Burke's Liberalism: Prejudice, Habit, Affections, and the Remaking of the Social Contract

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Despite liberalism's spread over the past two centuries and its success in spreading greater openness, increasing levels of toleration, wider access to platforms for free speech, free trade, and ever-growing prosperity, the theory that has given modern civilization its most characteristic qualities is under increasing fire. The rise of populist movements in the United States and Europe demonstrates that the victory of liberalism's principles was never complete, and that the End of History proclaimed by Fukuyama in 1992 was merely another chapter in an ongoing conversation about political values (Fukuyama 2012). To some degree, liberalism's very successes opened the door for a reaction against liberal principles, revealing that liberalism's apparent dominance was one in which electoral successes hid deeper and abiding distrust. In one sense, the tensions that have most recently emerged have existed within liberal theory itself, because liberal theory is a way of responding to, though not permanently solving, the

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conflicts between the individual and the community to which that individual belongs. The vacillation between individual and the community plays out in the works of various liberal philosophers, each of whom moves the needle in one direction or another, correcting for what he or she sees as the deficiencies of those who came before.

While the nature of liberalism's imperfect solution to the balance between individual and community is itself one source of tension, a further source of conflict is the way liberalism has been incorporated into or paired with ideologies that threaten to undermine or challenge liberal principles in foundational ways. The politics of identity that resulted from the incorporation of progressive concerns about diversity into the contemporary liberal platform created fault lines where group identity clashes with the universality of human experience that was the traditional foundation of individual rights. On the right, neoconservatism, or the spreading of liberal democratic principles abroad, fostered a growth of the state that is in many ways inconsistent with liberalism's commitment to limited government and individual freedom. As a result of these and other internal and external tensions, liberalism has been pushed to its extremes in ways that fundamentally damage its ability to balance human ends.

Liberalism was, at least at the beginning, fundamentally a moderate ideological position, despite its revolutionary connections. This moderate positioning is seen most clearly in Madison's exhortation in Federalist 51 that the goal of liberal constitutionalism is to "first enable the government to control the governed; and in the next place oblige it to control itself"(*Federalist Papers* 2013). Madison's commentary reflects on both human nature and human governance. The combination of a self-centered and willful rationality alongside natural sociality requires unique political institutions that both support and channel the full needs of human life. Everything about human nature is a mixed bag, so to speak, and the fullest expression of human abilities requires the tightest controls to prevent exploitation and violence. The human ability for language, as Aristotle notes, is a source of both agreement and dissension, that which makes humans both capable of the greatest gifts and the worst harms. Human individuality, human sociality, and human ingenuity can lead individuals and groups to either freedom or bondage, depending on how

they are expressed and in what context. The mixed character of human nature therefore requires a moderate or balanced attitude toward government, one that preserves individual rights while at the same time protecting the communities that make preservation of those rights possible. The equilibrium between individual rights and social orders and between various kinds of political and moral ends requires constant recalibration.

While the theoretical solution liberalism offers was somewhat clear in the abstract, the political answer to this problem took many years of growth and development and experimentation, resulting in a series of internal constitutional checks to create what proponents hoped would support internal recalibration between individual and community, rather than relying on constant public or elite input. The hallmarks of liberal constitutionalism—separation of powers, checks and balances, freedom of speech and the press, toleration, and various criminal justice protections and protection of private property—developed not as discrete innovations, but instead as the development over many years of attempting to balance the claims of individuals alongside those of the communities to which they belong, harnessing the best of human nature while controlling its worst impulses.

This control, of course, is always limited and never perfectly precise. It is no accident then that what most criticisms of modern liberalism have in common is a belief that a particular aspect of liberal commitments has become unbalanced, whether because it has become unhinged from the whole, forgotten or subsumed by other commitments, or because it itself has been raised up as the sole good for which all other goods must be sacrificed. Conservative liberals reject the egalitarian ethos of progressive liberals as rejecting religious freedom, property rights, and individual dignity. Once-liberal populists reject the commitment to free trade that ignores the way in which humans are bound to and identify with their local communities and ways of life. Progressive liberals reject the way in which capitalism and, in particular, crony capitalism, privileges the strong at the expense of the vulnerable. Each of these criticisms suggests that liberalism has become unbalanced as different goals and principles—equality, freedom, homogeneity—have come to dominate others, creating a disequilibrium that is difficult to correct in the moment as much as it may tend to be corrected over time.

Contemporary Critics of Liberalism

Current criticisms of liberalism come from both political directions, though they share in common concerns about how liberalism's emphasis on individual rights undermines community. Critics from both the right and the left argue that the liberal emphasis on individual success and self-interest leads to an economic system in which everyone pursues their own self-interest at the expense of the common good. While concerns about cronyism come from both sides of the political aisle, one major concern of the left is the way rising levels of inequality undermine or even make true community impossible and undermine the democratic process. The term "neoliberalism," used now primarily by critics of free market capitalism, is used not only to describe the effects of free market economics on vulnerable populations, but also to critique the way in which capitalism has become entwined in existing power structures. The result, critics contend, is an oligarchic structure that privileges the rich at the expense of the poor and centralizes power (Jones 2014).[1] The broad contention of these critics is that liberalism's emphasis on the self-interest of individuals occurs at the expense of the community as a whole, particularly as rising levels of inequality leads to marginalization that cannot be solved through purely market forces alone.

Thomas Piketty's influential book *Capital in the 21st Century* exemplifies this critique of liberalism at least insofar as liberalism is linked to capitalist economic policies and relatively limited regulation of the economy. Piketty's work is primarily descriptive, but the normative thrust of his work is that the economic trends he claims exist show that free market liberalism is leading to greater levels of inequality, greater levels of political and economic corruption, and increasing levels of consumerism that isolates individuals from themselves and each other.[2] While Piketty argues that capitalism contains forces that could conceivably lessen inequality, the forces that support inequality "are potentially threatening to democratic societies and to the values of social justice on which they are based," and he characterizes the results of growing inequality as "potentially terrifying" (Piketty and Goldhammer 2017, p. 571). Piketty's critique, like many from those on the left, takes a substantive view of human rights and makes the claim that liberalism is torn between its

ostensible commitment to human dignity and the free-market principles that undergird its economic policy. As a result, Piketty argues that the inequality that liberal capitalism fosters ultimately undermines the individualism that it claims to protect.

Concerns about the effects of liberalism also arise on the right. Tocqueville is perhaps the most famous observer of the isolating individualism and the relentless pursuit of equality that combine in a dynamic, industrializing, market society that undermines community and, ultimately, human happiness. Tocqueville initially distinguishes between selfishness and individualism, though ends by arguing that "individualism at first dries up only the source of public virtues; but in the long term it attacks and destroys all the others and will finally be absorbed in selfishness" (Tocqueville and Mansfield 2012, 483). While Tocqueville locates the salve to individualism in the free institutions that pull individuals back into the community, such a solution requires that individuals maintain an active public life, something that market economies, with their mobility and frenetic pace of life, make difficult. Liberalism, and in particular the combination of the quest for equality alongside the demands of commercial life, leads to a restlessness that has the potential to undermine free institutions and the social superstructure on which those institutions rely.[3]

Conservative critics like Nisbet, Putnam, and, most recently, Patrick Deneen, have built on Tocqueville's criticism, arguing that the isolation inherent in the combined economic and social systems that liberalism fosters undermines community and destroys the pillars of society such as the family and faith (Nisbet 2014; Putnam 2007; Deneen 2018). Patrick Deneen's 2018 *Why Liberalism Failed* follows in this tradition, arguing that it is precisely this commitment to individual freedom and self-interest that ultimately unravels the community norms on which liberalism ultimately relies. Liberalism, according to Deneen, frustrates all of its goals, partly because it is ultimately impossible to base a society on self-interest. By failing to recognize and protect the communities on which individuals rely for full flourishing, liberalism undermines its own foundation, setting the stage for a solipsistic individualism where individuals are cut off from the communities—religious, familial, neighborly—that both protect individual value and make such value meaningful. This

solipsism is linked to what Deneen argues is "liberalism's great failing and ultimate weakness: its incapacity to foster self-governance" (Deneen 2018, p. 83). As a result of this failure, Deneen argues that, "A political philosophy that was launched to foster greater equity, defend a pluralistic tapestry of different cultures and beliefs, protect human dignity, and, of course, expand liberty, in practice generates titanic inequality, enforces uniformity and homogeneity, fosters material and spiritual degradation, and undermines freedom" (Deneen 2018, p. 3). Cut off from communities, religious organizations, and other communal endeavors, individuals rule themselves and ultimately, in the heat of consumeristic glories, forget how to rule themselves at all.

Liberalism's Philosophical Commitments

The criticisms from the right and left share in common a fear that liberalism's emphasis on the individual erodes the foundation for true community. It is not merely individualism, but instead the deeper philosophic beliefs that undergird that individualism that have the potential to erode community norms and values. The Enlightenment beliefs in individual rationality, the primacy of consent that stems from that rationality, and the sufficiency of self-interest for creating order combine to create the broader commitment to individualism that characterizes liberal thought. Yet, in isolation or at their extremes, each of these commitments erodes the pillars on which communities rely, namely, sub-rational traditions and norms, sub-rational obedience to (most) authority, and concern for community wellbeing that requires more than mere self-interest for its activation. In each case, the extreme in either direction leads to either a subsuming of the individual or the undermining of community.

Perhaps the primary commitment, stemming from liberalism's Enlightenment roots, is a commitment to individual rationality, on which all other liberal commitments are built. The idea that individuals are rationally capable of determining their own life course is the justification for everything from consent to limited government. It is also the foundational rejection of the divine right to rule. If all humans are equally rational and, of course, equally fallible in their rationality, no one has a

right to rule anyone else without that person's rational consent, at least where the most profound and foundational questions are concerned. Crucially, this rationality is also the source of our natural rights, the abilities, and powers that it would be *irrational* to give to anyone else absolutely.

Despite its intuitive attraction, this assumption of rationality was actually a direct attack on at least two traditional understandings of human community up to that point. Communities, particularly communities with a set of shared values, usually assumed a kind of pre-rational agreement that cannot, at least not completely, be assessed rationally. The clearest example of this is the way faith communities are organized. While traditional Judeo-Christian religion takes seriously human rational capacities, it nevertheless also emphasizes the felt and lived experience of faith as something fundamentally non-rational, something that one can generally not reason oneself into, Anselm's proofs notwithstanding. Religion requires that humans take a leap of faith, the leap coming precisely because humans cannot link every point of faith into a bridge for reason to walk over. Abraham's offering of Isaac was not a rational sacrifice, but one of trust. While reason is a defining characteristic of human beings, it is not the primary way humans are linked to other human beings. The new liberal focus on reason, in contrast, assumes in part that the only legitimate bond between human beings is that of rational consent.

The second area in which rationality challenges community stems from liberalism's attitude toward the traditions and norms that tied communities together. Many of these norms and traditions are religiously based, but many are simply the way the community discovered how to live together over time. Some are nearly universal across human societies, such as prohibitions against murder and incest, while others are much more parochial and local, such as the way to navigate a village street, or acceptable uses of a public square. In both the universal and the local, while such traditions and norms typically could be explained using reason in a post hoc fashion, the reason tradition works as an ordering mechanism is precisely because most people do not require such rational explanations before they follow the rules. Farmers who question every inherited and seemingly irrational lesson about farming would very likely

starve to death. Liberalism changed the attitude toward tradition from one of a general trust in inherited wisdom to a belief that all traditions, norms, and values under the microscope of human reason, in part because they support existing power structures.

The final commitment of liberalism is that a foundation of natural rights, based on individual rationality and motivated by self-interest, is enough to create order in society. On this understanding, individuals following their self-interest, protecting their own rights to life, liberty and property and refraining from violating the rights of others, creates an order out of which communities emerge. Adam Smith's famous invisible hand is merely one iteration of this spontaneous order tradition. As Smith formulates it, "[i]t is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-love, and never talk to them of our own necessities but of their advantages" (Smith 1982, pp. 26–27). Smith here is of course speaking primarily about economic order, not of broader political or social order, but the point has been expanded by various libertarian and related thinkers who make the argument that all order can be rooted in self-interest alone (see for example, Ayn Rand's work).

What these later libertarians fail to recognize and what critics fail to see in Smith's work as well is that self-interest cannot alone be the primary driving force of all human society. Smith's *Theory of Moral Sentiments* provides a counter to self-interest in the form of sympathy, a point Smith scholars have long recognized but broader cultural criticisms have not. Even Smith does not claim that all order in society can be based on self-interest, largely because the narrowest form of self-interest leaves out family, friends, and the truly dependent. Whatever the complete reading of Smith, the characterization of his work—as well as that of Locke and other early liberals—as being based purely in self-interest seems to support the broader contention that liberal thought cannot make room for other-regarding or community-oriented feelings like charity, love, or self-sacrifice. That communities often need these feelings is a major criticism from both the left and right, with the distinction that the left argues that government should be fulfilling these virtues while the right argues that religious communities can fill the gap. In both cases, alternatives to

individual self-interest are required to assist with common goals and protect the vulnerable in society.

At the same time, viewing liberalism not as a theory separable from time and place but instead as a corrective to the past emphasis on the community can help clarify liberalism's substantive principles. Liberalism's attack on traditional understandings of community was rooted in real concerns about how individuals were subsumed by communities in harmful ways. At least at the beginning, liberalism was a corrective to the disequilibrium between the community and the state. At the time Locke and other early liberal writers were crafting their theories, the overwhelming power in society rested with the community. Individuals in most European societies in the 1600s had little freedom to do what the community disapproved of, most obviously to dissent in religion or politics, areas where disagreement was particularly important but also particularly dangerous. Nowhere in Locke, as radical as he seems, does he claim communities are not important, only that communities must be judged on the basis of whether individuals can consent to them rationally.

As the early liberals recognized, sub-rational traditions and norms, sub-rational obedience to authority, and sacrificing the individual to the community could be (and were) pushed to extremes of their own. The world that liberalism was born into was one where received wisdom was always the most efficient and the most just, representing in some ways a calcification of norms and values that made innovation of various kinds, whether scientific, political, or moral, extremely difficult. Liberal thinkers looked at the world of the sixteenth and seventeenth centuries and found it difficult to justify why some people, merely by luck of their birth, should have access to a different justice system, a different property system, and a place in society wholly cut off from those of others. Placing traditions and systems of power under the microscope of human reason drew attention to disparities and injustice that had long been simply taken for granted. It also identified clear barriers to economic and political progress that could change the lives of millions of individuals for the better, though also undermining existing power structures at the same time. The liberal insistence on consent challenged the power of absolute monarchs who placed a stagnant understanding of community ahead of the well-being of the people themselves. The insistence on individual

rationality was a corrective to the belief that the individual could access no wisdom other than that filtered through the church or the king. The insistence on self-interest was a response to the belief that individuals can and should sacrifice everything to the will and caprice of barons, or monarchs, or Popes.

Early liberalism, then, rather than being a theory unto itself, is perhaps best understood as a corrective to this imbalance. At the same time, correctives always run the risk of swinging the pendulum too far in the other direction and, whether fairly or not, liberalism's insistence on the primacy of the rational and self-interested individual was in many ways a challenge to what makes communities successful. What both liberalism and more traditional forms of community require is a recognition that individuals need communities and communities are made up of individuals. Neither individual nor community has any meaning, any protection, or any possibility of flourishing without the other. In the case of liberalism, by attacking the bedrock of human community through an attack on traditions and faith, it was perhaps inevitable that the pendulum would swing too far in the other direction and that liberalism would end up undermining the communities that make liberal life possible and worthwhile. At the same time, it seems reasonable that if one goal of liberalism is serve as a corrective to previous collectivist approaches, to balance collective needs with individual goals and interests, a reasonable task would be to find a way to guide the pendulum back into the middle where, even if the equilibrium is an unstable one, society can at least get closer to the goal of balancing individual rights or interests against the needs of the communities to which they belong.

What all these critiques have in common is the belief that the web of principles that stem from the emphasis on individual rationality—the rational critique of tradition and values, the emphasis on rational consent rather than habitual obedience, and the emphasis on self-interest over sacrificial other-regarding behavior—all undermine liberalism itself when pushed to their most extreme. For most critics of liberalism, these commitments undermine liberalism precisely because they are not compatible with the demands of communities, which rely heavily on sub-rational norms, values, and affections that guide and soften individual rationality and make it compatible with community needs. According to critics,

liberalism has been so successful in establishing rational, consenting groups of self-interested individuals that it has begun to (or has succeeded in) destroying itself by undermining the very communities on which it relies for its success. But this destruction is the result, not of the failure of any particular principle itself, but in the imbalance that has occurred over time.

Burke and Affectionate Liberalism

If, as I claim, the current moment is less a wholesale rejection of liberal values and more a rejection of an imbalance in the various values that liberalism claims to support, it seems possible that what is needed is a rebalanced liberalism, one that returns to its roots as the protector of both individuals and their communities and the fulcrum or balance of competing human values. The obvious though difficult solution to this problem is to find a way to pull the pendulum of individual-community relations back into a kind of center, one where individual rationality is paired with respect and affection for community traditions, where voluntary consent is paired with habitual obedience to the laws, and where self-interest is countered with affection for the community as a whole.

Perhaps surprisingly, one of the main thinkers who offers a version of a moderate and balanced liberalism is a thinker who many do not consider "liberal" in the traditional sense at all, Edmund Burke. While often lumped into the broadly "conservative" camp, much of Burke's work centers around the desire to moderate and balance the liberal commitments to freedom and self-interest against the needs of the communities to which those individuals belong. At the same time, the very moderation inherent in Burke's work may make him unattractive to idealists of all stripes, who believe the solution to these balancing problems is a rejection of one or more of liberalism's commitments or a wholesale rejection of liberalism itself. He will therefore likely continue to be something of a theoretical outsider—his very moderation of principle preventing his acceptance by any one side. Still, his work has important implications for understanding the perils and pitfalls facing modern liberalism today.

Burke's work is particularly illuminating because, unlike liberal theorists like Locke and Smith before him, Burke is a political practitioner. Unable to simply dictate liberal principles in the abstract, Burke must find a way to apply those principles to the complexities of modern commerce, imperial governance, colonial revolts, and religious conflict. It is not enough for Burke to simply claim natural rights for a particular constituency, but as a statesman he must filter those rights through the particular social and political reality in a prudential way. He makes this explicit when he argues that "as the liberties and the restrictions vary with times and circumstances, and admit of infinite modifications, they cannot be settled upon any abstract rule" (Burke 2014, p. 152). Instead, governance requires "a deep knowledge of human nature and human necessities, and of the things which facilitate or obstruct the various ends which are to be pursued by the mechanism of civil institutions" (ibid.). Perhaps because of Burke's suspicion of the applicability of abstract rights to governance, Burke is often considered more of a conservative than a true liberal, though his allegiance to standard liberal principles like natural rights is clear in his work. At the same time, he explicitly rejects any ability to apply these abstract principles directly to political affairs.

Burke's historical position is also relevant in that he is writing at a time when liberal principles are being pushed to their most extreme, most obviously in the case of the French Revolution. The French Revolution's emphasis on rationality in particular—as the grounding for natural rights and the legitimacy of all government—is a focus of much of Burke's criticism. In response, he lays out an alternative, distinctly British, form of liberalism that balances individual and community through the intermediaries of tradition and the affections. Burke's response to that revolution is in some ways the clearest example we have of a liberal thinker attempting to pull liberal principles back into a kind of moderate position, one that recognizes the various ways in which rational consent fails to protect individuals within a broader social order.[4] Burke's very criticisms of that revolution provide an outline or framework for a more balanced liberalism, even as some critics argue he pulls too far in the direction of collectivism.

In general, Burke's criticisms of the French revolution reflect his criticisms of the extremes of liberal thought broadly. His criticisms are not of

the validity of the principles of rationality, consent, and self-interest themselves, but instead of the way those principles are applied in undiluted ways to society. As an alternative to jettisoning the principles themselves, Burke offers a kind of filter to each, preserving the ways individuals are protected within communities and providing a more robust understanding of how communities protect individuals against both the depredations of other individuals but also against the isolation of self-interested existence. In Burke's alternative liberalism, prejudice acts as a counterweight to rationality, habit as a counter to consent, and affection as a counter to self-interest. In each case, he does not reject the importance of rationality or consent or self-interest. Rather, he believes each is necessary but not sufficient to protect both individuals and the communities they inhabit. The balance Burke attempts to strike is an unstable one, requiring constant balancing, guiding, and rebalancing, in part through the act of statesmanship. As such, his thought is less a systemic point-by-point answer to liberal extremism, but is instead the laying out of a system of integrated values that creates a complex whole. At the root of his project is the balance between the individual and the community or the description and protection of the "civil social man."

Perhaps the most obvious way in which Burke pulls the liberal tradition into a kind of center is his focus on the affections as the primary way in which individuals are bound to their communities. Burke rejects the social contract theorists who rely on rational consent as the foundation for political communities, arguing that the real way in which people consent to government is through the affections built by habit over years of belonging to and participating in a community. It is not so much that rationality plays no role in Burke's understanding of how one consents to rule, but instead that rationality requires the softening supplement of affection in order for it to be compatible with community life. As Burke notes when comparing the English to the French, "we have not yet been completely embowelled of our natural entrails; we still feel within us, and we cherish and cultivate, those inbred sentiments which are the faithful guardians, the active monitors of our duty, the true supporters of all liberal and manly morals" (Burke 2014, p. 181). Liberalism, according to Burke, requires sentiment as much as rationality, because it is sentiment that links us to the community and links our rights with our duties.

The most dangerous position, for both individuals and the communities they are parts of, is that where the only thing binding people to their communities is mere rational agreement that can be withdrawn at any time.

The bare principle of rational consent, Burke argues, means that, according to the French, "there needs no principle of attachment, except a sense of present conveniency, to any constitution of the state" (Burke 2014, p. 183). The danger of such an approach is that without the binding force of sentiments, change will come too often and too quickly. The stability of constitutions is what allows them to successfully guide and structure government while providing a framework for predictable individual decision making. Constitutions cannot and should not be remade every year. The contract theorists "think that government may vary like modes of dress, and with as little ill effect" (ibid.). Yet, according to Burke, the emphasis on consent alone, without the softening and mitigating influence of sentiment, undermines the stability that constitutions need to be effective. Without sentiments, reason can nitpick any decent constitution, leading to continual calls for not just reform but revolution. As Burke laments, "It has been the misfortune, not as these gentlemen think it, the glory, of this age, that every thing is to be discussed" (Burke 2014, p. 187).

The other limitation of individual rationality is that it is time bound in a way broader social wisdom is not. Burke argues that the English are "are afraid to put men to live and trade each on his own private stock of reason; because we suspect that this stock in each man is small, and that the individuals would do better to avail themselves of the general bank and capital of nations, and of ages." It is less that Burke believes men are fundamentally irrational, but that what rationality they possess is ultimately linked most closely with the affairs that concern them directly. In areas of complex social import, where the needs and interests of many individuals mesh, trusting the inherited wisdom of ages in the form of common law or inherited traditions is a safer option than the ingenuity of any single person.

This view of the relationship between sentiment and reason relates in crucial ways to the role rights play in Burke's theory. These sentiments are the foundation for a more robust rights doctrine, one that represents the

way in which the rights individuals have are softened by affections to the community and the duties those affections support. While Burke clearly argues that natural rights exist, he is much more hesitant about the role such rights play in the actual practice of government. While individuals have rights in the state of nature, those rights do not extend, while in civil society, to the ability to question every individual act of government. In agreement with Locke, Burke says the "civil social man"—the man outside the state of nature—gives up the right to "judge for himself, and to assert his own cause. He abdicates all right to be his own governor" (Burke 2014, p. 151). Burke does not, of course, mean that individuals have no rights in society, but that the shape of the rights they have are determined in large part by the society in which they live.

Moreover, the "civil social rights" of men in society are, as the name suggests, more social than the individualistic rights of the state of nature. These civil social rights include the right to property, to nourish one's offspring and, crucially for liberals, "Whatever each man can separately do, without trespassing upon others, he has a right to do for himself" (Burke 2014, p. 150). Rights in society, the rights of our "second nature," include the right to live by law and under a system of justice, the right to the "fruits of their industry," the right to inherit from their parents and pass that inheritance on to their children, "instruction in life, and to consolation in death" (ibid.). These socialized rights extend from natural rights, but are softened and socialized because, by necessity, rights in society must find a balance between the rights of individuals and the needs of communities themselves. Rights must be made compatible with community need. Such an approach is completely compatible with individualism, because "[i]f civil society be made for the advantage of man, all the advantages for which it is made become his right" (ibid.). The rights of man in society become the best way to uphold the broader goal of human flourishing, a goal that recognizes the importance of community for the happiness of individuals.

The sociality of men on Burke's understanding is not a forced or artificial one. Society is not created by an act of consent, but instead consent reflects the existence of these societies and the way they support individual well-being. The societies that Burke thinks are most tightly linked to his conception of consent are those that start at the bottom, with the

natural affections of individuals for family, friends, and neighbors. As Burke's famous line goes, "To be attached to the subdivision, to love the little platoon we belong to in society, is the first principle (the germ as it were) of public affections" (Burke 2014, p. 136). For Burke, attachment to our government begins not at the rational top-down level of consent, but instead in the bottom-up affections that begin in our families and neighborhoods and filter upward. Individuals still consent to government and governments that harm individuals and their little platoons are likely to lose the affectionate attachment that makes truly rational consent possible. But without those affections any understanding of individual rights will be shallow and, in fact, dangerous, because such hollowed out rights threaten the roots of the communities that secure our rights and make them meaningful. The French, by "reasoning without prejudice, […] leave not one stone upon another in the fabric of human society" (Burke and Ritchie 1997, p. 166).

The attachment to our little platoon is linked to the prejudice or the preference for one's own and for the past that Burke believes contains its own form of wisdom. It is also the only real source of motion in society, providing the motivation that reason alone lacks. As he notes, "[P]rejudice, with its reason, has a motive to give action to that reason, and an affection which will give it permanence" (Burke 2014, p. 182). The affections individuals have for their small platoons provide both the motivation for action and the permanence that links people's reason to their communities. Prejudice, far from being simply a negative trait, is in fact the quintessential human trait, one that provides the motivation for consent that reason alone lacks. While rational consent might be *reasonable* to provide to many different communities in many different circumstances, reason alone lacks the motive or reason to explain why consent makes sense to *this* particular community at *this* particular time. It is prejudice, the love of one's own, that provides the motivation, the linkage to a particular community, that logic alone cannot. Without prejudice, humans have no reason to settle on one particular community, a settling that is necessary for human survival and flourishing. Such settling is also absolutely necessary for the growth of precisely the institutions that protect individual rights over the long-term, such as rule of law, separation of powers, and federalism precisely because such institutions cannot be

created, ad hoc, in the moment, but only result from the growth of norms and customs over time.

Burke's social contract is therefore based in a kind of historical empiricism, while Locke's more logical account is not. While Locke based his view of consent on what rational individuals would consent to as a way to uncover limits on government, Burke bases his view of consent on what passionate and reasonable humans actually need to both consent to government and to flourish. Consent for Burke cannot be simply the rational consent of Locke's theory because such consent is incompatible with community itself. Burke recognizes what Locke's account, rooted as it was in an earlier reaction to absolutism, did not, namely that human beings are equal parts rational and passionate and that consent and the communities such consent creates will require both reason and affection to inspire their creation and secure their permanence. For Burke, rather than starting at the level of logical principles, consent requires knowledge of the particulars of a community, gleaned over generations and linked to the way people have lived together and died together in that community over time. Affection roots individuals to a particular community over time, providing the stability that is required to secure the growth of the institutions that support and sustain rights. As Burke argues, "The science of constructing a commonwealth, or renovating it, or reforming it, is, like every other experimental science, not to be taught a priori" (Burke 2014).

One final and crucial reason Burke's corrective of liberal rationality is so important is that it is only through the affections that rights can become safe for the communities that secure them. The complexity of society—the various needs, rights, and interests to be held in the balance—requires that rights be "reflected" off the safer medium of the affections, which serves the goal of binding rights and duties together. As Burke notes, "the primitive rights of men undergo such a variety of refractions and reflections, that it becomes absurd to talk of them as if they continued in the simplicity of their original direction. The nature of man is intricate; the objects of society are of the greatest possible complexity" (Burke 2014, p. 153). The reflections of the rights off the affections serve the dual purpose for Burke of binding individuals to a particular community while at the same time binding rights and duties together.

The Intergenerational Compact

As part of his larger argument about the limitations of individual rationality, Burke believes adherence to tradition and to the wisdom of the past provide a necessary corrective and supplement for individual reason. Because the ends of society go beyond a particular generation and because those ends encompass much more depth and breadth than any one human mind can understand or encapsulate, Burke believed that the wisdom of the ages could provide access to the means and ends of society that individuals themselves lack. The access points for this wisdom are prejudice, habit, and affection, which in a sense build up consent over many generations while linking rights to duties and tradition.

Burke makes this alternative to the state of nature clear when he offers the intergenerational compact as a replacement for (or correction of) traditional contract theory. Because "the ends of such a partnership cannot be obtained in many generations, it becomes a partnership not only between those who are living, but between those who are living, those who are dead, and those who are to be born" (Burke 2014, p. 193). Burke's intergenerational compact is, to a certain degree, symbolic, since it is not clear how one could have a contract with a dead person in any real sense, but symbolism has deep political relevance for Burke. That individuals believe themselves bound in some sense by the goals and ends of those who have passed and by the needs and wants of those who are to come is the crucial piece, not that such a contract be enforceable in any legal sense. For Burke, the intergenerational compact is, like the affections one has for one's own, a way of reminding individuals of their connection to others, of the limits of their reason, and of the limits of their ability to enact radical changes without harming the overall superstructure of norms and values on which society rests.

That individual reason must occasionally (or often) be sacrificed to or subsumed under the traditions and needs of the community is not in fact the illiberal sacrifice that it seems at first. Burke is not a mere reactionary, arguing that the community is above the individual. Instead, he argues that the worth of individuals is best recognized and best protected within a broader community tradition like that of Britain, where rights and duties grew alongside each other over centuries and where the kinks were

worked out through a gradual process of adaptation and give and take. The appeal to tradition and history supports the respect for oneself as an individual enmeshed in a community, one with a connection to family, friends, neighbors, a way of life, traditions and values, all of which are both part of but also separate from the concept of naked, rational, self-interest.

Central to the practical nature of Burke's approach is that he does not believe he is asking humans to do anything that they do not already do naturally. His argument is both descriptive and prescriptive. The sacrifice of individual reason to the traditions and mores of the group is not only natural but is, in most cases, not seen as a sacrifice at all. It is, on Burke's account, the isolated individual of the social contract theorist who is unnatural. According to Burke, humans naturally view society in intergenerational terms. They are happy, under most circumstances, to be bound by the norms and values of past generations and they naturally look to the past for advice and counsel on how to behave in the present. The intergenerational compact is the way of nature, according to Burke, precisely because the individual's "stock of reason" is so small: "We are afraid to put men to live and trade each on his own private stock of reason, because we suspect that this stock of each man is small, and that the individuals do better to avail themselves of the general bank and capital of nations and of ages … Prejudice renders a man's virtue his habit, and not a series of unconnected acts. Through just prejudice, his duty becomes part of his nature" (Burke 2014, p. 182). This "second nature" is the result of the habitual obedience to a community framed by affectionate attachment where the limits of each person's individual reason is supplemented by the wisdom of generations.

Overall, Burke's reinterpretation of nature is concerned with rediscovering what he terms the "civil social man" for liberal theory. Burke's civil social man has a specific nature, but this nature only develops fully within a supportive political community. The civil social man is not just a socialized version of the man in the state of nature, but is in fact a rejection of that man as incomplete, a caricature of human nature, missing the crucial sentiments, affections, prejudices, and attachments that make political life possible. On Burke's account, the natural rights theory of Locke is incomplete because "the restraints on men, as well as their liberties, are to

be reckoned among their rights" (Burke 2014, p. 152). In this sense, Burke sees himself as offering a corrective to the liberal view of human nature, one that more accurately reflects the way human attachments form and the relevance of those attachments to political communities broadly. This view does not undermine liberalism, but instead provides a supplement or a corrective to what Burke believes threatens to become not only an isolating individualism, but a rationalistic approach to political community that has the potential to undermine political community itself.

Burke on Revolution

While many scholars have linked Burke to conservatism or even a reactionary rejection of all change, he explicitly rejects the idea that political stability requires the subsuming of the individual completely to the needs of the community. This is particularly true in his discussion of revolution, even as he decries the French Revolution as being both unnecessary in its ends and cruel in its means. Throughout his criticism of the French, Burke never argues that revolution is never required, nor does he believe that all resistance to community dictates is illegitimate. His concern is that constant appeals to the power or necessity of revolution have the potential to undermine the foundation of government itself. He notes, "I never liked this continual talk of resistance and revolution, or the practice of making the extreme medicine of the constitution its daily bread. It renders the habit of society dangerously valetudinary: it is taking periodical doses of mercury sublimate, and swallowing down repeated provocative of cantharides to our love of liberty" (Burke 2014, p. 155).

For Burke, constant appeals to revolution do two things. First, such constant calls make society "valetudinary" in that such calls emphasize the negative aspects of a state while undermining or casting doubt on the many ways that a given society is, in fact, functioning and healthy. It teaches citizens that the glass is politically half empty rather than half full. This tendency to criticize the state undermines the affections, habits, and mores that are the grounding for any kind of voluntary obedience. It also, in Burke's view, leads to a preference for revolution over reform. This preference for revolution and resistance is the "mercury sublimate" that,

while it might work as medicine for the very ill constitution, may make a generally healthy society sick and unstable. From a purely practical perspective, revolution, of course, is much riskier than reform, and revolutionaries are, historically, more likely to end up in a worse place than they started. Burke sees most revolution as the equivalent of recommending brain surgery for a cold.

Burke's rejection of revolution does not, however, stem from a rejection of individual rights. Revolution may be necessary, particularly when a current government has rejected the traditions and ways of the people themselves. Burke's criteria for revolution do not require that an individual support the community of the moment against the traditions of the past. On Burke's account, the community is the most likely to be just when it adheres to longstanding beliefs and values. It is most likely to be unjust when it brings forth new innovative ideas about how to organize and structure civil society. The individual can and should resist the latter and use the former to defend himself and his rights against the tyranny of the present community. This leads us to Burke's broader position on revolution, one which takes the position that revolution is and always must be a matter, not of choice, but of necessity: revolution "is the first and supreme necessity only, a necessity that is not chosen but chooses, a necessity paramount to deliberation, that admits no discussion, and demands no evidence, which alone can justify a resort to anarchy" (Burke 2014, p. 193). Revolution cannot be the result of rational deliberation, but must, like the right of self-defense from which it extends, derive from the immediate and instinctive needs of the moment.

Burke's theory of revolution, like his theory of liberalism broadly, is that the act of revolution cannot rest on the reason of individual men in their individual capacities. The act of revolution must be borne by necessity, a necessity that drives men forward to protect their inherited rights against an attempt to destroy them and their community itself. Revolution therefore does not destroy a community, but is a defense of the grounding of that community itself, a defense of the principles, rights, and prejudices that made that community unique and worth protecting. In so doing, revolution protects individuals themselves, both in the practical sense by protecting them, as long as possible, from the death and destruction that revolution itself brings, but also protects individuals by

recognizing the complex suite of ends for which society exists. It is in this way that Burke distinguishes between the Glorious Revolution of the British, a revolution to protect the community, and the French Revolution, a revolution that destroys the foundation of community itself.

As a statesman, Burke does not provide a consistent or rigorous theory of revolution itself. At the same time, few liberal thinkers of his era offered anything like a consistent theory of revolution. For most liberal theorists, revolutionary justifications are by their very nature post hoc. Adam Smith, for example, in response in part to the French Revolution, argues that "it often requires, perhaps, the highest effort of political wisdom to determine when a real patriot ought to support and endeavour to re-establish the authority of the old system, and when he ought to give way to the more daring, but often dangerous spirit of innovation" (Smith 1976, p. 232). Burke's appeal to necessity is echoed in the American Declaration of Independence, where Jefferson appeals continually to "necessity," arguing that the colonists were "impelled" to separate. For Jefferson and the other colonists, at least rhetorically, the revolution was not in fact the choice of men in their rational capacities so much as the forced choice of those defending their lives and liberties from tyranny. In this sense then Burke's theory, or lack thereof, of revolution falls squarely within the liberal tradition, one in which revolution is recognized as sometimes necessary and even desirable, but always fraught. Any theory of revolution then will depend heavily on the political wisdom of those in the moment who are the best able to determine what will be won and what will be lost.

Burke's Solution for Liberalism's Ills

Pulling these various strands back together, Burke's criticism of the extremes of liberalism relies on the triad of prejudice, habit, and the affections to counter in various ways the limitations of reason, consent, and self-interest. Using these concepts, Burke offers an alternative to an isolated individualism in the form of a social individualism, the state of nature in the form of an intergenerational compact, and to revolution in the form of affectionate reform. Burke's solution to the problems inherent in extremist liberalism is not to offer another idealized world, but in

fact to reflect in practical terms on a liberalism that is based not only on human nature but on how humans behave in the real world. It also, crucially, is linked to a set of institutional supports that help support this moderate liberalism.

The second half of the *Reflections*, often overlooked, provides a discussion of the various institutional structures that Burke believes are necessary to support the moderate liberalism of the civil social man. Unsurprisingly, these institutions reflect British constitutionalism and represent a rejection of the radical democratization of the French. Burke's vision is broadly representative, in that people have representation by representatives of their choosing, but it also retains important "conservative" elements that act as brakes on that democratic change. He argues that limited liberal government requires both moral and institutional instruction: "…it is very expedient that, by moral instruction, [citizens] should be taught, and by their civil constitutions they should be compelled, to put many restrictions upon the immoderate exercise of [thirst for power]" (Burke and Ritchie 1997, p. 158). Both of these goals are the tasks of a "true statesman."

Such institutional brakes play two crucial roles within the liberal tradition. In the first place, they provide a buffer against democratic incursions on individual rights through institutions like independent courts, federalism, separation of powers, and checks and balances. At the same time, such institutions soften rights claims by filtering them through tradition, manners, and mores of the people, linking rights to the particular way of life of a people. By emphasizing the particularity of both democracy and rights, Burkean liberalism makes both compatible with one another at the practical level, in a way that is difficult for abstract democracy or abstract liberalism to successfully do. In this way, liberal democracy is rooted in a particular time and place and linked to the communities in which individuals live.

Law itself plays a foundational role in this understanding of an affectionate and rooted liberal democracy. In a legal and political system that links representation and rights to particular times and places, the universality of these abstract principles is moderated by the needs of distinct communities of known individuals. Moreover, a separation between the legal and the political means that the laws that affect individuals in their

day to day lives are buffered to a certain extent from the more dramatic changes in party politics. Judicial independence is therefore central to this system. As might be expected, Burke's model for the social compact is English common law, not positive law. The slow accumulation of consent over time as laws are demonstrated to be just in the daily challenges of group living is a better foundation for a truly representative liberalism, Burke believes, than an abstract moment of consent. Rather than Locke's compact where the individual consents at a discrete moment to be ruled by an abstraction of the group as a whole, in the Burkean compact the individual consents and has consented over time, through voluntary obedience to law and to institutions generally.

This common law approach to consent slows change by integrating individual desires and interests into the community in a gradual way, avoiding shocks to what is already a tenuous balancing act. But perhaps most importantly, the common law approach to consent places the individual firmly within the context of a particular community and links the process of consent to a multigenerational project. The growth of common law occurs over many generations, making it possible for individuals to feel a connection not only to a present discrete moment of consent, but allowing individuals to consent many times over throughout their lives, accepting the wisdom of the past while looking forward to the future of a community full of individuals. This understanding of the social contract looks much more like the intergenerational compact Burke lays forth, one that is a "partnership in all science; a partnership in all art; a partnership in every virtue, and in all perfection" (Burke 2014, p. 193). Burkean liberalism, on these grounds, provides a theoretical (though eminently practical) justification for limiting the nationalizing and centralizing forces of modern society, particularly the growth of the power of positive law wielded by majorities.

Conclusion

A return to a Burkean liberalism does not, of course, solve all political conflicts or eradicate the roots of all discontent. It is not a panacea, nor are its principles easily applied to cultures unfamiliar with liberal principles. Such outcomes are far too much to ask of any political or social

system. What Burke's liberalism does do is help to ameliorate some of the major concerns of communitarian critics of liberalism of all stripes. It does not, however, eradicate discrimination, provide unlimited individual freedom, guarantee equal outcomes, or protect all communities in the face of growing mobility and economic change. Liberal society, like all societies, will always be imperfect. Perhaps Burkean liberalism's most obvious weakness is that it requires both citizens and the institutions of civic discourse—universities, public debates, and so on—to accept nuance. This in itself may not be realistic because it requires pushing back against the ideological devotion to absolute equality or to absolute freedom without falling into ideological traps on the other side. And despite the Burkean commitment to a more realistic understanding of human nature, in one sense at least it may be idealistic in that it challenges the part of human nature that sees obvious solutions as the best solutions and that chaffs with impatience against the slow process of reform.

Burkean liberalism does, however, provide a corrective to two of the major criticisms facing contemporary liberal societies. Burke's liberalism maintains the balance between an individualism characterized by a homogeneity of rights and an individualism rooted in the particulars of time and place. This approach avoids two extremes that many believe to characterize modern society: the first being the isolating individualism of modern liberalism, where individuals as homogenous and isolated beings are stripped of what gives them actual meaning and import as individuals and the second being the fragmented attitude of identity politics, where differences between groups prevent any kind of cohesive community at all. Burkean liberalism supports political pluralism, complete with prejudice in the form of a preference for one's own, but without the insistence on group identity that fragments even the healthiest communities. Burke's vision supports a diverse, pluralistic community that emphasizes harmony rather than conformity. It recognizes limitations on agreement and avoids the need to either fragment or homogenize in order to achieve liberal and communal goals.

In essence, Burke's liberalism is an ideology for the non-ideological. It is a rejection of systems and the "man of system" (as Adam Smith would call him). Instead Burke offers a philosophy for the civil social man, the individual in society. Burke's liberalism will be an imperfect balance of perfect virtues, which is itself a reflection of humans themselves. Such a

system will of course not guarantee liberal outcomes because no system can. What it will help do is moderate the forces that drive against individual freedom while attempting to balance the claims of the community and the individual. Burkean liberalism reflects and accounts for the unstable equilibrium between individual interests and the common good. For Burke, the best way to preserve that equilibrium is through the complex and pluralistic combination of individual affection, diverse institutions, and, where possible, thoughtful statesmanship.

Notes

1. Neoliberalism here has a pejorative connotation.
2. Piketty's work has been criticized in a variety of contexts for his interpretation of the economic data.
3. Interestingly, Tocqueville links this restiveness to industrial crises—depressions and recessions—precisely because everyone is involved in commerce and are therefore more vulnerable to economic shocks.
4. Other examples include Montesquieu and Tocqueville, though their arguments are more subtle and therefore more open to both confusion and mischaracterization.

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