 1937 volume reached the fourth revised edition in 1973. The preface to the first edition explains his agenda with the affirmation that "political theories are themselves part of politics ... produced as a normal part of the social *milieu* in which politics itself has its being" (Sabine 1937, vii). His textbook style, he tells us, builds on the presupposition that "political theory can hardly be said to be true. It contains among its elements certain judgments of fact or estimates of probability, which time proves perhaps to be objectively right or wrong ... it includes valuations and predilections, personal or collective, which distort the perception of fact, the estimate of probability" (Sabine 1937, vii). Such an understanding of the task of a history of political theory fit comfortably into the emerging vision of the discipline's direction and if one had to study political theory as a traditional part of the discipline this would be the acceptable approach.[4]

[3] I offer a critique of the so-called "Cambridge" School in Saxonhouse (1993).

[4] A startling moment occurred while teaching a small graduate course in 2002: A casual reference to Sabine evoked numerous nods around the seminar table. Since I had assumed that Sabine's *History*

Political theory was simply the story of what *men* in the past had thought about politics—and what they thought was largely wrong or responsible for the misguided politics of the contemporary Western world.

Wolin's *Politics and Vision* came out in 1960 as a sort of replacement for Sabine's standard recordings of past political thought, but never did manage to replace it.[5] Indeed, the revised edition of Wolin's history has only just appeared in 2004 under a university press imprint, Princeton, not the original trade publisher aiming for the large classroom adoption of the original version. Wolin offered the original edition of the book on "a belief that [the historical approach] represents the best method for understanding the preoccupations of political philosophy and its character as an intellectual enterprise [and] ... that an historical perspective is more effective in exposing the nature of our present predicaments; if it is not the source of political wisdom, it is at least the precondition" (Wolin 1960, v).[6] The 1950s and the 1960s in America saw the marginalization of political theory and only those scholars who explicated the arguments of the classical authors as supplements to the new science of politics like Sabine managed to flourish in its midst—or at least sell books. Strauss' essay and the entire volume in which it was included had been a shrill and readily dismissed response to that exclusion. Political

had been buried long ago, I expressed my surprise at the wide familiarity with his work among the students in the class. The explanation lay in the number of foreign students in the class: One each from Japan, India, Argentina, and Finland, and two from Turkey. Their teachers, having studied in US graduate schools in the 1960s and 1970s, had brought Sabine back to their respective countries.

[5] Ebenstein of Princeton offered a text entitled *Great Political Thinkers* in 1951 which preferred the technique of including selections from the original sources rather than "commentary and critical analysis," but he presented these selections as "providing aesthetic pleasure and enjoyment as well as intellectual challenge and stimulation" (Ebenstein 1951, ix.) This modest claim posed no threat to the political science profession and by 1960 when Wolin's book appeared, there had already been three editions of Ebenstein's work—no doubt to give aesthetic relief to the political scientists staring at their numbers. Much later, in 1978, the two volumes of Skinner's *The Foundations of Modern Political Thought* appeared, harking back to Sabine (probably not consciously) but with the stated agenda of "offer[ing] an outline account of the principal texts of late medieval and early modern political thought." Skinner then lists the authors he will treat. He adds to this goal the hope of "exemplify[ing] a particular way of approaching the study and interpretation of historical texts," but the primary goal is to offer "a more realistic picture of how political thinking in all its various forms was in fact conducted in earlier periods" and "to give us a history of political theory with a genuinely historical character" (1978, ix–xi).

[6] Wolin is neither replicating the approach of Sabine nor foreshadowing the so-called Cambridge School and the focus on contextual intellectual history as the grounds for understanding the texts. Wolin's historical approach entails chronology, but it is a chronology that allows for exploring the depth of analysis that each author studied offers. The ideas are the stars of his work and the insights they give surface as response to and not as caused by their own milieus. As he says, they are the preconditions of wisdom, if not wisdom itself. Such language is unimaginable in Sabine or in Skinner's two-volume work.

theorists taking seriously the texts of those political theorists who had written in the past, who turned to them for engagement with the normative questions they raised, worked in isolation, exiles from the discipline that had itself originated in the study of the canonical texts.[7]

1.2 Outside

Events outside the academy, however, did not allow for a long period of benign neglect towards the theorists as the useless star-gazers only looking backwards to the greats of the past. Nor did those events allow for the self-destruction of the sub-field of political theory either through internecine fighting or through co-optation by a discipline that wanted to see "theories of politics themselves" as no more than (in Sabine's words) "part of politics" (1937, vii). The Vietnam War shook the nation in many ways and raised for students, academics, and the wider population a host of questions about legitimate political actions, about political obligation, about the justice of a war against a people seeking self-determination. The civil rights movement likewise demanded the questioning of the legitimacy of a political system that could pass laws that violated the principles of equality and humanity, a regime that enforced what were perceived as "unjust laws." The women's movement questioned the identification of politics with the masculine, questioned the demarcation between public and private, questioned the unspoken sources of oppression that were suddenly being recognized.

What were the grounds of civil disobedience or resistance? What was the source of obligation—and to whom and what was one obliged? And what was justice anyway? Such questions were manifestly not operational. The glorious new empirical and statistical techniques developed in the effort to study politics as it was practiced "in the real world" would not help us know which practices and which laws were just, when disobedience was legitimate. Political science with its abstraction from the normative in the interest of gaining precise knowledge unaffected by philosophical and moral questions was not the resource to which one could turn when these questions suddenly crashed down upon us.

[7] Gunnell (1979, ch. 1) makes this point and discusses in greater detail some of the claims made in the above section.

Now it became clearer again how political theory—even a political theory that engaged with ancient texts like Plato's *Crito*, or Sophocles' *Antigone*, or Thucydides' *History*, or Hobbes' *Leviathan*—responded to the need to assess our roles in a world of turmoil. Aristotle and Rousseau were there to remind us that our humanity drew sustenance from political participation. On another level, Nietzsche was enlightening us about the challenges and demands of political judgment in a new world without God. The feminist movement and consciousness raising posed challenges to the narrow fields of academic study that unconsciously defined politics as masculine and to the academy's exclusionary policies. The central books of Plato's *Republic* that imagined gender equality in the public world of political power took on a new resonance and John Stuart Mill, it was recalled, was the author not only of *On Liberty*, but also of *On the Subjection of Women*. The demands for the broader wisdom to be gleaned from these texts resurfaced amid the worry about the limits and effects of a "pure science" that aimed at "value-neutrality."

The normative texts so unceremoniously ignored and sometimes banished a decade and a half earlier reappeared and while the study of political theory may not have returned to its place at the center of the discipline, the doorways seemed to open again. While the exiles may not exactly have enjoyed a triumphal return, at least they were acknowledged and no one could simply dismiss with the Dahl of 1956 the questions of political theory as operationally meaningless—not even Dahl himself. Dahl in 1970, responding to the events outside the academy, acknowledged the "demand for greater democracy," remarking that "the ideas behind this demand assert that power can be legitimate—and be considered an acceptable authority—only if it issues from fully democratic processes. By so insisting, these views compel us to reconsider the foundations of authority" (Dahl 1970, 7). Non-operationalizable concepts now demand the attention of all. No one could ignore the normative implications of one's methods, of the topics which one might choose to study, or even the sources of the funding for those studies and how such sources might influence one's findings.

1.3 Inside and Outside

Although Leo Strauss had hurled the notorious attack against the new political science, the essay in which that attack appeared was largely an isolated adventure in his large corpus of books and articles, most of which

offered close textual analyses of classical works of political theory broadly conceived.[8] His subsequent writings did not center on the debates with the discipline within which he was institutionally embedded nor did he let the reaction to his brief engagement in this controversy dominate his intellectual energies. There were other far more pressing issues on his agenda, ones that had arisen from his own experiences not with the range of political scientists at the institutions at which he taught, but with the world-shattering traumas of mid-century Europe. He, along with Hannah Arendt and Judith Shklar, constitute what I would consider the trio of "greats" for my generation of political theorists who were trained in the mid-1960s. (My own "east coast" (Yale) training means that Sheldon Wolin—so important to those who studied at Berkeley in the 1960s—did not come onto my own radar screen until much later and initially as the author of the book review discussed above.) Apart from Strauss' epilogue, these authors largely chose *not* to embroil themselves in the disciplinary debates about the practice of political science, new or old, but sought to address the causes of the traumas and the anguish brought forth by the emergence of fascism that each of them had experienced in personal ways. They questioned the positivism of the discipline that claimed for itself the moniker of "scientific" and they did so from their background in continental philosophy, for Arendt and Strauss, especially from the perspective of the phenomenological thought that they had imbibed in their university educations in Germany.

Their critiques were offered in the context of what they had experienced in the political worlds from which they came and with a view towards how the positivism of American political science could be understood as an intellectual parent to the horrors they themselves had observed. Each had fled the Holocaust of the Second World War and each had experienced the political atmosphere that had engendered the massive upheavals of that political and social crisis. The issues that they addressed in trying to understand those conflagrations dominated any minor disciplinary debates, except insofar as the discipline's practices could be understood as potentially complicit in the failure to resist the forces of totalitarianism. When Arendt responded to the reliance on statistics, her concerns arose from statistics' capacity to reduce the individual to a unit without individuality, a reduction that similarly characterized the effects of totalitarianism on each discrete human being.

[8] Strauss, of course, vastly expanded the content of the "canon" and studied numerous authors who would never have appeared in Sabine or Ebenstein or even Wolin: Aristophanes, Xenophon, the Arabic and Jewish writers of the Middle Ages. See, for example, Strauss (1948, 1952, 1966, 1995).

In Strauss' condemnation of political science's reduction of politics to the "sub-political" in his essay, there was the worry about the loss of a conception of the "good" of the "whole," the loss of a standard against which the actions of a regime could be judged, the loss of our ability to identify the profound evil of the regimes that fostered fascism. By looking at the sub-political, we would no longer recognize Machiavelli as the teacher of evil (Strauss 1958), we would no longer recognize Hitler as a monster. Shklar in her defense of liberalism manifested the fear that the very principles of liberalism could turn into the dogmatism of totalitarianism and offered her version of a liberalism that might serve as the antidote to that haunting potential.

The writings of this trio and their engagement with the texts of political theory demonstrated an engagement with the "real world" that had drawn the early Dahl away from the normative political theory of the discipline. Theirs had been a "real world" that had violated all principles of humanity and nobility. In their assessment, it was not they who were the star-gazers. It was the empiricists, ignoring the world in which they lived in their efforts to reduce that world to the operational, to the object of statistical analyses. The challenge this trio confronted forced them to turn to the great texts of political theory. Looking for the sources of political chaos in the ways in which we think about politics, they found in those texts the resources they saw as necessary to prevent future conflagrations. The devastated world from which they came gave birth to the richness of their thought. It was a richness, however, that blended experience and the distance from experience that engagement with the classical texts allowed. Strauss without Plato and Aristotle, Shklar without Rousseau and Montaigne, Arendt without St Augustine and Kant are difficult to imagine.

The last thing one wants is to have to experience and endure the catastrophes of the mid-twentieth century again, although each generation has its own crises. For the twenty-first century, perhaps, it will be the consequences of the waning of sovereignty and the new forms of tyranny that such developments allow or genocides born of apathy. But whatever the new crises may be, the lesson learned from this trio is the passion they brought to their theorizing about politics, a passion born of the massive political challenges they confronted. Their theoretical contributions—as varied as they most certainly are—emerge from their constructive engagement with the texts of political theory. Each reads the political theorists of the past in profoundly different ways, but they do not do so as Sabine did, simply to know what was said, written, thought in the past. They do so to learn from

these works as teachers of questions, perspectives, truths that we tend forget in the immediacy of our particular political moments. The trio of theorists in their engagements with the texts did not retreat into the ivory tower covered with the proverbial ivy, although that may have been precisely where they spent much of their American lives. Those towers and walls and the texts they confronted in those sanctums gave them the resources to address the enormity of what they themselves had experienced in the "real world"—not to hide from it. The texts—the stars at which they gazed—enabled them to speak to us across time and space about the immediate burdens placed on us by our political worlds.

2 Tomorrow

Self-flagellation among political theorists is an all too common practice today. We hear that political theorists are too abstracted from the world in which they live (Smith 2004; Isaac 1995;[9] Gunnell 2000). I reject this claim. Looking back to the work and achievements of Strauss, Arendt, and Shklar, I want to defend a reading of texts as a practice of political theory that—despite all the questions floating over from literary circles concerning the status of "a text"—continues as a vibrant method employed by a wide range of practitioners in the field and as one that should continue "tomorrow." There has certainly been a much needed explosion in what has come to be considered a legitimate text worthy of study in the moves to expand the canon not only from the limited boundaries of white European males but from the genre limits to which a Sabine or Ebenstein (1951; see footnote 4) might constrain it (see Saxonhouse 1993).

Rogers Smith in a recent essay suggests that there may be value in asking experts on assorted canonical authors to help us "think about how persons with the assumptions and normative commitments of those authors might perceive and appraise contemporary issues." He imagines a return to Adam Smith for insights into how someone thinking along the lines of A. Smith

[9] The reference here includes the entire symposium with Jeffrey Isaac's initial essay and the responses by William Connolly, Kirstie McClure, Elizabeth Kiss, Michael Gillespie, and Seyla Benhabib in the pages immediately following Isaac's essay.

might assess the issues of campaign reform, but warns that such efforts require that the political theorist know Adam Smith's thought thoroughly as well as be "really informed about the empirical realities and current debates on campaign finance reform" (R. Smith 2004, 84). Such recourse to the canonical authors could, I fear, lead to assorted humorous results. Would it be helpful to think about what someone with Plato's predilections might say about stem cell research or with Thucydides' perspective about the American invasion of Iraq? Not really. Worst would be the flattening of the texts to be basically just a "perspective" or way of looking at problems, rather than the resources with which we come to address the profound challenges of modern society.

I would, in contrast, argue that grappling with Plato's theory of knowledge might enable us to discuss stem cell research with a full awareness of the normative issues that lie behind the daunting problems posed by that new line of research. Careful study of the role of the Platonic forms might enable us to understand what is involved in identifying the category of "human." This is far more serious than just using Plato to give us a "perspective." Or Plato's *Gorgias* forces upon a reader the need to think about the challenging issues of technological responsibility and the consequences of the expansion of skills without a normative framework within which to assess their impact. Or, Thucydides' presentation of the causes and consequences of war forces upon us a normative engagement with acts of aggression and restraint, of the self-destructive consequences of efforts at conquering others. Thucydides wrote a work that he claimed was to be "a possession forever," not a work that would offer a "perspective." His *History* is the possession he imagined and our challenge and opportunity lies in recognizing in it the resources to understand and evaluate the activities of states today.

The classic texts now to be understood in the broadest sense, from the plays of Aeschylus and Shakespeare to the novels of Austen and Forster to the poems of Whitman and Elliot, enable us to address our own experiences of the "real world." The texts give us the tools to analyze and reflect on that world.[10] They need not remove us or isolate us from it as shown by Shklar,

[10] The expansion of the texts, for sure, has had a salutary effect on the field, bringing in a whole range of valuable resources that had been previously excluded by the narrow definitions of politics. Here, most recently, one can think of the success of the Politics and Literature Organized Section of the American Political Science Association or of the multi-volume project of Jewish Political Thought being shepherded by Michael Walzer and to be published by Yale. But the expansion of works has also led to a somewhat worrisome democratization of the field where *all* texts become worthy and we find thrilling best-sellers and grade B date movies sitting on the syllabi next to Plato and Hobbes. Some best-

Strauss, and Arendt, but they will if we study them as the mere products of the times in which they were written, as a "part of politics," as offering only "perspectives." The early Dahl in his fear of the unoperationalizable normative statements wanted to replace the concerns of worth and value with the certainties of predictions. But the exclusion of the normative and the texts that guide us in the pursuit of that understanding of worth keeps us mired in a world that we cannot understand, however much we can predict. And the failure to understand portends the failure to address the threats that my trio warn us about. When the close readings of texts just repeat the same, quite general, lessons for contemporary politics over and over leading to "repetitive conclusions" (Smith 2004, 80), they do not serve that goal. But that some practitioners of the art fail to achieve the standards of a Strauss or a Shklar should not surprise us nor damn the process. It should only point to how high the standard is for those of us who want more from the practice of political science than accurate predictions. Each member of my trio in his or her distinctive way employed very different resources from the body of political theorizing, but this did not mean that their fundamental agendas of preventing the grossest crimes against humanity from recurring differed. Nor need—or indeed should—ours.

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sellers deserve the critical attention of our field as do some movies (I personally wish every student were required to watch *Breaker Morant* from 1979), but separating out those texts that can become the resources from which we can build our ability to address with intelligence and surety potential political crises is a serious challenge. The choices need to be made so that we do not ignore the potentially helpful works previously unexplored from the perspective of political theory. Yet, having expanded the sphere, we are left with the difficulty of limiting it as well, of establishing an Aristotelian capacity for judgment that can guide us in identifying the criteria necessary to make the choices about which texts in the broadest sense of the word become part of the discourse as aids in our confrontations with the "real world." Such judgments will certainly confront the next generation of political theorists who will take the model of political theorizing offered by my trio seriously.

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