

# Liberalism, Through a Glass Darkly

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Philosophical liberalism leads a double life. On the one hand (analytically discursively), it is a closely studied tradition of political thinking, extending from Locke to Hayek, of appreciable internal diversity and recognisable stages of development. On the other hand (rhetorically responsively), it is the hegemonic, all-purpose negative frame of reference. As the dominant First World ideology, or (if one prefers) political theory, it is the viewpoint in terms of which other ideologies define themselves. It is an important counterpoint to Marxism, to socialism, to conservatism, to libertarianism, and even to anarchism, despite the fact that each of these doctrines contains liberal elements to a greater or lesser degree.

Of late, there has been a spate of books either touting the demise of liberalism (most notably Patrick Deneen's *Why Liberalism Failed*, 2018) or expressing a hyper-ebullience concerning liberalism's achieve-

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ments and prospects (most notably, Steven Pinker's Enlightenment Now, 2018). These perspectives were foreshadowed two to four decades earlier. Judith Shklar wrote that "it may be a revolting paradox that the very success of liberalism in some countries has atrophied the political empathies of their citizens" (Shklar 1998, p. 17). Edward Shils, even earlier, wrote, "The cause of liberalism is not a lost cause, but much reflection and many repairs are needed if it is not to become one" (Shils 1978, p. 123). In contrast to the quiet circumspection of Shklar and Shils' work, Francis Fukuyama's bullish and best-selling grand narrative The End of History and the Last Man has had the shelf-life of a loaf of bread, despite his protestations that he was misread (Fukuyama 2018). Though Deneen and Pinker (as does John Gray contra Pinker)<sup>1</sup> each present and represent helpful perspectives, in the ever-shifting sands of political life, it is not immediately obvious which one of these perspectives has a more accurate correspondence with reality—hence the "glass darkly" of our title. It is our contention that these perspectives converge around the political sociology of liberalism, whereby liberalism is being leached by its opponents and is gamed by its ostensible advocates, paradoxes that may well be inherent to the logical structure of liberalism.

While the thought might be implicit in Deenan, Pinker, and others, a deeper diagnostic was articulated by Michael Oakeshott some seventy years ago (1991; 1996). That is, we have long since been within the throes of a crisis of modernity, and all the twentieth-century isms (the politics of faith as opposed to the politics of scepticism) are merely various responses to this crisis. Modernity announced the individual's independence of arbitrary external authorities and urged that everyone draw upon the rational faculties with which we are endowed. Whatever else separates the several variants of liberalism, anything worthy of the name must turn upon the idea of individual autonomy. Identitarianism is merely the most recent instantiation of a long-germinating manifestation of those unable or unwilling to embrace individual autonomy. This sublimation of individuality is an inversion of the central liberal tenet not to treat others as a means to an end.

In the discussion that follows, we examine the conceptual relationship between two key liberal values—justice and rights—especially in light of the rise of "social" justice and its now prominent driver, identitarianism. This is especially challenging to standard conceptions of liberalism and its identity-neutral vocabulary of justice, that is, *cives*, persons, and agents (Appiah 2005, pp. 99–105). We do not deny that there are instances whereby *relevant* collecting features can be picked out, but the problem, as we see it, is that identitarianism and its ever more obscure permutations have been made to do duty for the whole of liberal political theory, thereby creating an ontological slum of rights-claims, an abstract and axiomatic foundationalist conception *demanding a corresponding morality not deduced from morally relevant considerations*. Through this gold-rush to secure ever more obscure rights, the politics of relevant similarity (liberalism) has morphed into a politics of divisiveness (*ressentiment* and *mauvaise foi*), significantly reducing the prospects for practicable remediation.

This has resulted in ideological viewpoints being deployed "like switch-blades against the enemy of the moment" (Percy 1991, pp. 58; 416), or as David Corey following Eric Voegelin has termed it, "dogmatomachy" (Corey 2014), each side guilty of an over-sacralisation of one value. In the case of the Left, the over-sacralisation of equality of *outcomes* necessarily stirs an authoritarian impulse in its implementation. We concede, however, that liberalism has been tarnished by an over-sacralisation from within the tradition itself—that is, the marketocrats (Hardwick and Marsh 2012a, b; Abel and Marsh 2014). Liberalism's fortunes have waned, tarnished by zero-hours contracts, wildly fluctuating business cycles, widespread crony capitalism/corporate welfare (Munger and Villarreal-Diaz 2019), and rent-seeking (Taleb 2018).

#### **Liberalism: Three Theses**

It is seldom worthwhile to treat particular ideologies as closed concepts that one can define in terms of necessary and sufficient conditions. Liberalism, like other ideologies, displays a great deal of diversity among different theorists, past and present (Marsh 2018, pp. 169–172). So we are not going to find a unique set of values, ideals, and general theoretical beliefs common and distinctive to liberals. However, at the level of values

and ideals, we think that we can pick out three *typical* liberal beliefs. These are as follows:

- the personal autonomy thesis,
- the state forbearance thesis, and
- the rule of law thesis.

The personal autonomy thesis assumes (1) that people have ideas about living rightly or living well, (2) that these ideas can inform their practical reasoning and explain their actions, and (3) that when such ideas do fulfil this practical role, there is at least one good element in any situation in which it occurs. Where a person is autonomous be it intrinsically or instrumentally, he or she would have a personal conception of the good, and this conception is part and parcel of the causal aetiology of their choices.

The state forbearance thesis holds that the state should not exclusively or predominantly promote any particular conception of the good. According to the state neutrality thesis, the state should be equally indifferent to all conceptions of the good. As we've already indicated, a cynical exploitation from within liberal democracy has corroded this notion.

To effect the first two theses, liberalism requires that there should be a just political order. Under liberalism the main purpose of law as a just system of rules is to ensure that no agent, pursuing a conception of the good, is set arbitrarily at a disadvantage by the force, fraud, or deception of *other agents or by the state itself* as lawmaker, law-enforcer, or law-evader.

The personal autonomy thesis, in the form in which it is stated above, is "thin" or minimalist in two respects. In the first place, it does not assume a particular view of the self or person in respect of egoism or (in Pettit's sense) individualism. That is, on the one hand, it does not assume that agents are exclusively or predominantly egoistic, doing what (and only or mainly what) they take to be in their overall self-interest. Nor, on the other hand, does it assume that there is a fixed, context-independent human nature of the kind that informs, say, Hobbes' political theory (Pettit 1985–86, pp. 174–75).

Secondly, the thesis does not involve, in Richard Double's terminology, a content-specific notion of autonomy (Double 1992, p. 68). Such

notions are normative and significantly contentious; they tell us what autonomy properly, authentically, or most deeply, consists in. Kantian autonomy is a matter of the noumenally free agent prescribing consistently universalisable maxims to him or herself as a requirement of pure practical reason. Sartrean existentialist ideas of self-creation, with radical freedom in respect of values and ideals, is in much the same line of business. Other notions of autonomy invoke the Cartesian idea of complete personal responsibility for one's beliefs. And so on. In a more direct account we can say that conceptions of the good, or substantive theories of the good,<sup>2</sup> are views (more or less systematic) about living rightly or living well. Theories of living rightly are theories of conduct, telling us how we should behave; theories of living well spell out the personal, social, or even ecological conditions for a rewarding, satisfying, fulfilling life. Kant's normative ethics is a theory of living rightly which says virtually nothing about living well. Religious theories of living well often specify some purpose in life that gives point or "meaning" to one's existence. But there are broader, non-religious possibilities. Living well might be a matter of the maximum gratification of desire, or of living up to one's major expectations, or (with a nod to Aristotle) of actualising one's potential for full human functioning. Brian Barry's categorisation of anthropocentric, zoocentric, and ecocentric theories of the good can comfortably overlay this account (Barry 1995, p. 20).

For the state exclusively or predominantly to promote a particular conception of the good, X, is approximately for the following probability to hold. Given the state's policies, to the extent to which the successful pursuit of a conception of the good is affected by those policies, the probability of X's being successfully pursued is higher than that of any other conception's being so.

If this is what the state forbearance thesis rules out, and if conceptions of the good are roughly as just explained, the question of a rationale arises. On what grounds should the claim be made that the state should not exclusively or predominantly promote any particular conception of the good? In detail there are, we think, a variety of (not wholly consistent) epistemological and metaphysical grounds for this claim within liberalism.

As nearly as we can tell, three such bases are discoverable historically:

- 1. One view (hardly widespread among liberals nowadays) is that there is an objective human good, which is known to be valid—or in which, at any rate, we have reasonable grounds for belief. But, the point is, this good must be freely acknowledged and voluntarily acted on. Locke takes this view of Christianity. He is totally convinced of "the reasonableness of Christianity" (that very phrase is, of course, the title of one of his books). A Christian way of life cannot, however, be enforced at the level of deepest spiritual value. This is why the state should practice forbearance, on pain of attempting the impossible. (There is, so far as we can see, no inconsistency between this view and Locke's refusal to tolerate atheists, on the ground that they could not recognise the sanctions of the divine law. This is not an imposition of Christianity but a defence of the community against harm.) Rephrasing Locke in terms of the above formula, we can say that by virtue of the kind of resources available to the state, it cannot through its policies increase the probability of a certain kind of spiritual life's being successfully pursued. The means, as Bosanquet would later say, are not in pari materia with the end.
- 2. Another view is that there is an objective human good, but we do not yet possess anything amounting to knowledge or rational belief about its specific nature. This is J. S. Mill's position; the recommendation in *On Liberty* (1858) to encourage "experiments of living" is designed to create the conditions (rather like laboratory conditions in experimental science) in which people acting innovatively may bring the true human good to light. This is the kind of view normally tagged as "perfectionist liberalism", though the precise aptness of the term "perfectionist" is elusive. There is no specific notion of perfection, only of indefinite improvability towards substantive standards of excellence not yet fully known.
- 3. The final view, which has enjoyed most support in the twentieth and current century, is that there is no such thing as a unique, objective human good to be known. A person's interests are properly defined by his or her own choices. In other words, interests have no objective status over and above what each person prefers; preferences reflect values, and values are ultimately subjective. This is the pluralist stance.

If we abstract from their differences, the second and third views both assume that conceptions of the good are matters of reasonable disagreement. In the case of the second view, we do not know the good (though such is knowable) and therefore there is scope for reasonable disagreement about it. In the case of the third view, we do not know the good (because there is nothing to be known) and hence our divergent preferences are not unreasonable. The first view is prima facie resistant to the assumption of reasonable disagreement, but it is now historically rather isolated within liberalism, and it does recognise the fact of conscientious disagreement and hence (we hope the inference is not too precarious) of reasonable disagreement at one remove. This is so if we accept that it is reasonable for people to argue from their conscientiously held beliefs, including their conscientiously held conceptions of the good. (Cf. Aquinas 1981 on the "rights" of erroneous conscience: Summa, i. 2, sq. 19, aa. 5, 6.) Incidentally, one of our dissatisfactions with A Theory of Justice is that, operating barely on the level of reasonable disagreement about conceptions of the good, Rawls has no need on his own terms to probe the bases of such disagreement or to explore the varied possibilities represented by views 1-3. But no adequate political theory can avoid confronting these views or choosing between them.

Socialist (or more accurately, Marxist) political theories are typically marked by a particular stance towards the plurality of conceptions of the good that gives liberalism its point. In a socialist (especially Marxist) perspective, when a specific source of conflict and alienation has been removed, that is, when the economic system is no longer exploitative, then the kind of lifestyle pluralism that liberalism so jealously guards will be sidelined. Lifestyles implicated with exploitation (notoriously, religious lifestyles à la Marx's 1843 *Critique of Hegel's Philosophy of Right*) will fall away, and the remaining variety will cease to matter politically.

We distinguish the state forbearance thesis from two other positions. The state forbearance thesis holds that the state should not exclusively or predominantly promote any particular conception of the good. According to the state neutrality thesis, by contrast, the state should be equally indifferent to all conceptions of the good. This means, in the terms used above, that given the state's policies, to the extent to which the successful pursuit of conceptions of the good is affected by those policies, the probability of

successful pursuit is equal for all (relevant) conceptions of the good. The state impartiality thesis yields the same result but works from the more positive basis that the state, so far from being equally indifferent to all conceptions of the good, should equally promote them.

The state neutrality and state impartiality theses entail the state forbearance thesis; to affirm the two former and deny the latter would be a contradiction.<sup>3</sup> But the state forbearance thesis does not presuppose either of the two other theses. This is just as well, for there are familiar reasons for thinking that the neutrality and impartiality theses are nugatory. On realistic assumptions *any* policy or set of policies is likely to promote or hinder the pursuit of different conceptions of the good to different degrees (Appiah 2005).

### **Liberal Justice**

For classical liberalism, justice involves the maintenance of a general body of formal rules and procedures (Vincent 1992, p. 41). We agree, but liberal views on justice are not limited to classical liberalism and there are ambiguities in the idea of procedural justice.

All ideologies run on dominant descriptions—fundamental descriptions under which persons are identified or recognised. For Marxism, for example, the fundamental descriptions are "exploited" and "exploiter". Liberalism has a single dominant description, that of the autonomous agent—the agent pursuing a conception of the good, which is part of the causal aetiology of his or her choices. "Citizen" or *cive* is secondary to this; citizenship arises from the needs of autonomous agents for a political system. Justice is a matter of treating like cases equally. Under liberalism, the main purpose of law as a just system of rules is to ensure that no agent, pursuing a conception of the good, is set arbitrarily at a disadvantage by the force, fraud, or deception by other agents, or by the state itself. This is the classic doctrine of the rule of law, whatever its variations of formulation by Dicey, Hayek, and other liberal theorists of law.

But liberal theory has not stopped at purely legal justice. One way of reading the "New Liberalism" of T. H. Green, J. A. Hobson, and L. T. Hobhouse, in the late nineteenth and early twentieth centuries, is as an

application of justice to the social distribution of goods, services, and opportunities. From the perspective of New Liberalism it is arbitrary, an irrelevant difference, that one agent should be able to pursue a conception of the good, or should have access to a plurality of such conceptions and the means of pursuing them, by accident of birth or circumstances.

This is a slight over-statement of what we find explicitly in Green, but it is the logical direction of his thought and the perspective is clearly present in the work of Hobson and Hobhouse. No commitment to markets or any other form of capitalism need block this perspective. Conceptually, there is no necessary connection between liberalism and capitalism. It is impossible to derive the moral or practical desirability of capitalism of any variety from the three theses set out above. Even a rights-based liberalism, running on the right to acquire and transfer private property, will not work the conceptual trick: it is logically possible to possess and exercise this right in pre-market, pre-capitalist conditions.

Empirically, the salient point in capitalism's favour is that, inasmuch as it separates political from economic power (and decentralises economic power, dispersing it in a multiplicity of points), it reduces the state's power to act arbitrarily against the individual agent. And precisely inasmuch as separation and dispersal fail in the real world of capitalism, the empirical argument is less convincing. The historical-sociological correlation of liberalism as a "living" ideology—a set of institutionalised ways of thinking, talking, perceiving, acting, and so on—with capitalism as a separate matter, is not considered here.

Liberalism is thus not committed to a purely procedural view of justice. The distribution of goods, services, and opportunities is not to be justified solely in terms of the rules by which the relevant holdings have been acquired or transferred. It is answerable to a more substantive criterion, independent of the rules themselves, in terms of the social equality of persons' *ability* to pursue conceptions of the good. Moreover, given this view of the relevance of social inequality, it is not really accurate to characterise liberalism, in the familiar way, as representing "the politics of citizenship" rather than "the politics of difference". Liberal political theory *does not* ignore the specific descriptions—of nationality, ethnicity, skin colour, gender, sexuality, age, and so on and so forth (cf. Alcoff 2003, p. 6). If there are systematic connections with social inequality in respect

of the ability to pursue conceptions of the good, then liberal justice is the "politics of difference".

The charge might rather run that autonomy is conceptually an identity notion. Two ideas are involved here. One is that the liberal autonomous agent is a life-planner with (in self-image and on ideal conditions) a heroic trajectory of achievement across the stages of a lifespan. This executive, managerial view may well be identitarian, but liberalism is uncommitted to it. The causal aetiology of which we have spoken, connecting ideas about living rightly or living well with actual choices and actions, is consistent with having no such "executive, managerial" view. The autonomous agent, who may rely on an "art of improvisation", does not even have to take Nagelian prudential cognisance of the future on the grounds that all stages of a lifespan are of equal importance. Liberal political theory, as such, takes no stand on these matters.

It is true that rule-governed accounts of rationality abound; one thinks immediately of Kant's attempt to derive exceptionless, abstract laws from the principle of the categorical imperative. But we can offset Kant with Aristotle; the *phronimos* has perception into the mean in any situation for action (1893, NE, II, 6. 1106b36-1107a2, and cp. II, 9. 1109b20-23). There is no reliance on abstract rule-following; Aristotle is here as contextual and "judgmental" as one could wish.

The social contract is only an evocative metaphor. The point is really the one that Locke made against Filmer—that there is no such thing as natural political authority, with one person or group having the inherent right to make decisions with which some other person or group is obliged to comply. It is not that conditions of contractual liability hold between state and citizen such that there is a distinct statement or understanding of the terms of the agreement, fully informed consent, and the rest. It is simply (a) that the imagery of a contract, as something "artificial", makes the right point against claimants to inherent authority; and (b) that political obligation is voidable just as a civil contract is.

Liberalism in any case is not a theory of contractual consent—entered into by autonomous agents—as the basis of political authority and legitimacy. The justification of a liberal political order is *not* that citizens consent to it. The liberal state is legitimate in its own right as an appropriate, historically specific response to pluralism—to the *fact* (Walzer 1997) of

there being divergent lifestyles, rival conceptions of the good, which are matters of reasonable disagreement and none of which are known to be the correct account of human flourishing. Liberalism is consistent with autocracy, provided the autocrat is a liberal.

We just referred to divergent lifestyles, rival conceptions of the good, which are matters of reasonable disagreement and none of which are known to be the correct account of human flourishing. But "known" by the criterion of what epistemology? This project branches in two directions. The first follows the path of sociology of knowledge and seeks for beliefs, experiences, forms of consciousness, to which x identity has sole or predominant access by virtue of their social situation. This is the content of the knowledge angle. Along the other direction, the concern is with the logical form of knowledge. Traditional epistemology is charged by identitarian critics with androcentricity<sup>4</sup> in respect of seeking to close the concept of knowledge under necessary and sufficient conditions: "S knows that p if and only if ...".

It is not clear how the sociological approach, relying on forms of consciousness to which x identity has sole or special access, will reduce society-wide disagreements about the good. There is no coherence in the idea that there is an epistemic community that corresponds to say black, female, Jew, &c. Neither, on the other hand, is there much plausibility in the idea that the "reasonable" disagreements that are central to liberalism arise only on androcentric "closure" of the concept of knowledge. Suppose, with Locke and Mill, that the human good is knowable. Still, with the underdetermination of theory by data, more than one theory of the good will be tenable. Disagreements will be reasonable. Suppose, with twentieth-century non-cognitivism, that there is nothing to be known about the human good: then divergent preferences will not be unreasonable. Disagreements will be reasonable. None of this rests, so far as we can see, on an androcentric epistemology: standards of good evidence and justified belief cannot and should not be merely political. As Susan Haack pointedly writes, the mistake is in "confusing the perspectival character of judgements of evidential quality for relativity of standards of evidence" (Haack 1998, p. 144).

There is an issue within identitarianism concerning the moral status of justice. We can be fairly brief on this because, though the issue goes deep in theoretical ethics (Appiah 2005), it is not one on which liberal political

theory need take a stand. A moral theory to which justice is central is taken to be rule-governed. A morality of justice "excludes the care-orientation to the extent that it subordinates relationships to rules and context to abstraction" (Austen 1995, p. 35). The critical perspective is one which we have already encountered in considering rationality. Clearly there are two sets of questions. The first, if we consider rules to be products of reason, concerns the role of reason versus the emotions in the moral life, and the second relates to the adequacy of abstract, context-free rules (whatever their origin) versus the situational particularity of the moral life.

Liberalism, in its commitment to a just political order, is not signing up for a total morality of justice in these questions. Considering citizens as agents pursuing conceptions of the good, the liberal state is concerned to ensure that, like cases are treated equally.

And so we return to the points about the rule of law and social inequality noted earlier. Justice fulfils an essential role in the political morality of liberalism; liberalism is not committed to a morality of justice. This distinction enables liberal political theory to sidestep the otherwise extremely important issue about justice with which feminist ethics, for example, is properly concerned. Our suggestion is that so-called second-wave feminism is assimilable to liberalism; and that radical third-wave feminism of the essentialist kind must either embrace liberalism or must sideline itself as non-political.

Against this there is an argument, quite without merit, that liberalism cannot, by virtue of its commitment to the private/public distinction, fully address the systematic social injustice to which women are exposed. The criticism runs that liberal political theory assumes the patriarchal family, with its power and property relationships, as "prior" to politics and hence (as part of the private sphere) beyond the scope of public debate and political action. There is a keen irony in this charge against liberalism when one recalls that the central liberal theorist of the private/public distinction, J. S. Mill, was concerned to intervene in family matters to revise legally the property and other rights of women. History aside, the position is clear. Any non-totalitarian political theory accepts a private/public distinction of some kind; and liberal theory is under no constraint to assign family matters to the private sphere if this results in

or prolongs systematic social injustice to women. Feminism of the essentialist kind, for example, does face a dilemma. If, from an adequate essentialist theory, we can deduce a distinct conception (or set of conceptions) of the female good, these conceptions are grist to the liberal mill. We can now feed into liberal politics a fresh set of conceptions for liberal pluralism to recognise. On the other hand, if the female essence is a separating factor such that we no longer all share the single dominant description, "agents pursuing personal conceptions of the good", then it is hard to see what coherent politics is possible. That is, if we now have two irreducible dominant descriptions, "women" and "men", then there is no commonality for a shared politics to run on and this state of affairs can be extrapolated for any other dominant identitarian descriptors. There is a tension in the positing of identitarian descriptors. On the one hand, these identities are ostensibly socially constructed, yet on the other hand, they point to an ontology that relies on some objective designation.5

## **Liberal Equality**

It is our purpose now to (a) conceptualise the notion of equality, and (b) show its inextricable and intimate link with the concept of justice.

One is not sure exactly when equality surfaced as a major political value. Certainly it is present in the 1789 French Declaration of the Rights of Man and even earlier there is the famous statement in the American Declaration of Independence. A useful port-of-call is John Dunn (1984, pp. 7–9). Dunn stresses that

- equality is socialism's major value, just as freedom is liberalism's;
- equality can quite easily be made to look an absurd notion if it is taken descriptively;
- even prescriptively the claim of equality has important limitations—it is not the case that all are entitled to equal respect; and
- the politically important role of the idea of equality is "in the systematic criticism of arbitrariness in the distribution of social, economic or political advantages".

#### We have two reactions:

- 1. On Dunn's first point, if we are talking about the requirement for like cases to be treated equally, that is, for treatment not to depend on arbitrary or otherwise irrelevant differences, isn't this the basic idea of justice? Isn't justice rather than equality at stake here? And aren't we caught up in the traditional problem of justice, that of specifying a valid ground of differential treatment?
- 2. Dunn says that to espouse equality is not to see equality "as the overall goal of social organization" (Dunn 1984, p. 8). But we think Dunn neglects one strand of the socialist tradition. At the very least, socialists have traditionally assumed that if arbitrary grounds of differential treatment were cut out, variations in the distribution of social, economic and political advantages would be sharply reduced.

We think that what is missing from Dunn's characterisation is this. Individuals can be "scored" or "rated" for equality along many dimensions, and if you eliminate unfair differences (so far as possible) you will give people overall equality in their life-chances. Everyone will command the conditions for a satisfying life. We think that's the positive content to the idea of equality as a political ideal, however briefly and naively we've expressed it, and it's missing from Dunn's remarks.

In "The Idea of Equality" Bernard Williams (1969, pp. 153–180) gives a more elaborate conceptualisation of equality than Dunn; and he is more closely argumentative in trying to vindicate a political use for the idea of equality. What Williams is trying to do is to derive a substantive rule of distribution from a specification of the logical object or internal goal of an activity:

- 1. Activities have logical objects (internal goals).
- 2. Activities provide services.
- 3. There are criteria or rules for the distribution of services.
- 4. Those rules should be defined by the logical object (internal goal) of the corresponding activity.
- 5. The logical object of medical activity is the promotion of health and the cure of illness.

- 6. Health services should be distributed so as to promote health and cure illness (from 1–5).
- 7. This instantiates the rule: "To each according to their health needs".
- 8. No other rule of distribution is valid.
- 9. In particular, the following rule is invalid: "To each according to their ability to pay for health services".

Robert Nozick questions item 4. In fact he rejects it altogether in favour of the suggestion that rules for the distribution of a service may be defined by the particular purpose of the person who performs the activity (Nozick 1974, pp. 233–235). Nozick says of Williams' item 7 that this is simply a specific version of a wider and quite familiar claim ("stated many times before"—Nozick 1974, p. 234) for the distribution of social benefits; to each according to their important need: Nozick's critical claim is that this rule or principle has to be argued for in its own right. His suggestion is that this kind of distributive principle "ignores the question of where the things or activities to be allocated or distributed come from" (Nozick 1974, p. 235). Nozick argues elsewhere in his book that the rights of those who create the relevant things or do the relevant actions set limits to (re-)distribution on the basis of important needs.

We're not entirely happy with Nozick's procedure here. In the first place, Williams has not argued for the general rule, "To each according to their important needs", even if the particular rule he does try to vindicate, "To each according to their health needs", is a special case of it. And secondly, he does produce an argument (good, bad, or indifferent: but certainly original and not banal) for his particular rule—precisely the argument we have set out in points l–9.

One comment we'd offer on Williams' argument is that he appears to us to be arguing for a principle of justice. We think that all criteria for the distribution of benefits and burdens are rules of justice. However, if you take Dunn's line on equality, Williams is arguing for equality. He is criticising the distribution of health services on the basis of ability to pay as arbitrary relative to the logical object or internal goal of medical activity. We repeat, however, that we don't think this involves the idea of equality, but of justice.

Plato's *Republic* is an attempt to define the nature of justice in the individual and the state. But the first really systematic and refined conceptualisation of justice comes from Aristotle. In his *Nicomachean Ethics*, Book V, Aristotle makes a string of distinctions. But let's first play around with the language of "just" and "justice" to see what distinctions we can establish for ourselves.

One point to note is the usage in which "justice" is simply a name for legality. Some countries have ministries of justice, which are concerned with the operation of the legal system. This sense of justice is not particularly relevant to political philosophy; we have the concept of law itself to cover this sense of "justice". Another point is that "just" is often merely a synonym for "exact". "Just so", we say. Not much philosophical interest there. Sometimes in ethics we refer to someone as "just" or (more likely) "fair" when we may not find them very lovable but do want to stress, with a sort of grudging admiration, that they are not arbitrary in their treatment of others or apt to make exceptions in their own favour. In ethics again there is, vestigially, a usage in which somebody is said to be "just" if their moral conduct is upright. For a pre-war generation this usage lingers in the title of Edgar Wallace's story, *The Four Just Men* (1905).

Aristotle recognises this last sense of "just" when he speaks of general justice. However, he has much more to say about particular justice. Particular justice is about the rules for distribution of benefits and burdens; for punishment or the correction of harm by one person to another; and for exchange. Aristotle's name for these types of justice have stuck. They are as follows:

- Distributive justice
- Remedial justice
- Reciprocal or commutative justice

The relationship between these types of justice is a matter of controversy. It has been interestingly suggested that the need for distributive justice arises only, or at least mainly, because reciprocal or commutative justice has not been secured. To fix on distributive justice is to do only the ambulance work, and leave the causes of the trouble (the failure to get reciprocal or commutative justice) untouched.

Let's take a look at distributive justice, on which political philosophy has mainly concentrated. Distributive justice is about the distribution or allocation of benefits and burdens. An elementary requirement of justice is that like cases be treated equally, which gives us an immediate connection back to the concept of equality. But what descriptions do we use to secure the proper basis for comparison? In respect of what quality or characteristic are like cases to be treated alike and unlike cases differently? In other words, how are we to give specific content to the purely formal idea of treating like cases equally? Chaim Perelman (1963, pp. 5–10) offers six formulas for justice:

- To each the same thing
- To each according to their merits
- To each according to their works
- To each according to their needs (cf. Nozick and Williams)
- To each according to their rank
- To each according to their legal entitlement

At first glance these formulas are not all compatible. They could not all be applied simultaneously to the allocation of the same benefits and burdens. If you wish to apply different formulas at different times and to different areas of social life, you need a principle on which to do so.

At second glance it is not entirely clear what the different formulas mean exactly. One basis for adopting a particular formula might be that it matches people's rights. If, for example, there is a natural or human right to be paid according to one's work or to have one's needs met (so far as the social system allows), that would be a ground on which the formulas would rest. Market theory appears to rely on a principle of justice, something like "To each according to their returns in a competitive situation of exchange". Perhaps the most controversial applications of distributive justice is in connection with so-called social justice.

The hallmark of social justice is that the relevant characteristic belongs, not to an individual but to a class or group. According to the class's or the group's characteristics, the whole class or group is to be treated in a similar fashion. Social justice operates at the level of some characteristic(s) of a group of people. One thing that it typically inspires is a policy of reverse

discrimination and compensatory justice. Such policies involve logical problems of apparent contradiction. Policies of reverse discrimination also attract criticisms of unfairness to individuals. Social justice produces individual injustice. There's no way of avoiding it. If I am a member of group X, an unfavoured or disfavoured group relative to Taylor's (1973) group G under a policy of reverse discrimination, I am discriminated against purely by virtue of my membership of group X even if I have no responsibility for the historical discrimination against group G (see also Bayles 1973).<sup>6</sup>

Roger Scruton (1980, pp. 86–89) suggests two further points against policies of social justice:

- the false presuppositions of distributive justice in respect of the redistribution of wealth, and
- the gross relationship of group characteristics to individual circumstances (see his example of the house-owning widow, Scruton 1980, p. 88).

Hayek has a rather different argument against social justice, namely, the emptiness of the concept of social justice relative to the market. Hayek denies that "the concept of 'social justice' has any meaning or content whatever within an economic order based on the market" (Hayek 1982, pp. 62–70; 1976). Hayek's criticism of the concept of social justice is plainly conditional on the case for the market, a case which he has probably argued with greater clarity, sophistication, and comprehensiveness than any other social or political theorist (Miller 1999).

This is not to say that there aren't instances whereby *relevant* collecting features cannot be picked out: the Married Women's Property Act, female suffrage, 15th Amendment ratified in 1870, and gay rights—are notable examples of the remedying of social incoherencies with wide (liberal) applicability. The *concept* of justice is the formal idea of treating like cases equally, while the various formulas for justice ("to each according to their merits", etc.) are *conceptions* of justice (Flew 1986, p. 203).

Though we fully accept that personal identity is deeply entangled with social identity, identitarianism as a quasi-organising role, has deeply distorted the real-life complexity of the phenomena in question crisply articulated by Amin Maalouf (1998, pp. 16–17).

## **Liberal Rights**

Insofar as corresponding rights are concerned, there are two central questions we need to ask:

- What is the structure of rights-statements (of statements like 'X has a right to X')?
- What is the fundamental basis of rights?

The most celebrated modern analysis of rights, and of the logically distinct structures which rights-statements involve, is that of Hohfeld (1964). Hohfeld analyses "P has a right to X" in four ways, as:

- A privilege
- · A claim-right
- A power
- An immunity

The immediate context of Hohfeld's classification is legal; but the classification is clearly capable of application to moral rights.<sup>7</sup>

We now move on to consider some issues connected with certain kinds of rights which human beings may possess, namely human rights and natural rights (Ignatieff 2001). Like Mayo (1965), we shall take these notions as interchangeable. There are, though, possibilities for distinguishing between human and natural rights. Human rights might be a sub-set of the wider class of natural rights, rights possessed by creatures other than human beings. For most purposes in political philosophy, however, unless we're discussing the politics and ethics of animal welfare, talk of human rights is just an updated version of talk of natural rights.

Any theory claiming that there are human or natural rights has a number of tasks on its hands:

1. It must observe the discriminations we picked up from Hohfeld and tell us whether the rights in question are privileges, claim-rights, powers, or immunities.

- 2. It must provide an ordered list. It would be very strange for a theory to succeed in showing that there are such things as natural or human rights without being able to give the slightest indication—even a specimen list if not a complete enumeration—of what they are and of the relations between them.
- 3. It must supply a basis for natural or human rights. Unless the claim that there are such rights is to be mere rhetoric, we'd quite like some argument to support the idea that there are such things.

This final argument will carry a particular burden. Human or natural rights have been generally taken to have two special characteristics or features. Aside from their logical form—that is, how they fit into Hohfeld's classification—there is the point that these rights are widely regarded by espousers of them as being both inalienable and non-social. The idea of inalienable rights is the idea is that human rights, possessed in virtue of our characteristics as human beings can never be forfeited or lost as long as we remain human beings. To talk of the "imprescriptibility" or "absoluteness" of human or natural rights, is another way of making this point (See Hart in Waldron 1984, p. 78, Mayo 1965, p. 220). Talk of rights as "absolute", a term of appalling slipperiness, can also be a way of saying that "rights are trumps". For an explanation of this phrase, see below.

Human or natural rights are commonly regarded by the relevant theorists as "individualistic". People do not have them by virtue of their social milieu. There is a social context—independent character or property that a human being has, namely, his or her possession of these rights; and no matter how a human being's social context may vary, the right remains intact.

Now this idea is plainly problematic in one way. Rights-talk is inherently interpersonal. Rights are, for example, privileges that a person has in relation to other people. But we don't think a human rights theorist need be completely embarrassed by this elementary point. It depends on the kind of property a natural right is. Consider a parallel: solubility in water is an inherent property of salt. It still has that property even if no salt is ever put in water. The human rights theorist need only say that people have an inherent property, which is the basis of their human or natural rights, but that in the absence of other people, the right remains latent and the property relevantly inoperative.

More worrying, perhaps, is the slack ambiguity involved in talking of social-context independence. Is the idea that of independence of (a) any social context or of (b) any particular social context?

Hart's "Are there any natural rights?" (1984) is a classic expression of this view. The basic shape of his argument is this: assume that one person can have moral rights against another. For example, you have a moral right against me if I promise to pay you \$100. Hart calls this a "special" right because it is specific to our relationship. I haven't promised to pay anybody else \$100 and so they don't have a corresponding right against me. A right is, from one point of view, a restriction of freedom. In the example, if you have a right of payment against me then I am not morally free to do what I want with my money. Ethically \$100 of it is reserved for you. Hart argues that if my freedom is now restricted in this way, then prior to the promise and before the creation of the special right, I had a general moral freedom which has now been subtracted from. No-one conferred that freedom; it is in that sense a natural right.

Hart's argument is conditional on there being special moral rights. It's hypothetical, that is to say, on the assumption that one person can have special rights against another. Deny that assumption, and the argument is blocked. There are ethical theories which make do without the notion of special rights. The issues here are complex and the problem belongs really to ethics. Hart is careful to deny that he is setting out to prove the existence of, natural rights as traditionally understood. So he doesn't claim that the natural right of which he has proved the existence, conditional on there being special rights, is inalienable (Hart 1984, p. 78).

Mayo (1965) is not a proponent of human or natural rights, but he has a good discussion (much better than Raphael's flaccid contribution to which he's replying). One of the matters in which Mayo is interested is that of the logical basis of natural or human rights. There are two possibilities, assuming that we have human rights simply by virtue of our characteristics as human beings:

1. That possession of these rights is a genuine "metaphysical" property, one belonging to the general character of reality. If one did a metaphysical count of fundamental properties in the world, human beings' possession of human or natural rights would be among them.

2. John Locke regarded natural rights in this way in the seventeenth century. But he had Christian theology to fall back on. More likely, the possession of natural or human rights is regarded (by those who believe in them) as supervenient on other characteristics that we have, not a primary characteristic of reality on its own account.

What are these characteristics? This question, of course, takes us into the tricky territory of identitarianism. If we are to produce a list of human characteristics not dependent on particular social milieus, what will it contain? (see note 5).

If we can agree on a social-context independent list, there is a clear problem of seeing how the possession of human or natural rights is to supervene on the relevant characteristics. It is hard to see the logical basis of supervenience:

- A. Does having one or more of the relevant characteristics entail the possession of a human or natural right? so that if we said, for example, "We both have imperfect information but you do not have a natural right to X", our remark would be contradictory (a standard test of entailment.)
- B. Or is it just that possession of natural rights presupposes the possession of one or more of the relevant characteristics? So that, for example, if one possesses none of the above characteristics, the question of ones having natural rights does not arise. That would tell us something about the concept of a natural right, but without entailment between possession of characteristics and possession of rights, we don't think the natural rights theorist could be said to have accomplished very much.

However, we do not dispose of the place of rights in politics by exercising our logical acumen at the expense of natural and human rights theorists. If one goes back to Hohfeld's classification then we'd say it's just obvious that *any social system will make provision for privileges, claims, powers, and immunities*. The questions are: (a) which ones, (b) for whom, and (c) with what rationale? Whatever we think of human or natural rights, they set a political "problem of rights" which remains.

To handle that problem one needs an ideology (see Williams quoted in Nielson 1983, pp. 11–12), characterised by

- 1. a set of beliefs about human beings, society, and the state
- 2. that embody values or ideals, together with
- 3. associated principles of action.

(a), (b), and (c) will derive from 1 and 2; then 3 will involve the political implementation of rights, the making of practical provision for them.

Though one wouldn't guess as much from common-place politico prattle, there has been a tradition of hostility to rights-talk from the Left (Campbell 2010, pp. 1–12). Pressing ourselves just a bit, we should say that this antipathy (supposing it exists) rests on three interpretations of rights:

- α. Rights are confined to individuals.
- β. Rights are wholly or mainly privileges.
- γ. Rights are "trumps".

If one interprets rights in these ways, one is bound to encounter drastic stops on collective action, unwelcome to the Left. But, in the first place, there is no conceptual reason to confine rights to individuals. For example, what of rights of self-government or national self-determination, which logically cannot be individual rights? (See Ginsberg 1947, p. 278).

Secondly, there is conceptually no reason to restrict rights to privileges, to exemptions from interference, with the associated idea of negative freedom.

Thirdly, there is no conceptual reason to treat rights as "trumps" (Dworkin 1977, XI). Rights can set prima facie obligations, obligations *ceteris paribus*, which may be properly overridden in particular circumstances.

#### **Liberalism and Human Nature**

Academic clerisies are the current instantiation of the "engineers of the soul". Nicholas Taleb (2016, p. 100) writes that "[t]he rationalist imagines an imbecile-free society; the empiricist an imbecile-proof one".

Leftist Peter Singer (2000, pp. 60–63) is that rare bird who writes that any Leftism worthy of its name cannot (a) deny the existence of human nature, or insist that human nature is inherently good, or that it is infinitely malleable; (b) expect to end all conflict and strife whether by political revolution, social change, or better education; (c) assume that all inequalities are due to discrimination, prejudice, oppression, or social conditioning. Some will be, but this cannot be assumed in every case; and (d) expect that, under different social and economic systems, many people will not act competitively in order to enhance their own status, gain a position of power, and/or advance their interests and those of their kin.

- J. R. Lucas (1966, p. 2) argues that political systems presuppose five characteristics of human nature:<sup>8</sup>
- 1. Some interaction
- 2. Some shared values
- 3. Incomplete unselfishness
- 4. Fallible judgment
- 5. Imperfect information

Our claim is this: not only do political systems presuppose human characteristics; more than that, behind all political discourse (empirical or evaluative) is a conception of human nature. In some political theorists, the conception is fully explicit. For Hobbes there is a fixed, essential human nature which politics cannot alter but can only "contain". His recommendation of absolute autocracy is his remedy for the social chaos that otherwise results from the three central human characteristics of competitiveness, diffidence (fear), and glory (pride). Other theorists see different permanent characteristics or (on a crude reading of Marxism), only variable characteristics which are social products open to alteration through political action.

From another angle, when in *Politics*, I.2 Aristotle says that man is a political animal (*zoon politikon*), he is not uttering some dreary and indefinite generality about the tendency or capacity of human beings to enter political systems. He is telling us that well-being (*eudaimonia*) can only be achieved by taking part in the specific institutions of the Greek city or polis. This Aristotelian claim pulls a tight connection between human

nature, as regards the conditions of well-being, and a specific type of political system. To not need the polis, says Aristotle, you must be a beast or a god. From Hobbes in the seventeenth century back to the ancient Greeks and down to present-day sociobiologists, you can't talk politics without making significant, challengeable assumptions about the nature (fixed or alterable) of human beings.

Two comments are in order. We do not think that any explanatory theory of human nature currently on offer has progressed beyond Hume's theory (*Treatise* II.l.ll; III.2.l; Marsh 2018, pp. 168, 171, 173–174). Hume rejects the "selfish theory" of Hobbes. He offers a descriptive moral psychology and makes no attempt to determine rational choice. Indeed, the very idea of rational choice is nonsense in Hume's theory of mind. Hume is equally critical of the agent who doesn't experience benevolence and rides the social system (cf. Oakeshott 1991).

One doesn't require a theory or an ideology to run on "strong" epistemological assumptions of human nature; a more subtle "thin" theory of human nature is more able to accommodate differing conceptions of the human good and flourishing.

## Liberalism: Religion and State

As we indicated earlier in the discussion, liberalism is being leached from within: there are apologists<sup>9</sup> for political Islam who fail miserably to critically address certain key questions:

- What, if any, are the connections between religion and politics?
- Is the only acceptable political order a secular one?
- Is the conflation of religion and politics a category mistake?

These questions come into sharp relief when one considers the tendency of those who seek a tight and formal logical correspondence between religion and politics, a tendency known as "fundamentalism". There is a significant logical difference between Judaism's, Christianity's, and Islam's relationship to politics. Though the *Old Testament* provides paradigmatic expression for the oppression and freedom of a people,

politically speaking, it has informed the rhetoric of the Civil Rights Movement. Those who argue for the notion of the Jubilee (Leviticus 25: 8–24) typically do so through a tenuously imposed (Marxist) liberation theology. The central text of Christianity, the *New Testament*, and the time-hallowed creeds and confessions (the Nicene Creed, the Athanasian Creed, the Augsburg Confession, and so forth) contain hardly any political reference. Nothing like a definite and comprehensive view of political life can be extracted straightforwardly from the prime traditional sources. So, for example, the inference

- 1. love your neighbour as yourself (religious premise) therefore, or
- 2. support democracy (political prescription)

is not a valid inference in any known system of logic, yet many blithely gloss over such derivations, giving political Islam/Islamism a free pass (Marsh 2019). Any vestige of liberal thought that these apologists might have laid claim to has been completely and utterly undermined by (a) the uncritical acceptance of an ideology that sees no separation of religion and state, and (b) the derivative acceptance of Sharia Law and its rejection of the core values that liberalism has secured. This sorry state of affairs must, in no uncertain terms, be laid at the door of identitarianism/intersectionality's self-consuming logic. In effect, those who have permitted the profoundly illiberal concept of blasphemy back on the table have wielded as the bluntest of cudgels to *stifle* critical analyses within liberal society.

## **Some Concluding Observations**

Recall the prime liberal thread we specified at the outset, that is, the personal autonomy thesis? What Oakeshott termed the politics of the "felt need" standardly demands remedies that necessitate some form of economic and social coercion and the politicisation of the law. Autonomy and individuality become the undifferentiated "individual manqué" or "anti-individual" forestalling the inextricable link between choice, the

contingency afforded by that choice and correlate responsibility (Oakeshott 1991, p. 370; Capaldi 2018).

We think it would be far more helpful to substitute talk of "rights" with talk of "moral obligations". Rights-talk encourages unfocused discourse, whereas the term "moral obligation" is explicitly a two-term relationship—that is, the individual as part of a society. It should be recognised that *politics at the best of times is a defective experience*: no country has the resources to satisfy everything claimed as a human right by its *cives*. While "democracy" is still a powerful term, so is "human rights" and it could well be that everything that was once seen as good about liberalism is now subsumed under these two terms. But in the rush to secure ever more obscure rights permutations, the politics of *relevant* similarity (liberalism) has morphed into a politics of divisiveness (*unbridgeable* difference), thereby reducing the prospects for practicable remedies.

While there is no conceptual link between liberalism and democracy, there is a practical one, a marriage of convenience (Mill and Tocqueville had already noted this). We don't see any *privileged* connection between liberalism and capitalism or the market—which in *no way* is meant to imply that we do not support the epistemic benefits and associated freedoms accrued by markets.

The liberalism that best matches that which we are recommending, a situated liberalism, has been termed by Judith Shklar as the "liberalism of fear" best expressed by Bernard Williams (2009, p. 61):

The approach of the liberalism of fear is bottom-up, not top-down. Just as it takes the condition of life without terror as its first requirement and considers what other goods can be furthered in more favourable circumstances, it treats each proposal for the extension of the notions of fear and freedom in the light of what locally has been secured. It does not try to determine in general what anyone has a right to under any circumstances and then apply it. It regards the discovery of what rights people have as a political and historical one, not a philosophical one.

To reiterate. Liberal political theory *does not* ignore the specific descriptions of nationality, ethnicity, gender, sexuality, age, or whatever. Where

identitarianism has gone dreadfully awry is in its apriori specification of socio-societal anomalies, short-circuiting the very tradition best equipped to make meaningful remedies. This goes some way towards explaining our now deeply dysfunctional socio-political culture. The liberal state is legitimate in its own right as an appropriate, historically specific response to pluralism—to the fact of there being divergent lifestyles, rival conceptions of the good, which are matters of reasonable disagreement and none of which are known to be the correct account of human flourishing.

When we think of liberalism in political theory, we think of the rule of law, constitutionalism, and political pluralism, under which the state does not promote a substantial conception of the good. The sinking enthusiasm for these concepts manifest as identitarianism has let in (again) the most historically and conceptually illiterate fanaticism (Hoffer 1951), with the embodied public policy "remedies" requiring various degrees of authoritarian implementation. Moreover, with the ostensible advocates of liberalism gaming the system, aided and abetted by bloated bureaucracies, surveillance capitalism, <sup>12</sup> and the rise of non-liberal states challenging the West's economic hegemony, liberalism, as we've presented it, has been corroded.

## **Notes**

- 1. John Gray, *The Guardian* https://www.theguardian.com/books/2015/mar/13/john-gray-steven-pinker-wrong-violence-war-declining. See also Botting et al. (2006).
- 2. The phrase "conception of the good", implicit in the first and second theses, equates with John Rawls' locution "substantive theory of the good" (Rawls 1971). Rawls never provides a close characterisation of what such a theory involves; he says much more about the "thin theory of the good", the idea (we suppose) that we are to supply the characterisation by contrast.
- 3. A prominent multicultural theorist writes: "Minorities should not be subjected to coercive assimilation and should be free within the limits of the law to maintain their identity" (Parekh 2019, p. 161) and that cultural diversity should be guided by three core values—liberty, equality, and national unity. This is perfectly consistent with the liberalism we

have outlined, and as such, it is redundant. But Parekh (p. 162) does acknowledge that though conceived within the liberal framework, multiculturalism now has assimilated non-liberal strands, the upshot being a revitalised corresponding identitarianism on the far Right. Alert to this, one of the major advocates for multiculturalism along with Canadian Prime Ministers Trudeau Sr., Jr., and German Chancellor Merkel was former British Prime Minister Tony Blair who now concedes that "multiculturalism has been misinterpreted as meaning a justified refusal to integrate, when it should never have meant that". Moreover, "there is a duty to integrate, to accept the rules, laws and norms of our society that all British people hold in common and share, while at the same time preserving the right to practise diversity, which is fully consistent with such a duty." "Our tolerance is part of what makes Britain, Britain", he said in 2006. "Conform to it; or don't come here." The Guardian 20th April, 2019: https://www.theguardian.com/politics/2019/apr/20/tonyblair-says-migrants-must-integrate-to-combat-far-right

- 4. The idea that white heterosexual men have undeserved epistemic authority.
- 5. In just the same way as racial supremacists appeal to some notion of biological essentialism, constructivists also engage in biological "woo": that is, transracialism and the smorgasbord of genders with a proliferation of ever-more obscure permutations.
- 6. Consider the fashionable virtue-signalling and "processional justice" incoherency posited by those actually born in some area but still calling themselves "settlers".
- 7. Questions one might ask of Hopfield include:
  - 1. Are the four specifications (as made by Hohfeld 1964, pp. 6–7) clear?
  - 2. Are the four types of right distinct? Or is one type a special case of, or otherwise reducible to, another?
  - 3. Is the list complete?
  - 4. Is any one of the four fundamental in the sense that, without it, the other types would be empty or useless?
- 8. Cf. Hart's (1961, pp. 189-95) list in *The Concept of Law*:
  - (a) Human vulnerability
  - (b) Approximate equality
  - (c) Limited altruism

- (d) Limited resources
- (e) Limited understanding
- 9. This "progressivist" identitarianian stance has been mocked by Maajid Nawaz as being, in effect, *regressive* (Nawaz 2016). Those of an ostensible liberal orientation have shamefully failed to support reformists: for an unflinching assessment of political Islam/Islamism from *within* the tradition, see Tawhidi (2018) and Husain (2018) (see note 3). In their *wilful* mendaciousness, the aforementioned apologists' typically, by sidestepping people such as Tawhidi, resort to the circular "no *true* Scotsman" fallacy, satirised by evolutionary behavioural scientist Gad Saad as "Ostrich Parasitic Syndrome".
- 10. Mass man is not necessarily coextensive with the poor: there is the antiindividual "intellectual" correlate who, much to their chagrin, are as Trotsky and Gramsci put it, handmaidens to some amorphous grouping or other, their activism a disease of the rich (Stove 2003).
- 11. This said, even "inconvenient" democratic enthusiasms have been stymied by the technocratic-managerial classes and the intelligentsia.
- 12. Peter Viereck (2004, p. xiv) wrote "Today is not so much politics as meta-tech that crushes the private life."

## References

Abel, C. and Marsh, L. 2014. A Danse Macabre of wants and satisfactions: Hayek, Oakeshott, Liberty and Cognition. In: G. L. Nell (ed.), *Austrian economic perspectives on individualism and society: Moving beyond methodological individualism*. New York: Palgrave.

Alcoff, L. M. 2003. Introduction: Identities: Modern and Postmodern. In: Alcoff, L. M. and Mendieta, E. (Eds.). *Identities: Race, Class, Gender, and Nationality*. Oxford and Malden: Blackwell.

Appiah, K. A. 2005. *The Ethics of Identity*. Princeton: Princeton University Press. Aquinas, T. 1981. *Summa Theologica*. Westminster, MD: Christian Classics.

Aristotle. 1893. *The Nicomachean Ethics*. https://oll.libertyfund.org/titles/aristotle-the-nicomachean-ethics

Austen, A. 1995. Bradley and Feminist Ethics. *Bradley Studies* 1(1): 30–44. Barry, B. 1995. *Justice as Impartiality*. Oxford: Oxford University Press. Bayles, M. D. 1973. Reparations To Wronged Groups. *Analysis* 33(6): 182–184.

- Botting, E. H. et al. 2006. The End of Enlightenment? *American Behavioral Scientist* Vol. 49 Number 5: 643–749.
- Campbell, T. 2010. The Left and Rights: A Conceptual Analysis of the Idea of Socialist Rights. Radical Philosophy. Abingdon: Routledge.
- Capaldi, N. 2018. The Pathology of Identity Politics. *Academic Questions* 31:281–288.
- Corey, D. D. 2014. Dogmatomachy: Ideological Warfare. *Cosmos + Taxis* 1(3): 60–71.
- Deneen, P. 2018. Why Liberalism Failed. New Haven: Yale University Press.
- Double, R. 1992. Two Types of Autonomy Accounts. *Canadian Journal of Philosophy*, 22 (1): 65–80.
- Dunn, J. 1984. *The Politics of Socialism*. Cambridge: Cambridge University Press. 1984.
- Dworkin, R. 1977. *Taking Rights Seriously*. Cambridge, MA: Harvard University Press.
- Flew, A. 1986. Equality, yes surely; but Justice? *Philosophical Papers* VOL XV, No. 2+3:197–204.
- Fukuyama, F. 2018. *Identity: The Demand for Dignity and the Politics of Resentment*. New York: Farrar, Straus and Giroux.
- Ginsberg M. 1947. Reason and Unreason in Society. New York: Longmans, Green.
- Gray, J. 2015. John Gray: Steven Pinker is wrong about violence and war. *The Guardian*, Friday 13, March.
- Haack, S. 1998. *Manifesto of a Passionate Moderate*. Chicago: University of Chicago Press.
- Hardwick, D. and Marsh, L. 2012a. Clash of the Titans: When the market and science collide. In: R. Koppl, S. Horwitz, & L. Dobuzinskis (Eds.), *Experts and epistemic monopolies (Advances in Austrian economics*, Volume 17). Bingley: Emerald.
- \_\_\_\_\_. 2012b. Science, the market and iterative knowledge. *Cosmos + Taxis* (SIEO), 5: 26–44.
- Hart, H. L. A. 1961. The Concept of Law. Oxford: Oxford University Press.
- \_\_\_\_. 1984. Are There Any Natural Rights? In: Waldron 1984.
- Hayek, F. A. 1976. Law, Legislation and Liberty, vol. II: The Mirage of Social Justice, London: Routledge and Kegan Paul.
- \_\_\_\_\_. 1982. Law, Legislation and Liberty. London: Routledge and Kegan Paul.
- Hoffer, E. 1951. *The True Believer: Thoughts on the Nature of Mass Movements.* New York: Harper & Row.

- Hohfeld, W. N. 1964. Fundamental Legal Conceptions As Applied in Judicial Reasoning. New Haven: Yale University Press.
- Husain, E. 2018. The House of Islam: A Global History. New York: Bloomsbury. Ignatieff, M. 2001. Human Rights as Politics and Idolatry. Princeton: Princeton University Press.
- Lucas, J. R. 1966. The Principles of Politics. Oxford: Oxford University Press.
- Marsh, L. 2018. Pathologizing Ideology, Epistemic Modesty and Instrumental Rationality. In: *The Mystery of Rationality: Mind, Beliefs and the Social Sciences*. G. Bronner and F. Di Iorio (eds.). Cham: Springer.
- \_\_\_\_\_. 2019. Diachronic Identity: Intimations, Perturbations, Antifragility and Toleration. *Cosmos* + *Taxis* 6:3+4: 78–83.
- Maalouf, A. 1998. Les identites meurtrieres. Paris: B. Grasset.
- Marx, K. (1843) 1970. Marx's Critique of Hegel's *Philosophy of Right*. Oxford: Oxford University Press.
- Mayo, B. 1965. Human Rights. *Proceedings of the Aristotelian Society*, Supplementary Volume XXXIX: 219–236.
- Mill, J. S. (1858) 2016. On Liberty. Ballingslöv: Wisehouse.
- Miller, D. 1999. *Principles of Social Justice*. Cambridge, MA: Harvard University Press.
- Munger, M. and Villarreal-Diaz, M. 2019. The Road to Crony Capitalism. *The Independent Review*, v. 23, n. 3: 331–344.
- Nawaz, M. 2016. *Radical: My Journey out of Islamist Extremism*. Guilford: Lyons Press.
- Nielson, K. 1983. A Marxist Conception of Ideology. In: ed. A. Parel, *Ideology, Philosophy and Politics*. Waterloo, ON: Wilfrid Laurier University Press.
- Nozick, R. 1974. Anarchy, State and Utopia. New York: Basic Books.
- Oakeshott, M. 1991. The Masses in Representative Democracy. In: *Rationalism in Politics and other essays*. Indianapolis: Liberty Fund.
- \_\_\_\_\_. 1996. *The Politics of Faith and the Politics of Scepticism*. New Haven: Yale University Press.
- Parekh, B. 2019. *Ethnocentric Political: Theory The Pursuit of Flawed Universals*. Cham: Palgrave.
- Percy, W. 1991. Signposts in a Strange Land: Essays. Patrick Samway (ed.). New York: Farrar, Straus and Giroux.
- Perelman, C. 1963. *The Idea of Justice and the Problem of Argument*. London: Routledge.
- Pettit, P. 1985–86. Social Holism and Moral Theory. *Proceedings of the Aristotelian Society*, 86: 173–197.

- Pinker, S. 2018. Enlightenment Now: The Case for Reason, Science, Humanism, and Progress. New York: Viking.
- Rawls, J. 1971. A Theory of Justice. Cambridge, MA: Harvard University Press.
- Scruton, R. 1980. The Meaning of Conservatism. Harmonsworth: Penguin.
- Shils, E. 1978. The Antinomies of Liberalism. Reprinted in *The Virtue of Civility:* Selected Essays on Liberalism, Tradition, and Civil Society (1997), ed. Steven Grosby. Indianapolis: Liberty Fund.
- Shklar, J. 1998. The Liberalism of Fear. In: Stanley Hoffmann ed. *Political Thought and Political Thinkers*. Chicago: University of Chicago Press.
- Singer, P. 2000. *A Darwinian left: Politics, evolution and cooperation*. New Haven: Yale University Press.
- Stove, D. 2003. On Enlightenment. New Brunswick: Transaction.
- Taylor, P. W. 1973. Reverse Discrimination And Compensatory Justice. *Analysis* 33 (6): 177–182.
- Taleb, N. N. 2016. *The bed of procrustes: Philosophical and practical ap*horisms. New York: Random House.
- \_\_\_\_\_. 2018. Skin in the Game: Hidden Asymmetries in Daily Life. New York: Random House.
- Tawhidi, M. 2018. *The Tragedy of Islam: Admissions of a Muslim Imam.* Adelaide: Reason Books.
- Viereck, P. 2004. *Unadjusted Man in the Age of Overadjustment*. New Brunswick: Transaction
- Vincent, A. 1992. Modern Political Ideologies. Oxford: Oxford University Press.
- Waldron, J. ed. 1984. Theories of Rights. Oxford: Oxford University Press.
- Wallace, E. 1905. The Four Just Men. London: The Tallis Press.
- Walzer, M. 1997. On Toleration. New Haven and London: Yale University Press
- Williams, B. 1969. The Idea of Equality. In: *Moral Concepts*, ed. Joel Feinberg. Oxford: Oxford University Press.
- \_\_\_\_\_\_. 2009. *In the Beginning Was the Deed: Realism and Moralism in Political Argument*. Ed. Geoffrey Hawthorn. Princeton: Princeton University Press.