

Reconceiving the Political: Notes toward a New Pluralism

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Introduction: Liberal Democracy and Limits on State Power

A liberal democracy is (among other things) an invitation to struggle over the control of civil associations. State/society debates have recurred over the past century of U.S. history, frequently generating landmark Supreme Court cases. While the specific issues vary, the general form is the same. On one side are general public principles that the state seeks to enforce; on the other are specific beliefs and practices that the association seeks to protect. *Boy Scouts of America v. Dale*—the much-publicized case concerning that organization's interest in barring homosexual Scout leaders—is but the latest chapter in what will no doubt prove to be a continuing saga.

Within the U.S. constitutional context, these issues are often debated in terms such as free exercise of religion, freedom of association, or the individual liberty broadly protected under the 14th Amendment. Having pondered these matters for much of the past decade, I

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have concluded that this constitutional debate, though rich and illuminating, does not go deep enough. It is necessary, I have come to believe, to reconsider the understanding of politics that pervades much contemporary discussion, especially among political theorists, an understanding that tacitly views public institutions as plenipotentiary and civil society as a political construction possessing only those liberties that the polity chooses to grant and modify or revoke at will. This understanding of politics makes it all but impossible to give serious weight to the “liberal” dimension of lib-

eral democracy.

The most useful point of departure for the reconsideration of politics I'm urging is found in the writings of the British political pluralists and pluralist thinkers working in the Calvinist tradition. This pluralist movement began to take shape in the nineteenth century as a reaction to the growing tendency to see state institutions as plenipotentiary. This tendency took various practical forms in different countries: French anticlerical republicanism; British parliamentary supremacy; the drive for national unification in Germany and Italy against subordinate political and social powers. Following political theorist Stephen Macedo (though disagreeing with him in other respects), I shall call this idea of the plenipotentiary state “civic totalism.”

Historically, one can discern at least three distinct secular-theoretical arguments for civic totalism. (Theological arguments, which raise a different set of issues, are beyond the scope of these comments.)

The first is the idea, traced back to Aristotle, that politics enjoys general authority over subordinate activities and institutions because it aims at the highest and most comprehensive good for human beings. The *Politics* virtually begins with the proposition that “all partnerships aim at some good, and . . . the partnership that is most authoritative of all and embraces all the others does so particularly, and aims at the most authoritative good of all. That is what is called . . . the political partnership.” (For present purposes, whether this statement is an adequate representation of Aristotle's full view is a matter we may set aside.)

Seventeenth-century political philosopher Thomas Hobbes offered a second kind of justification for civic totalism: any less robust form of politics would in practice countenance divided sovereignty—the dreaded *imperium in imperio*, an open invitation to civic conflict and war. Sovereignty cannot be divided, even between civil and spiritual authorities. In Hobbes' view, undivided sovereign authority has unlimited power to decide whether, and under what conditions, individuals and associations would enjoy liberty of action. No entity, individual or collective, can assert

rights against the public authority. Indeed, civil law may rightfully prohibit even the teaching of truth, if it is contrary to the requirements of civil peace.

A third argument for civic totalism was inspired by the eighteenth-century French philosopher Jean Jacques Rousseau: civic health and morality cannot be achieved without citizens' wholehearted devotion to the common good. Loyalties divided between the republic and other ties, whether to civil associations or to revealed religious truth, are bound to dilute civic spirit. And the liberal appeal to private life as against public life will only legitimate selfishness at the expense of the spirit of contribution and sacrifice without which the polity cannot endure. Representing this tradition, Emile Combes, a turn-of-the-century premier in the French Third Republic, declared that "There are, there can be no rights except the right of the State, and there [is], and there can be no other authority than the authority of the Republic."

I do not wish to suggest that these three traditions converge on precisely the same account of civic totalism. A chasm divides Hobbes and Rousseau from

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Aristotle. To oversimplify drastically: Greek religion was civil, offering support for the institutions of the polis. The post-classical rise of revealed religion—especially Christianity—ruptured the unity of the political order. Much Renaissance and early modern theory sought to overcome this diremption and restore the unity of public authority. Hobbes and Rousseau wrote in this "theological-political" tradition and tried in different ways to subordinate religious claims to the sovereignty of politics.

For this reason, among others, Hobbes and Rousseau were less willing than was Aristotle to acknowledge the independent and legitimate existence of intermediate associations. They were drawn instead to a doctrine, originating in Roman law and transmitted to modernity through the Renaissance social and political philosopher Jean Bodin, among others, according to which intermediate associations existed solely as revocable "concessions" of power from the sovereign political authority. Individuals possessed no inherent right of association, and associations enjoyed no rights other than those politically defined and granted. In short, intermediate associations were political constructions,

to be tolerated only to the extent that they served the interests of the state. This Roman-law stance may be contrasted to the view of early Calvinists that a civil association required no special fiat from the state for its existence. As historian of theology Frederick Carney puts it, "Its own purposes, both natural and volitional, constitute its *raison d'être*, not its convenience to the state."

These three traditions may seem far removed from the mainstream of contemporary views. Doesn't the liberal strand of "liberal democracy" qualify and limit the legitimate power of the state? Isn't this the entering wedge for a set of fundamental freedoms that can stand against the claims of state power?

The standard history of liberalism lends support to this view. The rise of revealed religion created a diremption of authority and challenged the comprehensive primacy of politics. The early modern wars of religion sparked new understandings of the relation between religion and politics, between individual conscience and public order, between unity and diversity. As politics came to be understood as limited rather than total, the possibility emerged that the principles constituting individual lives and civil associations might not be congruent with the principles constituting public institutions. The point of liberal constitutionalism, and of liberal statesmanship, was not to abolish these differences but rather, so far as possible, to help them serve the cause of ordered liberty.

The Totalist Temptation

Despite this history, many contemporary theorists, including those who think of themselves as working squarely within the liberal tradition, embrace propositions that draw them away from the idea of limited

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government and toward civic totalism, perhaps against their intention. Some come close to arguing that if state power is exercised properly—that is democratically—it need not be limited by any considerations other than those required by democratic processes.

The philosopher and social theorist Jürgen Habermas offers the clearest example of this tendency. He insists that once obsolete metaphysical doctrines are set aside, "there is no longer any fixed point outside the democratic procedure itself." But this is no

cause for worry or regret: whatever is normatively defensible in liberal rights is contained in the discourse-rights of "sovereign [democratic] citizens." The residual rights not so contained constitute, not bulwarks against oppression, but rather the illegitimate insulation of "private" practices from public scrutiny.

An eminent American democratic theorist, Robert Dahl, is tempted by Habermas's stance. He characterizes as "reasonable" and "attractive" the view that members of political communities have no fundamental interests, rights, or claims other than those integral to the democratic process or needed for its preservation. The only limits to the legitimate scope of democratic power are the requisities of democracy itself. Put simply: a demos that observes the norms of democratic decision-making may do what it wants.

Unlike Habermas, Dahl is not entirely comfortable with restricting the domain of rights to the conditions of democracy. He concedes that this proposal raises a "disturbing" question: what about interests, rights, and claims that cannot be adequately understood as aspects of the democratic process but which nonetheless seem important and defensible? What about fair trials, or freedom of religion and conscience? Without definitively answering this question, Dahl examines the various ways in which the defense of rights may be institutionalized, concluding that those who would temper democratic majorities with "guardian" structures such as courts bear a heavy burden of proof that they rarely if ever discharge successfully. The most reliable cure for the ills of democracy is more democracy; the resort to non-majoritarian protections risks undermining the people's capacity to govern itself.

For another example of the totalist temptation, consider the argument Stephen Macedo lays out in his most recent book, *Diversity and Distrust*. Throughout this book, Macedo stresses the "positive ambitions" of liberal constitutionalism and the "transformative project" required to realize them. Liberals, he insists, must hold fast to the "full measure of our civic ambitions." For example, liberalism's transformative project requires public policy to "shape or constitute all forms of diversity so that people are *satisfied* leading lives of bounded freedom [and to] mold *people* in a manner that ensures that liberal freedom is what they want." The health of our regime, he believes, depends on its "ability to turn people's deepest convictions—including their religious beliefs—in directions that are congruent with the ways of a liberal republic."

Macedo's repeated use of the term "regime" is instructive. In the Greek conception of the regime, to which he tacitly appeals, politics is architectonic, and other aspects of human existence—economic, social, aesthetic—are subordinate. Even religion is understood as civil rather than autonomous, let alone as a source of reservations against state authority. This is

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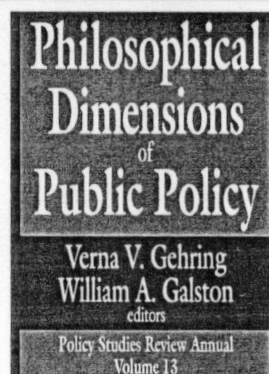
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more than a question of power. For a regime to be healthy, runs the argument, it must be a unity, and its political principles must therefore ramify through the rest of its citizens' lives. All matters are potentially public matters.

While acknowledging that the lives of liberal citizens are "in a [formal] sense" divided between public and private, Macedo insists that this division is "superficial" because liberal institutions and practices legitimately shape all of our deepest commitments so as to make them supportive of the liberal regime. Faith-based commitments are not exempt; he unflinchingly asserts that "we have a shared account of basic civic values that impose limits on what can be true in the religious sphere."

Macedo is aware that his approach, undertaken in the name of liberalism, may seem "deeply illiberal." His elaboration of his view does little to dispel this impression. Consider the following claim: Liberal citizens should be "alert to the possibility that religious imperatives, or even inherited notions of what it means to be a good parent, spouse, or lover, might in fact run afoul of guarantees of equal freedom." Confronted with such conflicts, liberal citizens should be "committed to honoring the public demands of liberal justice in all departments of their lives." The reason is the primacy of the political: "A liberal democratic polity [rests] on shared political commitments weighty enough to override competing values."

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Even when we acknowledge the diverse spheres of human and the diversity of legitimate values at work within them, he concludes, "Nothing about reasonable pluralism should shake our confidence in the overriding weight of shared public principles."

Let me now turn to the most complex case. In agreement with what I've been calling the totalist temptation, political philosopher John Rawls asserts that "the values of the special domain of the political . . . normally outweigh whatever values may conflict with them." Why is this the case? Rawls offers two reasons. First, political values are very important; they determine social life and make fair cooperation possible. Second, conflict between political and nonpolitical values can usually be avoided, so long as political values are appropriately understood.

Rawls famously maintains that justice is the preeminent political value, the "first virtue of social institu-

tions" and that "laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust." Nonetheless, he asserts, consistent with the liberal tradition, that the principles of justice do not directly regulate institutions and associations—such as churches and families—within society. (Principles of justice do affect these institutions indirectly, via the influence of just background institutions.)

The difficulty is to explain why, within the structure of Rawls's theory, the principles regulating the basic structure of society should not be applied directly to institutions such as churches and the family. Taken lit-

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erally, many of these background principles would seem to warrant such interventions. For example, imbalances in parenting responsibilities can affect women's "fair equality of opportunity." Does this mean, as Rawls seems to suggest, that "special provisions of family law" should prevent or rectify this imbalance? If the family is part of the basic structure of society, as Rawls now claims, why does he judge it "hardly sensible" that parents be required to treat their children in accordance with the principles directly governing the basic structure?

The ambiguous status of the family reflects a deeper structural problem in Rawls's account. At one point he offers a formulation that seems promising: We distinguish between the point of view of citizens and of members of associations. As citizens, we endorse the constraints of principles of justice; as association members, we want to limit those constraints so that the inner life of associations can flourish. This generates a "division of labor" that treats the basic structure and civil association as being, so to speak, on a par with one another.

But on closer inspection, it turns out that there's a hierarchical relation after all, with the principles of justice serving as trumps. Otherwise put, the basic structure constitutes the end, and the various associations are in part means to that end. So, for example, "the treatment of children must be such as to support the family's role in upholding a constitutional regime." But what if (say) religious free exercise includes teachings and practices that don't do this? (Imagine a religious group that has no intention of altering the public structure of equal political rights for women but teaches its own members that women shouldn't participate in public life.)

Rawls is certain (quite sensibly in my view) that “We wouldn’t want political principles of justice to apply directly to the internal life of the family.” The reasoning appears to be that various associations have inner lives that differ qualitatively from that of the political realm, so that political principles would be “out of place.” This then raises a question: why aren’t political, nonpolitical associations understood as related horizontally rather than vertically? Why can’t nonpolitical associations be seen as limiting the scope of politics at the same time that the basic structure of politics constrains associations?

Rawls’s apparent answer runs as follows: the sphere or domain of the nonpolitical has no independent existence or definition but is simply the result (or residuum) of how the principles of justice are applied directly and indirectly. In particular, the principle of equal citizenship applies everywhere.

In one sense, this is clearly true. If an association uses coercion to prevent some of its members from exercising their equal political rights, the state must step in to enforce them. But the more usual case is that the association organizes itself according to norms (of membership or activity) that are inconsistent with principles of equal citizenship. What is the state’s legitimate power in the face of these dissenting practices?

Is it so obvious that the legitimate activities of nonpolitical associations should be defined relative, not to the inner life of those associations, but rather to the principles of the public sphere? Can’t we say something important about the distinctive natures of individual conscience, friendship, families, communities of faith or inquiry, and shouldn’t those primary features of our social life have an effect on the scope of political principles, not just vice versa? Even if justice is the “first virtue” of public institutions and enjoys lexical priority over other goods of the public realm (a debatable proposition), does it follow that the public realm enjoys comprehensive lexical priority over the other forms of human activity and association?

The Pluralist Alternative

It is in the context of questions such as these that political pluralism emerges as an alternative to all forms of civic totalism. Political pluralism, to begin, rejects efforts to understand individuals, families, and associations simply as parts within and of a political whole. Relatedly, pluralism rejects the instrumental/teleological argument that individuals, families, and associations are adequately understood as “for the sake of” some political purpose. For example, religion is not (only) civil and in some circumstances may be in tension with civil requirements. This is *not* to say that political communities must be understood as without common purposes. The political order is not

simply a framework within which individuals, families, and associations may pursue their own purposes. But civic purposes are not comprehensive and do not necessarily trump the purposes of individuals and groups.

Political pluralism understands human life as consisting in multiplicity of spheres, some overlapping, with distinct natures and/or inner norms. Each sphere enjoys a limited but real autonomy. It rejects any account of political community that creates a unidimensional hierarchical ordering among these spheres of life. Rather, different forms of association and activity are complexly interrelated. There may be local or partial hierarchies among subsets of spheres in specific context, but there are no comprehensive lexical orderings among categories of human life.

For these reasons, among others, political pluralism does not seek to overcome, but rather endorses, the post-pagan diremption of human loyalty and political authority created by the rise of revealed religion. That this creates problems of practical governance cannot be denied. But pluralists refuse to resolve these problems by allowing public authorities to determine the substance and scope of allowable belief (Hobbes) or by

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reducing faith to civil religion and elevating devotion to the common civic good as the highest human value (Rousseau). Fundamental tensions rooted in the deep structure of human existence cannot be abolished in a stroke but must rather be acknowledged, negotiated, and adjudicated with due regard to the contours of specific cases and controversies.

Pluralist politics is a politics of recognition rather than of construction. It respects the diverse spheres of human activity; it does not understand itself as creating or constituting those activities. Families are shaped by public law, but that does not mean that they are “socially constructed.” There are complex relations of mutual impact between public law and faith communities, but it is preposterous to claim that the public sphere creates these communities. Do environmental laws create air and water? Many types of human association possess an existence that is not derived from the state. Accordingly, pluralist politics does not presume that the inner structure and principles of every sphere must (for either instrumental or moral reasons) mirror the structure and principles of basic political institutions.

A pluralist politics is, however, responsible for coordinating other spheres of activity, and especially for adjudicating the inevitable overlaps and disputes among them. This form of politics evidently requires the mutual limitation of some freedoms, individual and associational. It monopolizes the legitimate use of force, except in cases of self-defense when the polity cannot or does not protect us. It understands that group tyranny is possible and therefore protects individuals against some associational abuses. But pluralist politics presumes that the enforcement of basic rights of citizenship and of exit rights, suitably understood, will usually suffice. Associational integrity requires a broad though not unlimited right of groups to define their own membership, to exclude as well as include, and a pluralist polity will respect that right.

A pluralist polity is not a neutral framework (assuming such a thing is even possible) but rather pursues a distinctive ensemble of public purposes. As David Nicholls, a leading scholar of political pluralism, argues, it presupposes a limited body of shared belief: in civil peace, in toleration for different ways of life, in some machinery for resolving disputes, and (notably) in the ongoing right of individuals and groups to resist conscientiously any exercise of public power they regard as illegitimate. So understood, political pluralism serves as a barrier against the greatest preventable evils of human life, but it pursues at most a partial rather than comprehensive good. As Nicholls puts it,

[B]y limiting power we limit the ability to do good, but we also limit the chance of doing evil. Pluralists would, on the whole, have concentrated on avoiding the worst in politics rather than trying to achieve the best. They [reject] the Hobbist notion that anarchy is the only great threat to society, and that absolute power must be put into the hands of the rulers, in order to avert this danger; the preservation of life at any cost was not for them the sole end of politics.

Conclusion: The Philosophical Status of Political Pluralism

Let me conclude these notes with a Rawlsian question: is political pluralism along the lines I've just sketched a "comprehensive" account of these matters or rather a "political" account that can be assessed independent of controversial moral or metaphysical doctrine? I believe that Nicholls is on the right track when he argues that political pluralism is not a fully freestanding doctrine: "Political pluralism may well be compatible with many ethical theories, but it is surely the case that it is incompatible with some ethical theories." He goes on to observe, plausibly enough that "It is likely that a monist in [moral or metaphysical] philosophy would reject political pluralism and would hope that the unity which is characteristic of the whole universe might become concrete in institutional form."

Let me turn this around and put it affirmatively: I

believe that political pluralism and the kind of moral pluralism articulated by Isaiah Berlin fit together in theory and in practice. Taken together, they offer the firmest basis for an account of liberal democracy that does justice to its "liberal" dimension, to its understanding of legitimate public power as important but inherently limited, and to the specific judgments (legal, legislative, and socio-cultural) that those thinking and acting in a liberal spirit are wont to reach. Those wishing to explore the arguments behind these beliefs are invited consult my newest work, *Liberal Pluralism*.

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Sources: *Boy Scouts of America v. Dale*, 530 U.S. 640 (2000); for the British tradition, see *The Pluralist Theory of the State: Selected Writings of G. D. H. Cole, J. N. Figgis, and H. J. Laski*, edited by Paul Q. Hirst (Routledge, 1989); for the Calvinist tradition, see *Political Order and the Plural Structure of Society*, edited by James W. Skillen and Rockne M. McCarthy (Scholars Press, 1991); for the full account of our agreement and (mainly) disagreement, see my review of Stephen Macedo's latest book, *Diversity and Distrust: Civic Education in a Multicultural Society* (Harvard University Press, 2000), recently published in *Ethics*, vol. 112 (January 2002), pp. 386–391; Thomas Hobbes, *Leviathan*, edited by C.B. McPherson (Penguin, 1977), the quote by Emile Combes is found in the Hirst volume, p. 112; Frederick Carney, "Associational Thought in Early Calvinism," in *Voluntary Associations: A Study of Groups in Free Societies*, edited by D. B. Robertson (John Knox Press, 1966); Jürgen Habermas is quoted and discussed in John Rawls, *Political Liberalism* (Columbia University Press, 1996); Robert Dahl, *Democracy and Its Critics* (Yale University Press, 1989); Rawls's famous claim that justice is the preeminent political value is found in John Rawls, *A Theory of Justice* (Harvard University Press, 1971). For Rawls's assertion that the principles of justice do not directly regulate institutions and associations, see John Rawls, *Justice as Fairness: A Restatement*, edited by Erin Kelly (Harvard University Press, 2001). This work also contains the ambiguous discussion of the status of the family. To complicate matters further, on one and the same page (10), Rawls seems to characterize the family both as part of the basic structure of society and as an institution within the basic structure. I don't see how it can be both, and it makes a huge difference which it is. David Nicholls, *The Pluralist State* (Macmillan, 1975); William A. Galston, *Liberal Pluralism: The Implications of Value Pluralism for Political Theory and Practice* (Cambridge University Press, 2002).

