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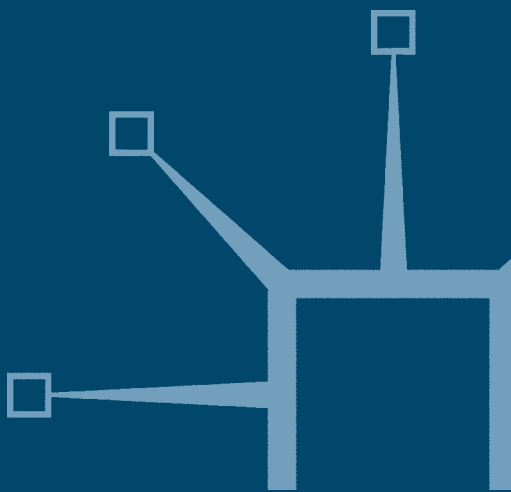
New Waves in Political Philosophy

Edited by

Boudewijn de Bruin and Christopher F. Zurn



New Waves in Political Philosophy

New Waves in Philosophy

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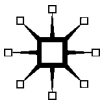

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Foreword to *The New Waves in Philosophy* Series

The aim of the series *The New Waves in Philosophy* is to gather the young and up-and-coming scholars in philosophy to give their view of the subject now and in the years to come, and to serve a documentary purpose, that is, "this is what they said then, and this is what happened." It will also provide a snap-shot of cutting-edge research that will be of vital interest to researchers and students working in all subject areas of philosophy. The goal of the series is to have a *New Waves* volume in every one of the main areas of philosophy. We would like to thank Palgrave Macmillan for taking on the entire *The New Waves in Philosophy* series.

VINCENT F. HENDRICKS
DUNCAN PRITCHARD
(*Series editors*)

Introduction

Part of the established *New Waves in Philosophy* series, this collection of essays breaks new ground by providing an unparalleled snapshot of new work in political philosophy. The book brings together up-and-coming scholars from across the globe using such diverse methodologies as critical theory and social choice theory, historical analysis and conceptual analysis. The volume demonstrates the vibrancy of contemporary political theorizing not only when treating perennial topics – democracy, equality, legitimacy, liberty, patriotism, political freedom, rationality – but also when revivifying topics briefly out of favor – human needs, ideology, judgment, political aesthetics – and tackling topics more recently put on the agenda – citizenship, collective agency, cultural contexts, feminism, identity, multiculturalism, social suffering, subjectivity.

To present readers with a broad cross-section of what is timely, original, and innovative in political thought, we reviewed the dossiers of some 200 political philosophers and political theorists who had received their PhDs in 1996 or after, read publications of a quarter of those, and developed an invitee list meant to represent the breadth and heterogeneity of contemporary research. The resulting eleven papers demonstrate, we believe, the excitement and ferment in the field across the world, as well as the quality of its practitioners.

Amy Allen's "Feminism and the Subject of Politics" investigates the question of whether the notions of gendered subjectivity and subjection are still, after twenty-five years of intense focus, an important set of topics for feminist political theory. After all, the slogan "the personal is political" might be understood as a regrettable retreat from distinctly political issues of power, the public, and collective action, rather than as a revelatory realization of the potency of self-transformation through heightened consciousness. Taking her cue from a recent provocative thesis that feminist political thought ought to avoid the problem of the subject altogether, Allen argues that such a leave-taking is neither conceptually possible nor normatively advisable for a feminism defined by the aim to understand, critique, and transform relations of subordination based on gender. In particular, Allen argues that feminists have developed powerful tools for understanding subject formation and gendered subjection by reinterpreting Foucault's insights into disciplinary forms of power. Yet she also contends that an adequate understanding of the political must go beyond a focus on individual subject formation to include as well an account of intersubjective relations, specifically in the type of collective political agency highlighted by Arendt. In the

end, Allen argues that an adequate feminist political theory must put forward an integrated analysis of gender subordination that systematically comprehends the many faces and normative valences of power as manifested in political processes of individual subject formation, collective action, and the interactions between intrasubjective and intersubjective processes.

In her "Liberty and Its Circumstances: A Functional Approach," Lena Halldenius takes a look at various meanings of the political ideal of freedom – noninterference, nondomination, self-determination – and examines the role they play in social and political theorizing. She forcefully argues in favor of a multifaceted view of freedom, embodying practical as well as moral-political and evaluative dimensions, and uses this perspective to study variations and changes in freedom within each of the three concepts. In this way she makes intelligible cases that have been described as "paradoxes of freedom" in which an agent was not free to do the things she freely did. Halldenius continues by turning our attention to what, on analogy with Rawls' circumstances of justice, she calls "circumstances of freedom," referring to those conditions without which investigations of freedom would be meaningless. Two such circumstances are scrutinized. Halldenius recommends, first, keeping dispositional power out of a definition of freedom, and, second, paying due attention to the importance of institutions such as law as circumstances of freedom. It is therefore worthwhile to understand the disagreements among adherents of competing conceptions of freedom as about the relative importance of various circumstances of freedom rather than about what to consider as curtailments of freedom.

In his "Human Needs and Political Judgment" Lawrence Hamilton argues for an innovative revivification of classical themes of political judgment, rhetoric, and objective human needs and true interests, but now conceptualized for use in modern, complex, representative democracies. Analyzing political judgment as combining the ability to choose how best to proceed with the rhetorical skills to convince others, Hamilton claims that political philosophy becomes unrealistic and impotent when it ignores judgment. As the requirements of good political judgment cannot be specified through universally applicable criteria, he recommends that we design political institutions to facilitate good judgment in the different contexts in which it is required. Rather than employ the dominant normative framework of rights and preferences that is central to liberalism, however, Hamilton argues that the normative framework of human needs better facilitates such salubrious political judgment. Because a theory of human needs – including not only vital needs requisite for life, but also needs requisite for human agency and needs that are specific to particular social configurations – reflects the actual reasons and motivations of persons and is open to the practical politics of collective need interpretation, it is better suited to real-world political deliberations and decisions about how to proceed. Intriguingly, Hamilton

recommends a number of distinctive institutions to facilitate such participatory needs-focused judgment in the context of the modern state: annual district assemblies of citizens for assessing true needs and interests, a consiliar system with counselors as intermediaries between citizens and their representatives, and citizen plebiscites every ten years for assessing various policy proposals and their likely developmental paths in the light of citizens' politically interpreted needs.

In "Rethinking Ideology" Rahel Jaeggi proposes revitalizing the endeavor of ideology critique by both demonstrating its relevance to contemporary social and political phenomena and, more fundamentally, arguing that it is not crippled from the get-go by two apparent paradoxes. On the one hand, according to ideology critique, ideologies are simultaneously true and false, but it is not clear how this could even be possible, let alone grasped in theory. Jaeggi argues that the dual epistemic status of ideologies arises from the complex interrelations between social practices and the norms they are taken to realize, such that ideology critique seeks not only to expose deficient practical realizations of social norms but also to destabilize deficient understandings of those interrelations which themselves contribute to the maintenance of unjust social relations. On the other hand, Jaeggi argues that ideology critique is a unique form of social analysis that has normative significance even as it forswears moralizing condemnation of the present in favor of idealized accounts of justice. Although this appears to put ideology critique in an untenable logical space between purely descriptive and purely normative approaches to political theorizing, she argues that it points rather to its specific strength. For according to her account, ideology critique employs a specific form of normativity that adopts its standards from existing social reality – and so is a form of internal critique – even as it is not limited to a quiescent acceptance of regnant standards as they currently exist – as proponents of external critique might charge. The key here is to enlist the Hegelian idea of learning processes whereby a form of transformation of the present from within is initiated by practical and theoretical insight into the strengths and deficiencies of current sociopolitical arrangements. This leads Jaeggi to defend ideology critique as a unique form of political theory that is simultaneously analytic and normative, whereby the descriptive and critical elements are systematically interconnected and, ultimately, theory is intended to take on practical efficacy for initiating progressive change.

In "Making Nonsense of Loyalty to Country" Simon Keller addresses a pressing political question. While loyalty to one's country is held by some as a prime political virtue, and famously criticized as nationalistic by those with a cosmopolitan agenda, Keller sets out a detailed analysis to defend the provocative claim that loyalty to country rests on a conceptual mistake. To begin with, Keller carefully distinguishes loyalty from such attitudes as patriotism, endorsement, or feelings of duties, and argues that

it is a psychologically complex phenomenon. He then develops an argument to the effect that while moral, prudential, or aesthetic concerns may be invoked to object to certain instances of loyalty, a special form of criticism of loyalty is to point out that it is based on a mistake. Loyalty to certain political parties, for instance, may be wrong for moral reasons. Someone who is loyal to his or her coffee mug, by contrast, makes a conceptual mistake. It has been suggested that this is because loyalty is a profoundly evaluative notion involving a special willingness to promote something's welfare. Keller, however, takes a decidedly different approach the core of which is the claim that loyalty proper presumes a relationship of mutual recognition and care. To be loyal to something it must be the case that you recognize and care for it and that you conceive of it as something that recognizes and cares for you. Turning to the question 'What is a country?' Keller then argues that while countries may be things that one could recognize and care for, and while they may be things that can treat you well or badly, it would be a mistake to say that they can recognize you and respond to you in your individuality. Those who claim that loyalty to country does make sense, then, make exactly this mistake.

Over the last half-decade political activism in numerous European countries has risen against *la précarité,* "precarity," the perceived uncertainty of mostly short-term or part-time jobs stripped of social benefits such as pensions, insurance, or health care. Affecting especially the young, activists have begun calling those affected by precarity the "precariat," and have inspired such political activism as that attacking the French government's ultimately unsuccessful labor reforms. In "Finding Theoretical Concepts in the Real World: The Case of the Precariat," Mika LaVaque-Manty takes a tour through various themes the precariat allows the political philosopher to examine. A first stage of the tour is to realize that the precariat offers an interesting, real-time instance of the dynamics of political claim making. LaVaque-Manty notes that the rhetorical as well as the justificatory success of the activists' attempts to introduce a new actor in the political arena depend on the intricate ways in which the defining characteristics of the precariat relate to the individual characteristics of those identified by the term. Skeptical with respect to the question whether the precariat can act *qua* precariat, he lays bare a number of systematic misconceptions precariat activists possess with respect to, ironically, the degree to which their lives are significantly more precarious than other disadvantaged groups. LaVaque-Manty then turns to such questions as to why there is no precariat movement on the other side of the Atlantic and why such concepts as "precarity" do not even exist in North American political discourse. Examining the divergent histories of European and American welfare states, he uncovers path-dependencies in respective conceptions of vulnerability (understood as a natural predicament in America, and as a political one in Europe) and so offers an intriguing explanation of this manifestation of American exceptionalism.

In "Reflexive Democracy as Popular Sovereignty" Kevin Olson argues that Rousseau's standard for democratic popular sovereignty – namely, a form of association in which citizens live under law, yet obey only themselves – can be met through a distinctively reflexive and materialist conception of democracy. In order to make this case, he examines the concept of reflexivity in Anthony Giddens' theory of reflexive modernization and Jürgen Habermas' theory of reflexive democratic law. The key move in both theories is to account for modernization and democratization as reflexive processes: processes that react back upon the conditions of those very processes. Criticizing both theories for being overly reliant on cognitive learning processes as the motor of social change – and thus, naïve about problems of power and social "progress" – Olson recommends a distinctly materialist theory of reflexive democracy. This conception takes account of the fact that reflexive democratic change may just as well end up being regressive as progressive under contemporary conditions of material inequality and political marginalization. Marginalized citizens may be further excluded from participatory democratic practices and institutions due to inequalities in their citizenship capacities. In response to these problems, Olson urges a reflexive conception of citizenship, where citizens control the bases of their own political agency as citizens. Democratic popular sovereignty – now understood as rooted in the legal, political, and social status of citizenship – is to be guaranteed by the reflexive control democratic citizens have over the very institutions, practices, and material conditions of democracy itself. When citizens control the material conditions of their own political agency, they can understand themselves as simultaneously subject to the law and free.

Fabienne Peter's "Democratic Legitimacy without Collective Rationality" argues against the received view, common in theories of aggregative and deliberative democracy, that the legitimacy of the outcomes of democratic decision-making depends on whether certain requirements of collective rationality are met. Peter starts her exposition with two famous puzzles in political philosophy. In the voting paradox, which is also known as Condorcet's Paradox and which was famously generalized in Arrow's impossibility theorem, there are majorities in support of each one of three alternatives in pairwise comparisons. In the discursive dilemma, discussed by theorists such as Philip Pettit, there are majorities in support of both a certain conclusion and a set of premises that deny this conclusion. Both puzzles thus reveal how the outcomes of democratic decision-making may be affected by inconsistencies. Many claim that such violations of conditions of collective rationality are a threat to democratic legitimacy. Peter identifies two possible defenses of the claim that democratic legitimacy demands collective rationality and argues that both fail. The first refers to the normativity of rationality, the idea that we ought to be rational. Against this defense, Peter argues that while the normativity of reasons is uncontroversial, the normative force of rationality requirements, and especially of collective rationality requirements, is not

obvious. The second refers to the instrumental value of collective rationality, that is, the idea that irrational decisions would undermine other values necessary for legitimate decision-making. Against this defense she argues that, while conditions of collective rationality are sufficient to avoid threats to democratic legitimacy such as, for example, manipulability, arbitrariness, or indecision, these conditions are not necessary for legitimacy.

If much of contemporary political philosophy focuses on ideal issues of normative justification, Emmanuel Renault in his "The Political Philosophy of Social Suffering" urges a topical refocusing of political thought toward social problems and a consequent methodological reorientation toward social critique informed simultaneously by everyday experiences, social scientific research, and normative assessment. The problems of social suffering evinced in contemporary post-fordist capitalist societies – such as the suffering caused by long-term unemployment, by the increasing precariousness of employment in flexible economies, and by extreme poverty – provide the focal topics of Renault's article, while various theoretical arguments against the very consideration of the idea of social suffering provide the foils against which he argues for the reinvigoration of a type of disclosing social critique. The first step is to analyze the meaning of social suffering as a specific type of subjective experience that is widely shared and socially caused by relations of injustice or domination. Renault next aims to rebut epistemological and practical objections to the use of this conception. Social suffering cannot be studied solely within the confines of specific social sciences, but requires the integration of otherwise distinct sociological, psychological, anthropological, and medical research programs, despite their apparent epistemological differences and despite the difficulties of giving linguistic expression to otherwise inchoate subjective feelings of distress and pain. He also aims to respond to the otherwise surprising consensus amongst libertarians, liberals, republicans, Marxists, and poststructuralists that social suffering is not an appropriate topic for political theory. Renault then argues that a specific form of disclosing social critique developed by critical theorists such as Adorno and Honneth provides the best methodological tools for articulating, assessing, and suggesting remedies for social suffering where there is no distinct political movement agitating against the problems. In the end, he argues that the manifest importance of social suffering – and its unjust distribution throughout society – requires political philosophers to develop innovative analytic and normative tools to deal with problems that, by their very nature, appear to be merely individual maladies and so resist being grasped as social pathologies ripe for political address and redress.

Sarah Song's "The Subject of Multiculturalism: Culture, Religion, Language, Ethnicity, Nationality, and Race?" explores a variety of claims typically associated with multiculturalism and argues that various "claims of culture" need to be disaggregated in order to understand what, if anything, they have

to do with the pursuit of equality across religious, ethnic, and racial lines. To start with, Song cautions against conceiving of the claims voiced by religious minorities in terms of ethnicity or race. Liberal democracy, she argues, comes with what she calls the "argument from the special nature of claims of conscience" that is especially tailored to afford religion constitutional protection. In examining claims about language, Song observes that some defend language rights for linguistic minorities by appealing to the value of language in constituting cultural identity and self-respect. Yet, another way to defend language accommodations appeals not to culture but to the importance of such accommodations for democratic inclusion. Song suggests that a great many ethnic accommodations for immigrants are defended as a means of promoting their economic and political integration. Song then turns to an analysis of various liberal arguments about race, including not only the "diversity argument" developed by the US Supreme Court in its cases on affirmative action, but also variants of the arguments from corrective justice, from dignity and self-respect, and from democratic inclusion. One major upshot of her typology of liberal multiculturalism arguments is that bare appeals to "culture" do not get us very far; theorists must rather pay closer attention to the specific goods and the specific disadvantages group rights are intended to address.

In his provocative contribution "The Aesthetic of Freedom," Ajume H. Wingo argues for the many ways in which the concept of political freedom is productively thought of by analogy with artistic activity. Both are seen as immensely valuable activities, in fact as intrinsically valued and not merely instrument to other ends; both are distinctly human endeavors, part of what differentiates human animals from non-human animals; both are central capacities that endow humans with the distinctive moral and appraisive status of "persons"; both are ways of expressing our distinctive humanity; both involve serious play and so are sources of joy in their very activity; both centrally involve persons' abilities to represent and misrepresent the world to themselves, to revel in that very presentation, and to imagine alternative possibilities for that world; and, both are distinct luxuries, available as goods (and only worth pursuing) in the absence of extreme hardship and in the presence of reasonable social stability and material provision. Wingo then applies this aesthetic conception of political freedom to what he sees as the most pressing problems of human rights: not their abstract normative justification and detailed specification, but rather their actual effectuation in the contemporary world. In contrast to intellectual approaches that attempt to get people to take human rights seriously by pointing out the universal status-conferring properties that all humans share and in virtue of which they are owed rights, Wingo's aesthetic approach recommends full employment of the traditional tools of political rhetoric: artfully tailoring appeals to specific persons to uphold human rights on the basis of inspiring pictures of the political world and their place in it. This approach also

frankly acknowledges human rights as products of human will and imagination that have arisen through the interplay of self-representation, material constraints, and historical contingencies. Wingo argues that these more inspiring versions of human rights and political freedom will have more effective purchase in a contemporary world that combines political apathy in the highly developed Western world with stark material deprivations, violent rights violations, and a lack of political freedom in much of the underdeveloped world.

Contributors

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It: Adorno's *Minima Moralia* as a Critique of Forms of Life" (*Constellations*). She is the author of *Welt und Person: Zum anthropologischen Hintergrund der Gesellschaftskritik Hannah Arendts* (Lukas 1997) and editor of *Was ist Kritik* (Suhrkamp 2009).

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Fabienne Peter is Associate Professor of philosophy at the University of Warwick. She specializes in political philosophy and the philosophy of economics, and is particularly interested in democracy and legitimacy. Her articles have appeared in journals such as *Economics and Philosophy*, *Ethical Theory and Moral Practice*, and *Politics, Philosophy, and Economics*. She has also co-edited a volume on public health ethics with Sudhir Anand and Amartya Sen (*Public Health, Ethics, and Equity*, Oxford University Press, 2004), and another volume entitled *Rationality and Commitment* with Hans Bernhard Schmid (Oxford University Press, 2007).

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Christopher F. Zurn is Associate Professor of philosophy at the University of Kentucky. His research interests include theories of democracy, constitutionalism, institutional design, critical social theory, recognition, and social movements. His publications include the book *Deliberative Democracy and the Institutions of Judicial Review* (Cambridge University Press, 2007).

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1

Feminism and the Subject of Politics

Amy Allen

For at least the past twenty-five years, feminist theory has been obsessed with the so-called problem of the subject. This problem emerged in the 1980s as a result of the enormous influence of a particular strand of post-structuralist thought on feminism. Inspired by the work of Michel Foucault, in particular by his notion of subjection (*assujettisement*), a number of feminist theorists began conceptualizing gendered subjects as constituted through a process of subjection to power relations.[1] The idea that the gendered subject is constituted by subjection in the Foucaultian sense has proved to be quite fruitful but also quite controversial for feminist theory, raising as it does the concern that such subjects might be wholly determined by the power relations that constitute them: hence, the problem of the subject.[2] Seyla Benhabib poses the central question raised by the problem of the subject as follows:

> can we think of political/moral/cultural agency only insofar as we retain a robust conception of the autonomous, rational, and accountable subject, or is a concept of the subject as fragmentary and riveted by heterogeneous forces more conducive to understanding varieties of resistance and cultural struggles of the present?[3]

However one answers this question, regardless of whether one envisions the subject as rational and autonomous or as constituted by heterogeneous power relations (or perhaps, as is most difficult but ultimately most productive, as simultaneously both), for the past twenty-five years feminist theorists have assumed that this is an important topic of debate.

As Christine di Stefano has argued, this concern with the relationship between the subject and power is not unique to feminist theory writ large, but is also a central concern of feminist political theory. As she puts the point: "Feminist political philosophy (a.k.a. feminist political theory) addresses and engages a myriad of issues concerning women's experiences and prospects as political beings; which is to say, as subjects of power."[4] This

characterization of the task of feminist political theory clearly puts the relationship between the subject and power at the heart of that project.

Recently, however, this vision of feminist theory in general and feminist political theory in particular has been called into question. For instance, Linda Zerilli argues in her book *Feminism and the Abyss of Freedom* that debates over notions of subjectivity, subjection, agency, self-transformation, and autonomy are neither theoretically nor politically fruitful for feminism. Zerilli's critique of what she calls the subject-centered frame turns on her claim that it casts freedom "strictly as a subject question, while subject formation comes increasingly to be interpreted in terms of radical subjection to agencies outside the self ... ."[5] Zerilli finds it difficult to see how this theoretical framework could ever envision or inspire a truly transformative, freedom-enabling politics.[6] As she sees it, if we want to develop such a politics, feminists ought to shift our focus away from the Foucaultian and Butlerian drama of individual subjection and self-transformation and toward an Arendtian conception of freedom centered on plurality and action in the public space. We are better off, according to Zerilli, thinking of freedom as a world question than as a subject question. That is to say, freedom is, for Zerilli, a collective practice of world-building, not, or at least not primarily, an individual practice of or capacity for self-transformation. Indeed, Zerilli goes so far as to suggest that subjection and self-transformation are not properly *political* issues at all. Zerilli's critique of the subject-centered frame is both a conceptual and a political one. She argues both that it is not possible to solve the problem of the subject given the terms within which it has been framed and that feminists' focus on the issues of subjection and self-transformation is politically disabling. In Wittgensteinian fashion, she proposes that rather than trying to solve the problem of the subject, feminists should dissolve it, by dispensing with the subject-centered frame altogether and adopting instead a theoretical framework centered on the idea of freedom.[7]

It is not at all clear to me that Zerilli's attempt to displace the subject-centered frame actually dissolves the problems she aims to dissolve, nor does it avoid generating worrisome problems of its own.[8] Be that as it may, her critique of the prominence of the problem of the subject in contemporary feminist theory raises a number of important issues that feminists would do well to consider. First and foremost is the issue of the importance – or lack thereof – and fruitfulness – or lack thereof – of the Foucaultian and Butlerian notion of subjection for feminist theory in general and feminist political theory in particular. In the background here is the deeper and more difficult question of how feminists ought to define and conceptualize the political. After all, whether or not the problem of the subject counts as a properly political issue obviously turns on the prior, though often implicit, issue of how one defines the political. Because the concept of the political is closely related to the notion of power – indeed, one might argue that power

is the subject matter of political theory – the question of how to define the political is inseparable from the question of how one understands power. In what follows, I take up these three issues – the importance of subjection, the concept of the political, and the definition of power – in turn. My argument is that understanding subjection is a crucial task for feminist theory in general and for feminist political theory in particular, but that by itself it is not enough. The feminist analysis and critique of subjection as an intrasubjective mechanism must be pursued in connection with an analysis of the collective and intersubjective dimensions of political engagement in the public sphere. Failure to theorize the connections between these two dimensions of the political leaves us unable to fully understand either one. Thus, the task for feminist political theory is to bring together into one theoretical framework a focus on both the intrasubjective and the intersubjective,[9] to understand how the subject is both constitute*d* by power but also at the same time capable of being autonomously self-constitut*ing*. Filling in all the details of such a framework is obviously beyond the scope of one paper; my main goal in what follows is to motivate this project and to sketch out its general contours.

Subjection in feminist political theory

The question of whether or not the notion of subjection is important or fruitful for feminist theory cannot be answered in a vacuum. A question such as this one can only be answered on the basis of a prior understanding – whether implicit or explicit – of the aims of feminist theory itself. Accordingly, let me begin by proposing the following as a programmatic account of the primary aims of feminist theory and practice: to understand, critique, and transform – both individually and collectively – relations of subordination based on gender as they interrelate with other axes of subordination, particularly those based on race, sexuality, and class.

Obviously any general account of the aims of feminism is likely to be controversial. Although I cannot offer a full defense of my account here,[10] a few words in its favor are in order. First, by linking the intellectual projects of diagnosing and critiquing gender subordination to the practical-political goal of progressive transformation, this account highlights the relationship between theory and practice that has been as central to feminism as an intellectual movement. To paraphrase Marx, the point of feminist theory is not only to understand the world as structured by gender subordination, but also to change it.[11] Second, framing the aims of feminist theory in terms of the category of gender subordination (and its relations to other modes of subordination) as opposed to the category of woman enables us to sidestep the fraught debates over the essentializing and exclusionary nature of the latter term.[12] A third, and related, benefit of this account is that because it does not define the aims of feminism in terms of the interests of women as

a group, it enables us to thematize the intersectional and cross-cutting nature of power relations based on gender, race, class, and sexuality. Finally, this account is open to both micro-level analyses of how subordination is reproduced and maintained through everyday practices and interactions and macro-level accounts of how mechanisms of subordination are rooted in broader institutional contexts, cultural forms, and social, economic, and political structures. Inasmuch as both micro- and macro-level analyses offer important insights into our understanding of gender subordination, its interrelations with racial, sexual, and class-based subordination, and the possibilities for its progressive transformation, both are important avenues for feminist inquiry.

If you'll grant me that this account of the aims of feminism is plausible, then it seems fairly obvious that analyzing and critiquing contemporary gender subordination – and its complicated interrelations with racial, sexual, and class-based subordination – in all its depth and complexity is a crucial task for feminists. Although this certainly does not exhaust the project of feminism, without this kind of analysis, feminist theory would be radically incomplete. In my view, Foucault's analyses of power and subjection provide a useful framework for accomplishing this task. As I have argued in more detail elsewhere, Foucault's relational conception of power is fruitful for understanding intersecting and cross-cutting relations of power, his microphysics of power resonates with second-wave feminists' emphasis on the personal as political, and his account of normalizing, disciplinary power has inspired brilliant feminist critiques of normative femininity.[13] To my mind, however, the most important insight of Foucault's analysis of power is its emphasis on in the interplay between constraint and enablement that is central to his account of subjection. Foucault uses the term subjection (*assujettisement*) to refer to our "constitution as subjects in both senses of the word."[14] On Foucault's view, we in the late modern West are constituted as subjects who are capable of thought and action in and through a process of subjection to disciplinary and normalizing power relations. The individual subject, for Foucault, is not a pre-given entity on which power acts or against which it is applied; rather, the individual subject is an effect of power, enabled to be a subject in and through the operation of normalizing, disciplinary constraints.[15] By theorizing the interplay between constraint and enablement at the heart of Foucault's notion of subjection, feminists are able to highlight both the complicated intertwining of gender, power, and identity that is a constitutive part of our personhood, and the ways in which our own efforts at a progressive self-transformation of our gender identity are shaped and informed and to some extent circumscribed by those gendered power relations that are encoded in our language, family structure, cultural meanings, social practices, political institutions, and modes of subjectivity.[16]

To be sure, as many of his critics have argued, it may seem as if Foucault highlights the intertwining of power and subjectivity a bit *too* well, so well that if one accepts his analysis of power it becomes difficult if not impossible to envision agency, autonomy or resistance. But this criticism is based on a truncated reading of Foucault's account of subjection. Foucault's notion of subjection is Janus-faced: subjection involves being subjected to power relations but this process produces subjects who are capable of action and even of autonomy.[17] But free action and autonomy are always conditioned and inflected by power relations. This does not mean that critical reflection and/or progressive self-transformation are impossible, but it does mean that we have no choice but to start from where we are, as beings profoundly shaped by the intertwining of power and gender. Thus, self-transformation will be a question of how we can, as Judith Butler has put it, "work the power relations by which we are worked, and in what direction?"[18] This does not, however, entail the overly pessimistic and one-sidedly negative conclusion, often erroneously attributed to Foucault, that the subject is wholly determined by power.

A central problem for all theories of subordination is explaining how and why subordinated individuals fail to resist their condition or, worse, are co-opted into reproducing and maintaining their own subordinated position.[19] To some extent, Foucault's account of subjection addresses this problem: subordinated individuals are co-opted into reproducing their own subordination through the mechanism of subjection. But, as Butler argues, this answer seems curiously hollow inasmuch as it fails to address the question of why anyone would be motivated to capitulate to this process of subjection. Foucault's lack of interest in the interiority of the subject and his suspicion of depth psychology are no doubt to blame for this limitation of his account. Butler's psychoanalytic twist on Foucault's account of subjection, by contrast, offers a compelling explanation for this problem. Butler argues that if our recognition as social beings is dependent on our capitulation to subordinating norms, then we will have a powerful motivation to capitulate. Disciplinary regimes exploit this basic desire for recognition, and subordinated individuals all too easily become attached to and invested in their own subordination, which motivates them to reproduce and maintain it, even after such modes of subordination have been subjected to rational critique.[20] Butler's account of subjection, then, provides a framework for understanding why and how those who are subject to gender subordination often engage in, uphold and/or reinforce practices, institutions, and modes of subjectivity that they themselves recognize as oppressive or subordinating.

This account of subjection offers a compelling – though perhaps disturbing – analysis of the depth and complexity of gender subordination. However, by itself it certainly does not meet all of the aims of feminist theory that I sketched out above (nor do I think Butler or Foucault

would claim that it does!). What seems most obviously lacking is an analysis of the possibilities for collective negotiation and transformation of gender subordination. This is an important oversight not only because collective social movements such as the feminist movement, civil rights movements, labor movements, and gay liberation movements have been important forces for progressive and transformative social and political change over the past century. Although this is no doubt true, this way of putting the point formulates the problem in terms that are largely external to Foucault and Butler's views. Perhaps they could simply respond that they are not interested in theorizing collective social movements. After all, no one theorist can reasonably be expected to talk about everything. But their lack of attention to the collective dimension of power and political engagement also generates a problem that is *internal* to their accounts of subjection. The important point here is that collective political engagement in the public sphere provides an important site of and crucial resources for the negotiation, deconstruction, and reconstruction of social identity. For example, as both Nancy Fraser and Jane Mansbridge have argued, feminists working collectively in subaltern counterpublic spaces have been able to generate new language for describing social reality – including sexism, male chauvinism, sexual harassment, date rape, the double shift, and so on – language that has enabled many people (not just women, and not just feminists) to recast their identities and to resist and transform power relations in their daily lives.[21] Thus, the relationship between the subject and power cannot be understood solely from the intrasubjective point of view offered by the Foucaultian and Butlerian account of subjection, but must also be understood in light of collective, intersubjective engagements in the public sphere.

This is the kernel of truth in Zerilli's critique of the problem of the subject. She rightly points out that even individual self-transformation cannot be properly understood absent an account of the intersubjective social and political conditions that make it possible and that these conditions are a function of collective engagements in the public sphere.[22] But it is, I believe, a mistake to suggest, as Zerilli does, that the problem of the subject and the issue of self-transformation are therefore not properly political issues, and that only collective, public sphere engagements count as genuinely political. To show why this is a mistake, I turn now to the question: how should feminists conceptualize the political?

Feminism and "The Political"

Implicit in the preceding discussion about whether subjection is an important notion for feminist political theory is a deeper and more difficult question about how to define the political. When Zerilli suggests that subjection and individual self-transformation are not properly political

issues, she does so on the basis of an Arendtian conception of politics as collective action in the public space. For Arendt, the public space and collective action are intimately connected with her conception of power, for power, according to Arendt, "is what keeps the public realm, the potential space of appearance between acting and speaking men, in existence,"[23] and is famously defined by her as "the human ability not just to act but to act in concert."[24] Power "springs up between men when they act together and vanishes the moment they disperse."[25] For Arendt, power, and therefore politics itself, is necessarily tied to collective action in the public space. This link to collective action makes politics an inherently messy and unpredictable activity; when we act in public we have neither foreknowledge of nor control over how our actions will be taken up and acted upon by others. Arendt's beliefs about the unpredictability and irreversibility of political action explain why the notions of promising and forgiveness, respectively, are so important to her political thought.[26]

As far as I know neither Foucault nor Butler ever offers an explicit definition of the political (and perhaps they, unlike Arendt, would object to the attempt to do so, for reasons I will come back to in a moment). Still, one can infer from their work an understanding of the political that, like Arendt's, is defined in terms of power, but that, unlike Arendt's, presupposes a less rosy – though, it is important to emphasize, not entirely negative – view of power. As Foucault puts it in a late interview, power relations are "the strategies by which individuals try to direct and control the conduct of others."[27] However, as is clear from the preceding discussion of subjection, Foucault does not define power exclusively in terms of constraint; also central to the phenomenon of subjection is the interrelated notion of empowerment. As he puts it, "power is exercised only over free subjects, and only insofar as they are free."[28] In a similar vein, Butler writes: "As a subject *of* power (where 'of' connotes both 'belonging to' and 'wielding'), the subject eclipses the conditions of its own emergence; it eclipses power with power."[29] This eclipsing of power with power is the site of empowerment and agency and, thus, resistance to subordination. However, since this agency is made possible by subjection to power in the first place, it is an inherently ambivalent form of agency. Thus, Butler understands the subject as "*neither* fully determined by power *nor* fully determining of power (but significantly and partially both)."[30] Similarly, Foucault argues,

> Maybe the problem of the self is not to discover what it is in its positivity, maybe the problem is not to discover a positive self or the positive foundation of the self. Maybe our problem is now to discover that the self is nothing else than the historical correlation of the technology built in our history. Maybe the problem is to change those technologies. And in this case, one of the main political problems would be nowadays, in the strict sense of the word, the politics of ourselves.[31]

Implicit in this notion of the politics of our selves is not only a certain view of the self – namely that it is both the site of inscription of contemporary power relations and the locus of potential transformation of such power relations – but also a certain view of *politics*, according to which politics (what Foucault also calls government) concerns precisely the intersection of technologies of domination – basically, relations of power over others – and technologies of the self – ways in which the subject acts on itself, takes up those technologies of domination, and transforms them.

To be sure, these two conceptions of the political do not exhaust the available options. One could also define the political in terms of friend/enemy relations,[32] or in terms of the justness of the basic structure of society,[33] or in terms of the use of public reason to discuss constitutional essentials,[34] or more narrowly in terms of governmental institutions, public policies, and voting behavior.[35] But the two conceptions sketched above – the Arendtian conception that defines the political in terms of collective power (or power-with) and the Foucaultian/Butlerian one that defines it in terms of the interplay between domination (a pernicious form of power-over) and individual empowerment (power-to) – represent two of the more influential conceptions in contemporary political theory, at least of that wing of political theory that looks to the continental European tradition for its inspiration. These two conceptions have also been particularly influential for feminist theory. The question then becomes: which of these conceptions of the political should feminists favor? Or should we feel compelled to choose between them at all?

This question in turn leads to a still deeper question: (how) should feminists decide between these competing conceptions? It is not at all obvious how best to go about adjudicating these different understandings of the political. By what criteria do we evaluate competing conceptions of the political anyway? Must we even assume that there is only one true or correct definition of the political? Is "the political" some metaphysically or ontologically distinct space or realm whose features can be teased out either phenomenologically or through a priori reflection or whose necessary and sufficient conditions can be established through analytical argument? Or is the political itself a contested concept, perhaps even an essentially contested concept? Might our conception of the political not be constituted or at least influenced in some fundamental way by the interests that we bring to the study of politics in the first place? Might not the claim that something is or is not properly political itself be understood as a political move, in the sense of an attempt to de-authorize or even silence a view that one disagrees with or finds distasteful?

The assumption that it is possible to define the political once and for all is questionable for at least two reasons. First, it rests on the further assumption that we as theorists are capable of transcending our embodied and situated forms of life and of producing theoretical conceptions that are independent

of our particular interests and points of view. A huge body of philosophical scholarship – including the work of post-Kantian continental philosophers, American pragmatists, and feminist theorists – has called this assumption into question.[36] To the contrary, this work suggests that reason – and the concepts that are the products of rational reflection – is inherently impure, embodied, and embedded in social, historical, and cultural context and thus inflected by relations of power.[37] Second, this assumption is especially problematic from a feminist point of view, as it fails to acknowledge one of the key lessons of the second wave of feminist activism: namely, that it is possible to re-draw the boundaries between private and public, personal and political, precisely through a process of political contestation. The success that second-wave feminists had in politicizing issues such as domestic violence, date and marital rape, and sexual harassment provides ample evidence for this lesson. Through struggle and activism, feminists were able to establish these not as private matters that affected only individuals but as matters of concern to all because of their role in upholding and reinforcing the structural subordination of women. As di Stefano puts the point, "the question of what ought to count as properly political cannot be settled pre-politically."[38] Our conception of the political is itself open to change as the result of new, ongoing, open-ended processes of politicization.

So, to figure out how feminists should conceptualize the political, we need to think about the interests that feminists bring to the study of politics in the first place. To address this issue, I refer back to the account I gave earlier of the aims of feminist theory and practice. If we assume that among the principle aims of feminist theory and practice are the goals of understanding, critiquing, and transforming – both individually and collectively – relations of subordination based on gender as they interrelate with relations of subordination based on race, sexuality, and class, we can then ask which conception of the political sketched above, the Arendtian or the Foucaultian one, best enables us to meet these aims? Or, to prefigure my argument, are they mutually exclusive? Must we choose between them? Or might it not be possible to sketch out an expanded conception of the political and of power that encompasses both Arendtian and Foucaultian insights?

Let's start with the Foucaultian conception of politics. Since I have already discussed the usefulness of Foucault's account in some detail, I can be brief. I have argued that Foucault's and Butler's notions of subjection provide useful ways of illuminating gender subordination in all its depth and complexity. Moreover, as Foucault indicates with the phrase the politics of ourselves, his account highlights the interplay between the technologies of domination that are constitutive of individual subjectivity and the technologies of the self whereby individuals take up such power-relations in self-constituting and potentially transformative ways. This notion of the politics of our selves enables feminists to make sense of the ways in which

subordination and empowerment are intertwined, thus, helping us to avoid the twin dangers of, on the one hand, viewing women as passive victims of gender subordination or, on the other hand, valorizing the qualities and characteristics of powerlessness in the name of championing women's empowerment. However, as important as it is for feminist theory, the Foucaultian account of power and the political is not wholly satisfactory. It can and should be faulted for its lack of sufficient attention to the collective and intersubjective dimensions of power and the political. This lacuna in Foucault's analysis of power has the effect of blinding him to the positive and transformative possibilities of collective action, and to the extent to which individual projects of self-transformation are dependent on such collective engagements. In part this was a principled blindness. Foucault was suspicious of the notion of consensuality that seemed to him to ground this Arendtian conception of the political.[39] In a thinly veiled swipe at Arendt, Foucault insisted that power "is not a function of consent"[40] and, although it "can be the result of a prior or permanent consent, ... it is not by nature the manifestation of a consensus."[41] When asked in a late interview whether he would be willing to endorse the norm of consensus found in the work of Arendt and also of Habermas, Foucault replied, "the farthest I would go is to say that perhaps one must not be for consensuality, but one must be against nonconsensuality."[42] Foucault's hesitance here most likely stems from his apparent discomfort with any and all normative notions, which raises the question of whether his account of normalizing power is compatible with any sort of normative analysis of power whatsoever. I shall return to this question below.

This brings us to the importance of the Arendtian account. For, feminists need not only to analyze domination in all its depth and complexity, but also to theorize the possibilities for both individual and collective transformation and empowerment. Clearly we cannot understand collective transformation without some notion of collective action or power-with, which neither Foucault nor Butler provides. In addition, as I argued above, we cannot even adequately understand individual self-transformation without some account of collective engagement in the public sphere, for these are intricately interrelated. For these purposes, the Arendtian conception of politics as collective action in the public sphere is no doubt invaluable. If we want to understand how we can best work to overcome and/or transform existing relations of gender subordination, then it is not sufficient (though it is, I think, necessary) to get our theory of the subject right. We will also have to think about how feminists can collectively press for change on a broader cultural, social, and political level, and how these collective engagements are interconnected with individual projects of self-transformation.

However, the Arendtian understanding of politics is likewise open to criticism. Defining the political solely in terms of a normative conception of collective action in the public sphere runs the risk of obscuring the forces of

domination and subordination that shape political actors before they take the stage. This conceptual exclusion leads to at least two kinds of problems. The first is that, as Wendy Brown has forcefully argued, whereas collective political engagement may be a freedom-enabling practice that allows subordinated individuals collectively to deconstruct and reconstruct their ascribed identities in more emancipatory directions, it may also be a way of acting out the pain of subordination through a kind of wounded attachment to that identity.[43] The problem here is the normative assumption embedded in the Arendtian conception of politics, the assumption that power is an end in itself and thus, by definition, normatively legitimate.[44] As many of Arendt's critics have pointed out, this assumption is highly dubious.[45] The question for feminist theorists, then, is this: what makes a collective exercise of power liberatory, emancipatory, or feminist? If we reject the idea that collective power generates its own legitimacy, then by what normative criteria are we to make such judgments? The problem of the normative framework for our conception of power thus emerges again, this time from the opposite direction.

The second, and related, problem with the exclusion of subjection from our conception of the political is that such an exclusion overlooks the basic Marxist point that social equality is a necessary precondition for political democracy. As Nancy Fraser puts the point, "we should question whether it is possible even in principle for interlocutors to deliberate as if they were social peers in specially designated discursive arenas, when these discursive arenas are situated in a larger societal context that is pervaded by structural relations of dominance and subordination."[46] In other words, although collective action in public or counterpublic spheres may well be a useful site for the negotiation and transformation of identity, we do not come to such action as blank slates but instead with styles of speech and comportment, bodily habitus, and psychic attachments that are all structured by relations of subordination and subjection. Social subordination can and all too often does have deleterious effects on our abilities to engage in effective political dialogue and to act in concert with others. Excluding subjection from our understanding of the political shunts this problem off to the side and thus obscures the subordination relations that constitute us as political agents. To be sure, this way of putting the point raises the problem of the subject anew. But the key question for feminists is not *whether* to include subjection within our understanding of the political, but *how* to include it without undermining the possibility of political agency and autonomy altogether?

Therefore, it seems that neither the Foucaultian nor the Arendtian conception of power and politics is satisfactory on its own, and that what feminists need is an account of the political that integrates the insights of each. However, the discussion thus far has also revealed two kinds of challenges for such an integrative account: the first concerning the normative framework that underlies our conception of power, and the second

concerning the compatibility (or lack thereof) between the notion of subjection and other crucial political concepts such as agency and autonomy. In the next section, I shall sketch the contours of an integrative feminist conception of the political and also indicate how I think these two challenges can be met.

Normativity, autonomy and the subject of power

When I say that feminists need an integrative conception of the political, I have in mind two principal kinds of integration. First, the analysis thus far suggests that we need a broader conception of power than has been offered by either Foucault or Arendt, one that integrates the Foucaultian emphasis on the simultaneously constraining and enabling force of subjection at the intrasubjective level with the Arendtian emphasis on the exercise of power through collective, intersubjective interactions in the public sphere. But it is not enough simply to include both of these as aspects of one's definition of power. We also have to pay careful attention to how each of these modes of power is related to the others. As I argued above, we cannot really understand individual projects of resistance to subordination and progressive self-transformation without thinking about the collective social and political movements that generate the vocabularies of contestation, the normative frameworks, and the conceptual resources that enable such individual actions. Similarly, we cannot forget that collective social movements are made up of individuals whose identities have been structured by social relations of subordination, and that although collective political engagement can be a powerful vehicle for resistance and progressive transformation, it can also be a mechanism for reinscribing subordination.

To some extent, the integrative analysis of power that I am proposing draws inspiration from Habermas's reflections on power. In *Between Facts and Norms*, in the course of elaborating his model of deliberative democracy, Habermas offers a conception of politics that encompasses both strategic, social power – a basically Weberian conception defined as "a measure for the possibilities an actor has in social relationships to assert his own will and interests, even against the opposition of others"[47] – and communicative power – a notion that Habermas explicitly derives from Arendt and that he uses to capture the power that is generated through collective action in both informal and formal public spheres and translated, through the medium of law, into legitimate administrative power.[48] Habermas summarizes the relationship between administrative, communicative, and social power as follows:

> [I] propose that we view law as the medium through which communicative power is translated into administrative power.... We can then interpret the idea of the constitutional state in general as the requirement that

> the administrative system, which is steered through the power code, be tied to the lawmaking communicative power and kept free of illegitimate interventions of social power (i.e., of the factual strength of privileged interests to assert themselves).[49]

One could view this model of the political as resting on a conception of power that usefully integrates core elements of the strategic and communicative conceptions of power proposed by Foucault and Arendt, respectively.

However, my conceptualization of power differs from Habermas's in one crucial respect. Although Habermas's conception of politics does incorporate a strategic understanding of power-over relations, it does not, in my view, do justice to the phenomenon of subjection in Foucault's sense. Indeed, although Habermas is at pains to insist that his notion of the lifeworld is not free of strategic relations of power, he does tend to present both the lifeworld in general and the socialization processes that form one of its core components as free of the phenomenon of subjection.[50] His more recent work, which aims more explicitly to address the relationship between social relations of dominance and the communicative power that emerges out of and structures the lifeworld, is nevertheless open to a related criticism. As William Scheuerman puts the point,

> the idea of a free-wheeling deliberative democracy remains ideological as long as avoidable social inequalities undermine the deliberative capacities of the vast majority of humankind.... *Between Facts and Norms* has nothing adequately *systematic* in character to say about "social asymmetries of power", let alone how we might go about counteracting them.[51]

Although I would not dare to suggest that the Foucaultian notion of subjection provides us with a complete account of social inequality, it does provide a framework for understanding a crucial element of those stubbornly persistent inequalities that are grounded in gender, race, and sexuality in particular, a framework that Habermas's work lacks.[52]

The second kind of integration that is called for by my analysis is an account of the subject that captures both the constraining and enabling force of subjection and the possibility of meaningful political agency and autonomy. As I argued above, the Foucaultian account of subjection is not incompatible with agency and autonomy, at least as long as these are properly understood. If we accept the basic Foucaultian insight that the subject is constituted by power, then we do have to give up on the idea of an Archimedean standpoint outside of power, from which we can impartially and objectively assess the power relations that make us who we are. But, as Foucault argued in his essay "What is Enlightenment?," this does not mean that critique is impossible, only that it is "always in the position of beginning

again."[53] It is possible to understand the capacity for autonomy – both in the sense critical reflexivity and progressive self-transformation – as rooted in the very power relations that constitute the subject. This does not mean that autonomy is a pernicious illusion, though it does mean that it is, as I discussed above, inherently ambivalent.

This point about the ambivalence of autonomy and of critique raises, once again, the issue of the normative framework for the integrative conception of power and subjection that I have sketched. Feminist theory needs to be able to distinguish between better and worse exercises of power on both the individual and collective levels and, for that matter, between "better and worse subjectivating practices," to borrow Nancy Fraser's phrase.[54] The question is, how is this possible, especially in light of the account I just offered of critique and autonomy as always inflected by power relations? Doesn't this Foucaultian conception of critique ultimately collapse normative judgments into power plays of one kind or another? To frame the question in this way is problematically to assume that there exist only two options for the normative grounding of social and political critique: either we assert a strong claim of universality and context transcendence for our normative framework or we endorse a radical contextualism that is ultimately indistinguishable from relativism. All too often, especially in debates over the uses and abuses of postmodernism for political theory, these are assumed to exhaust the available options. There is, however, a third possibility. We can endorse certain normative ideals – for example, the ideas of normative reciprocity and egalitarian universalism that underpin the Habermasian project[55] – and rely on them in our normative judgments while at the same time acknowledging that these are ideals that are rooted in the context of late Western modernity. We may take these ideals to be universal and context-transcendent, as long as we realize that the very claim to context-transcendence is itself rooted in a particular context.[56] This realization does require us to be historically self-conscious and modest about the status of our normative principles, but it does not entail that we are incapable of making normative judgments in the light of such principles.

Conclusion

Let me conclude by briefly recapitulating my argument in this chapter. I have argued, first, that feminist political theorists ought not dispense with or dissolve the problem of the subject. The problem of the subject continues to be one that we must grapple with. In a way, this conclusion is nothing new. Throughout the history of political theory, from Plato through Hobbes, Locke, Rousseau, Marx, and Mill down to Rawls, Habermas, and Foucault, our understandings of the political have long relied on prior conceptions of what a person is.[57] Second, I have argued that beneath the question of whether subjection is an important notion for feminist political theory lies

the deeper and more difficult question about how to define the political. I have suggested that we ought to view the political not as an ontologically or metaphysically intact realm or space whose boundaries can be definitively delineated but as an essentially contested concept whose boundaries are continually debated and re-negotiated through ongoing processes of politicization. In keeping with this definition, I have proposed a conception of the political that is designed to cohere with the interests that feminists bring to the study of politics. Such a conception, I argue, must include the Foucaultian notion of the politics of our selves, though it ought not to be limited to such a notion. Feminists cannot do without thinking through the politics of our selves, even if it is true that this needs to be integrated with more collectivist account of the political along Arendtian lines. The challenge for feminists is to connect up the politics of our selves with the collective dimension of politics; to theorize the relationship between the intrasubjective and the intersubjective; and to understand the connections between relations of dominance and subordination on the one hand and the possibilities for individual and collective empowerment, on the other. The framework that I have offered here is designed to enable us to meet these challenges.

Notes

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1. For Foucault's account of subjection, see Michel Foucault, *The History of Sexuality, volume 1: An Introduction*, trans. Robert Hurley (New York: Vintage, 1978); *"Society Must be Defended": Lectures at the College de France 1975–1976*, trans. David Macey (New York: Picador, 2003); and "Afterword: The Subject and Power," in Hubert Dreyfus and Paul Rabinow, *Michel Foucault: Beyond Structuralism and Hermeneutics*, 2nd edition (Chicago: University of Chicago Press, 1983). The most important and influential feminist deployment of the Foucaultian notion of subjection is Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (New York: Routledge, 1990), further elaborated and developed in Butler, *The Psychic Life of Power: Theories in Subjection* (Stanford, CA: Stanford University Press, 1997).
2. See, for example, Seyla Benhabib, Judith Butler, Nancy Fraser, and Drucilla Cornell, *Feminist Contentions: A Philosophical Exchange* (New York: Routledge, 1995). This concern echoes a point frequently raised by critics of Foucault, particularly by those working in the tradition of Frankfurt school critical theory. See, for example: Jürgen Habermas, *The Philosophical Discourse of Modernity: Twelve Lectures*, trans. Frederick G. Lawrence (Cambridge: MIT Press, 1987); Axel Honneth, *The Critique of Power: Reflective Stages in a Critical Social Theory*, trans. Kenneth Baynes (Cambridge: MIT Press, 1991); Thomas McCarthy, "The Critique of Impure Reason: Foucault and the Frankfurt School," in *Ideals and Illusions: On Deconstruction and Reconstruction in Contemporary Critical Theory* (Cambridge: MIT Press, 1991). As I see it, such critics collapse Foucault's distinctively bi-valent

notion of subjection into a one-sided determinism. I argue for this claim briefly below, and in more detail in Allen, "The Anti-Subjective Hypothesis: Michel Foucault and the Death of the Subject," *Philosophical Forum* 31: 2 (Summer 2000): 113–30 and in chapters 2 and 3 of *The Politics of Our Selves: Power, Autonomy, and Gender in Contemporary Critical Theory* (New York: Columbia University Press, 2008).

3. Seyla Benhabib, "Sexual Difference and Collective Identities: The New Global Constellation," *Signs: Journal of Women in Culture and Society* 24: 2 (1999): 335–61, 338.
4. Christine di Stefano, "Feminist Political Philosophy," *APA Newsletter on Feminism and Philosophy* 99: 2 (Spring 2000). Available on the web at: http://www.apaonline.org/apa/publications/newsletters/v99n2/feminism/symposium-distefano.asp. Accessed December 23, 2007.
5. Linda Zerilli, *Feminism and the Abyss of Freedom* (Chicago: University of Chicago Press, 2005), p. 11.
6. Ibid., p. 12.
7. To be sure, there are important feminist accounts of the concept of freedom that, contra Zerilli, take the relationship between the subject and power to be of central importance. See, for example, Wendy Brown, *States of Injury: Power and Freedom in Late Modernity* (Princeton: Princeton University Press, 1995) and Nancy Hirschmann, *The Subject of Liberty: Toward a Feminist Theory of Freedom* (Princeton: Princeton University Press, 2002).
8. I discuss the problems that I see with Zerilli's argument in Allen, *The Politics of Our Selves*, chapter 1.
9. I borrow the terms "intrasubjective" and "intersubjective" from Fraser, who uses the term intrasubjective to refer to processes of subject-constitution (including, but not limited to, the kinds of intrapsychic mechanisms that Butler's Freudian/Foucaultian account of subjection highlights), whereas intersubjective refers to the relations to one another of such subjects. See Fraser, "Pragmatism, Feminism, and the Linguistic Turn," in Benhabib et al. (eds.), *Feminist Contentions*, pp. 163–4.
10. I offer a fuller discussion and defense of this account in Allen, *The Power of Feminist Theory: Domination, Resistance, Solidarity* (Boulder: Westview, 1999), chapter 1.
11. Karl Marx, "Theses on Feuerbach," in David McLellan (ed.), *Karl Marx: Selected Writings* (Oxford: Oxford University Press, 1977).
12. On this point, see Butler, *Gender Trouble*; Elizabeth Spelman, *Inessential Woman: Problems of Exclusion in Feminist Thought* (Boston: Beacon, 1989); and Zerilli, *Feminism and the Abyss of Freedom*.
13. See Allen, "Foucault on Power: A Theory of Feminists," in Susan Hekman (ed.), *Feminist Interpretations of Michel Foucault* (University Park, PA: Penn State Press, 1996), and Allen's *The Power of Feminist Theory*, chapter 2.
14. Foucault, *History of Sexuality, volume 1*, p. 60.
15. Foucault, "*Society Must be Defended*," pp. 29–30.
16. For excellent feminist extensions of Foucault's analysis of subjection along these lines, see Cressida Heyes, *Self-Transformations: Foucault, Ethics, and Normalized Bodies* (Oxford: Oxford University Press, 2007), and Ladelle McWhorter, *Bodies and Pleasures: Foucault and the Politics of Sexual Normalization* (Bloomington, IN: Indiana University Press, 1999).
17. Where autonomy is understood in the sense of the capacities for critical reflection and deliberate self-transformation. For argument to this effect, see Allen, *The Politics of Our Selves*, chapter 3.

18. Butler, *The Psychic Life of Power*, p. 100.
19. On this point, see Ann Cudd, *Analyzing Oppression* (Oxford: Oxford University Press, 2005).
20. Butler's account of subjection is not without its problems, the most significant of which is that she seems to suggest that this dynamic is indicative of all subject-formation, not just pathological modes of subject-formation under conditions of oppression. For critical discussion of Butler's account, see Allen, "Dependency, Subordination, and Recognition: On Judith Butler's Theory of Subjection," *Continental Philosophy Review* 38 (2006): 199–222, and chapter 4 of Allen's *The Politics of Our Selves*.
21. On the public sphere as a site for the negotiation of identity, see Fraser (ed.), "Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy," in *Justice Interruptus: Critical Reflections on the "Postsocialist" Condition* (New York: Routledge, 1997), pp. 81–3. On the ways in which collective social movements generate conceptual and normative resources available for individuals who are resisting subordination, see Jane Mansbridge, "The Role of Discourse in the Feminist Movement," unpublished manuscript, on file with the author.
22. See, for example, Zerilli, *Feminism and the Abyss of Freedom*, p. 181.
23. Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1958), p. 200.
24. Arendt, *On Violence* (New York: Harcourt, Brace, and Co, 1970), p. 44.
25. Arendt, *The Human Condition*, p. 200.
26. Ibid., pp. 236–47.
27. Foucault, "The Ethics of Concern for the Self as a Practice of Freedom," in Paul Rabinow (ed.), *Ethics, Subjectivity, and Truth. Vol. 1 of The Essential Works of Michel Foucault*, (New York: The New Press, 1997), p. 298.
28. Foucault, "Afterword," p. 221.
29. Butler, *The Psychic Life of Power*, p. 14.
30. Ibid., p. 17.
31. Foucault, "About the Beginnings of the Hermeneutics of the Self: Two Lectures at Dartmouth," *Political Theory* 21: 2 (1993): 198–227, 222–3.
32. Carl Schmitt, *The Concept of the Political*, trans. George Schwab, "Foreword" by Tracy Strong (Chicago: University of Chicago Press, 1996).
33. John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971).
34. John Rawls, *Political Liberalism* (Cambridge: Harvard University Press, 1996).
35. According to the American Political Science Association, "political science is the study of governments, public policies and political processes, systems, and political behavior." http://www.apsanet.org/section_517.cfm. Accessed January 9, 2008.
36. The literature here is vast. In the Continental tradition, one might start with Friedrich Nietzsche, *On the Genealogy of Morals*, trans. Walter Kaufmann and R. J. Hollingdale (New York: Vintage, 1989); Max Horkheimer and Theodor Adorno, *Dialectic of Enlightenment*, trans. Edmund Jephcott (Stanford: Stanford University Press, 2002); Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Pantheon, 1978); Jürgen Habermas, *Knowledge and Human Interests*, trans. Jeremy Shapiro (Boston: Beacon Press, 1971). In the pragmatist tradition, the paradigmatic text is Richard Rorty, *Philosophy and the Mirror of Nature* (Princeton: Princeton University Press, 1981). In the feminist tradition, the *locus classicus* is Genevieve Lloyd, *The Man of Reason: "Male" and "Female" in Western Philosophy*, 2nd edition (New York: Routledge, 1993).

37. For helpful discussions of this theme in Horkheimer and Adorno, Foucault, and Habermas, see McCarthy, "The Critique of Impure Reason."
38. Di Stefano, "Feminist Political Philosophy". For related arguments, see Benhabib, "Models of Public Space: Hannah Arendt, the Liberal Tradition, and Jürgen Habermas," in *Situating the Self: Gender, Community, and Postmodernism in Contemporary Ethics* (New York: Routledge, 1992); and Fraser, "Rethinking the Public Sphere".
39. For Butler's hesitance about collective power, see her discussions of solidarity in Butler, *Gender Trouble*, pp. 14–15.
40. Foucault, "Afterword," pp. 219–20.
41. Ibid., p. 220.
42. Foucault, "Politics and Ethics: An Interview," in Paul Rabinow (ed.), *The Foucault Reader*, (New York: Pantheon, 1984), p. 379.
43. See Brown, *States of Injury*.
44. See Arendt, *On Violence*, p. 51.
45. See, for example, Habermas, "Hannah Arendt's Communications Concept of Power," in Hinchman and Hinchman (eds.), *Hannah Arendt: Critical Essays* (Albany: SUNY Press, 1994), and George Kateb, *Hannah Arendt: Politics, Conscience, Evil* (Totowa, NJ: Rowman and Allenheld, 1983).
46. Fraser, "Rethinking the Public Sphere," p. 65.
47. Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. William Rehg (Cambridge: MIT Press, 1996), p. 175.
48. For an interesting discussion of Habermas's notion of communicative power, see Jeffrey Flynn, "Communicative Power in Habermas's Theory of Democracy," *European Journal of Political Theory* 3 (4): 433–54.
49. Ibid., p. 150.
50. I argue for this point in more detail in Allen, *The Politics of Our Selves*, chapter 5.
51. William Scheuerman, "Between Radicalism and Resignation: Democratic Theory in Habermas's *Between Facts and Norms*," in Peter Dews (ed.), *Habermas: A Critical Reader*, (London: Blackwell, 1999), p. 161.
52. On this point, see Thomas McCarthy, "Die politische Philosophie und das Problem der Rasse," in Lutz Wingert and Klaus Günther (eds.), *Die Öffentlichkeit der Vernunft und die Vernunft der Öffentlichkeit: Festschrift für Jürgen Habermas*, (Frankfurt: Suhrkamp Verlag, 2001).
53. Foucault, "What is Enlightenment?" in Paul Rabinow (ed.), *Ethics, Subjectivity, and Truth*, p. 317.
54. Fraser, "False Antitheses: A Response to Judith Butler and Seyla Benhabib," in Benhabib et al. *Feminist Contentions*, p. 69.
55. Here I borrow Benhabib's formulation of the core ideals of the Habermasian project. See Benhabib's "Introduction" to *Situating the Self*.
56. For insightful discussion of this point, see Benhabib, *Situating the Self: Gender, Community and Postmodernism in Contemporary Ethics* (New York: Routledge, 1992); Maeve Cooke, *Re-presenting the Good Society* (Cambridge, MA: MIT Press, 2006); and McCarthy, *Ideals and Illusions*.
57. On this point, see Hanna Fenichel Pitkin, "Justice: On Relating Public and Private," *Political Theory* 9: 3 (1981): 327–52.

2

Liberty and Its Circumstances: A Functional Approach

Lena Halldenius

Introduction

What is liberty? There are by now a number of familiar answers to this question. One such answer is that liberty consists in the absence of interference, in not being constrained against one's will. Another is that liberty consists in self-mastery in the exercise of moral or political self-determination. A third is that liberty consists in the absence of arbitrary rule, in not being vulnerable to the whim of others. These answers can be seen as alternatives, among which you take your pick, refuting the others as somehow mistaken or wrong. This is reinforced, I believe, by the fact that definitions of freedom get to be associated with different ideological positions. Noninterference is "liberal" freedom,[1] the absence of arbitrary rule is "republican" freedom, and the exercise of self-mastery or self-determination is perhaps "communitarian", or "socialist." Both the definitions, to put this starkly, and the ideological associations are, of course, simplistic and cover up a lot of variety. Unpacking that variety is not my concern here.[2] Instead I will slightly shift focus and discuss the role played by the concept of liberty in our social and political theorizing. A general claim I wish to make is that the social world is too complex for any single one of these accounts to fill the part we seem to want "freedom" to play.

So what is that part? In other words, what is the point of freedom? If the point of freedom were nothing more than to explicate what it is to be without physical constraint in whatever, even trifling, matter one is currently pursuing, surely people would not have been prepared to die for it. What is the point? Why are we concerned with it? These questions have been well put and explored by Elizabeth Anderson when it comes to equality.[3] Her answer is that the objective of equality is to end oppression and "to create a community in which people stand in relations of equality to others."[4] One might, of course, disagree with her on what the answer to the question is (I do not) – but even if one does, one should acknowledge the importance not only of stating the question but also of the fact that any answer to it will

reflect a moral and political commitment. Conceptualizations of equality or freedom (and other moral-political concepts such as justice and solidarity) cannot simply be explications of ordinary usage since ordinary usage is contested, ideological, and unstable. They have a purpose, a function, in relation to political or theoretical aims. My approach – and, I believe, Anderson's as well – to concepts of this kind is similar to what Sally Haslanger has dubbed "analytical" in contrast to "conceptual."[5] A conceptual inquiry aims to explicate our ordinary concepts. An analytical inquiry asks some of the questions Anderson states: What is the point of having these concepts? What task are they meant to perform? Do they perform them well? I believe Haslanger's choice of terminology is unfortunate, since it seems equally apt to use "analytical" to refer to what she calls conceptual inquiry. I will instead use "functional" to refer to an approach roughly of a kind with Haslanger's analytical.

In a functional approach to a concept, one aims to address two questions: why do we use it at all and what is the work we want the concept to do? There can be nothing neutral about the answers to these questions and the answers will not be found by merely looking at the world. The answers will be part of an elaboration of our moral and political commitments. It will be functional to the overall theory within which we use it.

Isaiah Berlin famously said that "[e]verything is what it is: liberty is liberty, not equality or fairness or justice."[6] If that were right, we could commit to an account of liberty independently of (1) larger political theoretical frameworks, (2) the function we see liberty serving in them, and (3) our understanding of political life. I fail to see how one could hold a view of what a free life looks like independently of one's view of the social world and a fair society. We choose our principles because they are conducive to the ends we want to promote.[7] Any favored principle of freedom is for that reason not right or wrong simpliciter but serves more or less well in a larger political-moral context and has to be assessed within it. Anyone who agrees with Anderson that part of the point of equality is to end oppression would, I imagine, not only deny that "everything is what it is" but would also struggle to see where a commitment to equality ends and a commitment to freedom begins. The point of freedom, surely, is to end oppression and create a community in which people stand in relations of freedom to each other.

The insertion of "freedom" in the formulation of the point about freedom is deliberate. The formulation of the point is not a definition of what freedom is. It sets a standard and directs our attention. Whatever we take freedom to be, it should be assessed in relation to a purpose such as this one. My contention in this chapter is that a functional approach gives us reason to see liberty as multifaceted.

Even though I do have a preferred account of what liberty is, my aim in this chapter is not to argue for a particular concept of liberty (even though I expect that my sympathy for the republican understanding of liberty as

nondomination or the absence of arbitrary rule will shine through). Any such argument would nevertheless be a defense not of an account in opposition to the alternatives but of an emphasis in favor of a particular account giving an overarching commitment to a society of a particular shape. Here I wish instead to explore the multifaceted character of freedom that a functional approach encourages.

Mainly, I wish to emphasize the importance of distinguishing between two questions, one concerning the meaning of liberty – What is liberty understood to be? What does it mean? – and another concerning the circumstances under which issues of liberty arise – What has to be the case for a state of affairs to be appropriately described as one of freedom or unfreedom? A number of mistakes and confusions can be cleared up if we appreciate that a factor can be an element of liberty without being included in the meaning of it, but instead in the circumstances that have to obtain for liberty to be a concern. This requires, though, that the two questions, although related, are kept analytically distinct.

In discussing the question of meaning, I will, as I have said, not argue in favor of a particular concept. What I will argue is that liberty should be regarded as having three dimensions. Liberty is practical, moral, and political. I will relate these features to those understandings of what liberty is that dominate the debate: liberty understood as noninterference, nondomination, and self-mastery or self-determination. I will analyze the relation between these accounts and the three dimensions of liberty, arguing that on each account liberty can vary along each dimension. This way we can show how an agent, under the same description of what liberty is, can be free in one sense but unfree in another, dispelling what has been referred to as the paradox of freedom, "as where one wants to say that a man was not free to do what he nevertheless did freely."[8]

Turning to the second question, the thing I wish to stress perhaps the most is the crucial importance of attending to the circumstances of liberty. What has to be the case for it to make sense to talk about an agent as free or not free? Some things can be part of the circumstances of freedom without being part of freedom itself; we are well advised to keep that in mind if we want to appreciate the complexity of that which we name freedom and the functions it serves. Again, I will relate this discussion to the main contenders, restricting myself this time to noninterference and nondomination. I will focus on dispositional power and institutions as two important circumstances of freedom.

Dispositional power – that is, power as capacity, both the agent's own and that of relevant others – is a vexed question in liberty theory. Retaining the relevance of liberty judgments seems to require that we restrict them to actions that the parties involved are capable of performing. But how do we achieve that if liberty is defined negatively as the absence of external constraint? How do we avoid having to say that a blind person is free to see

as long as no one blocks her eyes? Attending to the circumstances of freedom solves this difficulty, as well as others. It has the added benefit of showing that liberty as noninterference, albeit not my preferred account, is more subtle than it might appear to be.

Liberty and its restriction and violation are played out in a social and institutional setting, which sets conditions for what liberty can meaningfully be understood to mean. One important, perhaps the most fundamental, difference between noninterference and nondomination comes into view only by focusing on how institutions feature in these accounts. Nondomination, I hold, is institution-dependent in a way noninterference is not. Noninterference is ambiguous in its relation to institutions. This ambiguity cannot be spelled out without attending to the institutional circumstances of interference. For example, being free from legal constraints means different things depending on whether our outlook is internal or external to the institution of law. What liberty is or can be and when and how it is or can be restricted, by and for whom, are largely conditioned on institutional circumstance.

What liberty is understood to be

My concerns in this chapter all flow from my functional approach: What use is the concept of liberty in social, moral, and political theory? What do we want it to do? The function played by those understandings of liberty that dominate the philosophical debate can be usefully explored by attending to two questions: What is liberty? In what circumstances do issues of liberty arise? I will now discuss the first question along two parallel lines, accounts, and dimensions of liberty.

Accounts of liberty

The accounts or definitions of liberty that we find in recent debate can largely be grouped into the three familiar families I have already mentioned: Liberty understood as noninterference, as nondomination, and as self-control or self-mastery. The first is what Isaiah Berlin meant by negative liberty. This is liberty understood as an area of unimpeded action – an area within which the agent is unconstrained, that is, not hindered from doing what she has a mind to.[9] An agent's freedom is restricted to the extent she is prevented from doing what she wants or intends or is forced to do what she does not want or intend, as a consequence of what other agents do to her (as when someone grabs her by the arm) or of obstacles that are nonphysical but can be traced to someone else's action (as the threat of a fine). The account is negative since freedom consists in the absence of obstacles to action, not in actually doing what one is free to do. It is sometimes referred to as the liberal understanding of liberty, associated as it often is with Mill's principle in *On Liberty*.[10]

An account of liberty as noninterference does not have to refer to the agent's preferences. One might wish to say that freedom consists in the absence of obstacles to action, whether I want to perform that action or not. However, I, like most advocates of this view, see no good reason to extend it that far, since it would be difficult to appreciate the relevance of a restriction on freedom if it meant refraining from an action I have no preference or intention of ever performing. Does an iron grill over a pothole restrict my freedom to plunge into a rat-infested sewer or does it enlarge my freedom by removing a possible danger to my safe passage across the street? If we do not account for my preferences or intentions in relation to the sewer and the safe passage, then we cannot know the answer to that question. Berlin's use of "coercion" to refer to relevant interferences implies that he saw it in this way as well. We would not say that a person is coerced if she is stopped from doing what she has no will to do.[11]

Berlin famously contrasts this account to positive liberty, which is self-control or self-mastery.[12] The main concern here is not any area of free action but the source of what I do or do not do. Liberty as noninterference takes an agent's preferences or intentions as given; the question is whether she is stopped from pursuing them. Whenever she acts on her preferences or intentions, she acts freely. Liberty as self-mastery inquires into the source of the agent's preferences or intentions. An agent acting on a preference still does not act freely if she herself is not in control of the source of this preference or holds it unwillingly. Critics of this account of freedom say that it presumes an unattractive splitting of the agent's self into a higher and a lower level where the higher level is the autonomous, rational self meant to be in control of the lower, brutish urges. But there is nothing in the concept itself that commits it to any such awkward ontology. In today's moral philosophical parlance, we might simply say that this account works second-order preferences into the analysis of freedom. There is nothing mysterious about holding (first order) preferences that one would prefer (second order) to be rid of. The source of constraint might well be other people's actions (as when my preferences are shaped by the destructive influence of bad company), but it may also be internal to myself (as in the case of a smoker who wishes to be rid of her urge to smoke). This account is positive since freedom does not consist in an absence but in the presence of self-control. I am free to the extent that I actually do act as an agent in control of myself.

For a long time the choice facing philosophers interested in freedom came across as a stark one between these two accounts. Recently though, we have seen a revival of the republican or neo-roman understanding of liberty as nondomination – as the absence of arbitrary rules or as not being vulnerable to someone else's whim. Berlin, seemingly pained by his own refusal to call it liberty, hints at this tradition and the social complexity of its concerns towards the end of his essay.[13] Republican freedom is a distinctly political ideal, in the sense that it was originally meant to name a political status – that of citizen

rather than subject – and a political relation – that between citizens and appointed rulers accountable to those citizens.[14] Freedom in this sense is predicated on a particular form of political society, the republic, or constitutional democracy, and it is certainly no coincidence that is was highly important for the defenders of the democratic revolutions of the late eighteenth century.[15] During the nineteenth century, the revolutionary zeal of the free citizen became progressively weary and the issue of freedom turned more private, to freedom from political life rather than within it. In that process, the republican understanding of freedom as the absence of arbitrary rule dropped off the philosophical map. Recently it has reasserted itself and the philosophical debate has, as a consequence, gained in complexity and political relevance.[16] Republican liberty consists in the absence of domination, which means that this account is also negative. Interference as such does not violate liberty, only arbitrary interference does. Importantly, however, I can be unfree even if no one is doing anything to me at all. I am dominated by someone to the extent that I am vulnerable to his/her whim and lack resources to counter or avert an interference or perhaps even to make a complaint. In this situation, I am in a subjected unfree state even if the other party never takes advantage of their dominant position.[17]

The fact that I am at someone's mercy and yet, in fact, can (or am allowed to) do most of what I want to do will not invariably come across as problem. Why should it be a concern that I have a master if my master is kind and indulgent? It is a concern if we have already committed to certain things: that peonage should not be built into society's institutional structure; indeed that one of the main aims of society is "protecting the weak."[18]

With this third player introduced, one might assume that the choice facing the philosopher is an equally stark one, now between three alternatives. A point that I wish to make is that this is a mistake. I am a staunch defender of the importance of republican liberty. Should I for that reason call it the correct understanding, implying that the others are wrong? If we think that I should, then the "essentially contested concept" formula's influence on political philosophy would serve to explain why.

The "essentially contested concept"[19] is an established part of our vocabulary in political philosophy now, often used in a loose way referring to any concept over which there is persistent disagreement, but in a stricter sense entailing a certain attitude to concepts. A normative concept is essentially contested in this stricter sense if there is a core understanding of it, however minimal, over which there is agreement (which we "know" to be true). This core notion can be spelled out in a number of ways, but without settling the matter. The concept itself is incapable, as it were, of ensuring agreement. Importantly, the contestants think that their interpretation is correct and that the others are, in some real sense, wrong. Holding freedom to be an essentially contested concept would in this stricter sense mean that there is a core sense of freedom that everyone may accept and that, say, one of the

three accounts that I have outlined is the correct spelling out of that core sense, while the others are mistakes. They may still be valid concerns, but not in terms of freedom – for instance, all involved accept MacCallum's claim that freedom always takes the triadic form of freedom *of* someone, *from* something, and *to* do or be something, but they disagree over the correct spellings out of these three relata.[20] One could hold that the only correct interpretation is freedom *of* individual capable decision-makers, *from* actual coercion, *to* do whatever they have a mind to as long as this does not harm others, and that all other spellings out of the form are mistakes. That would be an example of freedom held as an essentially contested concept in the stricter sense.

With this approach, noninterference, nondomination, and self-mastery are regarded as alternatives, as different ways of doing the same kind of work or filling the same conceptual space, among which you take your pick. I am not saying that there are no choices to be made. But on my functional approach, I am denying that the different accounts are fruitfully regarded as mutually exclusive alternatives. The choice we face is not a stark one, nor is it a matter of betting on one contestant in a race. The aim of a social world without oppression is much too complex for that. I imagine we want to express what it is to act freely, to form preferences and intentions freely, and to be a respected and independent agent. In short, the job we want the concept of freedom to do is too multifaceted to be captured fully by any one of these accounts. Our uses of "liberty" cannot be a matter of asserting unequivocal meaning; it is always a move in a larger argument. This is not a problem. It is simply something we need to acknowledge as a matter of intellectual honesty. We use freedom in a particular way because we have a job we want it to do. Noninterference, nondomination, and self-control are in that sense not items on a menu. I will discuss how they are not such items by way of a second line of argument, one highlighting the multidimensional character of liberty as practical, moral, and political.

Dimensions of freedom

Thomas Hobbes suggested in *Leviathan* that we may be completely free in one sense, while completely unfree in another. He distinguished between what he refers to as liberty in its proper signification – the absence of external impediments to motion – and natural liberty or right, which consists in the absence of obligation.[21] These vary independent of each other. A captive who is seized and locked up lacks liberty in the first sense but, as she has no obligation towards her jailors, her natural liberty remains intact. The opposite pertains to a subject under law. The law does not impede motion but there can be no law unless people have put themselves under obligation to a law-maker, so law necessarily obligates. Its presence is characterized by the absence of natural liberty. In relation to the law, the subject completely lacks natural liberty but completely retains liberty proper.[22]

Compare this to the alleged phenomenon of the paradox of freedom. If the law forbids action x (say stealing), one is unfree to do x. But people do x all the same (they go on stealing) and they do it willfully, so they have to be free to do x since otherwise they could not have done it. This would be a paradox because a person is unfree to do what she nevertheless does freely.[23] A re-reading of *Leviathan* would seem to solve this problem quite nicely, since being free in terms of impediments and unfree in terms of obligation is the completely nonparadoxical position of Hobbes's subjects under law. A theory needs to be subtle enough to acknowledge that these are different categories, that they vary independently of each other, but that we can indulge our linguistic intuitions and let "freedom" (or "liberty") refer to all of them without confusion and that the complexity of our human condition makes it completely reasonable to do so. Any systematic account of freedom understood as a concept for the social world should acknowledge that freedom varies along three dimensions: the practical, the moral, and the political.[24]

Freedom is a practical matter; it has to do with action. We would not talk about freedom at all if there were not things that we want to do and the possibility of us being thwarted in doing it. Questions raised along the practical dimensions are: What can I do? What can I not do and why? What can other people do to me? What do they do to me?

Freedom is also a moral matter. This entails many things but let me focus here on responsibility. Freedom involves allocation of responsibility, both on the part of any potential violator of freedom and on the part of the agent whose freedom is at stake. It is only because we hold people responsible for what they do that we can make a distinction between different ways of being constrained. If I am seized and locked up, then my freedom is restricted. If I am caught in a blizzard, we are reluctant to say that I am thereby unfree. We certainly want to express a difference between these two situations. In the first case there is responsibility to be allocated to whoever seized me (whether there is blame as well is a separate issue), while in the second, there is not. In addition, if we wish to say that less tangible restraints than physical ones, say obligations, constrain us, then that seems to require an allocation of responsibility to agents to meet those obligations. For example, laws themselves (rather then the punishment that might follow if we break them) cannot be said to restrict freedom if we deny an obligation to obey the law and a responsibility in relation to that obligation.[25] Questions raised along the moral dimension are: Who, if anyone, is responsible for my predicament? Is someone responsible for rectifying it even if that person did not cause it? What am I obligated to do or refrain from doing?

Freedom is also a political matter, in the broad sense of the political as a function of institutional arrangement.[26] Regardless of whether an identifiable agent is responsible for or intended the predicament I am in, I or people of my description may still be constrained by or made vulnerable as a consequence of society's institutions and how they are organized. On an unregulated job

market, where firing is easy, the risk of losing one's job is a constraint making you more dependent on your employer, particularly if you have low job-market value. Depending on constitutional design, citizens may be more or less constrained in communicating with their representatives or holding representatives to account. Institutional design may also promote freedom. Social security facilitates options and may counter constraints along the other dimensions.

Here the institutional structure itself is assessed, not the individuals who act within it. Questions raised along the political dimension are: How do society's institutions affect people's options? How do they affect people's relations to others? How well and securely can people act as citizens? What are people's means of controlling the workings of institutions that affect them?

These are factors that can vary independent of each other so that a person's freedom in a particular matter may be affected in all, none, or some of these ways.

Relations between the dimensions and accounts of freedom

How do these dimensions relate to the accounts discussed in the section "Accounts of liberty"? First of all, we should resist any temptation to map each account onto one of the dimensions, as if, for instance, liberty as non-interference varies along the practical dimension, liberty as self-control along the moral dimension, and liberty as nondomination along the political dimension. Each of the accounts can be fruitfully looked at from each dimension; they all vary along these three lines. Even though I regard nondomination as a distinctly political account of freedom, which I will show below, the questions raised along the other dimensions are still pertinent to it.

Noninterference is concerned with an area of unobstructed action and so is obviously practical. However, when it comes to noninterference, we may legitimately claim that moral issues of responsibility arise, for instance, to respect the freedom of others. My freedom to act may be restricted along the practical dimension while not along the moral dimension if the action I am made incapable of performing is one I am obligated not to perform. Politically, noninterference is easily regarded as the pet theory of libertarians as it rests with a political commitment to low-level regulation. In any event, it has clear implications for the role of legal regulation in relation to people's choices.

Liberty as self-control assumes moral evaluations of our reasons for action and is, therefore, obviously moral, but it is so only because determining influences on our reasons in their turn affect whether actions are available or not, thus raising practical issues as well. Politically, freedom as self-control – contrary to Berlin's fears of authoritarian implications – lends itself easily to ideas of strong democratic citizenship and deliberative

democracy, where political freedom is an activity consisting in collective self-government.[27]

Nondomination speaks largely to the same concerns as justice, if justice is understood as a function of institutional arrangement rather than as a fall-out of benevolence. The concern is that people are not subjected to the arbitrary will – or whim – of those who might harm them. This account of freedom is the one most explicitly and directly concerned with an end to oppression. Republican freedom is in this sense predicated on a particular shape of the civil condition and is obviously political. But one of the attractions of republican freedom is that it shows how people's agency can be conditioned by subjection even when they are not prevented from acting. An option may be ineligible because of a risk of interference combined with one's inability to do anything about it. If I act, I act on mercy. A classic example of domination is a slave under a benevolent master. In actual fact the master does not interfere with the slave's movements but, due to his superior position and the slave's lack of power and status in relation to him, whenever she acts she acts on his mercy.[28] This reflects not only on her status as agent but also serves as a constraining factor. It also highlights the responsibility that comes with power since the possession of power over another can be a constraint on that person even if one does not exercise it. It is no coincidence that republicans so frequently refer to an unfree state as one of slavery, signifying, as it is meant to do, that unfreedom is a state of subordination and powerlessness, not necessarily one of physical constraint, even if it often involves that as well.[29]

Each of the three accounts can be looked at from the point of view of each of the three dimensions, and it is important that we do so. On each account, an agent's freedom can vary in all of these ways, independently of each other. We do not need to step outside of our preferred account to explain how a person can be free in one sense and unfree in another.[30]

Keeping our eyes firmly on the questions raised under each dimension, we will see that the three accounts speak to partly different practical, moral, and political concerns, all of which can be granted validity. The accounts express features of our social existence that can vary sometimes independently of each other, sometimes in causal links, but which are also to an extent constitutive of each other. For example, liberty in the positive aspect of self-mastery or being one's own source of control can be partly constituted by liberty in the negative aspect of absence of domination. After all, how could I possibly be master of myself if someone else is master over me? The reverse could also hold (even if it seems empirically less likely); positive liberty understood as a strong sense of self could avert relations of domination. The extent to which I am subject to actual interference can be causally linked to a relation of domination but it need not be. Subsuming all these concerns under a multifaceted notion of what liberty is makes perfect sense. We will probably still prefer one over the others – as I prefer liberty

as nondomination – but that is a matter of the ends we wish our principles to promote, not a definitional truth.

It is still important to keep the accounts analytically distinct, since they are easily lost from view if we do not; testimony to this is the narrowly dichotomized debate between liberty as noninterference (negative) and liberty as self-mastery (positive), from which liberty as nondomination was absent. Another reason flows from the functional approach to liberty, as a vehicle for expressing concerns, since these concerns will arise in different circumstances. As I will show, liberty as noninterference and liberty as nondomination stand in different relationships to institutions. The concern of the republican understanding of liberty arises, I would argue, only against the background of institutions. Without institutions, one is neither free nor unfree in the republican sense. This limitation does not apply to liberty as noninterference. More historically put, the circumstances of liberty as noninterference transgress the distinction between the natural and the civil condition, while the circumstances of republican liberty are inherently civil.

This brings us to our second question: In what circumstances do issues of liberty arise?

When do issues of liberty arise? A question of circumstances

The relation between liberty understood as noninterference and nondomination takes on a different guise from the point of view of when and how issues of liberty arise under each of these conceptions.[31] I will discuss "dispositional power" and "institutions," which are particularly informative in terms of what function conceptions of liberty serve in political theory.

One of my reasons for discussing dispositional power is to dispel the belief that noninterference cannot account for the role of *having* power as opposed to *exercising* it. In this process, noninterference will appear to gain in subtlety. One of my reasons for talking about institutions is to disambiguate noninterference and to show a distinctive feature of republican liberty: Nondomination is institution-dependent in a way noninterference is not.

Circumstances of liberty

By circumstances of liberty I mean the same kind of thing as what Rawls does when talking, in Humean spirit, about the circumstances of justice, those social conditions of human interaction under which issues of justice arise. One such is the coexistence of agents who have conflicting life plans and yet are capable of cooperation; another is moderate scarcity of resources. Were these circumstances absent "there would be no occasion for the virtue of justice"[32] and there would be a state of affairs neither just nor unjust. It may

still be good or bad – we can make judgments about it – but judgments of justice are of a particular kind, not applicable in all settings. If there is no ground for conflict – in a world of saints – judgments of justice are inapplicable since they have a role to play only where there is need for conflict resolution.

Imagine now that there is an abundance of resources and everyone has everything they could possibly wish for. One might wish to say that this situation is characterized by justice in distribution, since everyone is content and wants nothing. What we should say instead is that the situation is neither just nor unjust, since issues of distributive justice arise only under scarcity. If scarcity is so desperate that hardly a single need can be met, here again judgments of distributive justice and injustice would seem to be inapplicable. The very situation itself, of course, may be severely unjust, if the desperate scarcity is created, perpetuated, or simply ignored by agents who could alleviate it. But the distribution within it – given what it is – might be neither just nor unjust, the badness of the suffering being beyond such judgments. Principles of justice should be such that all concerned have reason to accept them and the effects of their implementation as fair. When options range between extreme suffering and marginally less extreme suffering or between starving to death today or next week, it is difficult, even offensive, to apply considerations of justice. There are moral judgments to be made even in the most dire of circumstances, but not judgments of justice.

Importantly, the circumstances of justice are not part of the meaning of justice or of what justice is. Rawls's conception of a just distribution is a distribution that benefits the worst off more than any available alternative. Only if resources are moderately scarce in relation to needs and wants does it make sense to ask if that is the case, but that does not make scarcity part of the definition of justice as fairness. Something can be part of the circumstances of a phenomenon, or an element that has to be considered in order to understand the phenomenon, without being part of the meaning of it.[33]

The concept of justice has a distinct role to play under fairly well-defined circumstances which include institutions. A system of institutions is clearly part of Rawls's circumstances of justice as fairness.[34]

I treat liberty as a matter of social relations, as a concept for the social world. This means, first of all, that social coexistence and interaction are part of the circumstances of any notion of liberty. This has one rather obvious implication. The degree of any person's freedom is determined by the relations in which one stands to others. Liberty can be restricted or enlarged only as a matter of how people affect one another, directly or indirectly, mediated or unmediated. Issues of liberty do not arise outside of social relations.[35]

With circumstances of liberty, then, I mean those conditions that have to be present for it to make sense to ask of someone whether she is free or unfree. Investigating the role of the circumstances of liberty solves problems and dispels confusions that arise and trouble us only if our focus is narrowly fixed on meaning.

Dispositional power

Dispositional power is power held as a capacity or ability. I hold the power to press down the keys on my keyboard dispositionally when my fingers hover over them. When I press down the keys, my power is exercised and is no longer dispositional. It reverts, as it were, to dispositional power as soon as I pause again. Having dispositional power to x is to possess the ability to x, while not x-ing.

Both noninterference and nondominations are negative accounts of what liberty is; liberty consists in an obstacle or constraint of some sort being absent. Focusing only on the first question – what is liberty? – it would be perfectly possible to say that a solitary individual engaged in no interaction with others is perfectly free under both these descriptions. There is neither interference nor domination for the simple reason that there is no one else there at all. But anyone concerned with issues of liberty would, I think, be interested in making a distinction between different kinds of absences. We also need to disambiguate the word "do" in "what people do or do not do in relation to each other," which involves placing the "doing" and the "not doing" in the context of the social relations and the dispositional powers of the parties involved.

I will start with the dispositional power of the agent whose liberty is at stake, turning later to the power of potential violators. For purposes of illustration, I will frame this issue with the help of Hobbes's theory of liberty. Quentin Skinner has argued that power is an element of liberty for Hobbes, since liberty is marked by the absence of external impediments to power.[36] Liberty is defined as an absence, but power as an actual ability still has to be present for it to make sense to talk about the absence of external obstacles in terms of freedom. Skinner does not specify how power features as an element. In a critical comment, Matthew Kramer points out that Hobbes defined liberty without any reference to power and infers from that that there is no case for saying that Hobbes saw power or actual ability as an element of freedom.[37] According to Kramer, this commits Hobbes to the strange position that whenever I am not constrained from doing something, I am thereby free to do it even if it is impossible for me to do it. As long as no one interferes, a blind person is free to see, a lame person is free to walk, and Mary is free to fly around the galaxies.[38]

Even though some have found nothing odd about using freedom in that way,[39] Kramer rightfully does. He thinks Skinner gives Hobbes a backhanded favor by including power in a theory in which liberty is defined without any reference to it. Kramer sets out to solve this alleged problem by offering an account of liberty where dispositional power is included in the definition: A person is free to perform an action if and only if she is able to; a lack of actual capacity spells a lack of freedom. What he finds mysterious is how a lack of power to act can have anything to do with a person's freedom to act without detracting from that freedom. He sees no way to introduce dispositional

power other than by making it part of the meaning of freedom. By keeping our two questions firmly distinct we will find no problem in saying that dispositional power is an element of freedom without being part of what freedom means. It is part of the theory by being part of the circumstances of liberty, just as moderate scarcity is part of the theory of justice through being part of the circumstances, not the meaning, of justice. A purely negative understanding of liberty as the absence of constraint is retained, while avoiding having to say that a blind person is free to see. By attending to the circumstances of liberty this difficulty is avoided without switching to what is in effect a positive definition of liberty, where ability is part of what freedom means. Only in relation to acts within my dispositional power does it make sense to say that an absence of obstacles leaves me free to perform them.

Let us turn to the dispositional power of a potential violator. If liberty understood as noninterference exists to the extent that interfering action is absent, one might wish to say that any such absence of interference constitutes freedom. But as long as we are concerned with liberty as a social phenomenon, we need to be able to explain the difference between someone else being there who could act but does not and no one else being there at all. Only the absence of interfering action of someone whose presence and capacity to act are part of the social world I inhabit is informative about what my situation as an agent is like. If liberty is understood as noninterference, the meaning of it refers to the absence of interfering action but that absence raises issues of liberty only against the background of an existing capacity for such action. If liberty as noninterference, straightforward as it seems to be, does not account for this difference, it is underdetermined as a concept for the social world. If it does account for it, it is more subtle than it appears at first sight.

If liberty is understood as nondomination, it would perhaps be possible to say that in the absence of anyone with the power to interfere there is perfect freedom; but that would make a nonsense out of the concerns to which republican freedom speaks. The question we ask if we want to know whether an agent is free or not under this description is whether they are situated in such a way that they are vulnerable and without means to counter, avert, or hold to account anyone who has dispositional power over them. If I am not related to anyone with such powers, that question does not arise.

Both understandings, then, presuppose the presence of dispositional power – both on the part of the agent whose liberty is at stake and the potential violator of it – for an absence of the correct kind to count as liberty. Dispositional power may restrict liberty as nondomination.[40] It does not restrict liberty as noninterference but still has a role to play in a theory of that kind, as part of the circumstances for a relevant absence.

Institutions

I turn now to institutions. Institutions are not only formalized systems such as law but also, in John Searle's words, "any collectively accepted system of

rules (procedures, practices) that enable us to create institutional facts," where these rules "typically have the form of X counts as Y in [context] C."[41] Institutional facts are a subclass of social facts and can exist only when certain institutions are present. The institutional fact that, for example, a certain piece of paper (X) counts as a five-pound note (Y) presupposes the existence of the institution of money. In what follows I will focus mainly on the institution of law, but the point of institutions as a circumstance of liberty is meant to apply to institutions in general.

The difference between liberty as nondomination and liberty as noninterference in terms of their relation to law comes in two stages, each relating to one of the two questions I am discussing: What is liberty, and when do issues of liberty arise?

Some – such as Hobbes and Bentham – would argue that the very point of law is to restrict liberty, for the sake of security and general welfare; freedom is always freedom from law.[42] Others – such as Locke – would say that only by the constant, predictable, and public rule of law are we safe enough to be free.[43] This difference has all to do with their respective accounts of liberty and so appears on the level of the first question. On liberty as noninterference, law is a prime means of restraint; it screens options in or out and restricts liberty for that reason. On liberty as nondomination,[44] it is an open question whether law restricts liberty – a question that is answered by the form under which law operates. Law under a republican constitution – in which standards of fairness and rules of right are enshrined, under which subjects are also citizens and as such the source of their own obligation – is, ideally, not only nondominating in itself but also a necessary, although probably insufficient, tool for making social relations nondominating as well. Republican law enhances rather than restricts liberty, it is argued, by providing constant and public rules to live by.[45]

On the level of the second question – When do issues of liberty arise? – perhaps the most fundamental difference between the two conceptions appears. I have already stated that the concern to which republican liberty speaks arises only against the background of institutions such as law. The circumstances of liberty as noninterference straddle the distinction between the natural and the civil condition, while the circumstances of republican liberty do not. Where there is no law, one is neither free nor unfree in the republican sense.

We cannot relate liberty as noninterference to liberty as nondomination without attending to the fact that the latter is necessarily institution-dependent, whereas the former is not. Therefore, the fundamental difference between them is not in how they describe a liberty infringement but in the circumstances within which they arise as concerns. Interventions and relationships can be made nonarbitrary in the republican sense only through institutional systems of control. Personal benevolence and goodwill do nothing to secure republican liberty. Indeed, the very fact that people are

vulnerable to the goodwill of others is what republicans see as the main problem for freedom. Within an institutional system – or a civil condition – we may well ask whether the institutions that are in place serve this function or not, through law and its effects on social relations. Without or outside of institutions such as law, the issue does not arise. There would be, to borrow Rawls's phrase, no occasion for the virtue of it. Only non-institution-dependent conceptions of liberty – such as liberty as noninterference – could serve.

It is important to remember that institutions not only regulate human interaction but also constitute the relations we are in, the status we have, and the functions we fill in relation to each other. Domination, when not manifest in restraining actions, still has to consist of something. How could a person be subjected to another through any means other than actual interference unless there are institutions – in a wide sense, including social mores – that afford to them different status? Institutions make it possible to control even what you do not have in your immediate possession. We can control material objects without having them in our physical possession because of the institution of property. We can control other people because of institutions that shape and name our relationships. The question whether the relations I am in count as dominating can be meaningfully asked only in circumstances where domination can happen, that is, in an institutional mode of life.

Outside of institutions – such as law, but also in the wider sense of social mores or any rule-constituted activity – people are neither free nor unfree in the republican sense. That is how this view of liberty is distinctly political, in this wide sense of "political."

It should be stressed that this does not mean that noninterference is incapable of serving as a conception of civil liberty, that is, as liberty within a system of law. However, the fact that liberty as noninterference can function independently of institutional circumstance makes it underdetermined or ambiguous when it comes to institutional reality. Freedom from legal intervention can mean either the absence of legal regulation of a particular aspect of life within an existing institution of law or the complete absence of any such institution of law.

Liberty as nondomination, because it is institution-dependent, is not ambiguous in this sense. It arises as a concern only where there are institutions that regulate and construct human relations.

With a functional approach to liberty, we have reason to discuss what job we want the concept to do for us and how we, in fact, use it. Without denying that there are choices to be made, I have argued that accounts of freedom vary along three dimensions, the practical, the moral, and the political, and that this helps to highlight the complexity of liberty restraints not only between but also within each account. I have stressed the importance of distinguishing analytically between accounts of what liberty is and of the

circumstances in which issues of liberty arise – my primary concern being not what freedom means, but what goals we wish to promote by our use of it. This distinction is crucial not only for avoiding theoretical mistakes but also for the social relevance of freedom.

Notes

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1. Along with Isaiah Berlin (1969, p. 121) and many others I will treat the terms "freedom" and "liberty" as if they were interchangeable. According to Quentin Skinner "nothing hangs on this difference of terminology" (1984, p. 194n). Some disagree. On this, see Pitkin (1988) and Williams (2001), who treat "liberty" as a distinctly political value. I see a merit in this distinction but do not pursue it here.
2. For a discussion that does have that ambition, see, for example, Flikschuh (2007).
3. Anderson 1999.
4. Anderson 1999, p. 289.
5. Haslanger 2000, pp. 33–5.
6. Berlin 1969, p. 125.
7. On this, see, for example, Pettit 2002.
8. Benn and Weinstein 1971, p. 194.
9. "If I am prevented by others from doing what I could otherwise do, I am to that degree unfree" (Berlin 1969, p. 122). Berlin refers to Hobbes and Bentham as representatives of this view. For example: "Liberty, or Freedom, signifieth (properly) the absence of opposition (by opposition, I mean external impediments of motion)" (Hobbes *Leviathan*, chapter xxi 1). See also chapter xiv 2.
10. Mill 1989 [1859], p. 13. Any tendency to equate Mill's view with Berlinian negative liberty risks obscuring Mill's moral commitments to independence and development. Here is one example of how the negative-positive dichotomy serves to make an argument come across as less complex than it is. In *The Subjection of Women* (1989 [1869]), for instance, Mill talks about freedom in a way that resonates less with freedom as noninterference and much more with positive liberty ("All men, except the most brutish, desire to have, in the woman most nearly connected to them, not a forced slave but a willing one," p. 132) as well as with freedom as nondomination ("the wife is the actual bondservant of her husband [...] She can do no act whatever but by his permission, at least tacit," p. 147).
11. This was Hobbes's view as well. Applied to the human being rather than inanimate objects the absence of impediments of motion translates as "not hindered to do what he has a will to" (Hobbes *Leviathan*, chapter xxi 1).
12. Berlin 1969, p. 131.
13. Ibid., p.159: "we cannot simply dismiss this case as a mere confusion of the notion of freedom with that of status, or solidarity, or fraternity, or equality [...]. For the craving for status is, in certain respects, very close to the desire to be an independent agent."
14. For discussions of republican freedom as a political value, see, for example, Goldsmith (2000) and Skinner (1990).

15. Examples of this are Mary Wollstonecraft, Richard Price, and many others. See Halldenius 2007.
16. See the important work of Philip Pettit (e.g. 1996, 1997, 2005) and Quentin Skinner (1998, 2002a). See also Lena Halldenius (1998, 2001, 2003, 2007).
17. "For who could be free, when every other Man's Humour might domineer over him?" in Locke's *The Second Treatise of Government*, par. 57. See also Halldenius, 2003, pp. 265–6.
18. Compare Wollstonecraft: "the end of government ought to be, to destroy [...] inequality by protecting the weak" (Wollstonecraft 1989 [1794], p. 17) where "protecting" should be interpreted strongly, not as cushioning the effects of inequality but as eradicating it through the organization of society's institutions.
19. W. B. Gallie 1956 and 1964.
20. Gerald MacCallum 1967, p. 314.
21. Hobbes *Leviathan* chapters xxi 1 and xiv 2, compared to xiv 3 and 7.
22. The move from the natural to the civil condition consists in the transfer of one's natural liberty – one's right to secure one's survival by any means one sees fit – onto a sovereign, on condition that others do the same (*Leviathan* chapter xiv 5 and 7). The transfer is of *all* one's natural liberty. Whatever liberty one enjoys in the civil condition consists in the silence of the law (chapter xxi 18), that is, the absence of regulation in a particular area of life, but that freedom – the liberty of subjects – presupposes the existence of a legislator (who has chosen to remain silent). The liberty of subjects is predicated on the absence of natural liberty. The fact that I, as subject, am not obligated to obey laws or commands that would lead to my own destruction is not because I have a bit of natural liberty left, but because the right to perform acts that lead to my destruction was never part of my natural liberty and so not mine to transfer.
23. Benn and Weinstein 1971, pp. 194, 205.
24. In his discussion of the concept of power, Peter Morriss distinguishes between the practical, the moral, and the evaluative context. I have benefited from his discussion but still regard it as flawed in its reluctance to appreciate the importance of the political. See Morriss 2002, pp. 36–46. For an excellent discussion of social power, see Åsa Andersson 2007.
25. Whether there is an obligation to obey the law – and if so, under what circumstances of law-making – is a question I leave open. For a debate on this matter, see Simmons and Wellman 2005.
26. It is a curious feature of much of the work done recently in political philosophy that it displays little interest in the political as an activity and a form of life, something which philosophers historically have put a lot of effort into understanding. I cannot hope to address this vast issue here. I will restrict myself to saying that I see the political as a subfield of the social and that the political is constituted by institutions although institutions need not be political.
27. On this, see, for instance, communitarian accounts of freedom and political life, as in Taylor (1979) on freedom as an exercise concept, and Sandel (1996, p. 117) on how self-government requires the cultivation of virtue. In other words, positive liberty is said to be a requirement of self-government.
28. This is what Mill had in mind when he said that "the wife is the actual bondservant of her husband [...] She can do no act whatever but by his permission, at least tacit" (*The Subjection of Women* 1989 p. 147). See also Richard Price: "Individuals in private life, while held under the power of masters, cannot be denominated free, however equitably and kindly they may be treated" (Price 1991 [1777], p. 77).

29. See Halldenius 2005 and 2007.
30. To this Hobbes's theory is testimony. Liberty proper, natural liberty, and the liberty of subjects are different (one is practical, one moral, and one depends on the political condition), but all can be subsumed under liberty as noninterference.
31. For reasons of space, I will not discuss liberty as self-control in this context.
32. Rawls 1971, p. 128.
33. Here is an example. The definition of "bachelor" is "unmarried man." Only where marriage exists as an institution, in law and custom, does it make sense to talk about a person as unmarried. Where there is no institution of marriage, people are neither married nor unmarried. This does not make the existence of the institution of marriage part of the definition of bachelor. It makes it part of those circumstances that have to obtain for the question to arise.
34. Rawls describes justice as the first virtue of social institutions (1971, p. 3), which implies that in the absence of social institutions there is nothing there about which judgments of justice can be made.
35. This holds also for liberty as self-control or self-mastery, even though I can be the source of my own constraint. This account is obviously moral and morality is a social phenomenon, so issues of liberty as self-control or the lack of it arise only in social settings. Note that what I refer to here is not self-control as such but an account of *liberty* understood in terms of self-control.
36. Skinner 2002b (revised version of an article published under the same title in 1990), p. 211.
37. Kramer 2001, p. 213.
38. Ibid., p. 209.
39. For example, Pettit (1989) introduces a normality condition which entails that "the cripple can be ascribed the negative liberty of walking where he wishes, the blind person the negative liberty of watching what he likes" (p. 159).
40. Accounting for how it can be done through a distinction between power and influence, more precisely between the exercise of power and the influence of dispositional, unexercised power. Person A's dispositional power to interfere with the actions of person B can influence person B in a constraining way, for instance, through B's awareness of A's power, without A doing anything.
41. Searle 2005, pp. 21–2. See also Searle 1995, chapter 2.
42. "As for other liberties [than the liberty to defend one's own life, which cannot be restricted] depend on the silence of the laws" (Hobbes *Leviathan* chapter xxi 18). "[I]*t is only by being such* [a restraint upon individual liberty]*, that laws can be laws*" (Bentham 1843).
43. "[T]*he end of Law* is not to abolish or restrain, but *to preserve and enlarge* Freedom" (Locke *Second Treatise* para. 57).
44. In Halldenius 2003, I argue that Locke should be placed in the republican tradition of thought when it comes to freedom in society.
45. See Halldenius 2007a, for an analysis of how the relation between liberty and law differs, given diverging accounts of what liberty is.

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3

Human Needs and Political Judgment

Lawrence Hamilton

Introduction

> In general, the best way to judge men is by their interests; and the best method of persuading them is to make them see their own interest in what you propose.
>
> René-Louis de Voyer de Paulmy, marquis d'Argenson[1]

Judgment is central to politics and political theory. But it is also elusive. It requires and involves a wide range of skills, capacities, sentiments, values, and institutions. Some theorists respond to this elusive jumble of abilities, emotions, and forms of interaction by transcending them or abstracting from them. They resort to reason alone. This is particularly true of contemporary liberal political thought and its dependence on the odd coupling of "rights" and "preferences".[2] Rights, it is supposed, have a natural association with individual utility via the notion of subjective "preferences" (or avowed human wants): a properly instituted and enforced objective rights structure guarantees human life and liberty, and provides equal freedom for all with regard to their preferences and choices (Rawls 1996, pp. xli, xlviii). This is not only untrue (Geuss 2001, p. 148), but also detrimental to thinking about political judgment. In these terms a good political judgment becomes one that accords with a set of pre-determined, abstract rights. This jettisons understanding the various reasons or motivations for actions (rational or irrational) in favor of prescription: political judgment conceived in terms of maxims or principles for action, with rights acting as the universal criteria for judgment.

Other theorists, on the other hand, think that it is impossible to give, once and for all, a single, or single set of, criteria for political judgment. This is because political judgment is always, everywhere contextual, prospective and often takes place within a nonrecurrent situation. Judgment about how to get from "here and now" to a desirable "future there" is likely to involve consideration of objective human goods, but it is impossible

without knowledge about the here and now, the means to get "there" and a vision of what "there" could be like. Thus, it is more helpful, these theorists claim, to think about what kinds of political institutions will best enable this kind of judgment in context, that is, what conditions generate good political judgment.

In this chapter I join the latter camp. But I do so on my own terms: I reintroduce reason. I argue that, properly conceived, a political philosophy of needs generates a felicitous account of political judgment and how to perfect it. Not only does it focus attention on the determination and satisfaction of urgent human goods; it also captures, rather than ignores, the wide range of skills, sentiments, and institutions that constitute and affect judgment in politics. It is therefore a good candidate for thinking about what kinds of political institutions generate good political judgment. In particular, this is the case for four main reasons. First, it is realist. Second, it does not pre-determine the relevant facts, sentiments, and values in any particular situation of judgment. Third, it provides a conceptual language that highlights real motivations or *reasons* for action – existing emotions, desires, values – and links these to a framework for assessing human goods and institutions. Fourth, it supplies mechanisms for deliberation and persuasion between rulers and ruled. In this way, it provides the cognitive and institutional means for successful political judgment amongst rulers *and* ruled.

I begin the chapter by analyzing political judgment. I argue that political judgment is the ability to choose, in a particular collective context, how best to proceed; that is, it is the *experience, insight, vision,* and *timing* to choose, given one's knowledge of current opinions and interests, the best course of action to bring about or determine a desirable end, as well as the *rhetorical skill* to persuade others of the merit of one's judgment. This involves determining which salient facts, sentiments, opinions, values, models of reality and possible solutions to use in a certain context and then assess them for their usefulness. Successful political judgment therefore depends in part on rulers knowing as much as possible about the contextual needs, interests, and opinions of the ruled, and the ruled having access to a deliberative framework for the articulation and determination of these needs, interests, and opinions. In the subsequent three sections of the chapter, I depict how a politics of needs enables this. I begin by analyzing the normative and causal nature of needs. I then discuss the idea of true interests and the evaluation of institutions, and highlight the extent to which these processes depend on intersubjective judgment. Finally, I propose methods and institutions for the evaluation of needs, true interests, and institutions (including rights) that enable deliberation, persuasion, and good political judgment: district assemblies, a consiliar system, and a decennial constitutional plebiscite. I argue that these would provide citizens with the informational, participative, and deliberative means to determine their own needs

and true interests, influence the political judgments of their rulers, and also provide their rulers with the requirements for good political judgments. This is in part inspired by Argenson's little discussed argument for democracy before the advent of modern representative democracy and liberalism, stripped of his assumptions regarding monarchy.

Political Judgment

Humans cannot escape the need to judge. In a variety of contexts we often exercise our power of judgment. We make perceptual judgments ("this table is brown"), aesthetic judgments ("this painting is beautiful"), legal judgments ("this person is guilty"), moral judgments ("this is the right thing to do"), and political judgments ("this is the best policy") (Beiner 1983, p. 6; Kant 1996, 2000; Aristotle 2004).[3] Political judgment may be a species of the general capacity to judge (assuming this exists), or it may be a unique kind of judgment. For the purposes of this chapter, I do not need to resolve this much-debated question.[4] It is possible to begin with a much less contentious claim. Political judgment is an instance of practical reason, that is, the general human faculty of resolving, through reflection, what one is to do (Dunn 1980b; Wiggins 1998b; Aristotle 2004, 1991). Unlike moral or even legal judgment, in the case of political judgment, the context is normally collective: what "we" are to do; or "what is to be done" (Lenin 1969; Aristotle 2004, 1140b15). Moreover, the substance of the decision or choice is normally normative, contextual, and prospective: "what is to be done in order to get from this particular situation to a desired and valuable different situation in the future." Political judgments, therefore, involve the assessment of existing cognitive, moral, and institutional conditions in light of what is desirable and possible: they are concerned with how we ought to and could proceed. And the relevant "we" can be local, national, regional or global: Londoners, South Africans, Europeans or Humans.

Political judgment, then, is characterized by individual cognition within a collective context. It is possible to emphasize the former feature and think of it as a "mental faculty or activity," "the cognitive exercise of an individual human being" (Steinberger 1993, pp. vii, 83); or the latter and conceive of it as a "political, common activity…in which the multitude deliberates" (Barber 1988, pp. 199–200, 210). A unique focus on one or the other is likely to be misleading because political judgment involves and requires both. Aristotle and Cicero were the first to argue convincingly along these lines: they emphasize the skills, mental capacities, and experiences that are constitutive of political judgment and the institutions and practices that enable deliberation and persuasion. Aristotle links political judgment with deliberation and persuasion in the following way. He claims that political judgment or political wisdom is an instance of practical reason, or *phronēsis* (Aristotle 2004, 1141b23). Then, in opposition to Plato, he argues that

although practical reason is a distinct kind of activity to scientific or theoretical reason it still involves real knowledge: it is concerned with truth and the human good (Aristotle 2004, 1140b4–7).[5] And, as both he and Cicero stress, judgment regarding how to proceed in a collective context depends on the kind of political "truth" that can only be gleaned from the partial truths found in the opinions of citizens (Aristotle 1991; Cicero 2001, 2.8; Garsten 2006, pp. 145, 154–5). Not only do these opinions constitute instances of individual judgment regarding how a polity ought to proceed, they also provide some of the requisite knowledge of conditions that are necessary for good political judgment.

Aristotle and Cicero's approach to these questions effectively turns on its head modern assumptions, in particular the emphasis on reason, detachment, and impartiality for good judgment. Political judgment, for Aristotle, depended on deliberative rhetoric, as distinct from forensic and epideictic rhetoric.[6] He argued that citizens were better and more motivated judges of how to proceed when they were able to judge matters from their own partial perspective. This was because, first, their opinions and feelings about what would be good for them were relevant to the question before them and their experience and knowledge of the relevant context played an important role in whether or not they judged with skill. Second, the very partiality of and emotional basis for judgment is what motivated them to judge, persuade, and entertain other opinions and arguments (Aristotle, 1991, 1354a, 1377b–1378a; Nussbaum 1996; Striker 1996). Aristotle stressed, therefore, that a citizen's own good constituted the anchor or standard for political judgment; but he also made clear that this was not separate from the good of his polis and that of other citizens. The link between the two was based on citizens' *sympathetic* feelings for their friends' good and honor, as well as their strong *attachment* to their polis (Beiner 1983, pp. 102–28; Garsten 2006, p. 138). Cicero added to this the idea of *consilium*, or deliberative advice given by orators, where to be successful as an orator one had to be persuasive and give good counsel. This meant taking a long-term view of the public's *true* interests without disregarding public opinion, for alongside knowledge of history and philosophy, a correct grasp of the opinions and beliefs of the citizenry was vital both for knowledge of true interests and persuasion. To persuade the citizenry and provide good counsel, orators had to identify the standards against which the citizenry evaluated their current beliefs, and therefore had to respect the partial truths buried in the partisan political opinions on each side of a controversy (Cicero 2001, 1.141, 1.199, 2.128, 2.310, 3.104; Garsten 2006, pp. 168, 171).

Aristotle and Cicero therefore identify a set of cognitive *and* institutional mechanisms that are constitutive of political judgment. In particular, they argue that, although political judgment is (ultimately) subjective, it is based on intersubjective deliberation. This emphasis on deliberation, however, leads these thinkers to overemphasize the rule-bounded nature of political

judgment, that when we judge we do so within a pre-determined set of rules or ends.[7] This is true of some kinds of political judgment in certain contexts, but it is not the whole story.[8] Political judgment is also characterized by a set of qualities that are involved in precisely the opposite: breaking the boundaries, creating the goals, making decisions not simply about the means to pre-determined goals, but also about which goals are desirable and whether or not they are attainable. Politics, we are told, is the "art of the possible".[9] But it is also the art of persuading others that what seems impossible is in fact possible. Think of Nelson Mandela's "I am Prepared to Die" Rivonia Trial Speech (20 April 1964), and his subsequent "walk to freedom";[10] think of Martin Luther King's "I Have a Dream" Civil Rights Speech (28 August 1963); think too of Winston Churchill's "We Shall Fight on the Beaches" speech (4 June 1940), his rallying cry in the Commons at the darkest hour of the Second World War. Political judgment is a skill or ability that involves making contextual decisions about how to proceed, in a manner normally unbound by rules. In other words, it involves judging particular situations (and their possible consequences) without the benefit of universal rules or theories (Beiner, p. 6).[11] Theories, of course, can and do help. They provide analogies, models of reality, and useful means of abstracting from the crucial aspects of a situation. But, even when using a theory, you still need to decide which theory provides the best analogies or models, that is, you still need to choose which theory to use. "No further theory will help you avoid the need to judge" (Geuss 2008, p. 82). Political judgment is always, everywhere contextual and often takes place within a nonrecurrent situation. It cannot, therefore, be reliably codified. There is no universal definition or Euclidean geometry of political judgment. It does not come automatically with the mastery of certain theories.

This makes political judgment difficult to pin down. Yet, as has been argued in a variety of contexts, it seems at least plausible to claim that it is characterized by the following skills, capacities or faculties, conditions, and forms of interaction. (1) Political judgment requires *insight and experience*: the contextual ability to determine salient facts, opinions, values, and possible solutions, that is, to choose skillfully which models of reality to use in a certain context and then assess them for their usefulness (Steinberger 1993; Aristotle 2004; Geuss 2008). (2) It calls for *vision*, that is, the ability to innovate and imagine beyond existing conceptual, moral, and institutional boundaries (Weber 1994; Wolin 2004; Geuss 2008). (3) It demands *rhetorical skill*, or the ability to persuade others that one's judgment is sound, which is normally based on one's "character" (Aristotle 1988), charisma (Weber 1994), rhetorical ability and training and an accurate knowledge of the beliefs and sentiments of one's audience (Aristotle 1991; Cicero 1997, 2001). (4) It depends on *deliberation*. In other words, it depends on a set of mechanisms and institutions that provide a means of identifying facts, sentiments, and values through the determination of opinions, needs, and interests

(Aristotle 1988, 1991, 2004; Cicero 1997, 2001). There are also two other oft-forgotten elements to the craft: (5) *timing* – the capacity to know when to act, to know what is realistically possible at what point in time, to be able to seize the right moment – that may never recur – that is, to grasp opportunities that will not present themselves again (Lenin 1972; Weber 1994; Geuss 2008); and (6) *responsible leadership* – to make a political judgment is to act, which will produce consequences and, given that a judgment's success or failure will rest on its consequences, the person making the judgment will be judged according to these consequences (Weber 1994).[12]

Political judgment, then, is a craft or skill that involves the experience, insight, vision, and timing to choose, given one's knowledge of current opinions and interests, the best course of action to bring about or determine a desirable end, as well as the rhetorical skill to persuade others of the merit of one's judgment. Good political judgment will therefore in part depend on the successful achievement of the intended goals, but also on the desirability of the goals themselves.[13] In other words, to get from "here and now" to a desirable future position requires a very good knowledge of the "here and now," including the opinions, beliefs, and interest of others, the desirability of possible "futures," and the means of achieving these "futures." It follows from this that political judgment is exercised best when it uses theories or philosophies that are *realist*. In other words, it is more likely to be successful if it employs theories or philosophies that start from and are concerned in the first instance with "the way the social, economic, political, etc. institutions actually operate in some society at some given time, and what really does move human beings to act in those contexts" (Geuss 2008, p. 8). This is because a realist theory emphasizes real motivations and their determinants: it is not concerned in the first instance with how people ought ideally (or "rationally") to act, what they ought to desire, or the kind of people they ought to be; it aims to give a correct account of the "way the world is" (Dunn 1980a; Wiggins 1998a; Hamilton 2003; Emmerich 2008; Geuss 2008). It focuses on those cognitive and institutional conditions, and those ideals, aspirations, and sentiments that do in fact influence behaviour in some way.[14] Not only will this enable good political judgment, but its emphasis on the real determinants of behavior will foster effective persuasion: if a citizen or ruler has a correct understanding of people's beliefs, desires, and opinions, she can use this understanding to persuade others that what she envisages regarding "how to proceed" is in their interest.

Political judgment therefore involves a mix of reason(s), insight, timing, opinion and deliberative rhetoric or eloquence.[15] It will be exercised successfully under conditions in which the prevailing conceptual language is one that generates understanding and use of real motivations for action – existing sentiments, desires, values – and that links these to a framework for assessing human goods. Given the changing and intersubjective nature of opinions, interests and values, judgment is most likely to be successful under

conditions that provide mechanisms for deliberation and persuasion between rulers and ruled. As a consequence of these facts about opinions, interests and value and the fact that political judgment is a contextual skill requiring knowledge of the opinions, interests and values relevant to the context concerned, it is arguably the case that it is undertaken best under conditions in which human goods – needs, interests, etc. – are not pre-determined.

Contemporary liberal politics, or what I call "rights-based liberalism," produces quite the opposite effect. It both undermines the possibility for good political judgment and reduces the significance of judgment in politics. It fails to provide mechanisms for deliberation and persuasion between rulers and ruled because it falsely associates deliberative rhetoric and political judgment with demagoguery and manipulation, and therefore entrenches safeguards against rhetoric, persuasion, and judgment in context. This is achieved via the concept of rights, constitutional pre-commitment, and the priority of forensic rhetoric and legal judgment. This encourages individual subjects to invoke legal rights and prioritize their juridic agency over their political agency; it desiccates public talk of human goods; and it relies on an unrealistic ideology of consensus. In other words, rights-based liberalism determines (in the form of rights) citizens' needs and interests antecedent to any contextual knowledge of and controversy over the relevant material and moral facts and sentiments.[16] It thereby ignores real motivations for human action and choice and their causal connections with human goods and institutions. The practical wisdom of the rulers *and* the ruled is thus impoverished.

I have defended these claims about rights-based liberalism elsewhere, arguing there that the ills of contemporary politics are a consequence of and continue to be reinforced by the main traditions within liberal political philosophy (Hamilton 2003, 2006a). In the rest of this chapter, therefore, I will focus on the positive contributions of an alternative political philosophy based on human needs, which affords a means of debating means *and* ends within an overarching ethical framework and with particular reference to real motivations for actions. This enables deliberation, persuasion, and good political judgment.

Human needs

Human needs are the necessary conditions and aspirations of full human functioning. They are manifested in three forms. First, there exist *vital needs*, the necessary conditions for *vita*, or life, which include water, shelter, adequate nutrition, and social entertainment. The lack of satisfaction of these needs tends to impair healthy human functioning (Braybrooke 1987; Hamilton 2003, pp. 23; 27–31). Second, there are *agency needs*, the necessary conditions, and aspirations for individual and political agency that are characteristic of full human functioning, which include autonomy (or freedom), recognition, and active and creative expression. Developed and satisfied

agency needs increase an agent's causal power to carry out intended actions, and satisfy and evaluate other needs; and they provide the feelings of safety, self-esteem, and confidence that enable individuals to function fully, individually, and politically (*cf* Doyal and Gough 1991; Hamilton, 2003, pp. 24; 35–47;). Third, needs are normally felt not as abstract vital and agency needs, but as particular motivations for actions (drives or goals), for example, the desire to drink some apple juice or the felt need to work. Manifested in this concrete form, these are what I call *particular social needs*, which include a broad spectrum of largely uncontested needs, from those that are the focus of public policy, say the need for an efficient train service, to those that are seen to be of private concern, for example, the need for a car, as discussed below (Hamilton 2003, pp. 23–4, 31–5, 63–102).

Particular social needs are the most common form of needs and their normal usage seems to inspire modern analytical philosophy to treat "need" as a verb and confine it to the logical or analytical form of "*A* needs *X* in order to *Y*." This is an instrumental understanding of needs that conceives of them as means to other acts, or states of being or becoming. All need statements, it maintains, are triadic. This distinguishes needs from other drives and highlights one aspect of their normativity. Need-claims demand justification: when we say we need *X*, the force of the claim rests on the fact that what *X* is needed for is justifiable. The need-claim is evaluated in the light of this, thus making *Y* the crucial normative variable (Connolly 1983, p. 62; Thomson 1987). For example, my claim that "I need a house" cannot be evaluated until we know why I need a house. "I need a house in order to shelter myself" is a distinct kind of claim to "I need a house in the country for weekend trips." The former holds greater normative weight because it makes reference to an objective, vital human need for shelter.

The instrumental and triadic understanding of needs may be correct and helpful with regard to some needs, but it does not cover all needs and need-claims. Some needs, particularly vital and agency needs, are ends themselves. Nothing lies beyond them. They cannot be justified by reference to any other need or normative claim. And, as a consequence of the fact that these kinds of needs are themselves ends or goals or states of being or becoming, they are not normally expressed in the triadic form characteristic of instrumental needs. They are understood and articulated in dyadic form: "I need to be mobile"; "I need to be free"; "I need to express myself." The fact that not all needs are instrumental needs provides the clue for the special role played by vital and agency needs: they are simultaneously needs and the normative basis for the evaluation of "particular social needs." In other words, depending on how they are felt and expressed, they provide both the phenomenological (in Hegel's sense) and the ethical substance of political judgments: they are instances of actually existing aspirations, desires, and conditions of lack, and they are understood within and expressed in terms of an existing set of norms and values.

These characteristics of needs explain common usage: we use the notion of need, often in contrast to want, to denote a degree of seriousness, priority, and objectivity. Needs are not simply strong wants. They are objective and normative (Thomson 1987; Wiggins 1998a;), and their state of development and satisfaction has a direct effect on human functioning (Hamilton 2003). In contrast, wants are subjectively felt desires or second order desires for a specific object or state of being, and normally they depend on actual conditions of the world. This is reinforced by the fact that, "wanting something does not entail needing it, and vice versa. [S]omeone may have a need without having a desire *for what he needs* and ... and he may have a desire without having a need for what he wants" (Frankfurt 1998, p. 30). For example, someone can have a need for periodic exercise without ever desiring to exercise, and they may want to smoke cigarettes without needing to.

However, this clear analytical distinction between needs and wants rests on an oversimplification of the nature of needs that belies a more complicated causal reality. First, particular wants over time can become interpreted as needs. Think how easily the desire for refrigerators and televisions became a legitimate need for these commodities. Second, new satisfiers and commodities generate new wants that affect our ability to satisfy our needs. For example, the car produces not only the desire for a car and a need for more motorways, but also, given normal economic development, the need to shift investment from the upkeep of a public transport system to the construction of more motorways, which ensures that in order for me to satisfy my need for mobility I need a car. Third, the everyday satisfiers of felt particular needs are indistinguishable from the everyday satisfiers of wants. In fact under liberal capitalist conditions they are identical; they are all commodities that, irrespective of their relationship to vital and agency needs, are determined by the logic of profit to an equal degree. And, as a consequence, particular felt needs *and* wants, or at least their satisfiers (commodities) not only generate new wants and needs but also affect how we interpret and perceive our vital and agency needs. This causal process is obvious in my example of the way the car produces the need for a car and for more motorways, and so on. But, often, the causal sequence is less obvious and yet equally problematic. For example, a new video game might generate a new kind of addiction that creates a need for specially trained child therapists. These various elements of the causal relationship between needs and wants explain in part how and why some need-claims rest upon illegitimate needs – they may be wants masquerading as needs, or wants misperceived as needs.

True interests, institutions, and intersubjective judgment

The three forms of need and the causal relationship between needs and wants highlight the fact that human needs are not simply normative and

objective, but also historical, social, and political. In fact, it is probably more apt to think about them thus: (1) their objectivity is not universal – they are affected by wants and institutions and they change as human nature changes; and (2), as objective human goods and historically, socially, and politically determined feelings of desire, lack, and want, their normativity is historical and ethical (as well as natural and moral). Thus the normative force of any particular need-claim is best captured via an analysis of the history of the institutional environment within which particular social needs are generated.[17] It follows from this that, in determining whether or not an avowed need is justified, it will be insufficient simply to assess the need-claim in terms of what its analytic structure brings to the fore – the *Y* in the need-claim "*A* needs *X* in order to *Y*." It is necessary first to assess the provenance and history of the claim. That is, it is necessary to analyze the institutional history of the particular need to which the claim refers. This provides a picture of the causal determinants of the need: the institutions, practices, and sentiments that generated the need in question. The normative force of any particular need-claim, therefore, requires a contextual, historical analysis of existing institutions and how they determine the formation, interpretation, articulation, and satisfaction of needs. Not only does this provide an explanation of why the need is felt or avowed, but it also aids the process of evaluating that particular need and its associated institutions. To understand and thus assess the need-claim for a new motorway, for example, we first have to assess the need in terms of its relation to the felt-need for automobiles and a set of institutions and judgments that generated and justified that need (see Paterson 2007). It is then possible to assess the need and its associated complex of institutions and practices in terms of their effects on the satisfaction of vital needs, the development of agency needs and the perception of true interests.

An individual's true interest is epistemologically and ontologically based in her needs, as determined within a particular context at a specific time. A citizen's true interests are her context-specific set of needs or satisfiers thereof that have been determined following intersubjective reflection on her vital and agency needs.[18] The determination of one's true interest requires intersubjective evaluation and is therefore enhanced by deliberation, but the individual concerned always has the final word. This requirement is only fulfilled under political and economic conditions that allow individuals the time and institutional means to undertake personal reflection and intersubjective evaluation of their needs. Thus the "truth" in "true interests" is not a metaphysical, final truth or atemporal end-state but rather what is attained with an increase in knowledge or change in condition that necessitates input from others and critical scrutiny based on vital and agency needs (Hamilton 2003, pp. 16–17, 88–102).

In judgments regarding need-claims, institutions, and true interests, it is vital to make use of two associated sources of information. The first is

subjective and requires a means of capturing citizens' own perceptions of what is in their true interest. The second is objective and involves the analysis and evaluation of the conditions in which citizens live (Sen 1993a, b). The latter will involve an analysis of institutions in terms of both their causal effects on the satisfaction of vital and agency needs and in terms of their effects on the citizen's perception of their true interest. This sort of information could be gleaned from an in-depth and frequent census and the two strictly participative mechanisms discussed in the next section of this paper: district assemblies and decennial plebiscites.[19] These sorts of subjective and objective information would be transparently available to all to aid the process of determining one's true interests, something which, as will be argued, will be enhanced by the consiliar system. Judgments regarding true interests are, therefore, political judgments in two inter-related senses. First, they are the result of contextual, intersubjective process of evaluation involving all citizens as well as information about existing needs, conditions and values. Second, they are ultimately individual judgments made by individual citizens regarding their own true interests, determined using not only the relevant information but also their own experience, insight, vision and sense of responsibility.

Institutions, therefore, can be evaluated by analyzing the histories of particular need formations understood in terms of the institutions, practices and sentiments that generate and justify them and the effects that these have on the perception and satisfaction of needs and true interests. What, for example, are the effects of rights-based politics and commercial society on human sentiments and judgments – on our dispositions to act and judge? There is little doubt that these institutions affect our view of ourselves as agents and thus affect political participation and political judgment (Hont 2005; Sonenscher 2007; Emmerich 2008; Geuss 2008). This sort of moral and political psychology is no longer fashionable, but attached to a historical analysis of the institutions and needs that produce the relevant sentiments it might provide us with the sort of understanding necessary for good political judgment, especially as regards the regulation or transformation of economic and political institutions.[20]

So, despite the fact that the evaluation of needs and institutions is contextual, as with Aristotle and Cicero's account of deliberation, there is a standard around which the evaluation revolves. At a very general level we have the standards of vital and agency needs. But deliberation and evaluation are usually about more particular, concrete, felt-needs. So, the main standard concerns the subjective capacity to determine one's true interests, one condition of which is the satisfaction and correct development of vital and agency needs.[21]

However, it does not follow from the fact that needs and true interests are determined best via deliberation over their historical, institutional and

emotional determinants that consensus or agreement will follow. If anything, the opposite is the likely outcome. The determination and evaluation of needs as proposed here involves deliberation over means *and* ends. This, like politics in general, is a recipe for moral, material, and emotional disagreement. Moreover, it is a fact of desiring human subjects that it is difficult to part them from their cherished needs and institutions. It follows from this that the determination and evaluation of institutions and needs require a coercive authority capable of deciding persisting disagreement.

The State of Needs and Political Judgment

I call this coercive authority the "state of needs" (Hamilton 2003, pp. 134–70). The state of needs would retain most of the characteristics of the modern state, but would also need to acquire the ability to be the ultimate evaluator and guarantor for meeting needs. This is the case because it must produce and maintain conditions in which the state's citizens can effectively evaluate their needs and true interests, in other words, be part and parcel of the processes of political judgment within the polity; and, it must make sure it can meet the practical imperative for a single agent to use its authority to decide *when* to act upon the outcome of the evaluation of institutions and *what* action to take in the light of that outcome.[22]

A state of needs would be legitimate, therefore, if it produced and maintained conditions in which citizens could effectively evaluate their needs, institutions, and true interests *and* representatives can act on the outcome of these evaluations despite disagreement. In other words, this is not an ethical or normative justification of the state of needs. Rather, it is a functional justification: as things stand, the state is the unique entity with the means – the requisite coercive force – to execute the necessary transformation of institutions that may follow from any evaluation of needs, need trajectories and true interests. (If it turns out that this can be more efficiently achieved using other means – a community of anarcho-syndicalists à la Monty Python's *Holy Grail* or, the current "Holy Grail," a global cosmopolitan state – then so be it, I would have to desist from this kind of "statism." But the case for the implementation of either has yet to be convincingly made.)

In particular, the state would have to fulfill a fourfold function.

1. It would follow what I call a *vital need priority*; that is, it would ensure that the satisfaction of vital needs is a priority (Hamilton 2003, p. 148).
2. It would use a frequent, elaborate census and a consequentialist evaluation of institutions to: (a) improve the environment in which individual citizens evaluate their true interests; and (b) provide some of the objective data necessary for citizens to evaluate their true interests. The citizens themselves would provide and do the rest within the three institutions discussed in what follows.

3. It would institutionalize three mechanisms that would safeguard the participation, persuasive power, and political judgment of citizens: (a) an *annual true interest evaluation* within district assemblies; (b) a revitalized *consiliar system*; and (c) a *decennial plebiscite* over the constitution.

In the *annual true interest evaluation* individual citizens would evaluate and avow their needs and true interests at a local level within district assemblies. Rotating municipal representatives would then deliberate these interests within municipal assemblies.[23] These representatives would be chosen by lot, and must come from and reside within the municipality.[24] They would be responsible for the everyday governing of the municipality, and their aim as regards the annual true interest evaluation would be to reach a decision as to the exact nature of local true interests and thus enable municipal administrators and market-related institutions to respond to postevaluation needs and interests.

The revitalized *consiliar system* would rest on the network of district assemblies. Each assembly would elect one counselor for a two-year term of office. Counselors would be responsible for giving counsel to a single national sovereign representative body made up of elected representatives on matters relating to the needs, interests, and institutions within their districts – that is, what institutional changes may be required to satisfy and develop vital and agency needs and improve the perception of true interests. The powers and responsibilities of *counselors* within this system would therefore be much greater than those of *councillors* within existing forms of local government. And, moreover, here their main role is weighted in favour of the citizenry – the counselor's job would be to persuade national government of the best course of action for furthering the interests of the citizens. Thus it is imperative to safeguard the independence of counselors from municipal and national representatives.[25]

In this sort of system it is also imperative to safeguard against the possibility that national representatives may be tempted to manipulate either the counselors or the needs of the citizens to their own advantage. This is in part assured by the fact that the counselors are elected locally and that their main persuasive function is directed towards the rulers (not the ruled). But this would need to be bolstered by the following measures: (1) counselors would have no formal affiliation with a political party; (2) counselors would have no access to either national or municipal office for a period of five years prior to and following their terms of office – a counselor could not be a municipal or national representative or *vice versa* within the same five year period; (3) a counselor could not be elected for two periods of two years consecutively; and (4) one of the few functions of the district assembly would be to periodically assess their counselor's skills and performance.

In the *decennial plebiscite*, citizens would assess the actual and possible paths or trajectories down which the development of needs could progress.

In contrast to the short-term and local concerns of true interest evaluation, the plebiscite would involve a protracted evaluation of broader policy matters and structural features of the polity and economy: a month-long assessment of existing and possible fiscal, environmental, transport, etc., policy and kinds of production, property ownership, and so on. In other words, it would assess the goals and institutions normally determined within a constitution, in this case a needs-based constitution. The outcomes of the plebiscite would then be used by the national representative body to reformulate the relevant sections of the state's constitution.

Consultative referenda could be used to supplement all three mechanisms. And the outcomes of (a) – (c) would not affect the standing of the existing national government. National government would be representative in the same way as it is in contemporary representative democracy, but following the implementation of the above-proposed institutions, it would be assessed in terms of how well it fulfils its main functions, as discussed in this section.

4. Following each decennial plebiscite, the national representative body would also transform institutions that have been identified as acting against the satisfaction of post-evaluation vital and agency needs and the perception of true interests.

Together, these institutions and functions would furnish citizens with the necessary means to reflect on their and others' needs and thus participate in the deliberation and collective choice (judgment) over how to proceed. They would provide citizens with participative power in the local-level evaluation of needs and interests *and* the legal framework that determines the parameters of representative democracy – the constitution. This is likely to generate a set of incentives towards increased political agency amongst citizens. First, once citizens notice that the plebiscite provides them with greater control over the long-term, over the nature of existing institutions, needs, and interests, they may begin to look beyond their short-term, particular interests and become aware of the power of their choices, actions, and judgments. Second, these changes may encourage citizens to take risks, to put forward novel proposals safe in the knowledge that they could be tested and then, if necessary, discarded at the next plebiscite. Third, these developments are likely to encourage consequentialist rather than deontological practical reasoning. Fourth, a long-term view of matters coupled with less risk aversion might encourage increased interest in and understanding of the effects of institutional arrangements on the generation and satisfaction of citizens' needs. Citizens might then become simultaneously more responsible (more interested in the needs of others and the consequences of their choices) and more courageous (more willing to experiment beyond the status quo) in their political judgments.

In other words, in contrast to rights-based liberalism, the application of this political philosophy of needs will generate real political agency.[26]

What of political agency? Given the size and complexity of modern states and their associated specialized division of labour, surely a representative system of government with checks and balances, efficient information flow and effective administration is sufficient for good political judgment? Even under these conditions there exists an imperative for enhanced citizen political agency and persuasive power. This imperative is not founded upon a moral philosophical argument regarding, say, autonomy, equality or even our obligation to meet the needs of others (although such arguments are welcome); rather, it rests upon an argument about the nature of political judgment and the set of procedural requirements for good political judgment. Even if rulers were to judge under conditions of objectively full information, efficient information flow, and effective administration, they would still have no access to the varied extant desires, feelings, reasons, aspirations, deliberations, and insights that constitute the judgment and opinions of the ruled and are necessary for good political judgment. Knowledge of these sentiments, interests, deliberations, and insights enable *all* citizens (a) to engage with distinct partisan political interests and opinions; and (b) to see beyond these interests and identify more general, common needs, and interests. In other words, it is vital for the process of reaching a point at which rulers and ruled both identify, and identify with, the same set of interests.[27] Good political judgment does not rest on reason and objective fact alone, but also on opinions, reasons, insight, and deliberation. The political philosophy of needs defended here sources all of these ingredients.

Reason is found, first, in the fact that vital and agency needs constitute a *general* ethics, a set of human goods to which all good judgments would aim. Second, reason plays its part in the collection and analysis of objective facts: the census and the district evaluation of needs and true interests provide the objective, scientific information necessary for informed judgments. Third, the imperative to meet felt-needs provides the motivation for participation, deliberation, and judgment: felt-needs are associated with strong feelings and emotions regarding action – what is *and* ought to be the case in terms of what is required for normal human functioning (often linked to lack and harm) and thus what must *and* ought to be resolved or satisfied – and they thus provide passionate *reasons* for acting. In other, words, to paraphrase Aristotle, needs constitute the standard and the motivation for deliberation and judgment.

Insight and *timing* are provided by the judgers own natural skills and abilities as well as two other outcomes of a discourse of needs. First, as I have argued, needs are both means and ends. A knowledge of this coupled with a knowledge of how needs are generated will provide insights into the basis and urgency of need-claims, as well as how needs can be manipulated and misrecognized. Second, the "state of needs" provides political leaders with

knowledge of citizens' interests and insights as well as sufficient power and freedom to exercise and act upon their own insights and sense of timing (see final paragraph below).

Opinion is constitutive of two central parts of political judgment. First, the opinions of the citizens provide part of the objective information regarding needs, interests, institutions, and need trajectories that are vital for understanding objective conditions. And, second, opinions provide access to the sentiments, beliefs, and values that are crucial for deliberation and the use of rhetoric to persuade others of the merit of a judgment. As Aristotle, Cicero, and Argenson (in the epigraph to this chapter) argue, the best means of persuading one's audience of the prudence of a judgment is to show them in terms of their own expressed beliefs and desires that what one has chosen will further their interests. To identify true interests and persuade your audience, Cicero in particular suggests, you have to identify the standard against which they evaluate their current beliefs, and therefore have to respect the partial truths buried in the partisan political opinions on each side of a controversy. This is guaranteed here by the intersubjective and contextual nature of the "truth" in "true interests" and within both the consiliar system and the plebiscite.

Deliberation and *persuasion* are enabled via the plebiscite and the consiliar system. They enable the deliberation and persuasion in terms of needs and, because needs are normally associated with strong feelings and emotions, they constitute a fertile conceptual tool for persuading others that some act or institution is in their interest (see Vickers 1989, Skinner 1996, and Nussbaum 1996 on the role of emotions in persuasion). The plebiscite and consiliar system also allow rulers and ruled to learn from one another, as well as establish checks and balances on the actions of rulers.

In sum, then, although a politics of needs, properly understood, discards the idea of "*meta*-political reason" in politics, it does not follow from this that all "reason" is therefore somehow lost. It does not collapse into a world of irrationality driven by persuasive eloquence alone. It is a mistake, therefore, to claim that we have a stark choice: either the "politics of reason," à la Hobbes, Rousseau, and Kant, or the "politics of persuasion," in which opinion, manipulation and rhetorical skill alone determine political decisions (e.g. Garsten 2006). A politics of needs enables political judgment that would make use of reason, insight, opinion, objective fact, and deliberative persuasion. It is likely to improve everyone's capability to make good political judgments and provide the basis for true popular sovereignty. Citizens will want it.

Good political judgment within the state of needs is not, however, simply about deliberation, persuasion, and judgment regarding actual true interests; it is also about the vision involved in seeing beyond these interests, in determining which trajectories will generate valuable new needs, and in the creation of new rules and goals. Besides participation, this involves judgment calls regarding which actual or possible paths or trajectories the

development of needs can and ought to take. As a consequence of what economists call the "path dependency" of decisions, this is a major aspect of the political judgment and responsibility of government. For example, a single decision by government about whether to invest in railways or motorways is a decision that will affect the way in which citizens in the future satisfy their need for mobility and affect the planetary environment. For all the reasons outlined here, politics and political judgment is impoverished without the involvement of citizens in these kinds of decisions. But, ultimately, it will be those who are doing the ruling at any one time that will have to be the final judge about how to proceed and who will, or at least ought to, pay a high price for a poor judgment call. The state of needs therefore also provides national representatives with the sovereign authority to make and assess their judgments regarding need trajectories and institutions. In other words, alongside the conditions for participation, persuasion, and deliberation, the state of needs provides the means for decisive evaluation and action, that is, political judgment (Argenson 1764, 1784; Sonenscher 2007, p. 161). Elites will also want it.

Conclusion

In this chapter I identified why the tendency within rights-based liberalism to resort to reason alone undermines the possibility for good political judgment. I then suggested that, in contrast, the political philosophy of needs I defend here, and elsewhere, provides the potential for good political judgment. I have argued that it does so because it admits of reason and unreason. It is realist. It is focused on the evaluation of human goods and motivations for action – needs, sentiments, interests, values, and institutions. It prioritizes deliberation *and* the individual capacity to judge and therefore provides mechanisms and institutions for information flow, deliberation, and persuasion between citizens and elites; a set of procedures that enable the use of reason(s), vision, insight, opinion, and deliberative rhetoric. And, last but not least, it justifies a coercive sovereign authority – the "state of needs" – requisite for decisive, bold, visionary, and often rule-bending political judgment: the indeterminate, visionary skill, and insight to decide when to try which means to attain what objective and then persuade the citizenry of the prudence of all three.

Notes

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1. *Essais dans le gout de ceux de Montaigne* (1785), I. 7, cited in Keohane 1980, p. 382.
2. Rights are conceived as legally, coercively enforceable individual entitlements that are abstract and universal. Originally conceived in terms of natural law as the means of protecting an individual's life, liberty and property (Locke 1988), now their defense is based either on "our" intuitions (Rawls 1973, p. 4; Nozick 1974, p. ix) or universal human autonomy (Rawls 1996, Dworkin 1977, Raz 1986). The coupling is odd because rights and preferences have their origins in opposing moral philosophies – natural rights philosophies, which rest on deontological moral reasoning, and welfare utilitarianism, which relies on consequentialist moral reasoning (Tuck 1997; Hamilton 2003).
3. Aristotle: "[a]ll men form unqualified judgments, if not about all things, at least about what is better or worse" (*Metaphysics*, 1008b14, cited in Garsten 2006, p. 140).
4. For a few attempts, see Kant 1996, 2000; Beiner 1983; Steinberger 1993.
5. Plato creates a strict dichotomy between two kinds of human endeavor, *technē* (or craft-activity) and *empeireia* (or experience-activity), and argues that only the former involves *real* knowledge based on inference, and that political judgment and rhetoric are examples of the latter (Plato 2004, 454d–455d, 462c–d, 465a and *passim*). Aristotle, in contrast, makes a distinction between *sophia*, scientific or inferential wisdom, *technē*, craft wisdom, and, *phronēsis*, practical wisdom, and argues that the latter does involve real knowledge (Aristotle 2004, Bks I, II & VI; Steinberger 1993, pp. 106–8).
6. Epideictic rhetoric is used in praise speeches and exhortations; forensic in courts of law; and deliberative in political debate and persuasion (Rorty, 1996, pp. xiii–xxiii). Aristotle dissociates deliberative rhetoric from forensic rhetoric (and legal judgment), and thereby rescues rhetoric from the hold of the Sophists, and from Plato's criticism of it as the art of flattery and persuasion used in "law courts and other mobs" (Plato 2004, 454b, 463b, 464c–466a; Garsten 2006, p. 130). Today we do the opposite: we laud the "independence" and "impartiality" of legal judgment and associate deliberative rhetoric and political judgment with manipulation and demagoguery (Vickers 1989; Garsten 2006).
7. "We deliberate not about ends but about means. A doctor does not deliberate whether to cure his patient, nor a speaker whether to persuade his audience, or a statesman whether to produce law and order" (Aristotle 2004, 1112b12–15). Judging the best means of curing assumed the end of curing (Nussbaum 1986, p. 297; Lear 1988, pp. 146–8.). Deliberation requires us to be anchored, for a moment, to some criterion of judgment (Garsten 2006, p. 126). For an analysis of the dispute regarding books III and VI of the *Nicomachean Ethics*, see Wiggins 1998b; *cf* Steinberger 1993, pp. 149–52.
8. In fact if Wittgenstein is right, rule-following involves little or no independent judgment, reflection or choice; it is "analogous to obeying an order" (Wittgenstein 1997, § 206, 217, 219).
9. Attributed to Otto Von Bismarck (11 August 1867). I thank Raphael De Kadt for the reminder.
10. His statement from the dock at the opening of the defense case in the Rivonia Trial, Pretoria Supreme Court, 20 April 1964, www.anc.org.za/ancdocs/history/rivonia.html; see also his *Long Walk to Freedom* (Mandela 1994).
11. *Cf* Plato, who argues that people judge well only when they ground their judgments in a general philosophic account of the good (Plato 2003, 2004); or

Kant: "'judgment in general is the faculty of thinking the particular as contained under the universal" (Kant 2000, I.18).

12. Thus Tony Blair's decision to invade Iraq was an instance of bad political judgment and poor leadership. The consequences of his decision were the opposite of those that he allegedly intended, and he attempted to plead forgiveness on account of the fact that he had acted from the right intentions. A responsible leader would have asked to be judged in light of the consequences of his actions and would have had the dignity not to backtrack on this. Contrary to what some think, this is in fact further reinforced by the phenomena of unintended consequences and moral luck (Williams 1981).
13. It is customary to make a distinction between judgment (practical reasoning) and action. But when does judgment end and action start? The resolution either way of this thorny matter does not seriously affect my argument here.
14. An emphasis on real motivation of this kind does not require that one deny that humans have an imaginative life full of aspirations, ideals, moral views and goals that influence their behaviour. Nor does it deny that humans are sometimes "rational." What it does mean is that these ideals and aspirations are only politically relevant to the extent that they do actually influence behaviour in some way (Geuss 2008, p. 8).
15. Roman and Renaissance rhetoricians emphasized a heady mix of *ratio* and *eloquentia* (Vickers 1989; Skinner 1996), to which here is added insight, vision, opinion and timing.
16. Rights-based liberalism has thus also excommunicated the idea of "human needs" from the current community of ideas. An economics or politics of needs has become *doctrina non grata*. For why, see Wiggins 1998, p. 4n; Fehér et al., 1983; Hamilton 2003, 2006a, 2008. There are some exceptions to the rule: Hegel (1969 [1812, 1816]; 1991 [1821]), Proudhon (1994 [1840]), Marx (1992 [1844], 1976 [1847], 1996 [1875]), Braybrooke (1987), Wiggins (1998).
17. For more on the sense of "normativity" I employ here, see Hamilton 2003, pp. 14–15.
18. The idea of "true interest" here is distinct from the notions of rational interest, prudence and self-love. For why, see Hamilton 2003, pp. 100–1.
19. For my account of this census-based institutional consequentialism, see Hamilton, 2003, pp. 116–29.
20. Needless to say, I am not suggesting that the institutions associated with "rights" or "commerce" be scrapped. I am simply suggesting that, to enable good political judgment, like all other institutions, they must be understood and evaluated in terms of this political philosophy of needs.
21. In this way value is not determined by pleasure (or happiness or desire) alone but by the positive and negative effects of a specific act, claim or institution on the meeting of vital needs, the development and satisfaction of agency needs and the perception of true interests. This avoids utilitarianism without abandoning consequentialism. Nor does this approach aim to maximize vital and agency needs. It takes the maximization of agency needs and the evaluation of true interests to be the concern of individuals; but it evaluates the provision of the conditions for these and the rectification of power imbalances in the everyday evaluation of true interests (see Hamilton 2003, p. 122).
22. It does not follow from this understanding that the state of needs could be or would be the actual provider for the valued needs; under certain conditions and in some areas the market might do a more efficient job (Hamilton 2009b). Nor

does it follow from this that the state is the appropriate final evaluator and guarantor for all needs. Think of the need for personal intimacy, for example. Not even political philosophers can depend on the state for that.

23. Despite much variety between states, "district" usually denotes the smallest administrative subdivision (as in the United Kingdom) and "municipality" the smallest administrative subdivision *with its own democratically elected representative* leadership (as in Brazil, France – *commune*), although some countries, such as South Africa, use an amalgam of the two: "district municipality." I follow common usage by envisaging municipalities made up of a number of small districts.
24. This is vital because "officers of the sovereign," or national representatives, can never "know and combine the interests of all the citizens in so many ways, and reunite them in light of the general good" as effectively as popular representatives (Argenson 1764, p. 232, in Keohane 1980, p. 386). Moreover, as Cicero argued, good representation is exemplified not by impartial judges but by representatives who identified closely with the one-sided position of those they represent (Garsten 2006, p. 145). *Cf* Hobbes (1991), Locke (1988), Hamilton, Madison and Jay (2003).
25. "Groups of citizens must be able to assemble together, conciliate with one another, and act with a certain independence" (Argenson 1764, pp. 27–8, 263; cited in Keohane, p. 383).
26. For more on the needs-based constitution, the decennial plebiscite (and the associated carnival of citizenship), and how these proposals might affect citizenship and need satisfaction in general, but especially in South Africa, see Hamilton, 2003, pp. 156–61, 171–84; and Hamilton 2009a.
27. The sovereign's judgment would be enhanced by knowledge of which interests were truly common, and the subjects' judgments as to particular and common interests would be improved by awareness of one another's opinions and judgments (Argenson 1764, p. 314; Keohane 1980; Dunn 2005, p. 95; Sonenscher 2007).

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4
Rethinking Ideology

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In this chapter, I try to make a case for the revitalization of the critique of ideology as a form of social critique. Although this concept cannot be solely attributed to Marxism, it did reach a certain "maturity"[1] in Marx's writings, and it has been embraced by the various traditions of "Western Marxism" up until contemporary Critical Theory. Today, the conjectural tide has turned against it. Does this mean, however, that there are no more ideologies – or merely that there is no more ideology critique? I build my case for a reconstruction of the critique of ideology on the following diagnosis: One, I believe that there still are certain social circumstances, certain forms of social domination that require a critique of ideology. Two, to regain and develop the concept of ideology critique, we must not only reopen the question of how exactly a critique of ideology works – even at the peak of its popularity, this was frequently anything but clear, as is often the case with popular theorems – but also critically reconstruct some of its basic assumptions. It is, then, a matter of both bringing the critique of ideology into the present and of finding a new understanding of it.

I will begin by working out the specific character of ideology critique. After (1) a short approximative introduction of the concept, I will (2) focus on dissolving two paradoxes that are characteristic of the method of ideology critique: ideologies are, as Adorno knew, at once both true and false, and they also seem to be simultaneously normative and non-normative. By (3) consistently linking ideology critique to the approach of immanent critique following Hegel, it is possible to understand both those paradoxes. In the course of this, it (4) becomes clear both that the approach of ideology critique has its own normative dimension and what some of its problems might be.

One reason why the project of renewing the critique of ideology might indeed be "worth the trouble," contrary to Richard Rorty's opinion,[2] is that it would allow us to see some very acute problems of the current debate about forms of social critique in a new light. I propose that, as a specific type of immanent critique, the critique of ideology actually goes beyond the

often discussed but not very productive alternative of external and internal critique. Namely, it opposes attempts to determine the standards of critique "externally" (and thus avoids the Hegelian critique of the morality of the "mere ought"), yet on the other hand, it is not wholly dependent on the ethical and moral resources of a given community either: it possesses a certain transgressive moment regarding those resources. Linked to this trait is a second aspect: the critique of ideology is interestingly positioned between the "anti-normative" positions in political philosophy, and those positions one might correspondingly call "normative." In the face of the signs of strain and exhaustion that this conflict currently exhibits, the critique of ideology might be reconstructed as a position that lays claim to a different kind of normativity, beyond those two alternatives. My thesis is that this possibility is due to the fact that ideology critique (as a type of immanent critique) is nurtured by a specific link between analysis and critique that has been ripped apart in both the normative and the anti-normative approach.

What is the critique of ideology?

What, then, is the *critique of ideology*?[3] At first glance it seems really simple: the critique of ideology criticizes ideologies. But what are *ideologies*? This question, too, initially seems easy to answer: ideologies are ideas, but they are not just some disconnected ideas one might have or not have; rather, they are ideas that (necessarily or at any rate systematically) exist and evolve under particular conditions. Ideologies are systems of beliefs, but they have practical consequences. They have a practical effect and are themselves effects of a certain social practice.[4] Moreover, it seems that ideologies have an odd status: the claim that something is an "ideology" means more than just an assertion that it is wrong or a mistake; but on the other hand, being mistaken is part of the nature of an ideology. A person under the influence of an ideology is not just subject to a wrong state of affairs but is also "in the grip" of a false interpretation of this state of affairs. To come at it from a different angle: ideologies constitute our relation to the world and thus determine the horizons of our interpretation of the world, or the framework in which we understand both ourselves and the social conditions, and also the way we operate within these conditions. If ideologies, as this view suggests, are the means by which the predominant situation is instilled "in the hearts and minds of the individuals" (as W.F. Haug phrased it, with a mild pathos[5]), then the *critique* of ideology uncovers or decodes the conditions that allow this domination to prevail.

Four aspects of the critique of ideology

In the particular tradition of critique I would like to examine here, and when used in the particular sense in which I am interested (viz. ideology as

denoting something negative, that is, a pejorative use of the term, and the critique of ideology as an attempt to overcome that negative situation[6]), critique of ideology refers to a very specific type of critique.[7] Four aspects are characteristic for this type.

First, the critique of ideology is a *critique of domination*. However, it uses what one might call a "deep" approach. To criticize ideology, according to this particular understanding, is to attack what one might call mechanisms of "decontestation" or "deproblematization,"[8] that is, mechanisms that create the impression that a social situation as well as a person's relation to him- or herself cannot be challenged or questioned. This includes phenomena of naturalization – something socially "made" is imagined to be something naturally or irreducibly "given" – but also processes such as the generalization of the particular, which features so prominently in Marx's analysis of the legitimizing mechanism of civil society. Thus, the critique of ideology is a critique of domination as a critique of this kind of *decontestation* or *deproblematization*, and conversely, the decoding of these mechanisms *as* mechanisms of domination.

Second, a critique of ideology sets out the inner inconsistencies of a given situation from the *internal contradictions* or self-contradictions. Thus, it does not immediately counter something that is wrong with what is "right" and it does not apply an external standard to a given situation; instead (in a more complicated sense that I will explore at a later point) it makes use of the standards provided by that given situation.

Third, the critique of ideology (according to this tradition) is always based on a form of the *hermeneutics of suspicion,* as Paul Ricœur puts it. Where it uncovers distortions in the individuals' understanding of the world and themselves, as well as in the self-understanding of social entities, it operates with certain reservations regarding the self-interpretation of social entities and individuals, and also regarding the individuals' prima facie interests.

Fourth, a further characteristic of the method of ideology critique is the link between *analysis* and *critique*. The idea is to criticize a state of affairs by analyzing it – in the sense that the analysis is not just an instrumental precondition of critique, but itself a part of the critical process.

On the topicality of the critique of ideology

There are many indications that the presence of the "ideological element" or of "ideological" forms of domination is as strong as ever in today's societies. The presumption that domination today has an immediate effect or impact – in other words, that it is not ideologically mediated – is, in my view, unsupportable.[9] In the European discussions about the restructuring of the systems of social security, for example, the loss of security and the

precarization of living arrangements (frequently criticized as neo-liberal) prevails (partly) by evoking ideals such as autonomy and creativity – ideals that are hard to dismiss out of hand, even though it is quite probable that those very ideals are currently used to justify processes of exclusion. And even though one might find word creations such as "Ich-AG" (Me LLC) (in the context of the labor market reforms that are known in Germany as "Hartz IV"[10]) not just euphemistic but even openly cynical in light of the often miserable forms of existence marked by a lack of security, they have been publicly elevated into a model one should imitate, this does not change the fact that these word creations also derive their ideological power from their link to ideas such as independence, self-reliance, and initiative; those are ideas that are shared even by members of our society who have nothing to gain from a loss of the forms of security provided by the social systems. Looking at these phenomena and others like it, one might claim that the current state of affairs practically begs for a critique of ideology.

Yet in the realm of theory, the "difficulties with the critique of ideology" are predominant for a number of reasons. Haven't we lost truth or an unmasked reality as the point of reference a critique needs to unmask something as "mere ideology"? And if the critique of ideology strives to overcome domination by dissolving false images of the self and the world, on what basis – that is, from what position – can it achieve this?[11] The seemingly insurmountable asymmetry appearing between the critics of ideology and those "blinded by ideology"[12] and the paternalistic ramifications that go along with it is not the only problem; along with the very process of ideology critique, the question whether such a critique can be a critique sui generis, or whether it is dependent on normative standards that need to be established externally, is again open to debate.

The paradoxes of the critique of ideology

I would like to start my argument with two claims. The *first* is Adorno's remark that in ideologies, "truth and untruth are always entwined."[13] The *second* is Anton Leist's (critical) observation that the "myth of the critique of ideology" is its claim to be a "non-moralizing or non-normative critique" "that is nevertheless normatively significant."[14] At first glance, both characterizations, if they are true, are apt to further obscure the problems of the critique of ideology: after all, according to the prevalent understanding, to claim that something can be both true and false is just as paradoxical as laying claim to a position that is ostensibly critical without being normative. However, the point and the productivity of the critique of ideology are hidden in exactly this seemingly paradoxical structure.

The first paradox: The interpenetration of true and false

Let us turn to the first paradox, the interpenetration of true and false. How can an ideology be at once true and false? Is it, in fact, true and false in one and the same respect – and how would that be possible? And furthermore, if ideologies are supposed to be *simultaneously* true and false, might one not claim just as convincingly (or even more so) that they are *neither* true nor false? This would mean that in the case of ideologies, we are dealing not just with a peculiar interpenetration, but also with a peculiar inadequacy of the criterion of truth. (In that case, however, it would be far from clear how a critique of ideology could be carried out.) Let us start by asking which circumstance Adorno had in mind when he suggested this paradox.

Freedom and equality as ideology

Consider a famous (but complex) example for the critique of ideology,[15] namely, Marx's assertion of the ideological character of the ideals of freedom and equality as they appear in capitalist civil society. The ideology of freedom and equality, as Marx understands it, is, in fact, simultaneously true and false (according to Marx's own interpretation). The natural law idea of freedom and equality evoked by capitalist civil society as its true organizational principle does on the one hand conform to the reality of civil society. The capitalistic contract of employment is concluded between (formally, i.e., legally) free and equal parties. After all, these are independent contract parties confronting each other, and, in a certain sense, they interact as free and equal: the employee is not a bondslave and there are no feudal law status restrictions. On the other hand, however, the reality of capitalist work relations seems to contradict these norms. Most employees are, in fact, *forced* to enter into such relations (on pain of starvation); furthermore, the existing material *inequality* developing between the parties of the contract is, according to Marx's analysis, not accidental but systematically induced.

One might answer: There you go! To talk about something being simultaneously true and false is at best an effective rhetorical figure, but if we disregard this aspect, this paradox is easy to solve. The ideas of freedom and equality are "true" in just one respect – in relation to the legal and political status of those concerned. In that regard, they adequately describe the reality they are supposed to describe. However, there is a second respect we can distinguish from this one, one we might call the aspect of material realization. In that respect, it would be clearly wrong to claim that freedom and equality have already been established in civil society.

To complicate this further, an additional fact has to be taken into account: according to Marx, the ideology of freedom and equality *itself is a factor* in the production of the coercion and the inequality mentioned above. To be instrumental to the reversal of the very ideas it embodies is

part of the *productive impact* of this ideology, it is part of its effect. The normative ideals are, therefore, not merely, not yet completely realized; rather, their realization has been reversed: the pattern of their reversal and inversion is written into the ideas themselves. Not only are freedom and equality not just "mere ideas," they are ideas that had an impact on society and have informed or left their imprint on the social institutions. Their effect itself – and Marx believes this to be not an accidental but a necessary effect – undermines these ideals in the course of their own realization. (How can this be? If, as Jon Elster summarizes the Marxian analysis, in capitalism "exploitation is the generation of economic injustice through free market transactions,"[16] then the labor contract, as a precondition for the market exchange, is at once the embodiment of freedom and equality as well as a means of generating inequality. Here, there is not just talk of freedom and equality – "talking freedom" – without them being realized, but the way they are (and have to be) realized under the conditions of capitalist production produces as an effect a new, if hidden, way of being unfree and exploited.)

This systematic inconsistency between certain ideas and the social practice they inform is summarized in the phrase "*necessary false consciousness*." This phrase has more layers than one might think at first glance. (1) On the one hand, the consciousness is false (as tradition has it), since it contains a false interpretation and understanding of reality. (2) However, if the consciousness is to be "necessary" as well, than this must be because it simultaneously corresponds to reality, after all. (3) Third, it is, in fact, not simply false on the one hand, and necessary on the other, but both at once: necessarily false. The consciousness is necessarily false because it cannot be anything but false; not because it necessarily deludes itself (i.e. not because there is a cognitive deficiency), but because it corresponds to a wrong reality. Therefore, it is not merely a false consciousness, but a *socially induced* false consciousness.[17] (This is why ideologies cannot be understood as conscious deceptions. Even if some social actors profit from ideologies in a variety of ways, an ideological structure is still something that affects all sides.)

Towards a solution of the paradox

We have now made sense of the (seeming) paradox of the critique of ideology:

- Ideologies are simultaneously true and false, insofar as they correspond at once adequately and inadequately to "reality" (whatever that might be and however one might construe this relation of correspondence). Since they are socially induced, they are not merely an error or a cognitive mistake; in a certain sense, they are mistakes with better reasons, because they are grounded in the properties and conditions of reality.

- Ideologies are also simultaneously true and false, inasmuch as the norms they are attached to have an unrealized truth content.

After all, a critic of ideology does not criticize the ideals of freedom and equality themselves, but their deficient realization. However, the fact that the norm is not realized (this fact has ramifications for the critique's relation to its "standard' " and I will return to it at a later point) has consequences for its truth content, as well. Thus, the ideology's "element of truth" (the ideal of equality) does not simply stay true under conditions that keep its realization deficient (or inversed). It is affected, as it were, by its "entanglement" with the element of untruth (Adorno). So what did we learn from this discussion of the first paradox? The entanglement of true and false that Adorno noticed made us realize that we are dealing with a very complex (and mutually constitutive) relation between norms and practices. This has the following ramifications for the critique of ideology:

1. It must criticize both the false understanding of a situation or state of affairs (in a society) and the properties and conditions of this situation itself. Ideologies are not only simultaneously true and false, they are also (as stressed by Raymond Geuss) always *simultaneously an epistemic and a normative problem*. Ideology critique reveals that we mis*understand* something (the conditions and the state of society) *and* that it *is* wrong.[18]

The critique of ideology, strictly speaking, does not directly criticize an ideology, but rather a practice that is maintained via this ideology or constituted by it. Thus, it attempts not just the rectification of the epistemic mistakes, but the – "emancipatory" – alteration of the situation. And it holds that one is important for the other. That is why to undertake such a critique, one must have not only "courage, compassion, and a good eye," as Walzer claims one needs for social critique, but a good theory as well.[19]

2. Although the critique of ideology cannot consist of merely exposing mistakes and untruths in the customary sense – attempting to replace a wrong understanding by the right one – it does not per se consist of a normative conception of the right actions, either. It is the ferment of a *practical process of transformation* that pertains to both (social) reality and its interpretation; in its course, both social reality and its interpretation must change. But how does the critique of ideology guide our actions, or how does it relate to the practical question of what I or we should do?

The second paradox: "A non-normative critique that is normatively significant"

This brings us to the second of the above-mentioned paradoxes: the critique of ideology claims to be "a non-normative critique that is normatively

significant." It is exactly this claim that Anton Leist criticizes as the "myth of the critique of ideology" and thus as a mistaken, if tempting, self-understanding.

But in what sense is the critique of ideology actually "non-normative and still normatively significant," that is, critical? Or better yet: in what sense does it actually claim to be both?

The first part of the claim seems easy enough to prove. The critique of ideology is not normative, inasmuch as it makes no assertions as to how something *should be* (e.g. how one should construe social institutions to make them right or just, or in what way institutions are bad or unjust) but merely analyzes the *properties* and *conditions* of the social institutions and practices it encounters. Wherever someone undertakes a critique of ideology, he or she starts by collecting clues. They uncover links, show inherent contradictions, decode mechanisms that help cover up those contradictions, and analyze interests or functions of domination. In other words, they show that a situation is not what it is alleged to be: that certain norms are different *in function* than one would think at first glance, or that their *genesis* or their *effect* is different from what one might have expected.

In our example taken from Marx, then, ideology critique *analyzes* in what sense the free and equal exchange in the mode of surplus value production (this is the task of Marx's value theory) *systematically* produces inequality, or, in what sense "civic" freedom systematically leads to a lack of freedom.[20] It *establishes the link* between the normative ideals of freedom and equality and the actual properties and conditions of the institutions that claim to be guided by these ideals. It *decodes* the mechanisms that make it possible for private property and contracts to appear as something natural instead of something historically/socially made, it points out that the particular interests of a certain class are passed off as the interests of the general public and asks *cui bono*, by showing, for example, how the ideological understanding of the freedom of contract puts one of the contract parties at an advantage.[21] The critique of ideology gathers indications and clues – proceeding according to the logic of following up on a *suspicion*. However, it does not establish norms (as its critics point out) and neither does it refer to normative standards[22] – at least not explicitly. It would, therefore, neither explicitly argue that a failure to realize freedom and equality would be bad (to stay with our example), nor does it provide a reason why freedom and equality should be normatively distinguished at all.

It is more difficult to make good on the second part of the claim and to answer the question of how the critique of ideology can be critical in spite of this, since, after all, a critique cannot merely consist of stating what something *is* like; it must also involve a position on how it *should be* or *should not be*. It is at the very least unclear what can actually

normatively follow from its analyses/decodings/exposures – and how it would follow. Is the obscuration of the function, effect, or origin of a social practice or institution really a problem unless that function or effect is objectionable? Isn't it true that answering ideology critique's question "who benefits from a certain worldview?" acquires a critical edge only if one assumes that this benefit is in some sense harmful or wrong?[23]

Is the normativity of the critique of ideology parasitic?

It seems as if the objection that the critique of ideology misunderstands itself pans out. It could be brought to the following point: on the normative level, the critique of ideology is a *parasitic undertaking*, dependent on normative standards it cannot generate by itself.[24] This would imply a "division of labor": a normative theory in the strong sense provides the norms, and the critique of ideology helps to uncover instances of noncompliance. In other words, the critique of ideology with its characteristic methods of decoding and unmasking would in the end be merely a "provider of material" or an *additional rhetorical element* for the "actual" task of critique. Consequently, the critique of ideology would be a form of critique that might be significant in the field of practice, but it would not be a normatively independent form of critique.[25] This would mean to separate "analysis" and "critique" just as it is traditionally done; the analysis would be up to the critique of ideology; the real critical work, however, would be beyond its scope. And the critical standards would then follow in one way or the other "externally" from a neutral position as moral philosophers construe it or from a presupposed objective theory of the good life. Although this might be even a respectable "division of labor," it in any case contradicts the self-understanding of the critique of ideology. After all, its claim of independence rests on its assertion that it is at once both *analysis as critique* (and not just a *description* of the status quo) and *critique as analysis* (and not just *an appeal* addressed to the status quo).

The critique of ideology – liquefaction or transformation?

Does this mean that ideology critique is in some way an aggressive embracing of a "naturalistic fallacy", of the idea that from the fact that something is it somehow follows that it ought to be? As a matter of fact, the possibility of ideology critique (and the idea of a unity of analysis and critique) relies on the assumption that *description and evaluation intermingle*. The critique of ideology claims to be simultaneously a different *understanding* and a different

evaluation of social conditions and situations. The reason why this link is plausible according to ideology critique is the fact that the object of its criticism, namely ideology, is always already both an understanding and an evaluation. Ideologies are normative *as* ways of understanding the world. As worldviews, they determine the limits of possible actions and thereby – in a very profound sense – what one is to do. They stake out the field of possible actions, and this staking out, determining, and limiting of possibilities is itself a normative matter – a fact to which the critique of ideology draws attention. Ideology critique, then, is not least of all a matter of unmasking the normative character of certain descriptions.[26]

This may suggest that the critique of ideology is characterized by something one might tentatively call "*second order* normativity": a normativity that consists of making the constructed and perspectival character of certain assertions explicit. It thus operates by effecting a kind of "liquefaction" of the status quo, or by giving an "indication of changeability"[27] for the practices and institutions of society – or by reversing the earlier mentioned mechanisms of "*decontestation*." This approach is "normatively significant," inasmuch as it creates new possibilities for action and thus the conditions necessary for asking "practical questions" in the first place. By first of all showcasing that which is normative as something normative, the critique of ideology strips it off its coercive power.

Yet it has to be more than that. After all, every way of understanding the world is (especially from the viewpoint of ideology critique) perspectival, "constructed," and establishing norms in the sense described above, since there can be no (social) reality without a determining of the field of interpretation and possibility. To show this, however, is in itself not yet to criticize it. To merely observe that the status quo is "constructed," open to questions and generally changeable, does not by itself generate any criteria for deciding whether and why certain institutions and certain understandings of social reality are wrong and should, therefore, be changed.[28] The critique of ideology would remain negative in the sense that it could criticize the social practices and institutional arrangements only for restricting the field of possibilities in general. This, however, would mean criticizing *every single particular* social practice or institution for being what they are, rather than criticizing *certain* social practices as wrong. In this way, the "liquefaction of the status quo" by ideology critique would undermine its own relevance. It would lead to a *total generalization* of the suspicion of ideology that has already been a problem for Karl Mannheim's sociology of knowledge.[29] If the critique of ideology is to remain a critique of false consciousness and of wrong social practices, rather than merely paying attention to a feature every understanding of the world shares, it must be able to differentiate between an adequate definition of the field of interpretations and possibilities and definitions that are problematic or inadequate. This, however, means that the critique of ideology must point to the difference between a

necessary imprint and a distortion, which the traditions of ideology theory from Althusser to Butler does not, since it tends to understand every formation as inevitable and yet also as restrictive. To put it differently, the normativity of ideology critique must be conceptualized in a "stronger" way. To assert itself as an undertaking with a distinctive normativity, it must take on not only the "liquefaction," but also a transformational transcending of the status quo towards a new – better – situation.[30]

Towards a solution of the paradox

The critique of ideology is thus confronted with the specific problem of claiming to be the ferment of such a transcending transformation, without being able to refer to a given external standard or, moreover, to a preexisting positive alternative to the practices it is to criticize.[31] At this point, however, we can understand how this problem is to be solved: as a unity of analysis and critique, the critique of ideology does not use any external standard but instead develops standards based on the very situation it criticizes. The critique evolves in a process the analysis set in motion (in a sense that makes the analysis more than just a mere precondition of critique). Such a critique is at once *determinate* and *negative*: in contrast to the "liquefaction positions" discounted above, it criticizes particular social practices as deficient; but it does this following a pattern of determinate negation (or of a "dialectic process of development"), or, in other words, according to a principle that is crucial for the Hegelian variant of immanent critique: the right follows from a "sublating" overcoming of the wrong.

Thus, the following solution to the paradox of the "not itself normative, but normatively significant method of critique"[32] can be formulated as follows: the critique of ideology is "normatively significant," but it is not *normativistic*. The phrase "normativistic" was introduced by Michael Theunissen, and it signifies that *external normative standards* are introduced against which reality is measured – it is measured against an "abstract ought." Since the critique of ideology evaluates existing reality according to standards immanent to this reality, it remains *normatively significant* without using a normativist approach. The implicit normativity of ideology critique then does not, in fact, require a standard lying outside its process of critique in order to stay faithful to its own self-understanding; this does not mean that it loses its critical-normative character. The critique of ideology generates the standards needed to overcome a particular reality from the given norms and the given reality.

However, this means that the analysis itself takes on a normative and no longer only an instrumental character. After all, the normative standards of such a critique cannot be established independent of the correct understanding of reality – and reality, here, is a very exacting phenomenon that cannot be discerned by merely "looking at it." The contradictions that start it off are not simply given; instead, immanent critique is very much "a

method of forging links,"[33] and the recognition and the existence of such links is a condition for recognizing those contradictions: they first become accessible through analysis. The implicit *normativity* of the social practices and institutions targeted by ideology critique is not necessarily obvious, either. Therefore (and for this very reason), to make analytical distinctions and to make critical-normative judgments – analysis and critique – are two aspects of the same process for the critique of ideology as an immanent critique. (Returning to the paradox, this means that the normative and the non-normative components are inseparably entwined: the descriptive turns normative, and the normative descriptive.)

The critique of ideology as immanent critique

In which sense does the critique of ideology proceed as an "immanent" critique – and if it does, what are the consequences for the standards of truth and rightness of the ideology critique? To answer this question, I widen my focus for a moment, since there are very different versions of understanding the "immanence" of critical standards. The easiest and most obvious one is probably the version that holds that certain ideals and norms may be part of a particular community but are not de facto realized in this community (its most prominent theoretical proponent is Michael Walzer,[34] but it is also very common in everyday critical practice). Thus, one might accuse the United States of betraying values such as democracy, human rights, and freedom – the fundamental values of the American constitution – not only in its actual foreign policy, but also in its social policy.[35] (This is a model of patriotism one might find in a movie directed by Oliver Stone; he puts the now discarded ideals of a better America up against a corrupted political reality.) In this approach, the reality of certain practices and institutions is measured up against the "discarded" ideals of the very people who run those practices and institutions. This is a type of critique that is certainly frequently and sometimes effectively employed; and it has the advantage of being able to latch on to already existing normative expectations. But its disadvantages are just as obvious: it is tied to the existing norms of a community and, therefore, inherently particularist (and moreover, it imagines this community as a closed circle).[36]

In contrast, immanent critique as I understand it (and as I want to distinguish it from the version of internal critique I just described) tries for more. As Axel Honneth argued for what he calls the "left Hegelian" version of immanent critique – as opposed to the "hermeneutic" version – or (as he has it) "reconstructive critique," ideology critique relies on not just actual but also justified norms. However, I would further propose (at least for the version that is relevant to the critique of ideology) that although it starts off as an immanent approach, it is less concerned with the *reconstruction* or the realization of normative potentials, and more with a transformation of the status quo driven by the immanent problems and contradictions of a particular social

constellation. Immanent critique, then, does not confront, as Marx put it, "reality with a prefabricated ideal," and it does not just extricate such an ideal from it but instead develops it from the contradictory "dynamic of reality" itself. This – in a certain sense "negativist" – version of immanent critique is, I would suggest, the foundation of the critique of ideology.

What is immanent critique?

To put it briefly: There are five traits that are characteristic for this type of *immanent critique*.

One: Immanent critique takes norms that are *inherent to an existing (social) situation* as its starting point. But these norms are not just any values that we or "we as a community" have, contingently or traditionally. Immanent critique takes up norms that are in a certain way *constitutive* for particular social practices and their institutional setting. And it holds that the fact that these norms exist in the first place is not a contingency: the norms in question are – in a way that will have to be elaborated – not just factually given, but justified and *reasonable* as well.

Two: Immanent critique obviously does not follow the typical argumentation pattern of internal (or hermeneutic-reconstructive) critique, namely, to claim that a community has lost touch with its ideals (the Oliver Stone model of patriotism). The link between norms and reality in the situation it attempts to criticize is not perceived as dissolved or weak; instead, it is seen as *inverted* or *turned in on itself*. The norms (as in the above-mentioned case, the values of freedom and equality that are constitutive for civil society) are effective, but *as effective factors* they have become inconsistent or deficient.

Three: Immanent critique, therefore, focuses on the *internal inconsistency* of reality itself and of the norms that constitute it. The institutional reality of a society can be "internally inconsistent" in the sense that it constitutively embodies competing and contradictory claims and norms that cannot be realized consistently or that will necessarily turn against their original purpose upon being realized. (In our example, this applied to the norms of freedom and equality. Currently one can observe how in certain social processes, responsibility is simultaneously attributed and undermined; in others, society demands creativity but at the same time generates and encourages conformity)

Along with this comes the – problematic – idea that this is not a contingent contradiction, but instead one that is somehow stringent, a *necessary contradiction*.[37] According to this assumption, the reasons for why these norms cannot be realized without inconsistencies derive from the very character of these norms as well as from the properties and conditions of the practices and institutions in question. (This means that the Oliver Stone plea for moral purification is useless in such cases.)

Four: Immanent critique is also *transformative*. It attempts not so much to revitalize as to transform an existing order or the current norms and ideals. The goal is not to reestablish a once working congruence between norm and reality; instead, immanent critique is driven by the necessity to overcome a contradictory situation and to turn it into something new.

Five: This necessary transformation, however, involves both the deficient reality and the norms themselves, and this is important.[38] The norms themselves are affected by the fact that they are not realized in the existing situation. Immanent critique, then, is simultaneously a critique of a reality that is deficient according to certain norms (it does not conform to these norms) and a critique of those norms themselves. This means that immanent critique not only criticizes a deficient reality according to a standard of norms, but also vice versa – and the ramifications of this are often forgotten. The inconsistent reality (a reality in which the norms can be realized only inconsistently) requires *a transformation of both reality and the norms*, rather than a simple adjustment of reality in accordance with the ideals (either to recapture or to realize a potential).[39]

In our example – the analysis of capitalist civil society from the perspective of ideology critique – the contradictions between the natural law norms of equality and social reality can be solved only through a new economic and social organizational structure, but in the course of this solution, the concepts of freedom and equality are transformed towards (in this case) a fuller and more comprehensive understanding of freedom as "positive freedom" and as a "material understanding of equality." Thus, the critical standard is changed in the course of the critique (or better, it both changes and stays the same).

The normativity of the process

The normative basis or the normative point of reference of ideology critique, therefore, lies in the normativity and the rationality of the process it set into motion. Normative rightness (and also epistemic truth) is not "something out there"; instead it first evolves only in the course of a process we can understand as a problem-solving process in the widest sense.

This dynamic (dynamic-transformative) character of immanent critique leads up to a crucial point: the transformation that is guided by immanent critique must be understood as a *process of evolution and learning*.[40] Three aspects are of essential importance for this process of experience:

1. The contradictions that give rise to immanent critique are not logical contradictions, but *practical contradictions*. Consequently, they are not "unthinkable"; rather, they lead to *crises*, to experiences of deficiency or failing. A (social) reality that is in this way *determined by crises* is – as both

Hegel and Marx agree – not just morally wrong but also in a certain sense not "working."

2. Immanent critique as a ferment of such a process of experience is not *destructive*; it is *constructive* or affirmative. The "new" is always already a result of the transformation of the "old" which is "sublated" in it (in the three senses of the term – negated, preserved, and transposed) to a higher level. A short Hegelian turn of phrase for this would be that it realizes itself in the mode of *determinate negation*.
3. The experience of crises and their overcoming is sublated in this process of experience, and that is exactly why such a *process of experience* can be understood as *progress* – as a process of change for the better (although, at this point, not in a very strong sense).

The validity claims of ideology critique (as well as those of immanent critique) are, therefore, based on the idea that the conclusion of the process of critique, or the result of the transformation it guides, is an adequate solution to a crisis that is simultaneously systematically necessary (i.e. already present in the conditions and properties of the situation) and productive (i.e. in possession of the means for its own solution). The truth or the rational ground of ideology critique thus depends on some kind of "historical index," or on the rationality of a process of learning and experiencing that must be understood as a history of solving and overcoming deficiencies and crises: as a process of problem solving. And vice versa, the focus on contradictions and crises means that the criterion "not working" becomes a criterion of both epistemic and normative wrongness, and the assumption that the existence of a practical contradiction implies some sort of practical obstacle.[41] Ideology, then, is what does not "do justice" to reality and blocks our social practices (or, as Karl Mannheim puts it, ideology "can't catch up to reality").

Difficulties with the critique of ideology

Although in this chapter I have, of course, deliberately rephrased the Hegelian model in a pragmatist spirit, at this exact point (if not earlier), the "difficulties with the critique of ideology" resurface. For how can such a development (and thus the transformational process mediated by immanent critique) be understood as an overcoming of the status quo for something better, if one does not want to propose a final telos of history, or of the progress in question? And how can one claim that this development is driven by "crises," while the observation of historical developments suggests that crises (and their solutions) are not "objectively given" but are themselves dependent on interpretations, processes of self-understanding, and the chains and links of actions they inspire? It seems that we managed to only shift the problem that the critique of ideology has with its normative

points of reference. (This problem is connected to the pragmatist approach.) The answer even to the question of what a practical contradiction or a crisis actually is, and what a "solution" might be, is not self-evident. Does material inequality stand in "contradiction" to legal equality? Is the fact that, according to Hegel, civil society is "in spite of all its riches not rich enough" to solve the urgent problem of poverty and exclusion a "crisis" of this social formation? What is it that is "not working" in these situations, since so much of it actually works? I can offer only a few remarks pointing towards answers to these problems:

One: The question of how to decide what should count as "working" or as a "problem" suggests an ambivalence in the notion of "inherent norms." It could be a matter of norms in the *functional* sense or of *ethical* norms. In the first sense, norms merely state that a certain way of acting is "good for" the existence of a certain social practice, that is, functionally necessary for it. In the second case, compliance with the norm is related to an ethical validity claim according to which the practice in question is a "good practice" in a comprehensive (or absolute) sense.

The concept I am discussing seems to sidestep such distinctions. It takes up norms that are apparently simultaneously norms of functioning and of the good. Regarding the social processes in question, "working" means not just running smoothly, but always also "doing a good job" in both a functional and an ethical sense. A "practical contradiction" is then characterized by the fact that the obstacles or crises that are part of it are normatively problematic in both senses: something does not work (well), and the way it works is not good. This odd linking of normative (in a stricter sense, or, ethical-normative) and functional considerations takes into account that in the social sphere nothing can function in a way that is completely independent from the good. Conversely and controversially, the good is rooted in the working or functioning of society, or in the functional requirements of society. This is not the place for a more detailed discussion of this argument. However, it offers a clue in the quest for criteria that apply to the problems as well as to the solutions: according to this notion, problems are always partly normative problems; and normative problems, conversely, are always partly problems of dysfunctionality. To localize problems, one would, therefore, have to come from both sides and hope for an alignment.

Two: This process that is the basis of the immanent movement (of ideology critique) should not be understood as a process with a definite end, but as a *fallible* and "open-ended" development towards something better then a given situation. Therefore, one criterion for judging something to be "better than a given situation" is its capability to help solve the problems and crises that came up. A solution includes (to take up a thought of A. MacIntyre) a

way to understand how the crisis in question came about and a plausible story or interpretation that manages to make the solution understandable as a solution of the problem. In the course of this, it is possible that one can no longer decide strictly speaking whether this interpretation is "constructed" or whether it corresponds to "reality" (and it is possible that this distinction will turn out to be not all that important).

Third, if the critique of ideology is, like immanent critique, a "a method of forging links," then we should give this practice of forging links a quasi *"constructivist-performative"* turn: the links as well as the contradictions that constitute the principle that guides the movement of this critique are simultaneously "given" and "made." This means that the analysis of ideology critique will neither simply "discover" the inconsistent constellations of social reality nor will it freely construct them. Even if these contradictions do not have the imperative power that they are sometimes afforded in the context of ideology critique, they are still the result of practical problems. They are at least partly dependent on interpretation, but they still – like symptoms – somehow "announce" themselves, that is, they cause practical consequences and shifts. In its analysis and evaluation, the critique of ideology can, therefore, rely neither on imperative "last reasons" nor on an interpretation that is definite and independent from the agents' perspective. It will always simultaneously both analyze and generate problems and contradictions. To avoid being arbitrary, this approach depends on a certain "reflective or interpretive equilibrium" and on aligning the subjective (agents') and the objective perspective. However, if one follows my suggestion and understands (social) reality as something that will put up some resistance, even though it is not "given," then we give up on all criteria.[42]

Four, the critique of ideology must expect the *contradictions to multiply*. Today, critique can no longer be a matter of unmasking the one, or the central contradiction of capitalist society; rather it has to address pluralistic, multiplying, and sometimes colliding contradictions. As a consequence, one has to face the persistence of such conflicts and contradictions, or the collisions that lead to contradictions. The critique of ideology is, therefore, not committed to a romantic ideal of harmony consistency, or to the idea of finally overcoming all conflicts; rather, it downright depends on these conflicts and inconsistencies. However, in contrast to positions that perpetuate inconsistencies as such, it understands them as motivating elements, however temporary, that urge us to overcome them.

Conclusion

My concluding thoughts center on one objective: I want to tentatively open up a field for ideology critique that is in a certain respect another in-between space. In my understanding, ideology critique stands not only between the

two notions of social reality as "given" and as "made"; above all, it also stands, as an immanent critique in the sense I have described, between objectivism and subjectivism, that is, between purely objective and purely subjective validity claims. This, in conclusion, brings me back to the point that seems to be chiefly responsible for the frequent "difficulties with the critique of ideology": the problem of asymmetry, the seemingly unavoidably asymmetric relation between those who are subject to an ideology and the viewpoint of critique or of the critics who recognize it as ideology.

At the beginning of this chapter, I referred affirmatively to Ricœur's talk of "the hermeneutics of suspicion" because I think that such a notion must on the one hand break with the privilege of interpretation of those concerned – the element of suspicion. After all, the search for hidden connections of interests and functions is of special importance wherever these connections are not directly obvious and cannot be immediately articulated. To point out the mechanisms of "decontestation" and naturalization obviously requires a break with a perception of oneself and the world that has become second nature. On the other hand, however, such a hermeneutics of suspicion would still be hermeneutics.[43] It attempts to reconstruct the perspective of those concerned, to understand what they understand, to reconstruct the problems that occurred not in an external and objective way but as the agents experience them. However, it not only effects a "purification" of sorts, cleaning the subjective viewpoint of distortion and manipulations[44] (this notion faces the problem of having to work out how to distinguish manipulations from imprinting); the way it approaches the problems and crises of a situation also makes it the ferment of a process in which there is no "outside" and no external criterion, but only the continuation of a process that, similar to the psychoanalytical process, would not be possible without the participation of the very position it criticizes (and its protagonists). The critique of ideology, therefore, does not stand "outside" of the constellation it criticizes as ideology; the critic is not separated from the ideology he or she criticizes (and the persons subject to it) but is "part of the always already ongoing social process of self-understanding."[45] This process, however, is challengingly understood as part of the (self-)dissolution of a constellation of delusion and deception. The critique of ideology is not something that stands outside of social reality that is regarded as a constellation of delusion and deception; it is the instance that confronts us with the problems and contradictions of this reality in a way that is at the same time a ferment of their transformation. The critique of ideology has an odd status in this; it is in a certain sense at once active and passive. Inasmuch as it always also aims for the jolting and jarring performative-practical effect of ideology critique, it is, like its object, simultaneously theory and (as theory) practice.[46] Furthermore and in addition to its method of immanent critique, the critique of ideology is also, like every process of emancipation, a "process known only to its participants." Why ideology critique?

Why do we need a critique of ideology? What is so special about it? Ideology critique not only allows us to see *other phenomena* by unearthing, for example, relations of domination when they are inconspicuous and almost invisible; it also lets us *look at* phenomena that are obvious examples of injustice or domination *in another way*. And last but not least, it does not target (individual) wrong actions, but rather constellations *as* constellations. Therefore, the critique of ideology is eminently suitable for a critique of "structural domination" and for a structural critique of domination.

Translated by Eva Engels

Notes

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1. As J. Larrain puts it, see J. Larrain, *The Concept of Ideology*, London 1979.
2. See Richard Rorty, "Feminism, Ideology, and Deconstruction: A Pragmatist View," in Slavoj Zizek (ed.), *Mapping Ideology*, London 1995, p. 232.
3. I understand the critique of ideology here in a broad sense as a method of critical thinking. It achieved a certain "maturity" in Marx's writing, as J. Larrain (*The Concept of Ideology*, London 1979) remarked, but it is not the exclusive property of Marxism. Herbert Schnädelbach offers a brief but very helpful introduction to the critique of ideology in his essay "Was ist Ideologiekritik? Versuch einer Begriffsklärung" in *Das Argument* 50/1969. For a comprehensive presentation and an energetic case in favor of keeping the critique of ideology alive, see Terry Eagleton, *Ideology*, London and New York (Verso) 1994. Raymond Geuss developed the clearest analytical explication of the concept of ideology and a helpful grid to categorize the various concepts of ideology, or the various aspects of the concept of ideology, in *The Idea of a Critical Theory*, Cambridge 1981.
4. This is why ideologies are hidden not only within systems of ideas, but also in practices and forms of habitus. And this is also the reason why there are practical critiques of ideology, or ideology-critical practices, by a variety of writers from Guy Debord to Judith Butler, or, more accurately, from the disruptive actions of the Situationist Internationale to contemporary "queer" attempts to sidestep the binary pattern of male and female. Althusser's productivity is not in the least because of having argued that ideologies are a question of "lived relations." And it is obvious that one can understand Bourdieu's analysis of *habitus* and *doxa* as regards its actual content as a contribution to the critique of ideology, even though Bourdieu distances himself from the vocabulary linked to the concept of ideology. (See the interview with Bourdieu in Slavoj Zizek (ed.), *Mapping Ideology*, London and New York (Verso) 1994.)
5. Projekt Ideologietheorie (eds): *Die Camera Obscura der Ideologie*, Berlin (Argument Verlag) 1984, p. 21.
6. See for the neutral or even affirmative conceptions of ideology, the very helpful typology in Raymond Geuss, *The Idea of a Critical Theory*.
7. This renders the question of whether the critique of ideology is a specific mode of critique or whether it has a specific object, namely ideology, obsolete. Ideology critique is a form of critique that is characterized by understanding or decoding

its object as ideology. You cannot tell whether something is an ideology, or ideological, before a critique of ideology occurs.

8. In the German original: "Verselbstverständlichung" or "Selbstverständlichmachung."
9. Adorno already voiced this suspicion in the face of the "transparency" of social relations within the framework of organized capitalism. (See Adorno/Walter Dirks: *Soziologische Exkurse*, Frankfurt a.M. 1956, p. 170.) However, as long as one assumes that societies are (partly) kept together in a normative way, that there is something like individual or collective "self-understandings" and that they play a role in the constitution of society, they can always turn out to be "ideological." Of course, this is not the place to make a case for these assumptions. Furthermore, the thesis that ideology critique has not disappeared but has become ubiquitous would prove that the critique of ideology is superfluous under our current conditions. One might argue that to relate certain ideas back to hidden interests and functions has become the default repertoire of social self-reflection, but that the hoped for "enlightening effect" has been missing. This would not only mean that social consciousness became cynical (a fear that Habermas voiced in the new preface to *The Structural Transformation of the Public Sphere*); it would also mean that it has become cynical due to ideology critique itself. However, I think not only that this description of the state of affairs is only superficially accurate but also that the ubiquitous version I just pointed to is merely a deficient version of the critique of ideology.
10. One might argue along similar lines concerning "workfare" programs in the United States.
11. It is the very logic of a hermeneutics of suspicion and the talk of false consciousness that is suspected to insulate against criticism and to block out contrary evidences. The most striking example for such a strategy of insulation may be the passage in Freud's *The Interpretation of Dreams*, in which the "master of suspicion" Sigmund Freud interprets the dream of a patient that just does not seem to fit his thesis about dreams as wish fulfillments, as a fulfillment of the patients wish to prove Freud wrong.
12. For an attempt to renew the critique of ideology in a way that is not depending on this aspect and tries to overcome the problems of the asymmetry between the internal perspective of those affected and the external perspective of the critic of ideology, see Robin Celikates: "From Critical Social Theory to a Social Theory of Critique: On the Critique of Ideology after the Pragmatic Turn," in *Constellations*, Volume 13, No 1, 2006. See also the discussion of this question in Eagleton, *Ideology*.
13. T.W. Adorno, "Beitrag zur Ideologienlehre," in Soziologische Schriften I, Gesammelte Schriften 8, Frankfurt a.M., Suhrkamp, 1972, p. 465 ("das Wahre und das Unwahre immer miteinander verschränkt").
14. Anton Leist, "Schwierigkeiten mit der Ideologiekritik," in Angehrn/Lohmann (eds), *Ethik und Marx*, Stuttgart (Athenäum) 1986.
15. I will treat Marx's critique of capitalism taken as a whole as ideology critique, which means that I am not primarily referring to the all in all insufficient passages in which he himself methodically explicates the vocabulary of ideology. Also, I use Marx's ideology critique as an example for *argumentation patterns*; therefore, I won't discuss whether the substantive claims are true or not.
16. See Jon Elster, "Exploring Exploitation," in *Journal of Peace Research,* 15 (1978).
17. The phrasing "false consciousness" has been under attack from various sides (from Althusser to Zizek, theorists tried to overcome this exact aspect of ideology critique). But the reproaches that object to localizing the "wrongness" of ideology

"in consciousness," and those who see an outdated (viz. representationalist) epistemology at work, overlook that in this phrase "consciousness" is quite ambivalent. It is almost misleading to speak of consciousness, since this consciousness, constituted by society and itself having a practical effect, is no longer consciousness in the traditional opposition to "being" (or "superstructure" in contrast to "base") but is instead a structure in which the two are intertwined: a complicated network of norms, ideas, and practices affecting one another. Furthermore, ideology's odd status between truth and untruth suggests that the concept of ideology introduces an understanding of true and false that does not conform to the traditional representationalist model. Thus, it is not at all understood that there is a true reality in the sense of a nonconstructed, not conceptually constituted reality waiting behind the false and distorting one.

18. The critique of ideology does not simply discuss both; it is based on the not undisputed claim that there is a systematic link between the false understanding and the wrongness of the situation (the normative wrongness of the facts and the epistemic wrongness of their interpretation). Reality itself seems to be wrong in a way that makes the wrong understanding all too likely and, consequently, the fact that we misunderstand it is in a way an indication of the wrongness of the situation.
19. See Michael Walzer, "Mut, Mitleid und ein gutes Auge," in *Deutsche Zeitschrift für Philosophie*, 48 (2000) 5.
20. It is important to realize that the critique of ideology is not something that adds to our knowledge of the world; rather, it is an approach that helps us to see what we "know" about the world in a new light. Therefore, I would suggest that Marx's theory of value does not just have the status of an "external" objective theory but is also inherently designed as a critique of ideology. Such a nonscientific understanding, one that other interpretations and also other aspects of the work of Marx and Engels may, of course, contradict, goes along with the realization that the object of "political economy" is not independent of the way it is perceived.
21. The *Historisch-Kritisches-Wörterbuch des Marxismus* identifies the question "who stands to benefit from a particular worldview?" as the "core question of the critique of ideology." However, to reduce it to this question would lead to a much-abbreviated understanding of ideology critique.
22. The meta-standard of consistency is an exception. However, the critique of ideology does not provide even an independent argument for the question why contradictions should be avoided.
23. Of course, one might argue that to showcase a contradiction is itself a normative intervention. However, the critique of ideology cannot be a matter of uncovering contradictions per se. Ideology critique's decoding includes a negative view of the effects of this inconsistency. This becomes obvious if one imagines a society in which inequality is officially embraced and preached, yet a luxuriant equal distribution is practiced as a matter of fact – granted, this is very hard to imagine. A critic of ideology might find this situation odd. Still, his or her analysis would probably lack the caustic tone that characterizes ideology critique. This is partly due to the fact that one would wish to preserve the actual situation, even though one might want to gently dissolve the self-delusion, whereas in the inverse case, one would try to destroy the delusion to change the existing situation. Moreover, every contradiction can be dissolved in two directions and, therefore, it is not immediately clear if the norms or the practice that does not correspond to it should be modified.
24. Raymond Geuss discusses a similar objection, but with a positive bend for the project of ideology critique: given that an ideology serves a particular function and has a particular genesis – wouldn't we still need an additional argument to

show that it is normatively wrong? If a particular ideology serves to uphold a form of domination, then, to show that this has practical-normative ramifications, one must argue that (this) domination is wrong.

25. See for a parallel problem concerning the status of genealogy as critique the contributions by Geuss, Owen and Saar in Honneth/Saar (eds), *Michel Foucault. Zwischenbilanz einer Rezeption*, Frankfurter Foucault-Konferenz 2001, Frankfurt a.M. 2003.
26. This is very carefully phrased and should for now only pertain to certain areas – namely the areas that are relevant to the critique of ideology. However, one could, of course, generalize the assertion that the evaluative and descriptive components of our understanding of the world cannot be separated.
27. As Ruth Sonderegger argues in "Wie diszipliniert ist (Ideologie-)Kritik? Zwischen Philosophie, Soziologie und Kunst," in Rahel Jaeggi and Tilo Wesche (eds), *Was ist Kritik?*, Frankfurt a.M. 2008 (in print).
28. These questions can be cleared up only when working with the contrasting model of "genealogy as critique," a method that Martin Saar explicates (see *Genealogie als Kritik*, Frankfurt a.M. 2007). Genealogy, inasmuch as it can be understood as critique, is after all in a way a contrasting model, or maybe a successor model, of the critique of ideology that still shares some of its features and "inherits" some of its elements.
29. According to Zizek, it can also be found in the "quick slick postmodern solution" that "everything is ideology."
30. This is another occurrence of the problem Mannheim raised, the problem of overcoming the totally generalized concept of ideology – everything is ideology and, therefore, as necessary as it is unremarkable, in other words, not an object of critique – towards an "evaluative-dynamic concept of ideology."
31. How this relation between critique and practice presents itself for the critique of ideology (in contrast to other forms of critique) would be a good topic for another essay. The phrases "medium" or "catalyst" should suffice to suggest that the critique is supposed to have "a practical effect" as critique, that is, to be effective *as* critique, and that it is part of the transformational process (in contrast to being merely an instruction, or else in contrast to a model based on the relation between legislation and execution), but on the other side it should, of course, not be identical with practice and replace it.
32. Leist, "Schwierigkeiten mit der Ideologiekritik," p. 59.
33. Or at least that is my argument in Jaeggi, "*Zur Kritik von Lebensformen*" (unpublished manuscript).
34. See Michael Walzer, *Interpretation and Social Criticism* (Harvard University Press, 1987) and "Mut, Mitleid und ein gutes Auge."
35. An even simpler argumentative pattern of a similar type would, of course, be accusing someone of "mere lip service." One might, for example, accuse a human resources manager of wearing gender equality/justice like a fashionable badge on his or her sleeve, whereas at the same time massively obstructing the careers of women. But this type of critique does not cut very "deep," since it is more a matter of a deception than of discarding one's ideals; and it is not really immanent either, inasmuch as the deception is strategically and deliberately employed.
36. Moreover, in case of doubt it falls back on additional normative arguments. In view of our changing and pluralizing social reality, the direction that should be taken by the requested alignment of ideal and reality is in no way self-evident. Should we give up on the norms/ideals or change our practices? One might relish

the possibility of evoking the ideal of charity in the face of restrictions on the right of asylum; but in other cases – consider the catholic moral codes concerning sexuality – one might take the change in factual habits as an occasion to demand an adjustment in the other direction. Moreover, it is unclear which of various possible ideals should be validated as the point of reference. For a more comprehensive discussion of the different types and the normative structure of internal and immanent critique, see my forthcoming habilitation.

37. Although this is not the place to examine the problematic nature of this figure of thought in detail, I would like to remark that this seems to suggest that the controversial institutions and social practices embody principles that contradict each other, yet are simultaneously constitutive for the existence of those institutions and practices. See, for examples, the current research program of the Frankfurt Institute for Social Research and the contributions in Axel Honneth (ed.), *Befreiung aus der Mündigkeit - Paradoxien kapitalistischer Modernisierung,* Frankfurt a.M. (Campus) 2002. Owing to easily understandable research-related reasons, the authors shift the focus from "contradictions" to "paradoxes."
38. Not only can there be no restorative referring to the "no more" of the norm's validity; even the simple understanding of a "not yet" valid norm is thus impossible, since norms are now understood not as glimpses of truth shining through, untouched by reality; instead, they are a ferment and a dynamic developmental element.
39. The way I understand it, the relation between ideal and realization in the process of immanent critique is rather complicated. If the realization of the ideals evoked by immanent critique simultaneously involves their transformation, then this realization is not a static actualization of a potential that was already present, but an augmenting, enriching movement. What is to be realized is first generated in the process of realization itself. Such a "performative-constructivist" interpretation of the philosophical motif of potential and realization suggests that there can never be a perfect correspondence between potential and realization, but that the motivational link between them is nevertheless significant.
40. The "*path of the phenomenology of spirit"* is such a process of experience, since it is a process that is enriched by the experience of deficiencies and crises; and psychoanalysis, too, can be understood as such a process, if one understands its progress as "a dialectic of change." See Gottfried Fischer, *Dialektik der Veränderung in Psychoanalyse und Psychotherapie.*
41. This is not all that far from the "evaluative-dynamic concept of ideology" that makes the following claim possible: "From this perspective a consciousness is false and ideological is a consciousness from this perspective, if its kind of orientation hasn't caught up to the new reality and therefore covers it up with outdated categories" (Karl Mannheim, *Ideologie und Utopie*, p. 85).
42. With regard to his rejection of ideology critique Rorty observes: "When philosophy has finished showing that everything is a social construct, it does not help us decide which social constructs to retain and which to replace." One might answer that the critique of ideology may not be able to ground this decision in imperative "last reasons," or in a definite interpretation of social reality that is independent of the agents. It can, however, analyze problems and contradictions as such in a way that showcases the practical consequences and shifts that are due to their ideological obscuration as very problematic.
43. Compare for a slightly different interpretation in Robin Celikates, *Gesellschaftskritik als soziale Praxis,* unpublished PhD thesis, Bremen 2008.

44. Such a concept of ideology critique is both suggested in Raymond Geuss's work (but he does not stop at this) and presented in positions that regard ideology as an irrational distortion of preferences, but for very different theoretical reasons. (See, for example, Jon Elster, in "Belief, Bias and Ideology," in Martin Hollis/Steven Lukes (eds), *Rationality and Relativism*, Cambridge/Mass.: MIT Press 1997, pp. 123–49.
45. Celikates, Gesellschaftskritik als soziale Praxis.
46. A model for change through ideology critique would, therefore, aim not at enlightenment in the idealist sense of a revision of a conviction, but at a practical effect that relies on the fact that ideologies themselves are practical. This idea is present in Marxism, but it was re-buried under the silly opposition of idealism and materialism.

5
Making Nonsense of Loyalty to Country

Simon Keller

A worry about loyalty to country

In the *Republic*, Socrates outlines a strategy for producing loyal citizens.

> They are to be told that their youth was a dream, and the education and training which they received from us, an appearance only; in reality during all that time they were being formed and fed in the womb of the earth, where they themselves and their arms and appurtenances were manufactured; when they were completed, the earth, their mother, sent them up; and so, their country being their mother and also their nurse, they are bound to advise for her good, and to defend her against attacks, and her citizens they are to regard as children of the earth and their own brothers.[1]

Believing that the country is his mother and his compatriots are his brothers, the citizen is made to care for his country as he would his immediate family. But the citizen, says Plato's Socrates, thereby believes a "noble lie."[2] It is a lie, because the country is not really his mother and his compatriots are not really his brothers; and it is a noble lie, because he must believe it if he is to be loyal to his country, and loyalty to country is to be encouraged.[3]

The proposal in the *Republic* has an affinity with George Kateb's recent attack on patriotism.

> A country is not a discernable collection of discernable individuals like a team or a faculty or a local chapter of a voluntary association. Of course a country is a delimited territory ... But it is also constructed out of transmitted memories true and false; a sense of kinship of a largely invented purity; and social ties that are largely invisible or impersonal, indeed abstract, yet by an act of insistent or of dream-like imagination made visible and personal.

> What then is patriotism, really? It is a readiness to die and to kill for an abstraction: nothing you can see all of, or feel as you feel the presence of another person, or comprehend. Patriotism, then, is a readiness to die and to kill for what is largely a figment of the imagination.[4]

As the *Republic*'s loyal citizen thinks of his country as his mother and his compatriots as his brothers, when in fact they are not, Kateb's patriot is committed to a purified, personalized conception of her country, which is in fact merely imaginary. Both take their countries to be something other than they really are. And for both the *Republic* and Kateb, this phenomenon is a special feature of loyalty to country. It is not present in loyalties to real parents or real siblings – there is no need for noble lies there – nor in loyalties to discernable collections of discernable individuals – no act of insistent or dream-like imagination is needed to make *those* social ties visible and personal.

Where Kateb's presentation suggests that loyalty to country should be rejected entirely, the *Republic* suggests that loyalty to country is, on the whole, a good thing. What the two passages share, however, is an unflattering claim about the epistemic status of loyalty to country. They do not say that loyalty to country is immoral, in the first instance, but rather that it somehow depends on a mistake. They suggest that you cannot be loyal to a country unless you are deceived about what that country is; or, more moderately, that loyalty to country essentially involves treating a country as something it really is not. They suggest that loyalty to country cannot happily coexist with the epistemically virtuous state of understanding a country's true nature.

If there is something to this thought, then it threatens the conviction that motivates most of the recent debate about loyalty to country: the conviction that, for ethical purposes, loyalty to country is analogous to all other loyalties, including such obviously valuable loyalties as friendship and loyalty between family members. Philosophers tend to assume that if they disapprove of loyalty to country then they must disapprove of these obviously valuable loyalties too, and hence that they had better not disapprove of loyalty to country. Much of the literature consists in attempts to identify the desirable forms of loyalty to country and show how they are similar to other desirable loyalties.[5] The passages from the *Republic* and Kateb hint at a different line of enquiry. They hint at an epistemic objection to loyalty to country, which does not automatically transform into an objection to loyalty in general.

This chapter sets out to substantiate the epistemic objection to loyalty to country. I try to show how conceptual space can be made for the objection and in what form it is best expressed, and I do my best to make the objection compelling. At a minimum, I try to show, the objection raises a genuine concern, and we would need to accept some fairly controversial claims, about the nature of loyalty and about the nature of countries, to avoid it.

Loyalty to country

Loyalty to country is not the same thing as patriotism, though patriotism is one kind of loyalty to country, and probably the most familiar and politically powerful kind. There are many respects in which patriotism is distinct from loyalty to country more generally, but here is an obvious one: you can be a patriot only of your own country, but you can be loyal to others. An American can be loyal to New Zealand – perhaps she formed a special allegiance to New Zealand while visiting as an exchange student – but only a New Zealander can be a New Zealand patriot. The claims in this chapter apply to patriotism, but also to loyalty to country in its other forms.[6]

Many special positive attitudes to country are not instances of loyalty to country. Loyalty to country is not the same as love of country, for example. There can be love of country without loyalty to country; a frequent visitor to France may come to love France, without becoming loyal to France. Perhaps there can also be loyalty to country without love of country; if you are deeply ashamed of your country, perhaps you can remain loyal to it, without loving it. There are also differences between loyalty to country and such things as identity with country, a sense of community, a sense of place and a sense of collective responsibility. Whether these things require or always accompany loyalty to country is, in each instance, an open question.

Loyalty to country can also be distinguished from endorsement of country, or principled commitment to country. You may be a staunch supporter of Israel, and you may endorse the Swedish national project, without being loyal to Israel or Sweden, just as you may support a job candidate not because you are loyal to her (you may or may not be), but because you think she is the best person for the job. Conversely, you may be loyal to a country without endorsing it or its cause, just as you may be loyal to your mother without thinking of her as a virtuous person.

There is also a difference between loyalty to country and a sense of duty to country. You may have a sense of duty towards your cell phone provider, because you have taken out a contract and think you should fulfill its terms, without feeling loyalty to the cell phone provider; you might despise it and look constantly for opportunities to take your business elsewhere. Similarly, you can judge that people have special duties to their countries and compatriots, and can then perform your own such duties, without being moved by loyalty. You might follow your country's laws and pay your taxes, while finding your country and compatriots repulsive and wishing desperately that you could move somewhere else.[7]

Once distinguished from other special attitudes to country, it is clear that loyalty to country is psychologically complex. It involves dispositions to act in certain ways – to treat a country well, do the right thing by it, to make sacrifices for its sake – but it also involves particular ways of thinking. The

person who is moved to act out of loyalty to a country thinks differently from someone who is moved to perform the same acts, but for different reasons. To understand what loyalty is, we need to understand the distinctive patterns of thought that it involves.

One distinguishing mark of loyalty to country is the perspective from which it proceeds. Sometimes, you are moved to do something from the neutral point of view, meaning that your motivation could in principle be shared by anyone. When you judge that Switzerland has the world's best cheeses, or are moved to support Tibet's struggle for independence, you need not think of yourself as having any special connection with Switzerland or Tibet. You may be driven simply by your objective appreciation of cheeses, or your sense of universal justice. It is different when you judge essentially *as a native of Switzerland* (perhaps you cannot abide the thought that some other country has better cheeses than yours) or are moved *as someone who visited Tibet as a child* (perhaps you always think of things from Tibet's point of view). Then, your way of thinking can be shared only by those who also feel themselves to stand in a special relationship with Switzerland or Tibet; and then, it is possible that your judgment about Switzerland or support for Tibet is truly a matter of loyalty.

Loyalty to country also appears to involve distinctive patterns of emotion. A person who is loyal to a country is likely to feel pride and shame, not just approval and disapproval, when contemplating the country's virtues and vices. She may feel a thrill when the country succeeds, disappointment when it fails, indignation when it is insulted, fury when it is betrayed, and a kind of personal happiness or sadness when she considers its future direction. She may feel an emotional identification with her country, in one sense or another. None of these emotional responses is by itself essential to loyalty to country, perhaps, but it is difficult to imagine someone who is truly loyal to country, but shows no special emotional attachment to it at all.

It is also worth making explicit the fact that loyalty to country is loyalty to *a country*. It is not loyalty to certain people, or to a principle or a way of life, except to the extent that those things help constitute the country. You may of course be moved to be loyal to a country by your regard for certain people, principles or ways of life – part of the reason why you are loyal to America may be that you love freedom, democracy and the president; but the entity to which you are loyal, and the object of your concern and emotional attachment, is still the country itself – to the extent that you are loyal to America, your emotions are engaged by thoughts of *America*, not simply of freedom, democracy or the president.

Those are some indications of the distinguishing psychological elements of loyalty to country.[8] They do not yield a definition of loyalty of country, but they show it to incorporate a certain kind of emotional and motivational life, as well as a vision of a special relationship. Providing a full

characterization of loyalty to country is a matter of describing a distinctive psychological profile. It is an exercise in substantive moral psychology, not a place for a terse definition or stipulation.

Offhand, it is conceivable that a full characterization of loyalty to country will show it to involve contentful emotions, implicit commitments or beliefs. If it does, then some elements of loyalty to country are attitudes, or implicate attitudes, that can in principle be false. That would allow the epistemic objection to begin to find some purchase.

Objectionable loyalties

There are some loyalties that you should not have. You should not be a loyal member of the Nazi Party, a loyal customer of your bank or a loyal fan of Bon Jovi. It is easy to explain why each of these loyalties is objectionable. Loyalty to the Nazi Party is immoral. Your bank will not look after you unless it is in its own interests to do so, so you should go wherever you can get the best deal; loyalty to a bank is imprudent. You should not be a loyal fan of Bon Jovi, because the object of that loyalty is aesthetically unappealing. There can be moral, prudential and aesthetic reasons to avoid particular loyalties.

If the epistemic objection to loyalty to country has any prospects, then there must also be epistemic reasons to avoid particular loyalties. And some loyalties, I want to suggest, appear to be objectionable for just this kind of reason.

Imagine somebody who insists on always using the same coffee mug. He will not drink from other mugs, will not lend his mug to other people and will not contemplate the thought of replacing his mug with a new one. Imagine that his motive is not that he finds his mug the best (he does not find other mugs too small, ugly or poorly insulated), nor that he thinks it a good policy to choose one mug and stick with it (he is not trying to avoid conflict over who forgot to do the washing up). Instead, his devotion to his mug is a matter of loyalty.

He is loyal to his coffee mug. He has a special concern for it, doing his best to keep it clean and free of chips. If he used a different mug, he would feel that he was letting his own mug down. When somebody accidentally bumps the table, and his mug is only one that remains upright, he feels proud of it. When he hears talk that soon mugs like his will be superseded by flashier mugs made from a super new material, he feels resentful and protective. When people say that his mug is too difficult to clean, or does not fit properly into the cupboard, he defends it. His feelings and attitudes regarding his coffee mug are like those that a loyal parent might have towards her child, or that a loyal fan might have towards his favorite football team.

This fellow is a nutcase. Something is wrong with his loyalty; but what could it be? It would be overblown to call his loyalty immoral. Prudentially,

the consequences of his loyalty may be positive; perhaps his loyalty to his coffee mug gives him a sense of purpose and reduces his exposure to germs. There need be no immediate aesthetic objection to his loyalty; his mug may be very beautiful. It is much more plausible to think that the problem with his loyalty is epistemic, or that his loyalty somehow incorporates a mistake. He does not understand that his coffee mug is just a coffee mug. He sees it as something more than it really is.

If you are not convinced that there is something going wrong in loyalty to a coffee mug, or if you are not convinced that the problem with that loyalty is epistemic, consider some more exotic examples. Think of someone who is loyal to concrete; she always uses concrete in her own construction work, and would feel like a traitor if she used a different material. Or think of someone who is loyal to onions, or a particular onion, or the letter P. Or think of someone who is loyal to the class of people whose surnames begin with P. He has a special concern for the welfare of people whose surnames begin with P, he takes a special historical interest in the momentous deeds of people whose surnames begin with P, he feels a special pride in the achievements and a special shame in the failings of people whose surnames begin with P, and when he hears of a disaster in a far-off land, his first thought is of all the people whose surnames begin with P who may have been affected. Any of these people could be substituted for the person who is loyal to his coffee mug, if that makes the point clearer.

I should register two points about my presentation of the person who is loyal to a coffee mug. First, I present him as someone who has a genuine loyalty, but one that rests on a mistake. An alternative diagnosis is that he is not really loyal to his coffee mug, because it is impossible to be loyal to a coffee mug. Instead, perhaps, he mistakenly believes that he is loyal to his coffee mug, or merely thinks and acts as though he is loyal to his coffee mug. Then, our task is not to explain how loyalty to a coffee mug, unlike loyalty to a mother or brother, rests on a mistake, but rather why you can be loyal to a mother or a brother, but cannot be loyal to a coffee mug, even though you can think you are. So long as it is accepted that a person's attitudes to a coffee mug could be analogous to his attitudes to his mother or his brother, where in the latter cases there is no doubt that the attitudes add up to loyalty, we do not need to choose between these two ways of framing the task. The explanation will probably be the same either way.

Second, as I present the case, the person's loyalty to his coffee mug is very earnest. Not all loyalties are like that, however. It is possible to be genuinely loyal to something, and yet take an ironic attitude to your loyalty, or hold it at arm's length. For example, you might be genuinely loyal to a professional football team, while knowing deep down that watching football is just a bit of fun, and that you should not allow yourself to take your loyalty to your team too seriously. Someone who is loyal to a coffee mug may be aware that his loyalty is faintly ridiculous, without wishing that he could be rid of it;

perhaps he thinks that his loyalty to his coffee mug helps him to cultivate his image as a lovable eccentric. Mistakes made at one level of your thinking may be recognized, and justified and managed, at another level. We will return to this point eventually.

I suggested in the previous section that loyalty to country, construed as a substantive psychological phenomenon, could conceivably involve attitudes that can in principle be mistaken. The example of the person who is loyal to a coffee mug is supposed to show that some imaginable loyalties indeed look as though they rest on a mistake, of one kind or another. We now need to ask what the mistake could be, and whether it can also be found in loyalty to country.

How can loyalty rest on a mistake?

To say how loyalty to a coffee mug could rest on a mistake, we need to identify an attitude that is an element of loyalty, and that goes wrong when directed at a coffee mug. Looking at the philosophical literature, we can find three suggestions.

Loyalty is often said to involve, or even to be identical with, a special willingness to promote something's welfare.[9] This claim about loyalty would yield a nice explanation of why loyalty to a coffee mug rests on a mistake. To be loyal to a coffee mug is to set out to promote its welfare, so it involves taking the mug to have a welfare; but there is no such thing as the welfare of a coffee mug – a coffee mug, unlike a mother or a brother, is not the sort of thing that can be made better or worse off – so loyalty to a coffee mug depends on a mistake.

In my opinion, this is not an attractive story about the state of mind of the person who is loyal to a coffee mug, or the nature of loyalty. Loyalty can be expressed as a willingness to promote something's welfare, but it can also be expressed through obedience, advocacy, respect, emotional identification or veneration, among other things. None of these attitudes necessarily involves an effort to make something better off. It is indeed possible to be loyal to something while making no effort at all to advance its best interests. In being loyal to something, you may salute its emblem, do its bidding and stand up for it when it is insulted, without taking any immediate interest in its welfare; think, for example, of a soldier who is loyal to his commander, even though he hates him.[10] Someone could conceivably be loyal to a coffee mug without having any thoughts about its welfare, but such loyalty would still rest on a mistake. That, at least, is how it seems to me, though I will return briefly to the suggestion later on.

A second suggestion is that loyalty is a deeply evaluative attitude, meaning that it is a response to the intrinsic worth, moral virtue or moral entitlements of its object.[11] Perhaps the person who is loyal to his coffee mug makes an evaluative mistake. Perhaps he imagines that his coffee mug is

morally worthy of the good treatment that he gives it, when really, of course, it is not. Coffee mugs, unlike mothers and brothers, do not carry intrinsic value, never display moral virtues and are not morally entitled to anything.

I think that this explanation, too, is unsatisfactory. Loyalty can operate independently of, and even in defiance of, morally charged evaluation. It is possible to be loyal to something just because it is yours – your mother, your family, your friend – and without commitment to any claim about its moral status. You can be loyal to something while believing that your loyalty goes beyond anything that it merits morally; you can be loyal to your mother while thinking that there is nothing to recommend her as a person. Accordingly, I do not think that the person who is loyal to his coffee mug must see moral value in the mug. He may be driven simply by the thought that it is his. But that would not make his loyalty to his coffee mug look any less mistaken, so the mistake must be elsewhere. Again, though, I will come back to this suggestion shortly.

The third idea we can take from the literature is that to be loyal to something is to imagine that you share with it a certain kind of relationship. This is a far less precise suggestion than the two considered so far, and the terms in which it is presented in the literature are not always helpful.[12] Still, there may be something to the thought that in being loyal, we take ourselves to be responding to a certain kind of relationship, about whose existence or nature we can in principle be mistaken.

The most plausible way of putting the suggestion, I think, is to say that loyalty always calls upon a relationship of mutual recognition and care.[13] (I mean "care" to be interpreted in a broad sense, in which caring for something need not be a matter of promoting its welfare, but could also or instead involve such things as respect, veneration, respect and advocacy.) To be loyal to something, you must recognize and care for it. You must also imagine it – this is the suggestion – as something that recognizes and cares for you.

If the suggestion is to be plausible, then "calling upon" or "imagining" a relationship of mutual recognition and care cannot entail believing that such a relationship actually exists. A mother may be loyal to her son, even after he has betrayed her trust and revealed himself not to care for her. You may remain loyal to a dead or ailing spouse or friend, who no longer recognizes or cares for you, and you may be loyal to a baby, who is not yet able to recognize or care for anyone. We would not want to say that these loyalties rest on a mistake.

What can be said about such loyalties, however, is that they tend in other ways to evoke a relationship of mutual recognition and care, perhaps by aspiring to such a relationship, or by responding to an ideal of such a relationship. The mother's loyalty to her ungrateful son is admirable, but it is difficult not to feel sorry for her; it is difficult not to feel that she is failing

to get something at which she grasps; it is difficult not to feel that through her attitudes to her son, she aspires to or reaches for mutuality, even if she knows she will not get it. Loyalty to a dead friend or spouse depends on memories of a shared friendship or marriage. Loyalty to a newborn, plausibly, invokes a conception of an ongoing filial bond, involving mutual love and dependence. If you know that that conception will not be actualized – if you know that your child will never know you or care about you – then your loyalty, again, is noble, but sad. Even these loyalties can then be said to involve "calling upon" or "imagining" a relationship of mutual recognition and care, in the following sense: they take such a relationship to actually exist, or they seek to establish such a relationship, or they refer to a recognizable ideal of such a relationship.

The trouble with loyalty to a coffee mug, pursuing this thought, is that it is simply impossible to share with a coffee mug a relationship of mutual recognition and care. You cannot respond to any actual such relationship, and you cannot say coherently that in being loyal to a coffee mug, you are imagining your relationship with the mug not as it is, but as it could or should be. A relationship with a coffee mug is inevitably rather one-sided, yet loyalty to a coffee mug depends on the thought that it could be something more.

This story seems to me offering a more plausible picture of the state of mind of the person who is loyal to his coffee mug. He is a very odd person, and what is odd about him, plausibly, is that he imagines himself to share meaningful relationships with things such as coffee mugs. He thinks of his coffee mug as a kind of friend. He imagines that he looks after his coffee mug and his coffee mug looks after him. He imagines that it matters to his mug whether he drinks from it or from another mug. He imagines that in some small way, at least, his coffee mug regards him as he regards it. His mistake is to think of his coffee mug as something that could enter an active, shared, social relationship. You could be loyal to a coffee mug without imagining the mug to have a welfare or to carry intrinsic value, but I find it difficult to imagine someone who is genuinely loyal to a coffee mug, yet is under no illusions about the relationship he shares with it.

More theoretically, the suggestion that loyalty calls upon a certain kind of mutual relationship has a close connection with the concept of loyalty. One feature that distinguishes loyalty from other positive attitudes is that in being loyal to something, you (take yourself to) approach it not from the neutral point of view, but from one side of a special relationship. What makes a relationship special, in the relevant sense? One possible answer is that it is a relationship of mutual recognition and care.

In any event, it seems to me that the best prospects for the epistemic objection are in considerations of the kinds of relationship that an individual and a country can share. Of the suggestions I can come up with, this is the one that can best claim to stem from a plausible thesis about the

psychology of loyalty and to offer a plausible story about why certain loyalties, such as loyalty to a coffee mug, manifest epistemic faults.

What is a country?

On the explanation just considered, the reason why loyalty to a coffee mug is mistaken has to do with the kind of thing that a coffee mug is. A coffee mug cannot recognize or care for anything, and that restricts the class of relationships that it can enter. If loyalty to country goes in the same category as loyalty to a coffee mug, and in a different category from loyalty to a mother or brother, then that must be because a similar fact about countries places limits on the kinds of relationship that is shared with a country. So: what is a country, and what kinds of qualities can it possess?

Often, a country is presumed to be identical with a collection of citizens.[14] Sometimes, people say that a country is a project, or an idea, or an ideal. Occasionally, philosophers entertain more metaphysically ambitious pictures, suggesting that a country is an organic entity with its own independent life and character, or that a country is an autonomous agent, just like you or me.[15] Such claims are rarely explained or defended, however, and it is not clear how they should be assessed. We attribute so many different kinds of properties to countries, speaking as though a country can feature wheat fields waving or be girt by sea, can have a founding date and be democratic and free, can be English speaking, culturally diverse, war torn or Islamic. If a story about the ontology of countries must identify an entity that can display all of these kinds of qualities, then that entity will certainly not be a class of people, or a project, idea or ideal.

More tendentiously, but equally confidently, ordinary usage attributes psychological properties to countries. We may say that America loves Kelly Clarkson, that the Sex Pistols shocked Britain, or that Australia is a country at ease with itself. Must we then, in addition, make a country look like something that can love, be shocked and enjoy feelings of being at ease?

The ground-level question of what a country is, exactly, is daunting, and I am certainly unable to answer it here. A more productive line of investigation, however, might be to bypass that question, and try directly to elicit intuitive judgments about whether a country, whatever it is, can display the qualities that seem relevant to its status as an object of loyalty.

There are relevant respects in which a country appears to be like a mother or a brother, but unlike a coffee mug. A country can helpfully be described with some of the terms that we use to describe the characters of persons. It is sometimes informative to say that a country is friendly or compassionate, for example (though that is not necessarily to say that friendliness and compassion in a country are just the same as friendliness and compassion in a person). In addition, it seems that a country, unlike a coffee mug, can act – it can declare war, pass legislation and sign treaties – and that it can indeed act for reasons.

In other respects, a country is more like a coffee mug. There are some psychological properties that no country could instantiate. It would be a simple category mistake to say that a country is in a good mood this morning, or feels a little bit melancholy, or is unaccountably nervous and fretful, or enjoys a good joke as much as the next man, or knows which mountain is the highest in the Andes. A country does not have feelings, in the way that an individual does. If a country can act compassionately, it cannot do so because it – the country – feels a surge of compassion or empathy or love of humankind. It follows that while some kinds of relationships can be shared with a country, but not with a coffee mug, others can be shared with a mother or brother, but not with a country.

Relationships with countries

A country, unlike a coffee mug, can treat you well. When you are educated at a public school or receive a visa from a consular official, you can be said to receive a benefit from a country. If you respond to such benefits by treating your country well, or doing the right thing by it, then your relationship with your country is, in one respect, a relationship of mutuality.

The mutuality that characterizes relationships between persons, however, often goes much further. A friendship, for example, is not just an anonymous exchange of benefits. It essentially involves care for another person directly. A friend is moved by thoughts of *you*: not of "my friends, whoever they are," but of *you*. She knows who you are; you feature directly in her thinking; she is moved by considerations of you yourself. She recognizes and cares for you, as you, being a loyal friend, recognize and care for her.

That kind of mutual direct concern can be a feature of your relationships with other individuals, and under the right circumstances, perhaps, it can also be found in your relationships with various groups and institutions. Suppose, for example, that you recognize and care for your family, and that every person in your family, or almost every person in your family, considered individually, recognizes and cares for you. If the motives of the members of your family are appropriately coordinated – perhaps they act and deliberate as a group – then it may be true, and is certainly very convenient, to say that the family itself, as well as each of its individual members, recognizes and cares for you. Similarly, the ways you are regarded by the individual members of a team, club or philosophy department may be of the right sort, and coordinated in the right way, for it to be the case that the team, club or department, as well as each of its members, recognizes and cares for you, and hence that you can share with it a relationship of mutual recognition and care.

By extension, there are two imaginable cases in which we could say that you are an object of a country's recognition and care. First, the country may be so small that everyone in the country knows everyone else; the individual

citizens of the country may play the same role as the individual members of a family. Second, you may be very well known and very well liked, so that even though it is not the case that everyone in the country knows everyone else, it is the case that everyone in the country, or almost everyone in the country, considered individually, knows you, and recognizes and cares for you. If the motives of your compatriots are properly coordinated – perhaps they join together to give you a pension or a medal – then it may be right to say that you are recognized and cared for by the country, as well as by each of its citizens.

It hardly needs to be said that these cases are aberrant.[16] No country is that small, and hardly anyone is that famous and popular. And once we move beyond the cases in which a country's having an attitude is just a matter of the vast majority of its citizens having exactly that attitude, it becomes much harder to maintain an analogy between the mutuality available in a relationship with a friend and the mutuality available in a relationship with a country.

As a country cannot have feelings, in the sense in which you and I have feelings, a country cannot recognize and respond to you, in all your individuality. It would be a category mistake to say that Australia knows who Bob is, or that France granted Judith a visa because it wanted to do something nice for *Judith*. A country can perhaps show concern for you in your capacity as someone who meets a certain generic description – the description "citizen," or "applicant for a visa," for example – and to that extent a country is different from a coffee mug. But a country cannot show concern for you directly, and to that extent a country is different from a mother or brother, and also, perhaps, from relatively small, delimited groups, like families.

In light of the claims made here, I think that the persuasive form of the epistemic objection to loyalty to country is this. To be loyal is to imagine the object of your loyalty as something with which you share a relationship of mutual recognition and care. Countries are not the kinds of entities that can recognize and care for an individual, qua individual. In being loyal to a country, then, you must imagine the country as something that it never could be. You must be in the grip of a mistake about the nature of the country, and the nature of your relationship with it.

Earlier, I gave cursory arguments against two alternative suggestions about what commitments are involved in loyalty, and why loyalty to a coffee mug rests on a mistake. Before moving on, I want to say something brief about the implications of each suggestion for an assessment of loyalty to country.

The first suggestion is that loyalty involves a special willingness to advance something's welfare. It may seem that this suggestion is friendly to loyalty to country, because we so naturally speak of the "interests" of a country. There are reasons to doubt that a country can have welfare in anything more than a manner of speaking, however. For a start, it is not obvious how

a country could fall under any of the standard philosophical treatments of welfare. A country cannot enjoy pleasure or suffer pain, as a hedonist theory would require; it cannot instantiate the kinds of goods, such as play, religious experience, authentic friendship, contact with reality and true belief, that appear on objective list theories of welfare; and it is at least arguable whether a country could have genuine desires and preferences, still less hypothetical desires that it would hold under conditions of full information and rationality, of the sort that are needed on desire theories of welfare.[17]

An obvious response is to say that when we speak of the "welfare" of a country, we really mean to speak of the welfares of its individual constituents. In setting out to advance the welfare of a country, you might set out simply to raise the summed or average welfare of the country's citizens. There is no mystery about welfare there.

I doubt that this can be the whole story, however. If someone made the same claim about his loyalty to the class of people whose surnames begin with P, we would not suddenly find that loyalty perfectly comprehensible. Before getting to the point at which you set out loyally to advance the welfares of the individual members of a class, you must first commit yourself to the importance of the division between those who fall into that class and those who do not. To have a special willingness to advance the welfare of your compatriots, you must consider the grouping of your compatriots to have a special feature that is not found in the grouping of people whose surnames begin with P. Probably, this means taking yourself to stand in some significant relationship with each of your compatriots, or with the country of which you are all citizens. The question, again, is what kind of special relationship that must be, and whether it is really achievable. Once we reduce talk of the welfare of a country to talk of the welfare of the particular individuals who make up a country, we are referred to the question of why we should favor *those* individuals, so grouped, over others. That brings us back to the question of what is special about the relationship you have with the country, or with the individuals by which it is constituted.

The other alternative suggestion is that loyalty involves the ascription of moral importance – intrinsic value, moral virtues or entitlements – to its object. It would be very problematic to grant that status to a country, at least within a broadly liberal approach to such questions. The reasons why countries are valuable, if they are, are surely instrumental; countries are good because they make individual lives better. And it would be odd to think that countries are the kinds of things that could hold moral entitlements or be the objects of moral duties, in anything other than a distantly derived sense, or on anything other than a merely convenient way of speaking.

In any event, the point is that even on these other stories about the psychology of loyalty, it is no easy matter to show that loyalty to country stands with loyalty to a mother or brother, but not with loyalty to a coffee mug. I have argued that loyalty to country is more like loyalty to a coffee mug, in

the relevant respects, on the basis of the claim that loyalty reaches for mutual recognition and care. It is at least doubtful whether an argument that instead employs the claim that loyalty presupposes that its object has a welfare, or the claim that loyalty supposes that its object carries inherent moral value, will lead to a different conclusion.

Imagining countries and patriotic rhetoric

I have given a roundabout argument for the claim that loyalty to country rests on a mistake, going by way of two controversial theoretical claims: that loyalty involves imagining a relationship of mutual recognition and care, and that a country is not the sort of thing that can enter such a relationship. The thought behind the argument is not as esoteric as the argument itself may suggest, however. The argument is supposed to substantiate a sense of unease that many of us feel about the rhetoric and ethical thinking with which loyalty to country is associated.

Much of what we say when we express loyalty to country, and especially when we try to rouse it in others, sets out more or less transparently to personalize a country. The country, we say, is the motherland or the fatherland. It is gallant, proud and plucky, it is compassionate and welcoming, or it is innovative and clever. But a country is nobody's mother or father, and it is not the sort of thing – and no one, surely, honestly thinks otherwise – that could feel proud or compassionate or display cleverness or gallantry. America is the home of the brave: does anybody have the first idea what that could mean? That bravery comes from America? That most people who live in America are braver than most people who live elsewhere? Of course, and fortunately, it does not mean any of those things. It is rather a hazy association of bravery, a desirable personal characteristic, with America, a country. Behind the haze, as far as I can see, is nothing.

When people are asked to take a clear view of their own loyalty to country, they are often moved to say that they are not *loyal*, exactly, or that if they are then the object of their loyalty is not a *country*, exactly. Ask someone what she is loyal to, when she is loyal to a country, and she is likely to say that really, she endorses a set of founding principles, is committed to a political system, or loves a way of life. Or, she may say that her loyalty, really, is to an idea or an ideal, or to those who have made sacrifices so she can be free, or to her family or her teachers. This need to paraphrase or explain away loyalty need not arise when you are asked to examine your loyalty to a friend, parent, colleague or family. In such cases, your attitude can be transparently one of loyalty, and its object exactly what it seems to be.

There is a more important concern in the background. When taken seriously, loyalty to country involves a willingness to make non-trivial sacrifices. Out of loyalty to a country, you may refuse a better job overseas or buy inferior or more expensive products; or you may be prepared to kill

or die. Often, in making such sacrifices, you can explain your motives without mentioning a country. You make the sacrifice to support a good cause, or that others may be free, or to protect your family, or out of gratitude to those from whose sacrifices you have benefited. If, instead, it really is a bare consideration of your country that lies behind your sacrifice – if the whole story really is that you are moved to preserve your country's honor or bring it glory, if the object of your sacrifice really is the country itself, if it really is a sacrifice for *Australia* or *France* – then that seems like a bit of a waste. It seems that you are taking things a little too literally, and taking things a little too far, in a way that you need not be, if you make a sacrifice for a friend or parent.

All of this is intended to be provocative, but it is also intended to bring out a variety of reasons to suspect that loyalty to country does not hold up well under investigation. Taken literally and viewed clearly, these concerns suggest, loyalty to country is absurd, and that is why we so rarely view it clearly, and why when we do, we find ways to avoid taking it literally. When Kateb presents patriotism as a solemn allegiance to a figment of the imagination, and when the *Republic* suggests that the best way to cultivate patriotism is to have citizens imagine their countries as their mothers, they appear to be making the point that the considerations mentioned in this section, and the overall argument of the chapter, are supposed to support: you cannot be loyal to a country in full awareness of what a country is.

Conclusion

There is an epistemic objection to loyalty to country if loyalty to country always involves treating a country as something that it really is not. I have argued, first, that loyalties to some kinds of entities essentially involve a mistake about the nature of those entities; second, that the best explanation of this mistake is that loyalty involves taking the object of loyalty to be something with which you could share a relationship of mutual recognition and care, and the objects of some loyalties are incapable of entering such relationships; and third, that a country is one such entity. You cannot share with a country a relationship of mutual recognition and care, but to be loyal to a country, you must imagine that you can. I have also tried to show that alternative explanations of how loyalties can fall to an epistemic objection will not necessarily cast loyalty to country in a better light, and I have suggested that, given certain other observations about loyalty to country, the conclusion that it rests on a mistake should not be particularly surprising.

I do not pretend to have established the epistemic objection beyond reasonable doubt. I have proceeded by way of two thorny and under-discussed topics – the psychology of loyalty and the ontology of countries – on which there is clearly more to be said. Still, I hope to have shown that loyalty to country raises complicated questions that are not raised by all other loyalties.

There is both conceptual space and good philosophical grounding for the claim that loyalty to country is objectionable in a way that many other loyalties, including the most valuable of personal loyalties, are not.

Even if it succeeds, the chapter's argument does not establish that loyalty to country is undesirable, all things considered. Loyalty to country may rest on a mistake, but it may also contribute to good citizenship, give people a feeling of importance and belonging and make people more likely to care for their compatriots in desirable ways. Loyalty to country can also be fun, and it can make life more interesting. On balance, perhaps, the mistake involved in loyalty to country is a mistake worth making.

Notice, however, that each of these putative countervailing considerations arises from outside loyalty to country, so to speak. They appear from the perspective of a planner of societies, who is deciding how it would be good for people to think, or from the perspective of a self-manipulating individual, who is trying to arrange his attitudes so as to advance an ulterior motive. Part of the point of this chapter is to bring attention to the internal, subjective perspective on loyalty to country: the perspective we take in trying to make sense of the world and respond to it appropriately. From that perspective, the first question is whether our attitudes to country make sense on their own terms, independently of their consequences.

All these considerations in mind, it is worth recalling a strategy by which you may enjoy some of the goods of loyalty to country, without committing at every level to the suppositions on which it rests. The person who is loyal to his coffee mug may be genuinely loyal, while regarding his loyalty ironically. Similarly, you may find that you are loyal to your country, and you may indulge your loyalty judiciously on appropriate occasions – when attending international sporting events, perhaps, or when participating in light-hearted jousting in youth hostels – while understanding that at root it is a silly loyalty, and making sure that it does not infect your judgment about anything that really matters. It is only a country, after all.

Notes

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1. 414d-e. Trans. Benjamin Jowett.
2. 414b. Translators sometimes call the noble lie the "royal lie" or "magnificent myth."
3. See, for example, the discussion in David Roochink, *Beautiful City: The Dialectical Character of Plato's "Republic"* (Cornell University Press, 2003) p. 44.
4. "Is Patriotism a Mistake?" *Social Research,* 67, 4 (2000): 901–24, p. 907. See also Martha Nussbaum's comment on p. 15 of "Patriotism and Cosmopolitanism," in *For Love of Country?* eds. Martha C. Nussbaum and Joshua Cohen (Boston: Beacon

Press, 2002), pp. 2–17: "If one begins life as a child who loves and trusts his or her parents, it is tempting to want to reconstruct citizenship along the same lines, finding in an idealized image of a nation a surrogate parent who will do one's thinking for one."

5. Some examples are Andrew Oldenquist, "Loyalties," *Journal of Philosophy,* 79 (1982): 173–93; Alasdair MacIntyre, "Is Patriotism a Virtue?," The E. H. Lindley Lecture, University of Kansas, 1984. Reprinted in *Patriotism*, ed. Igor Primoratz (Amherst, NY: Humanity Books, 2002), pp. 43–58, see p. 44; Marcia Baron, "Patriotism and 'Liberal' Morality," in *Mind, Value and Culture: Essays in Honor of E. M. Adams*, ed. D. Weissbord (Atascadero, CA: Ridgeview, 1989), pp. 269–300. This feature of the debate about loyalty to country is nicely explained in Igor Primoratz's introduction to *Patriotism*, ed. Primoratz (Amherst, NY: Humanity Books, 2002); see pp. 12–18.
6. In "Patriotism as Bad Faith," *Ethics,* 115:3 (2005): 563–92, and in chapters 3 and 4 of *The Limits of Loyalty* (Cambridge University Press, 2007), I present a different argument, which is intended to apply to patriotism, but not to other forms of loyalty to country.
7. Several philosophers argue for the existence of special duties between compatriots, and their arguments are often regarded as defences of loyalty to country. (One example is Richard W. Miller "Cosmopolitan Respect and Patriotic Concern," *Philosophy and Public Affairs,* 27:3 (1998): 202–24. For surveys and discussion, see Andrew Mason, "Special Obligations to Compatriots," *Ethics,* 107:3 (1997): 427–47; and Kok-Chor Tan, "Patriotic Obligations," *The Monist,* 86:3 (2003): 434–53). But that inference is too hasty. See my "Are Patriotism and Universalism Compatible?," *Social Theory and Practice,* 33:4 (2007): 609–24.
8. I offer a more extensive discussion of the psychology of loyalty in chapter 1 of *The Limits of Loyalty*.
9. See, for example, Philip Pettit, "The Paradox of Loyalty," *American Philosophical Quarterly,* 25:2 (1988): 163–171, p. 163; and R. E. Ewin, "Loyalty and Virtues," *The Philosophical Quarterly,* 42:169 (1992): 403–419, p. 406.
10. See *The Limits of Loyalty*, pp. 8–11.
11. See John Ladd's entry on loyalty in *The Encyclopedia of Philosophy*, ed. Paul Edwards (New York: Macmillan and the Free Pres, 1967), pp. 97–8. Josiah Royce's *The Philosophy of Loyalty* (Vanderbilt University Press, 1995 (orig. 1908)) takes right-minded loyalty to respond to objects that are independently valuable; see lecture 7, especially.
12. Usually, the suggestion is that when you are loyal to something, you take it to be part (or perhaps make it a part) of your identity, or your situated, historical or encumbered self. See, for example, George P. Fletcher, *Loyalty* (Oxford University Press, 1993), chapters 1 and 2; and Richard Rorty, "Justice as a Larger Loyalty," *Ethical Perspectives,* 4:3 (1997): 139–49. It is difficult to interpret this claim about loyalty and the self without making it either trivial or obviously false; see *The Limits of Loyalty*, pp. 11–15 and chapter 8.
13. Note that "mutual" does not imply "mutually beneficial."
14. See, for example, Eamonn Callan, "Love, Idolatry, and Patriotism," *Social Theory and Practice,* 32:4 (2006): 525–46, 532–3. This also appears to be the assumption underlying the models of expanding loyalty in Oldenquist, "Loyalties"; and Rorty, "Justice as a Larger Loyalty."
15. David Miller articulates (and rejects) the organic picture of countries on pp. 8–12 of *On Nationality* (Oxford: Clarendon Press, 1995). Christine M. Korsgaard

considers the agential picture in "Personal Identity and the Unity of Agency: A Kantian Response to Parfit," in Korsgaard (ed.), *Creating the Kingdom of Ends* (Cambridge University Press, 1996), pp. 363–98, see p. 373, though the view is not fully explored.

16. Perhaps this is related to the point Kateb makes in distinguishing countries from "discernable collections of discernable individuals."
17. For this taxonomy of theories of welfare, see Derek Parfit, *Reasons and Persons* (Oxford University Press, 1984), pp. 493–502.

6

Finding Theoretical Concepts in the Real World: The Case of the Precariat

Mika LaVaque-Manty

Introduction

How might a political philosopher *not* primarily interested in normative prescriptions use cases from the empirical world of politics? In this chapter, I offer one example in the service of a kind of analytic social theory. By analytic social theory I mean an approach that combines the tools of analytic political philosophy, textual interpretation, and attention to historical and sociological details. The question that has animated my research generally is how to understand the nature of and relationships between political agents and institutions. Political agency includes actors at the individual and collective levels; I try to understand them and their engagements with other actors and institutions. I approach this broad question through an "applied Kantianism." That means treating Kant as a social theorist interested in working out the relationship between reasons, ideas, and arguments, on the one hand, and sociologically situated interests and practices, on the other. This is quite different from the two far more famous flavors of applied Kantianism, those of Rawls and Habermas, although there are, of course, relationships.

The case in this chapter is "the precariat," a new collective actor emerging in the supposed ruins of the European welfare state. The precariat is the product of a movement that tries to carve out the landscape of social protest and political resistance in a new way in the twenty-first-century globalized political context.[1] Although it seems that the objective conditions for the emergence of the precariat exist both in Europe and North America, the very concept is virtually unknown in North America. The politics connected to struggling against "*la precarité*" – the unavailability or uncertainty of stable work, social vulnerability, diminishing welfare benefits – are also markedly different on the two sides of the Atlantic. The precariat opens up a rich vein to explore familiar and new themes in political theory and even

in social sciences in general: the divergent histories of the European and American welfare state, the way in which different "hegemonies" at work in those different political cultures create path-dependencies that open or close the door for new kinds of mobilization and collective action. Here, one of the ways is through the social meanings of vulnerability. Finally, the precariat also allows us to consider the relationship between political justification, mobilization, and interests.

These are big themes and big questions. Although they are related, no single paper could conclusively attend to them all, especially as they also involve empirical questions. Instead of aiming at conclusive arguments in this chapter, then, I hope to provide a sample platter of the rich themes the precariat allows us to pursue. The chapter operates on three related levels of analysis. First is the level of political *claim making*: I treat the precariat movement as offering a dynamic claim for political representation or, to put this in slightly simpler terms, as an attempt to call forth a new sort of political actor. Both the rhetorical and justificatory successes of these claims depend on the way in which the putative identity of the new actor intelligibly reflects actual similarities in the position of the people who are supposed to make up the precariat. In Hegelian-Marxist terms – not a coincidence in the context of the precariat, as we will discover – the question is whether "the precariat" is something that can exist as an "in itself" and "for itself." I raise some sceptical considerations about both. That is the second level of analysis. Finally, that level of analysis connects to a preliminary exploration of macro-social differences between the political cultures of Europe and North America that might help make sense of why there is no North American precariat.

The first step of this chapter is to introduce the concept of the precariat.

Enter the precariat

In winter 2006, massive protests in France against labor reforms the government had proposed interrupted normal life and made headlines in the rest of the world.[2] This wasn't the first globally noticed expression of radical resentment against French reform policies, but the specific content of the resentment became familiar in North America for the first time. It wasn't just about anti-globalization – familiar here and elsewhere at least since the 1999 Seattle WTO protests – or about racial and ethnic political difficulties – a particular sore spot for Europe – but about national policies regarding work. These were closely related to globalization, to be sure: the French government's proposed policy of weakening job security was a policy either inspired by or a response to (depending on who you talked to) globalization and EU-motivated neoliberalism.[3] Conventional French job security, the government had concluded, was too costly in terms of national competitiveness, and it proposed to make dismissing, particularly newer employees,

easier than in the past. The riots were successful in the sense that the embarrassed Villepin government had to back off from its proposals.[4]

Although the concept remains virtually unknown in North America, this was the flashiest show yet of the precariat movement.[5] But it wasn't the beginning of the movement or the emergence of the concept. At least since the turn of the millennium, the European anti-globalization and anti-neoliberal movement had targeted the specific conditions which it had begun calling "*la precarité,*" precarity. Even earlier, the concept of precarity had been increasingly salient in social, political, and academic discourse.[6] One of the central political steps was the creation of the "EuroMayDay" movement, which began in Milan in 2001 and has since spread to an annual, pan-European set of demonstrations.[7] The movement likes to borrow the trappings and symbols of old left politics, and having the annual demonstrations on May Day is just one small part of it. In a clever evocation of Marx's "proletariat," the people who found themselves in precarity had come to be called the "precariat."[8] Precarity, a consequence of the neoliberal dismantling of the European welfare state, activists charge, refers to conditions in which work is increasingly uncertain or short term, with weakened benefits or entirely without them (and, for an increasing set of interns, even without pay), where previously strong protections against firing and layoffs are eroded and where unemployment benefits are weakened or are more draconian than in the past. The creation of such conditions is "precarization." Taking advantage of people in precarious conditions is, in another clever hybrid of Marxist and contemporary business jargon, "flexploitation."[9] "Flexploitative" work tends to be McJobs or, in an even more direct phrase, "shit jobs."[10] These are low-end service jobs that can remain, despite technological changes and improvements elsewhere, literally dirty, unpleasant, and hazardous and entail low social esteem and low pay: the workers in these jobs are nurses' aids and orderlies, cleaners and custodians, busboys and kitchen workers.

The precariat is large and diverse. Here is one description, in a manifesto by the EuroMayDay movement:

> Because we are précaires, precari, precariás: we are the unemployed, women and the young, the casualized, we are intermittent workers, students, *stagiaires*, migrants, net/temp/flex workers, we are the contortionists of flexibility and survivors of precarity.[11]

The concept of the precariat cuts across other familiar sociological categories: race, gender, nationality, even socio-economic class. In a way, though, it remains faithful to its pseudo-Marxist origins in being a concept of political economy, although, as we will see, political economy and political culture are not even conceptually distinct.

The reason precariat transcends class lines is that the concept of the precariat is not, in the first instance, a *status* concept, but a *condition* concept; it

is less about your background or social identity than about the way you are able to think about your future.[12] One's social identity and background naturally have an effect on how one can think about one's future, but the idea in the concept of the precariat is that identity and background are not the primary thing. Consider the seemingly counterintuitive lumping of educated IT professionals and university student interns, on the one hand, and poor illegal immigrants, on the other, into the precariat: although the class background and, therefore, initial expectations of educated, middle-class, native youth might be different from those of the poor, the uneducated, and the immigrants, their qualitative conditions about their future are ultimately the same. They face an increasingly precarious working life. In this sense, precariat is an importantly new way of carving out a social category. That is why even the poster children of the modern knowledge economy – IT professionals, bloggers, and new journalists – face work conditions that are precarious in ways the conditions for the educated weren't before. Even the dot-com boom and bust were, on this understanding, another instance of precarity.

If precariat is a condition concept, then the groups toward which it has an antagonistic relationship include both those who don't face such conditions and those who benefit from the precariat's condition. The most important in the first category is the "salariat": people with stable, long-term jobs. But the salariat are not the enemy; that distinction goes, in the precariat activist rhetoric, to corporations (multinationals in particular). Those corporations flourish because of lamentable ideologies, according to the precariat activists. Here is the precariat versus the enemy in stark contrast:

> We are eurogeneration insurgent: our idea of Europe is a radical, xenophiliac, libertarian, antidystopian, open democratic space able to counter Atlanticist, Hobbesian, Darwinist, warmongering, securitarian neoliberalism.[13]

This is a self-description by the precariat *movement*, which is not the same as the precariat at large; I return to the movement and the commitments pronounced here below. First, let's parse some of the theoretical nemeses. The passage is deliberately polemical, not a piece of political theory, but the labels are instructive all the same. The general foil is a familiar one: the sort of neoliberalism that is associated particularly with U.S. hegemony and its presumed imperialist pretensions.[14] In the early years of the twenty-first century, it is also not implausibly associated with some degree of military aggression. Still, the key feature is a political-economic one: neoliberalism. Whether "Hobbesian" in this context refers to the widely held (if impoverished) view that Hobbes regards people as evil or to the presumed security state Hobbes advocates is immaterial: both interpretations are apt

descriptions of what the precariat activists regard as a threat. "Darwinist" is even more relevant for our purposes: as I will suggest below, there is a plausible interpretation of the American ideology as making vulnerability a natural condition that weeds out the weak and tests the mettle of citizens as autonomous agents. The fear is that that ideology is on the rise in Europe, too.

The precariat movement is, so far, significantly smaller than the precariat in general. The movement consists of a cluster of activists and writers who have helped create the concept, who act against the forces that create precarity, and who try to mobilize the broader precariat. What the movement tries to do, in a way, is to turn the condition of precarity into a source of identity. This raises a question about the relationship between claims of representation, interests, and justification.

The problem of representation

Here, it might be helpful to turn briefly to the American pragmatist tradition, particularly the "group interpretation of politics" developed by Arthur F. Bentley and David S. Truman. That interpretation ultimately developed into interest-group pluralism in political science, which tended to treat interests as unvarnished basic facts.[15] But at its origin, the theory did not take interests or individuals as primordial at all. Although Bentley explicitly argued that the key explanatory concept for understanding groups was interest conflict, he conceived of interest as a relationship that depended on the context in which similarly situated individuals might find themselves.[16] Importantly, it was neither an objective fact about the individuals in isolation that they might objectively share with others – level of income, say – nor was it their own self-understanding of their condition – "I am middle class." Groups came into existence in a real process of responding to or coming to terms with some concrete situation they faced.[17]

Part of group activity for Bentley and his followers was the interpretation of those very interests and situations that constituted the groups. Consider feminist consciousness raising, which was not on Bentley's horizon (probably not even in his imagination), but which illustrates the idea well. One rough history of feminist consciousness raising has the interest emerge out of ostensibly innocuous conversations over everyday gripes, which, on a collective recognition, turn out to be jointly shared and not at all nonpolitical. Interpreting this emergence of an interest is something either an outsider – a social scientist, say – or an insider can engage in. Social situations always leave some room for a dispute over what the nature and extent of the conditions one faces, so the interpretation and its "facticity" (to use an ugly Habermasianism) also remain open. We have, then, a notion of interest group that opens up for political contestation the question of what the interest and what the group is. To make a

claim of a shared vulnerability and precarity, then, is to make a politically salient interpretation, one that tries to have political consequences but, at the same time, is necessarily about offering reasons or evidence for it to be successful.

This is the political problem the precariat movement faces. Worse yet, despite its claims to broad representativeness, the movement's members tend to be privileged. It is neither surprising nor a coincidence that the 2006 EuroMayDay website has on its front page a graphic in which the Parisian street sign for Place de la Sorbonne has "Sorbonne" struck through, with a painted "Precarité" underneath it. Many of the activists are university students or recent university graduates, and their specific resentment has to do with their radically changed expectations upon graduation: in Europe, university used to be a pretty reliable avenue to good and stable employment, whether one graduated or not. Now, pan-European efforts to reduce students' time to degree by tougher student aid and loan policies, combined with far less happy prospects when one leaves the university, are objectively changing the conditions that young educated people face. In comparison to the expectations of not only their parents but even of slightly older young people, their future outlook is radically different and arguably more precarious.

Because much of the movement tends to reflect just one swath of the broader precariat, "To what extent is it representative?" is an important question. We can ask the question even more pointedly: How likely is it that the concept of the precariat will actually refer to a real collective actor, as opposed to a theoretically defined aggregate.[18] Can the precariat act *qua* precariat, or will it remain closer to something such as "all the left-handed people" or "all the divorced people": an aggregate which shares an interest but does not act together to pursue that interest? This is in part an empirical question, but there is something we can say about it theoretically, as I will suggest below. It does seem that the relatively privileged precariat activists do suffer from some bad faith on how much of their conditions they actually share with immigrants, the "real" poor, and the uneducated youth. As Anthony Giddens points out, it makes a difference on whether your McJob as a barista is something on the side of your university studies or whether it and other such jobs are your likely future.[19] At the same time, on the whole, the relatively privileged members of the precariat movement are also aware of their position and suffer less from cognitive dissonance, the guilt of privilege, or hypocrisy than many of the old-left elites.

Still, one common feature does describe the precariat movement: age. Activists tend to be young and occasionally identify the entire group by age: they speak of "*génération précarité*."[20] This is no surprise because the changes that create precarity tend to apply to the young in disproportionate numbers. When the labor market that has generally provided long-term work suddenly adopts a "last hired, first fired" policy, entry-level workers are the

last hired and so more vulnerable than older employees. This isn't uniformly true, though. There is one particular group of people who are widely understood to be among the most vulnerable to globalization-induced changes, but which the precariat movement has a hard time acknowledging: middle-aged men in traditional blue-collar jobs. One conjecture for this oversight is that the *reasons* on which that group's interests are construed differ from the reasons on which the precariat movement understands itself; indeed, the two sets of reasons may even conflict. Although the xenophobic charge that immigrants will take away jobs from natives is almost always hyperbolic, there is a way in which it *is* true that the "rest" of the precariat will likely have greater access – however suboptimal – to "new" work than the old industrial workforce: IT work, outsourcing, and flex-temp employees are all elements of the so-called new economy, whereas manufacture is a disappearing phenomenon in OECD countries.[21] That may, in part, be the reason for the appeal of xenophobic populism among the old-left industrial workers.[22]

It is not that there wouldn't be a way of construing the interest of the aging blue-collar men as consistent with the rest of the precariat. Rather, I want to suggest, the generational dimension really precedes the specific interpretation of vulnerability and so colors the rest of thinking. The precariat movement stems not only from the changes wrought by globalization, but also from a frustration with previous generations' politics. People born in the 1970s look primarily to mainstream politics and to the politics of resistance of the previous generation – the "lifestyle" and "consumer" politics of the immediate post-Cold War era – and find them wanting just as much as mainstream politics.[23] If the progressive politics of the 1990s were characterized by an uneasy move from redistribution to recognition, to use Nancy Fraser's phrasing, the precariat movement wants to get back from recognition to redistribution.[24] In this, they could share an interest with the aging industrial workforce, even if they, as a matter of political interpretation and action, don't. Part of the problem, of course, is that the movement also requires a kind of recognition for it to be successful: the *self*-recognition of the putative precariat as such, as sharing a recognizable set of interests. This is largely an empirical question, although some conjectures are possible, as I suggest later. First, though, it is helpful to attend to a larger macro-social context. Whatever the likely fortunes of the precariat movement in Europe, it is obvious that there isn't one in North America. Let us explore some possible reasons.

Why is there no American precariat?

The absence of the precariat in North America seems to be another version of "American exceptionalism." That North America (the United States in particular) is politically exceptional in the world is no news. American exceptionalism ranges from the absence of viable socialist politics to the weak

welfare state and lack of universal health care, to rates of incarceration, to the importance of religion, to cellular telephone standards, even to the historically minimal role of soccer.[25] Since the jury, nay, even the investigators, are still out on the causes behind many of these individual questions, it would be unwise to suggest a general theory of American exceptionalism. In fact, because the answer to the question of "Exception from what?" itself varies – at times, the United States differs from Europe, at times from other OECD countries, at times from the rest of the world – it's a reasonable assumption that no general theory will be in the offing. But there are some broad-stroke differences, and the precariat can help us consider some of them.

My interest is not to explain this American exceptionalism but to use it to understand the way in which different features of different political cultures may foster or else impede and block the politicization of different conditions. The idea here is that "politics present is the product of politics past," as Michael Walzer claims in *Spheres of Justice*.[26] If we assume that the claim is true, it is true trivially; it becomes interesting only when one can show some of the particular ways in which the path-dependence comes about or – the focus of this chapter – how it works. What is the thing that is off the table in North American political discourse but on the table in Europe?

I hypothesize that even the possibility of the construction of the precariat in the European context has to do with the way vulnerability is understood as *political*. In the United States, in contrast, the emergence of the precariat has not been and may not be possible because of the way American political culture – let's imagine that as something coherent – depoliticizes vulnerability, by simultaneously making overcoming it, as far as the individual is concerned, not only a responsibility but also an achievement. That is one of the reasons the case of the precariat is so interesting theoretically: activist citizens inherit different argumentative resources and so different ingredients for a political identity from prevailing political discourses. If we think of Hume's idea about the circumstances in which questions of justice arise – humans' "confin'd generosity" toward one another, relative as opposed to absolute scarcity[27] – the differences between the United States and Europe on this question suggest that, in the American case, it might be difficult even to raise considerations of justice. You might invoke Mark Twain and say that in the United States, vulnerability is like the weather: you can talk about it, but you can't do anything about it; in Europe, it has been squarely political.[28] These differences, I suggest, can be mapped onto two social spheres: the economy and the state. In the United States, the conditions and relations of vulnerability are depoliticized into the already depoliticized, almost "natural" workings of the economy. In Europe, in contrast, vulnerability – *even economic vulnerability* – is seen as falling within the purview of the state.

But I am getting ahead of myself. Let us backtrack and consider the question of American exceptionalism in this context.

The preoccupations of the precariat, in the 2006 French protests as elsewhere, have puzzled Americans when they heard about them, even those on the left: the labor reforms the French government proposed did not seem particularly draconian by North American standards. Indeed, you might say that the question titling this section misdescribes reality: by objective criteria, there is a precariat in the United States if there is one in Europe. More than that, there has been a precariat here far longer than in Europe. However drastic the 1996 welfare reforms were in the United States, one could argue they only exacerbated conditions that have prevailed at least since the Reagan era: the uncertainty of permanent or long-term employment, jobs with relatively weak or no benefits, meager insurance against unemployment, serious deflation in the value that higher education adds to a person's employment prospects. Although the post-1996 term "workfare" has become a policy slogan in Europe as well, Europeans might reasonably argue that, at least in comparison, the U.S. policy has always favored workfare over real welfare. Indeed, one could easily trace these features of American political culture to a time far earlier than the Reagan years: whether it is notions of protestant ethic, the way in which slavery and its legacy have shaped American notion of citizenship, the self-made man of the open frontier, or all of these, American culture seems to have had large numbers of people in conditions of precarity. So, one might conclude, there *is* a precariat in the United States.[29]

But the proof is in the concept: there is nothing *understood as* the precariat in the United States, nor is there a collective actor – a social movement, say – we might understand as sufficiently similar to the European precariat movement and label it, for the purposes of comparative analysis perhaps, the American precariat. To be sure, there is some awareness – arguably even a growing awareness – of changing conditions one might understand as increasing precarity. Consider, for example, the concerns about the effects of the 1996 welfare reforms. Or think of the rhetoric about costs of healthcare for an increasing number of Americans.[30] Or consider the anti-globalization rhetoric at the 1999 WTO protests in Seattle. But these discussions and events are not only episodic but also politically mostly unconnected so far. Neither analysis nor activism has drawn them together under a theory of precarity.

My claim is not based on what analytic philosophers might call "token-nominalism": however clever the name "precariat," the word itself isn't doing all the work here and it is not the absence of the label that matters. What is missing is a concept and theory of vulnerability that identifies a group in a new way, in a way that cuts across social classes and traditional social categories. The prevailing political discourse recognizes no such group even though one could argue there is one. It is not that there isn't *anybody* in the United States who is blind to this, but my point is this: to say that "prevailing political discourse recognizes no such group" means that the people who might try to make the argument are somehow unsuccessful.

One answer to this might simply draw from a familiar quasi-Marxist ideology critique: the prevailing political discourse in the United States is so thoroughly fogged up by the ideology of the American Dream and liberal bootstrap individualism that no alternative conception of social reality, even a true one, can penetrate it. There may be much to argue for such a position, but it has one problem I want to dwell on here. It presupposes that the alternative conception – the objective truth about precarity – is itself an unconstructed brute fact. When we understand why it is problematic to think so, we will have a better handle on understanding the path-dependency of political discourses.

This might ring a familiar bell for readers familiar with Gramsci's concept of hegemony, and indeed we might explain the difference as a difference in hegemonies. But the issue is not to argue *that* there are such things as hegemonies – "the ideological panoramas of an age"[31] – and that they have consequences for politics; that would be just another way of repeating Walzer claim. The point is to explore how such hegemonies work. That is, how do they smooth over social contradictions and cleavages.

The likely candidates for the differences between the European and North American contexts about precarity are not mysterious; although it is, of course, partly an empirical question as to the extent they really explain the differences. But for theoretical and empirical projects alike, it does matter at what level of abstraction we describe the possible reasons and causes. It would be too facile and so unhelpful to say that the political cultures of Europe and North America are different. The same goes for institutional context and history. That Europe's system of proportional representation has fostered broad multiparty systems and, partly as a consequence, viable left-wing parties with meaningful space for even Marxist and other radical political discourse is very likely part of the story, but we would want to know how (and we would want to puzzle about exceptions, such as the non-PR Britain, where a recognizable precariat exists and has a foothold).

Mother Nature and the Big Brother

To get at a slightly lower level of abstraction, then, I propose a set of hypotheses about the conceptions of vulnerability in the political discourse of the two cultures. As a general condition, vulnerability is, of course, in part objective: one is either vulnerable or not. But more importantly, it is in almost any context a *relative* condition: some relative degree of vulnerability is necessary for us to talk of someone as vulnerable. This is because our understandings of vulnerability are inevitably probabilistic: many causes threaten all humans' well-being, but they do so to radically different degrees. Our relative vulnerability varies also depending on the number of possible threats to our well-being. Having received tenure, I am professionally far less vulnerable than before because many of the factors threatening my

continued employment are simply gone. These different factors that determine how we understand vulnerability make the concept, in fact, highly contingent – hence the differences in the political meanings of vulnerability in the United States and Europe.

In the United States, vulnerability is naturalized.[32] To understand something as "naturalized" is to treat it as natural or to suggest that it should be treated as natural. To call something "natural" means seeing it as part of the contingent course of events not subject to human manipulation, as a contingency largely independent of deliberate and intentional human control. Machiavelli famously called this *fortuna*. We might think that it's a pretty straightforward question whether something is natural or not, but that is hardly so: *fortuna* referred both to things that are strictly natural, that is, causal processes entirely outside of human control (earthquakes and volcanoes, for example), and to the effects of unintentional human contrivance. Nobody intends to produce a traffic jam, yet there they are, usually the unintended collective results of individual action. The collective effects of the market are perhaps the most familiar naturalized social phenomenon.

These examples immediately show that "natural" itself is contingent and at least partly nonobjective. Many objectively natural phenomena have been made subject to human control and even contrivance (consider, say, antibiotics and genetic manipulation, respectively). And even when the phenomena themselves are beyond human control, their effects can be within the reach of human manipulation. In this sense, then, the question of what counts as "natural" is itself a political question. Facts matter, of course, but they don't do all the work.

In the United States, vulnerability is also naturalized in this sense, I argue. The objective condition of facing an uncertain future is, in some ways, part of the historical furniture of the world for Americans: even when it is the macro-level consequence of human actions, it is not seen as something that is subject to human control.

We might ask, "Why not?" Surely, that is an empirical question. Something either is or is not subject to human contrivance. Perhaps, but there are two reasons to think people might believe it in good faith. First, the world is an awfully complex place, and the question of what is and is not subject to human control is frequently an open one, not to mention the further questions about *how* large and complex phenomena might be controlled. Second, given the epistemic difficulties, we might grant that our values may fairly enter our thinking and so we might think it is a good idea to naturalize (or mystify, or glorify, or sanctify) something.[33] This gets us to my second thesis.

In the United States, overcoming the obstacles Mother Nature has thrown in our way both fosters and tests our mettle as worthy citizens. In her near-classic work on American citizenship, Judith Shklar argues that getting to count as a citizen has always included two key factors: the ability to vote and the ability to work.[34] Described in this way, there isn't anything that makes the

view solely an American one: the respect one receives from being seen as someone who can work is an important modern value in general. But the historical legacy of slavery as a kind of constant reminder of the privileges and markers of citizenship does set the United States apart from Europe. And the ethos of overcoming nature's obstacles through work remains an important indicator of merit or respect-worthiness.[35] In other words, a life of ease and comfort risks complacency and social stagnation; *not* being vulnerable can be a dangerous perversion.[36] Henry David Thoreau was one of the few American voices against this ideology, which attests, Brian Walker has argued, both to the longevity and strength of the ideology.[37]

If vulnerability plays a positive social role for individuals, it is difficult for it to serve as a ground on which to build collective agency. It is not that vulnerability has never served as a ground for collective action in the United States; of course, it has. The labor movement never took exactly the same shape it took in Europe, nor was it ever quite as successful as in Europe, but it was important and importantly successful all the same. But just contrast the cultural valuation of, say, the labor movement with the civil rights movement. We could argue that the political and particularly the ideological success of the civil rights movement was in its ability to *denaturalize* racist discrimination: when the vulnerability of the person of color was no longer seen as Mother Nature's challenges but as obstacles thrown her way by intentional actors and clearly identifiable practices – indeed, by none other than Mother Nature's opposite, the Big Brother of the state – the person's failure to overcome those challenges were no longer failures of her autonomous agency. That is why the civil rights movement – just like the abolition of slavery before it – is easy to fit in a larger ideological narrative about American political discourse. And that is also why, one might argue, arguments for affirmative action are so much harder to fit in it: once the causal complexities increase sufficiently, the denaturalization argument begins to flounder.

If these conjectures about some important factors in American political discourse and culture are correct, it is no surprise that there isn't a precariat in the United States. Contrast the American conception of vulnerability with a European one, or at least with the conception of vulnerability in those countries in which the "European social model" (ESM) – effective welfare institutions and a principled commitment to reduce the effects of inequality – has been successful, and the conditions of possibility for the precariat in Europe, instead, begin to seem obvious.[38] Indeed, the very commitment to the reduction of inequality and to effective welfare institutions implies a *politicized* conception of vulnerability.[39] One might go further theoretically and trot in Hegel himself: The *point* of the state for Hegel – and, arguably, for many nineteenth-century European state builders – is to counter, minimize, and even efface the effects of Mother Nature. In this view, then, even when vulnerability might be a "natural" condition, it is the point of political

institutions to address it. Politics is the art of the possible, the slogan goes: vulnerability is something that institutions can do something about.

Against this background, one can understand why the precariat might be a possible concept in Europe and not in North America, especially in the United States. And, furthermore, one can even see why the rhetoric of the precariat is emerging right now: it is a response to actual changing conditions, to be sure, but it is also a response to a perception that the political culture changes alongside the reforms. It is, in other words, a dynamic response to dynamism in political culture. That gets us back to considering the way in which the precariat might or might not manage to emerge as a collective agent for itself.

Implications

Globalization affects Europe and the United States differently. No country is immune to the effects of globalization, but the differences in Europe have been *seen as* more pronounced than in the United States (whether they are so or not).[40] This may be in part because so much of globalization and its attendant neoliberal reforms are popularly seen as a kind of Americanization of welfare policy, as the passage I quoted from the precariat manifesto above or indeed any conversation with almost any member of the European left will quickly show. So there is a sense in which Europeans can feel they face more radically changing conditions than Americans, at least when it comes to the factors affecting work: their vulnerability is increasing. This kind of vulnerability is a new condition.[41] On this view, they have until recently had the *reasonable expectations* of relatively great job security once in a job and relatively generous insurance schemes making unemployment tolerable. Precarity, then, consists not only of the actual condition of weakened job security, say, but also of the shock of learning about it.

This may seem trivial – News flash: scary news makes us scared! – but it has some interesting consequences. First, this shock to one's reasonable expectations is both theoretically and psychologically separable from the disappearance or erosion of legal or otherwise institutionalized rights and entitlements. That is, while it matters what the state does, it also matters what the state *seems* to be doing or failing to do. Reasonable expectations are not a justificatory trump: I can come to expect things that, on reflection, or in changed circumstances, are not reasonable.[42] Slave owners, after all, could expect to continue to be slave owners, even if such an expectation does nothing to make slavery right. But neither are reasonable expectations justificatorily inert: that over time I have come to expect something figures in who I take myself to be and what I plan to do. This means that the legitimacy of the institutional-political changes to the European social model that usher in the conditions of precarity are at least to some extent independent of their purely procedural democratic legitimacy. In other words, even if the

precarity-enhancing conditions are democratically enacted, it does not mean that they won't significantly erode the legitimacy of institutions in the eyes of large parts of European populace. Indeed, putting things in slightly more Habermasian terms, we might say that the idea of reasonable expectations may be part of the explanation of the current legitimacy crisis in the European Union. If that's true, then the democracy deficit of EU governance isn't just a procedural matter, but a substantive one.[43] The state – or perhaps in a more appropriately Hegelian sense, the State with a capital S – has in this view duties it may not shirk and things which it may not do, whether voters might want it or not.

Here we arrive at one serious complication for the precariat movement and at a question of whether the precariat has a potential of being a collective actor for itself. There is a dilemma of sorts: the precariat is a concept of political economy in the old-fashioned sense. As long as it remains that, it is indeed fair, however counterintuitive, to argue that the condition of immigrant laborers and native-born university graduates is the same. But conceptions of vulnerability aren't only about political economy. For many new immigrants to Europe, particularly for illegal immigrants, their socio-economic precarity is reduced in Europe, or so they at least hope. (Again, hopes and perceptions matter.) For many older immigrants, even for European-born children of immigrants, precarity often takes on a racialized hue that many white Europeans not only don't experience but also help sustain it through their privilege. Moreover, the European social model itself, whose dismantling the precariat movement wants to resist, was partly premised on shutting out immigrants, either literally as in those countries that blocked almost all immigration (e.g., Finland) or through exclusionary programs such as the German *Gastarbeiter* policy. And, finally, for the increasingly numerous Muslim Europeans, precarity unavoidably means a cultural and religious vulnerability to which European culture through its both Christian and secular institutions and traditions is a threat.

There is another kind of challenge for the precariat movement as well. The precariat movement is, as I described above, largely young people's movement, but the precariat consists of more than the young. In fact, as the activists sometimes argue, it is a condition of modern work *in general*.[44] But if this is true, precarity may indeed be a lamentable condition – that is, any reasonable person would rather not be in it – but less obviously so as a political one: if it applies across the board in a polity, then it is not a condition of inequality but is, as in the United States, seen as a natural occurrence. We might return to Hume and his idea of what creates the circumstances of justice: under conditions of absolute scarcity, questions of justice don't arise. They arise only under conditions of relative non-natural scarcity, that is, when meeting needs is a question of distributive arrangements.[45] If the scarcity is either natural or universal, it is not political. At that point, it might

be seen, as in the United States, even as one of those conditions through which our fellow citizens' respect is earned.

In other words, if the precariat movement wants to construe precarity as a general condition, it needs to understand, on the one hand, the limitations and challenges to the view as a political-economic concept as well as, on the other hand, the implications of that claim if it succeeds. Even the precariat movement is not a monolithic actor with a one single position, but this theoretical concern points to a continued argumentative challenge. Very detailed questions about what exactly makes for precarity continue to need answering.

Conclusion

What follows from this precariat sampler platter? First, we need to note that further empirical questions arise. It still is an open question as to what extent the precariat movement has *compellingly* identified conditions that might serve as the grounds for a successful creation of the precariat identity and agency. (It follows from my argument above that to frame the question in terms of whether they have "correctly" identified the conditions simply begs the question.) Following the pragmatist spirit of Arthur Bentley, I would like to suggest that the only meaningful test of whether the precariat movement has compellingly identified the conditions of precarity is to see whether mobilization succeeds. On this, the jury so far is out, but I have just raised some theoretical doubts about the prospects. The precariat movement remains an aspirant avant garde; for now, it lacks the rest of the army. At the same time, the effectiveness of the 2006 riots in France suggests that there certainly are many people whom it might mobilize. Even more, the French riots show that at least in that case there was strength in numbers. Most enthusiastic globalization neoliberals will, of course, equate these successes with those of the nineteenth-century Luddites who wanted to destroy the spinning machines of the early industrial revolution: on the neoliberal view, the precariat "successes" are counterproductive rearguard actions, not avant garde at all, but fortunately ineffectual in the long term. Even more sympathetic observers need to admit that the long-term effectiveness of precariat resistance remains unanswered so far.

Second, perhaps most interestingly, we might observe a paradoxical political result. Suppose it is true that globalization produces important kinds of convergence of economic, financial, monetary, and even political institutions. Sure, such a supposition is controversial: whether globalization produces convergence or divergence is the million-dollar question in the study of international and comparative political economy.[46] But we might reasonably say that the "dismantling" or "rationalization" or "reorganization" (pick your favorite normatively laden term) of the European social model is a possible sign of convergence. The paradox is that it is also producing

divergence: the precariat movement, as I have described, is a response to those forces, but even though it represents a new direction from old European politics, it is not at all convergent with politics – practices and discourses of resistance – in North America. In its clever ability to draw from the Marxist tradition, the precariat movement very much wants to say, "Precariat of the world, unite!"[47] But what I have said here might mean that such a unification is not in the cards, neither globally nor locally.

To pursue such a question is to do political theory, but they are questions that unavoidably require attention to the empirical world of politics and empirical research. Political theorists and philosophers should welcome the challenge, even though it doesn't mean that they need to become empiricists or that their contributions require empirics to be validated. As my tour of the themes that the phenomenon opens up should show, theorists should not be among the precariat.

Notes

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1. Despite my very different approach here, my position resembles, in some ways, that of Laclau (2005). There are also many points of connection to Lisa Disch's current work on representation, from which I have learned much. See also Swanson (2008).
2. Sciolino and Smith (2006); Bremner (2006); Aguado (2006).
3. Bommelaer (2005); Jakubyszyn (2006).
4. Chrisafis (2006).
5. A quick pseudo-empiricist search of Lexis-Nexis offers only two instances of "*precarité*" in North American mainstream newspapers over the last two years: Saunders (2006), in the Toronto *Globe & Mail*, and a caption in a *Wall Street Journal* photo on 29 March 2006.
6. See, for example, Petitnicolas (1998); Lecomte, Mizrahi, and Mizrahi (1996); Paugam (1996); Paugam and Russell (2000).
7. Helsinki EuroMayDay Network (2006).
8. *Middlesex Declaration of the European Precariat* (2004).
9. "Flexibility" is one of the most trendy business terms in Europe, and it has generated derivatives also among people who are not its critics or who are only partly critics. "Flexsecurity," for example, is the label for the position of those who think that work and workers must be more flexible than the conventional European lifetime security has had it, but who also want to combine it with protections against vulnerability. See Giddens (2006).
10. Lindholm (2006).
11. EuroMayDay Network (2006).

12. Whelan and Maître (2005) find that vulnerability does not make for what they call a "latent class" because the condition of vulnerability does not transcend socio-economic status. This empirical finding is consistent with my argument.
13. *Middlesex Declaration of the European Precariat* (2004).
14. See Annesley (2003), for an analysis of the claim that British welfare reform is all about "Americanization." See Markovits (2007), for the general historical contours of European anti-Americanism.
15. I have discussed Bentley and Truman at length in LaVaque-Manty (2006).
16. Bentley (1908).
17. Ibid.
18. For a different way of conceiving of groups, see Young (1990).
19. Giddens (2006).
20. Ege and Timm (2006); Garric and Percept (2005).
21. For discussions of the relationship between postindustrialization and vulnerability, see Scharpf (1999); Bonoli (2007).
22. On this, see, for example, Swank and Betz (2003); Rydgren (2003).
23. Hoikkala, Salasuo, and Suurpää (2006).
24. Fraser (1997).
25. The classic statement on the failure of socialism in the United States is Lipset and Marks (2000). See Esping-Andersen (1990), for the discussion of the welfare state. Markovits and Hellerman (2001) and Van Bottenburg (2001) discuss "soccer exceptionalism."
26. Walzer (1983), 29.
27. Hume (1978), Bk. III, pt. II, § ii.
28. In 2008, one might argue that we can and should do something about weather. Indeed. The new twist in this analogy is relevant for my argument, as I suggest briefly below.
29. Handler (2003).
30. As of this writing, some evidence suggests that a debate about health care will be an important one in the 2008 presidential elections.
31. Gramsci (1971).
32. The argument in Feldman and Steenbergen (2001) lends some empirical support for this claim.
33. Here, I have in mind a moderate version of the ambiguity about the fact/value difference expressed in Putnam (1981).
34. Shklar (1991).
35. Just think of the grounds on which American universities now consider the following as signs of merit in admissions: overcoming difficult obstacles is an increasingly important one, especially in the wake of attacks on affirmative action.
36. A recent survey suggesting that most Americans doubt academic tenure promotes quality can be seen as consistent with this attitude. See http://www.insidehighered.com/news/2007/07/12/poll.
37. Walker (1998).
38. See, for example, Oorschot (2006); Schmidt (2002).
39. There is very likely high endogeneity between the success of the European social model and the conception of vulnerability I elaborate here, but that doesn't concern us. I am not making an argument about why the model succeeded in some places or about where the conception of vulnerability comes from.
40. See Bonoli (2007); Abrahamson (2005).

41. This effect of dynamism is a component that helps us understand the one dimension in which Americans now consider themselves quite vulnerable in an anxiety-inducing way: After 9/11, their views about terrorist threats to their well-being radically changed.
42. Cohen (1995).
43. See Schmidt (2002).
44. Helsinki EuroMayDay Network (2006).
45. Hume (1978), Bk. III Pt. II §ii. See also, for example, Sen (1992).
46. For a review, see, for example, Brune and Garrett (2005).
47. See *Middlesex Declaration of the European Precariat* (2004): "Networkers and Flextimers of Europe Unite: There's a World of Real Freedom to Fight for!" Limiting the call to the context of Europe is important, if I am right.

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7

Reflexive Democracy as Popular Sovereignty

Kevin Olson

Jean-Jacques Rousseau throws down a gauntlet for theories of popular sovereignty. After announcing his distress at the modern condition and confessing that he has no idea how things got that way, Rousseau strikes a more confident tone, saying that he *does* know what could be done to render such a condition legitimate. The project, he says, is to,

> Find a form of association which defends and protects with all common forces the person and goods of each associate, and by means of which each one, while uniting with all, nevertheless obeys only himself and remains as free as before.[1]

This formulation, like so much of Rousseau's writing, is delicious precisely because of its daring juxtaposition of conflicting ideas. The normative standard set down here is "obeying only oneself and remaining as free as before." Rather than situating it in a romanticized state of nature, however, Rousseau frames this criterion as a basis for finding a "form of association" – that is, a politically organized society. This is not just any politically organized society, of course, but the type characterized as putting men everywhere in chains. The chains are uniquely modern ones – not those of despotism, but simply of modernization itself. The complex social, bureaucratically organized character of modern life is precisely Rousseau's target. Against this background, it is especially striking that he describes his inquiry as seeking a form of association in which each associate can obey only himself and remain as free as before.

Rather than dismissing Rousseau's language as rhetorical hyperbole, it is useful to think in more detail about the goal he describes. "Obeying only oneself" is not different from "remaining as free as before" in this passage. Rather, "obeying only oneself" describes freedom. The underlying concept is a radical notion of self-determination, one that is unmediated by institutions or other people and confers a kind of effortless union between will and action. Grammatically speaking, this idea is expressed in a *reflexive*

construction ("n'obéisse pourtant qu'à lui-même"[2]). It is something that I do to myself; in this case, something that I do *only* to myself. The reflexive grammar is not an accident, but voices the reflexivity of the concept itself. The idea of obeying (only) myself is an inherently reflexive one. It describes cases in which action is bent or turned back to its source. Obeying only myself means that I control myself in a transparent, unmediated manner.

Rousseau, of course, did not characterize the ideal he described as "reflexive." That term has come into vogue more recently, however. It has had a notable presence in debates about social scientific method, providing the epistemic basis for a more nuanced, culturally sensitive ethnography.[3] It has also furnished conceptual resources for a comparative discussion of legal paradigms, one applying insights of systems theory to regulatory law.[4] Quite distinct from these, but equally important, are the concept's employments in democratic theory. They echo Rousseau's concerns more directly, focusing on the senses in which self-rule is a form of reflexive self-government. Theories of "reflexive democracy" take such concerns seriously, trying to find a form of political association that enhances self-determination and freedom.

This essay addresses a conceptual issue at the heart of reflexive democracy. The idea of reflexivity has become increasingly fashionable in recent years, but wider usage has only multiplied confusion about the meaning of the term. I will try to counteract that confusion by clarifying what it means to say that democracy is or should be "reflexive." To do that normative work, I will begin by surveying some of the most prominent meanings that reflexivity has taken on recently. Here my focus will fall primarily on a pair of conceptions that are at once epistemological and materialist, those of Anthony Giddens and Jürgen Habermas. Although there is much to appreciate in both accounts, I believe that this hybrid combination of epistemology and materialism is ultimately unstable. A suitably reconfigured version of the materialist strand, in contrast, can take us a long way towards understanding popular sovereignty in the sense that Rousseau describes.

Proliferating reflexivities

Reflexivity has acquired a distinctive cachet in the humanities and social sciences in recent years. It confers instant avant-garde status on theories to which it is attributed, implying that they have broken with business as usual to explore some new and uncharted terrain. The idea of reflexivity often relies on a visual metaphor: "reflection" in the sense of a mirror-like self-awareness or self-perception. Visual metaphors are only one possible conception, however. Reflexivity can also follow a neurological model of a reflex arc: an involuntary, causal response to stimulus that has a circular or self-referential structure. It can equally well describe the "autopoetic," self-regulating action of a complex system that responds to outside influences to

maintain its own internal equilibrium. Spanning all of these different uses, though, is a common morphology. This is a structural idea of something bent or turned back on itself.

The commonalities between various conceptions of reflexivity conceal a host of differences, however. This idea is deployed across a wide range of media – societies, forms of knowledge, legal structures, and experimental methodologies, for instance. There are also many different ways of thinking about reflexivity, some mechanical, some epistemological, some causal, some methodological, some existential.[5] Causal uses, for example, frame the structural idea of bending back upon oneself as a recursive loop of self-effecting causes. Epistemic conceptions, in contrast, deploy it as a form of complex, recursive self-knowledge. In addition, it can function either descriptively or normatively – either as a fact of certain states of affairs or as a desirable trait that they *ought* to cultivate. What's worse, these various characteristics are often mixed together in the same work. Writers make bold statements about reflexivity that include diverse social forms, forms of knowledge, and even meta-theoretical "reflection" on all of these, deployed as description, but with cryptonormative overtones. It is no wonder, then, that statements about reflexivity provoke confusion, even while promising bold new conceptual landscapes.

Reflexive modernization: Anthony Giddens

Multiplicity of meanings has certainly characterized most of the recent deployments of reflexivity in democratic theory. Anthony Giddens provides one prominent example. He describes reflexivity as a characteristic of social modernization. In this picture, knowledge is social in the sense that it is shared among members of a culture and is reproduced as part of that culture. In premodern societies, such knowledge is rooted largely in traditional, taken-for-granted assumptions about the character of the world. This begins to change when knowledge becomes subject to social differentiation. The division of mental labor makes knowledge an expert domain, one with its own methods and criteria of success. This form of expertise eventually turns to society itself as an object of study, tracing out social processes of knowledge formation. In this way, knowledge experts circle back to examine the social bases of knowledge acquisition themselves. They thereby create a reflexive epistemology. Because knowledge is social, however, the impact of such reflexivity is not merely to expand what we know. It has broader effects on how we think about society, in turn altering social relations themselves. Reflexivity in social knowledge thus becomes a kind of social action-upon-self.[6]

Ultimately, Giddens's diagnosis of reflexive modernization describes centuries-long changes in the *form* and *social character* of knowledge

acquisition. The search for knowledge drives social change, ultimately circling back to reshape its own social bases. Reflexivity thus lies in the process of knowledge acquisition itself. Responsibility for this new characteristic seems to rest squarely on contemporary movements in the social sciences. Earlier forms of social science developed a rigorously empirical, positivist approach to knowledge collection. More recent developments have added social science itself to this picture, reflecting on its own social bases and consequences. This self-aware form of social knowledge lays bare the roots of other forms of belief and tradition, relativizing and deracinating them. Previously nonreflexive forms of knowledge are thus forced to become reflexive, simultaneously eroding the grounds on which they had been accepted. Under the glare of social-scientific illumination, traditions are exposed as resting on the same bases as other forms of belief. They thus lose their take-for-granted status and are forced to compete with other belief systems such as the rational-empirical project of science.

The idea of reflexive democracy is developed against this backdrop. Giddens follows Ulrich Beck in characterizing this political form as "the democratization of democracy."[7] Democracy is democratized, Giddens claims, by the expansion of social reflexivity itself.[8] As its reflexive social bases develop, democracy spreads to new domains of social life such as the family, social movements, corporations, and the global political order.[9] It takes a new, dialogical form that aims at enhancing mutual tolerance.[10] This is a radicalized and more thorough-going democracy. It is reflexive in the sense that it is built on the social basis of a populace capable of thinking about itself from a socially reflexive viewpoint.

Reflexivity is above all *cognitive* in this picture. It is a transformation in how we think about our society. Here reflexivity lies in the social knowledge that permits an expansion of democracy into new domains and a qualitative change towards more dialogical forms. It thus marks a deformalization and de-proceduralization of democracy, opening up new issues and areas of social life to deliberation and expanding the communicative modalities that are used there. Although this describes new forms of political interaction – ones marked by new ways of conducting democratic politics – those forms themselves are not distinctively reflexive. They are not built around a structural idea of turning or bending back in politics itself. In this model, reflexivity describes the cognitive outlook – the form of knowledge – of democratic citizens. It is characteristic of people and their culture rather than democratic processes. It is a matter of social self-perception, rather than novelty in the character of political interaction.

The kind of cognitive reflexivity described by this theory is essentially one of a social macro-subject. It is the reflexive self-awareness of society as a whole. In this case, however, the "we" assumed as macro-subject is quite

problematic. The theory relies on a social conception of knowledge that ignores the unequal distribution of knowledge and expertise. Although Giddens notes the importance of expert knowledge in this picture, he does not trace out the consequences of its development: the fact that competences, capabilities, and knowledge are heterogeneously distributed throughout the population. "Society" may become more reflexive, but such innovations are predominantly the domain of knowledge professionals and other elites. Knowledge is not uniformly distributed in such societies, but follows the lines of occupational, educational, and social-group differences.

A principal problem with the unequal distribution of new, "reflexive" knowledge arises from its deployment in new forms of democracy. Cognitive heterogeneity is thereby translated into political inequality. Qualitative changes that promote dialogical democracy favor those whose expert domain is already dialogical. Verbal competencies and skills are more often possessed by people in knowledge-using and decision-making professions; and these professions, in turn, are an excellent school for fostering such skills.[11] As a result, the social avant-garde that promotes new forms of reflexive understanding is best positioned to capitalize on the new political forms that result from their activity.

Here the structural connection between new forms of knowledge and new forms of democracy produces unfortunate results. New forms of knowledge, which are distributed unequally in the population, drive the expansion and qualitative change of democracy. Presently existing marginalization and stratification are thus reproduced and even exacerbated. The intensification of modernity by radicalizing democracy also intensifies some of modernity's most undesirable side effects. If Giddens is right about the developmental trajectory of modernity, this kind of reflexivity is a step backwards for popular sovereignty.

A reflexive attitude towards paradigms of law: Jürgen Habermas

Jürgen Habermas's approach is similar to Giddens's in certain ways. Like Giddens, he advertises his theory as a "reflexive" one – in this case, reflexivity centered around democratic choices about the kind of law a given society wants. Unlike Giddens, however, Habermas's view is refracted through a theory of communication, which provides it with important resources that Giddens lacks. It gives him normative leverage against the problems of democratic inequality and marginalization that Giddens encounters.

Habermas outlines a scheme of rights that has a reflexive structure. Various parts of this scheme establish the bases for a political system, either by protecting private life, permitting political participation, or supporting the material bases of politics. This system of rights establishes the grounds of its own legitimacy. It turns back on itself by constituting a

political process that in turn formulates and legitimates it. Habermas characterizes this form of reflexivity by noting that political rights are

> reflexively applied to the constitutional interpretation and the further political development or elaboration of the basic rights abstractly identified in [a prior passage]. For political rights ground the status of free and equal active citizens. This status is self-referential insofar as it enables citizens to change and expand their various rights and duties, or "material legal status," so as to interpret and develop their private and civic autonomy simultaneously.[12]

Habermas's reflexively self-legitimating system of rights draws on another form of reflexivity. The political processes that legitimate systems of rights presuppose the intention of citizens to treat one another as political equals. This is a "pragmatic presupposition" of such practices: treating others as equals is the only consistent attitude to take when trying to convince them of the validity of a political claim.[13] To convince an interlocutor of a claim, I must reason with her as though she is an equal capable of understanding me and assenting to what I say. Furthermore, I must support her equality by supporting legal-political measures that promote it. Although this is the only consistent attitude that one could take towards others in political communication, people often act otherwise. They sometimes claim to aim at understanding one another, yet behave in ways that undercut this practice. Laws and public policies similarly fail to support the kinds of political equality that consistency would require. There is, as a result, a gap between actual regimes of citizenship and the presuppositions they ideally call into play.

To bridge this gap between facts and norms, actual citizens must become aware of the presuppositions their practices make. They must become aware that their present political interactions require equal citizenship, because only such a conscious awareness will provide them with the political impetus to actualize such conditions. The normative ideals implicit in politics must ultimately surface in the public consciousness to be realized through politics. This is a form of cognitive reflexivity, the surfacing-to-public-consciousness of the pragmatic presuppositions of political practices. Habermas refers to it as a "learning process" in which the functional demands of democratic politics come to public consciousness and are incorporated into a society's self-understanding of its own political culture.[14]

In this sense, Habermas emphasizes that the "reflexive attitude" he describes is not a conception of law – a "reflexive paradigm" – analogous to a liberal or social-welfare paradigm of law. The "reflexive attitude" is not a specific conception of what law is or how it should function. Rather, it is a meta-level conception of *self-conscious choice* between various paradigms of law such as the liberal or social-welfare ones.[15] Reflexivity ultimately resides in the social self-consciousness of people choosing what kind of law they

will collectively live under. Consciousness of the choice itself is the characteristic that confers reflexivity on such a political process. This is a notion of reflexivity as *self-reflection*.[16] It is an attitude that people take towards themselves and their situation in democratic processes of law formation. The idea of pragmatic presuppositions being thematized in public consciousness provides Habermas with resources that Anthony Giddens lacks. It allows him to avoid problems of democratic inequality by explaining how such problems could be overcome through politics. As pragmatic presuppositions surface in public dialogue, they provide a basis for political claims about political inequality. They create a normative vocabulary for articulating what is wrong with such inequalities. This gives people struggling for political voice a language to claim it, simultaneously providing the cultural-political grounds for the uptake and acceptance of their claims.

In sum, Habermas's account is rooted in the dynamic relation between two reflexivities. One of these is legal, centered around systems of rights, the other is cognitive, a sense of social learning that introduces norms of political equality into the political processes that create such systems of rights. The dynamic relation between the two promotes democratic equality and inclusion. Norms of political equality, pragmatically presupposed by democratic practice, enter actual politics through processes of cognitive-cultural development. Their use as arguments in politics provides the motor for the more complete realization of political equality. Here we have two interlocking reflexivities: the reflexive relation between rights and the political processes that legitimate them, on one hand, and the reflexive attitude that people take towards their own society when they see it as built on norms of reciprocity and political equality, on the other. The cognitive form of reflexivity drives the legal one. Rights can only be legitimated in political processes, in Habermas's account, when those political processes aim at equality and inclusion. And they can aim at such ideals only when people take a reflexive attitude towards their society and realize that they have already presupposed norms of equality and inclusion in their own conduct. The two forms of reflexivity are quite distinct from one another, but interconnected through the dependence of rights on the learning processes of actual citizens.

The strength of Habermas's view is the sense in which it captures interlocking forms of reflexivity. This perspective provides an elegant account of the normative bases of a reflexive politics. In actual practice such a form of democracy might be plagued by inequalities, but it also contains implicit norms for its own reform. A reflexive attitude towards one's society promotes that society's awareness of the importance of equality and reciprocity in its democratic politics. This in turn provides a political basis for laws promoting such equality.

The very strengths of Habermas's approach are also its weaknesses, however. It is difficult to explain, on this view, how the normative presuppositions of

politics would surface within the public consciousness and political deliberation of actual citizens. The implicit need to fulfill such presuppositions seems clear enough from a philosopher's viewpoint. The philosopher can trace out what she takes to be functional requirements of practices that the people are engaged in, making predictive claims that present practices cannot succeed in their aims without functional improvement. The philosopher's claim, then, is that pragmatic consistency requires the implicit presuppositions she identifies.

From the everyday, practical viewpoint of a citizen, however, such needs are not so forcefully felt. Our actual politics are deliberative to an extent, thus invoking norms of reciprocity and equality implicit in political communication. They are more often aggregative, however, invoking the weak normative presupposition that everyone is allowed to vote her own self-interested preferences. Our actual political histories reflect this normative complexity. They are a mixed bag of egalitarianism and exclusion.[17] It is not clear, then, which norms are the "right" ones to characterize a given set of political practices. Are the people in question engaging in discursive practices of reason giving or are they creating an aggregative *modus vivendi* that keeps the peace and allows the pursuit of self-interest? Both seem implied in existing political practices.

To set actual practices on the path of developing an ever-more-egalitarian and inclusive political culture, Habermas relies on a kind of liberal progressivism in which political culture meets actual politics "halfway."[18] This progressively developing constitutional tradition makes strong assumptions about the trajectory of politico-cultural development into the future. It relies on an idea of political progress in which existing traditions act as a constant, guiding influence on actual politics. These actual politics in turn further develop and entrench a culture of democratic egalitarianism.

Such directionality is alien to processes of change and reproduction in actual cultures, however.[19] Cultural construction is messy and difficult to steer, subject to many different and opposing influences. It is difficult to say, then, how a culture of equality and inclusion could develop in a progressive manner. Presumably, this would result from the interlocking character of the two forms of reflexivity. Increasing cognitive reflexivity would give people an awareness of the extent to which their own political practices presuppose equality and inclusion. This realization would encourage them to develop laws actually institutionalizing such norms. These laws would, in turn, provide a visible, public manifestation of equality and inclusion, symbolically supporting a developing culture of political equality. Such a culture would increase people's reflexive awareness of the extent to which their own political practices presuppose equality and inclusion, in turn promoting egalitarian laws, and so on. This interpretation portrays the cultural learning processes of actual citizens in dynamic relation with the development of rights. Egalitarian laws and norms provide a direction in

cultural development, while the developing culture in turn promotes laws of equality and inclusion. "Meeting halfway" is not a one-time occurrence, in this case, but a process of temporal development pursuing a particular direction.

This vision is based on the interlocking character of cultural and legal development. As appealing as it is, it provokes an awkward chicken and egg problem. On one hand, the development of egalitarian and inclusive legal norms depends on cognitive development: the forms of cultural-political reflexivity that bring such norms to public consciousness. On the other hand, the development of a public culture valuing such norms depends on the development of the laws themselves. Cognitive development depends on legal development; but legal development depends on cognitive development.

This paradox highlights the loose connection between the two forms of reflexivity. Cultures develop under complicated influences, some of which are legal but many of which are not. Sometimes idealized norms of equality and inclusion are deposited in the law, but many other factors also contribute to the law's content. Strategic interests and functional adaptation to changing empirical circumstances also have a large role in legal formation. Culture and law thus travel connected but separate developmental paths. Given the loose, not strictly causal nature of this connection, it is overly optimistic to expect a self-reinforcing spiral of legal and cultural development that promotes reflexive democracy.

Reflexive materialism

To resolve the problems of the two theories I have surveyed, I will outline a different notion of reflexive democracy. These theories encounter problems that are *material* in character. Their problems are found in democratic processes and procedures, in the formation of democratic citizens, in laws that create actual, material institutions, and in the ways that people's real capabilities are inflected by all of these. They are revealed when we consider democracy not as an abstract normative ideal, but one that is inherently social, cultural, and historical. Following this line of thought, I will focus on the material problems encountered by various conceptions of democracy. I will formulate a view that meets them on similarly material grounds, consistent with but not relying on an awareness of social knowledge, implicit norms, or any other cognitive resource like those I have identified in Giddens and Habermas.

Democracy, from a materialist perspective, is a way of organizing human relations and practices. It is conducted by people within institutional environments that are structured by law. People's identities, capabilities, and forms of thought are shaped by democratic practice and its institutional milieu. It specifies particular forms of political interaction

and social privilege for particular kinds of political subject.[20] Democracy, in this view, is not simply an abstract ideal, but one that arranges the world in specific ways. As such, it encounters problems when it creates social, institutional, and interpersonal structures that are paradoxical. Considered as a material configuration of the world, some conceptions of democracy will create material inequalities, undercut their own ideals of popular sovereignty, and thus contradict themselves on material grounds.[21] If we considered them purely in the abstract these problems would not be apparent. That would be a distortion, however, of ideas that have a deeply material significance. Such abstraction is a false escape, one that we should not take if we are serious about democratic ideals.

The problems I have identified in Giddens's and Habermas's work can be seen through this lens. Neither of them falls into the trap of devising a purely ideal theory of democracy. Rather, each is broadly materialist in the way I have described. The problems I have identified occur precisely in this register, because of an inconsistent or incompletely worked out materialism. Giddens, for instance, distances himself from cruder strands of Marxist materialism.[22] He traces cognitive transformations in human knowledge production, connecting them with changing forms of democracy and noting the material effects that these changes have for political interaction. My own criticism extends this material analysis, noting that these changes would actually undercut democratic equality and popular sovereignty. This is the result, I believe, of an unstable combination of cognitive innovation and material inequality.

Habermas's materialism is similarly hybrid and complex. Also distancing himself from classic forms of Marxist materialism,[23] Habermas employs the tensions between materiality and normativity ("between facts and norms") to draw conclusions about the implicit normativity of political practices. This is materialism of a sophisticated and innovative sort. The criticism of this strategy that I outlined above, however, claims that the tensions between materiality and normativity may be greater than their affinities. The norms of equality and inclusion that Habermas would draw out of material practices have a rather contingent relation to those practices. Actual citizens may or may not see such norms as binding their own conduct. Thus such norms are likely insufficient to do the normative work that a theory of reflexive democracy requires.

I will follow the nuanced materialist path laid out by Giddens and Habermas, but extend it in directions that I believe will lead more successfully to a theory of popular sovereignty. The idea of citizenship provides a good starting point for this investigation. We have made many strides in refining this concept since its early articulation in the social contract tradition. Social contract theorists thought of people as naturally free, equal, and autonomous. Conferring the title "citizen" on each person merely acknowledged that fact without changing any of their personal characteristics.

Things have never been this simple, though, and we now realize that citizenship is a constructed form of social identity, both as an abstract legal category and as an identity borne by actual people.[24] In this sense, free, equal, and autonomous citizens are constructed in the same way that any other form of subjectivity is – through processes of socialization occurring in intimate relations, families, workplaces, schools, associations, and many other social and institutional domains. This process of creating people is complicated and multivalent, for better or worse. The question, is how could such a process be better rather than worse?

The answer is that constructing citizens is always best when the citizens *themselves* do the constructing.[25] When the actual people inhabiting these identity categories are also the ones who define them and establish the framework of socialization itself, citizenship becomes a kind of institutionally mediated "art of the self." Like the practices of self-formation described by Michel Foucault and others,[26] it is a form of self-modification that pursues self-chosen, self-defined ends. This ideal is thus a *reflexive* one: citizens turn back upon the process of their own identity formation, shaping that process as they think best. It becomes an expression of their own preferences, wishes, and choices.

A perfect form of self-created citizenship is impossible to achieve, of course. Citizenship is socially defined, legally specified, and institutionally mediated. Therefore it can never be a purely personal project. People are not free simply to become the kind of citizen they want in a direct, unmediated sense. Rather, freedom of this kind must be freedom to participate in the political processes that define citizenship as an identity. The ideal form of this freedom would be a kind of *reflexive citizenship*, one in which people have equal abilities to control the forces shaping their own identities as citizens.[27] When people have control over the political, social, and legal bases of their own agency as citizens, they acquire a reflexive ability to sustain and modify that agency. This means exercising a meaningful influence on the concrete laws and institutions that create specific forms of empowerment and disempowerment in a particular society. A form of citizenship providing such control is reflexive precisely because it constitutes its own conditions of possibility. Being a reflexive citizen allows one to sustain that status. It is thus a sophisticated form of freedom – one in which freedom consists in controlling the bases of freedom. Departures from reflexive citizenship correspondingly diminish freedom. They are a matter of degree: greater or lesser abilities to control the processes creating one as a citizen. When a person lacks such ability, the features that define her identity as a citizen are determined by someone else. This undermines her freedom by making it possible to ascribe lesser degrees of political agency to her. Lack of reflexive political agency is vicious downward spiral – a self-perpetuating form of marginalization. As such, reflexivity not only provides us with an ideal to pursue, but also with a standard to measure degrees of departure from that ideal.

What does it mean, though, to say that citizens should be able to control the forces that shape their own identities? If citizenship is socially defined, legally specified, and institutionally mediated, then controlling it is an inherently *political* process. This is true both in a formal, procedural sense and in the complex ways that society, culture, and politics modify the law's effects. The status of citizen is encoded in the various rights, duties, and enablements that the law provides. Rights to political participation, for example, single out particular kinds of political interaction to be universalized as formal attributes of citizenship. Freedoms of speech and association define specific domains as political, protecting particular forms of interaction within them. In the ensemble, such laws create an "official" political domain. Of course, politics is not merely the sum of its legal proceduralization.[28] The actual political domain is a more complex product of written law brought to life in actual politics. Real political interaction creates and recreates its own limits within legally specified boundaries.[29] This process is mediated by a socio-cultural environment that magnifies the significance of some features and reduces the significance of others. A citizen's material status is the outcome of these complicated interactions between procedure and actual politics.

Democratic inequality is frequently the result of such interactions. Citizens may have formally equal rights to participate in politics, but significantly different capabilities to do so.[30] Such capabilities are actual material differences between citizens – differences in money, access to information, or ability to act effectively within particular social, legal, cultural, and political circumstances. To deal with such differences, reflexive citizenship cannot remain an abstract legal status. This would ignore the way such abstractions are manifested in practice. Instead, it must take on a material significance at the level of real people, real agency, and real political processes. This requires a kind of equal political agency to the point that no individual or group can control the status ascribed to others. Such equality is axiomatic for reflexive citizenship: one cannot have reflexive control over the bases of one's own political agency when it is controlled by someone else.

Equalizing political agency requires a complicated mix of situationally specific adjustments. It is a matter of balancing people's effectiveness at making political claims and equalizing the power they have to make those claims heard. To some extent this depends on the laws specifying political process – who counts as a speaker, what kinds of speech are privileged, what formal procedures and informal norms govern politics. To another extent it is deeply affected by the economic and social bases of politics – the resources people can mobilize to generate political agency and the ways that group identity confers particular forms of agency on particular kinds of people.[31] It thus ranges from the ways people are socialized and educated, to the relative power between different groups of people, to the legal framework

specifying rules of political interaction, to the kinds of rights and duties attached to citizenship, to the distribution of wealth and income in a given society.

In practical terms, equality could be – and might need to be – promoted across all of these dimensions. In some circumstances it might be promoted by classically redistributive policies equalizing the monetary resources that people can use in politics. This would be a reconfigured form of welfare state, carefully designed to promote political agency.[32] In others it could require restraining the political agency of the wealthy and powerful so that they do not overshadow those less influential. Here measures that cut the link between money and politics become important, from publicly financed political campaigns to proposals giving representatives of marginalized groups veto power over legislation and judicial decisions.[33] The political agency of marginalized people can also be promoted in a positive sense by government programs encouraging participation. In these instances, the skills of political agency are enhanced directly by using them to help set the goals and means of government.[34] The US War on Poverty programs specified in the Economic Opportunity Act of 1964 arguably did this,[35] with their requirement that programs should be "developed, conducted, and administered with the maximum feasible participation" of their beneficiaries.[36] Similarly, civic groups and nongovernmental organizations that solicit and support participation foster political skills that increase agency.[37] Equalizing political agency may also require political procedures maintaining a formal openness to many different kinds of claims and social identities.[38] In all of these cases, reflexive citizenship selects policies, practices, and circumstances that build self-sustaining forms of agency. Here politics is a thoroughly material practice: we focus on equalizing political agency in a tangible, material sense to give people the means to sustain that agency in the future.

These insights about citizenship, law, politics, and procedure exemplify what I mean by materialism. The term is intended in a late-Marxist sense, as a statement about the relation between ideas and the world.[39] It is a refusal to differentiate concepts out of the social and political milieu in which they are embedded. This perspective views democracy – and its key normative component, popular sovereignty – as an aspect of human behavior, social relations, bodily dispositions, and practices, rather than as an abstract, independent ideal that has only a contingent relationship with reality. For the same reasons, it sees laws, institutions, and procedures as having an ineliminably cultural and conceptual character. In this view, democratic theories specify particular, material states of affairs. They support particular forms of agency, subjectivity, democratic citizenship, and political interaction. Many of their most important problems and advantages are encountered in this register as well. Reflexive democracy, in this sense, is a proposal about how to structure the social and political world. It refers to concrete institutions,

practices, and identities. It theorizes the interconnections and interrelationships of these things, focusing on materialized concepts that cannot be abstracted from their social context.

The reflexive basis of popular sovereignty

With all of this in the background, we can now return to popular sovereignty from a perspective that is both reflexive and materialist. When we think of reflexive democracy as a material process, it describes a self-sustaining form of political agency that has the characteristics of freedom specified by Rousseau. Here citizens obey only themselves and remain as free as they can be in an institutionally differentiated society. They become free by controlling the material and legal bases of their own citizenship. This is both an empirical and a normative idea: reflexivity describes characteristics of actual democratic regimes while providing a normative basis for improving them. It helps to define acceptable political processes, requiring them to promote particular kinds of political equality and inclusion. This view is oriented towards giving people the means to control the political bases of their own agency. As such, it aims at a relatively profound, self-reinforcing conception of freedom.

As I mentioned above, Rousseau does not take the easy path of locating freedom in a counterfactual state of nature. Rather, his search focuses on "a form of association" – a legally institutionalized, governmental state. The conception of reflexive democracy that I have outlined carries this project forward in modern terms. It aims at freeing people in the only way possible within a legally constituted democratic practice: by giving them control over the bases of democratic agency. This view anchors freedom in law and the practices through which it is realized, giving people the means to protect and sustain gains in their own freedom. It potently combines a politics of openness and freedom[40] with a material basis *supporting* equality and political agency.[41] This conception unleashes democratic energies but also promotes their equality. As such, it provides the normative core for a wide variety of projects in deep democracy.

The conception I have described rearticulates the classic idea of popular sovereignty in distinctively modern terms. It roots popular sovereignty in the legal, political, and social status of citizenship. As such, it provides people freedom to define their own status as citizens. Here we can build a rich conception of what it means to be "sovereign over oneself" in terms of a reflexive idea of self-government. To outline this view, I have argued that democracy requires a more immediate and concrete conception of reflexivity connected more directly with material conditions of political participation and equality. Here the control that citizens have over the political bases of their own agency is ultimately the repository of what is "reflexive" in a reflexive theory of democracy. This is a materialist sense in which the law

specifies forms of agency for particular kinds of people, endowing them with particular capabilities. Such citizens can then use their legally specified, material capabilities in the political sphere. This provides them with the ability to (re-)articulate the very laws articulating their own political agency. The circular, self-referential character of democratic reflexivity arises, in this view, from the material character of politics and the positivity of the law. Here reflexivity means having the means to alter one's own material political status. Correspondingly, departures from full reflexivity have particular and characteristic qualities, and to the extent that they depart from this conception, they fall under normative scrutiny. This conception thus provides us with a differentiated, analytical understanding of political marginalization and exclusion.

This view is distinct in a number of ways from those of Giddens and Habermas. My use of reflexivity is not about one's cognitive relation-to-self, being reflexively aware of one's self and identity, either individually or collectively. It does not describe a conscious awareness of norms, such as seeing ideals of equality and inclusion as implied by one's own conduct. Nor is it a typology of knowledge: knowledge that reflexively includes itself in its own understanding of society. This conception of reflexivity does not, in other words, share any senses in common with "reflection" as a metaphor for thinking.[42] Rather, it is emphatically concerned with material states of being and the ways that they create the conditions of possibility for their own reproduction and enhancement. In particular, these are states of being characteristic of democratic citizens: capabilities of various kinds and the political processes in which they are put to use. This conception describes a particular form of politics that is rooted in citizenship. It is centered around a form of reflexivity that connects people with the material bases of their own political agency. This is consistent with many of the other forms of reflexivity I have surveyed, but it does not depend on them.

This view's form of materialism avoids the problems I have detailed in Giddens and Habermas. It directly addresses the inequalities that crop up in Gidden's picture of reflexive modernity. The power over knowledge that is conferred by expertise creates democratic inequalities. Reflexive democracy, as I have described it, acts to correct these tendencies by promoting equal capabilities that allow people to control the bases of their own political agency. As such, it is a means for countering the inegalitarian consequences of modernity that Giddens has identified.

Similarly, this view's materialism allows it to sidestep the problems of cognition and culture in Habermas's work. It does not depend on the progressive development of a culture of democratic norms that can meet politics halfway. Rather, it postulates forms of political equality and agency more directly, specifying reflexivity as a norm necessary to secure popular sovereignty. It takes seriously Habermas's idea that popular sovereignty is a developmental process, but in a more thoroughgoingly materialist sense

requiring reflexive political agency as a basic condition of citizenship. Concrete, material standards of political equality are built into this view from the start, allowing it to produce a self-reinforcing form of political freedom. As such, it directly tackles problems of political inequality, rather than waiting for a culture of egalitarian norms to develop.

This kind of materialism allows reflexive democracy to cut through the layers of institutional mediation that Rousseau characterized as turning our freedom into chains. It shapes the political and social influences acting on citizens, giving them maximum control over those very processes and influences. In this way, modern citizens living in legal-constitutional states can generate a radically democratic practice that truly allows them to "obey only themselves, and remain as free as before."

Notes

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8

Democratic Legitimacy without Collective Rationality

Fabienne Peter

Introduction

Much recent writing on the philosophy of democracy has either explicitly or implicitly assumed that the rationality of democratic decisions is an important feature of their legitimacy. Different theories of democracy postulate different rationality requirements. Kenneth Arrow's response to the problem of cycling in democratic votes, for example, is to demand that collective decisions be based on social preferences that satisfy the same rationality requirements as those economists typically impose on individual preferences. A similar move can be identified in Philip Pettit's response to what he calls the discursive dilemma, which generates a conflict between the collective evaluation of an outcome and the collective evaluation of an independent set of premises that is logically connected to the outcome. He argues that the possibility of such dilemmas make it necessary for legitimacy that democratic decisions satisfy rationality requirements which ensure consistency between the evaluation of the premises and the evaluation of the outcomes. In this chapter, I want to challenge these responses and argue against the view that democratic decisions need to satisfy such consistency-based requirements of collective rationality.

The issue I want to raise is analogous to the one raised in the recent debate on the normativity of rationality in moral philosophy. In this debate, a distinction is drawn between the normativity of reasons and the normativity of rationality (e.g. Broome 1999, 2005). According to a widely held view, what one ought to do or to believe depends on reasons. Beyond that, there is also the view that there is normativity in rationality – that one ought to do or believe what rationality requires one to do or to believe. This second view is currently under scrutiny. Is there normativity in requirements of rationality, or is there only the normativity of reasons?

Niko Kolodny, an important contributor to the debate, has argued that the normativity of rationality, that many just take for granted, is only apparent. He interprets the normativity of reasons as referring to a relationship

between facts and attitudes. Rationality, by contrast, which he characterizes through a minimal coherence requirement, refers to "relations among a person's attitudes, viewed in abstraction from the reasons for them" (2005, p. 509). He grants that rationality captures intuitions about what one has reasons to do or to believe, but argues that these intuitions can be explained solely in terms of these reasons and without invoking a rationality requirement. If this is correct, it follows that requirements of rationality do not bind by themselves; only the underlying reasons bind.

Other contributors to this debate take a more moderate view, and explore the possibility that the normativity of rationality requirements is of a different kind than the normativity of reasons. According to Broome (1999), requirements of rationality have normativity qua the logical relation they impose on reasoning, but this normativity is not one of reasons. In his interpretation, the normativity of rationality is expressed conditionally. In the case of instrumental rationality, Broome characterizes it as follows: "intending an end normatively requires you to intend what you believe to be a necessary means" (Broome 1999, p. 89). One can accept this normativity of rationality, but respond, not by intending the means, but by stopping to intend the end. The normativity of rationality thus "does not give you a reason to intend what you believe to be a necessary means" (Ibid.).

Both Broome and Kolodny thus argue, in different ways, that it is not the case that requirements of rationality necessarily generate binding reasons. Although I cannot retrace this debate in this chapter, I want to defend a similar point in relation to the bindingness of democratic legitimacy. Legitimacy is the concept that encapsulates the normativity of democratic decisions – it is the answer to the question of why, and under what conditions, democratic decisions ought to be respected. If a democratic decision is legitimate, one has sufficient reason to respect the decision and to act accordingly – when action is required. To say that a decision is legitimate is thus to say that one ought to respect (and act from) that decision. To qualify a decision as illegitimate is to deny that it has this binding force. The normativity in question is clearly one of reasons: if a decision is legitimate, one has a good reason to respect it. Even if that is granted, most seem to assume that only democratic decisions which are, in some way, rational can be legitimate. The thought must be, roughly, that if a decision fails to satisfy requirements of rationality, the bindingness of legitimacy is jeopardized. On this view, only a rational decision can stand a chance of being a legitimate decision, one that one has sufficient reason to respect. Those who defend this view thus must assume that requirements of collective rationality generate binding reasons.

But is it really the case that, as a democratic collective, we ought to satisfy some requirements of collective rationality? Does the binding force of legitimate decisions hinge on whether or not these decisions satisfy requirements of rationality? I shall argue that this is not so. In light of the

distinction between reasons and rationality, it is possible to see that to deny that democratic legitimacy includes a rationality requirement does not entail that the demand to respect a democratic decision as legitimate does not depend on reasons. It is only to deny that there is independent normative force in the fact that collective decisions satisfy some conditions of consistency.

A case for why satisfying requirements of collective rationality is necessary for democratic legitimacy depends, of course, on how one conceives of the rationality requirement, and there are many different conceptions. In this chapter, I shall limit my discussion to the prominent consistency-based views put forward by Arrow and Pettit. I shall argue that, contrary to what these authors claim, the rationality requirements that they impose are not necessary for democratic legitimacy, or at least that they have failed to show why they would be. Focusing on the views put forward by Arrow and Pettit is interesting in itself, as the enormous literature on the former, and the rapidly increasing literature on the latter attest. In addition, since consistency constitutes a minimal requirement of rationality, if there is a problem with consistency, richer conceptions of rationality will also be affected.

In a different paper (Peter 2007a), I have developed a taxonomy of conceptions of democratic legitimacy. The taxonomy introduces a distinction between two categories of proceduralist conceptions of democratic legitimacy.[1] What distinguishes them is how they characterize the relation between legitimacy and political justification. Adopting the terminology used there, I call Rational Proceduralism the view that a collective decision needs to satisfy, among other criteria, a rationality requirement for democratic legitimacy to obtain. The other criteria refer to the fairness of the decision-making process – what Charles Beitz (1989) has called "political equality," or "political fairness." Rational Proceduralist conceptions are non-monist about legitimacy and combine conditions that regard political equality with conditions that regard political quality. The general thought underlying such conceptions of legitimacy is that the fairness of the democratic decision-making process is not sufficient to establish legitimacy. A fair process, it is argued, may lead to irrational outcomes – outcomes which are of unnecessarily and unacceptably low quality, in some relevant sense. In the Rational Proceduralist view, the emphasis is thus on the ability of fair procedures to generate outcomes that satisfy certain rationality constraints.

The contrasting view, which relies on political fairness only and rejects additional requirements of rationality, is commonly called Pure Proceduralism. In conceptions of this category, the content of the decisions does not receive independent weight in determining legitimacy. If applied to deliberative democracy, the view is that what matters for democratic legitimacy is that collective decision-making proceeds through public deliberation among all those affected under some conditions of political fairness or equality. The view defended by Thomas Christiano in his book *The Rule*

of the Many is an example for this category of conceptions of political legitimacy. According to him,

> democratic discussion, deliberation, and decisionmaking under certain conditions are what make the outcomes legitimate for each person. ... [W]hatever the results of discussions, deliberation, and decisionmaking ..., they are legitimate. The results are made legitimate by being the results of the procedure. (Christiano 1996, p. 35)

Such Pure Proceduralist conceptions are usually defended on the ground that in pluralist democratic societies, there is no procedure-independent standard for the quality of outcomes. In consequence, legitimacy must be based on procedural reasons.[2]

With the distinction between Rational and Pure Proceduralism in place, the aim of this chapter can thus be restated as follows. I want to argue against the versions of Rational Proceduralism put forward by Arrow and Pettit and in doing so add to the defense of the Pure Proceduralist alternative. In this alternative view, the reasons we have to respect a democratic decision as legitimate have their source in the fairness of the procedure through which the decision was made. In arguing against the versions of Rational Proceduralism propagated by Arrow and Pettit, I want to show that democratic legitimacy can be conceptualized without the rationality requirements that these authors think are necessary, and add plausibility to the view that the consistency of the decisions made does not generate additional binding reasons.[3]

Legitimacy and collective rationality

As is well known, Arrow attempted to break away from the received approach in normative economics by seeking to ground the evaluation of alternative policy proposals in democratic decisions. His social welfare function is a collective decision-making mechanism or, as he also characterizes it, a constitution. It specifies how a democratic society ought to go about evaluating and selecting alternative policies. Characterized at this most general level, Arrow's approach is no different from that of deliberative democrats. At this level, it appears as a normative theory of democracy, a theory that lays out the requirements of democratic legitimacy.

The distinctive features of Arrow's approach are well known too. Its core element is a collective decision-making mechanism that aggregates individual preferences to a social preference ordering. To ensure that evaluation and decision-making are minimally democratic, such mechanisms have to satisfy four normative conditions. These conditions embody different requirements of legitimacy, but I shall not be concerned with them here.

My concern is, instead, with the conditions of rationality that Arrow also imposed on both individual and social preferences. In Arrow's framework, individual and social preference orderings have to satisfy the axioms of completeness and transitivity. Completeness requires that every pair of alternatives can be ranked. Transitivity demands that if an alternative x is ranked as at least as good as an alternative y, and y as at least as good as z, then x should also be ranked as at least as good as z. In addition, there is also a condition stating that the alternative chosen is ranked as at least as good as any other alternative available – a maximizing condition. The notion of rationality used, Arrow remarks, "is at the heart of modern economic analysis." Although he acknowledges some difficulties with this notion, in particular in applications in game theory, he also insists that "it cannot be denied that it has great intuitive appeal" (Arrow 1963, p. 19). In this passage, Arrow seems to refer primarily to the case of individual preference orderings. I cannot address the question of whether or not his assessment is appropriate for that case in this chapter.

My topic here is the case of social preferences. The consequence of imposing these conditions of rationality on social preferences is, as Robert Sugden characterizes it, that

> a voting system has the property of collective rationality if all the decisions that it produces are consistent with one ordering of end states. Thus a voting system that has this property yields decisions that are so consistent with one another that they might have been made by a single public official, acting on the basis of a social welfare ordering. (1981, p. 152)[4]

As is well known, Arrow's famous impossibility theorem shows that the property of collective rationality is not easy to secure. The four normative conditions clash with the requirement of collective rationality. Vice versa, rational social preferences can be obtained only if at least one of the four normative conditions on social welfare functions is dropped.

I do not want to argue that weakening the rationality conditions would offer a way out of the impossibility result. This strategy has been examined in great detail and already proved to be defective – one can obtain impossibility results even if the rationality conditions are maximally weakened (*cf.* Sen 1993). My question is, rather, why rationality is thought of as playing a role at all in normative theories of democracy, what that role is, and whether it fulfills this role. Applied to Arrow's framework for social choice theory, the question is why the impossibility of achieving collective rationality was seen as a problem in the first place. Or, in other words, why Arrow thought it was such a big deal that his impossibility theorem demonstrates that "the doctrine of voters' sovereignty is incompatible with that of collective rationality" (1963, p. 60).

How does Arrow defend the requirement that the democratic evaluation of alternative policies needs to be based on a social preference ordering that satisfies the same axioms of rationality that economists typically impose on individual preferences? Arrow does not provide much argument for why the rationality of social preferences matters, which may be seen as an indication of how much he takes it for granted that rationality plays an important role in normative theories of democracy and in conceptions of democratic legitimacy. I want to argue here that imposing these conditions lacks warrant.

The most important reason that Arrow gives for imposing these requirements of collective rationality is in relation to what he calls the paradox of voting, of which the impossibility theorem is often seen as a generalization. Assume that there are three alternatives (*x*, *y*, *z*) and three individuals and that their individual preference orderings are the following:

	Individual 1	Individual 2	Individual 3
Most preferred	x	y	z
Middle ranked	y	z	x
Least preferred	z	x	y

If this mini-society uses the pairwise majority rule to make its social decisions, it would prefer *x* to *y* out of the pair {*x, y*} and choose *y* out of the pair {*y, z*}. If the social preference ranking was consistent, we would expect this society to prefer *x* to *z*. However, if the society is to make a choice between *x* and *z*, it will choose *z*. We therefore have a circle, with *x* better than *y*, *y* better than *z*, and *z* better than *x*. This social preference ordering violates transitivity.

In the paradox of voting, the cyclic pattern in pairwise majority decisions implies that for each of the alternatives in question there is a majority favoring it in pairwise comparisons. Cycles are a problem, Arrow reasons, because "if the method of majority choice is regarded as itself a value judgment, then we are forced to the conclusion that the value judgment ... is self-contradictory" (Arrow 1963, p. 5). The thought is, I presume, that in the presence of cycles, there is a clash between different possible majority verdicts, which implies that any particular decision is arbitrary, as an alternative majority could be found. In addition, it implies that the decision is dependent on the order in which the alternatives were presented, and that democratic decision-making is thus vulnerable to manipulation: whoever has agenda-setting power can influence the outcome of the decision-making process.[5] Arrow sought to avoid these problems by making requirements of rationality a necessary element of democratic legitimacy. He asks: "Can we find ... methods of aggregating individual tastes which imply rational behavior on the part of the community and which will be satisfactory in other ways?" (1963, p. 3).

Towards the end of his short book, Arrow gives two further reasons for why the rationality of social preferences matter. The first reason is that it eliminates path-dependency. Transitivity, he notes, ensures "independence of the final choice from the path to it ...; from any environment, there will be a chosen alternative, and, in the absence of a deadlock, no place for the historically given alternative to be chosen by default" (Arrow 1963, p. 120). Path-dependency is thus judged negatively, as undermining legitimacy, and demanding that social preferences be transitive is a way to avoid it. The second reason is precisely to avoid deadlock, or "democratic paralysis," "a failure to act due not to a desire for inaction but an inability to agree on the proper action" (1963, p. 120). The combination of completeness and transitivity ensures that the collective decision-making mechanism will identify a best alternative in all situations, or at least a set of best alternatives, among which the collective is indifferent.[6]

I shall discuss these reasons for imposing requirements of collective rationality on social preferences in the next section. But first I want to describe Philip Pettit's take on the discursive dilemma and his argument for why the outcomes of democratic decision-making need to satisfy requirements of collective rationality. The so-called discursive dilemma, or doctrinal paradox, reveals a problem that affects collective judgment formation and hence deliberative democracy (List and Pettit 2004). The problem is that the collective evaluation of a set of interconnected propositions may yield inconsistent sets of judgments. In the voting paradox that concerned Arrow, a majority can be found to support each of the alternatives in pairwise comparisons, thus yielding an intransitive social preference ordering. In the discursive dilemma, majorities can be found to support a certain conclusion as well as a set of premises that deny this conclusion. Take the simple example of a committee of three individuals having to decide whether or not a candidate should be given tenure. Tenure (T) should be awarded if both the quality of the teaching (Q) and of the research (R) of a candidate are of sufficient quality:

	Premise Q	Premise R	Conclusion T
Individual 1	Yes	No	No
Individual 2	No	Yes	No
Individual 3	Yes	Yes	Yes
Collective	Yes	Yes	Yes/No

The discursive dilemma rests on a conflict between, on the one hand, the conclusion supported by the majoritarian evaluation of the premises and, on the other hand, the majoritarian evaluation of the conclusion. Depending

on which decision-making procedure is chosen – the "premise-based" procedure or the "outcome-based" procedure – the collective will come to a different view of what ought to be done. In the above example, if the premise-based procedure is chosen, tenure will be awarded to the candidate, but if the outcome-based procedure is chosen it will not.

In response to the discursive dilemma, Pettit (2003, 175 ff) argues the following. First, he notes that the history of past judgments will inevitably confront a collective with instances of the discursive dilemma and that this constrains democratic decision making. It is to be expected that arguments for particular policy proposals will involve premises that have been the topic of past democratic evaluations. According to Pettit, this history constrains the judgments that the collective "ought to make in various new cases." as "only one particular judgment in this or that case will be consistent ... with the past judgments" (Pettit 2003, p. 176). Second, Pettit takes it that a key feature of deliberative democracy is that it enables contestation and ensures that those acting on the collective's behalf are answerable to reason (Pettit 2001, 280 ff). In the ongoing deliberative process, decisions under consideration will be linked to commitments made earlier, and the tensions created by instances of the discursive dilemma raise questions for public deliberation. In his view, "every purposive group is bound to try to collectivize reason, achieving and acting on collective judgments that pass reason-related tests like consistency" (Pettit 2003, p. 177). As a result, a deliberative collective faces pressure to collectivize reason. Finally, Pettit argues, only the premise-based procedure will ensure that the collective is answerable to reason. Consistency can, of course, also be achieved with the conclusion-based procedure, by holding on to a particular decision and revising past judgments on some of the premises to which the decision is connected. But, Pettit argues, questioning past commitments each time when there is a clash would undermine the process of public deliberation. He thus thinks that the deliberative public "must avoid automatic recourse to the revision of past commitments; it must show that those commitments are sufficiently robust for us to be able to expect that the group will frequently be guided by them in its future judgments" (Pettit 2003, p. 177). Only the premise-based procedure can achieve that.

Why be rational?

Like many other writers on democracy, Arrow and Pettit adhere to the view that the rationality of outcomes is necessary, albeit not sufficient, for democratic legitimacy. As such, they both endorse versions of what in the introduction I have called the Rational Proceduralist conception of democratic legitimacy. Their responses to the paradoxes they discuss are similar in that both interpret the problems they discuss as showing that majoritarian endorsement cannot be sufficient for democratic legitimacy and argue that

it is necessary that democratic decisions satisfy a collective rationality requirement. As just discussed, Arrow's main argument for imposing a collective rationality constraint is based on the claim that majoritarian voting may otherwise lead to manipulable, self-contradictory results. Pettit's main argument for imposing a collective rationality constraint is from his republican interpretation of the requirements of deliberative democracy. According to him, legitimacy demands that the participants of public deliberation – individuals or agencies – are answerable to reason, or, as he also calls it, "conversable" (Pettit 2001, p. 283).

The question to be discussed here is whether Arrow and Pettit succeed in justifying the rationality requirements they want to impose. Different versions of Rational Proceduralism employ different rationality requirements. But both Arrow and Pettit interpret rationality as a form of consistency in the choices that the democratic collective makes. For Arrow, as we saw above, collective rationality amounts to a social preference ordering that satisfies the axioms of completeness and transitivity. The notion of collective rationality Pettit invokes in response to the discursive dilemma combines a completeness requirement – there must be a judgment on all propositions – with two further requirements. The first, "consistency," demands that it is never the case that both a particular proposition and its negation are accepted. The second, "deductive closure," demands that the logical consequences of a proposition that is accepted are also accepted.[7]

What is the role that Arrow and Pettit ascribe to such consistency-based collective rationality requirements? There are, in principle, two possibilities. According to the first, satisfying a rationality requirement is constitutive of the normative force of legitimate decisions. According to this view, because we ought to be rational, a legitimate decision – one we ought to respect – is one that is required by rationality; a decision that fails to satisfy a rationality requirement cannot be a decision that we have reasons to respect. Arguments for this view would have to build on the premise that rationality is normative, that is to say that we ought to do what rationality requires. Based on that, they would have to show that only rational collective decisions can bind and that they bind qua their rationality.

According to a second view, satisfying certain rationality requirements is instrumentally necessary for legitimacy: irrational decisions undermine other values seen as necessary for legitimacy and rational decisions safeguard the reasons for which we ought to respect a decision. According to this view, a legitimate decision – one we ought to respect – will be a rational decision. This second view is weaker than the first because it does not claim that legitimate decisions bind qua their rationality. It brackets the issue of what accounts for the binding force of legitimate decisions and merely claims that rationality is necessary for legitimate (and therefore binding) decisions.

The question to be discussed here is whether Arrow and Pettit succeed in justifying the rationality requirements they want to impose. My goal here is

to argue that Arrow and Pettit do not succeed in defending either view and therefore fail to show that collective rationality is necessary for democratic legitimacy.

If I read him correctly, Pettit seems to be defending a variant of the first view; that a decision that fails to satisfy a rationality requirement cannot be a decision that we have reasons to respect. Pettit, as summarized above, offers a republican argument for the collective's need to form a consistent set of judgments. This links the legitimizing force of being answerable to reason to satisfying requirements of collective rationality. Pettit does not, however, have much to say on the link between rationality and normativity, it seems to me. None of the points he makes about the need for requirements of collective rationality addresses this issue. He seems to take it as given that the binding force of legitimate decisions is at least partly due to their satisfying some rationality requirements – that we ought to be rational – and does not provide an argument for why this is the case. As I mentioned in the introduction, there is now a literature emerging that dissociates the normativity of reasons from requirements of individual rationality, interpreted as relations of consistency among the attitudes of an individual. Even if there is a successful argument to show that individual rationality requirements can independently generate a binding reason, it would take a further step to show that requirements of collective rationality, interpreted as relations of consistency among the decisions of a collective, can independently generate a binding reason. Pettit relies heavily on the possibility of showing that as he prioritizes the ought of collective rationality over the ought of a majoritarian decision-making process. I am very skeptical about the possibility for showing this, but cannot pursue this question any further in this chapter.

If we leave this fundamental point aside, there is the question whether Pettit's own actual argument is a plausible defense of the link between rationality and legitimacy. I do not think so and here is why. His argument rests on the legitimizing force of being answerable to reason. Christian List summarizes Pettit's view in the following way:

> [I]t is (often) necessary for democratic legitimacy to supplement collective decisions on actions or policies with supporting reasons. These reasons should themselves be collectively decided and publicly defensible. On this account, it is not enough for the legitimacy of an action or policy that the majority endorses this action or policy. Such majority endorsement might stem from a spontaneous majority passion or lack any reasoned justification. (List 2006: 365)

Pettit is right, of course, that it must be possible to cite a sufficient reason for why one ought to respect a democratic decision for it to be legitimate – that is trivially true given my definition of democratic legitimacy. But it is not

clear that a sufficient reason is one which satisfies the rationality requirements he wants to impose. Take the tenure example introduced earlier. In Pettit's view, the final decision, to be legitimate, has to be supported by the collective evaluation of the two criteria – teaching and research quality. In this view, "answerability to reason" is thus interpreted substantively: it demands that the decision taken has to be supportable by the substantive considerations on which it depends. The rationality requirements, combined with the requirement to adopt the premise-based procedure, capture this interpretation of answerability to reason. For a positive tenure decision to be legitimate, it has to be the case, in this view, that the collective has, as a collective, judged favorably the candidate's performance in teaching and research. The legitimate collective decision is the one that is consistent with the collective evaluation of the premises.

But this is not the only way in which "answerability to reason" can be interpreted. An alternative interpretation is the one endorsed in Pure Proceduralist conceptions of democratic legitimacy. As defined above, Pure Proceduralist conceptions only impose conditions of political fairness on the democratic process and refrain from imposing conditions that refer to the quality of outcomes. The reasons that determine the legitimacy of a decision are thus procedural ones – they cite features of the democratic decision-making process. As such, they will not invoke conditions that refer to consistency among the decisions themselves in the way in which the rationality requirements Pettit wants to impose would demand. In the tenure example, the reasons that would determine the legitimacy of a particular decision are those which refer to the process. An illegitimate decision is the one in which the decision-making process does not satisfy the conditions that are seen as necessary for legitimacy.

This alternative Pure Proceduralist interpretation of the "answerability to reason" condition does not invoke features of the quality of the outcomes of the decision-making process, not even rationality requirements. In Pettit's argument, as well as in List's summary of it, there is an assumption that a decision that is legitimate in the sense that it is supported by reasons must be the one that is supported by substantive reasons. But procedural reasons, surely, can be "publicly agreeable reasons"; in fact they are much more likely to be publicly agreeable than reasons that refer to the substantive content of a decision. It will be easier to agree on the "constitutional essentials," to use a Rawlsian term, which specify the decision-making process, than to agree on the goodness of alternative policies.[8] Procedural reasons thus seem better candidates for determining the legitimacy of democratic decisions than reasons which refer to the substantive quality of outcomes.

In addition, because Pure Proceduralism is only backwards looking – towards the process that generated a particular decision – it does not run into the kind of problem with honoring past commitments that affects Pettit's Rational Proceduralist conception. Pettit's argument for why it is

important to satisfy collective rationality requirements thus proposes a solution for a problem that only arises if one has already accepted the normativity of collective rationality. Because his argument is circular, Pettit has failed to show that collective rationality is necessary for legitimacy.

Arrow's arguments for the need to satisfy requirements of collective rationality tend to be of the instrumental variant. Arrow, as we saw, invokes rationality to avoid manipulable cycles in the pattern of majority voting, as well as arbitrary path-dependencies and indecision. I shall show that from the perspective of a Pure Proceduralist interpretation of deliberative democracy and its associated conception of legitimacy, Arrow's concerns can be met without invoking his rationality requirements.

Let me start with the argument from manipulation. I certainly agree that it is plausible to demand that absence of manipulation is necessary for democratic legitimacy. The thought must be that the possibility to rig the outcome of democratic decision-making undermines the legitimacy. That seems correct. But if a decision has come about as a result of a manipulation, does that not by itself constitute a reason for doubting the legitimacy of the decision? What would demanding consistency of the social preference ordering add? It can be answered that demanding consistency may help eliminating the possibility of manipulation. While this is true, this does not make satisfying the rationality requirement, by itself, a criterion for legitimacy. If absence of manipulation is a necessary condition, then a decision that satisfies this condition is legitimate (provided all other necessary conditions are satisfied), even if it is irrational in the sense that it violates some condition of consistency.

What about the charge that in the presence of cycles, decisions may be arbitrary? This worry is also linked to Arrow's second argument for imposing requirements of collective rationality, which is that they ensure that the reasons for choosing an alternative are not path-dependent, but reside in how the alternative chosen compares to all other alternatives. Presumably, the worry is that with path-dependency, the choice is made on the basis of reasons that should not influence the decision. Arrow's own example is a status quo bias. Again, the question is whether this is a sufficient argument for imposing requirements of collective rationality. I do not think it is. First, there is the question whether path-dependencies are such a terrible thing. Let me grant that it makes sense to demand that legitimate decisions do not suffer from arbitrary biases, such as a status quo bias. In addition, while it is true that complete, transitive social preferences rule out path-dependencies, this does not prove that collective rationality is necessary. Like in the case of manipulation, if what is at stake can be covered by procedural criteria, then it is not necessary that the outcomes satisfy requirements of collective rationality. An arbitrary status quo bias occurs, I contend, if the democratic process is such that the preferences of those who prefer the status quo to an alternative arrangement receive undue weight – for example because they

succeed in politically marginalizing those who would prefer – with good reasons – an alternative arrangement. The procedural solution to this problem is to demand that the democratic process allows for a fair hearing of all concerns and that there is fair uptake of criticisms of existing arrangements and objections to arguments that support them.[9] The irrationality of particular decisions may, again, be taken as an indicator that there are issues that need further deliberation, or of problems with the fairness of the decision-making process, but it need not, by itself, undermine legitimacy.

Arrow's last argument – from the need to avoid indecision – targets not the full set of rationality requirements, but only the completeness condition. This condition demands that the social preference ordering is defined for any pair of alternatives. Its rationale is that the collective ought to be able to make a choice in any given situation. Again, it is not clear to me that this is indeed a requirement of democratic legitimacy. If there is indecision, extending deliberation may be the better response if the concern is with the legitimacy of the final decision. But even if it were a condition of legitimacy, it could very easily be interpreted procedurally, to require that the democratic decision-making process has mechanisms that bring the process to a close – at least to a temporary one. There is no need to cast this criterion with reference to a rational social preference ordering. In this procedural view, it is sufficient that the process generates a decision – any decision.

Conclusion

In sum, none of the arguments that Pettit and Arrow provide show that legitimate democratic decisions need to satisfy consistency-based requirements of collective rationality. There is at least the possibility of a Pure Proceduralist response to each of the issues they raise and to each of the concerns they address in the attempt to defend their respective version of Rational Proceduralism. My strategy in this chapter has been purely negatively to cast doubt on two prominent versions of Rational Proceduralism. Much more needs to be said both on the problems of associating democratic legitimacy with the alleged normativity of collective rationality, and on the Pure Proceduralist alternative. This will have to be done elsewhere.

Notes

I have benefited from many discussions on this topic with Herlinde Pauer-Studer, and from helpful comments on this chapter from Boudewijn de Bruin and Chris Zurn.

1. Note that proceduralist conceptions of legitimacy in general contrast with instrumentalist ones, which only consider the quality of the decisions taken and do not assign independent value to the decision-making process itself. I shall not be concerned with instrumentalism here, but see Peter (2008).

2. See Gaus (1997), for example, who also defends a variant of this Pure Proceduralist conception. He argues that the deliberative process inevitably produces disagreements that cannot be reconciled. Since agreement on a best solution is unlikely, there is no other justification for a particular decision to be had other than it being the result of a fair process: "In his or her deliberations, each citizen presents what he or she believes is the best public justification; the voting mechanism constitutes a fair way to adjudicate deep disagreements about what is publicly justified" (Gaus 1997, p. 234).
3. In Peter (2007a) I also identify variants of Rational Proceduralism in accounts of epistemic democracy. An example is David Estlund's work on epistemic democracy (1997, 2007). I shall not be concerned with these variants here and my arguments against Arrow and Pettit do not extend to these variants. For a defense of Pure Proceduralism in the epistemic context, see Peter (2008).
4. For a more formal characterization, see Sugden (1981, p. 137).
5. The influential interpretation of the impossibility result as revealing that democratic decisions are arbitrary and manipulable is from Riker (1982).
6. The latter creates a problem, of course, as some additional criterion will have to be used to select one alternative from the set.
7. Consistency is defined as seen in List and Pettit (2002, p. 97) and List and Pettit (2004, 213f). Pettit, like Arrow, invokes the same rationality requirements for individuals as for the democratic collective.
8. I have developed a procedural interpretation of Rawls' idea of public reason in Peter (2007b).
9. I have developed this argument in Peter (2007a and 2008).

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9

The Political Philosophy of Social Suffering

Emmanuel Renault

What exactly are the tasks of political philosophy? There is obviously no simple answer to such a question, and to take it seriously must mean something else than proposing distinctions. Today, scholars generally seem to agree that political philosophy has to choose between two options – the first of which is normative, and the second is descriptive. According to the first option, political philosophy should make explicit the principles that should drive political deliberations. Arendt or Rawls provide points of references for such an understanding of political philosophy. According to the second option, this branch of philosophical activity should try and describe what the current rules of political deliberations are, which knowledges and institutional settings they rest on, and how those knowledges and settings could be changed. Foucault and Skinner could be mentioned here as examples. But a third option should also be taken into account that endeavors to connect normative and descriptive approaches. It focuses on the processes that lead individuals from given social situations to political deliberations, and it tries to make explicit the resources of social experience that enable individuals to use rules and principles of political deliberation, and sometimes to modify them. Classical pragmatist political philosophy (e.g. Dewey) and contemporary reconstructive normative political philosophy (e.g. Habermas) provide illustrations of this third option. But it seems that pragmatism and reconstructive normative philosophy have given a narrow version of this third option. For Dewey and Habermas, difficulties met in our social practices and negative social experiences are the levers that compel us to articulate social problems in the public sphere and to use the principles of public deliberations to justify given solutions to them. But negative experiences can also impede access to public political sphere, functioning then as obstacles to the politicizing dynamic of social experience. Negative social experiences of injustice, poverty, or domination can undermine the subjective abilities as well as the social positions that are required to elaborate a claim in the public political sphere. Describing these kinds of subjective and social effects and, more generally, analyzing this negative

contribution of social experience to politics should be considered essential in the third option of political philosophy. But it is crucial in the other two options as well, since the first should try to promote participation in public deliberations regulated by legitimate norms, and the second one should try to promote political activities that could change the political game. For various reasons, however, political philosophy seems to be lacking in concepts and theories to describe the nature of politicizing dynamics of social experience and its obstacles. The first reason is the lack of interest in the theme of social experience as such, and the second reason is that an analysis of the psychological and social factors of these obstacles doesn't seem to belong to the legitimate domain of political philosophy.[1]

If political philosophy could remember the pragmatist invitation to reconstruct political philosophy from the standpoint of social experience, to consider experience in its social and psychological dimensions, and develop itself in an interdisciplinary approach, it could find in other human sciences a way to answer this lack. For instance, other human sciences could help political philosophy to elaborate a concept of political obstacles within the framework of a theory of social suffering. Today, the notion of social suffering is used mainly in medical and poverty anthropology, but some sociologists refer to it as well. It is commonly used to describe the lived experience of injustice and domination, and to highlight the interplay of its social and subjective components. The very notion of social suffering calls for interdisciplinary approaches, but such approaches are a problem not for political philosophy only; human sciences are also reluctant to employ this notion. The very idea of social suffering is puzzling and it seems that human sciences feel uneasy with it: because of academic boundaries, no legitimate room seems to be left for a study of social suffering in these sciences. Although the problematic of social suffering has been worked out by sociologist such as Bourdieu,[2] anthropologists such as Kleinman, Das, or Scheper-Hughes,[3] and psychoanalysts such as Dejours,[4] these theoretical accounts are always subject to criticism. To struggle with these academic boundaries is also part of the work of the kind of political philosophy I am advocating for – a part that can be labeled "social philosophy."

As a first step, I describe what one usually means by the notion of social suffering and what the various objections to this very notion are. As a second step, I sketch out some implications of the issue of social suffering for the politics of political philosophy. As a third step, I conclude with some general considerations about the relationship between political and social philosophy.

Rejection or exploration of the issue of social suffering?

The notion of social suffering refers here to sociological, psychological, and anthropological inquiries on the various forms of "exclusion" (long-term

unemployment, homelessness), on work, and on extreme poverty. For instance, sociologists of long-term unemployment have explained how the social difficulties faced by long-term unemployed tend to produce psychological difficulties that increase these social difficulties and thus create new suffering. Psychopathologists of work have explained that individuals confronted by increasing suffering at work use psychic defenses that undermine their ability to adapt to new social difficulties at work (such as organizational changes) and to cope with biographical difficulties outside of work, so that these individuals become more vulnerable to severe psychic suffering. Anthropologists of extreme poverty have described how the suffering produced by the social situation in slums tends to produce some forms of violence that worsen this social situation and the associated suffering.

As used by these sociologists and psychosociologists, or by poverty or medical anthropologists, the notion of social suffering aims to describe these connections between subjective and social aspects of experiences of injustice and domination (especially of injustice as poverty and domination as violence). On the one hand, this notion highlights the subjective dynamics of social experience of injustice and domination; it focuses on the fact that these situations have something unbearable so that they produce practical tendencies to transform them, to escape from them, or to adapt to them if the first two reactions aren't achievable. This notion points out that experiences of what is unbearable have the power to transform social relation (by attempts made to transform them or to escape) as well as individual subjectivity: one has to mobilize psychic defenses to adapt to what is unbearable, and these defenses produce new effects on social relations (for instance, not only a greater social isolation and vulnerability to violence but also a tendency to use violence as a means of self-expression). On the other hand, the notion of social suffering stresses that in these experiences, the origin of suffering is social and not merely biographical, in the sense that it can be traced back to general social relations as well, and not only to contingent biographical events and structures of family life. Two kinds of social factors then have to be taken into account: positive and negative ones. Positive social factors are those that produce suffering: for instance, social structures of injustice and domination. Negative social factors are those that undermine social resources ordinarily used to make social life bearable: for instance, a notion such as "exclusion" describes a general social process that undermines the social support we need to bear the ordinary violence, failures, and disappointments of social life. In social suffering, psychological and social factors – both positive and negative ones – are always intertwined.

References to social suffering offer an interesting means to investigate the social and psychic dynamics of extreme social situations of poverty and violence, as well as those of more ordinary situations of social injustice or domination. Nevertheless, such a reference is highly controversial. There are mainly two kinds of arguments for the rejection of the issue of social

suffering, the first of which are epistemological, and the second political. Among epistemological arguments, two deserve special attention. The first claims that neither sociology nor psychology can provide a convincing theoretical framework for the study of social suffering. Sociology would be able to deal only with interaction difficulties and social constructions of expressions, perceptions, and reactions to pain and misery; it couldn't take the psychological core of suffering into account. Conversely, psychology couldn't deal with the complex interplay of social structures, norms, and interactions that are at stake in suffering. Owing to their academic boundaries, social sciences should restrict themselves to deal with suffering as a social construction of suffering (medical anthropology) or as dysfunctioning (sociology),[5] and psychology should conceive of suffering as an individual aspect of social experience that no sociological methodology could investigate. Since no other theoretical framework is able to compete with sociology and psychology to make sense of social suffering, all discourses on social suffering would necessarily remain weak, vague, and confused.[6]

In my view, instead of being conceived of as objections to the study of social suffering, these epistemological arguments should rather be understood as challenges that human sciences have to face. As a matter of fact, there is no reason why all phenomena should fit perfectly within the conceptual frameworks of academic disciplines. Confronted with the need to develop a "complementary epistemology" to justify the existence of his "ethnopsychiatry" against epistemological arguments of orthodox psychoanalysis and cultural anthropology, Devereux has stated that "the isolation of phenomena is a fundamental strategy in science, while amputation of reality of its core characteristics only enables one to fit it into the procrustean bed of one's scholastic impotency."[7] There are good reasons to think that the epistemological arguments mentioned above also identify a kind of concern with scholarly orthodoxy to which a "complementary epistemology" is the correct answer. The issue of social suffering is interesting particularly because it raises questions that can't be addressed by sociology or psychology alone: sociology usually fails to explain what suffering is actually doing to the individual, and psychology usually fails to give due consideration to the social processes and meanings that are involved in suffering as an individual experience. By failing to explain social suffering, both of them are failing to tell the truth about the social experience.[8] In fact, sociology tends to give a euphemized vision of the social (where the worst problems of our life are put aside: violence, illness, and fear of death[9]), whereas psychology tends reify individual problems (overstating biographical contexts and cutting off individual experiences from their social contexts and meanings). By failing to address the issue of social suffering, sociology and psychology also fail to give a sufficient explanation of what is at stake in some of their major notions. For instance, it might be considered that sociology tends to reduce social roles to modes of regulation of interaction, whereas for individuals,

roles are also means of protection against the risk and the consequences of failure and disappointment in interaction.[10] The issue of social suffering is not an objection against sociology and psychology as such. Nevertheless, it raises important challenges they should try to face; indeed, sociological and psychological theories such as "clinical sociology"[11] or "psychodynamics of work"[12] are trying to face them.

A second epistemological argument deals with the structures of our common language. Given that language is above all a means of interaction,[13] it might be that it is geared toward articulating the success of our interactions rather than geared toward articulating the dysfunctionings of intersubjective relations and failures of our projects. Isn't it true that we all feel uneasy and disabled when we try to express our own suffering and to make sense of the pain and misery of the others? The conflict between suffering and language is also illustrated by the fact that suffering has the capacity to dismantle language and to produce muted subjects.[14] According to some authors, theory cannot overcome this impossibility to articulate suffering in language, and one should restrict oneself to ethnographical approaches to the various social forms of expressions of suffering (in linguistic or bodily means, in direct or indirect ways) and reactions to it.[15] But, in my view, the fact that suffering always exceeds our capacities for linguistic and cultural expression is not really an argument against theoretical investigations of social suffering. Psychoanalysis proves that even if suffering remains always partly below expression and even below consciousness, concepts and techniques can be elaborated to make sense of it. Psychoanalysis has also explained that "thinking" of suffering is often in itself a suffering, since one is then confronted with both one's suffering and one's psychic defenses.[16] In this respect, one might wonder whether the stakes in this second epistemological argument (and maybe in the first one also[17]) concern not logical constraints but rather psychological defenses.

Let us now consider arguments against political references to social suffering. It is interesting that a strange consensus among political enemies takes place against such references. Libertarians argue that the issue of social suffering tends to reduce individuals to impotent victims instead of revealing their responsibility and ability to succeed. Liberals worry that this issue could lead to a new paternalism in which social critique pretends to promote the happiness of individuals: if one is criticizing the society for the suffering it produces, he is not only confusing social justice and good life, but also claiming that collective discussions should define the nature and the amount of happiness and suffering of individuals. Republican thinkers inspired by Arendt point out that a reference to suffering leads to a politics of pity, in contradiction to the definition of politics as the joy of being together. From a Foucaultian point of view, references to social suffering appear as part of a new bio-power and run the risk of medicalization and psychologization of the political. Among Marxists, the issue of social suffering

is often suspected of dealing only with domination's effects on individuals rather than with the social structures of domination.

None of these arguments is totally convincing. It is obvious that all individuals don't have the capacity to monitor their social life and that suffering can not only reduce this capacity but also lead individuals to engage in catastrophic biographical and social trajectories.[18] But suffering is an obstacle not only to freedom but also to political participation. As soon as one admits that political activity ought to endeavor not only to build a world in conformity to principles but also to increase individuals' participation in political activity, it makes little sense to oppose the joy of political participation to a critique of suffering.[19] The liberal objection against political references to social suffering is no more satisfying. Since suffering is unequally distributed in society, and since it is produced by given social situations supported by particular social groups, might it not be considered that a critique of suffering can be part of a critique of social injustice?[20] The Foucaultian argument also misses its target. There is often a gap between the lived experience of suffering and medical categories, so that the issue of social suffering can be a means for a critique of medicalization of social experience.[21] And if the suffering is produced by society, it calls for a social transformation not only for individual therapy – it leads to a political conflict about health rather than to medical normalization.[22] Hence, a critique of social suffering should aim to identify the social structures that produce suffering, so that there is no reason to think that focusing on suffering implies in itself a dissimulation of such structures. Marx and Engels repeatedly urged the necessity of criticizing capitalist society, considering the effects it produces on individuals. Suffering produced by exploitation and unemployment is a major theme of their writings.[23] If Marxism wants to talk about reality and to become again something else than a mere academic discourse, it has to take social suffering into account.

It might be considered that this unconvincing consensus against the consideration of social suffering in political philosophy is a symptom of limitations on the political language of modernity itself. This language is shaped by liberal principles that have the power to assimilate other traditions (forms of republicanism, forms of socialism, forms of Foucaultianism) and that tend to exclude from what deserves political consideration all the problems that cannot be phrased in terms of the universal rights of individual freedom. In respect to this narrow definition of justice, it is surely difficult to consider the issue of social suffering as a political one. If social critique has to refer to universal principles to decide what is just and unjust, it seems at first glance that subjective effects of negative social experiences are too particular to belong to the domain of justice and injustice. But, of course, liberalism also has its enemies: there is also something irreducible to liberalism in the other political traditions of modernity. In political modernity, the rejection of given social problems by the logic of liberal principles has been contested in

various ways. The opposition of socialism to liberalism (and the claim that social rights also are to be taken into account in a definition of justice) as well as the opposition of communitarianism to liberalism (and the critique of the priority of the just over the good) give famous illustrations. Interesting enough is the fact that socialism and communitarianism have also contributed to making social suffering a legitimate political object.

In the context of the discovery of the "social question," in the mid-nineteenth century, it became obvious that liberal principles were responsible for restrictions within the political sphere that social critique had to struggle against so that the various social forms of inequality and domination could be taken into political consideration. Indeed, these liberal restrictions converge with broader social processes that tend to hide problems that contradict social justifications or that cannot be resolved by the institutional means available: social suffering is invisible not only because of political processes but also because of social processes and institutional settings.[24] In modern political discourse, the political uses of the issue of social suffering emerged in the context of socialist attempts to struggle against these various political and social processes that tend to keep the "social question" invisible.[25] Even today, struggling against the social invisibility of the lived experience of domination and injustice appears as one of the major tasks of social critique. The suffering produced by increased spreading of slums in the peripheries of world economy, by the dismantlement of social support and protection in the center (exclusion, casual work, individualization), as well as by new conditions of work tend to be disguised or euphemized. Given that effects produced by these social situations on individual subjectivity ought to be considered as part of what is really pathological in these situations, references to social suffering are required to give to this new "social question" its full visibility and critical power. Also given that these effects constitute strong obstacles to politicization of these lived injustices and contribute to the emergence of a gap between social experience and the public political sphere (i.e. to a political alienation), the critique of social suffering is an answer to the critique of the political as well.[26]

Epistemological objections also expressed a refusal to tackle theoretical and psychological problems from which no one can escape in social and human sciences; it appears that political arguments against the issue of social suffering refuse to tackle political problems that deserve consideration. Rather than stating objections, epistemological and political arguments identify or express obstacles that converge and confirm each other. Exploring social suffering requires dealing with these obstacles, inventing forms of language and social critique that are able to overcome the shortcomings of academic boundaries and of political discourses, as Cavell, for instance, suggested in his comment on one of Das' essay on Indian partition rapes:

> I understand Veena Das' more or less implicit claim to be a double one, namely, that the study of the social suffering must contain a study of a

> society's silence toward it (or, say, the degree of its incapacity to acknowledge it), and that the study of that suffering and that silence must contain an awareness of its own dangers in mimicking the social silence that perpetuates the suffering.[27]

Let us now see how political philosophy could face the political challenges of social suffering, before coming back to the interdisciplinary challenges.

Two styles of social critique

If political activity is a way of using collective reflexivity to deal with problems arising from social experience, then political activity is essentially social critique and, therefore, political philosophy can claim to be political only if it participates in this collective reflexivity by elaborating theoretical models of social critique. If some given social problems need to be described in terms of social suffering, then political philosophy has to integrate references to social suffering in its model of social critique (and to reply to all arguments contesting the very principle of a description of the social in terms of social suffering, and the very legitimacy of political reference to social suffering). As social critique, all political discourses should be evaluated from the point of view of their social objects as well as from that of the political subjects they presuppose. On the one hand, social critique has to be able to take all the significant social problems into account and to describe them in a relevant way. On the other hand, it has to propose solutions to them as well as to identify the political subjects that are able to promote these solutions. References to social suffering can play a role in these two respects, both in the practical reasoning of the public political sphere and in the theoretical models of social critique of philosophy. But these two aims can be worked out in different ways.

In the classical model of social critique, these two aims are directly tackled. The theoretical critique understands itself as an expression of practical critique (social movements and conflicts, actual political transformations or institutions), and this practical critique is supposed to identify by itself the significant social problems and to produce through its own process the relevant political subjects.[28] In that sense, the practical critique gives to the theoretical critique its practical and cognitive warrants. The theoretical task is then mainly that of justification. As justification, the theoretical critique tries to show that the identified social problems deserve attention, and that they can be solved in the way suggested by the practical critique. The theoretical critique also tries to explain why these political subjects can legitimately and efficiently undertake the social transformation in view.

To this first model of social critique belongs the idealist definition of political philosophy as a moment of the emancipating dynamic of

history, as well as the liberal definition of political philosophy as elucidation and justification of the normative assumptions of modern democracies, and the materialist understanding of the "critique of political economy" and its "organic intellectuals" as representing the proletariat. Specific to this last option is that the work of social justification is not separated from the struggle against the cognitive limitations of public political deliberations: a struggle that takes the form of the critique of ideology. As we have noted, Marx and Engels give evidence that references to social suffering can participate in this classical model of social critique. These references can play a role in the justification part of the theoretical social critique, since the very fact that given social processes produce suffering for groups of individuals justifies attempts to transform these social processes. Since exclusion of social suffering from the political public sphere seems to express cognitive restrictions on political deliberation, social suffering can also be considered as a part of the critique of ideology.[29]

Specific to the second model of social critique is that it presupposes neither identification of social problems by social and political movements nor preconstituted political subjects. Even if the first model remains (and maybe should remain) the general model of social critique, in some cases, social movements and political dynamics aren't able to identify all significant social problems. And in some cases, resistances and attempts to solve such problems are so weak and inchoate that political subjectivity appears as a problem rather than as a grounding fact. In such cases, the theoretical social critique loses its cognitive and practical warrants. The critical thought of the twentieth century offers many illustrations of reflections on this lack. A large movement to redefine social critique has tried to draw all the consequences from the defeat of the proletariat as a revolutionary subject (after the failure of socialist revolutions in the West, and later on in the East), and from the difficulty of considering liberal democracies as a sufficient protection against oppression (after the Nazi terror).[30]

Maybe more than all others, Adorno has tried to think thoroughly the conditions of the social critique that results. In the age of the rise of mass fascism in Europe, he urged that critical theory should make explicit not only those social dynamics that aim toward emancipation but also those that explain consent to injustice and domination.[31] His loss of confidence in the possible practical and cognitive warrants of critique led him to see almost all institutions and cultural productions of his time as forms of domination and reification. Since practical critique is always imprisoned in the dilemmas of totalizing and mutilating modern rationalization, the theoretical critique alone is supposed to remain possible. And it is striking that suffering gives a substitutive pre-theoretical warrant to critique. Because it is impossible to ground the critique in existing emancipatory practices,

the anthropological warrant of lived suffering gives to philosophy its legitimacy:

> The undiminished persistence of suffering, fear, and menace necessitates that the thought that cannot be realized should not be discarded. After having missed its opportunity, philosophy must come to know, without any mitigation, why the world – which could be paradise here and now can become hell itself tomorrow. Such knowledge would indeed truly be philosophy.[32]

Here, after having lost its practical hopes, social critique understands itself mainly as a mere testifier to the unbearable. And since social transformations are not really on the agenda, it is not surprising that this unbearable is mainly identified as suffering as such, rather than as determinate forms of social suffering.

But references to suffering can also play another role in the second model of social critique. In fact, the issue of social suffering is able to offer other explanations for the lack of practical and cognitive warrants. On the one hand, this issue helps to identify various social problems that are generally not taken into account (or inadequately) in institutional political deliberation and social movements. The development of depression and psychic troubles in Western societies as well as the development of suffering at work in new working conditions provide examples of major problems that are not easily articulated in the public political sphere. It is also the case with the suffering linked with structural violence (that of gender domination, racism, exploitation, and poverty) in ordinary or extreme social situations. Many social problems of our time can't be described in all their seriousness if these are not described in terms of suffering, even if the theoretical and political vocabulary is hardly appropriate to such descriptions. In Bourdieu, the function of references to social suffering is clearly to highlight this kind of political-cognitive problem:

> With only the old-fashioned category of "social" at their disposal to think about these unexpressed and often inexpressible malaises, political organizations cannot perceive them and, still less, take them on. They could do so only by expanding the narrow vision of "politics" they have inherited from the past and by encompassing not only all those claims brought into the public arena by ecological, antiracist or feminist movements (among others), but also all the diffuse expectations and hopes which, because they often touch on the ideas that people have about their own identity and self-respect, seem to be a private affair and therefore legitimately excluded from political debate.[33]

In essays by authors such as Das and Kleinman, although their aims are not always as straightforwardly political as in Bourdieu, the function of

descriptions of social suffering is also to disclose some serious social problems that current social representations and political language are hardly able to frame:

> A language of dismay, disappointment, bereavement, and alarm that sounds not at all like the usual terminology of policy and programs may offer a more valid means for describing what is at stake in human experiences of political catastrophe and social structural violence (...), and also may make better sense of how the clash among globalizing discourses and localized social realities so often end up prolonging personal and collective tragedy.[34]

Hence, the issue of social suffering provides answers to the lack of cognitive warrant. It can also answer to the lack of practical warrant since the very notion of suffering denotes a constellation of features that impede social struggles and political confrontations. Suffering is individualizing; it often implies destructions of communities rather than solidarity. Cutting individuals from the collective resources to deal with their social difficulties, suffering also tends to produce guilt complexes, presenting oneself as the origin of its social problems; in contradiction to what is said in the psychologization critique, suffering itself psychologizes the social – and not only the issue of social suffering! Even if suffering is often a critical comment about the world and the intersubjective relations that we live in and is often experienced as such a critical comment,[35] for various reasons, suffering is nevertheless often difficult to narrate and to make public: because of its intimate and biographical dimension that one is reluctant to make public, because of the failures it reveals (those that we usually try to hide in social interactions), because of the lack of adequate vocabulary for the expression of what usually remains below public expression and hidden in interactions, because of the gender constraints of its expression (expression of suffering tends to be reduced to women), because of the moral violence of its articulation and perception outside of social rituals such as mourning, because of the gap between these social rituals and its lived experiences (for instance, the social constraints of mourning are often lived as a new violence by the sufferers).

It is always a challenge to transform social suffering into a political claim. In Bourdieu, narratives and theories try to disclose suffering so that individuals could develop a new relation to their own social difficulties and enter in a process of politicizing their suffering:

> As skeptical as one may be about the social efficacy of the sociological message, one has to acknowledge the effect it can have in allowing those who suffer to find out that their suffering can be imputed to social causes and thus to feel exonerated; and in making generally known the social

> origin, collectively hidden, of unhappiness in all its forms, including the most intimate, the most secret.[36]

Analyzing the consequences of mass rapes during Indian partition and the collective reactions to them, Das also tries to fight against the silence imposed on victims, to help them overcome the dynamic of self-destruction (in a healing dynamic) and to find appropriate ways of collective expressions (in bodies and voices):

> The healing force of social anthropology can come if the experience of suffering (...) does not become cause for consolidating the authority of the discipline, but rather an occasion for forming one body, providing voice, and touching victims, so that their pain may be experienced in other bodies as well.[37]

In Bourdieu as well as in Das, the reference to social suffering is supposed to participate in a dynamic of empowerment that is the answer to the lack of practical warrant.

When critique refers to social suffering as an answer to a lack of practical and cognitive warrants, the theoretical critique is no longer a mere testifier, but a critical "spokesperson."[38] Authors who have tried to work out the issue of social suffering for almost twenty years are assuming, more or less explicitly, the second model of social critique in its spokesperson's version rather than in its testimony version. Bourdieu's aim is to struggle against the social invisibilization of important problems that social movements fail to bring into the public political sphere. In doing so, he is not only trying to give a better understanding of the social world and to modify the perception of those who are concerned by these problems; but he is also trying to give the subaltern desires and voices a place in theory and in politics.[39] Das wants to contribute to breaking the circle that leads victims of social suffering to silence: suffering is always difficult to express, but it becomes quite impossible to do when it is collectively denied, and when those to whom the suffering discourse could be addressed are those "autonomous citizens of India [who] were simultaneously born as monsters."[40] In both Bourdieu and Das, the spokesperson is critical, struggling against official spokesmen who instrumentalize suffering for their own sake or help to invisibilize and euphemize it. Bourdieu criticized politicians and media sociologists who use their social and cultural "capital" to impose their interpretations of the meaning of social suffering.[41] In her analysis of the Bhopal gas leak tragedy, Das has shown how medicine, law, and State refer to suffering to legitimate their deeds (as spokesmen of suffering) and to deny the suffering of victims (talking about it as a mere "verbal object"[42]): "suffering was cut off from the victims in order to be refashioned as a trope which legitimized the producers of juridical discourses. The more suffering was talked about, the more it

was used to extinguish the sufferers."[43] Even more than in Bourdieu, the aporias of being a "spokesperson" of social suffering are raised, and when this suffering is totally muted, the proximity between these aporias and those of the testimony becomes obvious.[44] Nevertheless, there is no alternative to the "spokesperson" model if one refuses the social invisibilization of social suffering and the various ways that institutional spokespersons deal with it: because suffering tends to produce "muted subjects," the only political subject able to contradict institutional spokespersons is a spokesperson of social sufferers.

To determine more precisely the kind of social critique Bourdieu and Das propose when they define sociologist or anthropologist as spokesperson, it might be useful to mention Honneth's notions of "pathologies of the social" and "disclosing critique" (*erschließende Kritik*). Honneth defines "pathologies of the social" as "the other of justice." Here, justice means equal respect of universal rights, whereas social pathology refers to negative effects produced by institutions on individual lives. And instead of being judged from the point of view of these universal rights, these effects are evaluated based on the distortions of forms of life they are able to involve. It seems quite obvious that the critique of social suffering is a critique of social pathologies if social pathology is conceived of in a Honnethian way: it is a critique of the negative effects of social forms and, more precisely, a critique of the painful effects that can be labeled as suffering and that are able to undermine the value given to universal rights. Honneth claims that in the modern liberal framework, political deliberations tend to bring justice to the fore and to invisibilize all the problems that do not belong to the domain of justice and injustice. Therefore, the critique of social pathologies can be conceived of as a "disclosing critique." Here, disclosing means making social problems visible. It focuses on social problems that are made invisible by over-restricted principles, and it tries to justify attempts to bring these problems into the public political sphere. Anthropologists such as Das, Kleinman, or Scheper-Hughes aim to reveal the suffering invisibilized because it is ordinary or routinized, the suffering denied because it is too difficult to become aware of and to justify, the suffering euphemized or stigmatized by media representations because of various social and economic processes.[45] In Bourdieu also, a disclosing critique aims to make visible a suffering that is not politically represented, and to bring the issue of social suffering into the language of social movements and into the institutional political public sphere.

But the notion of "disclosing critique" has another function. Making visible what appears as unbearable means undermining social justifications and then offering new objects to social critique. To function as social justification, given justifications presuppose given descriptions of the social world and tend to exclude other descriptions of it. Conversely, a description of what is unbearable and excluded by institutional justifications weakens

the legitimacy of these justifications and discloses new descriptive possibilities. These cognitive effects are connected with practical ones. The description of the unbearable aspects of our common life tends to break our identifications with our social world and to produce some affective reactions against it. These practical and cognitive effects facilitate a politicizing dynamic of social experience, that is, a reflexive process where social difficulties appear as problems whose solutions are matters of collective decisions about social organization.

In fact, the description of social suffering has a double pragmatic power: a cognitive capacity to undermine social justifications and to produce new perceptions of the world, and an affective capacity to produce critical practices. Even if the notion of "disclosing critique" hasn't been set up in reference to suffering, it is able to capture this double pragmatic power. But it is only able to capture social suffering as a practical and cognitive lever for an enlarged social critique, without analyzing the various psychological and social obstacles to a reflexive politicization of social experience it implies. The originality, influence, and power of the social critique proposed by Bourdieu and Das rest on their attempts to connect the pragmatic effects of description of social suffering with an account of these social and psychological obstacles to political activity. If political philosophy wants to participate in the reflexive politicization of social experience, it can't restrict itself to the normative distinction between justice and social pathology, it also has to take into account the various ways in which social suffering functions as a lever as well as an obstacle from an interdisciplinary perspective that combines normative conceptions with sociological and psychological descriptions of negative social experiences.

What about political philosophy?

There are many reasons to promote analysis and critique of social suffering. Some of the specific problems of post-fordist societies (such as those produced by involvement and autonomy prescriptions at work, or those produced by isolation and lack of social protection for individuals) can't be analyzed within the framework of the academic boundaries of human and social sciences. The issue of social suffering invites us to describe these problems, and it also provides a model of social critique that can overcome the helplessness of classical models. Now, how can political philosophy deal with this issue?

According to a common understanding, the task of political philosophy is to make explicit the normative assumptions of social critique. At first glance, mainstream political approaches seem able to articulate the normative principles of the critique of social suffering. Since suffering is unequally distributed in societies, it is possible to elaborate an extended notion of justice to ground the critique of social suffering. Also as suffering contrasts

with the expectation of a good life, it seems possible to bring the issue of social suffering within the framework of the communitarian critique of liberalism, and because suffering is an obstacle to positive freedom, capability theories can also deal with the critique of social suffering. Indeed, all these options are appropriate to the critique of given forms of social suffering. But in some cases, they remain insufficient. For instance, the reason why the lives of slum dwellers, of the homeless, or of workers subjected to intensive subjective mobilization and paradoxical injunctions are sometimes felt as unbearable by them is not merely because they are neither just, nor good, nor free. Curiously, political philosophy seems to have little interest for unbearable lives. Such interest could lead it to analyze the ways in which individuals have to adapt to or have to identify themselves with the unbearable, to sacrifice their hopes, their desires, and even their thought, to mobilize psychic defenses that can produce severe psychic troubles and can be decompensated in violence or suicide.[46] The critique of such phenomena can't rest solely on the norms of justice, the good life, or positive freedom. It calls for a description of the subjective effects, psychic and practical reactions to situations of injustice, lack of satisfaction and freedom – a description of subjective effects and reactions that are central to the critique of alienation.[47]

When political philosophy understands itself as an articulation of the normative assumptions of social critique, it usually rests on a quite narrow definition of the social. Within its theoretical framework, the social is usually reduced to a set of institutions that condition practices and ought to be organized by legitimate norms. Most of the time, political philosophers ignore questions about the nature of institutions, their relation with practices, the roles and forms of social justifications, and the complex interplay between the various general social processes that shape the social world (social structures of dominations and processes of exclusion, for instance). And when they take some of these issues into consideration, they usually refer to them within the framework of a social ontology (i.e. in a general discussion about the relation between practices and institutions), rather than in a real social theory (i.e. in a complete theory of the various relations between the factors of social life).[48] As a matter of fact, social ontology is a very convenient way of talking about the social, while avoiding the complex methodological problems of combining philosophical theory with theories produced by sociology, economics, history, and other social sciences. But as long as the various factors of social life are not taken into account, there is no possibility for introducing a relevant description of social suffering in the theoretical model of social critique.

Another specific feature of the common understanding of political philosophy is that, when philosophers restrict themselves to normative approaches or try to complete them by a social ontology, they seem to believe that it is possible to take the social as such into account without

talking about social experience. Even when political philosophy raises the issue of the effects of institutional settings on human life, as is the case in Honneth's definition of "social pathologies,"[49] it is symptomatic that these effects are described from the point of view of a "formal conception of good life," instead of being described in their subjective, psychic, and concrete practical dimensions. Political philosophy seems to share with social sciences the assumption that social reality could be defined outside of individual lived experience, in conformity to the classical opposition between sociology and psychology. As a result, it has to renounce the detailed study of the practical dynamics emerging from social experience that can foster or impede political reflexive activity and, therefore, make a real commitment to developing such reflexive activity.[50] If political activity is nothing but a way of using collective reflexivity to deal with problems arising from social experience, and if political philosophy can claim to be political only if it participates in this collective reflexivity, then it becomes essential to describe the cognitive and practical dynamics that arise from experience – and a theory of social suffering that explains how social and psychological factors are interconnected might play a useful role.

In a way, the issue of social suffering leads us to something that looks like the first project of Frankfurt School critical theory, as it was sketched by Horkheimer in the 1930s, that is, that of an interdisciplinary project rejecting the academic boundaries between philosophy, psychology, and social sciences, as well as a project where the theoretical stance is intertwined with social and political commitments in a critical aim. Since Habermas, most of the attempts to actualize critical theory have put the interdisciplinary approach aside to make critical theory compatible either with the normative style of contemporary political philosophy or with the conceptual framework of mainstream sociology. They also led to giving up epistemological analysis of the status of the philosophical discourses and of philosophy's relations to other theoretical discourses dealing with same objects (for instance, the social) and to common language and feelings. The issue of social suffering provides one opportunity among many others to come back to a critical theory that is aware of its epistemological assumptions and that is not shy of its political dimension and social commitment, and it also provides the opportunity to set up a new interdisciplinary approach combining philosophy, sociology, and psychology.[51]

Notes

1. See Deranty, J.-Ph. and E. Renault. "Democratic Agon: Striving for Distinction or Struggle Against Domination and Injustice ?," in A. Schaap (ed.), *Law and Agonistic Politics* (Aldershot: Ashgate, 2009).
2. Bourdieu, P. (ed.), *The Weight of the World: Social Suffering in Contemporary Society* (Stanford: Stanford University Press, 1999).

3. See, for example, Kleinman A., Das V. and Lock M. (eds), *Social Suffering*, (Berkeley, LA: University of California Press, 1997); Scheper-Hughes, N. "The Primacy of the Ethical: Proposition for a Militant Anthropology," *Current Anthropology*, 36: 3 (1995): 409–20.
4. Dejours Ch. *Souffrance en France* (Seuil: Paris, 1998); Dejours Ch., *Travail, usure mentale* (Seuil: Paris (third ed.), 2000).
5. See for instance, Dreitzel H. P., *Die gesellschaftlichen Leiden und das Leiden an der Gesellschaft. Vorstudien zu einer Pathologie des Rollenverhaltens* (Stuttgart: Ferdinand Enke Verlag, 1972), p. 17.
6. For instance, Fassin D., *Des maux indicibles. Sociologie des lieux d'écoute*, (Paris: La découverte, 2004), p. 65.
7. Devereux, G., *From Anxiety to Method in the Behavioral Sciences* (Mouton: Paris, 1967), p. 31.
8. About sociology, I. Willkinson writes that a sociology of suffering is a possible way to answer to the "crisis of sociology" and points out that "a critical sociology of suffering is a necessary part of the attempt to engage sociology in the struggle to tell the truth about our world so as to imagine how it can be made to change" (Willkinson, I., *Suffering. A Sociological Introduction* (Cambridge: Polity Press Cambridge, 2005), p. 164).
9. See, for example, Kleinman, A., "Santé et stigmate. Note sur le danger, l'expérience morale et les sciences sociales de la santé," *Actes de la recherche en science sociale*, no. 143: (Juin 2002): 97.
10. See, for example, Hugues, E. C. "Mistakes at Work," *Canadian Journal of Economics and Political Science*, 17: 3 (1951): 320–7.
11. Gauléjac, V. and S. Roy (eds), *Sociologie clinique* (Marseille/Paris: Hommes et perspectives/Desclée de Brouwer, 1993).
12. Dejours, Ch., "Subjectivity, Work and Action," *Critical Horizons*, 7: (2006), pp. 45–62.
13. As G. H. Mead has shown in *Mind, Self and Society* (Chicago: University Of Chicago Press, 1967).
14. See Das, V., *Critical Events. An Anthropological Perspective on Contemporary* (Delhi, India: Oxford University Press, 1995), ch. 7.
15. See Willkinson, "Introduction."
16. Green, A., *La pensée clinique* (Paris: Odile Jacob, 2002), Introduction.
17. On academic fundamentalism as psychic defense, see G. Devereux, 1967, chapters VII–VIII.
18. On the notion of "trajectories of suffering," see Schütze, F., "Verlaufskurven des Erleidens als Forschungsgegenstand der interpretativen Soziologie," in H. H. Krüger and W. Marotzki (eds), *Erziehungswissenschaftliche Biographieforschung*, Leske + Brudrich: Opladen, pp. 116–57.
19. See Deranty, J.-Ph. and E. Renault, "Democratic Agon".
20. See Renault, E., *L'Expérience de l'injustice. Reconnaissance et clinique de l'injustice* (Paris: La découverte, 2004a), part 3.
21. See, for example, Kleinman, A. and R. Dejarlais, "Ni patients ni victimes. Pour une ethnographie de la violence politique," *Actes de la recherche en sciences sociales*, 104: (Septembre 1994): 56–63.
22. See Renault, E., "Biopolitics and social pathologies," *Critical Horizons*, 7: 1 (2006): 159–77.
23. See, for example, Engels, F., *The Condition of the Working Class in England*, trans. and eds. W. O. Henderson and W. H. Chaloner, Oxford [Eng.]: B. Blackwell, 1971 or Marx, K. "A Worker's Inquiry", *La Revue socialiste*, April 20, 1880.

24. The various social, psychological, economical, and medical processes that converge in dissimulating suffering at work gives a good example of the complexity of "social invisibility"; see Gollac, M. and S. Volkoff, "La santé au travail et ses masques," *Actes de la recherche en sciences sociales*, 163: (June 2006): 4–17.
25. For the role of the problematic of social suffering in the emergence of the conflict between socialism and liberalism, see Renault (2006).
26. On this critique of liberalism and of political alienation, see Renault, E., "Radical democracy and abolitionist concept of justice," *Critical Horizons*, 6: 1 (2005): 137–52.
27. Cavell, S., "Comments on Veena Das's Essay 'Language and Body: Transactions in the Construction of Pain'," pp. 94–5.
28. In the mobilizing and organizing dynamics of social movement, or in the subjectification effects of political institutions, for instance, in citizenship produced by democratic institutions.
29. See Renault, E., "L'idéologie comme légitimation et comme description," *Actuel Marx*, 43 (2008b): 80–95.
30. It is noteworthy that this large reflexive process has led contemporary philosophers such as Balibar, Badiou, Rancière, Butler, and Zizek toward defining political subjectivity itself as a problem; see Zizek, S., *The Ticklish Subject. The Absent Center of Political Ontology* (London: Verso, 1999).
31. See Adorno, T. W., et al., "Introduction," *The Authoritarian Personality* (New York: Harper & Brothers, 1950), pp. 1–27.
32. Adorno, T. W., "Why Still Philosophy?," in *Critical Models: Interventions and Catchwords,* trans. H. W. Pickford (New York: Columbia University Press, 1998), p. 14. On suffering in Adorno, see among other writings Bernstein, J. M., "Suffering Injustice: Misrecognition as Moral Injury in Critical Theory," in *International Journal for Philosophical Studies*, 13: 3 (2005): 303–24; and Honneth, A., "A Physiognomy of the Capitalist Form of Life: A Sketch of Adorno's Social Theory," *Constellations,* 12: 1 (2005): 50–64.
33. Bourdieu, *The Weight of the World,* p. 627.
34. Kleinman, Das and Lock, "Introduction," pp. x–xi.
35. Kleinman A. and J. Kleinman, "Suffering and its Professional Transformation: From Cultural Category to Personal Experience," *Culture, Medicine and Psychiatry*, 15: 3 (1991): 275–301.
36. Bourdieu, *The Weight of the World,* p. 629.
37. Das, *Critical Events*, p. 196.
38. On sociology as "spokesperson," see Bourdieu, P., *Pascalian Meditations,* (Stanford: Stanford University Press, 2000), pp. 184–8.
39. See *Entretien* with Maggiori, R. and J.-B. Marongiu, *Libération*, November 2, 1993, www.homme-moderne.org/societe/socio/bourdieu/misere/libe0293.html
40. Das, V., "Transaction in the Construction of Pain," *Social Suffering*, pp. 88–9.
41. On the critical function of the spokesperson of social suffering, see Bourdieu, P. "il faut que l'intellectuel donne la parole à ceux qui ne l'ont pas!," *L'Événement du jeudi*, septembre 10–16, 1992.
42. Das,V., *Critical Events*, p. 164; see also, pp. 142–3 : "This denial did not occur through repression and censorship alone, but rather by talking about suffering in such a way that it comes to be constituted purely as something verbal. Language came to be developed as an end in itself, creating discourses of which the function was to dissolve the concrete and existential reality of suffering victims."

43. Das, *Critical Events*, p. 174.
44. Das, V., "The Act of Witnessing, Violence, Poisonous Knowledge and the Act of Witnessing," in V. Das, A. Kleinman, M. Ramphele and P. Reynolds (eds), *Violence and Subjectivity* (Berkeley: University of California Press, 2000), pp. 205–25.
45. Das, V., *Critical Events*; Kleinman, A. and J. Kleinman, "The Appeal of Experience. The Dismay of Images: Cultural Appropriations of Suffering in Our Times," in A. Kleinman, V. Das and M. Lock (eds), *Social Suffering*, pp. 1–23; Kleinman, A. "The violence of Everyday Life. The Multiples Forms of Social Violence," in V. Das, A. Kleinman, M. Ramphele and P. Reynolds (eds), *Violence and Subjectivity* (Berkeley: University of California Press, 2000), pp. 226–41; Scheper-Hughes N., *Death without Weeping: The Violence of Everyday Life in Brazil*, (Berkeley: University of California Press, 1992).
46. See Dejours Ch., "Nouvelles formes de servitude et de suicide," *Travailler*, 13: (2005): 53–76.
47. See Renault, E. "From Fordism to Postfordism: Beyond or Back to Alienation," *Critical Horizons*, 8: 2 (2007): 205–20; Haber, S., *L'Aliénation. Vie sociale et expérience de la dépossession* (PUF, Paris, 2007).
48. Since Habermas's *Theory of Communicative Action* (1981), no attempt to set up a political philosophy informed by a social theory has been made.
49. For a critique of the lack of social philosophy in modern and contemporary political philosophy, see Honneth, A., "Pathologies of the Social: The Past and Present of Social Philosophy," in his *Disrespect: The Normative Foundations of Critical Theory,* Polity, pp. 3–48.
50. See Deranty, J.-P. and E. Renault, "Politicizing Honneth's Ethics of Recognition," *Thesis Eleven*, 88: 92–111.
51. See Renault, E., *La souffrance sociale. Sociologie, psychologie et politique* (Paris: La Découverte).

10

The Subject of Multiculturalism: Culture, Religion, Language, Ethnicity, Nationality, and Race?

Sarah Song

Contemporary political theory debates about multiculturalism largely take for granted that it is "culture" and "cultural groups" that are to be recognized and accommodated. Yet the discussion tends to draw on a wide range of examples involving religion, language, ethnicity, nationality, and race. Culture is a notoriously overbroad concept, and all of these categories have been subsumed by or taken to be synonymous with the concept of culture. Consider some prominent examples.

Language is central to Charles Taylor's view of culture. Each language is taken to be an expression of the authentic identity of the people who speak it. The culture of Quebec, Taylor says, "means in practice the French language."[1] Beyond language, the "politics of recognition" that Taylor explores in his seminal essay includes claims not only by ethnic and national minorities but also by women and racial minorities for the recognition of the equal worth of their collective identities.[2]

Like Taylor, Will Kymlicka's theory of multiculturalism is focused on defending self-government rights of indigenous groups and minority nations, such as Quebec. He also defends special accommodations for immigrants, what he calls "polyethnic rights." Yet, all of his "ethnic" examples are cases of religious exemption: Jews and Muslims in Britain who seek exemptions from Sunday closing and humane animal slaughter laws; Sikh men in Canada who seek exemptions from motorcycle helmet laws and official dress codes of police forces; and Muslim girls in France who want to be exempted from school dress codes so they can wear the headscarf.[3]

More recent contributions to the multiculturalism debate also draw on cases involving religion, language, ethnicity, nationality, and race – including female circumcision, polygamy, cultural defenses in criminal law, public funding for religious schools, religion-based family law, aboriginal membership rules, and affirmative action programs – without much explicit attention to the relationship between culture and these other categories of difference.[4]

This chapter attempts to disaggregate a variety of claims typically associated with multiculturalism. Multiculturalism has been taken to be a key part of struggles for religious, ethnic, and racial justice, and I want to see how the idea of culture figures in arguments for group-differentiated rights in the context of religion, language, ethnicity, nationality, and race. My aim is not to offer a classification of different types of "cultural rights" claims (e.g. exemptions, positive assistance, self-government rights), nor to offer normative assessments of the variety of arguments I consider. My aim is largely explanatory: I want to distinguish some key arguments that have been offered for a range of multiculturalism claims from within liberal theory.[5] I have organized my discussion by different categories of groups (e.g. religious, linguistic, ethnic, racial) in the hope that this organization will make it easier to discern the similarities and differences between arguments associated with these different categories.

Disaggregating multiculturalism is important for at least two reasons. First, it can help us see what is really at stake in different "claims of culture." The term "culture" has come to signify the myriad customs and practices that constitute a way of life for a group of people: rituals, food, dress, family roles and interactions, musical and other artistic preferences, etc. But if we look closely, we can see distinct sorts of claims. Most of the cases that bear the weight of multicultural theory are claims about religion. In other cases, what is at stake is the preservation of a language. In still other cases, claims have arisen out of a history of exclusion and marginalization, with subordinated groups demanding not only material remedy but also symbolic recognition of the collective identities and traditions that they have developed in resistance to subordination. For some groups, all of these issues are at stake. As I hope to show, the appeal to culture often masks what is at stake, and it also turns out to be redundant in the justification of some religious, linguistic, ethnic, and racial claims.

Disaggregating "claims of culture" can also help us think about how multiculturalism connects to the pursuit of equality more generally. Some have argued that multiculturalism, understood as a symbolic politics of recognition, is a distraction from the pursuit of equality, viewed as the material politics of redistribution.[6] The suggestion here is that multiculturalism focuses on valuing cultural diversity while ignoring economic inequality. I think the story is more complicated than this. Both redistribution and recognition are important dimensions in the pursuit of equality for racial, ethnic, and religious minorities.[7] Most egalitarians are focused on redistribution, but recognition is also important not only for the consequences it has on socioeconomic status and political participation but also for fostering the symbolic inclusion of marginalized groups. To explore the role of multiculturalism in the larger struggle for equality, we first need to distinguish among a variety of multicultural claims and consider the sorts of disadvantages they aim to address.

Religion

Much analysis of group rights and multiculturalism revolves around religious examples: religious exemptions from generally applicable laws, the recognition of traditional legal codes of religious communities, and limited self-government rights for territorially concentrated religious minorities. Indeed, the word "culture" tends to be used to encompass such claims, where "culture" is taken to mean the customs and ways of life of a group of people. This tendency to equate culture with religion is understandable. Religious observance is shaped by local and national culture, as suggested by the great differences between the Indonesian, Indian, and Iranian forms of Islam. As Lawrence Sager has observed, "[T]he normative distance between religion and culture may not be so very great" since culture often "sits just behind and – in public perception at least – dominates religious belief."[8] Influence also runs in the other direction, with religious practice shaping local and national cultures. Amish religion shapes the Amish way of life, just as Native American religious practices inform Native American tribal cultures. As Bhikhu Parekh puts it, "[T]here is hardly a culture in whose creation, constitution and continuation religion has not played an important part, so much so that we have few if any examples of a wholly secular or humanist culture."[9] This observation applies to the modern cultures of the West, which have been deeply shaped by the values of Christianity.

Liberal theory offers one way of distinguishing the concepts of religion and culture. Religion makes demands on believers; one way of understanding these demands are as matters of conscience, matters experienced as binding ethical commitments.[10] As understood within liberal theory, moral, religious, and philosophical outlooks are explicit sources of normative authority. When a person takes a set of moral or religious beliefs to be true, she accepts those beliefs as providing reasons for action. In the case of many religions, these reasons are viewed by believers as universally true; they are reasons not just for them but for everyone. Cultures are not sources of normative authority in the same sense as religions are; they are not explicitly justificatory structures. We use the expressions "cultural norms" and "cultural values," but these terms tend to be used to describe what members of a group already do rather than to characterize the perceived authority of what they do.

Take the case of someone who identifies as culturally Mexican American. Speaking Spanish, eating certain foods, and associating with other Mexican Americans may be viewed as integral aspects of Mexican American cultural identity; they constitute cultural norms. But these cultural norms describe what it means to be Mexican American; they are not a source of normative authority in the way that Catholic beliefs in the divinity of Jesus Christ and the necessity of sacraments are a source of normative authority for Catholics. Being a religious Catholic means accepting the tenets of Catholicism as

important guides for action. In contrast, being Mexican American does not require accepting the truth and authority of any particular set of values or principles. Insofar as there is such a thing as Mexican American values or principles, they seem to stem largely from religious aspects of Mexican American culture (e.g. Catholicism or indigenous religions). This is not to deny the normativity of some cultural traditions and practices. For example, for many Mexicans and Mexican Americans *El Día de los Muertos* may have secular value even if not religious value. Cultures are not mere behavioral regularities; they also include values. My point here is that when people make and respond to claims for special accommodation in the context of politics, the appeal to culture – the fact that something is part of a culture – does not confer normative authority on the claim. Some account of the importance or value of the cultural practices needs to be provided in such contexts. In some cases, there may be no value at stake, so that the appeal to culture is simply an appeal to tradition ("Others should help us to continue to behave this way because we have always behaved this way"), which by itself has no normative force. Such brute appeals to tradition are what lie beneath the appeal to culture in defense of practices that subordinate women.[11]

We can see that distinct reasons may be offered for accommodating religion, in contrast to non-normative aspects of culture. Multicultural theorists have defined the value of culture and cultural membership in terms of its role as a "context of choice" that enables individual freedom by providing a rich set of options from which to choose and also its role in supporting self-respect.[12] Religious affiliation, such as cultural affiliation, can serve these purposes. But this is neither the reason that liberal democracies give for accommodating the claims of believers, nor the reason why many believers themselves seek accommodation. One leading reason that liberal democracies accommodate religion is the recognition that religious claims are especially weighty normative claims. Call this the *argument from the special nature of claims of conscience*. The project of liberal democracy presumes that people are ethical agents with the capacity for reflection about their beliefs and actions. Respecting people's ethical agency requires allowing them to determine for themselves which norms they take to have authority over them. The constitutions of liberal democracies show respect for ethical agency by protecting freedom of religion and freedom of conscience more generally, including protecting conscientious objectors from military service on grounds of secular moral convictions. Respect for ethical agency requires, at the very least, that no particular religious affiliation be required for the enjoyment of basic liberties, and that the state intervene to protect people against discrimination on religious grounds. Constitutional protections for freedom of conscience have helped ensure that liberal democracies are more pluralist than assimilationist in approach when it comes to religion.[13]

Even where a pluralist approach is taken, religion continues to be a major source of controversy in the West. There is ongoing disagreement about the nature and scope of religious freedom, in part, because many religious groups reject the liberal view of privatizing faith, and also because state action has tended to support some religious groups over others. Consider first the point about resistance to privatization. Religious groups have been politically active in all contemporary democracies, and the nature and extent of their political involvement have always been controversial. In response to the classical liberal stance of separation of religion and politics, many religious groups contend that such an approach discriminates against religious individuals. Not only do they seek to bring their beliefs to bear on politics (e.g. evangelical Christians and some Catholics on the issue of abortion), they also seek special accommodations from the state to pursue their religious practices (e.g. Muslims and Jews seeking exemption from generally applicable laws or public funding to pursue their religious practices). Liberal theory seeks to limit appeals to religious beliefs in political argument because they bring in irreconcilable bases for public political debate. How are members of a society to engage in public debate, let alone reach agreement, on educational, economic, or any other type of policy if each member appeals to her own God as the ultimate basis of moral and political authority?[14]

In Western Europe, the question of the proper relationship between religion and politics has once again moved to the forefront of political debate, in part, because of the migration and settlement of large numbers of Muslims. Like evangelical Christians in the United States, many Muslims reject the liberal insistence on privatizing faith. They have an additional grievance that grounds a distinct argument for religious accommodation. Many Muslims claim that they receive little public accommodation in their efforts to live according to Islam, in contrast to the assistance already extended to Christians and Jews. This is most apparent in France, where the political doctrine of *laïcité* has made it particularly hard for Muslims to gain public accommodation of their religious practices. Muslim activists in Britain have been more successful in gaining public recognition of their religious activities, including public financing of Muslim schools, the building of mosques, and the provision of social welfare services through Muslim agencies, in part, by emphasizing the unfairness of state establishment of one religion over others.[15] The general conclusion by many Muslims, however, is that support for Islamic institutions in Western Europe is unequal to the support offered to Christian and Jewish institutions.

Such inequality of treatment is one key basis that underlies Muslim claims for religious accommodation. Call this the *argument from unfair treatment.* This argument might be seen as part of a larger move toward basing religious accommodation claims on the value of equality. Some prominent legal scholars have argued for interpreting the religion clauses of the First

Amendment not only as norms of liberty but also as antidiscrimination norms that single out religion for special protection – not because religion is uniquely privileged but because religion, especially minority religions, is peculiarly vulnerable to discrimination, hostility, and neglect.[16] Providing special accommodation to the dominant religious group in a society but not other religious groups is seen as a failure of equality.

The two arguments for religious accommodation considered here, conscience and unfair treatment, are not the only ways to this goal, but they are two key arguments made within liberal theory. Neither of these arguments relies on an appeal to culture. As I have stressed, religious disagreements are disagreements about values and convictions, not cultural identities. To be sure, cultural identities can emerge from and support religious convictions, and sometimes religious groups redescribe themselves as cultural groups, as in the case of evangelical Christians who present themselves as victimized identity groups.[17] But if we accept the distinction I'm trying to make, we can say that what evangelical Christians encounter in public political debate is disagreement with their beliefs, not prejudice against their cultural identities. No doubt religious groups can be ethnicized and racialized, but this would give rise to different kinds of claims implicating ethnicity and race, which I discuss below. My point here is that from within liberal theory, what is distinctive about religious claims is that they are about beliefs and convictions, not cultural identities. We lose sight of this distinctiveness when we conflate religion and culture.

Language

On the face of it, one might think that a pluralist approach to language would not be as controversial as a pluralist approach toward religion, since language acquisition is cumulative and not zero-sum. That is, human beings are capable of learning to speak more than one language without losing their native language, whereas accepting one religion as the one right and true religion usually precludes acceptance of other faiths. Yet, along with religion, language is at the center of cultural conflicts in contemporary liberal democracies. This is partly because most immigrant-receiving countries are committed to maintaining the dominance of one national language. As many scholars have emphasized, nation-states can avoid establishing one religion, but there cannot be a linguistic equivalent to separation of church and state. The state must choose a common language in which to conduct its affairs.[18]

This difference between religion and language might explain why contemporary immigration countries take a more explicitly assimilationist approach to language, in contrast to religion. In the course of liberalization, Western states relinquished the notion that a common religion was integral to national integration, but the opposite occurred with respect to language,

which moved to the fore as the single most important element in the construction of national identity. A common means of communication was seen as crucial to nation-building. As scholars of nationalism have emphasized, nation-building has been fueled by more malignant motives than the need for a lingua franca (not least racism and xenophobia) such that forging a common language sometimes entailed the domination and suppression of minority languages and identities. Consider the ethnolinguistic conflict in Eastern Europe after the fall of communism in 1989; the debate over official multilingualism in Canada and Spain; and the debate over bilingual education in the United States. Such conflicts have been fueled by a nationalistic desire to enforce a common identity within the nation-state and to demarcate national insiders from outsiders. With a few exceptions, every state that receives large numbers of immigrants has been intent upon maintaining the status quo of the dominant language and has so far succeeded in doing so.[19]

Liberal multiculturalists have argued that state action that privileges some languages over others gives rise to a case for special accommodations for speakers of the nonprivileged languages. On this *argument from unfair treatment,* because "[t]he state unavoidably promotes certain cultural identities, and thereby disadvantages others," the state must make it up to the cultural minorities.[20] It is important to note that the form of this argument from unfair treatment of linguistic minorities is the same as that of the argument for religious minorities discussed above, but the account of the good at stake differs. In the case of religion, we saw that religious accommodations can be defended without relying on a notion of culture. What about in the case of language?

There are at least two ways of understanding the good of language within liberal theory, both of which are reflected in different versions of the unfair treatment argument. One understanding can be found in what we might call the *argument from dignity and self-respect.* In this view, dignity and self-respect are among the things that people are entitled to. Cultural identity is valuable on account of its connection to people's dignity and self-respect. As Kymlicka puts it, "If a culture is not generally respected, then the dignity and self-respect of its members will also be threatened."[21] Language is valuable because it is constitutive of cultural identity. Thus, when the state establishes one language as the language of public institutions, the state fails to treat speakers of other languages with equal regard. Such unfair treatment with respect to dignity and self-respect is seen to ground the demand for special linguistic accommodations. This argument underscores the view that I raised at the outset: justice has both material and symbolic dimensions. Justice demands linguistic accommodations not simply in virtue of their effects on the distribution of liberties and opportunities, but also because the symbolic recognition of minority languages is integral to treating linguistic minorities with equal dignity. In contrast to the religious

accommodation arguments considered above, the dignity argument for linguistic accommodation relies on a notion of culture and its value.

There is a second way of making the unfair treatment argument, which relies on an instrumental view of language and not on a view of language's value in terms of constituting and bolstering cultural identity. The argument here is that linguistic accommodations are necessary for vindicating a set of fundamental rights or for the pursuit of democratic inclusion.[22] Call this the *argument from democratic inclusion*. For instance, multilingual ballots in languages most widely spoken in a particular area are defended as a means to facilitating the right to vote. Bilingual education programs are defended as necessary for ensuring equal opportunity in education. Public media in the languages most widely used in a society are defended as a way to ensure real rights of political participation. Taking the instrumental view of language as a premise, the unfair treatment argument defends accommodations for linguistic minorities to facilitate their social and political integration. This argument is most relevant to immigrants who do not speak the dominant language of the host country.

Many liberal arguments for linguistic accommodation are unfair treatment arguments that focus on the good that is lost when a language declines. Another way of arguing for linguistic accommodation is to focus on why such decline has come about. There are at least two arguments here. First is the *corrective justice argument*. If language serves as the basis of discrimination and hostility, language rights for linguistic minorities may be defended as a remedy for such negative treatment.[23] The marginalization or outright proscription of certain languages must be seen in the broader context of a racialized and xenophobic policy directed at marginalized groups. This is not to say that all or even most of the languages that are vulnerable today are so because of the oppression of their speakers. The relationship between poverty, powerlessness, and linguistic vulnerability is complicated.[24] Where current language vulnerability is the result of injustice, the demand for special accommodations for these vulnerable languages is a demand for addressing the inequality caused by that injustice. The argument becomes more complicated when we confront cases of historical injustice. Normative analyses of language politics tend to begin with the present, asking what is owed to those who do not speak the dominant language, but this overlooks the history of how certain languages were accorded the status of "national" languages whereas others were "minoritized" and stigmatized through the politics of nation-state formation.[25] I will say more about arguments from past oppression or historical injustice below.

Another argument that focuses on the cause of language decline is what we might call the *argument from structural inequality*. Here the focus is not on past or present discrimination by state or non-state actors against individual speakers of minority languages, but on the vulnerability of languages themselves as a result of the powers of globalization that are everywhere

implanting English as the lingua franca. A key premise is that language is not merely an instrumental good but an "irreducibly social" and intrinsic good that holds and transmits the history and fabric of a culture.[26] "*Loi* 101," which defines French as the sole official language of Quebec, responds to fears that an individual choice to learn English, largely based on economic factors ("It would be easier to get a job in the rest of Canada or the U.S."), would undermine the long-term survival of the French language. Viewed globally, it's not only French in Canada but also French in France that suffers structural disadvantage, and special measures by the state to protect the French language against, for example, English-language media are defended as a response to this structural disadvantage. It is important to note that on this argument it is the language that is structurally disadvantaged rather than the speakers of the language; the concern is to protect and preserve the language. Individuals – in particular, children – are being asked to bear the burden of preserving a group's language, be it French, Welsh, or Basque.

Ethnicity and nationality

Many "cultural" claims made by ethnic and national minorities are claims about religion and language, which I discussed above. This is not surprising since religion and language have historically been key markers of ethnicity and nationality. If we put aside claims of religion and language, what other sorts of multiculturalism claims remain? Ethnic minorities raise a broad range of claims for the accommodation of aspects of culture other than language, as well as for integration assistance and affirmative action programs. The key claim made by national minorities is for self-government rights.

Consider first the range of accommodation claims made by ethnic minorities. The term "culture" signifies the different rituals, food, dress, family roles and interactions, musical and other artistic preferences, and other such aspects that constitute a way of life for a group of people. Ethnic minorities have sought exemptions from general rules that penalize or constrain their customs. Many claims for exemption have been about *religious* practices that conflict with mainstream policies in the public sphere or market (e.g. Sikhs and helmet laws, Muslim girls and bans on the headscarf, Amish and school regulations), and these can be defended by the arguments I considered above. Ethnic minorities have also sought positive assistance from the state to pursue and preserve their group traditions (e.g. funding for ethnic associations), as well as symbolic recognition (e.g. national holidays, school curricula).

As in the case of language, these claims of support for ethnic traditions and practices have been defended in three main ways within liberal theories of multiculturalism. First, the *argument from dignity and self-respect* discussed

above holds that cultural identity is valuable on account of its connection to individual dignity and self-respect. Accommodations may have the effect of promoting civic integration of immigrants, but the key concern is not integration so much as the dignity and self-respect of ethnic minorities.

A second way of defending accommodations for ethnic minorities is agnostic on the question of the value of cultures. Instead, on this *argument from democratic inclusion,* accommodations are desirable insofar as they promote the integration of ethnic minorities into the broader society. It is important to note here that there are many integration assistance measures for new immigrants that don't involve efforts to accommodate or preserve their *cultural* practices. Consider public funding that assists newcomers with learning the language of the host country, finding employment, and participating in politics. Such measures can be defended instrumentally as serving important goals of democracy: they promote the economic integration and political participation of immigrants.[27]

A third argument marshaled to defend accommodations for ethnic minorities is the *corrective justice argument*. This argument is not used to defend exemptions or financial assistance for ethnic associations, but rather group-differentiated measures aimed at fighting current discrimination or remedying past discrimination, such as affirmative action programs. Such programs may take the form of consideration of one's ethnic or racial background in university admissions or employment decisions, as well as special rights of political representation (e.g. redistricting to create black-majority districts in the United States, reserved seats for Scheduled Castes and Scheduled Tribes in India). The main types of affirmative action programs are not really multiculturalism policies at all, if by "multiculturalism" we mean symbolic recognition or affirmation of cultural differences. On the corrective justice argument, the aim of affirmative action is to remedy inequalities based on past or ongoing discrimination. Yet, the symbolic recognition may be part of the remedies aimed at countering demeaning cultural representations of a group in society. Therefore, it is not only because affirmative action policies tend to be a part of institutional reforms aimed at accommodating ethnic and racial minority groups that it is often thought of as part of multiculturalism; some affirmative remedies may actually entail cultural recognition.[28]

Special accommodations for immigrants and ethnic minorities actually comprise a small part of leading theories of multiculturalism. The main focus has been on defending self-government rights for minority nations and aboriginal groups. It is no accident that the leading theorists of multiculturalism (Taylor, Tully, and Kymlicka) are writing in the context of Canada where the group accommodations that loom large are those for Quebec and First Nations, not ethnic minorities. In contrast to ethnic and racial minorities, minority nations have sought some measure of political autonomy through secession (e.g. Slovenia) and federal arrangements (e.g. Quebec, Catalonia,

Native tribes). Arguments for self-government rights for minority nations and aboriginal peoples rely on premises about the value of cultural membership for freedom and for dignity and self-respect of the sort made in defense of ethnic accommodation claims. What justifies self-government rights for national minorities but not for ethnic minorities? First, as Kymlicka has argued, national minorities have a prima facie right to self-government because they have maintained distinct "societal cultures" over time. On this *institutional capacity argument*, the fact that national minorities already possess institutional capacities to sustain "societal cultures" supports their case for self-government rights.[29] Another argument that Kymlicka offers to justify limiting self-government rights to national minorities is an *argument from choice:* ethnic minorities have for the most part chosen to migrate and want to integrate, and such choice cancels the option of self-government rights. The difficulty here, as Kymlicka himself recognizes, is how to draw the line between voluntary and involuntary migrants in a world with massive economic inequalities and different levels of respect for human rights? A great many ethnic minorities, not just political refugees but also economic migrants, may be entitled to special accommodations if they are based on the extent to which migration is voluntary. In addition, if "ethnic minorities" are taken to include the children of immigrants, as Kymlicka suggests, then they may be entitled to accommodations on the choice argument, since they have not chosen to migrate.

Another way of defending self-government rights for national minorities and aboriginal groups is the *corrective justice argument:* the fact of oppression is what grounds a prima facie right of self-government. A key premise of this argument is that historical injustice is causally responsible for at least some of the systemic disadvantages that certain minority groups suffer today. For instance, proponents of indigenous sovereignty have emphasized the importance of viewing indigenous claims against the historical background of the denial of equal sovereign status of indigenous groups, the dispossession of their lands, and the destruction of their cultural practices.[30] This background of injustice calls into question the legitimacy of state authority over indigenous groups and serves as the basis of the claim that such injustice should be remedied through the restoration of some form of political self-rule.[31] It is important to note that groups demanding redress for historical injustice are not always the groups at the center of present-day concerns of distributive justice. Japanese Americans had a compelling and ultimately successful claim for remedy of the gross injustice of mass internment during World War II, but they did not suffer systemic socioeconomic disadvantages as a group. Not only can the concern about historical injustice and contemporary inequality come apart, they may be in tension. For instance, there may be a trade-off between rights for linguistic minorities and socioeconomic mobility, where measures to protect vulnerable languages as redress for historical injustice may inhibit linguistic assimilation of the speakers of

those languages, thereby limiting their access to economic opportunities in the wider society.

Race

The leading theorists of multiculturalism have provided little guidance for thinking about the relationship between race and culture. For instance, Kymlicka has written that his theory of multiculturalism is not intended to address the concerns of racial minorities, emphasizing that a sui generis approach is needed to address the structures of disadvantage that African Americans face. He leaves unclear the connections, if any, between the sorts of recognition claims made by ethnic and national minorities and such claims by racial minorities. In contrast, Charles Taylor includes African Americans in his discussion of multiculturalism when he focuses on the university "canon" wars and the issue of self-respect and the self-depreciation caused by demeaning images projected in the wider society.[32] More needs to be said about the relationship between antiracism and multiculturalism – in particular, what, if anything, race has to do with culture and how race-based claims are different from claims based on ethnicity and nationality.

Racial groups exist on a blurred continuum with ethnic groups, and because of this blurring, some scholars have adopted the term "ethnoracial" blocs.[33] One reason why race and ethnicity are grouped together in this way may be to underscore that both are historical and social constructs. Both race and ethnicity are associated with the body and physical markers (skin color, hair type, eye shape, and so on) presumed to be evidence of ancestral links to a certain geographical region.[34] However, grouping these terms together can mask important distinctions in their meaning. Philosophers of race have offered one analytic distinction of these concepts: ethnicity has been used to group individuals on the basis of their presumed origins, whereas race has been used to group individuals *hierarchically* on the basis of their presumed origins. Hierarchy is a constitutive element of the category of race, but not of ethnicity.[35] Historical and contemporary social meanings of these terms in the United States offer some support for this distinction. The degree of systematic subordination or privilege on the basis of race in the United States has tended to exceed such treatment on the basis of ethnicity. Although both races and ethnicities are demarcated by geographical associations that are linked to perceived body type, these associations have taken on far greater evaluative significance in how members of racial groups have been viewed and treated. The degree to which ethnic groups in the United States have been victimized seems to have more to do with their racialization than with their ethnicity.[36]

Although there is some truth to this distinction between race and ethnicity, it rests on an idealized conception of ethnicity. Ethnicity also has implications for power and status. The relationship between race, ethnicity, and

inequality is complicated and varies depending on context. September 11 helped consolidate a new identity category in the West, merging religion, ethnicity, and race such that people who appear Middle Eastern, Arab, South Asian, or Muslim have been subject to violence and harassment. To what extent is contemporary Islamophobia religious and ethnic and to what extent is it racial?[37] These considerations suggest we cannot accept the simple formulation that ethnicity is about culture, whereas race is about status and power. As I discussed above, the pursuit of ethnic justice may well involve not only countering ethnic prejudice and remedying ethnic inequality but also extending recognition toward devalued group identities. What about race? Is there a role for recognition in the pursuit of racial justice, or is culture talk a distraction from a project of antiracism?

The *diversity argument*, developed by the U.S. Supreme Court in its affirmative action cases, offers one way of linking race and culture.[38] The basic idea is that racial and ethnic diversity is a value in higher education, as well as in the wider society. This argument relies on two premises. First, it relies on a premise about the instrumental value of different "experiences, outlooks, and ideas" in the pursuit of knowledge: the diversity of experiences and outlooks is envisioned as providing an "atmosphere [of] speculation, experiment and creation" that fuels the production and diffusion of knowledge, the primary aim of universities.[39] The benefits of such diversity are seen to extend beyond the university to the wider society, by training students to become future leaders of a diverse nation. A second premise of the diversity argument is that the diversity of "experiences, outlooks, and ideas" maps onto racial and ethnic diversity such that racial and ethnic minorities are seen as possessing distinct cultures and values. The diversity argument could be extended beyond institutions of higher education to apply to all educational settings, the workplace, the military, and other institutions. Because the diversity of "experiences, outlooks, and ideas" serves the goals of these institutions and because such diversity coincides with racial and ethnic diversity, racial and ethnic diversity ought to be promoted. As critics have emphasized, one major problem with the diversity rationale is that it views race primarily as a matter of culture, and this risks stereotyping and essentializing racial identities and even worse, masking the history of institutional discrimination that distinguishes racially subordinated groups from nonsubordinated groups.[40] The disadvantages suffered by other racial and ethnic groups pale in comparison to the racial subordination of African Americans under slavery and Jim Crow. We can agree with this important criticism without accepting the tendency of these critics to define race and ethnicity in dichotomous terms – race as a matter of power and hierarchy, ethnicity as a matter of culture. As I have argued, ethnicity also has implications for status and power.

A second way of justifying affirmative action is the *corrective justice* argument, which keeps the history of institutional discrimination front and

center. Group-conscious measures in higher education, employment, and political representation are defended as compensation for historical and ongoing injustices. As Randall Robinson has argued, it is hard to deny that the socioeconomic gap between black and white Americans is partly a consequence of slavery and Jim Crow. The aim of reparations is to undo the legacy of past discrimination.[41]

Scholars writing about race in the context of education have offered another way of linking race and culture that also keeps the history of institutional discrimination front and center. Here the *corrective justice argument,* the *argument from dignity and self-respect,* and the *argument from democratic inclusion* appear in combined form. A key premise is that racial oppression takes not only material but also symbolic form. Racial injustice can occur through economic processes by which some groups are defined as low-paid menial laborers or as an "underclass" excluded from the workforce. Injustice can also occur through patterns of communication and representation by which the identities of some groups are devalued and marginalized.[42] If redress for discrimination proceeds only along distributive lines, we ignore an important component of discrimination: misrecognition or nonrecognition of group identities that are tied to the dignity and self-respect of group members. The ultimate aim is the full inclusion of marginalized groups. Many have argued that remedying failures of recognition requires more than antiracist struggles aimed at dismantling institutional structures of racial injustice and countering racial prejudice; it also requires recognition and positive valuation of the collective identities of marginalized groups.

This is where multiculturalism enters. As Lawrence Blum puts it, "[A]ntiracism highlights victimization and resistance, whereas multiculturalism highlights cultural life, cultural expression, achievements, and the like."[43] The demand for recognition in the context of multicultural education is a demand for the recognition not only of aspects of a group's actual culture (e.g. African American art and literature, Mexican music and dance), but also of the history of group subordination and its concomitant experience. Indeed, as Robert Gooding-Williams emphasizes, "any cross-cultural inquiry into African-American cultures will have to address the largely racialized character of African-Americans' self-understandings; that is, it will have to investigate the ways in which African-Americans, in describing themselves as black, have coped with racial classification and racial oppression, thereby modifying the character of African-American life, art, and politics."[44]

The meaning and role of the idea of culture in discussions of antiracism still need to be clarified. Claims for recognition in the context of antiracist pedagogy are not aimed at the preservation of cultural differences, and this distinguishes this last set of arguments from the diversity rationale. Racial identities are associated with cultural traditions and practices, but they do not map neatly onto distinct cultures in part because they are complex, hybrid products of "perpetual dialogue and violent engagement with the

larger society to which they belong."[45] The implication here for an antiracist pedagogy is that what should be recognized is not distinct cultures at all but rather histories of racial subordination and resistance.

Conclusion

I have tried to distinguish among different claims of multiculturalism associated with religion, language, ethnicity, nationality, and race with a focus on outlining key arguments made within liberal theory for the different claims.

Religion and language comprise much of the political theory discourse on multiculturalism. We saw that the case for religious accommodation has drawn either on an argument about the special nature of religious and moral beliefs or on an egalitarian argument arising out of the fact of preferential treatment of certain religions over others. Arguments for linguistic accommodations take a similar form (linguistic minorities are owed some remedy in light of state establishment of one language), but in contrast to religion, they need not rely on controversial premises about the significance of culture to individuals. Linguistic accommodations can be defended as a means to ensure equal opportunities in education and to promote the economic and political inclusion of immigrants.

Another key issue in the debate on multiculturalism is self-government rights for national minorities and aboriginal groups, but these arguments need not rely on controversial premises about distinct societal cultures and individuals' membership in one and only one culture. Such rights can be defended as a remedy for historical injustice or present discrimination and disadvantage experienced by a particular group. Race-conscious remedies are defended on both grounds, as measures to address the systemic disadvantage caused by a history of institutionalized discrimination and ongoing discrimination. The idea of "culture" is used in justifications for race-conscious remedies, partly to emphasize the ways in which antidiscrimination claims are connected to recognition claims, but bringing culture into justifications for affirmative action, as the diversity rationale does, runs the risk of both essentializing group identities and diverting attention from the systemic material inequalities that are the product of racial subordination.

One important normative implication of my primarily explanatory discussion is that the appeal to "culture" by itself does not get us very far. Something further and more specific needs to be said about the importance of the good at stake in the justification of political claims for recognition and accommodation. We have seen that "claims of culture" are about remedying serious disadvantages – not just material but also symbolic disadvantages – that people face along religious, linguistic, ethnic, and racial lines. But grouping the variety of claims considered in this chapter under terms such as "multiculturalism," "cultural rights," and "claims of

culture" masks important distinctions. If what is at issue is constraints on religious observance, linguistic barriers to equal opportunity, or the legacy of racial and ethnic discrimination, then we should say that that is what is at issue, not announce another "culture war" or "culture conflict."

Notes

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1. Taylor 1994, pp. 31, 42; 1995, p. 140.
2. Taylor 1994, pp. 3, 65.
3. Kymlicka 1995, pp. 31, 114–15.
4. See Okin 1999; Carens 2000; Parekh 2000; Barry 2001; Benhabib 2002; Shachar 2002; Gutmann 2003.
5. For one classification scheme, see Levy 1997. My aim here differs from his in trying to disaggregate claims about "culture" and in its consideration of arguments for, not just a typology, of claims.
6. See, for example, Barry 2001 and Michaels 2006.
7. See Fraser and Honneth 2003. While some collective identities tilt more toward one dimension or the other (e.g. class tilts towards distribution, whereas sexuality tilts toward recognition), Fraser recognizes gender and race as genuinely "bivalent collectivities" that suffer from both economic and valuational injustices. Omitted from Fraser's core analysis of identity groups are ethnicity and nationality, which I believe are also bivalent. In this chapter, I focus on claims based on religion, ethnicity, nationality, and race as they have been the focus of recent debates about multiculturalism.
8. He points to *Wisconsin v. Yoder,* 406 U.S. 205 (1971) and *Employment Division v. Smith,* 494 U.S. 870 (1990) as examples. See Sager 2000, pp. 195–96.
9. Parekh 2000, pp. 146–7.
10. My thinking here has been helped by Cohen 1998, Murray 1993, Scheffler 2007.
11. See Song 2007 for examples. My discussion of the claims of conscience is not meant to be an exhaustive account of the sorts of religious claims that have been or could be made in politics. Native American religions, Judaism, Islam, and Buddhism, among others, may be centrally concerned with shared rituals and practices rather than conscience. Yet some account of the importance of shared rituals or practices still needs to be offered when making political claims and demands on others outside one's circle of faith for special accommodations. The simple appeal to culture does not make clear the particular values or sacred significance of the rituals or practices in question.
12. Kymlicka 1995, pp. 82–93.
13. How pluralist a polity's approach is depends in part on the institutional approach toward governing religion, as well as on the significance of religion in the wider society. There are two distinct institutional paradigms governing religion in liberal democratic states. Some states establish a particular Christian church as the state religion, coupled with limited support for non-established religious minorities (e.g. Britain, Norway); in some cases, the state may provide more or less equal support for a number of historically established religious groups (e.g. Netherlands,

Belgium, Germany). The alternative institutional paradigm is the privatization of religion by way of strict separation of church and state (e.g. the United States, France), but in practice, some privileges are extended to religious associations, such as tax exemptions on religious property. See Zolberg and Woon 1999, pp. 14–15 and Gutmann 2003, pp. 178–91.

14. See Rawls 1993 and 1999.
15. Fetzer and Soper 2005, pp. 18–19; Modood 2005, pp. 163–4. The Archbishop of Canterbury's suggestion on February 7, 2008, that British law ought to recognize aspects of Islamic law was, in part, based on this concern about fairness to Muslim minorities, especially in light of Anglicans enjoying the status of England's established church.
16. See Eisgruber and Sager 2007.
17. As Thomas Frank discusses, a *Kansas City Star* columnist compared newspaper attacks on evangelicals to "the lynch mobs we used to see back when black folks were accused of being too uppity" (Frank 2004, pp. 158–9). This sentiment is more widely expressed in less hyperbolic terms by mainstream conservatives.
18. Kymlicka 1995, p. 111; Carens 2000, pp. 77–8; Patten 2001, p. 693. As I discussed above, states are not neutral toward religious groups either. For instance, many Western states effectively support the Christian religion in determining days of rest and public holidays, as well as in the allocation of financial support to religious schools. But the key point made by multicultural theorists here seems right. The pervasiveness of de facto linguistic establishment is much greater than de facto religious establishment in most liberal democracies: speakers of the majority language are favored not only in terms of the language that public officials and employees use with one another, but also the language in which public education and the vast array of public services are provided. And such establishment in the spheres of government and education influences the language skills required for the labor market.
19. Zolberg and Woon 1999, pp. 22–3. A few states have instituted more than one official language (e.g. Canada, Belgium, Switzerland), but the vast majority have one de jure or de facto dominant language. In the Canadian case, even though English and French are both recognized as official languages at the federal level, French is the sole official language of Quebec.
20. Kymlicka 1995, p. 108. Some governments have made moves toward de jure linguistic establishment. By 1999, twenty-two states of the United States had passed "official English" declarations (Schmidt 2000, p. 29). Many of these are purely symbolic (mainly in expressing xenophobia) in that they do not prevent the provision of public services in other languages, but such explicit public recognition of English strengthens the egalitarian case for accommodations for minority languages.
21. Kymlicka 1995, p. 89, citing Margalit and Raz 1990, pp. 447–9 and Taylor 1994.
22. Rubio Marín (2003) explores such a view.
23. Any corrective justice argument requires further discussion about what counts as oppression or discrimination. Even if the state is not the agent of discrimination, social structures, such as caste systems, can deny basic freedoms to particular individuals. In addition, we cannot simply rely on the subjective perception of injustice and victimization (e.g. Anglophones in California and *Front National* supporters in France express concerns about being attacked or victimized by the immigrants in their midst), but rather we would need some intersubjective judgment about what counts as discrimination.

24. See Levy (2003, p. 237), for the argument that many languages are vulnerable because they are unwritten or have taken written forms only recently.
25. May 2003 and Tully 1995.
26. Taylor 1995.
27. See Bloemraad 2006 for empirical support, based on a comparative study of the United States and Canada, of the claim that official multiculturalism policies promote rather than hinder the civic and political integration of immigrants.
28. On the relationship between affirmative action and multiculturalism, see Banting et al. (2006, p. 57). A second argument for affirmative action, the *diversity argument*, views affirmative action programs primarily as measures for the affirmation of cultural differences. I will say more about both of these arguments for affirmative action below.
29. Choudhry (2002) criticizes Kymlicka for taking institutional capacities as factual givens when these capacities are actually highly contingent and also for assuming that sovereignty requires a defined territory, overlooking institutions of deterritorialized sovereignty.
30. Buchanan 2003, ch. 9; Ivison et al. 2000; Moore 2005.
31. Much of the literature on historical injustice focuses on the difficulty of counterfactual analyses and establishing causal links between past injustice and present disadvantage. The least difficult cases are those in which perpetrators and victims are still alive, but making the link becomes complicated when perpetrators and victims are long gone and it is the descendants of the victims making the claims. See Elster 1978; Lyons 1977; Sher 1979 and 1980; Waldron 1992.
32. Kymlicka 2001, p. 198 and Taylor 1994, pp. 26, 65.
33. See, for example, Hollinger 1995.
34. The race-ethnicity distinction has varied according to the discourses of racialization at work (see Omi and Winant 1986). In nineteenth-century America, the terms race and ethnicity were used interchangeably when the Lamarckian belief in the heritability of acquired characteristics made culture and biology a continuum. In the early twentieth century, the dominant discourse was of race as biology and ethnicity as culture. Ethnicity proved a useful category for those who wanted to preserve the idea of cultural differences between groups while distancing themselves from racial hierarchies. For analysis of the race-ethnicity distinction in the context of discourses of Jewish, Latino, and black immigrant identity, see Hattam 2007.
35. See Haslanger 2000.
36. Hollinger (1995, p. 37) suggests it was the racialization of Japanese Americans, not their ethnicity, that led to their internment in contrast to German and Italian Americans during World War II.
37. For discussion, see Modood 2005 and Volpp 2002.
38. *Regents of the University of California v. Bakke,* 438 U.S. 265 (1978) and *Grutter v. Bollinger,* 539 U.S. (2003).
39. *Bakke,* 438 U.S. at 314, 312. On the diversity rationale, see Kronman 2000 and Sabbagh 2007, ch. 2.
40. See Ford 2005 and Haney López 2007.
41. Robinson 2001. On the difficulties that arguments from historical injustice face, see note 31.
42. Fraser and Honneth 2003.
43. Blum 1992, p. 14. See also Blum 1998.
44. Gooding-Williams 1998, p. 32.
45. Ibid., p. 28. See also Waldron 1992 emphasizing the hybridity of all cultures.

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11
The Aesthetic of Freedom

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Political theories and practices should inform each other. Looking through the history of political thought, one sees a fruitful exchange between the two, with high theory guiding and informing practice and, what is equally important, political realities serving as a touchstone for theory. One gets the impression, however, that this once fecund connection has been lost in much of contemporary political philosophy. Nowhere is this more evident than in contemporary conceptions of political freedom, with theoretical accounts developing on their own, unconstrained by the realities of actual human experience. The result is a set of sophisticated, highly formal models of political freedom with no clear connection to political realities and offering no clear path to realizing the practical goal of political freedom. With no clear guidance from theory as to how to make political freedom possible, and a mass of evidence suggesting politics' dark side, it is no wonder that many have become disenchanted with the possibility that politics can be a resource working *for* people.

It is easy to be skeptical about the value of politics as human freedom, if not as a means of realizing human freedom. I submit that in the face of these challenges there is no better time than now to take a hard look at political freedom. The present crisis in politics stems from an inadequate conception of political freedom. Unable to see what politics has to offer with respect to making them free, citizens also ignore the potential of politics to help them deal with other problems, such as conflict, arms control, and environmental protection.

This chapter suggests that there is a close connection between politics and freedom and, in that sense, brings good news to those looking for a richer and up-to-date conception of freedom. The conception of freedom put forward is one that informs – and is informed by – down-to-earth political practice. I shall draw upon striking analogies between politics and aesthetics to argue that we should understand political freedom in the same terms in which we think of humans' distinctive aesthetic capacities and understanding. This conception of freedom is particularly significant in its

implications for human rights, and I suggest that these implications give us good reason to think of human rights in terms of this aesthetic view.

Although the main aim of this chapter is to present an aesthetic conception of political freedom and to show its relevance by pointing to connections of this conception to human rights, the chapter also touches on some more general implication of this perspective. In the final section, I examine some of the effects of this perspective on the relationship between aesthetic freedom and political violence. This discussion serves not only to illustrate the content of the aesthetic conception of political freedom, but also to show the potential value of this approach for political practice.

A conception of humans and animals in relation to freedom

Freedom is a notoriously slippery concept. Try to grab hold of it and it either slips through one's fingers like an eel or is transformed into an overly formal and wholly unreal idealization. It is both conceptually vague and emotionally rich – almost too much so for sharp philosophical analysis. Ask accomplished philosophers such as Isaiah Berlin, John Stuart Mill, Jean-Paul Sartre, Jean-Jacques Rousseau, Benjamin Constant, or John Rawls of its nature and you will get a different answer from each of them. Ask a Westerner who thinks herself free the same question and you get a baffled stare. Westerners' understanding of freedom is, in a sense, too deep – too intertwined with their everyday lives – for most to have thought much about it. Yet so deep is this understanding that most of those same persons can justly claim to "know it when they see it." Freedom is something Westerners know well, in their bones if not in their minds; it is something that has given life to revolution, reforms, mass movements, defiance, conscience, and countless individual acts of courage. It is a word that many in the world beyond the West know refers to something immensely valuable – something worth living, fighting, and even dying for.

Why should something so valuable be so hard to capture conceptually? The problem may be with the desire of many philosophers to nail down a concept that is simply not amenable to standing still. When modern political philosophers look for answers to their questions, they often take a scientific approach. This is the ideal of empirical science, the value of whose decisive certainty and mathematical exactness has been confirmed by the omnipresent successes of modern technology. I take a less formal approach, hoping that perhaps the best way to approach a slippery concept such as freedom is with a similarly flexible method of analysis.

Let us start, then, with a basic intuition: *Freedom* (at least in the relevant political sense) is a term that does not apply to animals or organisms generally. It is a term of peculiarity, characteristic of humans or, more precisely, *persons*. Why so? A human *being* is a glorified animal, no different in kind

from any other animal in the wild. The survival instinct is common to human beings and animals alike. Instincts drive both human beings' and animals' actions and behavior to survive and self-preserve. One may say that the point of living for animals and human beings is survival: Each lives for survival and self-preservation and nothing beyond. In that respect, animals' actions or behaviors are driven by the *external* pressures of survival.

Compare this understanding of human beings and animals to a common conception of a person. The idea of a person connotes a being who has moral and political agency that goes along with rights recognized and enforced by law. She is a being of choice. The term "human being" does not appear in the United States Constitution; "person" does. The etymology of the word reflects its cultural cachet, coming from the Latin *persona* meaning *actor's mask*, or a *character in a play*. As this suggests, a person is more than a mere animal responding instinctively to the world; a person represents herself in a deliberate, intentional manner, and, like literal characters in a play, dwells in a world of artifice that may be quite different from reality. Animals may manipulate the world in various ways; persons, however, *make* their world.

These differences between persons and humans have been blurred in various ways, most recently by the arguments of animal rights activists. Peter Singer, a leading animal rights advocate, has advanced a kind of "leveling" argument that appeals to a common aversion to pain among animals and humans, to make his case for animal rights. Although Singer is surely correct in claiming that this element is shared by human and nonhuman animals, it is far less plausible for him to claim that this common feature implies a *general* leveling of persons and animals, such that they share even capacities for freedom that are otherwise seen as limited to persons.

This style of argument has been used by others who cite examples of animals that play games, adorn themselves, spice their food, and even behave morally, to argue that as beings of choice and freedom, animals deserve the same consideration that persons do. Consider this picturesque representation of a Bowerbird's inner aesthetic life:

> If you could interview a male Satin Bowerbird for *Artforum* magazine, he might say something like "I find this implacable urge for self expression, for playing with color and form for their own sake, quite inexplicable. I cannot remember when I first developed this raging thirst to present richly saturated color-fields within a monumental yet minimalist stage-set, but I feel connected to something beyond myself when I indulge these passions. When I see a beautiful orchid high in a tree, I simply must have it for my own. When I see a single shell out of place in my creation, I must put it right ... It is a happy coincidence that females sometimes come to my gallery openings and appreciate my work, but it would be an insult to suggest that I create in order to procreate." Fortunately, bowerbirds cannot

> talk, so we are free to use sexual selection to explain their work, without them begging to differ.[1]

One side theriomorphizes human beings, whereas the other anthropomorphizes animals; the endpoint is, however, the same.

Quite apart from the question of what treatment is owed to nonhuman animals, the importance these advocates assign to the capacity for aesthetic experience in determining the moral status of animals is striking. Although I am not inclined to go as far as thinkers such as Singer in theriomorphizing human beings, or as far as others such as G. F. Miller and Dale Paterson in anthropomorphizing animals,[2] I believe that the attention to the capacity for aesthetic experiences is an important insight. Indeed, I will argue that aesthetic justifications are proper, legitimate, and effective imperative justifications for the fair treatment of animals *and* human beings by persons. That is, a person's capacity for aesthetic experience – her ability to represent and, perhaps more significantly, to *mis*represent the world to herself, to imagine alternative possibilities, and to appreciate the intrinsic value of those images – is that which underlies her ability to be free.

Any authentic art – that is, any intellectual or material production or appreciation over and above what is necessary for survival – constitutes a representation of the world. Think about sushi, whose glamorous presentation is entirely superfluous to the nutritive quality of the food itself. A Martini in its elegantly angular glass, Apple iPod's stylishly functional design, and distinctly branded commodities (from Double Mint gum to Mercedes sedans) are but a few examples of goods whose value rests at least as much on their aesthetic appeal as their practical utility. These are goods that can be admired for what they *are* independent of what they *do*.

Immanuel Kant, the leading philosopher in this field, in his *Critique of Judgment* describes aesthetics as 'purposiveness without a purpose'. In the ordinary course of life, we value things because they help us get to something else; aesthetic experiences, according to Kant, are in a different category altogether.

I am not here endorsing the claim that aesthetic appeal is solely a matter of an object's intrinsic qualities. But the thought that aesthetic objects are intrinsically valuable – and that there is a perceived tension between art and utility – is a robust one. There is a similar intuition regarding political freedom and *its* intrinsic value. Considering the analogy to aesthetics helps us get a handle on the nature of freedom, for while they are distinct phenomena, intuitions about the purpose and value of art and aesthetic works help to illuminate important aspects of freedom.

Think, for instance, of the pleasure that comes from making a simple sketch while chatting on the phone or fashioning a crude sculpture from a napkin after lunch. No one, of course, would say such works are *good* art. They may, in fact, be so far from "quality art" that they may not qualify as

art at all. Despite that, the pleasure of making such simple, crude renderings can – just like the pleasure of appreciating a great painting, symphony, or poem – be seen as flowing from the work itself.

In that respect, a twisted-napkin sculpture and a great work of art such as *David* or the *Mona Lisa* are exemplars of art, with each being perceived as intrinsically valuable to its admirers. Jokes, riddles, and stories shared among friends and family have a similar value. Such things cook no food, provide no shelter, and tend no crops; they are, rather, the occasion for humor, laughter, and conversation. From a narrowly utilitarian perspective, such activities are of little worth to anyone in real need or who is trying desperately to wrench a living from the tight fist of nature. But the value of these practices is not necessarily limited to their effects. The pleasures of community, humor, and aesthetic experiences are also intrinsic to those practices. As I argue below, the value of politics – the context in which political freedom and human rights are realized – can be seen in the same light. Enjoying political participation surely does have valuable consequences. But overlooking the intrinsic qualities of freedom obscures its other important features.

A new framework for human rights: Fairness and aesthetic politics

In the preceding section, I have argued that political engagement is valuable not just for its effects, but for the experience itself: There is value intrinsic to being a political actor. Such a view of politics focuses on it as a human activity, a feature not so much of what humans *are* as what they *do*. This attention to human activity is another feature of the aesthetic conception of human freedom with interesting implications for our approach to protecting human rights.

Visitors to Genoa marvel over forty-two magnificent palaces adorning the town square. A tourist catalog describes each, complete with the last name of the original owner, yet nowhere is there any mention of the countless persons crushed by rocks in the course of erecting those palaces. This is not peculiar to Genoa. The volumes written on the majestic Egypt pyramids, the Roman Coliseum, and the Great Zimbabwe Ruins nowhere list the names of those (mostly slaves) who built them. We marvel over the great achievements of Emperor Napoleon, but no record exists of the nameless people who died to add the suffix "the Great" to his name.

Isaiah Berlin saw the irony involved in praising such achievements, remarking on "the sinister artist whose materials are men – the destroyer of old societies and the creator of new ones – no matter at what human cost: the superhuman leader who tortures and destroys in order to build on new foundations."[3] The struggle for human rights is, in many respects, a struggle to cast a light on those human costs, to direct the attention and imagination

of the average person away from the palaces, monuments, and gilded domes toward the conditions of those who made those achievements possible.

This view of the problem of human rights is strikingly different from how it has generally been conceived. Contemporary political philosophers have focused almost exclusively on basic principles of moral and political philosophy that are independent of our history, topographic and atmospheric differences, social reality, and psychology. As a consequence, they have seized on an abstract conception of human nature in crafting their justifications for human rights. Secular liberalism in its many stripes, represented by philosophers such as Kant, Rousseau, and Rawls, has been, in that sense, just as centered on the "sacredness" of human beings as are more traditional sectarian views. In either approach, it is said to be the essential and unchanging nature of persons that grounds their value and determines their rights.

Taking their cue from this intellectual legacy, human rights activists base their arguments on this ontological conception of humans. Listen to human rights advocates in Liberia testify how humans were stripped of their humanity, raped, driven from their homes, and exterminated like roaches: underlying it all is this assumption of human sacredness. The highlights of the Truth and Reconciliation Commission following the defeat of apartheid in South Africa, and the *Gacaca* following the Rwandan genocide, were the instances of victims called upon to speak individually, affirming their humanity by bearing witness to the world. What is left unspoken, even as victims testify, is that human beings can be – indeed, are – abused in this manner on a daily basis.[4]

My point here is not to question the truth of the ontological basis of human rights. Rather, I want to raise suspicions about the wisdom of relying on this basis when it comes to addressing what I would characterize as the real problem of human rights, that is, devising arguments that succeed in getting particular persons to treat other particular persons with respect and dignity. Appealing to universal abstractions has a role in doing this. But history teaches us that such abstractions are not sufficient in particular cases.

Exhibit One: This presumed universal value has not stopped the insurgents in Baghdad from killing their innocent neighbors; the tyrant of Burma from locking up, maiming, and killing monks peacefully petitioning their government; the Kenyan police from shooting dead hundreds of the citizens they are charged with protecting; the warlords of Somalia from killing African Union soldiers attempting to restore order among warring factions; the African tyrants from treating human beings as worse than slaves. What's more, this allegedly intrinsic value has not prevented the very governments that purport to honor it the most from committing acts of abuse, be it a U.S. administration that locks up suspects of 9/11 in Guantánamo Bay without trial, a British government that tortured Irish political prisoners, or a French

state whose conduct and motives during Opération Turquoise in 1994 were at best questionable and at worst thoroughly reprehensible.

Exhibit Two: During the Rwandan genocide, the world sat idle, refusing to prevent or stop the massacre. Despite warnings from General Romeo Dallaire, the head of the United Nations Assistance Mission for Rwanda (UNAMIR) set up to address the massacres, the UN Security Council refused to send additional support, denied the UNAMIR's request for authorization to intervene, and even scaled back the UNAMIR's forces and authority in the Rwandan areas of conflict. Such inaction likely reflects downright indifference of the West to the plight of Africa. But this indifference finds intellectual support in the ontological view of human rights, which fosters a paralyzing emphasis on consistency. When flagrant violations of human rights arise in the developing world, the first argument for inaction by the West is that intervention there will require intervention *everywhere*. As a matter of logic, perhaps this argument is sound. Too often, however, the impossibility of meeting *each* of those weighty moral obligations has the practical effect of relieving wealthy nations of *any* of those duties – as if the West's moral obligations are better served by being consistently indifferent than by intervening selectively in a Darfur or a Rwanda only to be accused of hypocrisy.

Such evidence points to the conclusion that, even if there is something sacred or inviolable about human beings, it seems to be less interesting at the political level or at the level of world politics. Practically speaking, making the "sacred nature" of human beings the basis of public policy does not mobilize the public to insist that human rights take priority over their other economic, social, or security-related interests.

To be fair, some contemporary philosophers argue for anti-essentialist groundings of the principles of fairness to human beings. Richard Rorty, for instance, has argued that "[h]umanity is an open-ended notion [and] that the word 'human' names a fuzzy but promising project rather than an essence,"[5] so that humanity is seen as a social construction.[6] I am not interested in resolving the question of which of these two conceptions is correct.[7] Rather, I argue that the concept of a fixed human nature is simply not useful when trying to understand politics and human rights: a conception sufficiently abstract to capture that which is genuinely common to all persons will leave out the myriad idiosyncratic details that make up full-blooded individuals and, in the process, overlook those things that make humans tick.

The conception of a person I am interested in is political, not essentialist or anti-essentialist. I am interested in the way people's actions are driven by aesthetic expression, representation, and appreciation. *Aesthetic* should be understood here as an image for thinking of politics as a play or form of entertainment valued for its own sake. Viewed along the lines of aesthetics,

we can begin to see politics as the product of human will and, by extension, as a way of approaching questions surrounding our conceptions of human rights.

Expanding our vision beyond museums, art galleries, theaters, and opera houses, we notice that aesthetics is ubiquitous. Think about the clothing you are wearing, and you will notice that there is an aesthetic dimension to it, aspects that do not serve the function of protective wear. The same goes for a range of otherwise practical arts, from construction, commercial design, and engineering to, above all else, politics. Such aesthetic considerations may even have a genetic basis. Steven Pinker has argued persuasively that aesthetics and art are embedded in human genes:

> Art is in our nature – in the blood and in the bone, as people used to say; in the brain and in the genes, as we might say today. ... Painting, jewelry, sculpture, and musical instruments go back at least 35,000 years in Europe, and probably far longer in other parts of the world where the archeological record is scanty. ... [Aesthetics] is deeply rooted in our mental faculties.[8]

My argument is based on the recognition that these aesthetic aspects of politics have real effects on how real political actors behave. Conceived of as beings who are moved by aesthetic appeals, sentiment, and images of civic virtue, political agents have a full-blooded character often omitted in traditional philosophical accounts. Such a perspective makes political philosophy as usually conceived nearly impossible: such beings behave in unpredictable ways and probably cannot be modeled with any simple utilitarian calculus. If political philosophy is to be relevant – if it is to benefit from the fruitful exchange between theory and practice – it is important that the conception of persons it uses be one in which actual political agents can recognize themselves.

Thinking of politics as analogous to aesthetics is, I believe, a step toward a more accurate conception of political agents. This aesthetic conception suggests generally that both political and artistic concerns arise only after a society has met its basic needs for survival. More interestingly, the analogy suggests that the character of a political system involves an essentially aesthetic act through which actors represent themselves and the world in a special way. This is a political conception of human beings, not one that purports to describe all humans or to designate an essential human quality.

Arguments for respecting human rights are targeted at persons who are players on the political stage, and the dialogue among those players presupposes that they are capable of representing and appreciating the world as their artifact. The association cannot – except in an honorary or nominal sense – confer community membership upon nonpersons. What value

nonpersons have must be ascribed to them (which they, by definition, cannot do) and arises, I have suggested, through the creative act of aesthetic interpretation of things by persons themselves. Full-fledged aesthetic persons have, in contrast, the ability to fashion themselves and others in a form emerging from the creators' own values. This has implications for how we should craft arguments regarding human rights. The arguments against the abuse of our environment are not meant to persuade the environment, which has no agency; and the appeal for proper treatment of nonverbal animals is not meant to persuade animals without agency. The audience that matters is composed of persons, beings who are capable of imagining the world as it should be. Arguments for human rights when seen from the point of view of aesthetics are directed to persons, who are capable of representing the world to themselves and appreciating it as their representation. These are the proper agents of human rights, as well as those who violate the rights when they are not observed.

It is against this backdrop that I argue for thinking about the concept of human rights as a human artifact. The aesthetic conception of persons and politics suggests that the content of human rights is something to be created, not discovered. This is not to say that the contents of those rights are arbitrary or simply the product of imagination. Rather, it is a way of acknowledging that what enables persons to be the kinds of beings who can organize themselves in societies that recognize limits on what one person can do to another is their capacity to represent themselves in particular ways. A similar view of the relationship between representation and freedom has been expressed by Bernard Williams. In criticizing the animal liberation movement, Williams claimed that the key to obtaining freedom is to speak for oneself: "Oppressed human groups come of age in the search for emancipation when they speak for themselves, and no longer through reforming members of the oppressive group, but the other animals will never come of age: human beings will always act as their trustee."[9] This is, in effect, a recognition of the role of self-representation in realizing one's freedom.

To think of human rights as created in this way suggests that those rights should be seen as the outcome of a combination of human will, material constraints, and historical contingency, rather than as residing in some immaterial substance or in a philosopher's metaphysical rational nature. In this way, we can trace the genesis of human rights at least to the Magna Carta, in 1215. The English Barons protested their arbitrary treatment by King John as not right, hence the genesis of the word "right." They demanded to be free from arbitrary arrest and got the guarantee in the Magna Carta and, most notably, in the right of habeas corpus. Over time, other Englishmen were encompassed in its protections, and eventually the Magna Carta evolved into the constitution of Britain for all citizens of Britain.

In 1776, Thomas Jefferson, who was influenced by the Judeo-Christian tradition and the Magna Carta, penned the Declaration of Independence,

asserting that "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, and that among these are Life, Liberty and pursuit of Happiness." The U.S. Bill of Rights was similarly influenced by the Magna Carta. More generally, the principle of due process has developed and matured over 800 years, from its origins in the struggle between King John, Pope Innocent III, and the English barons in 1214; the recognition of the rights of habeas corpus; the development of property rights, and the case-by-case evolution of the English common law; all the way through to the transformation of the 14th Amendment to the U.S. Constitution from its use as the instrument of laissez-faire capitalism to its pivotal role in the civil rights movement. As a product of this long and unpredictable path, our idea of due process today may be as much a product of the contingencies of history as of reason.

Nearly fifteen years after America's Revolutionary War began, the French revolted against King Louis XVI. Unlike the English Barons, however, the French revolutionaries did not wait for some force outside of them to deliver them rights; they saw themselves as creators of rights. Unlike the Barons and the English people who kept these rights within the borders of Britain, the revolutionaries did something extraordinary: they advocated for the universal rights of man, not merely of the French, but of all human beings, wherever they may be.

Kant was a beneficiary of both the Judeo-Christian tradition, according to which "we are created in the image of God," and the historical provenance of rights in the Magna Carta turned universal Rights of Man in France. When these rights were incorporated into Kant's philosophical studies, they emerged abstractly as rights to self-legislation or autonomy, fully articulated and illustrated in his conception of the "categorical imperative."

The Western powers that gathered in San Francisco to form the United Nations following World War II and the Holocaust were similarly shaped by their tradition of human rights. Like the Magna Carta, the idea of human rights that emerged in 1945 was a negative conception – restricting the arbitrary treatment of its citizens – and the product of a purely European historical tradition. These rights were not and do not relate to interpersonal relations; this conception was, in fact, no less European than were the earlier ones. The assumption behind this negative conception was to think of human beings as ones who should be allowed to play their game their own way, and this is correct because the players in this political theater – the Barons, Pope Innocent III, and King John – were full-fledged aesthetic persons.

This view of human rights as the product of human will and imagination has several virtues. First, it dovetails with the historical process sketched above that led (in fits and starts and in unpredictable steps) from the Magna Carta to the present day. History reveals that our conceptions of human rights were created through the representation of the world not by humans

but by persons already in a postsurvival state, that is, sufficiently free to be at liberty to create such a representation. That human rights apply to governments in the spirit of the Magna Carta in the negative sense is also contingently correct.

Second, this view of the origins of our conception of human rights offers an illuminating view of the problem of freedom. Liberate human beings and watch them assert themselves in the polity. Failing to appreciate the intimate connection between human rights and freedom can lead to placing crushing burdens on those whose rights have been violated, whom we expect to detect and then resist the forces that oppress them. More commonly still, we expect those who are oppressed to make demands on the very governments that, like all too many throughout Africa, have either intentionally or negligently put the oppressed in their pitiful condition in the first place. Seeing the problem of human rights as the problem of liberation is crucial to understanding how to begin to effectively and legitimately address the rampant violations of human rights in Africa and elsewhere.

Third, seeing our conceptions of human rights as the result of a historical process, rather than as established ontologically, also leads us to view the (largely illiberal) past in a different light. As Bernard Williams has remarked,

> The outlook of liberal universalism holds that if certain human rights exist, they have always existed, and if societies in the past did not recognize them, then that is because either those in charge were wicked, or the society did not, for some reason, understand the existence of these rights. Moreover, liberal theory typically supposes that universalism simply follows from taking one's own views about human rights seriously.[10]

This philosophical outlook has the potential of leading people to disregard the views of others who, despite perhaps having had important moral insights, have been less enlightened than modern liberals. "So if liberalism is correct," continues Williams, "it must apply to all those past people who were not liberals: they ought to have been liberals, and since they were not, they were bad, or stupid or something on those lines."[11]

Finally, this view captures important facts about how real people come to their beliefs about their basic human rights. It is interesting to note that within Western liberal democracies, most citizens live secure in their rights yet spend little or no time reflecting on them. To the extent that they are concerned with human rights, it is for others, outside the West. Why is that so? I suspect that a great number of people in the Western world are persons who already see themselves as capable of shaping, directing, and controlling the world around them: They, to use Williams' expression, need no trustee, for they can speak for themselves.

These points suggest that the view I am proposing captures or explains certain important facts about how we think of freedom and human rights.

At the same time, that view offers prospective guidance with respect to future conduct. Specifically, the analogy suggests that politics, like art, is a kind of luxury such that those who are on the very brink of survival will not be terribly concerned with either politics or art. If we think of freedom as analogous to aesthetics, then it suggests that if we take care of people's basic needs, we free them, either to act aesthetically, or simply to be free.[12] Freedom of the press, freedom of physical movements, freedom of the movement of the mind, and so on, although important, are not enough, for they do not even begin to address the most crucial need of vast populations: the need for a freedom from the iron chains of survival needs. To talk about elections or about all the categories of freedom and liberties, as people in the West often do, before addressing these basic human rights concerns is to ignore the preconditions to a robust political life and the rights and dignity that come only through such a life. It may be a useful *tactic* to invoke human rights to motivate wealthy individuals to contribute funds needed to bring the oppressed to the point of being capable of representing themselves. However, the value of such appeals is not that they are couched in the lofty terms of human rights, but that they deliver necessities to those in need and position those persons so as to be able to speak and represent the world for themselves, free of both physical needs and patronizing trustees.

The priority of physical needs over political and aesthetic aims has often been recognized. Two further conclusions indicated by the analogy between politics and art are perhaps less obvious. The first of these is that the analogy to aesthetics suggests that the burden of guaranteeing human rights is distributed broadly, with all persons needing to shoulder some of the responsibility of establishing and maintaining those rights. Instead of placing the burden of realizing human rights on just the wealthy (as if those rights were some kind of largess to be doled out to their less fortunate neighbors), this perspective indicates that rights cannot be bestowed on anyone: They are won only by those who succeed in seeing themselves as directing their own fate. At the same time, however, the analogy between art and politics tells us that the burden cannot fall solely on the very people whose rights are being violated: Just as it would be ridiculous to insist that a starving man devote himself to the opera or Shakespeare, so too it would be unreasonable to demand that a human being living under an oppressive regime lift himself out. Others cannot be required to do for the oppressed what they cannot do, but there are things they can do to remove the physical obstacles to political progress.

Finally, politics as aesthetics indicates that a political being is created, not born. The political stage, like that of the theater, is an artificial one for which players have to undergo special education, training, and preparation. A villager from Togo or Myanmar who suddenly finds himself in America may well be mystified by how Americans see themselves – their sense of entitlement, their right to make demands on those in power or

high office, their expectation that government exists to serve them as if they were a valued customer. They might perceive as crazy and immoral an American who dotes on her pet cat Oliver, spending a small fortune to get Oliver a massage, hairdo, and manicure at a pet spa. Lacking the special perspective of the pet owner, who looks on her cat as if he were a family member rather than chattel, food, or a self-propelled mousetrap, such an outsider quite reasonably will see the pet owner as either irrational or simply mad. In a similar sense, one must have the appropriate perspective or vantage point to see charitable actions as a gesture of respect for the dignity of the beneficiaries rather than as a response elicited by pity or *noblesse oblige*.

In the arts, such training takes the shape of exercises, études, and quite often simply physical repetition that, as it were, bypasses the artist's or performer's deliberative mind to train the body directly to respond appropriately. As I have argued elsewhere, in the political context too, effective training also often circumvents the critical mind, shaping the habits and sentiments of the citizen directly.[13]

On the aesthetic of political freedom

In his famous 1816 lecture, Benjamin Constant distinguished between personal freedom (what he referred to as "liberty of the moderns") and political freedom (what he referred to as "liberty of the ancients"). Although he regarded these as distinct forms of freedom, they were, Constant argued, interdependent, with political freedom being a necessary evil, valuable only as a means of achieving the more fundamental good of personal freedom. Contemporary Western political theorists and practitioners alike have been profoundly influenced by Constant's view. Although I have no interest in denigrating the value of personal freedom, I regard the influence of Constant's view as highly unfortunate, in that it downplays (if not altogether obscures) the intrinsic value of political freedom. In this section, I examine this complement to the very real instrumental value of political freedom.

The intrinsic value of political freedom is recognized by many indigenous African societies. Among the Akan of Ghana, for instance, there is a ubiquitous motif of two crocodiles sharing one stomach, their heads locked in combat over a morsel of food.[14] One finds the same motif in the form of snakes and chameleons among the Bamoun and the Nso of Cameroon. An obvious interpretation of the image is that of the folly of internal conflict: Foolish heads snap at each other, all the while denying their common stomach – what they both need to survive.

But this is not the only interpretation. An alternative interpretation is that food is eaten not merely for its nutrients (as in pre-aesthetic life) but also for the pure enjoyment of the process of eating. This second interpretation nicely illustrates what we might call the "aesthetic aspect" of food: The

intrinsic pleasure of tasting, savoring, and experiencing it. As applied to politics, this motif suggests that politics, like eating, has an aesthetic aspect. Politics is, then, not merely about results but is also a process that is satisfying and valuable for its own sake.

This aesthetic appreciation of politics reflects the intrinsic value of persons' ability to commit themselves to work peacefully through inevitable, often seemingly irreducible, conflicts. And it is because of this intrinsic value that we can justly lament the lack of a political life for so many in this world, quite apart from its "payoff." Students of African politics are familiar with the image of elders sitting under a baobab tree adjudicating conflict, talking and talking for hours and hours until everyone has had their own say and all have agreed. This consensus-based approach to politics has been justly criticized for its inefficiency, as well as for its other, less obvious effects on persons' ability to manage deep-seated conflicts.[15] These are, I believe, telling criticisms, yet one can only admire the way this practice respects the processes of politics themselves.

This phenomenon indicates that politics is important not only because it has an impact on how our lives go, but also because there is something appealing in the very processes involved. Specifically, I suggest that its appeal lies in us engaging politically and thereby presenting ourselves to ourselves as being in control of our lives. Political freedom arises from engaging in genuine politics, a manner of engagement with others that allows each participant the chance to experience the capacity to direct her path through the world, seeing and being seen, listening and being heard, ruling and being ruled. To engage in this kind of politics is to gain control over one's life, and such control has a value that is distinct from the value of what is gained through it.

The intrinsic value of politics depends a great deal on how political activity is presented or adorned. Politics as a means of adorning ourselves can be seen quite clearly simply by looking around at our political infrastructure. Consider the adornment of political spaces and buildings and all forms of political theater in the capitol, in courthouses, and among presidential contenders in the United States, and you will notice that both candidates and ordinary citizens are concerned not just with the substance of what candidates have to say, but also with how the candidates *perform*, as in theater. Such adornments exist not just for their practical utility, but perhaps even more for their functions as props and costumes, as it were, for the common political stage that, according to Hannah Arendt, is needed for the exercise of freedom:

> Freedom needed, in addition to mere liberation, the company of other men who were in the same state, and in need of common public space to meet them – a political organized world, into which each of the free men could insert himself by words or deed.[16]

Active participation in the "public space" is an important aspect underlying a conception of political freedom, one which the free Athenian men of the fifth century bce took seriously – to the point that each Athenian was presumed capable of governing himself and the polis as well as any of his fellow citizens, a presumption implicit in the tradition of selecting civic leaders by lot.[17]

It is, of course, one thing to maintain this fiction in relatively small states such as Athens, the Roman Republic, and Renaissance Florence, and quite another to do the same with respect to a modern, diverse democracy such as the United States. In that sense, one might agree with Benjamin Constant that *modern* polities are simply too large geographically, too diverse demographically, and far too complex economically and technologically to maintain the fiction that political talent is so evenly distributed. Indeed, Constant's view appears to be confirmed by statistics, indicating widespread political apathy in the United States as illustrated by extremely low voter turnout at the polls on election day; such data strongly indicate that most Americans really do care far more about their personal freedom than about political freedom.

Note, however, that there are at least two categories of apathetic citizens. One consists of those who see politics as inherently pointless; for these, there is no reason to engage because politics is controlled exclusively by others (e.g. the political elite, an oligopoly, or dictator). The second comprises those who, although not regarding politics as necessarily futile, have calculated the "opportunity costs" of engaging in political activity and concluded that those costs are simply too high. For each category, politics is, as Constance taught, a mere instrument, valuable only as a means to an end. The first rejects politics because it appears to be useless in getting him what he desires; the second, because she believes there are better means available for getting what she wants.

Such apathy is rampant throughout Africa, whose otherwise capable people have largely simply given up on their ability to make their states – and more generally, politics – work for them. They've failed to transform the de facto "colonial" state that exploited the population into a modern state that works for them. As soon as the opposition leaders take over office, the populace sees them doing exactly as their predecessors: They buy luxury cars, build luxury palaces, and spend more time in Europe and America than among their own people. Thus when these citizens look deeper, they see one "colonial" structure replaced by another, transforming those in power to seek political gateaux like their counterparts in Europe and America. When they try to change their leaders' attitudes and fail in the midst of oppression, they give up and do just what it takes to get by on a daily basis, even if that means sharing in the corruption that put them in that position in the first place. They may console themselves that nothing that they could do could change the situation, and so they live their lives as subjects.

Political apathy among citizens of the Western liberal democracies is similarly generated by this utilitarian view of politics. This attitude permeates political culture in the United States today to the point that it almost seems that the worst liability for a candidate is to be an experienced politician. Listen to presidential candidates in the United States and you hear repeated condemnations of "politics as usual," as if America's problems would be solved if only the messy business of politics were eliminated. "If only we could hire a CEO to do the work; all we want is to get the job done" is the impression that one gets. Apathy is partly generated by this philistine view of politics.

It is true, of course, that politics is a means of solving problems. But politics can also be seen as a form of play – a pastime or recreational activity that can be enjoyed in its own right. From this point of view, one can think of politics not as a source of power or as a place for lining one's pockets, but as a calling or vocation. A wine connoisseur knows that what is valuable about wine tasting is not the quenching of one's thirst but the joy that surrounds the act of tasting – the ritual, the symbolic gestures, the disagreements about taste, and the entire ambiance that goes with it. Similarly, a political connoisseur recognizes the value of politics, conceived as a process of inserting one's self among other selves, disagreeing with people, engaging peacefully but ardently, enjoying the rituals, the speeches, the symbols, and ceremonies for their own sake. To a political connoisseur, political theater is valuable even if he is getting nothing concrete out of it. The more people have moved beyond their aboriginal lives, the less functional politics becomes, and the more valuable it becomes from the aesthetic point of view.

Conceiving of politics as a play or pastime is not to claim that the stakes involved are not great or that it is merely a means of entertainment. To the contrary, the great value of engaging in politics is precisely because of what is at stake. And yet, the possibility of politics depends on there being at least some assurance that the players don't risk absolutely everything. The presumption that persons' physical needs are met is one such assurance. More interestingly, a constitution serves as a guarantee to participants in the political system: it is an insurance policy for "losers" in the political game, which encourages people to take a "long view" of politics such that political losers today can be confident that they will have a chance to prevail tomorrow.

The value of such an insurance policy is clear in the contrast between the West and much of the developing world. In the latter, constitutional structures are mere formalities and offer little protection against the ruling elite. There, rulers have such hold on power that no one can see politics as an iterated game in which political losers get another turn. In such a system, politics is an all-or-nothing affair. For instance, the African institution of "one-party or no-party democracy" is in part sustained by the reality that

the losers in political battles lose *everything* – power, patronage, prestige, a voice in the government, and perhaps even their lives. Given the effective monopoly on power and resources enjoyed by those controlling the government, there is little motivation to mount a political opposition, for, unlike the opposition in a more competitive or balanced system, such an opposition has no reason to think it will win on *any* issues. It is not surprising that, faced with the prospect of getting something by joining the government in power or getting *nothing* by joining the opposition, Africa has such a weak tradition of political opposition.

In contrast, the obstacle to political participation in much of the West is not the fear of persecution at the hands of entrenched power. There, the constitutional protections have been infused into the culture to the point that even those who resent the constraints they impose must abide by them. Such protections are more than legal formalities; they are almost instinctively demanded of their governments. What enfeebles political opposition in places such as the United States is not fear of repression by the state, but citizens' cynicism or lack of interest in politics. In a country of 300 million, few think that their participation will determine the outcome of the political process; for that reason, no strictly utilitarian appeal will be effective in motivating citizens to engage politically. A more effective strategy to promote involvement is to foster a love of politics itself by finding new ways to adorn political practice so as to draw individuals back into it. And, to the extent that the political involvement stimulated by that adornment demonstrates affection for the polity it sustains, we can appreciate Edmund Burke's insight that "the precept given by a wise man, as well as a great critic, for the construction of poems, is equally true as to states.... To make us love our country, our country ought to be lovely."[18]

Such adornments need not, of course, be decided upon in any conscious or deliberative process. Rather, they often arise organically with changes in society, culture, and even technology. In the United States today, for instance, Internet and cell phone technologies provide citizens a novel means of learning about and engaging in politics. The novelty of the blogosphere, YouTube debates among presidential candidates, and virtual communities through MySpace and Facebook give political participation a "new face" that may entice citizens into politics who might otherwise have no interest. The proliferation of new media means that citizens are more likely to get the information that they need to participate in politics in a form they enjoy using. Moreover, there are myriad participatory levels in democracies starting from the federal level and continuing all the way down to small neighborhood associations.

Such participation has, of course, practical goals. Yet it also has, I contend, an important intrinsic value – what I have likened to an aesthetic quality. In large-scale elections in places such as the United States, the probability that the outcome of the vote will be decided by my one vote is vanishingly small.

It seems to me that in the blogosphere or in cybersphere of politics today, those who participate (and they are in millions) do so not merely for the *consequences* of their participation, but for the very act of participating, the joy of participating. Promoting political freedom in Western democracies in the twenty-first century may depend on individual access to technology, because that technology allows individuals to combine the enjoyment of their personal and political freedoms at the same time.

Violence and political freedom

> War is nothing but the continuation of politics by other means.
> –Karl von Clausewitz

In stressing the intrinsic value of politics, I do not mean to suggest that there are no important consequences of political engagement. In this final section, I explore some of the consequences of encouraging such political involvement, particularly its role in offering an alternative to violence.

To appreciate the importance of robust political involvement, imagine first living with the constant threat of physical harm to you and your loved ones, a threat that extends as far back as memory reaches and as far forward as one can realistically imagine. Such are the circumstances of many Africans who suffer not only from their current despots, but also from a well of memory poisoned by centuries of "colonialism" and exploitation. Not surprisingly, people in those conditions often turn to violence. According to certain traditions of political thought associated with Robespierre, Machiavelli, Marx, Weber, Sartre, and Fanon, such movements are political and sit on a continuum with more conventional (nonviolent) means of opposition and reform.

But there is an entirely different tradition that regards violence not as another form of politics, but as an *alternative* to politics. Indeed, it is the implicit contrast between politics and war that gives Clausewitz's epigram its ironic power. The view of politics as essentially nonviolent (at least in ones dealing with political peers) was evident for the Ancient Greeks, who relegated violence to the sphere of international relations and noncitizens. Mill echoed a similar view, insisting that "Liberty, as a principle, has no application to any state of things anterior to the time when mankind have become capable of being improved by free and equal discussion."[19] Mill viewed rational discussion – not violence – as the heart of politics.

Although there is surely some truth to Clausewitz's claim, there are real differences between violent and nonviolent means that should not be obscured. There is genuine value in a commitment to addressing conflict nonviolently – something heroic in deciding to live with those who reject your beliefs and ideals rather than eliminating them. The analogy between aesthetics and politics offers one way to maintain the distinction between

the violent and the nonviolent (or, as I would say, the violent and the political). One reason why political theorists have found it so difficult to resist the assimilation of violence and politics lies in the rise of the utilitarian view of politics: When violence is just another form of politics, the choice between violence and nonviolence is the mere choice of means to one's ends. When, on the other hand, political engagement has a value of its own, choosing violence amounts to choosing different ends. On this view, choosing violence is not just a matter of picking one of several paths to one's destination, but of deciding on an entirely different destination.

According to Arendt, "Power and violence are opposites; where one rules absolutely, the other is absent. Violence appears where power is in jeopardy, but left to its own course it ends in power's disappearance."[20] From the aesthetic point of view, keeping political power out of jeopardy requires more than merely showing that it is a better *means* than violence is. It requires that political engagement become an end valuable in itself. For that reason, a program of civic education that valorizes political participation is a crucial precondition for the promotion of nonviolent means. At the same time, this perspective highlights the danger posed when *violence* is aestheticized. When weapons are no longer merely means of defense but works of art, war itself becomes theater, complete with its own props and costumes – and with a disturbing appeal beyond its instrumental value.

Valorizing politics in this way requires more than simply glorifying the existing regime. Making political power an attractive alternative to violence requires representing the political process as one that everyone – including ethnic and religious minorities – can benefit from. Nonliberal, nondemocratic states typically do not present themselves as accommodating the needs or purposes of their minorities; instead, they present themselves as brittle structures whose very survival would be threatened if nontraditional voices were heard. With no hope of gaining a stake in the existing structure, the excluded naturally turn to insurgency, rebellion, and revolution. By tempering democratic principles with liberal constitutional safeguards such as term limits and civil rights, and by recognizing the importance of keeping the political process open to newcomers, states can help foster the perception of the political process as one that is a viable alternative to violent, nonpolitical action.

Conclusion

In this chapter, I have presented a new approach to political freedom and human rights inspired by the similarities between aesthetic and political experiences. Although I do not mean to identify these two quite distinct kinds of experiences, I believe they share important features, most importantly the intrinsic bases of their values and their foundations in human activity.

Art and politics are creative in the highest sense of the word. They each demand that persons bring all their understanding of the facts – the material limitations of themselves and the world – to the problem of realizing an idea of what the world could be. The value of those endeavors, be it to create a beautiful sculpture or painting or to balance the inevitable conflicts in a diverse community, goes beyond the utility of their effects. And there is something worthwhile in the very process of trying to achieve those ends, a value that is quite independent of the tangible results of those efforts.

As I have argued above, there are also practical consequences to adopting this view of politics. The act of recognizing and fostering the pleasure that comes from being politically engaged is a natural way to encourage political participation. Allowing citizens to decide whether to participate in the political system based solely on the expected "payoff" of participation to them is simply not sufficient to create the kind of citizen involvement required by a thriving liberal democracy. Another consequence concerns how we might argue with respect to human rights and liberty: In appreciating that political theory must connect to political behavior, we are led beyond appealing to universal abstractions when framing arguments about human rights to more concrete individual relationships.

More generally, I have argued that realizing freedom demands that individuals have the right civic character, a commitment to control the world in which they live despite all the encumbrances that they are bound to face on a daily basis. Although the United States and other Western states may have a role to play in helping citizens in the developing world to obtain such a disposition, it is ultimately in the hands of individuals – one citizen at a time – to take control of their circumstances. The process of becoming a politically free person is, like that of becoming an artist or performer, one that demands self-discipline and dedication: One can learn from and lean on the resources of others, but ultimately it is something that one must do for oneself. In the political context, individuals must resolve to deal with the vicissitudes of *fortuna* (including the inevitable deep conflicts with others) within a political system. The presence of *fortuna* in human affairs means that one can never be fully in control. However, one can learn how to respond to *fortuna* with intelligence and equanimity; those who succeed in doing that can properly be regarded as enjoying *nyang* and as having achieved political freedom.[21]

Notes

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1. G. F. Miller, *The Meeting Mind: How Sexual Choice Shaped the Evolution of Human Nature* (New York: Doubleday, 2000), p. 270; also quoted in Steven Pinker, *The Blank Slate: The Modern Denial of Human Nature* (New York: Viking, 2002), p. 407.
2. Dale Paterson, *Eating Apes* (Berkeley: University of California Press, 2001).
3. Quoted in H. G. Schenk, *The Mind of the European Romantics: An Essay in Cultural History* (Frederic Ungar Publishing corporation, 1967), p. xvii.
4. For another criticism of the ontological conception of human rights along the same line as mine, see Juieta Lemeitre, "Legal Fetishism at Home and Abroad," 3, Unbound, 6 (2007).
5. Richard Rorty, *Philosophy and Social Hope* (London: Penguin Books, 1999), p. 52.
6. Of note here is the communitarian conception of personhood. See especially Michael Sandel's criticism of John Rawls in *Liberalism and the Limit of Justice* (Cambridge: Cambridge University Press, 1996).
7. For more on this debate, see Ajume H. Wingo, *Veil Politics in Liberal Democratic States* (Cambridge: Cambridge University Press, 2003), especially chapter 2.
8. Steven Pinker, *The Blank Slate: The Modern Denial of Human Nature* (New York: Viking, 2002), pp. 404–5.
9. Bernard Williams, *Philosophy as a Humanistic Discipline* (Princeton: Princeton University Press, 2006), p. 141.
10. Bernard Williams, *In the Beginning was the Deed* (Princeton, NJ: Princeton University Press, 2005), p. 64.
11. Ibid., p. 67.
12. In his *The Law of Peoples* (Cambridge: Harvard University Press, 1999), John Rawls argues along these lines of leveling people up. See especially, the section entitled "Burdened Societies."
13. Such training (in both the arts and politics) is typically a matter of developing habits and techniques, rather than acquiring beliefs. For more on demonstrative civic education, see Ajume H. Wingo, *Veil Politics in Liberal Democratic States*, especially chapter 5.
14. For an interpretation of the motif along the lines of consensual politics, see Kwasi Wiredu, *Cultural Universals and Particulars* (Bloomington: Indiana University Press, 1996), p. 173 and Kwame Appiah, K. Anthony Appiah, "The Art of African," *The New York Review of Books*, vol. XLIV, no. 7, April 24, 1997, 46.
15. See, for example, my "Learning How to Lose: Coping with Political Defeat in Honor/Shame Cultures of Africa and Middle East," paper presented at the UNESCO Conference on Philosophy and Democracy, Beirut, November, 2004.
16. Hannah Arendt, *Between Past and Future* (New York: Penguin, 1954), p. 48.
17. Aristotle, *The Constitution of Athens …*; Maurizio Viroli, *Nocolo's Smile: A Biography of Machiavelli*, trans. Anthony Shuugar, (New York: Hill and Wang, 1988), p. 67.
18. Edmund Burke, *Reflections on the French Revolution* (London: J.M. Dent and Co INC, 1910), p. 75.
19. John Stuart Mill, *Utilitarianism, On Liberty, Considerations on Representative Government, Remarks on Bentham's Philosophy*, ed. Geraint Williams (London: J. M. Dent, 1993), p. 79.

20. Hannah Arendt, *Crisis of the Republic* (New York: Harcourt Brace Jovanovich, 1969), p. 155.
21. The word *nyang* in Lamso (the language spoken by the people of Nso, North West Province of Cameroon) literally means "calm within and peace without." A person exuding *nyang* is a self-aware individual who has not only satisfied her basic survival and self-preservative needs but has also provided and prepared for the unforeseen circumstances in our lives that appear with no prior warning and either disrupt or better the lives of individuals or groups thereof, that is, *fortuna*.

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