How Do We (Mis)Manage to Get Along?

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Appeal to the People's Court: Rethinking Law, Judging, and Punishment by Vincent Luizzi [Value Inquiry Book Series, Studies in Jurisprudence, Brill-Rodopi, 9789004363854]

The Handbook of the Law of Visiting Forces, Second Edition edited by Dieter Fleck In Collaboration with Vladimir Atanasov, Jonathan L. Black-Branch, Michael Bothe, Frank Burkhardt, Nikoleta Chalanouli, Paul J. Conderman, Federica Favuzza, Gunter Filippucci, Katarina Grenfell, Steven Hill, Junya Kawai, Hyun Kim, Ben F. Klappe, Jean-Philippe Lavoyer, Eduardo Martinez Llarena, Jane M. Male, Daniel Rezene Mekonnen, Andrés Munoz-Mosquera, Michael A. Newton, Jarin Nijhof, Mette Prassé Hartov, Jody M. Prescott, Peter Rowe, Aurel Sari, Dale L. Sonnenberg, Heike Spieker, Thierry Tardy, Donald A. Timm, Bakhtiyar Tuzmukhamedov, Sylvain Vité, and Joop Voetelink. [Oxford University Press, 9780198808404]

Titans: how superheroes can help us make sense of a polarized world by Armond Boudreaux and Corey Latta [Pickwick Publications, 9781532604027]

Bibliography

Out of Many Faiths: Religious Diversity and the American Promise by Eboo Patel [Our Compelling Interests, Princeton University Press, 9780691182728]

 A timely defense of religious diversity and its centrality to American identity
America is the most religiously devout country in the Western world and the most religiously diverse nation on the planet. In today's volatile climate of religious conflict, prejudice, and distrust, how do we affirm the principle that the American promise is deeply intertwined with how each of us engages with people of different faiths and beliefs? Eboo Patel, former faith adviser to Barack Obama and named one of America's best leaders by U.S. News & World Report, provides answers to this timely and consequential question.

In this inspiring and thought-provoking book, Patel draws on his personal experience as a Muslim in America to examine broader questions about the importance of religious diversity in the cultural, political, and economic life of the nation. He explores how religious language has given the United States some of its most enduring symbols and inspired many of its most vital civic institutions—and demonstrates how the genius of the American experiment lies in its empowerment of people of all creeds, ethnicities, and convictions.

Will America's identity as a Judeo-Christian nation shift as citizens of different backgrounds grow in numbers and influence? In what ways will minority religious communities themselves change as they take root in American soil? In addressing these and other questions, Patel shows how America's promise is the guarantee of equal rights and dignity for all, and how that promise is the foundation of America's unrivaled strength as a nation. The book also includes incisive commentaries by John Inazu, Robert Jones, and Laurie Patton on American civil religion, faith and law, and the increasing number of nonreligious Americans.

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Alvin Ailey Dance Company performs Revelations to a packed audience of families, from children to senior citizens, as diverse a crowd as one can conjure—peoples of all hues, heritages, faiths, dress, and languages. Strongly identified with the particulars of the Christian spiritual tradition, the dance invoked a message that moved members of multiple faith traditions. There are universal elements to the story. There are those who see in it an affirmation of a particular struggle for civil rights, and those who identify with it from a less personally direct lineage but find its call to humanity and the human spirit compelling nonetheless. It feels like America at its best, and the moment is decidedly strengthened by the variety of personal histories in the room, as it is also by the commonality of the experience of uplift. There is always a loud and resoundingly prolonged standing ovation, as the audience holds out the hope that the moment of collective affirmation will last. Indeed, those are the moments that we want to last, in which diversity contributes powerfully to the strength of community. And although it surely isn't only a day a year that this is evident, it does seem that there are precious few demonstrations these days of what some might say is the distinctly American ethos, E pluribus unum.

The Fraying of E pluribus unum and the Bonds of Empathetic Citizenship

Arguably, we live in a time comparable to many of the most strained periods in our national history. It is a time when the human bonds of empathetic citizenship—the openness to see value in others different from oneself and the concomitant responsibility for bridging those differences to create an interdependent whole—are deeply frayed. This fraying of the bonds of citizenship imperils the fabric of democracy itself, as we have seen from sea to shining sea. Who, after all, would have predicted that in the twenty-first century the signs, symbols, and rhetoric of the Nazi era would be on public display in crowds marching on a college campus in Charlottesville, Virginia, chanting, "Jews won't replace us" and "Blood and soil"? What do we say when nooses appear overnight on the National Mall in Washington, DC, directed especially at the Smithsonian's National Museum of African American History and Culture?

Where do we situate religion in this recurring clash of visions? Have we regressed to another bleak period of our national history, when we created Japanese American internment camps on our own soil in reaction to the bombing of Pearl Harbor? Following that playbook, will we lock up Muslim Americans, our neighbors in cities and towns across America, painting all with the brush of a threat from violent extremism? How do we reconcile the reluctance to label some violent acts of hate committed by white Christians (adhering to supremacist ideology) as domestic terrorism, on the one hand, with the speed with which we make that connection to hateful acts committed by other citizens but in the name of Islam, on the other?' Is it purely accidental that half a century after the bombing of children in a Birmingham church in 1963, a hate-filled supremacist murders nine people in a prayer service at Emanuel African Methodist Episcopal Church in Charleston, South Carolina, in 2015? Or is there something about the theology of hate that is more fully comprehended in the presence of the theology of inclusion? Have we moved on so little from our racist, xenophobic, and religiously exclusionary past and progressed so little in expanding the narrative of who is American, even as the facts of our diversity become more pronounced and our aspirations for pluralism march resoundingly forward?

Even though some may express fear, our increasing diversity is indisputable. How we define and leverage diversity for the common good is not. It is against the backdrop of threats to social connectedness, to civic democracy, to moral neighborliness, that this book series considers the myriad dimensions of our compelling interests. We ask how we move beyond our worst history: genocide against Native Americans; Atlantic slavery and the long path traveled toward enfranchisement of African Americans; religious bigotry and exclusion. We question, even as we appear reluctant to relinquish this hibernating bigotry, what new vision is to be crafted of a diverse, pluralistic society where civil rights and generous civic behavior go hand in hand, where diversity and democracy mix well, as they also sometimes have in our history.5 We wonder how we will flourish as a nation without the full participation of our ever more diverse populace and the diversity bonus that such engagement

brings to our knowledge economy, as well as to the classrooms that prepare our talent, the halls of government that make our policies, and the places of innovation that crisscross our communities.

Expanding the American Civic Religious Narrative

In this volume, we turn to what has been foundational to our national identity, emblazoned in our initiating documents as the freedom of religion and the establishment of a government embracing our people's many faiths and traditions. We tackle what an expanded, inclusive, but not homogenized civil religious narrative might be in this twenty-first-century America, as Eboo Patel frames the central dilemma of our religiously and ethnically diverse nation. We start with the basic premise of his analysis, that the vibrancy of civic life is enhanced by religious participation and therefore by tolerance for religious diversity in its broadest sense. As his section and the commentaries in this volume detail, there is no guarantee that we are up to the challenge of matching religious diversity and civic tolerance. On the contrary, there is every reason to wonder whether the American democratic project, built on a promise of religious diversity and freedom amid a reality of expectations of assimilation, can stretch and evolve sufficiently to reap the benefits of the insights and talents of new communities of faith in our midst.

The challenge posed by the demographic and religious map of America today may well tax the limits of an expanded embrace, as religion mixes once again with race and ethnicity and homeland, perhaps in ways less palatable to many than in the past. As both Patel and Robert P. Jones explicate, while the journeys into the fold of the American civic religious tradition may not always have been smooth, the assimilation of Catholic and Jewish immigrants, among others, was accomplished over time both by stretching the definition of whiteness and simultaneously by moving the prevalent religious narrative (from Anglo-Saxon Protestant) to an expanded Judeo-Christian one. Today this inclusiveness may be harder to achieve. In fact, the Cold War created a need for a rewrite of America's religious narrative. If the Soviet Union and China were godless, America was godly. This rewrite enabled the pivot from a narrative about Anglo-Saxon Protestants to one of a Judeo-

Christian community. With growing (though still proportionately small) numbers of Americans identifying as Muslim (with many origins, includ¬ing African Americans) and an increasingly pervasive political landscape of Islamophobia and American nationalism, American Muslims, some of whose families have been here for decades, if not centuries, as Patel ironically points out, test both the dominance of whiteness and the centrality of Christianity (even in its adapted version, where the symbols and language of faith are imported into a somewhat neutered public civic sphere). And the threat of losing predominance, of being displaced, as Jones characterizes it, is made worse for some by the growing populations of religiously unaffiliated Americans, particularly in younger generations. The threat of the unaffiliated is only exacerbated, as John Inazu's commentary delineates, as many push for a set of policies and laws that protect rights and enforce responsibilities that some see as threatening religious freedom (if not religion itself), from contraception coverage to transgender bathroom choice. This growing divide is bolstered no doubt also by a prevalent narrative that lays the economic losses of rural white Christians at the feet of the largely metropolitan, and less Christian or less religiously identified, "elite," who are said to welcome foreigners and not to care about the loss of American jobs to globalization.

This mix of exclusionary racial and religious sentiments with antiglobal paranoia, while certainly not new in our nation's history, is finding new life in a range of public debates, from affirmative action to immigration, and a substantial uptick in acts of vandalism and violence in places of worship and community centers, especially those hosting Jews or Muslims. Patel poignantly documents, in telling the story of American Muslims, how they have become an all-encompassing blank screen on which to project anger and resentment about race, immigration, national security, and religion. At their core, these anti-Muslim expressions, often dragging in other minority identities in the process, belie a fear of the erosion of some foundational American identity and way of life—an existential threat that puts under siege the place and privilege of those who once dominated the landscape and controlled the narrative. This in turn sets a high bar to overcome in extending any kind of empathetic

welcome or encouraging a sense of shared fate and purpose and, at the same time, underlines the urgency of doing so.

Building a Community of Communities

Yet still, we take as first principles that we must spread that empathy and cannot afford as a country to ignore the diversity in our midst, those whose civic, economic, and cultural participation will better equip us to face down the challenges of our contemporary world. It is very much in our compelling interests, as Patel outlines in his vision of an expanded, more pluralistic, civil religious narrative, to pull together our diverse communities of faith to form a new, more textured unity, one similar to what Danielle Allen referred to in the first volume in this series as a "community of communities." According to her analysis, strong intragroup bonds coexist and even reinforce equally strong intergroup bridges across diverse social identity allegiances.? Pragmatic pluralism, to use the term provided by Laurie L. Patton in her commentary, can effectively position America far from either the religious nationalism or the radical secularism likely to splinter groups further. And even as Inazu tempers our optimism here with a call for a modest unity, and Jones's commentary moves the narrative away from the sacred and toward what he calls a civic creedalism, some version of a unifying hymn will surely serve us well.

What will a modest unity look like? What foundation will it be built on, and how can we all encourage it? As all the authors in this volume agree, this modest unity departs first of all from our familiar, normalized Judeo-Christian tradition in that it is not to be easily built on a legacy of assimilation to whiteness and to a sacred melting pot—there is just too much difference now to easily accommodate. Instead, the new pluralism, which they all also believe can and must be accomplished through the hard work of moving from the facts of diversity to lived pluralism,8 will likely be built on the shared recognition that we really do live in a new world, on several levels.

First, and perhaps most important as a building block of unity, is the recognition by differing doctrinal groups of some similarities in their circumstances of life—the threats, the dreams, the obstacles, and the opportunities desired for their children, for example—even when there are

distinct differences in beliefs or practices. Inazu calls this the embrace of common ground, even with differences in what is conceived as the common good. This recognition that comes from reaching across the religious aisle, so to speak, may well produce more in common than expected, moving us closer to Patel's pluralistic harmony.

Working on common ground is what the civil rights movement of the 1950s and 1960s did so well, as its participants walked hand in hand, and it is what we are seeing in communities across the country today, even as acts of hatred and violence aim to separate. In January 2017, a diverse group of thirty-five leaders from across the political spectrum formed the Latino Jewish Leadership Council to counter the rise of anti-immigrant, anti-Semitic, and xenophobic rhetoric. Recently they sharply denounced the events in Charlottesville as confirming "what history teaches us: hate groups start by targeting a specific ethnicity, religion, or community, and then metastasize and end up attacking our broader society." In a similar call to common ground, Jim Winkler, president and general secretary of the National Council of Churches, called on his "evan¬gelical sisters and brothers" to join with his members, some thirty million Christians in more than one hundred thousand local con-gregations, spanning Orthodox, Anglican, mainline Protestant, and historic peace churches, to renounce the rise of white supremacists and neo-Nazis after Charlottesville.

Such calls for an ecumenical denunciation of hate remind us that the concept of neighbor is about more than geographic proximity. It encompasses our moral obligations, our fundamental interdependence, as Newark's famed rabbi Joachim Prinz noted in his speech delivered right before Martin Luther King Jr.'s awe-inspiring call to unity, "I Have a Dream," at the 1963 March on Washington. Rabbi Prinz, by invoking as the core meaning of neighbor, "our collective responsibility for the preservation of man's dignity and integrity," implored us all to reach across the aisle to find that worthy soul in others.

As important as such broad and monumental moments of spiritual and moral common ground are, the everyday acts of solidarity matter too, and these should not be forgotten. In February 2017, the New York Times reported on a

movement among Muslims to raise $130,000 in a short period for the repair of Jewish graves desecrated in Saint Louis and Philadelphia." Meanwhile, in a demonstration of pragmatic pluralism, the Jewish Telegraphic Agency reported recently on how American Muslims are turning to Jews for help in thinking through how to secure their mosques and institutions, working to share lessons learned about the particulars of staying safe in a nervous climate.

When these participants from diverse religious, ethnic, and identity groups come together and pool their knowledge and intelligence in pragmatic problem solving, as occurs now when communities face threats and work on safety, a robust diversity bonus emerges, enabling participants to uncover good solutions and develop a bolstered sense of being in these times together. This kind of broader community building is evident in many faith-based academic institutions too, as when Augsburg University, a Lutheran institution in Minneapolis, joined in common cause to contribute to the education and economic development efforts of its neighbors, a Somali Muslim community. These everyday acts of everyday ethics, as Patton calls them, involving intergroup problem solving, may well be as critical to forging a new modest unity as are the foundational legal and civil protections of freedom of religion that we all importantly count on to secure our place in a pluralistic America.

The everyday work of pluralism certainly occurs in spaces and places explicitly defined by religion and between groups specifically reaching out to build an interfaith geography. It also occurs, importantly, in more routine civil society organizations, as Patel describes. It can be found in our schools, on our sporting fields, and at our museums and hospitals, contexts not explicitly focused on spirituality or affiliated with one or another religious group but rather gathering a broad range of personal traditions together in public. In these shared public civil institutions, while the common purpose is focused elsewhere—on getting a college degree, on mounting an exhibit, on winning a game, on curing a disease—the ground can also be tilled, purposely or by chance, for building the respect, relationships, and commitments to some common good that Patel identifies as best serving our compelling interests.

Within the safety of these schools and community centers, there is fertile opportunity for structuring dialogue, as Patel's Interfaith Youth Core, and the intergroup dialogues pioneered by Patricia Gurin and colleagues at the University of Michigan, amply demonstrates. And dialogue, as simple as it sounds and as hard as it is to structure well, goes a long way toward stripping away the blinders of our identity-based stereotypes in order to see others for what they are and see ourselves as we are viewed by others. When, as Patton so persuasively encourages us to do, we listen to the stories of everyday people, adding to the inspiration from larger, heroic myths, something revelatory occurs. For the somewhat unexpected part of forging that pragmatic pluralism in dialogue and storytelling is that it serves to strengthen one's own understanding of self-identity, even as it signals how interdependent we are with other groups and traditions.

The Power of Expressive Symbolism: Uniting and Dividing

As we work to see what is common in our circumstances, the things we fear, and the aspirations we pursue, while still holding firm to our differences, there may come a time when we get better at publicly recounting heroic (and everyday) narratives of more universal struggle and redemption. These expressions in turn can become symbolic, forming a fabric for a civil religion that feels more egalitarian and less about dominance and exclusion. Throughout our history we have tried to do this, sharing universally motivating spirituals like 'Amazing Grace" in times of national distress, as President Barack Obama did when he united a nation in grief at the me¬morial service for those slain in Charleston, centering his themes on grace itself, including the astonishing spiritual reserve of the family members of the shooting victims." Or when elders of a minority Muslim community in Fort Smith, Arkansas, a town that the New York Times describes as having a mix of libertarian and Southern Baptist sensibilities, turned out to support a young white man who apologized for his part in the desecration of their mosque. The aftermath of 9/11 brought out similar expressions and gatherings that appealed to our caring national identity, even as the events themselves fed another

strain of religious nationalism and exclusionary impulses.

Expressive symbolism has the power to divide or unite, and the future of our pluralism depends in large part on what we publicly embrace. Today, in the face of heated debates about the appropriateness of Confederate monuments in the context of an invigorated white supremacy movement, we hear the surprising, unifying voices of descendants of Jefferson Davis, Robert E. Lee, and Stonewall Jackson, all icons of that brutal, exclusionary past. In interviews in the New York Times after Charlottesville, they all agreed in one way or another that these symbols, as personally meaningful to their families as they remain, should not stand where they can associate the contemporary collective public square with a legacy of hate, racism, and religious nationalism. As Derek Black, a former white supremacist and the godson of David Duke, reminds us, a clear line must be drawn between personal ties (he made calls to both family who carried the neo-Nazi torches and friends who counter-protested in Charlottesville) and the public whitewashing of history. And while no good can come of forgetting that history, as we have systematically tried to do in regard to our Native American brethren, we can remember the tragic lessons of the Confederacy and slavery in museums and classrooms, rather than monumentalize them as part of the national civic religion, on which we depend to keep us moving forward, together.

As Patel compels us, let's search for experiences that unify across difference, turning to occasions when our creative expressions and public symbols can reinforce our solidarity. We very much need both the comfort and the inspiration, as we noted at the start of this introduction, of events that transport us, as when the Alvin Ailey Dance Company performs Revelations on Mother's Day to a resplendently diverse audience of Muslims, Jews, Christians, atheists, and more. It matters that this happens in one of America's many global cities, with many plural traditions of faith and identity, but it also needs to happen across our country, in places where people may feel disenfranchised by diversity rather than motivated to unite. Let us go everywhere, even with our eyes fully open to the challenges, in pursuit of a "wider sense of we" that

may get us through these trying times, as Laurie L. Patton intones. <>

The Art of Logic in an Illogical World by Eugenia Cheng [Basic Books, 9781541672482]

How both logical and emotional reasoning can help us live better in our post-truth world
In a world where fake news stories change election outcomes, has rationality become futile? In The Art of Logic in an Illogical World, Eugenia Cheng throws a lifeline to readers drowning in the illogic of contemporary life. Cheng is a mathematician, so she knows how to make an airtight argument. But even for her, logic sometimes falls prey to emotion, which is why she still fears flying and eats more cookies than she should. If a mathematician can't be logical, what are we to do? In this book, Cheng reveals the inner workings and limitations of logic, and explains why alogic--for example, emotion--is vital to how we think and communicate. Cheng shows us how to use logic and alogic together to navigate a world awash in bigotry, mansplaining, and manipulative memes. Insightful, useful, and funny, this essential book is for anyone who wants to think more clearly.

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Excerpt: Wouldn't it be helpful if everyone were able to think more clearly? To tell the difference between fact and fiction, truth and lies?

But what is truth? Is the difference between "truth" and "untruth" always that simple? In fact, is it ever that simple? If it is, why do people disagree with each other so much? And if it isn't, why do people ever agree with each other at all?

The world is awash with terrible arguments, conflict, divisiveness, fake news, victimhood, exploitation, prejudice, bigotry, blame, shouting, and miniscule attention spans. When cat memes attract more attention than murders, is logic dead? When a headline goes viral regardless of its veracity, has rationality become futile? Too often, people make simple and dramatic statements for effect, impact, acclaim, and to try and grab some limelight in a world where endless sources are competing relentlessly for our attention all the time.

But the excessive simplifications push us into fabricated black and white situations when everything is really in infinite shades of gray and indeed multi-colors. Hence we seem to live with a constant background noise of vitriol, disagreement, and tribes of people attacking other tribes, figuratively if not for real.

Is all hope lost? Are we doomed to take sides, be stuck in echo chambers, never agree again?

No.

There is a lifebelt available to anyone drowning in the illogic of the modern world, and that lifebelt is logic. But like any lifebelt, it will only help us if we use it well. This means not only understanding logic better, but also understanding emotions better and, most importantly, the interaction between them.

Only then can we use logic truly productively in the real human world.

The discipline of mathematics has carefully honed the techniques of logic, and as a research mathematician I come from this background. I believe we can learn from the techniques and insights of mathematics, because it's about constructing rigorously logical arguments and then convincing other people of them. Math isn't just about numbers and equations: it's a theory for justification. It provides a framework for having arguments and is so successful that in math people actually agree regularly upon conclusions.

There is a widespread myth that mathematics is all about numbers and equations, and that its usefulness in the world is in all the places we use numbers in life. The myth continues with the mistaken idea that the whole point of math is to turn life situations into equations, and solve them using math. While this is one aspect of math it is a very narrow and limiting view of what mathematics is and what it does. From this perspective we have "pure mathematics" as a rarefied field of esoteric symbols, far away from the real world, only able to interact with the real world via a chain of intermediaries:

> pure mathematics to
> applied mathematics to
> science
> engineering, medicine, ...
> to
> numerical world

Instead we should branch out from this narrow, linear, incomplete view of math to use it in a much broader and hence more widely applicable sense. Mathematics in school may well be mostly about numbers and equations, but higher-level mathematics is about how to think, and in this way it is applicable to the entire human world, not just the part involving numbers.

> pure mathematics to
> applied mathematics
> science
> [how to think] engineering, medicine, ...
> numerical world [human world]

Mathematics helps us think more clearly, but it doesn't tell us what to think, and nor will I in this book. Contrary to how it might seem, math isn't about right and wrong, and nor are most arguments. They're about the sense in which something is right and wrong, depending on world views. If people disagree, it's often a result of different points of view stemming from different fundamental beliefs, not that one is right and the other is wrong.

If the idea of mathematics and logic seems remote and abstract to you, you are right: mathematics and logic are remote and abstract. But I will argue that the abstraction has a purpose, and that broad applicability is one of the powerful consequences. The remoteness of mathematics also has a purpose: taking a step back enables us to focus on important

principles and think more clearly about them before putting the messy human details back in.

And we will put those details back in. We will analyse and illuminate messy, controversial, divisive issues such as sexism, racism, privilege, harassment, fake news and more. Logic does not resolve these issues, but clarifies the terms in which we should have the discussion. So I certainly won't be telling you what the conclusion of those arguments should be, but rather, how to have the argument in the first place.

In this book I will show the power of logic but also its limitations, so that we can use its power responsibly as well as effectively. In the first part I'll look at how we use logic to verify and establish the truth, by building clear, irrefutable arguments. In the second part I'll look at where logic breaks down and can't help us any more. As with any tool, we should not try to push logic beyond its limits, and so in the last part of the book I'll look at what we should do instead. Crucially, we need to bring emotions in too, first to find our way to the logic and then to convey it to others. Logic makes our arguments rigorous, but emotions make them convincing. In the so-called "post-truth" world, truth seems to be accessed largely by emotions rather than logic. This sounds like it might be bad for rationality, but I will argue that it doesn't have to be a bad thing, as long as emotions are working with logic rather than working against it.

Emotions and logic do not have to be enemies. Logic works perfectly in the abstract mathematical world, but life is more complicated than that. Life involves humans, and humans have emotions. Here in this beautiful and messy world of ours we should use emotions to back up logic, and logic to understand emotions. I firmly believe that when we use emotions and logic together, each working to their own strengths and not beyond them, we can think more clearly, communicate more effectively, and achieve a deeper and more compassionate understanding of our fellow human beings. That is the true art of logic.

Intelligence and Rationality: How To Use Logic In An Illogical World

We have discussed the power and the limitations of logic, and the power and limitations of emotions. I am going to conclude with a discussion of how to

blend logic and emotions to be a helpfully, persuasively, powerfully rational person. Not just a person who follows the rules of logic, but one who can use logic to illuminate the world of emotional humans.

I will begin by summarizing what I think logical behavior includes and doesn't include, at the most basic level. More subtly, I'll talk about what it means to be not just logical, but reasonable. Then I'll go further and describe what I think it means to be powerfully logical, when you're not just following the basic rules of logic but also using advanced techniques to build complex logical arguments and investigations, and you are thus able to follow complex logical arguments.

I will show that even if everyone were logical in this way, there would still be plenty of scope for logical disagreement. But most importantly, I will describe what form I think these disagreements would take, and what a logical argument would look like. I wish all arguments took this form. It doesn't mean no emotions would be used. In fact, I'm going to show that even better than being a logical person, I would like everyone to be an intelligently logical person. I think this involves not just being logical, but using logic in a way that seeks to help other people, and that this involves a crucial blend of logical techniques and emotions instead of a fight between them. This is what I think intelligence consists of.

I believe logic is at the core of human intelligence, but that it does not work in isolation.

What is a Logical Human?

A logical human is one who uses logic. But how? We have seen all sorts of human situations in which logic has limits. To call ourselves logical we should still use logic as far as we can, and no further. Some people see the limitations of logic and conclude that they don't need to use it at all. But this would be like throwing away a bicycle because it can't fly.

I believe that a logical human uses logic, but necessarily has core beliefs that they don't try to justify. This is the starting point of their logic. Then, everything they believe should be attainable from their core beliefs, using logic. Moreover, they should believe everything that follows logically

from their core beliefs, and their beliefs should not cause any contradictions.

The idea of core beliefs is analogous to the role of axioms in mathematics. Believing everything that follows logically from your core beliefs corresponds to the logical notion of "deductive closure". The idea that your beliefs should not cause contradictions corresponds to the logical notion of "consistency".

If these are the basic principles of being logical, what does it mean to be illogical? "You're being illogical!" is used to try and shut down arguments, often by people who like to think of themselves as rational, against people who lead with their emotions (or simply anyone who disagrees with them). But two people can be logical and still disagree, if their logical systems are taking them to different places. Someone who is leading with their emotions might not be able to articulate what is logical about their thinking, but that doesn't mean it is actively illogical.

Being illogical means doing things that go against logic, or cause logical contradictions. But I think it is important that these only really count as logical contradictions if they are contradictions within your own system of beliefs. This is a crucial point because one person's logic might look like idiocy to another person. I think this is where the battle cry "You're just not being logical" comes from.

Given my definition of a logical person above, there are several valid ways I could judge you to be illogical:

Your beliefs cause contradictions, or there are things you believe that you cannot deduce from your fundamental beliefs, or there are logical implications of things you believe that you do not believe.

An example of the first case is all those people who support the Affordable Care Act but not Obamacare. As we've seen, this causes a contradiction because ACA and Obamacare are the same thing, thus those people support and don't support the same thing — a contradiction. An example of the second case might be things that people "just feel", such as when they "just feel" that a relationship is not going to work, or they "just feel" that evolution isn't right, or they "just feel" that

it was definitely a vaccination that caused their child to develop autism. An example of the third case is when some men say they don't think health insurance should include maternity cover because they don't think anyone should have to pay for treatment for other people, and they regard maternity cover as only for women (despite the fact that it helps everyone who is born). And yet, they still think prostate cancer treatment should be covered, although that is only for men. In fact, isn't the whole principle of insurance that you pay even when you're not sick, so that everyone can benefit? I think the statement "I don't think anyone should have to pay for treatment for other people" logically implies "I don't believe in insurance". Thus if the man in question still believes in insurance at all, he is being illogical in the third sense. (Of course, we could perform this analogy pivot and discover that probably the principle he believes deep down is that men should not have to pay for things that only affect women, but it's perfectly fine for women to have to pay for things that only affect men.)

There are a few things to note here. First of all, contradicting someone else's logic doesn't mean you're illogical. Someone might say "It's just not logical, mathematically, to pay $50 to eat something in a restaurant when you could make it at home and spend only $5 on the ingredients." That might be true in their system of beliefs, but in my system of beliefs it might well make sense logically to pay for the luxury of having food cooked for me instead of doing it myself. And not having to do the grocery shopping or clean up afterwards. All this doesn't necessarily mean that I am being illogical, it just means that we have different axioms.

The next thing to note is that the question of fundamental beliefs is a gray area. Suppose someone believes, without being able to justify it, that the moon landings didn't really happen. But perhaps they simply think of this as a fundamental belief' It might not seem very fundamental to someone else, but that's a separate question. It comes down to the ability to follow long chains of deductions. We have already mentioned the example of someone saying "I don't believe in gay marriage because I believe that marriage should be between a man and a woman." They may think

of "marriage is between a man and a woman" as a fundamental belief, whereas someone else thinks of it as a constructed belief that needs justifying. Likewise if someone believes that you should only vote for someone you truly believe in. One person might think that is an axiom, whereas someone else thinks it needs justification. (I'm amazed that people who think this way ever get to vote at all, but that's a different question.)

The question of whether or not a belief is fundamental enough to count as an axiom is very different from the question of an axiom actually being unreasonable. None of these ques¬tions is very clear cut, as we'll discuss shortly. Even the issue of believing something "just because you feel it" could be justifi¬able if one of your fundamental beliefs is "everything I feel to be true is true". (Incidentally this sounds similar but is very different from saying that feelings are always true.)

Finally note that even the third point, about believing all the things implied by your axioms, gets us into trouble with gray areas. As we discussed in Chapter 12, following the logic inexorably can push us through gray areas to undesirable extremes. For example, if we move in tiny increments, we can logically deduce that it is acceptable to eat any amount of cake at all. The ability to understand gray areas in a nuanced way is an aspect of powerful logic that we will come back to.

The main lesson here is that we need to understand the difference between "illogical" and "unreasonable".

What is a Reasonable Human?

I will judge you to be unreasonable if I think your fundamental beliefs are not reasonable. But this might not mean you're contradicting logic, it just means we have some fundamental disagreements. If two mathematical systems have different axioms they do not disagree — they are just different systems, and the best we can do is discuss which system is a better model of the situation in question.

We should acknowledge that what counts as a "reasonable" fundamental belief is a gray area, and is an unavoidably sociological concept: different cultures count different things as reasonable. However, I think a key component of

"reasonableness" is that there should be some sort of framework for verification and adjustment.

If one of your core beliefs is that the moon is made of cheese, I would say that this is not reasonable, although it makes for fun fiction (as in Wallace and Gromit's A Grand Day Out). But what is my framework for thinking this? First of all, by a logical argument: cheese is a product of milk, and milk comes from animals. How could all that milk product have got into orbit? Secondly, an argument by evidence: people have been to the moon and brought back dust, and it was not cheese.

Of course, there are some people who believe that the moon landings were fake, and that all the evidence about them is part of a huge conspiracy. I would also say this is not reasonable, because I believe in scientific evidence as one of my core beliefs. I will come back to questions of reasonable doubt and skepticism later.

Before we go further we should note that there are some axioms that don't really need to be reasonable: those that are more like personal taste. We are allowed to like and dislike food, like and dislike music. But even those tastes can some-times be justified further. I used to think my dislike of toast was simply an axiom of mine, but people challenged it so often that I have now explained it more fundamentally by the fact that I don't like crunchy things, and that is because it feels violent to chew them. You might think I'm absurd, or ridiculously sensitive, but I think it's within my rights as a reasonable person to decide I don't like the feeling of chewing something crunchy.

Aside from outright contradictions it is hard to talk about what counts as reasonable core beliefs without being stuck floating in a space of relativism: you might worry that I can only call someone's beliefs unreasonable relative to mine, at which point they can call mine unreasonable relative to theirs, and indeed many arguments take this futile form in which both sides call the other unreasonable and no progress is made.

Setting aside questions of personal taste, there is one criterion for reasonableness that I think has a chance of not being relative, and the clue is right there in the word "reasonable": are your beliefs open to being reasoned with? That is to say, are you open to changing them? Do you have a

framework for knowing when it is time to change them? Are there any circumstances at all under which you would change them?

In one of my favorite moments of Macbeth, Macduff is trying to persuade Malcolm to come back from exile and fight Macbeth for the throne of Scotland. Malcolm has a clever and wise way of discerning whether or not this is a trap to lure him to danger. He starts portraying himself as a terrible person, and describes what a cruel and evil king he would be. He needs to see whether Macduff s support of him is rational or not. If it is rational, then in the face of Malcolm's admissions he will withdraw his support. If he does not withdraw his support, Malcolm will conclude that the support is not rational and he is therefore not to be trusted. In the event, Macduff despairs and cries, "Oh Scotland, Scotland!" and withdraws his support, determining to leave Scotland himself forever. Because Macduff withdraws his support in the face of the supposed new evidence showing how unsuitable Malcolm is to be king, Malcolm is reassured that the support is rational.

I think this openness to changing one's conclusions or axioms in the face of evidence is an important sign of rationality. If someone continues to support a person or idea or doctrine regardless of further and further evidence then this is a sign that the support is blind rather than rational. There is a difference between loyalty and blind support, and a difference between healthy skepticism and science denial. I think it's an example of fuzzy logic. Loyalty means not changing your support over minor issues. Blind support means not changing your support over major issues, or any issues at all. Of course, a question remains over what counts as "major" and "minor" issues.

Here are some things I have changed my mind about over the years. I have already mentioned compulsory voting in Chapter 13. I also now support liberal arts education because I see that this can happen either informally (as in the education I received) or formally (as in the US system). I now support a more active form of feminism because I see that the passive form was not achieving the change I want to see. I (grudgingly) support getting up early, because I've discovered it helps me lose weight, possibly for hormonal reasons. And I believe in doing things for

myself, not just for other people, because I see that if I neglect myself I reduce my ability to do things for other people.

If I examine these cases carefully I see that I have changed my mind about axioms from a combination of logic, evidence and emotions. Even if it's not explicit, there is some kind of framework there.

Frameworks

We have discussed the framework that math and science have for deciding what to accept as truth. For math it's logical proof. For experimental science the framework consists of finding evidence. It is based in statistics, which means that scientists are required to find evidence to back up a theory to a good level of certainty. The framework then says that if new evidence arises to overturn that level of certainty or even point in a different direction, science changes the theory accordingly. This is very different from the kind of "theory" where you just make something up because you feel like it.

We can examine something similar for the framework of news reporting. Reporters are supposed to gather information to back up their story, according to a certain framework of accountability. It is less rigorously defined than in science, but there are still standards to do with cross-checking and reliability of sources. Again, this is very different from the kind of "news" where someone just makes something up. In both cases the report might turn out to be wrong, but in the first case there is a procedure for discovering it is wrong and retracting it, whereas in the second case there isn't.

This is the crucial difference between erroneous reporting and "fake news". Unfortunately the term "fake news" has been appropriated by some people to mean, more or less, "anything I disagree with". If a newspaper retracts an article because they find that their sources turned out to be unreliable or misinformed, some people are likely to shout "Fake news!" However, at least the newspaper has a framework and procedure for verification of its reports. It is always unfortunate when something only turns out to be wrong after publication, but this happens in science despite much more rigorous validation processes, so is bound to happen in journalism, which works with

less rigor and much more time pressure. It is important for the rational among us to maintain the distinction between statements arrived at via a framework and those without. It is tempting to try and distinguish between "facts" and falsehoods, but if you follow logic carefully you should find it difficult to say for sure what a fact is. The best we can do is have a statement verified according to a well-described framework, and an allowance for the fact that the framework might later find it to be wrong.

At this point we are once again in danger of getting caught in a loop, because there are reasonable and unreasonable frameworks. If "reasonable" is defined according to having a "reasonable framework", have we actually got anywhere or are we just making a cyclic definition?

I think this is why people can disagree so much about what counts as reasonable and what doesn't: because the notion of what counts as a reasonable framework is sociological, just like the notion of what counts as a valid mathematical proof turned out to be sociological. One group of people thinks that the scientific method is the most reasonable framework, whereas another group thinks it is a conspiracy. One group thinks that the Bible is the most reasonable framework, and another group thinks it is a piece of fiction.

This is why one of the few things I can come back to as a sign of unreasonableness is if someone is absolutely unprepared to change their mind about something. This often takes the form of hero-worship, and I believe it is very dangerous to rational society.

The Myth of Heroes, Superstars and Geniuses
Skepticism is an important part of rationality, and loyalty is an important part of humanity, but both become dangerous when taken to extremes. Blind skepticism and blind loyalty arise when there are no conditions under which someone will change their mind — or that the conditions are so extreme that they might as well not exist.

For example, a climate change denier might say they'll believe in global warming if the average temperature on earth rises by 10°C in one year. That hardly counts as being "open" to changing one's mind because it's a bit like saying "OK I'll

believe in that if hell freezes over". Deniers of evolution will probably not change their minds no matter what quantity of evidence is produced supporting it, so scientists should probably stop using evidence as a way of trying to persuade them, and try using emotions.

Blind loyalty can be dangerous in another way. When people support a person regardless of anything at all, it can lead to that person gaining a sort of cult status as a superstar or "genius". Unconditional support sounds like a noble thing, but really should be in some kind of gray area like so many other things. How badly does someone have to behave for you to stop supporting them? Parents are often thought to show unconditional love for their children, but this might be pushed close to or beyond its limits if the child grows up to be a mass murderer.

That is an extreme case, but we see less extreme cases around us all the time in the form of people who exploit their power. When someone starts feeling like they have uncondi-tional support of people who revere them as some kind of "genius", they might start behaving badly, knowing that they can count on the blind loyalty of their followers. This can happen in all fields, including science and academia, music, TV and film, and the restaurant industry. It contributes to a culture in which exploitation and harassment are widespread, and so I think we should stop it. Of course, this is not a simple issue. At what point should we withdraw our support for someone? It comes back to the difference between "minor" issues and "major" issues and is yet another gray area.

Gray Areas of Reasonableness
Gray areas have been popping up repeatedly throughout this book. They seem to be everywhere, and I think we need to accept that and deal with it, and acknowledge that being rational involves accepting that some things are rather fuzzy. For example, many things are "just theories" but that doesn't make them all equally trustworthy, or equally dubious — it depends what sort of framework has been used to establish that theory. Similarly if a large group of people or sources agree with each other, that doesn't necessarily mean that there is a conspiracy, but it might — it depends, again, what sort of framework has been used to establish that agreement.

There are many degrees of trust and skepticism that we can show towards theories, sources, experts and evidence. It's not just about trusting something or not, there's a huge gray area in between.

Should we believe scientific "experts" or not? At one extreme, some people think that scientists are all in a conspiracy with each other. At another extreme, some people regard science as absolute and unassailable truth. Against science, some people think that trusting science means you're an unthinking sheep, and that intelligent people are always skep¬tical about everything. They cite scientific theories from the past that have turned out to be wrong. In favor of science, some people think that those who are skeptical of science are being irrational and using emotions instead of logic. Both sets of people are liable to think the others are being stupid, and this is not a helpful situation.

I think we should acknowledge that there are gray areas everywhere. For skepticism there is healthy skepticism and blind skepticism and everything in between. For trust there is also healthy trust, blind trust, and everything in between. I would say that healthy skepticism and trust come from, again, a well-defined framework, including evidence and logic.

Blind trust and blind skepticism might actually look on the surface quite similar to the healthy versions. The two versions might be equally fervent. But I call someone's trust or skepticism blind if they can't justify it to many steps. I can't justify my belief in science to the end (because there is no end) but I can keep going for a while: I believe in the system of the scientific framework because it has checks and balances; it is self-reflective and self-critical; it is a process rather than an end result; it has a framework for updating itself and has known occasions when it has found itself to be wrong and corrected itself.

Some people think that admitting you're wrong is a sign of weakness, or that changing your mind is a sign of indecision. But I think both of these are an important sign of having some framework for your trust and skepticism. That, to me, is a sign of a more powerful form of rationality.

Powerful Rationality
Being rational is a start, but is not enough. You can avoid illogic but still not get anywhere, like

someone who travels safely by simply never going anywhere. That is different from travelling safely while going all over the world. Being powerfully rational means not just using logic and avoiding logical inconsistencies, but using logic to build complex arguments and gain new insights.

Throughout this book I have discussed logical techniques and processes that I think contribute to powerful rationality. This starts with abstraction, which is what enables us to use better logic in the first place. I think it then has three main components: paths made of long chains of logic, packages made of a collection of concepts structured into a new compound unit, and pivots using levels of abstraction to build bridges to previously disconnected places.

Abstraction is the discipline of separating out relevant details from irrelevant ones, and finding the principles that are really behind a situation in such a way that we can try to apply logic.

It is then important to be able to follow a long chain of deductions, both forwards and backwards, and not just a single step like a child who can't get further than "If I don't get ice cream I will scream." We follow logic forwards, to comprehend all the consequences of one's thinking, and backwards, to construct and understand complex justifications of things. This includes being able to axiomatize a system down to very fundamental beliefs, rather than just believing things because you do, and it also includes being able to understand someone else's beliefs. If you can't follow long chains of logic backwards you will be stuck taking almost everything you believe as a fundamental belief. This isn't exactly illogical, but it's not very insightful either, and hardly leaves open the possibility for fruitful discussion. "Why do you think that?" "Because I do." I think powerful rationality involves being able to unpack your reasoning down to a very small number of core beliefs, and being able to answer "Why do you think that?" down to very deep levels. Just like mathematicians should be able to fill in their proofs to as deep a level of "fractalization" as anyone might ask, we should be able to do that with our beliefs too.

Building inter-related ideas into compound units is an important source of power in logic. The ability to think of a group of things as one unit is

something we do naturally every day, when we think of a family, a team, or compound nouns for animals: a flock of birds, a swarm of bees, a herd of cows. We think of a school (and all the people making it up), a business, a theater company. I much prefer using singular verbs with these compound nouns, as I really am thinking of them as single units. I will say "My family is going out for dinner" rather than "my family are going out for dinner".

Packaging complex systems into single units should not mean forgetting that the system is made of individuals. Power-ful rationality involves understanding the way in which the individuals are interrelated, forming the whole system, as we saw in Chapter 5. After looking at those huge diagrams of interconnected causations you might despair that the situation is so complicated. However, if we develop our logical power so that we are able to comprehend and reason with those complex systems as single units, then it will no longer seem complicated. Gray areas are encompassed in this idea about complex systems, as they consist of situations where instead of getting a simplistic yes or no answer out, we have a whole range of related answers on a sliding scale. This is like having a range of probabilities for different possible outcomes, rather than trying to predict one outcome. It might seem hard to understand a range of probabilities rather than one prediction, but a powerfully rational person will then develop the skill of understanding the more difficult concept, rather than giving up and resorting to the simplistic one. The same is true of gray areas.

We tend to look for a single cause or a single answer to a question. One way to find one cause for a complex situation is simply to ignore all the others, as people frequently do when blaming an individual for a complicated situation. However, another way to find a single cause is to package the whole system up and be able to regard that as "one cause".

This enables us to think more clearly and also move to different levels of abstraction. We discussed at length in Chapter 13 how analogies consist of using abstraction to make pivots to other situations. I believe powerful rationality involves great facility at moving between different levels of abstraction

to make different sorts of pivots, to move between different contexts and see many points of view.

Powerful rationality involves being able to separate axioms from implications, which is related to being able to separate logic from emotions. This doesn't mean suppressing one or the other, but understanding what role each is playing in a situation, and what each is contributing. It involves finding logical justifications or causes of emotional facts, including other people's. This leads me to an even more important aspect of rationality: how to use it in human interactions.

I think there is something even better than being a powerfully rational person, and that is being an intelligently rational person, which is someone who is not just powerfully rational, but uses that power to help the world, somewhat in the way that the best superheroes use their superpower to help the world. And the best way I think that we can use this superpower to help the world is to bridge divides, foster a more nuanced and less divisive dialogue, and work towards a community that operates as one connected whole.

Intelligent Rationality

Life doesn't have to be a zero-sum game, where the only way to win is to ensure that someone else loses. People who think it does are usually trying to manipulate other people whom they think they can beat. I may sound rather optimistic, but there are abundant examples of situations where people collaborate for the greater good, rather than compete. This is the essence of teamwork and communities, and perhaps the very essence of humanity. We are not, after all, each living in a cave by ourselves, but living in communities at many different scales: families, neighborhoods, schools, companies, cities, countries, and even, with any luck, cooperation between countries.

I believe in a slightly modified version of Carlo M. Cipolla's theory of intelligence in [The Basic Laws of Human Stupidity](#). He defines stupidity and intelligence according to benefits and losses to yourself and others.

If you benefit yourself but harm others, you are a bandit. If you benefit others but hurt yourself (or incur losses), he calls this "unfortunate", though I might rather say you are being a martyr. Both of these make life into a zero-sum game. On the other

hand there are people who hurt others and themselves at the same time, as in the prisoner's dilemma. Cipolla defines this as stupidity. The remaining possibility is to help yourself and others at the same time, and Cipolla defines intelligence to be the quadrant of mutual benefit.

This is an eye-opening definition of intelligence, involving nothing to do with knowledge, achievements, grades, qualifications, degrees, prizes, talent or ability. I like it, and it is this form of intelligence that I will use to describe intelligent rationality. Intelligent rationality is where you don't just use logic, and you don't just use it powerfully, but you use it in human interactions to help everyone. The aim should be to help achieve better mutual understanding, to help others and yourself at the same time. If you are only using logic to defeat someone else's argument and promote your own, that is the intellectual version of being a bandit.

Intelligent rationality is about using logic in human interactions, and so it must involve emotions to back up logical arguments in all the ways I have already described. Without this, I don't believe we have any serious chance of reaching mutual understanding with those who seem to disagree with us. Conversely, intelligent rationality should involve being able to find the logic in someone else's emotional response as well as our own, rather than just calling emotions wrong.

For example, when I was offered a chance to move to Chicago I was perplexed because rationally it was obviously the best choice for me, but emotionally I felt reluctant. In order to understand this dissonance I wrote a list of weighted pros and cons, and I discovered why I was confused: in favor of the move were a small number of really enormous points, but putting me off the move was a huge list of minor details. I had emotionally become swamped by the huge quantity of minor details. Once I had discovered the source of my fear I was able to reduce it, and in the end I made the decision with no hesitation, and no regrets.

Another example is when I eat far too much ice cream although I know it's going to make me feel ill later. I could tell myself I'm just being illogical, but it's more nuanced than that: I am prioritizing short-term pleasure (delicious ice cream) over medium-

term pain. That's not illogical; it's a choice, and once I see it as that, I am sometimes able to make a different choice.

Arguing and reasoning with oneself is a good first step, but what about arguing with others? What should we do about people who disagree with us?

Why Logical People Still Disagree

It is important to acknowledge that logical people can still disagree. It doesn't mean that one person is being illogical, although that might be the case. Possibly both people are being illogical. It also doesn't mean that both people are being stupid. Logical people might disagree because they are starting with different axioms.

For example, perhaps one person believes in helping other people, and another person believes that everyone should help themselves. Those are different fundamental beliefs, but neither is illogical. In fact, I would say it's a false dichotomy: I believe that everyone should help themselves, but that some people are privileged with more resources to help themselves than others, so we should all also try to help those less privileged than us.

Logical people can also disagree because of the limits of logic. Once we've reached those limits there are many different ways we can proceed, depending on what means we choose to help us once logic has run out. Often it is a case of picking a different way of dealing with a gray area, or picking a different place to draw an arbitrary line in a gray area. If one person accuses the other of not being logical, it may be the case that neither person is being entirely logical because the scope of logic has run out.

I think an important aspect of being more than just basically logical involves being able to find the sources of these disagreements, and this involves using logic more powerfully, to have better arguments.

Good Arguments

What I want to see in the world is more good arguments. What do I mean by that? I think that a good argument has a logical component and an emotional component and they work together. This is just like the fact that a well-written mathematical paper has a fully watertight logical proof, but it

also has good exposition, in which the ideas are sketched out so that we humans can feel our way through the ideas as well as understanding the logic step by step. A good paper also deals with apparent paradoxes, where the logical situation appears to contradict our intuition.

The important first step in a disagreement is to find the true root of the disagreement. This should be something very close to a fundamental principle. We should do this by following long chains of logic in both our argument and theirs. We should try and express it in as general a principle as possible, so that we can fully investigate it using analogies.

Next we should build some sort of bridge between our different positions. We should use our best powers of abstraction and pivots to try and find a sense in which we are really just at different parts of a gray area on the same principle.

We should then engage our emotions to make sure we engage theirs and understand them where they are, and then try and edge slowly to where we can meet. This will include finding out what, if anything, would persuade them to change their mind. We also have to show that we are reasonable ourselves, and that we are open to moving our position too, as we should be if we are reasonable. If we really understand their point of view we may discover things we didn't know that really do cause us to move our position or even change our mind.

I think a good argument, at root, is one in which everyone's main aim is to understand everyone else. How often is that actually the case? Unfortunately most arguments set out with the aim of defeating everyone else — most individuals are trying to show that they are right and everyone else is wrong. I don't think this is productive as a main aim. I used to be guilty of this as much as anyone, but I have come to realize that discussions really don't have to be competitions. If everyone sets out to understand everyone else, we can all find out how our belief systems differ. This doesn't mean that one person is right and the other wrong — perhaps everyone is causing a contradiction relative to everyone else's belief system; this is different from people causing a contradiction relative to their own belief system. Unfortunately, too many arguments turn into a cycle of attack and defense. In a good argument nobody feels

attacked. People don't feel threatened by a different opinion, and don't need to take things as criticism when they're just a different point of view. This is everyone's responsibility, and if everyone is an intelligently powerful rational human being, everyone will assume that responsibility for themselves. In order to achieve that, we all need to feel safe. Until everyone is in fact that intelligent, those who are should try to take responsibility for helping everyone to feel unattacked. I try to remind myself as much as possible in any potentially divisive situation: it's not a competition. Because it almost never is, in fact, a competition.

A good argument does invoke emotions, but not to intimidate or belittle. A good argument invokes emotions to make connections with people, to create a path for logic to enter people's hearts not just their minds. This takes longer than throwing barbed comments at each other and trying to throw the "killer shot" that will end the discussion, and I think this is right. Logic is slow, as we saw when we looked at how it fails in emergencies. When we are not in an emergency we should have slow arguments. Unfortunately the world is tending to drive things faster and faster, with shorter and shorter attention spans meaning that we are under pressure to convince people in 280 characters, or in a pithy comment that can fit in a few words around an amusing picture, or a clever one-liner — correct or otherwise — so that someone can declare "mind = blown" or "mic drop". But this leaves little room for nuance or investigation or finding the sense in which we agree along with the sense in which we disagree. It leaves no time for building bridges.

I would like us all to build bridges to people who disagree with us. But what about people who don't want bridges? People who really want to disagree? This is a meta problem. First we have to persuade people to want those bridges, just like motivating people to want to learn some mathematics before we have any hope at all of sharing it.

As humans in a community, our connections with each other are really all we have. If we were all hermits living in isolation humanity would not have reached the place it has. Human connections are usually thought of as being emotional, and mathematics is usually thought of as being removed from emotions and thus removed from humanity. But

I firmly believe that mathematics and logic, used in powerful conjunction with emotions, can help us build better and more compassionate connections between humans. But we must do it in a nuanced way. We have seen that black and white logic causes division and extreme viewpoints. False dichotomies are dangerous in the divisions they cause, both in the mind and between people. Logic and emotions is one of those false dichotomies. We should not pit ourselves in futile battles against other humans with whom we are trying to coexist on this earth. And we should not pit logic against emotions in a futile battle that logic can't win. It's not a battle. It's not a competition. It's a collaborative art. With logic and emotions working together we will achieve better thinking, and thus the greatest possible understanding of the world and of each other. <>

Praxis: On Acting and Knowing by Friedrich Kratochwil [Cambridge University Press, 9781108471251]

Praxis investigates both the existing practices of international politics and relations during and after the Cold War, and the issue of whether problems of praxis (individual and collective choices) can be subjected to a 'theoretical treatment'. The book comes in two parts: the first deals with the constitution of international relations and the role of theoretical norms in guiding decisions, in areas such as sanctions, the punishment of international crimes, governance and 'constitutional' concern, the second is devoted to 'theory building'. While a 'theorization' of praxis has often been attempted, Kratochwil argues that such endeavours do not attend to certain important elements characteristic of practical choices. Praxis presents a shift from the accepted international relations standard of theorizing, by arguing for the analysis of policy decisions made in non-ideal conditions within a broader framework of practical choices, emphasizing both historicity and contingency.

Excerpt: The Problem of Praxis and its "Theoretical" Implications
This book has been long in the making, perhaps too long. Thus, it is not surprising that its first conception was overtaken by events in the scientific debate and by practical political problems. Both circumstances made a rethinking of the problems addressed in such a treatise necessary, but also

significantly altered its problematique. Originally this book was planned as a sequel to Rules, Norms and Decisions, The first order of business was therefore the clarification of the original constructivist challenge to the dominant mode of "theorizing" in the field, even though issues and arguments have significantly changed over time, as e.g. the recent turn to practice demonstrates. To that extent, the familiar gambits become of limited usefulness, such as distinguishing between strong and soft constructivism, identifying constructivism with post-modernism, holding it compatible with traditional social science, or doubting its compatibility. Instead, a closer engagement with the substantive issues characterizing political action, and the realm of praxis seemed required, instead of limiting oneself to the debates on International Relations (IR) "theory."

The most important implication of those preliminary reflections was the idea which I plan to defend throughout this book: in the social sciences we are concerned with action, namely with accounts of what actors have done and said, believed, and desired, since also institutions "are" only because they are reproduced through the actors' actions. An analogy to nature and its "facts" is, therefore, misleading, since for action the temporal dimension of irreversible time matters. This irreversibility of time, calling attention to the performative aspect of actions, requires some finalistic explanation schemes that are quite different from accounts in terms of efficient causes. In short my argument is that because a characteristic of praxis is the problem of action taking place in irreversible time, different epistemological and methodological tools are required than those of "theory" as understood by the unity of science position.

Against my espoused position several objections can be raised. One is to cast doubt on the alleged indispensability of emphasizing the actors and their intentions, which relies on Weber's famous argument for the "subjective" point of view. One could argue that certain important social phenomena are characterized precisely by their apparent lack of intentionality, of which the run on the bank is the best example. After all, it is a phenomenon of unintended consequences, which Waltz uses as a proof for his claim that some "structures" must be at work. I think that such a

conclusion is unwarranted. A run on the bank certainly cannot be explained in terms of intentions of each single actor, since it is the result of strategic interaction leading to undesired outcomes, but unintended consequences — as the word suggests — are simply parasitic on intentional accounts. In other words, we understand that the failure of accounting for the result consists in the mistaken assumption that the outcome must have been intended by each actor instead of being the perverse result of strategic interaction and aggregation. But this does not mean that we have to abandon the action perspective altogether.

Similarly, we could object that by taking a purely subjective point of view we give up the ideal of scientific objectivity, and exchange it for the rather dubious procedures of empathy and trying to get into the "mind" of an actor. But Weber's operation called Verstehen has nothing to do with empathy, with reading an actor's mind, or with having a privileged access to her desires and psychological states, as even a cursory reading of his writing shows. Admittedly, part of the confusion results from Weber's poor choice of words. However, the feelings, thoughts, and intentions, which we usually adduce in order to explain an action, are hardly ever "private" in the sense of the Cartesian model of the mental states of an actor. In other words, the feelings referred to are not simply the inaccessible internal dispositions of the mind or states of the individual psyche. The same can even be said about the most private of feelings, i.e. pain, as Wittgenstein suggested. Even here we can and do communicate about it, even though we can never really feel somebody else' s pain.

In sum, taking an action perspective does not mean that we need access to the psychology of the actor, but that we make an attribution that actor X chooses a in order to get b on the basis of typifying a situation and choosing the practices that provide the templates for reaching the goal (without assuming that what "works" is an optimizing choice). Here personal accounts concerning the motives are certainly important, but they need not be privileged in the explanation we accept as true. After all, the actors might have an incentive to misrepresent their true intentions or they might simply be confused, either about the situation or about the means of reaching the goal (or both).

Thus, disclaimers by an actor who signed a form with the heading "Contract" will hardly be convincing to us — even if the actor avers that he simply exercised his penmanship and denies having actually signed a contract — unless we have evidence that this person is delusional or was incapacitated at the signing.

Another objection to my espoused position could be that the proposed action accounts violate in important respects the logical requirements of true causal explanations. To the extent that in finalistic or teleological accounts (Aristotle' s famous hou heneka) the goals of the action (effect) and the motive for action antedating the actual choice (cause) are not independently defined — as in the case of explanations utilizing efficient causes — this objection is true, but irrelevant for the following reasons. First, if we rejected all intentional accounts because of this epistemological belief, we would end up with an incredibly impoverished research agenda and with virtually no access to the social world, as I argue below. Second, if we attempted instead to recast intentional accounts in efficient cause language, the results are equally problematic. Indeed, an incredible amount of time and effort has been spent on this project, of which structuralist reports are good examples. Here agents are often treated simply as throughputs for "objective factors" that are then supposed to do all the explaining, but then the ominous agent/structure problem arises.

Given these reflections I see no reason to follow the first two objections instead of critically reflecting upon the implications of the last argument. In other words, one realizes that "causality" is a cluster term, which exhibits some "family resemblances" among different notions of cause but the latter are not entirely of one cloth. To that extent, a "reductionist" urge to favor "efficient causes" is missing the point.

The Plan(s) of the Book

For the above-mentioned reasons, I began to analyze social life through the prism of norms leading sometimes to a common misperception of what constructivists do. While "constructivists," among whom I am usually counted, have sometimes been accused of having some particular political project, be it peace, emancipation, or some notion of the good life, I think such a link to a specific

political project is neither necessary — even if some type of elective affinity could be established for instance between advocates of human rights and their constructivist orientation — nor is it even useful for social analysis to begin with an overarching project or some ultimate values.

Another misunderstanding concerns the loose language often used to explore the role of norms. When we say that norms enable or prohibit certain actions, it should be clear that they are neither causes nor actors. It would be indeed fatal if the clarification that norms are not efficient causes led to the equally mistaken notion that they are "actors" or represent some agential matter that, like miasmatic pathogens, "get into" the actors and "make them" act in a certain fashion. Much of the norm diffusion literature is misleading if read with this metaphor in mind. But even if we want to avoid this pitfall and focus on "what norms do" (instead of what they "make us do"), we are prone to make a similar mistake, as norms do not act and thus cannot be "actors," even if the "life cycle" of norms suggests as much. Interestingly enough, although norms increase and decrease in their valence, the "death" of norms (as part of their "life") is hardly ever discussed in the social science literature, while in law "desuetude" or new supervening or abridging norms are supposed to take care of this problem. Here the discussions in IR could have profited from both more detailed historical investigations and from exposure to jurisprudence and legal theory.

It is therefore unsurprising that I sought help from those disciplines. The crucial question was to what extent insights from other disciplines can be "transported" to our field and still do good work instead of having to be declared dead on arrival. The "operationalization" of law as behavioral regularities, or as an "intervening variable" in the early regime debate, is an obvious example of dangers of the first kind, while the anemic discussion of the role of ideas that has been limping along in IR journals for the last two decades or so was directly the result of apparent ignorance of the parallel debates in political theory, history, and sociology.

Given this predicament, the overall aim for this book — or rather its first conception — was pretty straightforward, even though its scope was already

rather daunting. Two main tasks needed to be mapped out: an organizing scheme for presenting my argument, and a more principled engagement with questions of interdisciplinary research, as otherwise the attempt at contributing to a social theory of IR had to remain fanciful indeed. Here an invitation to give a series of lectures on law and interdisciplinarity at an international law forum in 2011 at Belo Horizonte (Brazil) forced me into a critical engagement with interdisciplinarity, translatability, and intertextuality which was — with several additional chapters — published as a book in 2014.

Yet, having written that book, and having identified some fruitful strategies for research, it became all the more important to tie the position elaborated there to a better-articulated analysis of action. Here again two focal points emerged after prolonged reflection: one, an inventory of the ongoing practices in contemporary politics and two, a more critical engagement with social action. In other words, it seemed imperative to examine praxis more explicitly as it was first outlined by Aristotle, only to resurface later in Hume's philosophy of common life and in his historical work, or in the "pragmatist" critique of the last century. It identified the "quest for certainty," i.e. a social "theory" informed by Cartesian ideas and the epistemological project, as the main reason for misunderstanding ourselves and the "world of our making."

Weaving together all these strands resulted — when judged with hindsight — more in a tour d'horizon of contemporary politics and its discourses than in a traditional book that is written from a "central perspective" and where one "problem" or one storyline carries the reader through the entire presentation. Instead, we have here a form of presentation that antedates such a central perspective, which Ruggie has so nicely identified with modernity, and which perhaps is most visible for example in the painting of Piero della Francesca and later representational styles. In other words, this opus follows a mode of presentation that comes closer to a painting in which the picture includes also elements which are not directly part of the central "theme." For, example, the sponsors are placed at the sides or below, or heavenly onlookers hover above the

scene. Similarly, sometimes even actions and events which occurred before and could not have been observed at the time or point at which the picture "cuts in" are part of the oeuvre.

Sometimes a painter also tried to construe the meaning of the painting by using a heavy dose of anachronisms and allegories. Here for instance Aldorfer's depiction of Alexander's battle with Darius at Issos (333 BC) comes to mind, which I chose as the book cover. This picture was painted in 1529 for William IV, Duke of Bavaria, who joined the Emperor Maximilian in battling the Turks who threatened Vienna. In order to show the "significance," the painter gives this battle a contemporary as well as a "cosmic" meaning by placing it in a European landscape — but also showing its transformative implications by depicting the Nile delta at the edges. Furthermore, the armies wear Renaissance armor, and the center of the painting represents the moment when Alexander faces Darius himself — here symbolizing the "East" — and puts him to flight. Still other parts of the painting tell the story of different tactical moves of the troops that must have occurred before. The artist also uses eschatological symbols such as the sun and moon (Christianity v. Islam's half-moon) to show that this battle had existential dimensions. It makes its message appear timeless, as the painting joins the history of the civitas terrena with that of the "end of times," namely the Last Judgment and the final redemption beyond time. Thus, different stories are told and represented here, so that this picture cannot be reduced to the familiar genre of a battle painting.

Perhaps another analogy, taken this time from music, is also helpful for how to "use" this present treatise. Think of polyphonic compositions in which the different "voices" are not only independent but come together and fade out, and new themes are introduced that are repeated in the form of a canon or lead against each other (as in double or triple fugues). All of this creates a different "music" and requires a different form of "listening" than following a single melody accompanied by supporting accords. Here the difference between Tallis's Spem in alium (composed for forty voices) and Beethoven's "breakthrough" Fifth Symphony (in C minor) can serve as an illustration.

Given the contemporary conventions of presenting arguments, my mode of exposition might be a problem, but it also could be an advantage, as it "trips up" the reader and makes her/him perhaps more critical and attentive, precisely because it does not provide for a smooth sailing over the intellectual ocean. Besides, such a "decentered" mode of presentation was put to good use in the treatise of the early international lawyers, such as Grotius, or moral philosophers, such as Montaigne, or even later by Hume (in his Treatise). Consequently, it is not a foregone conclusion that what we want to know can only be transmitted by following the present canonical (and largely Anglo-Saxon) form. What does, however, become obvious, is that this work cannot be "read" by skimming the Introduction and the Conclusion. "Reading" it requires a more dialogical engagement with the text than just taking note of some "results" in the conclusion. To that extent, a "user's" manual for such a text would suggest that — if a reader has neither time nor gusto to work through the "whole thing" — s/he could concentrate on certain themes, which are elaborated in subsections and for which the extensive index is helpful. For that purpose, a listing of the various "themes," that intertwine and disengage at different points rather than being dealt with in separate chapters, might be helpful.

The Themes
The first "theme" is that this book should not be considered as a work of traditional IR "theory." In its intention and execution, it is rather more at home — in terms of the current taxonomy — in international studies for the reasons outlined above. The transformative changes we are witnessing touch, after all, on comparative politics, on international law, on economics, on political theory and they also raise issues of culture and identity, thereby "redrawing" the boundaries of the established disciplines.

That leads me to a second theme that runs through the entire work: the emphasis on language and on conceptual analysis for analyzing social reproduction. The latter emerged from ordinary language analysis pioneered originally by Wittgenstein and was later further developed by Austin, Searle, and others. This mode of inquiry not only shows the importance of ordinary language in

mediating between different disciplinary understandings but also has important epistemological implications. It serves as a powerful criticism of traditional taxonomies and "truth" theories and derives our understandings not from the traditional notion of a meeting of a concept with a preexisting "reality out there" — i.e. not from reference or essentialist properties — but from the use of concepts and our ability to "go on" with our individual and collective projects. To that extent, it remains "critical" as questions cannot be decided either by "fiat," as in Hobbes or "decisionist" approaches, or by the "things themselves" that show us their "fit" (world to mind). Instead this analysis calls attention to the fact that especially in the social world the question of what "is" ("this note is legal tender") runs from the mind to the world (mind-dependence), instead of the other way around as conceptualized by positivist "theories." The analysis remains critical since it tries to establish "criteria" for the "right" or problematic use of concepts and their embeddedness in the semantic field informing the practices of the actors.

From these considerations, the importance of a familiarity with the philosophical issues that establish our practices of arguing — both about nature and the social world — emerges as a third theme. It cannot be left unattended or reduced to issues of methodology, based on the =reflected borrowing of bits and pieces gleaned from the Cliff notes on philosophical writings. But it also does not allow for the killer argument that philosophy (epistemology) or "nature" (physics) provides the ultimate answer, since they are able to decide what "is" or "is not." Such a take on the problematique of knowledge is dogmatic, since it asserts what has to be proven in the first place. i.e. that there exists one and only one way to decide what is the right answer to a (any?) question. But this assumption is obviously mistaken, since we can describe the world in various ways and ask different questions. What "is" a crime or a trespass in law can obviously not be answered by providing a coroner's account of a gunshot wound, or by showing that the physical laws and necessary factual conditions of a jump over a fence are all that there is to a "trespass." After all, the concept implies a lack of authorization for the act of jumping and thus does not get its meaning from the

laws of motion, but from other norms to which it is linked.

The implication of these considerations is not only an argument against reductionism but a plea for taking the philosophical issues seriously that our ways of acting in the social world and of reproducing it by words and deeds entail. This is a fourth theme that informs my argumentation. It cannot be dismissed as just "gnawing on the little bones of Kant," as a leading political scientist during the "behavioral revolution" once suggested — and which recently was repeated again in the cause of exorcising "isms" in the field. For me the obvious remedy lies in a more thorough engagement with the philosophical issues, not in their dismissal or bowdlerization.

A fifth theme is that the absence of a "theory" providing the absolute "view from nowhere" means espousing a form of perspectivism, i.e. the recognition of the partiality of all of our knowledge and the need for "internalizing" such a recognition within our inquiries. But this requires also the recognition that we have to translate from one "theory" to the "other." instead of believing that we are testing "against nature." This gives rise to the anxiety that with such a stance we end up in "relativism" and with an attitude of "anything goes." Of course, nothing like that follows, particularly if we realize that the traditional true/false dichotomy with its principle of the excluded middle might be a poor philosopher's stone. Something might neither be true nor false but simply be irrelevant to a problem, as we all know, so that a "third" does exist and we had better examine the nature of the warrants which we attach to our state-ments in order to buttress our validity claims. Validity again has various sources, which all have to be subjected to criticism in particular cases. Thus, we might appeal to "evidence" (empiricism), to moral intuitions, to nature and its laws, to ontology, to authoritative prescriptions, or to overall plausibility, or (quite problematically) we (un)consciously rely on prophecy (unconditional predictions) because some events — which are treated as signs of the "things to come" — have already materialized.

While this enumeration of validity claims appears to constitute a rather checkered list — particularly since some "theological" criteria (prophecy) have

been included — it will be the task of this book to show that much of what masquerades as IR "theory" relies for its explanatory power on a highly problematic philosophy of history which represents little more than a secularized version of a redemptory history. This recognition introduces three further themes that are central to this treatise: the appeal to authority and the importance of law for the study of the social world, the issue of prophecy and prediction (rehearsed in various "theories" of mapping the "stages of development" of the "end of history"), and the issue of "historicity." The latter distinguishes the realm of praxis, which makes its subjection to criteria of "theory" — conceived as a set of universal and ahistorical "true" statements of what is the case — an inappropriate yardstick, a problem which is taken up from different angles in the last three chapters of the book.

Let us begin with the appeal to authority and the importance of (positive) law for the study of the social world, which represents the sixth theme. While everybody probably agrees that law plays an important role in the reproduction of the social world, most interest is devoted to law as a technique of social engineering, i.e. the reproduction and orderly change in a society, whereby the "compliance" problem takes pride of place. But this represents a rather reductive approach since law has special relevance to praxis as it deals (a) with situations and deeds (i.e. with conjunctions rather than with events in homogeneous time), (b) with the constitution of a social order (which could be conceptualized as a problem of parts and whole) and (c) with ascriptions of responsibility, which is unknown in nature (aside from using the term "causation" metaphorically).

To that extent my interest in (international) law had little to do with issues of "enforcement" or with the cosmopolitan project of substituting law for force — since after all, law might play a role in persuasion, but that observation does not dispense with law's own presumption that it is authorized to use coercive means, if persuasion fails. If we, however, jump to the conclusion that therefore "coercion" forms the "core" of law (à la Derrida) we should be careful, as the experiences neither with domestic nor international criminal law support this inference, a problem I address in Chapter 7. To

that extent, I have always been rather agnostic towards much of the discussion about normative "boomerangs" or norm-cascades, or even the Kantian a priori duty to bring about a cosmopolitan order (which most of the time looks awfully like an imperial project). Here my Humean skepticism was always greater than the enthusiasm for trying to establish the "kingdom of ends." Judging by the results, such efforts frequently lead to highly problematic choices in which the political ideologies of idealism and realism become co-dependent enablers. To them I gladly leave the disputes of which orientation is then to blame for the policy disasters we are witnessing.

My interest in law originally centered on epistemological problems since it was the only discipline which has been able to maintain an alternative approach to analyzing choices without resorting to "ideal assumptions" and which provided for a resolution of conflict in the absence of a clear algorithm that could muster assent because of its (logically) compelling nature. This seemed particularly interesting to me as a student of politics since here we have to deal with choices which have to be binding on all but which cannot claim the compelling assent universal "reason" supplies for "true" theoretical propositions. Thus, the literature on "prudence" from Aristotle to Hume's common sense, to the pragmatists' criticism of the "quest for certainty" underlying our efforts to build a "theory" seemed to me of particular importance for social analysis. First it debunked the idea of the primacy of the epistemological project, and second, it called attention to the importance (of the power) of judgment — Kant's Urteilskraft — that provides the validation of "reflective" choices. Finally, it provides us with an escape from the traps that since the Enlightenment have plagued social analysis by interpreting the emergence of "humanity" as a "plan of nature" that works itself out behind the back of the actors.

The criticism of this notion of "development" and the "end of history" which are indebted to the prophetic tradition — and thus pretend to possess the power of unconditional prediction! — on the basis of recognizing the identification of alleged "signs" that have been disclosed to the illuminated, represents the seventh important theme. I try to elaborate on the differences between a genuine

historical understanding and prophetic understandings. The former uses the past as a guide for realizing the political projects whereby "history" provides important "lessons." The other sees the past as "gone" and done with, and orients itself, as far as action is concerned, solely by a preordained "end" of history. Both strategies fail, however, in coming to terms with the problem of the "historicity" of action, i.e. its conjunctural and "constructed" dimension. The first strategy tends to treat "history" as a storehouse of data in order to derive from them some "theories"; it also calls attention to the constructed nature of any "history" that is always a "selection" or record of "things worth remembering" (recordari), in which not only cognition but emotions and "identities" of the historical individual are involved and the peculiarities of historical reflection, transmitted in narratives, come to the fore. The second strategy is the flipside of this misrecognition. It is blind to the fact that the meaning conveyed by such narratives requires critical reflection since the "data" of history might not be "facts" analogous to those of the natural world, but they are treated rather as "signs" that attain their importance from a hidden teleology that works itself out "behind" the backs of the actors. As Kant put it, the "cunning of nature" (List der Natur) does virtually all the explaining but also provides the justification of action. Such a stance sits, of course, uneasily with his own argument about human freedom and responsibility, which are intrinsic to our understanding of "praxis" and of "making" our social world. This represents my eighth theme.

The dissatisfaction with this solution leads me to the ninth theme that emerged from a re-reading of Hume's argument about the conventional nature of the social world and the appropriate knowledge of things social. This knowledge is not founded on an "absolute foundation" as the epistemological project suggests, but is acquired through participation in — and not in withdrawal or abstraction from — an existing historical society. It is through "commerce and conversation" that we develop the competences for social life and the "know-how" that lets us function in the social world. This theme relates to the conventionalist account of the first part of the book but also places the problem of knowledge and the role of "philosophy" in the realm of praxis in a different light.

Philosophy can no longer occupy the place of a last "court" of appeals that stands outside of society as a source of universal reason, but is an institution that is part of a society and has to defer to its conventions and traditions and ways of "doing business" that depend more on experience and some know-how than on demonstrations and principles which are so dear to "theorists." It nevertheless shapes the "civil" life of a society by deciding cases and offering precedents that can become points of orientation.

The tenth theme concerns the problems and limitations of "ideal theorizing" that follow from reducing the problem of individual and collective choice to either some individual maximization criteria or the "felicific calculus" à la Bentham, or the clarification of principles which are then "applied" to concrete cases. Here I try to show that inevitably some reduction occurs by limiting choices to a selection of means or taking the monetarily mediated exchange as the paradigm for virtually all "important" choices (idiosyncrasies excluded). I then develop an alternative for analyzing choices that takes "praxis" seriously instead of subordinating it to "theoretical" criteria and simplification (Chapter 11), and explore its implications for politics. As to the first part I follow here largely Charles Taylor:

> We can see how the understanding of what we are doing right now (without which we could not be doing this action) makes the sense it does because of our grasp on the wider predicament: how we continuously stand or have stood in relations to others and to power. This, in turn, opens out wider perspectives on where we stand in space and time: our relations to other nations and peoples ... and also where we stand in our history, in the narrative of our becoming.

The understanding implicit in practice stands to social theory in the same relation that my ability to get around a familiar environment stands to a (literal) map of this area ... for most of human history and for most of social life, we function through the grasp we have on the common repertory, without the benefit of theoretical overview. Humans operated with a social imaginary well before they ever got into the business of theorizing about themselves.

When I turn to an assessment of the transformative changes we are experiencing for politics my analysis becomes somewhat gloomy. I am fully aware that my concept of politics is based on certain notions of a subject entitled and wanting to make free choices and being part of a community to which s/he has particular obligations that do not issue from transcendental first principles of reason or humanity. But such a form of politics is increasingly endangered, given the disappearance of the public sphere and the technological advances which are more designed to take away from the actors this freedom by offering to make choices on their behalf in order to insure general "happiness." <>

[Geometry of the Passions: Fear, Hope, Happiness: Philosophy and Political Use](#) by Remo Bodei and translated by Gianpiero W. Doebler [Lorenzo Da Ponte Italian Library, University of Toronto Press, 9781487503369]

The passions have long been condemned as a creator of disturbance and purveyor of the temporary loss of reason, but as Remo Bodei argues in Geometry of the Passions, we must abandon the perception that order and disorder are in a constant state of collision.

By means of a theoretical and historical analysis, Bodei interprets the relationship between passion and reason as a conflict between two complementary logics. [Geometry of the Passions](#) investigates the paradoxical conflict-collaboration between passions and reason, and between individual and political projects. Tracing the roles passion and reason have played throughout history, including in the political agendas of Descartes, Hobbes, and the French Jacobins, Geometry of the Passions reveals how passion and reason may be used as a vehicle for affirmation rather than self-enslavement.

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Excerpt: Introduction to the English Translation of Geometry of the Passions

Looking back at this book, twenty-seven years after the first Italian edition and twenty-four after the fourth revised one (Geometria delle passioni: Paura, speranza, felicità: Filosofia e uso politico, Milan, Feltrinelli, 1991 and 1994), twenty-three years after two Spanish translations (Geometria de las pasiones: Miedo, esperanza, felicidad: Filosofia y uso político, Mexico, D.F., Fundo de cultura económica, 1995; Una geometria de las pasiones: Miedo, esperanza y felicidad: filosofia y uso político, Barcelona, Muchnik Editores, 1995), and twenty-one years after the French (Géométrie des passions: Peur, espoir,, bonheur: De la philosophie à l'usage politique, Paris, Presses Universitaires de France, 1997), I do not seem to have found sufficient reason to diverge from its original formulation. For this reason, I have not modified the structure or rhythm of the discussion, which seem to me to still hold up to the wear and tear of time. Of course, the bibliography is not updated (in this translation, therefore, I have sacrificed many of the notes present in the Italian edition), but it is worth the trouble to note that this book anticipated the rage for studies on emotional intelligence or sad passions.

The years that have passed may weigh little or much. They weigh little, because philosophical works aspire to be independent of their temporal conditionings. They weigh a lot if one thinks about how these decades have been so rich in unexpected events as to have literally changed the world in which we were used to living and, therefore, our way of posing questions about it as well. In their essential nucleus, the problems discussed here should not be touched by the

passage of time, and yet the tools of meaning we use to interpret things undergo endless distortions, fractures, and movements. Philosophy explores, redesigns, and illustrates the drift and the fault lines of those symbolic continents on which our common thought and feeling rests. The mental and emotional maps are transformed, like languages, in a generally slow and inexorable way, but only at a certain point are "catastrophic" discontinuities produced or felt that oblige us to think again about how much has happened. Ideas undergo a transformation, molecular or sudden, owing to the very distance from which one looks at the problems and at the change in the frames that surround them. They have the tendency to ferment on their own, and every investigation is therefore destined to remain incomplete. One puts an end to them because, at a certain point, one has reached a saturation phase with respect to the assembled materials and reasoning. Subsequently, however, new and relevant conceptual ramifications are inevitably discovered; there emerges, sometimes by chance, other important literature on the subjects previously addressed; and one reconsiders observations made by friends or reviewers.

Is there consequently a need to rewrite books and constantly adapt them to the changing situations and moods of the public? It would be a useless effort to follow current events ad infinitum or to believe that everything must be connected back to them. One could certainly assert that philosophies do not express eternal truths, that they are at once outdated and current, within and outside of time. The tradition of bipartition, formulated by Benedetto Croce, between "what is alive" and "what is dead" in a given work or philosophy therefore loses value. If one abandons the idea that the philosophies of the past are useful to current events, what is living and what is dead changes with every theoretical season. What is current today is already outdated tomorrow (and vice versa). Thus, even the beautiful Crocian simile expressed in La storia come pensiero e come azione (History as Thought and Action) appears reductive — i.e., that history must revive the petrified and sclerotic past "almost in the way one speaks of certain images of Christs and Madonnas, which, wounded by the words and actions of some blasphemer and sinner, issue red blood."' Bringing everything back to the present, conceiving all of

history as "contemporary history," means, in fact, cannibalizing the past — subordinating, in an exclusive way, its inexhaustible reserve of meaning to the transient interests of the present. It must be added that human passions and desires transform themselves in a much slower way than ideas, and they thus preserve a greater consistency and duration (which facilitates their analysis) and that, at the time I wrote Geometry of the Passions, much less had been written on the French Revolution and the Jacobins (it was then close to the Bicentennial of 1989).

On the other hand, if what Schopenhauer asserts is true — that every one of us does nothing else for all our lives than develop a single idea — every book contains within it the premises for further developments. As the Latin proverb says, habent sua fata libelli: books have their destiny; they are witnesses to a particular era. Precisely because a book contains the basis of later, distinctive developments that bear the imprint of the person who wrote it, every work is not only inherently incomplete, but it is also historically conditioned, an aspect from which one must not pull away.

I have, however, changed the perspectives of this book — elaborating, developing, and changing its contents and aims, explicit or implicit — thanks to two other volumes that, along with this one, represent a sort of triptych: Ordo amoris: Conflitte terreni e felicità celeste (Bologna, Il Mulino, 1991) and Destini personali: L'età della colonizzazione delle coscienze (Milan, Feltrinelli, 2002). In my intentions, each of them should have made up part of the constellation of theoretical interests that still guide me and that focus on the genesis of Western individuality from the point of view of the formation of identity, the articulation of the passions, the succession of conflicts, the intensification of expectations of change, and the temptations of flight from the world towards the recesses of inwardness or towards the sphere of the religious dimension. I conducted an expanded reflection on the passions, and specifically on one of those most discussed since ancient Greece, in Ira: La passione furente (Bologna, Il Mulino, 2011).

In Geometry of the Passions, these subjects were addressed by placing in relief the paradoxical conflict-collaboration between passions and reason and by extending the theoretical and historical

investigation across the arc of time that runs from the ancients (and relative to the moderns, from Descartes, Hobbes, and Spinoza) to the French Jacobins. In Destini personali: L'età della colonizzazione delle coscienze, on the other hand, I examined the problem of the birth of modern individuality starting from two different sources. One is represented by Locke, who emphasizes the value of the individual, laying down the foundations of the theory of human rights and political liberalism; the other is represented by Schopenhauer, for whom individuality is simply appearance, while what truly counts is the anonymous will to live that dwells within us and renders our I nothing other than "a voice that resounds in a hollow sphere of glass."' Thus, what seems most ours, the consciousness of being of an I or a subject, is in reality something foreign. In this work, however, I reconstruct the antagonistic confluence of these two lines to the present through a series of figures that have in common the abdication of the subject and the loss of its unity, of its supremacy. In chronological terms, I did so, in particular, by considering the imprint left by some exponents of French culture of the last decades of the nineteenth century and by Nietzsche, which replace the "pyramidal" Goethian model.

In fact, the so-called French médeciens-philosophes of the late nineteenth century (Ribot, Janet, and Binet) affirm the idea that the Iis plural; it is composed — like coral colonies — of an original multiplicity of Is, which subordinate themselves to a "hegemonic I' that in turn, in a "democratic" way, becomes either a sort of president or "coalition" government or, in an "autocratic" way, a sort of Louis XIV, a Moi Soleil. When the coordinating or hegemonic function of the Iis no longer capable of withstanding new challenges, welcoming into itself new increases in complexity, the personality (which, generally speaking, is already insufficiently coherent and lacks that unity, simplicity, and identity that philosophical and religious tradition attributes to the soul, now examined according to categories that are "scientific" and no longer theological or metaphysical) splits into independent entities. The will does not succeed, then, in maintaining its identity, torn as it is by the plurality of conflicting desires over which it has no power. The hegemonic I is then forced to renounce its mandate or to abdicate. With the government

fallen and the throne overturned, the federation of souls and the absolutist state of the psyche dissolve. As soon as the hegemonic Iis weakened, the Is that were previously abandoned or excluded return, strengthened from their exile, and they restore a type of partial power. It can be noted that these Is are not aliens or strangers but, rather, old acquaintances who were repudiated and too often known (even if consciously or unconsciously ignored) and who, up to that point, had been able to express themselves through either dreams or rêveries.

Subsequently, and for most of the twentieth century — until Lacan or Lévi-Strauss — the I was denied unity and continuity, and instead there was assigned to each "dividual" an original and discreet plurality of poles of consciousness. One thinks of Nietzsche, for whom the Iis "a plurality of personal forces, of which sometimes one, sometimes the other, comes to the fore as ego, and they look at others as a subject looks at an outside world rich in influences and determinations. The subject is now in one point, now in another."' Formulating the same idea in other ways, he asserts that consciousness is formed by a "multiplicity of drives," just as the body is formed by "a plurality with one sense, a war and a peace, a flock and a shepherd." Or, again, the I is "a social structure composed of many `souls' [Gesellschaftsbau vieler Seelen] ," a unity and a plurality, that excite each other in their interaction.

Ordo amoris poses the problem of love in Augustine and in ancient Christian culture as the capacity of structuring forms of individuality open to change through a remodulation of the passions. Love dissolves the knots that block the will; it heals the conflicts and removes the weight of the past, permitting each person to reformulate and restart their own love from the beginning. The previous state, which in its irreversibility continues to oppress and make us unhappy, no longer blocks faith in the possibility of repeated beginnings. In conformity with the good story, in which "the old is destroyed" and "everything becomes new," the old figure of destiny appears defeated.

Love opens not only towards the future, but also towards the past: the evil committed is endured, the sufferings inflicted and received find their redemption. Reconciling each one with the existence

that it has passed through prevents events from petrifying in rancour or remorse. It prevents the will from dividing itself between exacerbated attachment to the memory of old errors or wrongs and the hard-won acceptance of peace with oneself or of forgiveness, which, etymologically, is a strengthened gift, one that is extreme and made by others. Love certainly does not retroactively annul the event, nor even forget it. Judging it to be incomplete, love reopens its processes, re-examines its acts, and modifies its judgments. The healing strength of love — making fluid the viscous, congealed, or hardened past and reconverting it into fresh, available energy — condones guilt and pains that might have seemed inexpiable. Thus, at least temporarily, life begins again: its tears are rewoven, its hostility unvenomed, its worry calmed.

Inventive and disciplined, open and hierarchical, the ordo amoris, in an Augustinian sense, is the result of human freedom and obedience to a divine commandment. Illuminating the way of men through the worries of this world ("squeezed in the press" by the millstone of hunger, war, and death), it guides them towards the beatitude of Paradise. The non-illusory existence of this goal may already be carried out on earth thanks to the irrepressible attraction towards a happiness that is unconditional and without end. In fact, all of us have always aspired to it — paradoxically, even without knowing. Remembered and forgotten to the point of not even remembering having forgotten, it refers back to the presence of a "beauty so old and so new," so far and so near, as to often be understood too late. In fact, sinking into ourselves, we manage to glimpse, through the wrapping of opacity that surrounds us, the enigmatic and inextricable knot of light that pushes the consciousness of every person to God, time to eternity, the body to the spirit, immanence to transcendence, and Exodus to the Kingdom. In fact, God constitutes the most intimate nucleus of the I, more internal to myself than I am with respect to my most hidden life. Although not coinciding with me, God is, therefore, more me than I am.

But how can love become an order, in the double sense of a free disposition of the heart and the obedient response to an external commandment? How will it be capable of conserving its spiritual flame, its inventive and nonviolent power, if it is required to comply with the substantial rigidity of an invitation to the imperative of someone — however inclined to mercy and to amnesty for crimes — who does not hide the threat of horrible penalties in the case of rejection? Further, how will it reconcile the realization of the new and the possible with respect for an order already given and willed by God since the creation of the world, even if that was then distorted, with regard to man, by the original sin? And finally, at least for our modern feelings, doesn't love constitute the highest form of spontaneity, the "transgressive" passion par excellence that bends neither to the predictability of order as routine nor to its authoritarian imposition? Does it not, perhaps, in order to exclude the suspicion that it might become an opportunistic fiction, safeguard its nature as an unforeseeable, surplus, and free gift?

Ira: La passione furente (Rage: The Furious Passion) analyses the different manifestations of rage in time and space; its relationship with political and religious power; its natural and cultural origins; its presentation, at the level of reality and the imagination, on the basis of opposing pairs made up of men and divinity, men and women, and men and animals; its decline into forms of historical life and into theoretical reflections that involve the identity and role of individuals and communities. Since antiquity, in fact, there has been imputed to it the temporary loss of the most precious of goods: the light of reason and the capacity for self-control. In its inflamed manifestations, it has been considered a form of blindness or temporary madness that undermines lucidity of the mind and freedom of decision. Those who are victims of it appear "outside of themselves," subjugated to another, to a tyrannical interior father who deprives them of the ability to understand and desire.

This is born generally from an unmerited offence one believes one has received, from a burning wound inflicted culpably by others on our own self-respect and our (sometimes exaggerated) self-esteem. More precisely, it stems from the conviction of having been betrayed, insulted, tricked, manipulated, scorned, humiliated, neglected, deprived of due respect, or treated in an unjust or inappropriate way. It arises from the disconsolate or irritating observation of the inadequacy of our

behaviour in particular circumstances, from the bitter regret for having wasted opportunities or even life itself. Above all, it depends on ruminating and on impotent recrimination for not having reversed the course of time in order to rectify our conduct, a posteriori, and remedy errors committed.

This passion is an ambivalent indicator of both the level of vulnerability of one's /and, simultaneously, its desire for assertiveness. It sometimes even represents an excess of legitimate defence of personal psychic and physical space and the system of principles and beliefs with which the individual or group identifies. It seems to be associated with the need to preserve, reactively, one's own public image (actually or presumably threatened by the offence) and the need to restore the self-esteem that one believes to have been wounded. It basically concerns the reaffirmation of one's own role, dignity, or authoritativeness in interpersonal or political relationships.

Rage makes up part of the sad passions Spinoza speaks of in his Ethics that — along with hate, envy, or avarice — suppress our will to live or "power of existing." They make us suffer, but they also contain (and Spinoza does not take this into account) an intrinsic compensation, a portion — even if not prevalent — of bitter pleasure, of the satisfaction of getting back, often enjoyed at the level of fantasy. In rage, this compensation is represented from the perspective of a reprisal or revenge that the imagination foresees in a more or less violent way; in hate, by looking forward to the destruction of one's own enemies; in envy, by joy in the misfortune of others; and in avarice, by the enjoyment of contemplating money saved as repayment for the sacrifice of not spending it.

In Western culture, the image of rage is twofold. On one side, it is considered a noble passion of rebellion against offences and injustices, the desire to punish the person believed to have insulted one. On the other, it represents a feared loss of autonomy and judgment. Tradition is divided, therefore, into two branches that have lasted more than two millennia: one that accepts rightful anger but condemns irascibility, the other that rejects every type of anger and asks that one abstain from it completely.

In the triptych that makes up Geometry of the Passions, Ordo amoris, and Destini personali, as well as in the volume on rage, I tried to elaborate theoretical and ethical models to understand the near and distant bases of the formation of our identity. In all of these cases, I never separated the historical dimension from the theoretical. I wanted to construct what I call crystals of historicity, conceptual formations that are the result of the depositing and structuring over time of events and ideas that undoubtedly change, but according to specific formal and "figural" modes. Thanks to this new Introduction, I hope to have contributed to a better understanding of Geometry of the Passions.

The passions have long been condemned as creators of disturbance or temporary loss of reason. An evident sign of a power extraneous to man's best side, they would control him, distorting his clear vision of things and diverting his spontaneous propensity towards goodness. When disturbed, the mirror-like water of the mind would become cloudy and rippled, ceasing to reflect reality and impeding the will from discerning alternatives to the inclinations of the moment.

Obeying the imperious call of impulses, surrendering to the tortuous flattery of desires, would mean abandoning one's defenceless self to unpredictable and contradictory states of the heart, renouncing freedom, awareness, and self-control in favour of an interior master more demanding than any external one.

Confronted with the multiple strategies that have been formulated for eradicating, moderating, or domesticating the passions (and, in parallel, for attaining control over oneself, making one's intelligence consistent, one's will constant, and one's character robust), it nonetheless seems valid to ask ourselves if the opposition between reason and the passions is capable of taking into account some of the phenomena to which it refers and whether it is right, in general, to sacrifice one's own "passions" in the name of ideals that could be the vehicle of unmotivated unhappiness.

When, at the end of this book, the completed journey can be observed from a distance — revealing its direction more clearly — it will be possible to note, by means of internal lines, how "reason" and "passions" can constitute part of

theoretically and culturally conditioned constellations of meaning (senso), even if they are now familiar to us and difficult to replace. In other words, "reason" and "passions" are prejudged terms, and we must become accustomed to considering them as correlated — and non-obvious — notions defined with respect to each other (by contrast or difference) only within determined conceptual horizons and specific evaluative parameters — all of them, however, subordinate to the nature of the movements and mental maps at the beginning.

At their base, we find the assumption that the passions represent "alterations" of an otherwise neutral state and that they do not disturb the heart or the customary composition of the "humours" in each individual's character. In this way, we confuse what is, if anything, the historical result of efforts that tend towards the impartiality and tranquility of the soul with a natural condition. Nevertheless, nothing prevents us from thinking of the "passions" (emotions, feelings, desires) as states that are not added externally to a wholly indifferent consciousness, clouding and confusing it, but are constituents of the tonality of every psychic mode of being and even every cognitive orientation. Therefore, why not conceive of them (like music, which combines the most rigorous mathematical precision with the most powerful emotional charge) as forms of communication that are tonally "accentuated," as mimed languages or expressive acts that simultaneously elaborate or transmit messages that are vectorially oriented, modulated, articulated, and gradable in direction and intensity?

The passions prepare, preserve, memorize, rework, and exhibit "reactive meanings" more directly attributed to people, things, and events by subjects who carry them out within specific contexts, whose forms and metamorphoses they highlight. They let it be seen in reality as "reason" itself — presented a posteriori as temporarily swept away or seduced — that establishes the objective and range of their actions, identifying the objects onto which they spill, measuring the point at which to arrest the impulse, dosing out the virulence of dissipative attitudes.

Some important consequences might result from the possible confirmation of such a hypothesis. In particular, it could damage the idea of an energy

that is deeply opaque and uncultured, one that is to be subjugated and disciplined. In this way, passion may seem like a shadow of reason itself, as a construct of sense and as an attitude already closely fitted with an intelligence and culture of its own, the fruit of elaborations over millennia. In turn, reason — "dispassioned," selective, and partial — may prove to abet the very passions that it claims to be fighting. We would thus discover the inadequacy of the concept of passion as mere blindness. It would render its demonization and the consequent appeal to its exorcism (and symmetrically, its exaltation as the mirror opposite of reason) less plausible. The recurring, austere figures of reason as "charioteer," "shepherd," tamer, and educator of the passions (of body and soul, of spirit and flesh) would thus become unfocused and partially unreliable.

To presume energies that are wild and groping in the dark ("passions"), energies that should be directed and kept in check by an illuminated, ordering need ("reason"), often means foreshadowing a contentious pretext for repressing or channeling them. Declaring their dangerousness and inability to guide themselves, denying them an intrinsic orientation and wisdom, we automatically legitimize the lawfulness of delegating external interventions of censorship or corrective safeguards to either inflexible imperial power or the persuasive paternalistic severity of "reason."

If we really wish to remain in the conceptual environment of a duality between reason and passions — leaving for later the formulation of a new lexicon and syntax of their relations — we must at least abandon the image of this relationship as an arena for the clash between logic and absence of logic (between order and disorder, transparency and obscurity, law and will, monolithic unity of "reason" — which is just the name for a family of different strategies — and plurality of the passions) . If necessary, we could interpret this relationship as a conflict between two complementary logics that operate according to the pattern of "neither with you nor without you." Bound by antagonistic solidarity, they would operate according to ordering structures that are functionally differentiated and incongruent, justifiable (each at its respective level) in reference to its own principles. From their opposition to the

principles of reason come the areas of opacity of intelligence, and bends and fluctuations of will, as well as the feeling of ineluctable passivity, unintentional action, and involuntary impotence that seem to define "passion." Knowing the passions would be nothing other than analysing reason itself "against the grain," illuminating it with its own presumed shadow.

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Despite all this, however, the passions cannot be reduced to just conflict or mere passivity. They tinge the world with vibrant, subjective colours; they accompany the unfolding of events; they shake experience from inertia and monotony, making existence full-bodied despite its discomforts and pains. Would it be worth the trouble to live if we did not feel any passion — if stubborn, invisible strings did not bind us to how much they lie "at heart" (to put it another way) and whose loss we fear? Would not total apathy, lack of feelings and resentments, incapacity to rejoice or become sad (or be "full" of love, rage, or desire), and disappearance of passivity (understood as that virtual and welcoming space for the presentation of the other) be tantamount, perhaps, to death?

The discovery of the passions' positivity is fairly recent. It has taken place largely in contemporary times, in a period subsequent to the one explicitly examined in the present volume. And although Kant would continue to consider them a "cancer of reason," Descartes and Spinoza had in the meantime already justified their role, economists had exalted their civilizing function, and the Romantics would shortly proclaim their inalienability. Beginning with the end of the eighteenth century, there arrived — reversing earlier worries — a fear of their irreversible weakening or virtual disappearance. Systematically reported from at least the times of Stendhal and de Tocqueville, however, was the eclipse of great and noble passions owing to the dominance of egotistical calculation, individual vanity, and, particularly, increased security of life. Progressively assuming the task of protecting the individual in critical moments of existence (birth, childhood, old age, illness) and assuming the burden of justly indemnifying it in the face of offences endured — or prohibiting all involvement in escalations of private revenge — the state

would arrogate to itself, in some way, the legitimate monopoly of some of the strongest and most exclusive passions. The absence of passions, and not passion itself, now becomes the true sin.

The expansion of rationalization would "dry up" the source of emotions, bridling the tendency towards a "bigger heart" and dissipating those energies with which life renews itself. There would begin an era of mediocrity (even politically), of progressive closure of the individual within himself, of a reduction in the intensity and range of human relationships emotionally invested with feeling and engaging merit. The rarefaction of generous impulses and heroic tendencies would correspond with a flourishing of "petty passions," weak desires, and, frequently, the triumph of the crazy and the vulgar.

Independently of its author's intentions, one fable effectively expresses such a presumed condition:

> A group of porcupines, on a cold winter day, huddled close together to protect themselves, with reciprocal warmth, from freezing. Soon enough, however, they felt each other's quills; the pain forced them to separate from each other once again. Then, when the need to warm themselves brought them together again, the other misfortune recurred; such that they were tossed back and forth between two kinds of suffering until they found a moderate reciprocal distance that represented the best position for them.

Incapable of avoiding the quills (or frightened by the idea that their possible relinquishment would make them more vulnerable), men would be pushed towards the "borderland between solitude and community" noted by Kafka. And so they would endlessly accept poor compromises between painful distance and prickly promiscuity. Caught between warmth and freezing, they would content themselves with tepid relationships with others and with themselves. The result of this parallelogram of attractive and repulsive forces would be a tolerable or banal happiness.

 It continues to be repeated today that the contemporary world is characterized precisely by the blunting of desire, reciprocal indifference, and mass individualism that would mark the passage

from the homo hierarchicus of societies of caste and order to the homo aequalis that asserted itself in eastern civilizations. Rejecting direct contact and complete detachment from others, such a "doctrine of the mean" would have led to emotional withering and the disappearance of solidarity. The need to be participants in collective events having failed, the sense of belonging to the community would dry up. Reason, having become a calculator or "instrumental," would thus distance itself from passions and feelings that had become narcotized.

In the second book of Democracy in America (1840), de Tocqueville was among the first to diagnose such symptoms. His thesis is that the United States represents only the harbinger of a form of life destined to propagate itself throughout the entire planet, the mirror in which Europe could already stare at its own future. He connects the new regime of passions and desires to a permanent dissatisfaction that seeks to placate itself by means of an obsessive search for "material goods." This follows the acquisitive impulse that had often been condemned, from Plato forward, as typical of the shallowest part of the soul and the most vile strata of the community.

In a Europe marked by the existence of insurmountable social barriers, however, generalized "passion" for well-being was not yet felt in all its virulence. The aristocrats and the rich enjoyed such well-being as if it were simply their right. The poor continued to perceive it as an objective so far beyond their own reach that daring to imagine it was difficult. The enormous inequality of the hierarchical ladder inhibits, at the lowest steps, vigorous aspirations towards equality and change of the conditions of existence. Desire gets stuck in the mind easily or projects itself endlessly in the expectation of celestial happiness as recompense for suffering and deprivations endured.

On the other hand, in the young American democracy, the unstoppable pursuit of equality joins emulation of, and intolerance for, the distinctions of grade, the race towards success, and the hypertrophy of acquisitive desire — a passion that risks suffocating every other. But far from leading to happiness, such exclusive yearning appears to de Tocqueville to be veined with subtle sadness. In their "honest materialism," Americans

would think more about the goods they do not yet have and the brevity of the time in which to use them than about their actual enjoyment.

In the hope of calming this "strange restlessness" and better guaranteeing the pursuit of happiness, they would thus rely on a sweet tyranny that (at the cost of manipulating desires and maintaining citizens in a perpetual state of political minority) would allow everyone to place themselves in a social universe where each person believes he is — like the sun — at the centre of a multiple Ptolemaic system:

> The first thing that strikes the observation is an innumerable multitude of men, all equal and alike, incessantly endeavoring to procure the petty and paltry pleasures with which they glut their lives. Each of them, living apart, is as a stranger to the fate of all the rest; his children and his private friends constitute to him the whole of mankind. As for the rest of his fellow citizens, he is close to them, but he does not see them; he touches them, but he does not feel them; he exists only in himself and for himself alone.

Politically "tormented by two conflicting passions," caught between "the need to be guided and the desire to remain free," Americans do not manage to make up their minds between dependency and self-rule. The reciprocal isolation resolves itself in considerable paralysis of will and (once again) in emotional tepidness, while the uncertain satisfaction of the need for security is reduced by considerable apathy and the rejection of autonomous thought:

> Above this race of men stands an immense and tutelary power, which takes upon itself alone to secure. their gratifications and to watch over their fate. That power is absolute, minute, regular, provident, and mild. It would be like the authority of a parent if, like that authority, its object was to prepare men for manhood; but it seeks, on the contrary to keep them in perpetual childhood: it is well content that the people should rejoice, provided they think of nothing but rejoicing. For their happiness such a government willingly labors, but it chooses to be the sole agent and only arbiter of that happiness; it provides for their security, foresees and supplies their necessities, facilitates their pleasures, manages their principal concerns, directs

their industry, regulates the descent of property, and subdivides their inheritances: what remains, but to spare them all the care of thinking and all the trouble of living?

Subsequent scenarios revealed themselves to be much more varied than de Tocqueville, with his acute and nearly prophetic forecasts, was able to predict. Similarly, some ideological presuppositions — previously invisible because they were mixed in his analyses and narrations — broke away from them over time and became clear. But de Tocqueville's ideas nonetheless constitute precious testimony. They represent the evidence of a widespread and durable dissatisfaction with the tendency (considered unstoppable in contemporary democracies) that simultaneously pushes individuals towards an increment of acquisitive desire and towards a complementary drying up of passions judged worthy of being carried out.   <>

Reactionary Republicanism: How the Tea Party in the House Paved the Way for Trump's Victory by Bryan T. Gervais and Irwin L. Morris [Oxford University Press, 9780190870744]

The shocking election of President Trump spawned myriad analyses and post-mortems, but they consistently underestimate the crucial role of the Tea Party on the GOP and Republican House members specifically. In Reactionary Republicanism, Bryan T. Gervais and Irwin L. Morris develop the most sophisticated analysis to date for gauging the Tea Party's impact upon the U.S. House of Representatives. They employ multiple types of data to illustrate the multi-dimensional impact of the Tea Party movement on members of Congress. Contrary to conventional wisdom, they find that Republicans associated with the Tea Party movement were neither a small minority of the Republican conference nor intransigent backbenchers. Most importantly, the invigoration of racial hostility and social conservatism among Tea Party supporters fostered the growth of reactionary Republicanism. Tea Party legislators, in turn, endeavored to aggravate these feelings of resentment via digital home styles that incorporated uncivil and aversion-inducing rhetoric. Trump fed off of this during his run, and his symbiotic relationship with Tea Party regulars has guided-and seems destined to-the trajectory of his administration.

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Excerpt: How the Tea Party in the House Paved the Way for Trump's Victory

It is summer in Washington, and resentment is high. Anger and deep indignation are on display: at immigrants who take jobs from American workers, at minority students who take seats in college classrooms from white students, at the ill and infirm who don't deserve the medical care they receive.

Each of these groups is a target of the Trump administration's policy agenda. On the healthcare front, there is the effort to repeal and replace the Affordable Care Act (ACA, or "Obamacare"). On immigration, the president has just come out in support of a Senate proposal that will cut the number of legal immigrants in half. And on affirmative action, Attorney General Jeff Sessions has circulated a memo suggesting that the Justice Department plans to challenge long-accepted (and Supreme Court—approved) efforts to support campus diversity. Resentment in full flower.

President Trump's administration is singular in many respects. Trump was the first major party presidential candidate without the experience of elected office since Wendell Willkie in 1940; he is the first president without public service

experience—as either an elected official or a high-ranking military officer—ever; he is the oldest elected president; and so on. It would be easy to attribute this resentful politics to him, and him alone. But that would be a flawed reading of the recent history of the Republican Party. This resentful politics has earlier—and deeper—roots. We trace it back to the Tea Party and, more specifically, the Tea Party in Congress (the House of Representatives).

We are not the first to characterize the Tea Party movement as resentful, but previous work in this vein has focused on the mass movement, not the manifestation of the movement in Congress. Through the course of our research, we have come to rethink much of what we took to be the conventional wisdom on the Tea Party movement in Congress. We found a larger, more institutionally significant group of legislators. We came to question the continued significance of "mainstream" Republicans. We found a group of legislators with conservative views on issues well beyond fiscal policy and a group of legislators who developed a distinctive "digital homestyle"—a systematically unhopeful, uncivil, and uncooperative Twitter persona. This persona resonated with a certain set of social media—savvy voters, and it subtly cultivated support—whether intentional or not—for the Trump candidacy. In this book, we follow the thread of "resentment" politics from Barack Obama's 2008 election and the full manifestation of the Tea Party to the Trump administration. This is the modern story of what has replaced "mainstream" Republicanism. This resentment fueled what we call reactionary Republicanism. But we are getting ahead of ourselves.

Background on the Tea Party

On December 16, 1773, over three hours aboard British vessels, a group of colonists tossed several dozen tons of tea into Boston Harbor. This singular act of defiance led to the closure of the port of Boston and, shortly thereafter, the British Parliament's enactment of the Intolerable Acts, a collection of acts that had the effect of reducing liberty and self-governance in the colony of Massachusetts—and interpreted by many colonists as a threat to liberty in the colonies more broadly. In response to the Intolerable Acts, the colonial governments gathered for the first Continental Congress in the late summer and fall of 1774. In April of the following year, the first shots of the American Revolution would be fired in Concord.

This eighteenth-century protest was the namesake of the twenty-first-century protest movement widely referred to as the Tea Party movement. The specific genesis of the modern movement is somewhat controversial. For example, the website TeaParty.org went live in 2004, and a number of local Tea Party organizations held events or protests during the later stages of George W. Bush's administration. In fact, one prominent Republican presidential hopeful held a Tea Party fundraising event in 2007. But the most common reference point for the beginning of the modern Tea Party movement is CNBC correspondent Rick Santelli's early 2009 rant on the floor of the Chicago Mercantile Exchange opposing the Homeowners Affordability and Stability Plan. Santelli railed against the continuation of "bailout" politics begun during the George W Bush administration and extended into the beginning of the Obama administration. Shortly thereafter, the "Taxed Enough Already" (TEA) Party became a massive national movement, the most significant conservative political movement—at least, to date—in the twenty-first century. As Paul Jossey (2016) has written:

> The Tea Party movement began building in the George W Bush years. Profligate spending and foreign adventurism with no discernable results nurtured disgust with Washington's habit of spending beyond its means and sending others to die in its wars. When President Obama made reorganizing the nation's health care system his foremost priority—and repeatedly misrepresented its effects in the process—anger at Washington exploded.

The significance of the Tea Party movement's impact stood in stark contrast to the organization of its leadership. The movement spawned any number of local organizations, and it included an array of national organizations. It also had deep-pocketed supporters, such as the Koch brothers and their political organization, and was promoted by experienced political elites, including former House majority leader Dick Armey (R-TX). But the movement never had a single leader, nor was it

ever effectively managed by a single organization. It was an odd mixture of grassroots activism and a number of tangentially related political organizations.

The lack of organization did not impede the movement's almost immediate efforts to hijack the national political debate and transform the electoral prospects of a host of Republican politicians. The Tea Party was the most interesting and visible political movement during the midterm elections of 2010, a year in which the Democrats lost more seats in the House than in any other midterm since the 1930s—including the watershed midterm elections in 1994. Though far from uniformly successful, Republican candidates aligned with the Tea Party—through endorsements or campaign contributions by Tea Party organizations—won numerous seats in Congress.

Officially founded during the 111th Congress (and the 2010 elections) by Congresswoman Michele Bachmann (R-MN), the Tea Party House Caucus at one point had, at least by some counts, sixty members. The Tea Party Caucus took positions on a number of policy issues facing Congress—consistently taking conservative positions, often well to the right of the center of the Republican Conference, on fiscal and social policy issues. It was far more salient and successful than a Senate Tea Party Caucus constituted by then—South Carolina senator Jim DeMint.

Reconstituted in the 112th, 113th, and 114th Congresses, the House Tea Party Caucus grew less influential over the later part of this time period, during which it lost a significant number of members and took on a rather episodic existence. It is rightfully considered dormant at the time of this writing.

The Liberty Caucus (founded in 2012) and the Freedom Caucus (founded in 2015) shared both membership and a staunchly conservative ideological orientation with the Tea Party Caucus, but to this point, neither group has reached anything approximating the size of the Tea Party Caucus at its height.

The public goals and pronouncements of the Tea Party Caucus were not a straightforward reflection of the Tea Party movement in the electorate. Research on the mass Tea Party movement suggests that while it is clearly a "conservative" movement, it is a tapestry woven from several distinct brands of conservatism: fiscal or economic conservatism, social or religious conservatism, and racial/ethnic conservatism.

According to conventional wisdom, the sine qua non of Tea Party "orthodoxy" is fiscal conservatism. For a movement with a moniker derived from the phrase "Taxed Enough Already," this is no surprise. Tea Party members tend to support tax cuts and a variety of spending cuts (particularly cuts in domestic spending). Bailouts of large banks or troubled mortgage holders were unpopular. Thement spending—particularly spending on Medicare and Social Security—has been far more controversial within the movement. While there has been some support, it is far from monolithic.

Limited government—even beyond that implied by fiscal conservatism—was also a key tenet of the Tea Party perspective. The limitations of particular interest—such as an emphasis on Second Amendment rights and the separation of church and state—resonated with conservative Christian groups, and the Tea Party naturally drew support from this demographic. In his 2012 book [Teavangelicals: The Inside Story of How the Evangelicals and the Tea Party Are Taking Back America](), David Brody highlights the broad consistency of the social policy objectives of Tea Party supporters and white Christian evangelicals—policy objectives that extend to opposition to same-sex marriage, abortion, and transgender rights. This social conservatism is not limited by gender. Women within the Tea Party ranks also take quite conservative positions on these social issues—and are often significantly more conservative than other Republican women.

Finally, Tea Party conservatism includes a strain concentrating on issues with a significant racial/ethnic component. Tea Party conservatism opposes affirmative action and supports restrictions on immigration. The racially conserva¬tive segment of the Tea Party movement also seeks more severe penalties for illegal immigration and more support for immigration enforcement. Moreover, it opposes amnesty programs and DREAM programs that would provide edu¬cational resources for the children of undocumented immigrants. Data strongly suggest that those associated with the Tea Party

movement are relatively negatively disposed toward African Americans and Latinos, and Tea Party supporters tend to be particularly racially resentful—in some cases, significantly more racially resentful than other Republicans.

This brand of conservatism was—on each ideological dimension—anathema to Barack Obama. In 2010, this ideological stew drove the extraordinarily successful Republican efforts to defeat Democrats in the House and the Senate. These Tea Party—led victories appeared to be a harbinger of success in the na¬tional elections in 2012, but that success failed to materialize. Was that the end of the Tea Party movement? Hardly.

On the surface, Mitt Romney did not appear to be an ideal Tea Party candidate. Campaigning since his failed bid to win the 2008 Republican nomination, Romney had difficulty attracting just the type of conservative Republicans who supported the Tea Party. He also faced opponents who could appeal to each dimension of Tea Party conservatism: Ron Paul (R-TX) for fiscal conservatives, Rick Santorum (R-PA) for social conservatives, and Newt Gingrich (R-GA) for racial/ethnic conservatives. But Romney made a concerted effort to attract Tea Party conservatives, promising the repeal of Obamacare, railing against illegal immigration, and proposing dramatic tax cuts. As one shrewd student of the Tea Party movement concluded:

> Romney has become the stealth tea party candidate, endorsing the essence of the movement while remaining unburdened by its public label. This makes him the ideal tea party candidate for the general election battle against President Obama.

While he won the Republican nomination, Romney failed to defeat Obama, and the subsequent finger-pointing on the right of the Republican Party suggested Romney had failed to go far enough to fully energize the conservative base—to win the Tea Party voters. This failure would haunt Republican conservatives for four long years.

Following Romney's defeat of Tea Party candidates in 2012 and Obama's subsequent victory, the dwindling size of the Tea Party Caucus in the House was matched by the waning interest in the movement among the mass public. According to Gallup Poll data, the high-water mark for the mass

movement came in early 2011, when 30 percent of Americans supported the Tea Party movement, 25 percent of Americans opposed the movement, and the remainder either had no opinion or neither supported nor opposed the movement.' By October 2015, support for the movement was just more than half of its peak level, opponents of the movement easily outnumbered supporters, and nearly 60 percent of survey respondents took no position on the movement. As an explicit mass movement, the Tea Party was dead.

But what happened to the objectives of the Tea Party, both in Congress and in the general population? Did the death of the Tea Party Caucus and the disintegration of the Tea Party movement among members of the mass public erase the reactionary conservatism that had briefly—but brilliantly—flowered within the Republican Party? We wondered. Shortly after the creation of the Tea Party movement and, more specifically, the Tea Party Caucus in the House of Representatives, we became interested in the economic, political, and social forces that drove the association of Republicans in the House with the Tea Party movement. As reported in a 2012 article, we found that district economics played a significant role in determining which House members joined the Caucus—the better-off the district (in terms of unemployment), the more likely a member was to attach her or his name to a movement ostensibly dedicated to gutting the social safety net. We concluded that "voters' `anger,' which is widely presumed to drive the movement, is not so much a reaction to desperate economic circumstances but a reaction to government spending in response to the economic downturn.'" This maybe the right conclusion: constituents' anger over spending earmarked for others—not their own dire economic conditions—was driving representatives to hitch themselves to the Tea Party movement. But perhaps we did not do enough to characterize this anger as deep-seated feelings of resentment toward Washington, minority groups, and the former's perceived preference for the latter. Although this is a dynamic we did not focus on at the time, we have come to see, at the very least, attempts by House members associated with the Tea Party to foment enmity toward these targets among voters harboring preexisting, if latent, feelings of resentment.

What we saw among House members was apparently playing out in the general population as well. As Skocpol and Williamson describe in their indispensable study of Tea Party activists, many supporters of the movement were comparatively well-off during the Great Recession, yet were angry over the amount of taxpayer money going to "freeloading" social groups, which included the poor, "burdensome" immigrants, and "entitled" younger Americans. This was not anger over the state of their own finances, but resistance to the government helping others perceived as undeserving—a dynamic similar to what Kathy Cramer describes in her (also indispensable) study of rural Wisconsinites and their support for the anti-government Scott Walker. America's fast-changing demographic makeup fuels this anger and engenders a dim view of the country's future. Pessimism about the future, a yearning for days past, and skepticism of demographic changes are hallmarks not just of hardcore Tea Party activists, but of supporters of the movement in general. Such supporters might be characterized as reactionary conservatives, as argued by Parker and Barreto (2013), who saw the 2008 election of Barack Obama, the nation's first nonwhite president, as the embodiment of the social and demographic changes they feared and resented.

The work that has morphed into this book began as an effort to more fully understand the distinctiveness of Tea Party legislators and the economic and political forces that drove their association with the Tea Party movement.

Significantly, this interest in the institutional Tea Party movement—which has received far less attention than the Tea Party movement in the general population—preceded the Trump candidacy by several years. We certainly never expected to draw broad inferences between the manifestation of the Tea Party movement in the House and a presidential election.

By the same token, this project began well before the full flowering of Twitter. That the rise of the Tea Party was concurrent with the rise of a new means of communicating directly with constituents and activists has had profound consequences, as we argue throughout this book. Between Barack Obama's two presidential campaigns, in 2008 and 2012, political elites made substantial gains in the personalization of political communication via social media, particularly through the use of hashtags on the microblogging site Twitter. During this time, Twitter became one of the most active social network platforms among Americans and, significantly, a venue for activists associated with the Tea Party movement to connect and organize (this was also the case for the ephemeral, progressive Occupy Wall Street movement) (Agrawal et al. 2014; Duggan and Brenner 2013). Twitter thus provided political elites with a means not only to send messages directly to specific segments of the digital public (unfiltered by the news media), but to make common cause with energized, politically engaged groups of citizens. It is no surprise that the rate of Twitter adoption among members of Congress grew from about 1 in 3 in 2011 to nearly 100 percent by 2013.

Relatively early on in the project, we realized that the association between the Tea Party movement and members of Congress was a good deal more complicated than we had previously understood. Just as the mass Tea Party movement lacked formal leadership or coordinated focus, the manifestation of the Tea Party in Congress varied by member. Some members received campaign funds or other financial support from Tea Party organizations; others received endorsements from these organizations or the approbation of Tea Party activists. Some received all three. We characterize these members as ones receiving Tea Party support.

Some joined the Tea Party Caucus. Some tweeted support for the Tea Party and its policy objectives or attended Tea Party rallies to the point that journalists covering the campaigns in 2010 and 2012 identified them as Tea Party members. These were members who attached themselves to the Tea Party movement.

But far more frequently than we expected, financial support, organizational endorsements, activist approval, caucus memberships, tweets, and campaign events failed to overlap. While some members may have sought campaign funding and organizational endorsements, others sought neither (or needed neither) as long as they could attach their name to the Tea Party movement. Other members sought both attachment and support; other Republicans sought neither. Support did not

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imply attachment. Neither did attachment imply support. But members could also have both (or neither). Association—meaning attachment or support—with the Tea Party movement was obviously more complicated than we had appreciated.

The realization that the Tea Party movement in Congress was multidimensional —that association between House Republicans and Tea Party organizations could be a one-way street going in either direction, a two-way street, or a dead end—led us to consider the possibility that association with the Tea Party movement might have an equally complex strategic calculus.

The complexity of the Tea Party movement in the House obscured its size. A standard operationalization of Tea Party association in the House of Representatives has been membership in the Tea Party Caucus (e.g., Cline 2012; Mehta 2014; Pew Research Center 2011). If this is the only indicator of Tea Party association, then the movement was never close to a majority of the Republican Conference. In fact, even the most generous estimates of the size of the Tea Party Caucus never suggested it was even a third of the Republican Conference. But if the sole indicator of the Tea Party in the House is Tea Party Caucus membership, then many members who received significant campaign contributions from Tea Party organizations, and/or were endorsed by Tea Party organizations, and/or campaigned as Tea Party associates (at events, in public statements, and in tweets) would be excluded. The standard operationalization of the Tea Party movement in Congress fails to capture the full extent of that movement in the chamber. It fails to capture numerous members who received significant campaign contributions from the political action committees (PACs) of Tea Party organizations such as FreedomWorks, Tea Party Patriots, the Tea Party Express, Tea Party luminaries like former Alaska governor Sarah Palin, as well as smaller localized Tea Party groups. It ignores members who received endorsements from these same organizations.

Conversely, the presumption that Tea Party Caucus membership fully captured the Tea Party movement within Congress overstates the support Tea Party Caucus members received from Tea Party

organizations. Just as some House Republicans who never joined the Tea Party Caucus received significant campaign funding and endorsements from the Tea Party organizations, some members of the Tea Party Caucus received little in the way of campaign contributions or endorsements from the most prominent Tea Party organizations.

Due in part to the lack of a clear, standard method for differentiating Tea Party members from "establishment" members, reporting on Congress since 2009 has typically included allusions to some amorphous Tea Party wing within the House, often imprecisely defined and lacking consistency. Sometimes discussions of the "Tea Party" legacy in Congress are simply references to the members elected during the "Tea Party wave" of 2010. Other times, the label "Tea Party Caucus member" or "member of the Tea Party wing" is used as shorthand for more conservative, radical, or controversial members of the House (and lawmakers in general), regardless of whether they have formal membership in an official caucus or any other connection to the broader Tea Party movement.

In many instances, Tea Party members are differentiated from establishment types by their votes on specific bills or brinkmanship tactics—for example, "establishment" Republicans are those who were for raising the debt ceiling in 2011, while Tea Party Republicans withheld support until they could get what they wanted; "establishment" Republicans are those who voted against the 2013 government shutdown, while Tea Party members voted for it (e.g., Ball 2016; Bernstein 2010; Blodget 2013; Goldfarb 2013). However, premising that Tea Party members behave differently than establishment Republicans and then using differences in their behavior to sort Republicans into the two camps is a type of circular logic: if the goal is to determine whether the ideological positions and legislative behavior of the Tea Party faction are different from those of their mainstream counterparts, some metric other than ideology and legislative behavior must be used to determine who is in that faction.

Yet most often it has been membership in the official Tea Party Caucus or backing from some Tea Party organization that has been used to make the Tea Party-establishment distinction. We argue,

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Yet most often it has been membership in the official Tea Party Caucus or backing from some Tea Party organization that has been used to make the Tea Party-establishment distinction. We argue,

first, that the size and scope of the Tea Party movement—even in the House—were not exclusively defined by the membership of the Tea Party Caucus, nor was the movement limited to House members who received campaign funds from Tea Party organizations, nor was it limited to the group of House members who received endorsements from Tea Party organizations. As we find, the overlap between these groups is relatively small. And even if we aggregated the memberships of these groups, we would still be ignoring a number of House members who attended Tea Party campaign rallies and events, explicitly espoused support for Tea Party policy objectives and/or the Tea Party movement more generally, and/or were widely considered by the media covering congressional campaigns to be associated with the Tea Party. With a more complete picture of the Tea Party movement in Congress available to us, we realize that those members of Congress who were never associated with the Tea Party movement—no endorsements, no campaign contributions, no Tea Party Caucus, and so on—were a minority of the House Republican Conference.

Second, support for the Tea Party movement in Congress—and legislators associated with the Tea Party movement more specifically—was not driven primarily by economic deprivation. As we will see in Chapter 4, district-level economics played no significant role in the decisions of Tea Party organizations to support (or not) various House Republicans. Nor did constituents' economic circumstances drive House members' efforts to attach themselves to the Tea Party movement.

Third, the Tea Party movement in the House was not solely focused on small government tax-and-spend issues. Our analysis indicates that Republicans who attached themselves to the Tea Party movement—but not those who received support from the movement—were significantly more conservative than their fellow Republicans. Our analysis suggests that the position between those in the Tea Party movement and "mainstream" Republicans was based on issues of race and ethnicity.

Fourth, not only was the Tea Party movement in the House significantly larger than conventional wisdom suggests, those associated with the movement were more capable legislators than previously realized.

This was not a movement of marginalized backbenchers. Members of Congress associated with the Tea Party movement tended to be the equal of their more mainstream Republican colleagues in terms of authoring bills, co-sponsorship activity, and producing legislation. In some contexts, we find that Tea Party Republicans were actually more legislatively effective than their fellow Republicans.

But legislators associated with the Tea Party movement, particularly those who made active efforts to attach themselves to the movement, were distinct from their more mainstream Republican colleagues in their political style, what we refer to as "digital homestyle." Taking our cue from Richard Fenno's seminal work of forty years ago, we focus on the way in which House members presented themselves to their constituents in a digital context. More specifically, focusing on their Twitter communications, we find that Tea Party Republicans were both (1) more emotionally negative and (2) more anti-deliberative than their more mainstream Republican counterparts. Tea Party Republicans were also less civil, and it is this incivility that provided the bridge to candidate Trump.

Trump's relationship with the vestiges of the Tea Party movement—both in the House and among the mass public—was never uncomplicated. Yet he was speaking to their people. If Romney was the stealth Tea Party candidate in 2012, Trump was that candidate in 2016. He was simply able to win.

Chapter Outline

Katherine Cramer analyzes and elaborates on the deep-seated resentment of rural voters in Wisconsin—a core constituency of conservative Republican Scott Walker. As Skocpol and Williamson effectively argue, Tea Party supporters are resentful if they are anything. In Chapter 2, we examine the shifting and varied targets of Tea Party resentment among the members of the movement. What may have begun as a response to frustration with big-bank bailouts quickly morphed into resentment toward those deemed unworthy of the support they were receiving from the government (and, implicitly or explicitly, taxpayers). During the early Obama administration, resentment toward the president and his policies—from responses to the bailout to criticism of the ACA—became resentment toward

groups the president represented (or appeared to represent), including liberals, urban elites, minorities, and immigrants. Each type of conservative had a target of resentment. Fiscal conservatives resented liberal spendthrifts and bailout recipients. Social conservatives resented urban elites, gays, and the transgendered. And racial conservatives resented minorities and immigrants. We argue that this mass level resentment within the movement helps us to understand the behavior of House Republicans and their reactionary politics.

In Chapter 3, we demonstrate that Tea Party Caucus membership is an extremely limiting operationalization of the Tea Party movement in the House. Some Republicans who never joined the Tea Party Caucus received electoral support from Tea Party organizations, were endorsed by Tea Party organizations, frequented Tea Party rallies, made public statements in support of the Tea Party, and were, at least in some cases, treated as Tea Party members by journalists covering their campaigns. The Tea Party in the House was broader and deeper than the Tea Party Caucus. Using a more comprehensive methodology for assessing a House member's association with the Tea Party movement, we are able to distinguish between Tea Party organizational efforts to support House members (primarily in their electoral efforts) and the efforts of House members to attach themselves to the Tea Party movement. Distinctive strategic dynamics drive these processes, and we are able to categorize House Republicans according to the extent to which they received support, sought attachment, both, or neither—referring to them as White Tea, Green Tea, Black Tea, and Coffee types. We also provide some preliminary evidence suggesting that the constituency bases for each of these Tea Party types were distinctive.

With a more complete understanding of the parameters of the Tea Party movement in Congress, in Chapter 4 we analyze the constituency forces that influenced the growth of the two key dimensions of Tea Party association in Congress. Here, we examine the impact of various district-level economic and demographic factors on the manifestation of Tea Party support and Tea Party attachment in the 112th Congress. Using data from

the 2010 Cooperative Congressional Election Survey (CCES), we also examine the attitudinal foundations of Tea Party support and Tea Party attachment. Were Tea Party attachment and support driven by economic circumstances or fiscal conservatism among members' constituents, as the existing literature would suggest? Or were other factors—factors more directly associated with a broad-based politics of resentment—at work?

Assuming the equivalence of the Tea Party Caucus and the Tea Party movement in Congress obscures the institutional scope and diversity of the movement. It also masks the true policy orientations of key components of the Tea Party in the House. In Chapter 5, we investigate the ideological distinctiveness of the roll call voting of Tea Party members in the House. Here we are particularly interested in the extent to which Tea Party support and/or Tea Party attachment are associated with broad-based conservatism (as some research on the roll call voting patterns of Tea Party Caucus members would lead us to expect). In particular, we assess the hypothesis that Tea Party members are more fiscally conservative than their fellow partisans.

Conventional wisdom on the Tea Party movement in the House suggests that it was a collection of marginalized legislators intent on (and only capable of) obstructing the legislative process and the lawmaking efforts of others. In Chapter 6, we provide evidence that this perspective sells short the institutional capacity of the Tea Party movement. Our analysis suggests that House members associated with the Tea Party were significantly more institutionally active and institutionally effective than previous work admits.

While Tea Party Republicans and Republicans unassociated with the movement were equally adept at legislating—at least based on the standard of legislative effectiveness—the ways in which they related to their constituents tended to be distinct. In Chapter 7, we develop the concept of "digital homestyle." The conventional wisdom regarding the rhetoric of Tea Party elites is that it is angry and heated, often with the goal of inciting resentment toward Washington and out-groups. Leveraging a dataset consisting of every tweet issued by official congressional Twitter accounts during the 112th and 113th Congresses, we gauge

whether the tweets of Tea Party Republicans are more likely to contain language meant to breed resentment, and detail various themes in this style of tweeting. We also consider whether Tea Party Republicans' reputation for being anti-compromise and anti-deliberative is reflected in the language they use on Twitter.

Tea Party rhetoric also has the reputation of being uncivil, something it has in common with the rhetoric of candidate and president Donald J. Trump. In Chapter 8, we explore the rhetoric of both, as well as the argument that Tea Party rhetoric served as a bridge to Trumpian bombast. Utilizing a supervised learning program to code our dataset of congressional tweets for incivility, we test whether there are differences in the prevalence of incivility between Tea Party and non-Tea Party types. Although uncivil tweets were altogether rather infrequent, we find significant variation in the rate of incivility by Tea Party Attachment scores in the 113th Congress. Analyzing Trump's tweets in the same manner, we highlight similarities between the tweets of Tea Party Republicans and Trump in terms of affect, incivility, expressions, and targets.

Similarities in rhetoric raise the question as to what role the Tea Party in the House played in blazing the path to Trump's victory. In Chapter 9, we investigate the influence Tea Party representation has had on the biggest national stage—presidential elections. Specifically, we consider the endorsement behavior of members of Congress during the two elections that have passed since the Tea Party movement came to be (2012 and 2016) and whether our Tea Party Association measures predict endorsements for some presidential aspirants over others—namely, outsider, "establishment" candidates. Using data from the CCES, we also consider whether Tea Party representation influenced vote choice in the fight for the 2016 Republican nomination and the 2012 and 2016 general elections.

We examine the hypothesis that Tea Party House members paved the way for Trump's victory by normalizing political elites' use of uncivil, brash rhetoric on Twitter. As such, we analyze whether a representative's penchant for being uncivil on Twitter influenced the votes of social media users in the 2016 primaries and general election. Whereas uncivil rhetoric has likely always been a part of

discourse of political elites, the style of uncivil rhetoric used and the frequency with which members of the mass public are exposed to it are unique to the Tea Party/social media era. It is no coincidence, we argue, that the election of a presidential candidate offering brash, populist, ethno-nationalist commentary on Twitter followed the rise of the Tea Party in the House.

In Chapter 10, we summarize our findings regarding which popular conceptions of the Tea Party in the House carry weight and which ones do not. We reflect on the choices made by leaders in the Republican Party, the path that these choices have put the party on, alternative paths some within the party have taken, and whether a "Tea Party on the left" might arise during the Trump era. And, rather soberly, we consider the prospects of political violence, amid increasingly hostile political discourse, in our time and the time to come. <>

Resistance: Reclaiming an American Tradition by Jeff BiggersJeff Biggers [Counterpoint, 9781640090477

"Resist we must, resist we will—and as this volume powerfully reminds us, in so doing we are acting on the deepest American instincts." —Bill McKibben, author of Radio Free Vermont: A Fable of Resistance
Across cities, towns, and campuses, Americans are grappling with overwhelming challenges and the daily fallout from the most authoritarian White House policies in recent memory.

In an inspiring narrative history, Jeff Biggers reframes today's battles as a continuum of a vibrant American tradition. Resistance is a chronicle of the courageous resistance movements that have insured the benchmarks of our democracy—movements that served on the front lines of the American Revolution, the defense of the Constitution and Bill of Rights, the defeat of fascism during World War II, and landmark civil rights and environmental protection achievements.

Legendary historian Studs Terkel praised Biggers's The United States of Appalachia as a "how-to book" in the tradition of the American Revolution. With Resistance, Biggers opens a new window into American history and its meaning today. In a recovery of unsung heroes, including Revolutionary

forefather Thomas Paine, Resistance is a provocative reconsideration of the American Revolution, bringing alive early Native American, African American, and immigrant struggles, women's rights, and environmental justice movements. With lucidity, meticulousness, and wit, Biggers unfolds one of our country's best-kept secrets: in dealing with the most challenging issues of every generation, resistance to duplicitous civil authority has defined our quintessential American story. Contents

Excerpt: Hope Resists

If I fall, I will fall five-feet four-inches forward in the fight for freedom. —Fannie Lou Hamer, "Sick and Tired of Being Sick and Tired," 1968

These are the times that try our Souls, as Thomas Paine would say.

On the day of President Donald Trump's landmark decision to withdraw the United States from the Paris Climate Accord in the summer of 2017, my twelve-year-old son Massimo asked me if there was any hope for action on climate change. His real question: Was there any hope for his future?

It took me a while to muster the words to answer my son's question. He had heard me rattle on for years about the realities of climate change, the possibilities of regenerative cities, and the unending struggle for civil rights. But these stories suddenly seemed distant—even illusory—against the rollbacks of Trump's policies on multiple fronts, not only climate action.

Instead of a lecture on climate change, I wanted to tell my son about a moment of doubt, sitting in a jail cell in Washington, DC, in 1985, after I had been arrested in a sit-in at the South African embassy. We had joined a year-long campaign of civil disobedience, as part of the Free South African Movement, to draw attention to the American support of the brutal apartheid system of white supremacy and segregation. As a twenty-two-year-old, I realized that African National Congress leader Nelson Mandela had spent more time in prison at Robben Island, Pollmoor Prison, and Victor Verster Prison than I had been on the planet.

My cellmate was Rev. William Sloane Coffin, my boss at the Riverside Church in New York City, where I served as his personal aide. A World War II intelligence officer and former CIA agent, Coffin had led civil disobedience campaigns against the Vietnam War as the chaplain at Yale. But it was his role in one of the first Freedom Rides in the summer of 1961, following the courageous lead of young African American activists, that had transformed Coffin's fervent belief in the role of non-violent resistance.

Coffin smiled at the youthful frustration in my voice. I told him our protests seemed futile, even hopeless. The apartheid system seemed unshakeable. He looked at me with the same hesitation I offered my son. He told me what he had learned sitting in jail in Alabama.

"Hope resists," he said, shifting on the concrete bench. "Hopelessness adapts."

Calling it our "duty rightly," Revolutionary forefather Thomas Paine had urged Americans, in one of the most hopeless moments before the American Revolution in 1776, to "take our children in our hand, and fix our station a few years farther into life." The seeds of our democracy, he reminded the disconsolate, would take root from an American resistance. Paine did not offer a promise, but a challenge to the American colonies. "The sun never shined on a cause of greater worth," he wrote in Common Sense.

Every generation must decide how that sun will illuminate the challenges of our own times. The language may alter, but the tribulation remains the same; "The sun shines today also," Ralph Waldo Emerson reminded his generation of abolitionists in a dark moment of slavery in 1836; "Pray for the dead and fight like hell for the living," Irish immigrant and labor leader Mary "Mother" Jones told a crowd of striking coal miners, seeking fair

wages and better working conditions in West Virginia in 1912.

In my own lifetime, Mississippi freedom leader Fannie Lou Hamer reminded civil rights activists in 1965 that the only way to end segregation in Mississippi was to "bring out to the light all that has been under the cover all these years." Joining thousands of Mexican American students in the streets of Los Angeles on a spring day in 1968, Chicano leader Carlos Munoz, Jr. saw the historic walkouts at the nation's largest public-school system as a counterpart to the civil rights movement—and a new chapter in an American tradition of resistance. In leading a successful two-year campaign of civil disobedience to halt fracking and the storing of liquid petroleum gas at Seneca Lake in New York, scientist Sandra Steingraber invoked the words in 2017 of poet Ella Wheeler Wilcox: "To sin by silence, when we should protest / Makes cowards out of men."

More than a decade after she launched the "Me Too" movement to empower millions to speak out on sexual violence and harassment, activist Tarana Burke was recognized, among many other "silence breakers," as the Time "Person of the Year" in 2017. "Today's announcement is an opportunity for all of us to take a hard look in the mirror and answer the question: 'When you hear #MeToo, will you stand up to say #NoMore?'" Burke said in a statement. "Let's get to work."

On February 11, 1990, freed from 27 years in prison in South Africa, Nelson Mandela saluted multi-generations of resistance from the balcony of the Cape Town city hall: "Today, the majority of South Africans, black and white, recognize that apartheid has no future. It has to be ended by our decisive mass action. We have waited too long for our freedom."

To be sure, I could not be glib or disingenuous about the powerful idea of "resistance" today. My son is also an Italian citizen, where la resistenza italiana, as he knew well from his grandparents' experience during World War II and plaques on corners of town piazzas, referred to armed liberation and brutal guerilla warfare against German occupation and fascist forces.

Yet, as a chronicler of American social movements, and as a participant in what historian Howard Zinn called the "unreported resistance," I knew a deeper story of American resistance needed to be brought out of the shadows. In my earlier books, I have traced the history of rebellion along the Appalachian mountains and our nation's first frontier, from indigenous and pre-Revolutionary War insurrections to the abolitionist, labor, and civil rights movements; I have explored my own family's zoo years of struggle in the American heartland, taking part in militant anti-slavery efforts, union labor battles for coal miners, and present-day environmental movements; I have reported on the cycles of resistance by indigenous, Mexican American and rooted communities against anti-immigrant and white supremacist interlopers in the American Southwest; I have chronicled the life struggles of a pioneering woman journalist's battle over freedom of speech in the early nineteenth century and the resistance work of a Southern writer and agitator in the mid-twentieth century, who had been wanted "dead or alive" for his subversive organizing in the mills, mines, and racist institutions of the white ruling class.

I have set out to write this book for my son, in the context of our American story today; not to write an exhaustive history of social justice movements, but to respond to his question by reconsidering how the arc of everyday resistance, and not just random episodes of rebellion, has shaped our American experience in moving those challenges forward—not backward. To remind him, and perhaps myself, that any hope for the future depends on our ability to reclaim the narrative of a long continuum of resistance that has been the foundation of our country and the bulwark against the very forces that have threatened our democracy since its founding.

Let Us Now Praise Resistance

> Let them call me rebel and welcome, I feel no concern from it; but I should suffer the misery of devils, were I to make a whore of my soul by swearing allegiance to one whose character is that of a sottish, stupid, stubborn, worthless, brutish man. —Thomas Paine, The American Crisis, 1776

Petition and resistance, Thomas Paine explained to his readers in the aftermath of the American Revolution. "It left to the Americans no other modes of redress than those which are left to people under despotic governments."

Resistance—the word conjures black and white images of la beret-capped French fighters taking on German Nazis in occupied Paris or Sophie Scholl, the young White Rose resister carted off to to the guillotine in Germany; or the chilling defiance of the "Tank Man" in Tiananmen Square in Beijing, standing in front of a column of tanks in 1989

In virtually every case, resistance implies a foreign concept, an assortment of freedom fighters in countries aflame, in chaos or riven by conflict, an occupying force, or an oppressive dictatorship. It somehow resounds like a battle cry from someone else's past: Nopasaran, as Dolores Ibarruri, la Pasionaria, warned Spaniards in Madrid of the fascist threat under General Francisco Franco in 1936: "The whole country cringes in indignation at these heartless barbarians." In the other-world parlance of the U.S. Department of Defense: "Resistance is an organized effort by some portion of the civil population of a country to resist the legally established government or an occupying power and to disrupt civil order and stability."

Overlooked in this ominous depiction might be our country's best kept secret: in dealing with the most challenging issues of every generation, resistance to duplicitous civil authority and its corporate enablers has defined our quintessential American story.

Resistance, as an American credo, blossomed from the seed-time of our American Revolution as a universal right, not simply some random act to "disrupt civil order and stability" or fleeting moments of dissent or vague calls for freedom, as often defined. Resistance, over the centuries, has endowed a "public commons" for "we the people" to have a voice in framing the defining issues in our most trying times. And while those defining issues have remained unresolved, in many respects— expanding the protection of life, liberty, and the pursuit for happiness for all; defending the right of free speech and freedom of the press as inalienable—they have taken new forms in an age of nuclear weapons and climate change.

With the rise of a reckless presidential administration and conservative movement set on dismantling constitutional safeguards and protections, never have the benchmarks of our

democracy been so threatened or left in the small hands of a single demagogic leader.

Never, perhaps we should say, since of our country's founding.

In 1782, as peace negotiations began in Paris between representatives of the United States and the British Crown, Paine sat down to write a response to the Abbe Raynal in France, who had published his own long-distance version of the American Revolution. Anguished that the Frenchman had reduced the "justifiable resistance" to a nationalistic spat over tea and taxes, Paine characterized his letter as one "in which the Mistakes in the Abbe's Account of the Revolution of America are Corrected and Cleared Up."

A letter from Paine was no small event. He may have once identified himself as the Secretary in the Foreign Department of Congress, but Paine's numerous revolutionary pamphlets had ensured his legacy as the literary instigator of the American resistance. The very name of our nation—the United States of America—first appeared in Paine's handwriting. He was the nation's most widely read author—though, not its best-selling one, for all of Paine's freely distributed works had gone viral, in modern terms, but did not leave a single penny in his pocket. Even the envious founding father, John Adams bitterly admitted to Thomas Jefferson: "History is to ascribe the American Revolution to Thomas Paine."

In Paris, an American traveler reported, Paine's translated work was "everywhere." His Letter to the Abbe Raynal had "sealed his fame," the traveler added. "Even those who are jealous of, and envy him, acknowledge that the point of his pen has been as formidable in politics as the point of the sword in the field."

Far from being an armchair revolutionary, Paine had insisted on taking a role on front lines. "As I was with the troops at Fort Lee, and marched with them to the edge of Pennsylvania, I am well acquainted with many circumstances, which those who live at a distance know but little or nothing of," he had written from the cton's Revolutionary forces.

But the misinformation about military tactics and strategies did not interest Paine now. His extraordinary letter to the Abbe sought to define

the transformative impact of the resistance movement on Americans in the aftershock of their triumph. "Our style and manner of thinking have undergone a revolution more extraordinary than the political revolution of the country," he explained to the French. "We see with other eyes; we hear with other ears; and think with other thoughts, than those we formerly used. We can look back on our own prejudices, as if they had been the prejudices of other people. We now see and know they were prejudices and nothing else; and, relieved from their shackles, enjoy a freedom of mind, we felt not before."

High-minded perhaps, but hardly delusional, Paine claimed this new way of thinking had "opened itself toward the world" and brought Amer-icans into the world of nations. He didn't trumpet the military triumph of Washington and his French allies; nor did Paine make an inventory of the natural resources and wealth now at American disposal. The future of the United States of America—and consequently the world—rested in the hands of "science, the partisan of no country, but the beneficent patroness of all," which served as the great "temple where all may meet."

Paine's message to the Abbe reflected the ongoing negotiations in Paris—and a clear admonition to its leaders. Instead of pursuing that "temper of arrogance," he warned, "which serves only to sink" a country in esteem, and "entail the dislike of all nations," Paine called on all leaders to find a way for the world to live in peace.

"The philosopher of one country sees not an enemy in the philosopher of another: he takes his seat in the temple of science, and asks not who sits beside him."

Two hundred and thirty-five years after Paine's historic analysis of the American Revolution and the role of science in uniting world concerns in Paris, President Donald Trump announced the withdrawal of the United States from the historic Paris climate accord on June i, 2017. A self-proclaimed billionaire real estate tycoon and reality TV star, Trump had bare-knuckled his way into office as a repudiation of Pres-ident Barack Obama, losing the popular vote but winning an election victory over former Secretary of State Hillary Clinton through electoral votes. He rejected science and

fact-based assessments on climate change, defending a corporate energy lobby of coal, oil, and gas that had pro¬duced most of the nation's carbon emissions. In the process, Trump also repudiated global cooperation, breaking with all 196 nations (including war-torn Syria, which would eventually sign the accord in the winter of 2017) that had negotiated the accord over several years.

His actions did not only sink him in the esteem, and entail the dislike of nations. Trump had "committed an error for the interests of his country, his people and a mistake for the future of our planet," French Prime Minister Emmanuel Macron charged. "The time in which we could fully rely on others is a bit in the past," added German Prime Minister Angela Merkel.

Trump's withdrawal from the global "temple" epitomized an "America First" agenda that sought to do more than simply roll back regulations and laws on environmental protection. "Our withdrawal from the agreement represents a reassertion of America's sovereignty," Trump proclaimed. "One by one, we are keeping the promises I made to the American people during my campaign for President," he added. "And believe me, we've just begun."

Gutting civil rights enforcements, including workplace protections for LGBTQ citizens and transgender Americans in the military, ramping up anti-immigrant hysteria against Muslims, and sweeps and deportations of undocumented residents, marginalizing journalists and the media, and seizing data and social media records of government critics, the Trump administration had ushered in one of the most authoritarian regimes in American history.

Notably, the language of Trump's America First narrative—with his emphasis on always being first, the best, the biggest, regardless of the facts—reflected Paine's warning of "brutish" leadership, which now took form in a new world of social media. Trump commanded the whiplash barrages of 140-280 characters on Twitter, casting aspersions, insults, threats, and misleading statements at all hours of the day and night, as if issued from a throne to a hall of sycophantic minions.

Paine's analysis of imperial conceit also foretold such a display of reckless power; in 1776, he chastised "the Royal Brute of Great Britain," for making "havoc of mankind" with his impertinent decisions, and warned he would pay a price.

In the shadow of America's formation at the Paris treaty, Paine's flagging of arrogance and despotism took on a new meaning in the twenty-first century.

So did a historical framework of American resistance, dating back to the American Revolution and its antecedents, that issued more warnings than rules; it alerted the pretenders to the throne that while authoritarian spasms of power might attempt to bury the freedom of a people, the seeds of resistance in a nation would continue to flourish.

This framework set the American Revolution in motion, like any resistance movement, as a continuous questioning of democratic relevancy, a circular road of defense for certain inalienable rights—not a one-time act of demarcation. The Declaration of Independence announced on July 4, 1776 that the American resistance was not a one-day affair, but the beginning of a messy, divisive, and unresolvable process that would seed democracy—not establish it—and generate centuries of unintended consequences.

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Resistance has been entrenched in the American experience since the first imprint on soil was shaped by an invading force or corporation that claimed the right to name it.

In Jamestown, Virginia, the first permanent settlement founded by English merchants, Polish artisans rebelled in 1619 against their exclusion from voting in the first legislative assembly in the American colonies. The "Polonian" immigrants, who had been recruited for their glass-blowing and craft skills, carried out the first labor strike in the colonies. In resistance against the Virginia Company, the stock-owned corporation chartered in London, which had granted voting rights to the House of Burgess for all white, landowning English males, the Poles brought the daily operations to a standstill. Within days, the Poles won enfranchisement, and were "made as free as any inhabitant."

Angelo, and "twenty and odd Negroes" did not share such freedom in 1619, as the first enslaved Africans to be purchased by the Jamestown residents. Acts of running away, among other forms of resistance, be¬came so frequent that the Virginia colonial government issued edicts that admitted a subversive number of planters and enslaved workers had "given them assistance and directions how to escape." Revolts in Virginia eventually followed.

Within three years, Powhatan leader Opechancanough's unexpected attacks on the tassantassas or "strangers" at Jamestown in 1622 effectively ended the corporate control of Virginia, and ushered in a new regime appointed by King James I. The indigenous uprising devastated the colony, but it also brought equally ruinous consequences for the Powhatan, whose armed resistance to English encroachment would define a century of conflict along the eastern colonies. <>

[How to Be Less Stupid About Race: On Racism, White Supremacy, and the Racial Divide](#) by Crystal M. Fleming [Beacon Press, 9780807050774]

 A unique and irreverent take on everything that's wrong with our "national conversation about race"—and what to do about it
[How to Be Less Stupid About Race](#) is your essential guide to breaking through the half-truths and ridiculous misconceptions that have thoroughly corrupted the way race is represented in the classroom, pop culture, media, and politics. Centuries after our nation was founded on genocide, settler colonialism, and slavery, many Americans are kinda-sorta-maybe waking up to the reality that our racial politics are (still) garbage. But in the midst of this reckoning, widespread denial and misunderstandings about race persist, even as white supremacy and racial injustice are more visible than ever before.

Combining no-holds-barred social critique, humorous personal anecdotes, and analysis of the latest interdisciplinary scholarship on systemic racism, sociologist Crystal M. Fleming provides a fresh, accessible, and irreverent take on everything that's wrong with our "national conversation about race." Drawing upon critical race theory, as well as

her own experiences as a queer black millennial college professor and researcher, Fleming unveils how systemic racism exposes us all to racial ignorance—and provides a road map for transforming our knowledge into concrete social change.

Searing, sobering, and urgently needed, [How to Be Less Stupid About Race](#) is a truth bomb and call to action for everyone who wants to challenge white supremacy and intersectional oppression. If you like Issa Rae, Justin Simien, Angela Davis, and Morgan Jerkins, then this deeply relevant, bold, and incisive book is for you.

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The Origins of Racial Stupidity

> It is an aspect of their sense of superiority that the white people of America believe they have so little to learn.
> -MARTIN LUTHER KING JR.

Hundreds of years after establishing a nation on colonial genocide and chattel slavery, people are kinda-sorta-maybe-possibly waking up to the sad reality that our racial politics are (still) garbage. But as our society increasingly confronts the social realities of race, we are faced with a barrage of confusing developments. How could the same country that twice voted for an Ivy League—educated black president end up electing an overt racist who can barely string together two coherent sentences? Why do white liberals who can't even confront their Trump-supporting friends and family members think they can lead the "Resistance"? Democrats who didn't care about mass deportations or the treatment of Muslims under Obama suddenly care now that a Republican is in charge. While black and brown people are being crushed by systemic white supremacy, the rapper

Common thinks we can all "get over race" by extending a "hand in love.'" Don Lemon still has a job. Rachel Dolezal exists. Everyone has an opinion about race, but 99 percent of the population has never studied it. And even many textbooks that "talk about race" are filled with lies, inaccuracies, and alternative facts.' With so much racial ignorance in the world, how will we ever find our way to that glorious mountaintop Martin Luther King Jr. glimpsed right before a white racist killed him?

Although race is an inherently divisive topic—the cause of continual controversy, Facebook feuds, and endless debate—there is exactly one thing and one thing only that we can probably all touch and agree on regardless of our racial or ethnic identity, gender, age, political beliefs, or shoe size:

We are surrounded by racial stupidity.
From the White House to Waffle House, from the classroom to the internet comments section, from the television to the tiki torch aisle of your local Pier One—we are surrounded and, at times, astounded by the ignorant and dangerous ideas people express about this thing called "race."

Why are so many people so incredibly confused and misinformed about race? It's the white supremacy, stupid! As I'll demonstrate throughout this book, one of the main consequences of centuries of racism is that we are all systematically exposed to racial stupidity and racist beliefs that warp our understandings of society, history, and ourselves. In other words, living in a racist society socializes us to be stupid about race. Of course, as you well know, some people are more afflicted by racial stupidity than others. We'll get into the nature of these variations a bit later. For now, I want to emphasize just how widespread and ubiquitous racial ignorance truly is. Politicians routinely spout racist distortions of reality and lie about the existence and nature of racial oppression. Absurd racial stereotypes pervade our various forms of media. And as noted, textbooks systematically misrepresent racial history in ways that minimize or erase racism altogether, and, all too often, teachers themselves are undereducated or miseducated about the history and ongoing realities of racial oppression.

[How to Be Less Stupid About Race](#) explores precisely how and why racial stupidity has become so terribly pervasive and examines the cesspool of silly ideas, half-truths, and ridiculous misconceptions that have thoroughly corrupted the way race and racism are represented in the classroom, pop culture, media, and politics. The key idea that I'll come back to again and again is that living in a racist society exposes us all to absurd and harmful ideas that, in turn, help maintain the racial status quo. Drawing from my own experience as an educator—and as someone who continually confronts my own racial ignorance—I'll also share some concrete steps that you (as well as your racist friends, ignorant family members, and clueless coworkers) can take to become less stupid about race and better equipped to detect and dismantle racial oppression. While I don't personally believe in post-racial utopias, and I don't put a lot of faith in reaching glorious mountaintops, I know for sure that the very first step in challenging racism is having a clear understanding of what it actually is.

Not only are we surrounded by stupid ideas about race; we are even surrounded by stupid ideas about how to talk about race. In May 2015, Starbucks launched a doomed campaign called #RaceTogether to encourage baristas and coffee drinkers around the country to "have a conversation" about race. Although many might have mistaken the campaign for a satirical entry on The Onion, Starbucks announced that its employees had the option of arbitrarily writing the hashtag "#RaceTogether" on a random customer's cup. Aspiring coffee drinkers minding their own damned business would then be obliged to say something to the barista about race. After a steady stream of criticism and mockery on social media by antiracists across the color spectrum (yours truly included), the company eventually backpedaled and canceled the initiative.

To some, encouraging random people to talk about race sounds like a step in the right direction. Don't we need more profit driven corporations to take a stand and say that "race" is a legitimate and important topic of conversation? Well, no, we don't. Rather than thinking through the best practices that might foster a productive discussion about racism, the company executives thought best to just sort of tell everyone else to figure it out without providing

any educational resources, training, or guidelines whatsoever. In a letter to employees, Starbucks chairman Howard Schultz stated that he conceived of the idea "not to point fingers and not because we have answers, but because staying silent is not who we are." When asked whether Starbucks employees received diversity training before being instructed to initiate conversations about race, the company replied: "We don't presume to educate communities on race, only to encourage an open dialogue." In other words, though Schultz thought race was a really important topic, he had nothing in particular to say about it except that there is no one to blame for racism.

But a clueless dialogue "about race" that doesn't center on racism is not particularly helpful and can even be destructive. When I heard about this silly campaign, several questions immediately sprang to my mind. I mean, first and foremost: How you gon' talk about race ... if you've never studied race? Who signed off on this foolishness? What civil rights groups, antiracist organizations, scholars, or diversity experts did Starbucks consult in crafting "Race Together"? One can easily imagine that both white and nonwhite people might feel racially profiled when receiving a cup with the hashtag. Did the company provide employees with guidelines for how to select customers to "join" in the conversation? There is also the issue of consent. What about those of us who have no desire to be asked about a potentially painful topic by a perfect stranger? Would people of color have to wear T-shirts to Starbucks saying: "Please don't ask me about race and don't touch my hair"? What happens when conflict arises, as it inevitably will in any public discussion of race? Would Starbucks provide conflict resolution, mediation, or therapy for employees and customers who feel troubled or traumatized by the racist ideas they are sure to hear in their stores? On social media, the #RaceTogether hashtag was quickly hijacked by racists. But, of course, there was no one to blame.

Ill-conceived campaigns like "Race Together" contribute to the misconception that "race" is a topic that requires no education whatsoever to discuss. As I'll argue throughout this book, conversations "about race" based entirely on racial ignorance are actually quite harmful. As an antiracist educator, an occasional coffee drinker, and a black woman, I for

one do not want to hear random members of the public who have not studied race share their uninformed opinions with or around me in the early morning hours. The unfortunate truth is that the vast majority of US citizens have never taken a class on the subject, attended an antiracist workshop, or seriously studied the history, politics, psychology, and sociology of race relations. Classes dedicated to the topics of racism and ethnic studies are not required for most students in public or private institutions. And, as you know from your own experience, many organizations and businesses do not mandate diversity training with specific attention to racial and ethnic bias and discrimination. As a result, most of us make it through the entirety of our lives without structured opportunities to learn about racism from experts on the subject. Is it any wonder that so many people are so damned racially ignorant?

The costs of taking a superficial approach to addressing racism are quite high—and fall squarely on the shoulders of people of color. Nearly three years after its "Race Together" nonsense, Starbucks made headlines once again, in April 2018, when the manager of a store in Philadelphia called police to arrest two men who were simply waiting for a friend to arrive.' When one of them asked to use the bathroom, an employee refused, indicating that the great privilege of using their toilet was limited to paying customers. The employee then demanded that the two men leave. When they declined, the employee called the cops, who accused the men of trespassing and loitering. It didn't matter that the men were realtors who were having a business meeting. It didn't matter that their friend—a white man—arrived and insisted that they were allowed to be there. It didn't matter that multiple witnesses, including white folks, were saying "They didn't do anything!" The heavily armed cops surrounded the men, bullied them, and took them away in handcuffs anyway. Video of the arrest went viral almost immediately, juxtaposing the chill jazz vibes of the music playing in the café with the harsh, everyday reality of white supremacist racism. Watching the film was harrowing, as I worried that one wrong move could've resulted in these two brothers being shot to death because of a racist Starbucks employee and the bias that pervades policing. As backlash against the company

mounted, yet another Starbucks CEO (this time, Kevin Johnson) was forced to issue a mea culpa and denounce the discriminatory behavior that led to these two black men being racially profiled and criminalized. Shortly thereafter, the company announced that eight thousand stores would be forced to close for an afternoon of racial bias training.' Gee, maybe, just maybe, they should have done this years ago instead of trying to force people to "race together?"

I've been rude. I should've introduced myself. My name is Crystal—or Dr. Fleming, if you're nasty. Tens of thousands of people know me by my Twitter handle @alwaystheself. I'm a queer, bisexual black woman. I grew up watching Columbo, Moesha, and Star Trek: The Next Generation. I enjoy Pinot Noir, exotic travels, and the pleasures of hot-stone massage. I may be bougie now, but I'm just one generation removed from poverty. I'm a tenured professor, a long-term student of racial domination, and the author of a book about racism and the legacies of slavery in France. And, although this may be surprising, I had no flicking idea that we in the United States live in a racist (and sexist and classist) society until I was a full-grown adult. More on this later.

Nobody clued me in about the whole racism thing when I was growing up. My mom, a single parent, gave birth to me in our hometown of Chattanooga, Tennessee, when she was nineteen years old. Despite being a child of the 1960s and '70s, and living through the civil rights and Black Power eras, Mom never spoke to me about discrimination or desegregation or anything related to oppression, really—at least, not until I began formally studying these matters in graduate school. When I belatedly found out about racism, I was like Damn! Why ain't nobody tell me? In talking about all this with Mom, I learned that she was trying to shield me from harmful beliefs about black people—and for good reason. Research by social psychologist Claude Steele has famously demonstrated the deleterious effects of stereotypes on student performance—a phenomenon he refers to as "stereotype threat." Steele's experiments have shown that when students are primed to be aware of negative expectations about members of their group, they perform poorly.' My mom didn't know about Steele's work, but she wanted to create an empowering

environment in our home so that I could grow up believing I could do anything.

At school, I was one of those black kids who didn't know they were black. It's not that I denied my racial identity or viewed myself as "white." I just don't remember thinking about myself in racial terms. As a child, I experienced a great deal of bullying—not because I was black or bisexual (I kept that secret to myself until my twenties) but because I came to school dressed in the long skirt, stockings, and hats required of the Pentecostal church my family attended back in the day. What happened to me was not unlike the religious bullying suffered by Muslim girls wearing headscarves.' Because I felt excluded due to my ridiculous church outfits, it didn't occur to me to feel marginalized because of my skin color.

Another source of my racial ignorance was the fact that I was labeled as uniquely intelligent early in life. At some point in the first or second grade, a white teacher singled me out and suggested I take an IQ test. Shortly thereafter, I was placed in the "talented and gifted" track. Minorities like me who "make it" in predominately white settings are viewed and treated like unicorns—aberrations from the white (male) supremacist rule. Part of my experience was being made to understand that I was "special" and also relatively rare—not only as a "gifted" person but also specifically as a black gifted person. The exclusivity of the gifted program made it sufficiently clear that we were considered different and, well, more gifted than the vast majority of other students.

Inside the classroom, I was told that I could do anything—that I was special, creative, and valued. But outside the protective bubble of the classroom—in the hallways, on the playground—I felt shunned. After a certain age, kids didn't want to sit with the hat-wearing weirdo at the lunch table. Even the few friends I made were also subject to bullying. One day, walking home from school, my white friend David and I were pelted with rocks. Years later, when I won a scholarship to attend a private school, a white jock attacked me for wearing my hat to school, saying, "I should shoot you in the head." When my mom and I complained to school officials, they did nothing. I dropped out shortly thereafter and found another private school to attend.

Psychologically, I coped with all of this by alternating between pride in my religious piety ("Don't conform to the ways of this world," our erudite pastor intoned on Sundays) and pride in my intellectual "gifts." My self-worth was unhealthily based on my ability to bring home straight As and shine in class. I still remember, as a child, occasionally pulling out the transcript of my IQ test scores, smiling to myself as I noted that my verbal ability tested in the "top 2 percent" of the population. These numbers made me breathe a little easier and feel less worthless. And although as a young girl I didn't have the language to conceptualize or understand social dynamics in terms of race, I do remember noticing that there was only ever one other student who looked like me in the "gifted" program. The vast majority of black kids at the diverse public schools I attended were relegated to the standard academic curriculum.

As an adult, I would come to understand that my reliance on academic achievement to boost my ego no longer served me and that, to the contrary, it represented a kind of internalized oppression. Defining my self-worth in relation to my intellectual accomplishments and external validation wasn't healthy, not only because our worth is inherent but also, as I would later discover, because dominant definitions of "intellect" and "achievement" were intentionally crafted to exclude and oppress women, nonwhites, and economically disenfranchised people—that is to say, my people. The more I learned about the history of scientific racism, as well as about the Eurocentric and patriarchal biases of knowledge production more broadly, the more critical I became of the same metrics that were used to define me (a supposedly rare black girl "genius") as a mere exception to the rule of white male superiority.

My experience bears some odd similarities to being socialized as "white" in a white supremacist society: being advantaged by a hierarchical distribution of rewards, not because of any particular merit or achievement of my own but because of how I was labeled (as "gifted"), and then given resources (material, psychological, social, and cultural) because of that hierarchical label. But what no one told me as a child in the "gifted" program is that the criteria that define

intellectual "giftedness" are socially constructed—shaped and molded by power relations, including racism and sexism, and largely determined by wealthy white men who, you guessed it, just so happen to situate themselves as intellectually superior to other groups.

I first discovered critiques of standardized tests and IQ scores in graduate school—and I admit that it was hard for me to let go of my attachment to the idea that these scores were as meaningful as I'd been socialized to believe. Although it took years of introspection and brutal honesty to get to the root of my own resistance, I eventually realized that I wanted to believe in the validity of standardized tests because I wanted to hang on to the story I'd held onto since childhood: I was "special," exceptional, and worthy because of my intellectual gifts, as defined by white educators. When you've been told all of your life that you're special—and, implicitly, superior—it can be hard to give that up. <>

[The Emergence of Religious Toleration in 18th Century New England: Baptists, Congregationalists, and the Contribution of John Callender](#) (1706-1748) by Jeffrey A. Waldrop [Arbeiten Zur Kirchengeschichte, De Gruyter, 9783110586275]

This book examines the life and work of the Reverend John Callender (1706-1748), placing him within the larger context of the emergence of religious toleration in Puritan New England in the later part of the seventeenth century and the early part of the eighteenth century. A cursory survey of the array of literature about colonial American church history reveals the well-worn theme of persecution, but the subject of the reluctant consent to toleration by the Puritans in New England is a relatively understudied subject. John Callender was a product of both Puritan and Baptist influences, and his life and work serve as one example of the contribution to the newfound toleration between Baptists and Congregationalists in the early eighteenth-century.

The goals of this study are fourfold: to identify the nature and rise of toleration in New England at the close of the seventeenth, and into the eighteenth-centuries; to highlight the rise of toleration between the Baptists and Congregationalists in Boston, and

detail the first official ecclesiastical act of toleration; to study aspects of Callender's contribution to the new-found toleration by surveying key parts of his life and ministry; and to study Callender's works, analyzing theological aspects of his tolerant thought, and detailing his contribution to the discipline of history in general, and to Isaac Backus's work on New England Baptist history more specifically.

Academic Significance of the Study
The specific conditions surrounding the emergence of religious toleration between the Congregationalists and Baptists in Boston in the late seventeenth and early eighteenth centuries has not been treated at length. An in-depth study of John Callender's contributions to the idea of denominational tolerance will strengthen the depth of this research, as he was a product of the official ecclesiastical display of toleration by the Congregationalists in 1718.

This book contributes to two major areas of church history. First, the study of the relationship between the Puritans, Baptists, and other groups in colonial New England in the light of the rise of toleration, rather than through the lens of persecution, provides a unique distinctive. Second, an examination of the life and work of John Callender adds to the field of Baptist history, since lengthy treatments of John Callender's life and thought have not been written.

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This study will focus on toleration as the change in context in New England rather than summarizing instances of Puritan persecution in the colonies. I mention some of the oft-studied instances of persecution throughout, but I do this in order to provide a context for an examination of the rise of toleration in Puritan New England. I approach this particular aspect by first synopsizing the changing definition of "Puritanism" from previously understood parameters, as propounded by scholars such as Peter Lake and Jerald Brauer. Part of the changing definition of the term includes viewing Puritanism in terms of "piety." Understanding this angle of Puritan history helps guide my analysis of how the Puritans dealt with the changes in their society that led to a "grudging toleration," a term that historian William McLoughlin frequently

employs.' In addition, I will show how the New England Puritans, newly established in the colonies, were characterized differently than their English counterparts. This form of "transatlantic Puritanism" plays a role in how the Puritan establishment reacted to dissenters in the coming decades.'

My focus then narrows from the broader context of toleration in New England to the contentious, then cooperative relationship between the Baptists and Congregationalists in Boston between 1692 and the mid 1730's. This time period is somewhat confined, because it falls between two distinct periods in American Church History—the founding, flowering, and decline of the New England Way from the early 1630's to the early 1690's, and the beginnings of the Great Awakening in the late 1720's. During the decline of the Puritan theocracy, toleration arrived more fully due to pressure from British government, economic factors, immigration to New England by dissenting groups, and as a result of the Act of Toleration in 1689. Toleration came about "grudgingly," because the Puritans were fearful of the godlessness that would evolve as their laws were overruled by the tolerationist government of Britain. Puritan angst was fueled mostly by the fear of becoming unholy in the sight of God, and losing their privileged status as a "city on a hill."

When some Congregationalists in Boston and other parts of New England began to scruple infant baptism, establishing Baptist churches as a result, and when the Quakers arrived bringing with them perceived ecclesiastical disorder, the Puritans reached the apex of their apprehension by hanging four Quakers, and by publicly whipping several leading Baptists. After these events, toleration emerged more swiftly, due in part to the external factors previously mentioned, and also due to the changing views of Cotton Mather. Since Boston Congregationalism served as the barometer for the rest of New England, the impact of Mather's eventual embracing of the Baptists opened an avenue for cooperation and harmony between the General Baptists, and what would become the Old Light Congregationalists, in the beginning years of the Great Awakening.

Harmony between Baptists and Congregationalists was achieved in fuller measure in 1718, when, in an unprecedented move, Cotton Mather led the ordination service for Elisha Callender, a Baptist. This event opened the door for cooperation between Congregationalists and Baptists in New England—but more specifically in Boston, its surrounding areas, and Rhode Island. From 1718 to about 1740, the Baptists and Congregationalists enjoyed a period of relative harmony and trust, until the religious landscape was changed by the events of the Awakening.

From about 1728 to 1748, John Callender served as the pastor of the First Baptist Churches in Swansea, Massachusetts, and Newport, Rhode Island. Callender had been influenced by the demonstration of toleration in the First Baptist Church of Boston in 1718, because as a member of the Callender family, he had attended services, and probably observed the historic event unfold. During his ministry, in addition to his duties as full time pastor, Callender also worked as a Baptist statesman and pastoral official for various other Baptist churches in Rhode Island and parts of Massachusetts.

Callender attended Harvard College for his B.A. (1724) and for his A.M. (1726).6 While there, Callender formed friendships with notable Congregationalists including, members of the Mather family and some notable Harvard scholars. As a testament to his education, Callender wrote a "Century Sermon" on the centennial of the founding of Rhode Island. Even though Cotton Mather had initiated an "official" truce by ordaining Elisha Callender in 1718, some Baptists were still actively engaged in seeking recognition from the Congregationalists, as Baptists were still being taxed in other parts of New England. Some Baptists continued to harbor ill will towards the congregationalists. Thus, in his work, Callender deliberately and specifically called for peace between denominations by utilizing some of the tolerationist ideas he gleaned from biblical exegesis, and from the works of Cotton Mather, Roger Williams, and others.

Thus, during the first half of the eighteenth-century, John Callender contributed to the rise of toleration between Congregationalists and Baptists. But the religious situation would soon change with the climax and waning years of the Great Awakening in the latter half of the eighteenth century. The Awakening brought with it strange new types of

revival services full of ecstasy, judgment, and contriteness. For some Congregationalists and Baptists in Boston and Newport, the Awakening represented disorder and divided its participants into New Light and Old Light factions. The division reached across denominational lines, so that the Old Light standing order Congregationalists retained their relationship with many General Baptists, including many Baptists in Boston and Rhode Island.

Many New Light Congregationalists eventually became Baptists, and contributed to the growth of Separate Baptists. It is here where many Baptist histories begin their study of the growth of Baptists in earnest. Before the Awakening, approximately twenty five Baptist churches had been formed. After the Awakening, the number of Baptist churches multiplied exponentially, due mostly to the influx of the new Separate Baptists. The new post-Awakening Baptist tradition produced scholars such as Isaac Backus, who fought for religious liberty on a national scale, and strove for the notion of separation of Church and State, up to and including the Revolutionary War.' Baptist literature is voluminous during this time period.

However, the period between 1692 and 1740 saw little in the way of Baptist apologetics and scholarship. The main reason for this stems from the fact that Baptists were so new, and to some degree misunderstood, that they spent the majority of their time fighting for survival—in some cases biding their time in jail for unlawful assembly, or simply staying in hiding. According to some scholars, the only significant piece of literature produced by a Baptist was, in fact, John Callender's "Century Sermon" (In its published form, the Historical Discourse). Historian William McLoughlin observes, "Although the Baptists and Dissenters waged a determined fight against the establishment in these years, they produced no leaders of any consequence. Elisha Callender, John Comer, Valentine Wightman, and John Callender were probably the most important of their ministers, but with the exception of Callender's historical sermon in 1739, no Baptist, lay or clerical, produced a tract of any lasting, or even contemporary, importance."'

Callender's ministry and scholarship contributed to the continuing peace process between Baptists and Congregationalists during the first half of the eighteenth-century. It was also during this time period that the ideas of the Enlightenment began to make their way into the colonies. Therefore it is important to briefly discuss the effects of the Enlightenment, if any, on the tolerant thought of Callender, since it is his tolerant thought that will be emphasized in this book, and due to the fact that the idea of toleration has been linked with Enlightenment thought in some cases.

Backgrounds of Puritanism in New England

The contribution of John Callender should be set within the context of the eventual emergence of toleration in New England, in order to understand the events and conditions that moved the Puritan establishment in Boston to recognize the Baptists as a legitimate denomination. Callender's ministry and contribution to toleration was the direct result of the first ordination of a Baptist by a Congregationalist in 1718. The road to that event, though, was an arduous one. Despite existing under the umbrella of the religiously-diverse British Crown, the Puritans struggled with the influx of dissenters into their colonies. When the subject of toleration was broached during the nascent years of the New England Way, it seemed like a betrayal of their covenantal religion and way of life. More importantly, it served as a further encroachment on their liberties by the very British from whom they escaped.

The Puritans had created laws to help preserve their culture from the influence of dissenters and ushered in an era of persecution made famous by many histories of New England. Yet, some historians have focused on the persecution of dissenters in Puritan New England without attempting to fully understand the pious aspects of Puritan theology and practice. Scholars such as Perry Miller devote a considerable amount of time on the covenantal aspect of Puritan theology, and how it drove their decision-making both ecclesiastically and civically. More recently, scholars such as Peter Lake and Charles-Hambrick Stowe have described how the piety of the Puritans fueled their passion for maintaining the covenant. Identifying the different strains of piety that characterized the Puritans in England helps construct a picture of the type of piety that traveled with the Puritans across the

Atlantic in the first decades of the seventeenth-century.

The Puritans in England, the colonists in Massachusetts Bay, and to some degree, the Separatists in Plymouth colony, make up the overall movement described by historians of Puritanism as "Transatlantic Puritanism." Briefly studying this movement assists us in gaining insight into how the Puritans viewed their new settlements with respect to the Church and society. The piety of these Puritans defined how they dealt with the changing conditions of the church and society in the New England colonies in the later seventeenth and early eighteenth centuries. This definition of Puritanism becomes important as we examine some of the specific aspects of how the Puritans coped with the in flux of dissenters into their territories, persecuted them, and then grudgingly tolerated them.

This chapter offers some background information about the roots of Puritanism in New England by describing the beginning stages of Puritan piety in England, and identifying several those characteristics that contributed to the idea of the "New England Way" in the colonies.

Puritanism in England

The inherent difficulty of identifying the sources of Puritanism in England would naturally lead scholars to be divided on the type of Puritanism that flourished in America from the beginning. Were the settlers "Puritans within the Church of England," or were they radical separatists? In his article documenting the history of this question, Slayden Yarborough suggests that before 1912, most historians of colonial church history had assumed that the early settlers of New England, with the exception of the Plymouth Colony Puritans, were originally Puritans within the Church of England who practiced Presbyterian polity. However, some evidence suggests that within a few months after arriving in America, Massachusetts Bay Puritans had adopted congregational polity. Some scholars believe that the Plymouth Colony separatists, who were already practicing congregational polity years before the Massachusetts Bay Puritans arrived, influenced the new colonists.

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Officially, toleration came about with the passing of the Toleration Act in 1689, but ecclesiastically,

toleration was first publicly achieved between Congregationalists and Baptists in Boston through the ordination of Elisha Callender in 1718. John Callender continued the legacy of denominational understanding through his friendships with Congregationalists and Quakers, through the manner in which he conducted his ministry, and through his published sermons. Callender's most fruitful ministry occurred while in Newport, Rhode Island, but he was also active in the Boston area. Callender's toleration was not extraordinary for his time, because other groups of General Baptists and Old Light Congregationalists were attempting to coexist in peace as well. The trend had started with the friendship between Ellis and Elisha Callender and Increase and Cotton Mather. Since that time, others such as Jeremiah Condy, Samuel Mather, and Nathaniel Clap, had also expanded their horizons beyond their own denominations.

Yet, Callender's contribution was significant in one regard, because the Historical Discourse was the first major work by a Baptist to be published, and within its pages one fmds an expanded account of Callender's thought. Callender's attempts at forging a continued harmony between the Congregational establishment and dissenters, was the first to be presented in book form. I have attempted to bring Callender to the academic "table," as it were, and introduce him on a broader academic stage. Although Callender was not the first to retain a mindset of tolerance, and certainly not the last, analyzing his life and works gives us another avenue into the study of the development of the Baptists denomination and their standing in New England in the decades leading up to and during the First Great Awakening.

Summary

Chapter two sets the foundation for the entire book by providing a brief history of transatlantic Puritanism in terms of the piety that characterized the early Puritans. Several types of piety, undergirded by either Calvinistic or Zwinglian theology evolved in the first decades of the seventeenth-century and formed the diverse structure of English Puritanism. Recent scholars, most notably Peter Lake, have identified these types and have suggested a new possible definition of "Pu¬ritan" in terms of piety. The different types of piety I discussed include: nomistic, evangelical,

rationalistic, and mystical. These traits are the most readily attached to the groups of Puritans who immigrated to the American colonies. Understanding these terms helps to construct a picture of colonial Puritanism in seventeenth-century New England, and how it interacted with the emergence of dissent, and later, of toleration.

Chapter three highlights Colonial Puritans and their notion as a "city on a hill," an ecclesiastical and civil society set apart by a Calvinistic covenantal theology. After suffering persecution at the hands of the Laudians, they were now free to worship and conduct their affairs as they saw fit, without outside interference. What drove the Puritans to stringently adhere to their principles was the nomistic and evangelistic strain of piety that drove their strict adherence to covenantal theology and to its laws for daily living. A strict observance of these laws prevented them from welcoming outside groups who did not fit. In addition to the Puritans and Separatists, Baptists and Quakers also completed the journey to the New World. In time, the Puritan magistrates enacted further laws that specifically forbade dissenters from proselytizing and worshipping in New England towns. From the Puritans' perspective, they were simply attempting to preserve the New England Way, which was the culmination of their devotional practice in the nomistic pious vein. The pinnacle of Puritan persecution in New England came in 1651 when several Baptist leaders were publicly fined, and one whipped; and in 1659-1660, when four Quaker missionaries were hanged. The Puritans did not view the motives of these actions as persecutory, but some Congregationalists, such as Cotton Mather, realized early on that government suppression of religion was ultimately a destructive endeavor. The brand of Puritanism found in Boston differed from other parts of New England, and ranged from a more moderate shade found in the old Plymouth Colony, to religious freedom in Rhode Island.

The British government also took notice of the situation and enacted measures to quell the persecution of their citizens. British action, both government and private, initialized the rise of toleration in New England towards the latter decades of the seventeenth-century. Other factors played a role in forcing the Puritans to relent in their efforts against the dissenters, such as the eventual loosening of the ties between churches and government in New England towns, which led to the establishment of more secular ruling bodies; the fracturing of closely-knit town populations, due to the migration of farmers to open spaces; and the persistent migration of Baptists, Quakers, and eventually Anglicans, to New England towns. In the early part of the eighteenth century, the Baptists won the tentative approval of Congregationalists due to their similar beliefs. Cotton Mather would eventually initiate cooperation with the Baptists when he invited them to a joint worship service with Congregationalists in 1714, and four years later in 1718, when he led the ordination service for Elisha Callender.

But the road to the materialization of toleration achieved in this particular part of New England was complex, due in part to Mather's transition in thought.

In order to fully understand Cotton Mather's transformation the history of the relationship between the Baptists and the Congregationalists in Boston was summarized in chapter four, and the relationships between the Mathers and the Callenders were examined. Highlighting this dynamic helped us to grasp the environment that influenced John Callender's life, ministry and works. The first part of the chapter covered the history of the formation of the First Baptist Church in Boston. Thomas Goold, a one-time Congregationalist, formed the First Baptist Church of Boston on May 28,1665, as a result of refusing to have his infant baptized, and subsequently being excommunicated from the First Church of Charlestown. This event occurred during heightened Puritan persecution in New England. Some of the ways that the early members of the Baptist church suffered persecution included: fines, imprisonment, banishment to Noddle's Island, and having their building shuttered for a period of time.

The Congregationalists believed that the persistent presence of dissenters in their towns was a judgment leveled on New England due to their own wickedness and spiritual irresponsibility. In 1679, the Congregationalists called a synod to voice these concerns, and to justify their recent actions against the Baptists. Led by Goold's successor John Russell, the Baptists responded to the synod by

publishing their objections to the complaints listed in the synod, thereby publishing the first official Baptist apology in New England.

After Russell died, Ellis Callender became pastor of the First Baptist Church. His tenure was defined by no major controversies on the one hand, and by the fact that he formed a pivotal friendship with Increase and Cotton Mather, on the other. The Mathers subsequently invited Callender and the Baptists to a joint worship service, initiating the first steps of reconciliation. In 1718, Ellis Callender recommended Elisha Callender for the position of pastor of the First Baptist Church of Boston. Elisha Callender had studied at Harvard and was the first Baptist to obtain a degree from that institution. While at Harvard College, the younger Callender also formed a friendship with Increase Mather, who was president at the time. The friendship between the two exposed the broader friendship between the two families, and contributed to the first official demonstration of unity and cooperation between the Congregationalists and Baptists. In 1718, Cotton Mather led the ordination service for Elisha Callender.

Chapter five explored the metamorphosis of Cotton Mather from anti-dissenter to an advocate of denominational toleration. We can identify three general reasons which may have helped Mather make the transition: he desired to present a united colonial front against incoming Anglicans from Britain; Mather's millennial views propelled him to focus on Christian unity, a necessary requirement for the return of Christ; and, Mather's desire for Christian unity prompted him to focus on missions and evangelism.

The final part of the chapter provided the crux of the argument: that the rise of toleration in New England culminated in the ordination of Elisha Callender in 1718, and set the agenda for toleration and cooperation among Congregationalists and Baptists in the first part of the eighteenth century. John Callender was just a boy during the event, and probably witnessed the show of cooperation between the two denominations. I contend that Callender was deeply influenced by both the event itself, and by the friendship between the two families. His ministry would reflect the toleration that was first achieved during the ordination.

Building on the foundational material in chapters two through five, chapters six examined the early life and ministry of John Callender. Callender was born in Swansea, but grew up in Boston, and attended the historic First Baptist Church of Boston under the tutelage of his grandfather, Ellis, and his uncle, Elisha. At the age of thirteen, Callender attended Harvard where he studied medicine and theology. He eventually formed friendships with notable Congregationalists such as Samuel Mather, Nathan Prince, and Benjamin Colman. What bonded these men to Callender, probably more than just the simple notion of toleration, was the privilege of participating in the academic community—a rarity for Baptists at the time.

In 1727, Callender was ordained for the ministry by his uncle, and in 1728, became the pastor at the historic First Baptist Church in Swansea, where he remained but for a short time. He soon resigned his position to pursue medicine, but eventually returned to Swansea where he was readmitted to preach in 1731. Several months later, though, Callender accepted the call to become the pastor the First Baptist Church of Newport, where he labored for the remainder of his life. Callender's doctrines of mixed communion and tolerance were undoubtedly influenced by the legacy of John Myles, both at the First Baptist Church of Boston and the First Baptist Church of Swansea.

Callender's life and ministry were characterized by tolerance and respect towards those to whom he ministered. Some scholars have suggested that Callender was simply attempting to ingratiate himself to the Congregationalist establishment, especially when noticing some of the omissions of Congregationalist wrongdoings in the publication of his Historical Discourse. When Callender chose to be placed among Charles Chauncey's list of "subscribers" to the Old Light tradition during the opening years of the Awakening, he became associat¬ed with a group that viewed New Light Congregationalists with such disdain, that one might lend some credence to idea that Callender's tolerance may have been limited. On the other hand, a survey of his interactions with the Quakers in Newport—with whom his daughter took up residence after he died—and with the Anglicans in the Newport Philosophical Society, reveals a more generous side to Callender's tolerance.

Chapter seven surveyed Callender's later ministry, and included a discussion of three of his sermons that deepen our understanding of Callender's thought. In his sermon at the ordination of Jeremiah Condy, Callender challenged Condy and the mixed audience of Congregationalists and Baptists to place their priorities on the Kingdom of God, rather than practicing denominational sectarianism. Callender was also chosen to preach at the funeral of Nathaniel Clap, the Congregationalist minister in Newport. The fact that Clap's church chose Callender to preach the eulogy over a fellow Congregationalist minster from Clap's denomination, speaks to the friendship of the two ministers, despite their different theological leanings during the first years of the Great Awakening. In his sermon to the youth in Newport, The Advantages of Early Religion, Callender emphasized the importance and benefits of acquiring religion at an early age, which prevents the "hardness of heart," and assists Christians to live in unity. Due to his work with youth, the city of Newport elected Callender to the post of School Master, where he more than likely influenced a number of other young people. Callender's life demonstrates the outward expression of the notion of toleration that he had learned from a young age.

Chapter eight examined Callender's contribution to religious toleration by locating and discussing various themes in his Historical Discourse. After giving a very short outline of the work, selections from the Discourse were analyzed, noting several themes of toleration in Callender's summation of Rhode Island's history. First, I demonstrated how Callender attempted to write objectively about the founding of Rhode Island, while avoiding sensational and opinionated language in describing the treatment of the Antinomians. Callender accomplishes this feat by utilizing selections from Cotton Mather's works to emphasize the message of toleration. Second I offered an analysis of Callender's summary of the religious history in Rhode Island, which includes his suggestion that the sinful nature of humans causes Christians of various denominations to focus on the small differences that divide them, rather than on the plethora of similarities that should unify them. Additionally, Callender lists the various denominations in Rhode Island that coexisted under the umbrella of

religious freedom, indicating that while the laws of Rhode Island helped to provide freedom, it was the mission of the churches to create harmony with each other under that freedom.

Callender's ideas of toleration and liberty of conscience were then surveyed within the context of Roger Williams' debate with John Cotton, through a brief survey of Williams' idea of full liberty of conscience, and through a discussion of John Locke's use of Williams. Furthermore, a brief analysis of John Seed's historiographical volume helped locate Callender's Discourse within the genre of early eighteenth-century "providential histories," which sought to write the history of dissenting groups, while simultaneously attempting to maintain a tone of fairness.

In chapter nine, I offered an evaluation of Callender's historical method, his standing as a scholar, and his contribution to the work of Baptist historian Isaac Backus. A study of Callender's historical method reveals several cracks in his idea of toleration. First, the Historical Discourse can be placed within the Whig genre, because Callender intentionally glosses over several important events in order to satisfy his context. Scholars such as William McLoughlin and Sydney James suggest that his method here detracts from his objectivity as an historian, an assertion that is true to some degree. On the other hand, his continued friendships with both Old Light and New Light Congregationalists offer a small amount of evidence to the contrary, albeit in a practical rather than academic vein.

What is most damaging to Callender's reputation as an historian, however, is his revisionist view of Native American history. I included a brief summary and evidence from his Discourse that places the decimation of Native Americans within the locus of "providential history," which reveals his disdain for Indians, a notion that stands in stark contrast to his ideas on toleration. Within this section, I drew upon the insightful conclusions of Chris Beneke.

Finally, I entered into a discussion of John Callender's contribution to Rhode Island history, and to the work of Isaac Backus. Callender contributed to the discipline of history, first and foremost, because he was the first Baptist to publish

anything of "significance," as McLoughlin suggests. The Historical Discourse served as the first academic source for understanding the history of Rhode Island for almost one hundred years. Callender's historiography was accurate, and because he was adept at collecting so many original materials, Isaac Backus purchased them from Mary Mitchell Callender and utilized them in his own history. Although Backus and Callender used the evidence toward different purposes, the documents were able to assist both in achieving their goals as they published their histories.

Concluding Thoughts

Throughout this book, I have argued that John Callender played a role in the contribution to the rise of toleration in New England. Although he failed in several crucial areas already discussed, his life and ministry nonetheless is significant because he helped further the notion of the denominational toleration between Congregationalists and Baptists that was initiated in 1718. This toleration did not come about easily because the nomistic piety that had characterized the Congregationalists from the beginning impelled them to persecute outside denominations, and was especially difficult for the Baptists because of the social and religious similarities they shared with the New England establishment. As we have seen, some Baptists still harbored bitterness and suspicion due to past persecution, and some rural Congregationalists still distrusted the Baptists as a schismatic sect.

Furthermore, as the first published Baptist historian in New England, Callender contributed to the bibliography of New England history. Callender needs to be discussed in a forum such as this, because he has been relegated to dictionary or encyclopedia entries, and to two short chapters. Adding Callender to the academic conversation between Baptists and Congregationalists also contributes to the larger study of the emergence of religious toleration in that period of time in the New England colonies.

Finally, Callender's example is significant because it shows evidence of the lasting influence of Roger Williams' principles of Soul Liberty well over one-hundred years after he founded the colony of Rhode Island. Callender may have demonstrated some limitations in his understanding of Williams'

concept of full liberty of conscience, and may not have extended his toleration to non-Protestant persons since he was so closely tied to Protestant social constructs, but he nevertheless strove for harmony in many aspects of his life. I close with an enduring insight from Callender: "But as the enemies to the cross of Christ make [this], though unjustly, a reproach to Christianity, and as many weak persons are carried away with the errors of the wicked, every sincere Christian cannot help wishing that every stumbling block and rock of offence was removed out of the way, and that all Christians walked in the truth with one consent of heart and voice." <>

Money: 5,000 Years of Debt and Power by Michel Aglietta, in collaboration with Pepita Ould Ahmed and Jean-François Ponsot, translated by David Broder [Verso, 9781786634412]

The major French economist offers a new theory of money

As the financial crisis reached its climax in September 2008, the most important figure on the planet was Federal Reserve chairman Ben Bernanke. The whole financial system was collapsing, with little to stop it. When a senator asked Bernanke what would happen if the central bank did not carry out its rescue package, he replied, "If we don't do this, we may not have an economy on Monday."

What saved finance, and the Western economy, was fiscal and monetary stimulus — an influx of money, created ad hoc. It was a strategy that raised questions about the unexamined nature of money itself, an object suddenly revealed as something other than a neutral signifier of value. Through its grip on finance and the debt system, money confers sovereign power on the economy. If confidence in money is not maintained, crises follow. Looking over the last 5,000 years, Michel Aglietta explores the development of money and its close connection to sovereign power. This book employs the tools of anthropology, history and political economy in order to analyse how political structures and monetary systems have transformed one another. We can thus grasp the different eras of monetary regulation and the crises capitalism has endured throughout its history.

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Excerpt: In mid-September 2008, the financial crisis that had been sweeping across the Western world for more than a year reached its climax. The whole of the Western financial system was collapsing, with nothing to hold back the tide. At this critical moment, the most important figure on the planet was Ben Bernanke, chairman of the Federal Reserve. The dramatic decisions were taken over the weekend, when the financial markets were closed. This was itself symptomatic of the sudden loss of confidence in these markets. When a senator asked Bernanke what would happen if the central bank did not carry out its rescue package, he replied, `If we don't do this, we may not have an economy on Monday.' Finance and the Western economy were saved by money.

This reality contradicts the liberal doxa of financial efficiency. Following a quarter-century of financial liberalisation, this ideology today sweeps all before it. Of course, the knowledge that it provided was unable to foresee the global financial crisis. At its theoretical core, it ruled out the very possibility that any systemic crisis could develop. But, graver still, it was unable to learn from what had happened and to reform itself accordingly. The financial lobby was saved by the central banks. After that, the regulatory authorities, acting under Geo auspices, did timidly attempt to impose a few mini-reforms to avoid a repetition of what had just occurred. Yet the international

financial lobby knows nothing of gratitude. It shamelessly sought to torpedo the new regulations, or to find some other way around them. The corrupt financial practices that had built up with the real estate speculation bubble would in fact take on much greater proportions after the crisis. These practices were facilitated by the collusion of the major international banks, who manipulated prices on the world's two most important money markets: on the one hand, the LIBOR, or benchmark interest rate between banks, and on the other hand the dollar exchange market. Those responsible for these attacks on law and morality were immune from any criminal responsibility.

Yet, more seriously for the advancement of our understanding, the academic world that spreads the good word of finance has remained unperturbed in the face of the cataclysm. Finance is still assumed to be efficient. This `truth' is taught in the departments of finance of all the major universities and business schools, with a haughty disregard for any doubts that the financial cataclysm must surely have aroused in any researcher enamoured of scientific methods. Alas! The dogma of the efficiency of finance has triumphed in economic policy. So, in Europe, where the inability to contain the Greek crisis has caused a protracted economic quagmire, so-called `orthodox' economic policies blame the labour market for the continent's inability to return to the path of growth. This imperfect labour market, which in fact has nothing to do with the crisis, is held to be the cause of all our post-crisis ills. Finance, for its part, is once again imagined to be blameless.

Worse still, it is now barely possible to pursue an academic career without wedding yourself to this same credo. This is particularly the case in France. There, a warning from a single economist - one decorated with a Nobel prize, it is true - was enough to make the government abandon its decision to diversify the field by creating a department designed to put economics back into society.

This intellectual poison is a serious matter indeed, in an era in which our inability to rediscover the course of progress can be felt everywhere. This is particularly the case in finance. Indeed, as was announced in a press conference on 21 September 2015 by the governor of the Bank of England,

Mark Carney - who knows what he is taking about, London being home to the world's largest financial trading floor - the rhetoric of the financial lobby and the financial theory that supports and justifies it rests on three lies.

The first lie is that if finance is entirely free, globalised and unregulated, it will develop instruments to insure against risks (derivative products), rendering impossible the spread and intensification of the blaze. After two decades of stable inflation and financial liberalisation, the financial community, the media, and the political establishment loved to proclaim that systemic crisis had now become impossible (`this time it's different'). But the impossible did happen. This owed not to some external mega-event but rather to the fact that speculation had eroded from within any sense of reason and any barrier to the appeal of greed. This first lie is also the basis for the other two.

The second, then, is the claim that financial markets spontaneously find their own equilibrium. This lie concedes that the markets can be thrown off their equilibrium by shocks. But it is also imagined that these shocks are external to the markets' own logic. Market actors are wise enough to note any divergences; it is in their interest to act in a way that reduces breaches. After all, such actors have an apparently infallible compass: namely, knowledge of the `fundamental' values of the financial securities traded on the markets, which is to say the `true' long-term values of companies. This same compass allowed Milton Friedman to claim that the only speculation that can be successful is that which restores equilibrium: speculation that brings a return to the fundamental value whenever the market price departs from it. Yet, ever since the birth of market finance in the thirteenth century, the whole history of finance has been punctuated by bubbles of speculation that end up bursting and causing the debts that financed them to implode. With the return to financial liberalisation in the 1980s, the most devastating crises have been real estate crises. Indeed, real estate assets are the biggest single element of private wealth, and financing these assets requires taking on debts. Real estate is founded on ground rent, which is income from a non-produced asset - the soil. For this reason, it has no equilibrium price, and thus no

fundamental value. The same is true of all non-reproducible natural resources. The competition to appropriate these resources brings only a rise in rent, whose sole limit is buyers' monetary capacities. The financial dynamics of the real estate sector are moved, therefore, by the logic of momentum - by the spiral of interacting rises in credit and prices - and not by the return to some predetermined equilibrium price. Eventually, there will come a point at which such momentum is reversed. Yet given that both the climax and timing of this turning point are radically unpredictable, the actors who feed the bubble in real estate values have an interest in holding onto their positions indefinitely. This only ends when their fictitious and self-generated values implode, followed by a state of `every man for himself.

The third lie is that financial markets are moral. This lie claims that the markets' functioning is itself transparent, whatever the ethics of individual market actors. The markets' functioning should bring any deviant practices out into the open, so that the social interest will always be safeguarded. It follows, according to this ideology, that the only thing able to perturb the markets in a lasting way is inflation, since inflation is created by the state. This claim would be laughable if it were not so tragic. The biggest financial crises, including the one whose effects we are still shouldering today, have taken place during periods of low inflation, which have encouraged financial risk-taking. We have already mentioned the large-scale, organised corruption that has come to light since the crisis. These corrupt practices contravene the notion that the market disciplines its actors. For the markets to work in society's interests, what is needed is an institutional framework that is itself a public good: one imposed by political will, and which is intrinsically linked to money.

Putting Money Back at the Heart of The Economy

Once we have acknowledged these three financial lies, we must, at a minimum, take a rather more critical approach. Yet such an approach must also delve into the fundamentals of what is known as economic science, or in other words, the theory of value. For it provides the foundations in which each of the three lies takes root. These foundations are not innocent, for they contribute to an intellectual

project that has been ongoing for more than three centuries - and one, moreover, that was originally known as the `natural order. This project consists in the total separation of economics from the rest of society. The so-called economic science that drives this project has no link with the disciplines known as the social sciences. It is a theory of pure economics whose unifying concept is that of the market. And it displays one essential characteristic: it downplays the significance of money.

The fundamental theorems of financial efficiency are theorems of an economy without money. Money is either ignored entirely or it is grafted onto a predetermined system of efficient prices said to guide economic actions. In the second case, money is assumed to be neutral. While some would add that it is only really neutral in the long term, as we see in Part I, this caveat changes nothing about the essential proposition of the theory of value: the market totally and exclusively coordinates economic exchange. This coordination owes nothing to social relations and nothing to the political arena. And yet, debates on the nature of money and its role in the overall movement of the economy date back to the origins of modern economic thinking in the sixteenth century. The opposition between a notion of money as a particular commodity - as a simple appendage in an economy coordinated by the market - and money as an institutional system that binds the economy together traverses economic thinking. This book seeks to give full expression to this second tradition, which allows us to insert economics into its properly social context.

As members of society, we daily experience the interconnection of the economic and the social, especially through the haunting omnipresence of money. We can only be astonished, then, when a theory that purports to explain social behaviour simply neglects the question of money. But we must dig deeper. Money is an essentially political animal. It is not by chance that a theory that exalts the market as the exclusive principle of economic coordination excludes money. Indeed, it is precisely through this exclusion that it can establish the ideology of a `pure' economy separate from the political sphere. Conversely, if we consider the economy as a subset of social relations, then we need a political economy founded on money. Here,

money is the mode of coordination of economic acts. However, the manner in which this coordination operates does not make equilibrium the alpha and omega of economic understanding. On the contrary, we have to think of economics in terms of resilience, fields of viability, crises, and forks in the road. Coordination by money makes crises possible as an endogenous characteristic of its own regulation. This coordination refutes the three lies about finance. It makes it impossible for economic theory to deny its political element, because money is itself political. The question is thus posed: why is money seen as legitimate, in the money? These questions call firstly for a theoretical response, which is examined in Part I of this book.

The Historical Development of Money as a Condition of Economic Regulation

Money is not an immutable object. It is an institutional system that develops across history. This point is of primary importance to any monetary conception of the economy, because the transformation of money influences the way it acts on the economy. If money is a mode - or series of modes - of economic coordination, these modes themselves have historical characteristics. It follows from this that any empirical investigation into the monetary modes of economic coordination must be based on data that span the course of history. The metamorphoses of money interact with the transformations of political systems, and this very interaction enables us to verify our hypotheses on money as a mode of economic coordination.

The second part of the book ventures, then, into the extended longue durée. Anthropologists teach us that money has existed at least since human populations first became sedentary and the division of labour first appeared. Further, money acquired the capacity to express value in the form familiar to us today - that is, it defined a space of equivalence called accounting - once the state had centralised sovereignty over its members. The invention of writing and the invention of money as a unit of accounting go hand-in-hand. Starting out from this basis, we search here for an interpretative thread that provides, in very broad terms, an overview of the historical trajectory of money. In so doing, we ground our study in the most salient lessons of historical research.

Our analysis follows two interconnected lines of interpretation: first, the historical links between money and debt, and therefore between money and finance; second, the historical links between money and sovereignty. In following these threads, the preponderance of the political over the economic will become visible, as will the ongoing tensions between financiers and sovereigns, and their transformations across historical periods. We will pursue an investigation political forms of sovereignty. We will emphasise how different forms of democratic sovereignty in Europe shape conceptions of monetary governance. At a more fundamental level, we will examine the way political and cultural differences between nations take root in different interpretations of citizenship - for money, as a social contract, indeed plays a part in citizenship. Taking account of these differences offers another perspective on Europe's present difficulties, as well as on the reasons why Britain distanced itself from the euro. In our investigation of the current malaise of democracy, we will also take a look into the future, to examine the virtual currencies that appear to escape from sovereignty and the local currencies that signal its fresh transformation.

Monetary Crises in History, their Links with Financial Crises, and the Political Means of Averting Them

In Part III, we show that monetary crises have been observed by contemporary historians ever since money first acquired a fiduciary character in Asia Minor and Greece in the sixth century BC. Appearing in this same period were monetary policies, or rather decisions taken by a sovereign power, which sought to reconcile the state's financial needs with the concern to maintain confidence in money. Insofar as money is the general mode of economic coordination in societies cohered by states, it has an ambivalent character. On the one hand, it is a system of rules and norms established for the purposes of realising economic coordination by way of payments; on the other hand, it is a privately appropriable (concrete or abstract) object that we call liquidity.

Why does this ambivalence give rise to the possibility of crises? Because behaviours generated by conditions of liquidity violate the hypothesis that equilibrium is sufficient to coordinate exchange.

Indeed, there is no limit to the private desire for liquidity: liquidity cannot be saturated, for it is a pure social relation, with no use-value other than the power to act upon society by virtue of the universal acceptance of money. It follows that each demands liquidity because the others demand it. For the market to function, it is absolutely necessary that individuals' behaviours with regard to their objects of desire are separate — that is to say, that each individual has their own desires, totally uninfluenced by other people's. If this separation is put into doubt, then an interdependent system of equilibrium prices cannot establish itself, and market coordination, which is to say coordination by equilibrium prices, vanishes. Two opposing crises result. There are financial crises, in which the desire for liquidity takes hold because the continuity of financial relations, and therefore the structure of credits and debts, is thrown into doubt. Then there are monetary crises, in which the form of liquidity established by the state, which normally resolves all other debts, is rejected due to a loss of confidence in the monetary order.

This interpretative key will allow us to analyse the great monetary crises in the long course of history, including the difference between the financial crises of antiquity and those of capitalism, and the invention of monetary regulation in the different eras of history. Part I of our study thus illustrates the contradictory relations between finance and sovereignty. It shows that monetary crises are always also social and political crises. Citing Lenin, for whom subverting money was the best means of destroying the capitalist system, John Maynard Keynes noted that a loss of confidence in money weakened the ethics of social belonging and citizenship. The resolution of monetary crises can result in transformations of the political system, or at least in changes of government and a re-establishment of the norms that govern the monetary order. Monetary crises teach us, therefore, that monetary systems are mortal. But they also teach us that as a society persists, the monetary system qua social contract must constantly be reconstituted.

The Enigma of International Money

From its origins at the time of the Crusades, capitalism has been a financial capitalism of global ambitions. As Fernand Braudel has shown, it was

only much later that capitalism came to dominate material life, and this domination became complete only thanks to the Industrial Revolution. For the logic of capitalism is the unlimited accumulation of value in the pure form of liquidity. Yet value can express itself only in monies legitimated by political sovereignty. The expansion of capitalism thus entails the confrontation between different forms of money. How can this confrontation be regulated? What acceptable principles can be imposed by sovereigns? The tension between finance and political sovereignty reaches its climax in the international arena. It is thanks to the financial elite's capacity to internationalise capital in liquid form that this elite is able to bring states to their knees. This was precisely what happened to Greece in recent years. Across history, this tension has all too often degenerated into political crises and wars. What can be done to prevent this from being the case forever? Such questions regard the definition of the international monetary system, the theoretical problem that this system presents, the historical forms it takes in developed capitalism, and the investigation into its future in the twenty-first century. These questions are the object of Part IV of this book. Here, we show that there is an irreducible contradiction between capitalism's claim to universalism and the insurmountable plurality of sovereignty in the historical era under which it develops. The always-precarious conciliation between the two takes the form of an international monetary system, which organises the confrontation between monies according to the principle of convertibility. We will study in detail the principles, the norms and the conditions of acceptability of two international systems: namely, the gold standard, which lasted for four decades, and the Bretton Woods system, which lasted for two. We will examine the endogenous conditions for these systems' deterioration and ultimate destruction.

The lesson that can be drawn from this is that these systems rely on a key currency: one currency is superior to the others in that it provides the basis for international liquidity. Money is thus organised in hierarchical fashion and set under the leadership of a hegemonic country. This only holds true so long as this hegemon is not challenged, meaning that it is able to give economic, political and military advantages to the other countries who participate in its system, and that these advantages remain

more important to these countries than the disadvantages that stem from their subordination to it. Systems degenerate at the moment when the key currency issuer's hegemonic system deteriorates at the economic level, even as the financial advantage of issuing the key currency also allows this country's financial institutions to continue to dominate international relations.

Here, we will analyse the evolution of international monetary relations after the 1971 disappearance of the Bretton Woods system and the 1976 Jamaica Accords. We will analyse these developments as a form of degenerated system, known as the dollar semi-standard. This system persists through inertia, on account of the lack of an alternative and because of the advantages the United States gains from financial domination. But it does not provide the common good that we would expect from an organised and accepted international system, which is to say, monetary stability for all participating countries.

This analysis allows us, finally, to pose one of the great questions of the twenty-first century. What will happen if the current developments persist? The United States' relative economic weight can only continue to decline in the face of the emerging continental powers. China has recently announced a strategy of loosening its monetary peg to the dollar to assist its companies to become global actors. Chinese finance remains largely under state control, and by no means does it toe Wall Street's line. As for the euro, given the flaws in its governance, it remains an incomplete currency. The financial markets of the euro are fragmented, and there can be no eurozone foreign policy, including in the monetary domain.

The dollar's dominant position has survived thus far because American unilateralism has been validated by the asymmetry of finance. The disturbances that US economic policy creates in the rest of the world do not rebound on the United States' own economy. But China's changing strategy could challenge this asymmetry. Will the forces that are now at work lead us to a multipolar monetary system, structured by regional monetary zones? If no international monetary coordination emerged, we would be left in a dangerous situation. Indeed, if it turns out that the key currency principle belongs to a historical era now condemned to the past, then it will be

simply impossible to avoid the problem of creating a worldwide monetary organisation. The enigmatic problem of international money must be resolved by a principle of coordination based on the issuance of a fully supranational ultimate liquidity. If not, financial globalisation can only retreat, as it has done repeatedly in the past. <>

Adam Smith: Father of Economics by Jesse Norman [Basic Books, 9780465061976]

A dazzlingly original account of the life and thought of Adam Smith, the greatest economist of all time

Adam Smith (1723-1790) is now widely regarded as the greatest economist of all time. But what he really thought, and the implications of his ideas, remain fiercely contested. Was he an eloquent advocate of capitalism and individual freedom? A prime mover of "market fundamentalism"? An apologist for human selfishness? Or something else entirely?

In Adam Smith, political philosopher Jesse Norman dispels the myths and caricatures, and provides a far more complex portrait of the man. Offering a highly engaging account of Smith's life and times, Norman explores his work as a whole and traces his influence over two centuries to the present day. Finally, he shows how a proper understanding of Smith can help us address the problems of modern capitalism. The Smith who emerges from this book is not only the greatest of all economists but a pioneering theorist of moral philosophy, culture, and society.

CONTENTS

Excerpt:

Adam, Adam, Adam Smith
Listen what I charged you with!
Didn't you say
In the class one day
That selfishness was bound to pay?
Of all your Doctrines, that was the Pith,
Wasn't it, wasn't it, wasn't it, Smith?
Stephen Leacock (humorist and Professor of Political Economy), Hellements of Hickonomics, 1936

Today, mention of Adam Smith often elicits sharply contrasting reactions. Especially since the 1980s, he has been at the centre of the ideological battleground for competing views of economics, markets and societies. For many on the right of politics, he is a founding figure of the modern era: the greatest of all economists, an eloquent advocate of the freedom of the individual and the staunch enemy of state intervention, in a world released from the utopian delusions of communism and socialism. For many on the left, he is something very different: the true source and origin of so-called market fundamentalism, author of 'the textbook on contemporary capitalism' according to the activist and writer Naomi Klein, the prime mover of a materialist ideology that is sweeping the world and corrupting real sources that hard to believe—because the Scots invented Thatcherism, long before I was thought of.' Tracing the roots of her political beliefs to the works of Smith, Ferguson and Hume, she laid out a view of a world in which `wealth would be generated and spread ever more widely' and `wise Government [stood by to] harness the efforts of individuals to improve the well-being of the whole community. On the other

side of the political divide, the former British Prime Minister Gordon Brown went one better, often associating himself personally with Smith through the accident of their shared birthplace in Kirkcaldy, Fife. As Chancellor of the Exchequer, he invited Alan Greenspan, then the Chairman of the US Federal Reserve and later one of his economic advisers, to give the Adam Smith lecture in Kirkcaldy in 2005, and was rewarded when Greenspan pondered in his speech 'to what extent the Chancellor's renowned economic and financial skills are the result of exposure to the subliminal intellect-enhancing emanations of this area'. In giving the Hugo Young Memorial Lecture later that year, Brown declared that `Coming from Kirkcaldy as Adam Smith did, I have come to understand that his Wealth of Nations was underpinned by his Theory of Moral Sentiments, his invisible hand dependent upon the existence of a helping hand.

As such examples illustrate, Smith is so intellectually fertile, so multi-faceted and so quotable that he offers constant temptations to over-interpretation or outright misappropriation. Indeed, if context is stretched to breaking point, he can be read as anticipating an astonishing range of contemporary events. One such is the rise of celebrity politics, from the interaction of modern technology with the human disposition to admire the rich and the powerful, and the human capacity for mutual sympathy, both ideas which Smith discusses in The Theory of Moral Sentiments. Another is the logic or otherwise of Britain's departure from the European Union. After all, Smith argued in relation to the American colonies that Britain faced a clear choice: either to separate entirely from them, or to form an imperial union, in which case sovereignty, and in due course the seat of government own society was `overgoverned', and accordingly set himself against interventions just as Friedman did in his own time. Smith's `doctrine of the invisible hand' reflected his view that human sympathy was unreliable, limited and needed to be economized, while free markets generated human well-being— just as Friedman himself held, across a long professional life devoted to expounding these and similar ideas.

Having laid down these basic propositions, however, Friedman found himself in some difficulty. It was true, he explained, that Smith had said

various things that conflicted with them: that he had defended a cap on interest rates, and duties on the state to erect and maintain certain public works and public institutions, potentially including roads, bridges and canals, and to establish schools. But these statements were uncharacteristic blemishes, which should not be allowed to detract from the whole.

Now this was a popular article, not a scholarly one. Taken from a paper given to the free-market Mont Pelerin Society, its purpose was to help make the case against what Friedman saw as the economic sclerosis of late 1970s America. But even so, as a case study in adjusting the facts to fit one's own theory, it is a masterclass. For much of Friedman's account is hopelessly wide of the mark. Adam Smith was not a radical, and did not see himself as one; he does not seem to have believed his society was `overgoverned', whatever that may mean, except perhaps as regards the American colonies; he had no `doctrine' of the invisible hand, indeed no single theory of how markets work; he did not think free markets always served human well-being; and he did not hold that human sympathy was intrinsically limited or required economizing.

What Smith did in fact think, on these and other issues, and why what he thought still profoundly matters, are the subject of this book. Its further purpose is to puncture myths and establish connections across the whole body of Smith's thought, including its influence on against the intellectual backdrop of Edinburgh and the ideas of the Scottish Enlightenment, presented him anew for a popular audience and explored the span of his intellectual interests, in addition to an ever-expanding academic literature. I have drawn freely and with great gratitude from this body of work.

This book inevitably covers much of the same ground. It is of course not immune to its own preconceptions, and although as balanced and fair-minded as I can make it, it is hardly free from the usual defects of partial knowledge and limited perspective—defects on which I welcome corrections and ideas from readers. But it has three specific points of difference from its predecessors. The first is that it is written not by a professional Smith scholar but by a working

politician, albeit one with an academic background in philosophy—that is, by someone both dealing with and trying to understand and explain the nature of political economy in its modern aspects, practical as well as theoretical. The second is that the book makes a deliberate effort to give the reader not merely a taste of Smith's ideas, but a feeling for how those ideas work and fit together, across their whole, very wide-ranging span. Finally, it makes a specific, trenchant and I hope persuasive argument for the importance and continuing relevance of Smith's ideas.

It is an accident of history that Adam Smith and the great Irish philosopher-statesman Edmund Burke—the subject of my last book, Edmund Burke: Philosopher, Politician, Prophet (2013)—were good friends. They much admired each other, and there are numerous overlaps in their thinking, as well as points of difference; Smith once reportedly said that Burke was the 'only man, who, without communication, thought on economic subjects exactly as he did'. Together, the two men mark an extraordinary moment in the world's history, a moment at which the political and economic outlines of the present age first become visible, are analysed in depth and given public explanation. Burke is the first great theorist of modern political parties and representative government. Smith is the first thinker to put markets at the centre of political economy, and so of economics, and to place norms at the centre of what we now think of as sociology. As Burke is the hinge of our political modernity, so is Smith the hinge of our economic, and in many ways our social, modernity. These are momentous achievements.

But Adam Smith, like Burke, is not merely a historical figure, and this book is not merely a biography. On the contrary, Smith lives and breathes today through his ideas and his impact. Our present world, developed and developing alike, faces huge challenges, including—but by no means limited to—how to generate and sustain economic growth, how to deal with problems of globalization and escalating inequality, and how to create moral understanding across different communities of history, interest and belief. Smith's ideas still have the capacity to take our breath away, through their ambition and brilliance, their simplicity and scope. They are essential to any

attempt to address these challenges, and they need to be widely and fully understood. We need to know not merely what Adam Smith thought, but why it matters; and then to apply his insights again for a new generation. <>

Can American Capitalism Survive?: Why Greed Is Not Good, Opportunity Is Not Equal, and Fairness Won't Make Us Poor by Steven Pearlstein [St. Martin's Press, 9781250185983]

"If anyone can save capitalism from the capitalists, it's Steven Pearlstein. This lucid, brilliant book refuses to abandon capitalism to those who believe morality and justice irrelevant to an economic system." —Ezra Klein, founder and editor-at-large, Vox.

Pulitzer Prize-winning economics journalist Steven Pearlstein argues that our thirty year experiment in unfettered markets has undermined core values required to make capitalism and democracy work.

Thirty years ago, "greed is good" and "maximizing shareholder value" became the new mantras woven into the fabric of our business culture, economy, and politics. Although, around the world, free market capitalism has lifted more than a billion people from poverty, in the United States most of the benefits of economic growth have been captured by the richest 10%, along with providing justification for squeezing workers, cheating customers, avoiding taxes, and leaving communities in the lurch. As a result, Americans are losing faith that a free market economy is the best system.

In Can American Capitalism Survive?, Pulitzer Prize-winning journalist Steven Pearlstein chronicles our descent and challenges the theories being taught in business schools and exercised in boardrooms around the country. We're missing a key tenet of Adam Smith's wealth of nations: without trust and social capital, democratic capitalism cannot survive. Further, equality of incomes and opportunity need not come at the expense of economic growth.

Pearlstein lays out bold steps we can take as a country: a guaranteed minimum income paired with universal national service, tax incentives for companies to share profits with workers, ending class segregation in public education, and restoring competition to markets. He provides a path forward that will create the shared prosperity that will sustain capitalism over the long term.

Contents

Excerpt: It was only 25 years ago that the world was celebrating the triumph of American capitalism. After a long cold war, communism had been vanquished and discredited, with China, Russia and Eastern Europe seemingly rushing to embrace the market system. America had widened its economic lead over European-style socialism while the once-unstoppable export machine, Japan Inc., had finally hit a wall. Developing countries such as India, Brazil and Russia were moving to embrace the "Washington consensus" of privatization, deregulation and free trade. Around the world, this embrace of market capitalism would lift more than a billion people from poverty.

In the years since, however, confidence in the superiority of the American system has badly eroded. A global financial crisis that started in Asia and spread to Russia and Latin America shattered the Washington consensus. Americans have lived through the bursting of two financial bubbles, struggled through two serious recessions and toiled through several decades in which almost all of the benefits of economic growth have been captured by the richest 10 percent of households. A series of accounting and financial scandals, a massive government bailout of the banking system, the inexorable rise in pay for corporate executives, bankers and hedge fund managers—all of these have generated widespread resentment and cynicism. While some have prospered, many others have been left behind.

A decade ago, 80 percent of Americans agreed with the statement that a free market economy is the best system. Today, it is 60 percent, lower than in China. One recent poll found that only 42 percent of millennials supported capitalism.' In another, a majority of millennials said they would rather live in a socialist country than a capitalist

one. Even champions of free markets tend to shy away from using the capitalism moniker.

"They're not rejecting the concept [of capitalism]," explained John Della Volpe, polling director at the Institute of Politics at Harvard's Kennedy School of Government. "The way in which capitalism is practiced today, in the minds of young people— that's what they are rejecting."

Part of this disquiet has to do with the market system's inability to continue delivering a steadily rising standard of living to the average household, as it had for the previous half century. In the 15-year period from 1953 to 1968, the inflation-adjusted income of the median American family increased by 54 percent. In the 15-year period from 2001 to 2016, the increase was just 4 percent. No wonder that just 37 percent of Americans now believe they will do better financially than their parents, the driving idea behind the American Dream.

But another part of our disquiet reflects a nagging suspicion that our economic system has run off the moral rails, offending our sense of fairness, eroding our sense of community, poisoning our politics and rewarding values that easily degenerate into greed and indifference. The qualities that once made America great—the optimism, the commitment to equality, the delicate balance between public and private, the sense that we're all in this together—no longer apply.

It has got to the point that we are no longer surprised when employees of a major bank sign up millions of customers for credit cards and insurance they didn't want or even know about, just to make their monthly numbers.

We are reluctantly reconciled to a system that lavishes $800 million in compensation a year— that's $250,000 an hour—on the head of a private equity firm simply for being clever about buying and selling companies with other people's money, while half of the employees of those companies still work for $25 an hour or less.

We are now barely shocked when a company tells longtime workers that their jobs are being sent overseas and that they will get a modest severance—but only if they train the foreign workers who will be taking their jobs.

We are both outraged and resigned when yet another corporation renounces its American citizenship just to avoid paying its fair share of taxes to the government that educates its workers, protects its property and builds the infrastructure by which it gets its products to market.

While we may have become desensitized to these individual stories, however, collectively they now color the way we think about American capitalism. In less than a generation, what was once considered the optimal system for organizing economic activity is now widely viewed, at home and abroad, as having betrayed its ideals and its purpose and forfeited its moral legitimacy.

To understand how we got to this point, we have to travel back to the mid-1970s. After decades of dominating U.S. and foreign markets, many of America's biggest and most successful corporations had become complacent and lost their competitive edge. They were less efficient, less innovative and less willing to take risks. Excessive government regulation had raised costs and sapped the dynamism of sectors such as transportation, communication, finance and energy, with government officials dictating which companies could compete, what services they could provide, what prices they could charge and what profits they could earn. Overzealous antitrust enforcement had prevented mergers among rivals that would have allowed them to achieve economies of scale. Unions had pushed wages and benefits to unsustainable levels, driving up prices and draining companies of the capital needed for investment and modernization. Loose interest-rate policy at the Federal Reserve and overspending by Congress had triggered double-digit inflation.

All that was happening at a time when European and Japanese exporters were beginning to make inroads into the American market. It began with shoes, clothing and toys, then spread to autos, steel, consumer electronics, computers and semiconductors, cameras, household appliances,

chemicals and machine tools. Initially, the appeal of these foreign products was that they were cheaper, but before long these foreign firms began to offer better quality and styling as well. By the time American firms woke up to the competitive

challenge, many were already playing catch-up. In a few industries, it was already too late.

With their costs rising and their market share declining, the large blue-chip companies that had dominated America's postwar economy suddenly found their profits badly squeezed—and their share prices falling. Although few remember it today, the Dow Jones index, reflecting the share prices of the 30 largest industrial companies, essentially ran in place for the ten years between 1972 and 1982, resulting in a lost decade for investors. Indeed, it was worse than that. When adjusted for inflation, the Dow lost half its value over that period.

By the mid-1980s, serious people were wondering if the days of American economic hegemony were quickly coming to an end. When Japan's Mitsubishi conglomerate purchased Rockefeller Center from the descendants of America's most celebrated business mogul in 1989, it seemed to many as if the American Century had come to a premature and inglorious end.

"The central task of the next quarter century is to regain American competitiveness," declared MIT economist Lester Thurow in a widely read jeremiad, The Zero-Sum Solution. Blue-ribbon panels were commissioned, studies were published, hearings held. In the corridors of government, at think tanks and business schools, on the covers of magazines, there was a sense of urgency about America's industrial decline and a determination to do something about it. And do something they did.

With support from both Republicans and a new generation of centrist Democrats, federal and state governments deregulated whole swaths of the economy, unleashing a burst of competition from upstart, low-cost rivals in airlines, trucking, freight rail, telephony, financial services and energy. Government spending was cut, along with taxes. Antitrust regulators declared that big was no longer bad, unleashing a flood of mergers and acquisitions. New trade treaties were negotiated that lowered tariffs while opening overseas markets for American products.

Across the manufacturing sector, inefficient plants were shuttered, production was reengineered, employees laid off and work shifted to non-union shops down South or overseas. Companies that

once employed their own security guards, ran their own cafeterias, operated their own computer systems and delivered products with their own fleet of trucks outsourced those "non-core" functions to cheaper, non-unionized specialty firms. Over-indebted companies used the bankruptcy courts to wash their hands of pension and retiree health-care obligations and force lenders to accept less than they were owed. Japanese management gurus were brought in to lower costs, improve quality and create new corporate cultures.

Meanwhile, in the fast-growing technology sector, established giants selling mainframes and tape drives suddenly found themselves out-innovated and out-maneuvered by entrepreneurial startups peddling minicomputers, disc drives and personal computers that were smaller, cheaper, easier to use and surprisingly powerful.

The transformation was messy, painful, contentious and often unfair, generating large numbers of winners and losers—exactly what the economist Joseph Schumpeter had in mind when he identified "creative destruction" as the essential characteristic of capitalism. Along the way, the old social contract between companies and their workers—and more broadly between business and society—was tossed aside. No longer could workers expect pensions, full-paid health insurance, job security or even a Christmas bonus from their employers. And no longer would business leaders feel the responsibility, or even the freedom, to put the long-term interests of their country or their communities ahead of the short-term interests of their shareholders. Chief executives found it useful to cultivate an aura of ruthlessness, winning sobriquets such as "Neutron Jack" and "Chainsaw Al."

And it worked. By the mid-1990s, the hemorrhaging stopped and corporate America was again enjoying robust growth in sales, profits and stock prices. Chief executives and Wall Street dealmakers were lionized on magazine coyers and on the front pages of newspapers, their dalliances chronicled in the gossip columns, their soaring pay packages a source of both fascination and controversy. Students at the best universities flocked to business schools, and from there to high-powered jobs on Wall Street or at management consulting firms. Individual investors began piling into the stock market through new tax-exempt retirement accounts and a dazzling array of new mutual funds. For the first time, business books with titles like In Search of Excellence, Reengineering the Corporation and Competing for the Future regularly made it onto the bestseller lists.

America—and American capitalism—was back, stronger and more globally competitive than ever.

* * *

In June 1998, I tried to capture this turnaround with a long front-page story in the Washington Post that ran under the headline "Reinventing Xerox Corp."

Xerox was something of an American icon, a home-grown company that sprang from American ingenuity, conquered the world and was run with old-fashioned American values. With the introduction of its 914 copier in 1959, which at the push of a button could turn out six plain-paper copies a minute, Xerox became a ubiquitous presence in every corporate office. Its sleek machines became the spot where gossip was exchanged and romances begun, while its name was turned into a verb. With a 97 percent global market share and 70 percent gross profit margins, Xerox shares topped the "Nifty Fifty" list of hot stocks during Wall Street's go-go years of the 1960s.

In many ways, Xerox was the model American corporation, cosseting its workforce with generous pay and benefit Idea #1: The government was significantly responsible for the decline in American competitiveness. High taxes had discouraged investment and risk-taking by individuals and businesses, while overzealous regulation had driven up costs and snuffed out innovation. For Ronald Reagan and his heirs in the Republican Party, along with a supporting chorus of economists and business executives, it became economic gospel that cutting taxes and eliminating regulations would increase incentives to work and invest, and thereby increase the supply of goods and services produced by the economy. They called it supply side economics.

"Government's view of the economy could be summed up in a few short phrases," quipped Reagan in belittling the liberal approach to economic policy. "If it moves, tax it. If it keeps moving, regulate it. And if it stops moving, subsidize it."

Idea #2: The sole purpose of every business is to deliver the highest possible financial return to its investors. This was the only way to ensure that managers would take the tough actions—cutting costs, laying off workers, selling less profitable divisions—to ensure a company's survival in hypercompetitive global markets.

"There is only one social responsibility of business— to use its resources and engage in activities designed to increase its profits," conservative economist Milton Friedman wrote in 1970 in the New York Times Magazine. "Anything else," he declared, was "unadulterated socialism."

Idea #3: No matter how unfair it might seem to cut taxes for the wealthy, no matter how ruthless a company might have to be in its dealings with workers and consumers, no matter how unequal the distribution of income and wealth might become, we must ignore and dismiss such moral concerns as naïve and ultimately self-defeating. Such unpleasant outcomes were seen as the inevitable and unavoidable features of a free market system that had lifted much of humanity from the subsistence existence in which it had been trapped for millennia, generating the greatest prosperity for the greatest number. For that reason alone, free markets had to be accepted as fair and just. Let's label that view "market justice."

Beginning in the 1980s, these three ideas—supply side economics, maximizing shareholder value and market justice—were woven into the everyday rhetoric of economists, business leaders and conservative politicians, providing the economic, political and moral legitimacy for dismantling the welfare and regulatory state and jettisoning a complacent business culture. In time, they came to be reflected in a wide range of government policies, corporate strategies and business practices. And it was those policies, those strategies and those practices that, by the mid-1990s, had succeeded in restoring the competitiveness of the American economy.

However, when the competitiveness challenge had been overcome and the American economy was once again back on top, free market ideologues and those with vested economic interests continued to push these ideas to extremes never envisioned by those who first proposed them—pushed them so

far, in fact, that they have now lost their validity and their legitimacy. What began as a useful corrective has, 25 years later, become a morally corrupting and self-defeating economic dogma that threatens the future of American capitalism. Almost everything people now find distasteful about it can be traced to these three flawed ideas.

The mindless animosity toward all regulation, for example, has now provided a rationale for handing over the keys to independent regulatory agencies to lobbyists and executives from the very industries they are supposed to regulate. In a very real sense, the foxes have been put in charge of the chicken coop, and their ambitions go well beyond "reforming" the agencies or "restoring a balance" between government and business. Their aim is to hollow out these agencies from the inside—to maintain the fiction that the government is still protecting workers, consumers, investors and the environment while, in reality, trusting markets to restrain predatory business behavior. These antiregulatory zealots speak only of the cost of regulation but never the benefits; of the jobs lost but never the lives saved; of efficiency but never fairness.

After gaining control of both the White House and Congress in 2016, Republicans moved aggressively to rescind dozens of Obama-era regulations that would surely strike most Americans as fair and reasonable. These include a rule setting strict environmental standards for oil and gas drilling in national parks and wildlife refuges, a rule barring federal student loans at for-profit colleges whose graduates never get jobs and a rule requiring financial advisers to act in the best interest of their customers. They include a rule

preventing mines from dumping debris into nearby rivers and streams and a rule preventing cable and phone companies from collecting and selling information about the Internet sites visited by their customers. They even set out to repeal a long-standing rule preventing restaurant owners from taking waiters' tips for themselves.

So virulent is Republican opposition to regulation that Don Blankenship, the former chief executive of Massey Energy—a man who spent a year in federal prison for conspiring to violate mine safety rules in connection with a 2010 mine explosion that

killed 29 of his workers—used his conviction as a springboard for seeking the Republican nomination for the U.S. Senate in West Virginia. Rejecting the findings of a federal jury and a panel of mine safety experts, Blankenship blamed—you guessed it—government regulators for causing the explosion. He was defeated only after President Donald Trump and the party establishment mounted a last-minute campaign against him.

Supply side tax fantasies, meanwhile, have so warped the thinking of Republican politicians that many genuinely believe they can create jobs and raise wages for the struggling working class by lavishing a trillion dollars of tax relief on businesses and investors—the very businesses and investors who have spent the last 25 years eliminating working-class jobs and driving down working-class wages. The jihad against taxes has progressed to the point that any Republican politician who even contemplates raising any tax at any time is certain to be vilified by the conservative media and driven from office by an unforgiving and well-financed conservative mob. Even long-cherished conservative ideals such as balancing budgets and investing in infrastructure have been tossed overboard in the relentless pursuit of tax cuts, which are now the reflexive Republican solution to any problem.

A similar single-mindedness has taken hold in the private sector around maximizing shareholder value. For too many corporate executives and directors, that mantra has provided a pretext for bamboozling customers, squeezing employees, evading taxes and engaging in endless rounds of unproductive mergers and acquisitions. It has even provided a pretext for defrauding shareholders themselves. The executives at Enron, WorldCom, HealthSouth and Waste Management who concocted elaborate schemes to inflate reported revenues or profits in the late 1990s rationalized their actions as necessary steps to prevent share prices from falling. It has become the end that justifies any business means.

The obligation to maximize shareholder value has also led business leaders to abandon their role as proud stewards of the American system. In today's business culture, it's hard to imagine them as stewards of anything other than their own bottom lines. But it wasn't always this way.

Working through national organizations such as the Committee for Economic Development, the Business Council and the Business Roundtable, the chief executives of America's major corporations during the decades right after World War II supported proposals to increase federal support for education and basic research, guarantee worker pensions, protect the environment, improve workplace safety and set a national goal of full employment. Although most of the chief executives were Republicans, business organizations took pains to be bipartisan and maintain close ties to politicians of both parties. Some of their motives were self-serving, such as reducing the lure of socialism or unionization, but there was also a genuine belief that companies had a duty to balance their own interests with those of society. As General Motors chairman Charlie Wilson famously put it at his confirmation hearing to be secretary of defense, "I always thought that what [was] good for the country was good for General Motors, and vice versa."

At the major business organizations today, that sense of collective social responsibility has given way to the grubby pursuit of narrow self-interest, irrespective of the consequences for the rest of society. While continuing to declare their bipartisanship, business groups such as the U.S. Chamber of Commerce, the Business Roundtable and the National Federation of Independent Businesses have essentially become arms of the Republican Party. For the most part, these organizations are now missing in action on broad issues they once declared as priorities, such as climate change, health-care reform, immigration, infrastructure investment, education and balancing the budget, occasionally paying them lip service but expending no political capital on them.

"Big business was a stabilizing force, a moderating influence in Washington," Steve Odland, president of the Committee for Economic Development and a former chief executive of Office Depot, told me several years ago. "They were the adults in the room." Nobody, including Odland, thinks business leaders play that role today.

And what of the third idea, market justice? For the most part, Americans are no longer willing to accept the glaring injustices created by the economic system simply because it provides them

with a higher standard of living. For starters, many feel their standard of living is now falling, not rising. And even for those living better than ever, the American capitalism they experience feels more and more like a morally corrupt and corrupting system in which the prevailing ethic is every man for himself. Old-fashioned norms around loyalty, cooperation, honesty, equality, fairness and compassion no longer seem to apply in the economic sphere. As workers, as consumers and even as investors, they feel cheated, manipulated and disrespected.

I regularly ask undergraduates at George Mason University, where I teach, about their career aspirations and am struck by how few have any interest in working in a business (those who do invariably want to work for a startup run by a small group of idealists like themselves). It is the rare student who volunteers a desire to be rich—not because they wouldn't enjoy what the money could buy them, but because they wouldn't want to engage in the unsavory behavior they think necessary to attain it. To them, market justice sounds like a contradiction in terms.

* * *

Not quite two years after my story about Xerox was published in the Post, a colleague handed me a copy of a story that had just moved over the wires of the Associated Press. There was a mischievous smile on his face.

"SEC Investigates Xerox for Alleged Accounting Irregularities in Mexico Division," read the headline. The initial release from the company reported that a few rogue executives in Mexico had cooked the books to inflate sales in order to meet their quarterly targets. Subsequent investigation by the Securities and Exchange Commission, however, revealed that the accounting gamesmanship was endemic in Xerox operations across the globe, and reached right up to the top echelons at corporate headquarters. The goal, the SEC found, was to boost the company's stock price by consistently meeting and exceeding the expectation of Wall Street analysts. The company would later agree to pay a fine of $10 million for using aggressive accounting tactics to inflate its reported profits by $1.4 billion from 1997 through 2000. At the time, it was a record fine for an enforcement action.

Xerox stock fell below $7 a share on the news. Two years later, six former executives, including the chief executive and financial officers, agreed to $22 million in fines and returned bonus payments to settle civil fraud charges. Xerox's longtime auditors, KPMG, also agreed to pay $22 million to settle charges that it had collaborated with the company to manipulate earnings.

The accounting scandal, however, was hardly Xerox's only problem. Competition from lower-cost Japanese copiers continued to cut deeply into sales, while Xerox's entry into the computer printer business flagged. As revenues fell and profits turned to losses, a new chief executive brought in from IBM was fired. A syndicate of banks threatened not to renew a $7 billion line of credit, without which the company would have had to file for bankruptcy protection. The company's new chief executive, Anne Mulcahy, was forced to fire more than half of the company's 96,000 workers, cut the research budget by 30 percent and sell half of Xerox's stake in its successful joint venture with Fuji to raise cash.

While Mulcahy managed to stabilize the company, the imperative to continually satisfy shareholders with quarterly earnings growth meant that Xerox was never able to invest sufficiently in technology or brand development to thrive again. And by late 2015, the company attracted the attention of a number of bottom-fishing investors, among them Carl Icahn, who had first made his name on Wall Street in 1980 by buying Trans World Airlines, then a storied airline, and selling it off in pieces. Icahn threatened to run his own slate of directors unless Xerox agreed to fire its top executives and explore "strategic options"—a Wall Street euphemism for selling the company and distributing the cash to shareholders. Caught between an unforgiving marketplace and unforgiving investors, Xerox bowed to the investors. In January 2018, Xerox announced it would sell what was left of its copier business to Fuji, distribute a one-time dividend of $2.5 billion to Icahn and other shareholders and cease to exist as an independent business. The next day, a clever New York Times headline writer noted that the company whose name became a verb would now only be used in the "past tense." <>

[The Browns of California: The Family Dynasty That Transformed a State and Shaped a Nation](#) by Miriam Pawel [Bloomsbury Publishing, 9781632867339]

A Pulitzer Prize—winning journalist's panoramic history of California and its impact on the nation, from the Gold Rush to Silicon Valley-told through the lens of the family dynasty that led the state for nearly a quarter century.

Even in the land of reinvention, the story is exceptional: Pat Brown, the beloved father who presided over California during an era of unmatched expansion; Jerry Brown, the cerebral son who became the youngest governor in modern times--and then returned three decades later as the oldest.

In [The Browns of California](#), journalist and scholar Miriam Pawel weaves a narrative history that spans four generations, from August Schuckman, the Prussian immigrant who crossed the Plains in 1852 and settled on a northern California ranch, to his great-grandson Jerry Brown, who reclaimed the family homestead one hundred forty years later. Through the prism of their lives, we gain an essential understanding of California and an appreciation of its importance.

The magisterial story is enhanced by dozens of striking photos, many published for the first time. This book gives new insights to those steeped in California history, offers a corrective for those who confuse stereotypes and legend for fact, and opens new vistas for readers familiar with only the sketchiest outlines of a place habitually viewed from afar with a mix of envy and awe, disdain, and fascination.

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Preface

Excerpt: The genesis of this book was a conversation several years ago, on an isolated ranch in Northern California, with Jerry Brown. The governor had talked in recent speeches about this land, settled by his great-grandfather soon after the Gold Rush and still in the family four generations later. I was curious to see the homestead and understand what had drawn the last heir of California's storied political dynasty to spend his weekends in a small cabin with no running water, off the grid.

Amid the rolling hills dotted with oaks, Jerry Brown talked about "reinhabitation." He explained his desire to return to his ancestral home, his quest to research every aspect of the land, and his effort to trace his family roots. It is a history worth studying, he said, because history offers anchors in time of disruption and helps us understand how to respond to change.

The same could be said, of course, about the history of California. I came away from that conversation struck by the parallel arcs of the Browns and California. Jerry Brown traced a family history that spanned the life of the state he and his father had governed. I thought the story of four generations might offer a lens through which to tell a unique history of the thirty-first state.

It is, by definition, a selective history, shaped by the paths of the extended family. It is more Northern California than Southern, more modern than early, more political than cultural. Yet, because the family is so intertwined with California, the Browns' story illuminates core values, concepts, places, and events that have molded the world's fifth-largest economy. There is arguably no family more passionate about California, more closely identified with the Golden State, or more influential in determining its fate. The heart of this book is the story of two men who collectively governed California for almost a quarter century—an ebullient, beloved, old-style politician and his cerebral, skeptical, visionary son.

The book is first and foremost a family saga, a narrative history built around collective lives and actions—from far-reaching policy decisions to private, personal choices. My goal is to convey

through that tapestry a sense of the sweep and spirit of California, to highlight that which has stayed the same over time and that which has changed. I leave it to future historians to pass judgment on the Brown legacy, which will become clearer with distance.

Given that the two principal protagonists have the same name, and many other characters share the same surname, I refer to the various Browns by their first names. I did this for clarity and readability; it is also true that for many Californians, the state's two longest-serving Democratic governors are known simply as Pat and Jerry.

The corner of Sixteenth and H was just a vacant lot when August Schuckman reached Sacramento in 1852, a square of frontier dirt awaiting its destiny.

August drove a stagecoach, peddled fruit, and dreamed big. The German immigrant had come west seeking land, not gold. Within a decade, he staked his claim to a ranch sixty miles north of the state capital in Colusa County. August's daughter Ida was born there in 1878, the same year a prosperous Sacramento merchant moved into a majestic Victorian mansion he had built at Sixteenth and H. The empty lot had become the most elegant house in town: Seven fireplaces of Italian marble. Elaborate bronze hinges and doorknobs engraved with hummingbirds. Intricate wood inlay on the ballroom floor.

By the turn of the century, more than a million people had been lured to California by visions of gold, land, and sun. Sacramento needed a residence suitable for its governors. In 1903, the state bought the wedding-cake house at Sixteenth and H for $32,500. Two years later, August's daughter Ida gave birth to her first son, Edmund Gerald Brown. He would grow up to be the twelfth governor to live in the Mansion.

Sixteenth and H would become the coordinates where the history of the Golden State intersected with the destiny of August Schuckman's descendants. A family shaped by California would grow into a dynasty that transformed the state, with ambition and audacity to match the grandeur of the towering, turreted Mansion.

Edmund Brown, known to all but his mother as Pat, loved his life in the Mansion, where he seamlessly blended work and family. Most days began with meetings in the breakfast room. That's where Senator John Kennedy asked Pat for support in 1959, and where Pat took a congratulatory call from President Kennedy three years later after defeating Richard Nixon in the governor's race. Most nights, Pat stayed up late reading files from his overstuffed briefcase in the mustard-colored easy chair in the living room or the upstairs office with the special panic button hidden in a drawer. Weekends brought grandchildren splashing in the kidney-shaped pool and sliding down the curved mahogany banister. Pat's sister might arrive with Ida to find Frank Sinatra at dinner. Adlai Stevenson stayed overnight, and Earl Warren often stopped by his old home.

Each Thanksgiving and Christmas, four generations of Browns gathered in the Mansion. News photographers snapped photos of Pat with the turkey, fresh out of the oven. At Christmastime, the Browns chartered a bus to bring San Francisco friends to the Mansion, decorated with lights on the turrets and towers, with 14-foot Christmas trees in the parlor and hall and smaller trees in almost every room.

First lady Bernice Brown oversaw the formal entertainment, dozens of dinners for legislators and lobbyists that eased partisan divides and smoothed important deals. Visitors knew to check for the small black ceramic cat on the table in the entryway; as long as the sleeping cat was on display, conversations were off the record.

Only the Browns' youngest child grew up in the Mansion. As a teenager, Kathy painted red nail polish on the toes of the clawfoot tub, held slumber parties in the old ballroom, and sought privacy by using the telephone hidden in the music room closet. One Halloween, she climbed the two flights of walnut spiral stairs to the gaslit cupola and dropped water balloons out the porthole window on trick-or-treaters six stories below.

Her older brother, Jerry, lived in the Mansion only briefly, just long enough for the house to hold sway. Jerry first visited the day his father took office in 1959, a young Jesuit seminarian in cassock and collar posing stiffly next to Grandma Ida at a

celebratory dinner. Within a year he was in college, then law school. In 1965, Jerry studied for the bar in his father's office on the third floor of the Mansion. He found the lessons tiresome. Wandering out onto the stair landing one day, he heard his father in heated conversation with the Assembly Speaker over which man would run for governor the following year. The debate was as exciting as the studies were tedious. At that moment, Jerry decided that he would be governor, too.

When Pat Brown was voted out of office, the Mansion became another California boom-and-bust tale. Governor Ronald Reagan moved to a classic estate in the Fabulous Forties neighborhood, shunning the house his wife called a "firetrap." The Mansion, eulogized by Sacramento native Joan Didion as "an extremely individual house," perhaps her favorite in the world, became a museum. Visitors toured rooms full of relics a dozen families had left behind: The 1902 Steinway piano from George Pardee, the first governor to live in the Mansion. The plum velvet sofa and matching chairs selected by Mrs. Hiram Johnson. Hand-knotted Persian carpets from the Warren era. Bernice Brown's self-cleaning oven. In the upstairs bedroom, her inaugural gown.

In 1975, a decade after his epiphany on the Mansion stairs, Edmund G. Brown Jr. became the youngest California governor in modern times.

He preached "small is beautiful" and spurned the sixteen-room suburban residence that Reagan had commissioned, opting for a spartan apartment near the capitol. He soon became the state's most popular governor, and just as quickly among those held in lowest esteem.

In the land of reinvention, both the man and the Mansion would have a triumphant second act. In 2010, decades after he had left Sacramento, written off as a political has-been, Jerry Brown was elected governor once again. One of the first things he did was bring his wife to see the house at Sixteenth and H.

The state finally began a renovation. Craftsmen restored the original Victorian details while they discreetly added modern plumbing, appliances, and solar panels. Jerry invited relatives to lunch at the Mansion to celebrate his seventy-sixth birthday. On November 4, 2014, he hosted a dinner for

staff on the evening he was elected to a historic fourth term.

He claimed victory on the Mansion steps.

One year later, the Browns moved in, just in time to celebrate Christmas. The family gathered once more in the elegant house at Sixteenth and H. They posed for pictures. A news photographer watched the governor inspect the turkey. The children who had learned to swim in the kidney-shaped pool showed their children the secret places in the special house. A photo of August Schuckman sat on the fireplace mantel in the old music room. Jerry called his new home a spiritual place. On a fall afternoon he recalled, the moment he decided he would be governor. He gestured toward the bottom of the grand staircase a few feet away.

"Every day I come down the stairs, my whole life is unfolding." <>

[Authoritarianism: What Everyone Needs to Know®](#)
by Erica Frantz [Oxford University Press, 9780190880200]

Despite the spread of democratization following the Cold War's end, all signs indicate that we are living through an era of resurgent authoritarianism. Around 40 percent of the world's people live under some form of authoritarian rule, and authoritarian regimes govern about a third of the world's countries.

In [Authoritarianism: What Everyone Needs to Know®](#), Erica Frantz guides us through today's authoritarian wave, explaining how it came to be and what its features are. She also looks at authoritarians themselves, focusing in particular on the techniques they use to take power, the strategies they use to survive, and how they fall. Understanding how politics works in authoritarian regimes and recognizing the factors that either give rise to them or trigger their downfall is ever-more important given current global trends, and this book paves the ways for such an understanding.

An essential primer on the topic, [Authoritarianism](#) provides a clear and penetrating overview of one of the most important-and worrying-developments in contemporary world politics.

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Excerpt: What Is the Purpose of This Book?

Stereotypes about authoritarian regimes are common. In the classic version, an authoritarian regime is a brutally repressive regime in which power lies in the hands of a single, eccentric individual. In some instances, this is an accurate depiction, such as in Uganda under Idi Amin or Iraq under Saddam Hussein. And it is one that is reinforced by stories in the news media of notorious dictators, such as Turkmenistan's Saparmurat Niyazov, whose annoyance with beards, lip syncing, and gold teeth prompted him to outlaw all three, with spiritual musing, the Ruhnama, becoming required reading to pass a driving test; or Libya's Muammar Gaddafi, who once stated, "Execution is the fate of anyone who forms a political party."

But in many instances, this portrait of authoritarianism is inconsistent with the political

reality. Take Singapore under the People's Action Party. Despite constraints on a number of political freedoms, there is considerable political pluralism in Singapore. Opposition parties are able to compete in elections and win representation. The leadership cannot act alone; it is accountable to the party elite, which also controls leadership succession.

In other words, though some authoritarian regimes fit the classic stereotype, many others challenge common perceptions of what authoritarian rule looks like. Kim Jong Un of North Korea may dominate news headlines more than John Magufuli of Tanzania, but both men govern authoritarian regimes.

The purpose of this book is to dispel stereotypes such as these and provide readers with a sharper understanding of authoritarian politics. Drawing from theoretical and empirical studies on authoritarian rule, this book offers readers clear and accessible answers to the most important questions about authoritarianism. It synthesizes cutting-edge research on authoritarian politics in a manner that is easily interpretable to readers, giving them a broad overview of the major ideas, insights, and debates in the field of authoritarian politics and making clear why they matter. It supplements these discussions with real-world examples from around the globe to help bring theory to reality.

Ultimately, this book provides readers with a context for making sense of current and recent political developments worldwide and interpreting how they fit with what we know about contemporary authoritarianism.

Why Does Authoritarianism Matter?
In today's global political climate, better understanding authoritarianism is of renewed importance. After decades of decline, authoritarianism appears to be on the rise. In 2017, the watchdog organization Freedom House reported for the eleventh year in a row that political rights and civil liberties worldwide had decreased. In recent years, democratic principles have eroded in countries as wide ranging as Thailand, Mali, Turkey, Hungary, and Ecuador.

This trend represents a marked departure from the general pattern of regime diffusion seen in the past

few decades. With the fizzling of the Cold War, the proportion of democratic states in the world rose sharply, from 25 percent in 1979 to 60 percent in 2014. Between the 1970s and 1990s, authoritarian regimes around the globe—including in many parts of Latin America, Southern and Eastern Europe, and East Asia—collapsed like dominoes. And in recent years, a number of countries with long-standing authoritarian regimes, such as Burkina Faso, Tunisia, and Kyrgyzstan, have seen democratic gains.

Yet, despite these developments and the optimistic expectations of modernization theory and the "third wave" of democratization (explained in Chapter 3), authoritarian regimes still dot much of the world's political landscape. In addition, though democracies currently outnumber their authoritarian counterparts, current trends are set to reverse this should they continue. This spells trouble for the international community on a number of fronts: democracy is correlated with lower levels of repression, declining poverty rates, and fewer inter- and intrastate wars, among other normatively desirable outcomes.

The prevalence and persistence of authoritarianism underscore the importance of better understanding how politics works in authoritarian regimes, including who the key actors are operating within them, how they come to power, the strategies they use to survive, and how they fall. Such an understanding, in turn, paves the way for the development of more informed foreign policy approaches when dealing with authoritarian regimes, as well as more precise, empirically based analyses and assessments of their current and future actions.

What Are the Challenges in Understanding Authoritarian Politics?
Compared to democracies, we know very little about how politics works in authoritarian regimes. In the past, this was at least partially due to an underemphasis in the social science literature on authoritarian politics.' Yet, while scholars have historically devoted less attention to studying authoritarian regimes than democracies, this has changed in recent years. In the last decade or so in particular, research devoted to authoritarian politics has expanded dramatically,' likely because of awareness that authoritarian regimes are not

going away any time soon. After all, authoritarian regimes still govern about a third of the world's countries today. And there are few indications that a major decline in authoritarianism is on the horizon.

Even with increased scholarly attention to authoritarian politics, however, our understanding of political dynamics in authoritarian regimes is likely to forever pale in comparison to what we know of behaviors in democracies. Authoritarian regimes are notoriously challenging to study. Internal politics in authoritarian contexts is often hidden from public view, the media are typically censored, reliable data hard to come by, and government-sponsored propaganda pervasive. Authoritarian regimes are difficult to study, in other words, precisely because they are authoritarian.

Take the example of Laos. Since 1975, the Lao People's Revolutionary Party (LPRP) has governed the country under one-party rule. Most major political decisions are made at the party congress, which is held every five years, and most political power lies in the hands of the LPRP Central Committee Executive Board. Beyond basic features of the Laotian political system such as these, however, many things about how politics works in Laos are unknown. The period leading up to the congress, for example, is one of "swirling rumour" due to the "excessive secrecy" that characterizes decision-making in Laos.' Observers are left guessing what is likely to come. Most can assess the types of individuals apt to wield political influence in Laos, at least on paper, but how negotiations take place and what the balance of power is like among key actors and institutions are often cloudy and up for interpretation. Political secrecy in Laos makes information hard to obtain, a problem the tightly controlled media exacerbates. Public criticism of the government in all forms is prohibited. In 2014, for example, the government made it a criminal offense to criticize the ruling party online. The government owns most media outlets, and foreign journalists and international organizations must submit their reports to government officials for editing prior to publication. Gaining insight into the specifics of how politics works in Laos is without question a difficult task and one that inevitably involves speculation.

Though Laos is an extreme example, in most authoritarian regimes informal guidelines drive everyday operating procedures. This means that an examination of the written rules of the political game often reveals little about actual political practices, which are further obscured by the preference for secrecy over transparency.

For observers, this can generate challenges answering even the most basic political questions about politics in an authoritarian regime, such as who the de facto leader is and who has the power to challenge him. (The vast majority of dictators have been male.) As an example, most observers saw Prime Minister Vladimir Putin as the leader of Russia while Dmitry Medvedev was president from 2008 to 2012. Others challenged this assertion, however, pointing to Medvedev's efforts to assert his independence from Putin while in office. Supporting this, Medvedev stated in 2009, "I am the leader of this state, I am the head of this state, and the division of power is based on this."

Making matters worse, the media typically face serious obstacles reporting on government behaviors in authoritarian regimes. The information that they do release is often biased and intentionally inaccurate, even about basic information such as economic growth rates.

Contrast this with the reality in most democracies. The identity of the leader is usually fairly obvious. Even in democracies that are flawed, policymaking and leadership choice are generally transparent. Both are typically the product of an observable process that follows clearly spelled out rules, occurring under the watchful eye of a relatively free media.

In sum, due to the very nature of authoritarian politics, authoritarian regimes create challenges for those interested in understanding them.

What Is an Authoritarian Regime?
There are a number of ways that scholars define an authoritarian regime. In this book, a regime is the "set of basic formal and informal rules that determine who influences the choice of leaders—including rules that identify the group from which leaders can be selected—and policies."" A regime is authoritarian if the executive achieved power through undemocratic means, that is, any means besides direct relatively free and fair elections

(e.g., Cuba under the Castro brothers); or if the executive achieved power via free and fair elections, but later changed the rules such that subsequent electoral competition (whether legislative or executive) was limited (e.g., Turkey under Recep Erdogan). In other words, in the operational definition of an authoritarian regime this book uses, the distinguishing factor separating authoritarian regimes from democratic ones is whether government selection occurs via free and fair elections.

This definition is minimalist. It does not integrate human rights violations or repressive acts, unless they pertain to the ability of the opposition to have a reasonable shot of competing in the electoral process. It says nothing about levels of wealth, economic openness, political stability, or state capacity. This definition is consistent, however, with the bulk of mainstream research on authoritarian politics, where democracies are regimes in which "those who govern are selected through contested elections" and authoritarian regimes are "not democracies."

Under this definition of an authoritarian regime, multiple leaders may come and go within the same authoritarian regime. China under the Chinese Communist Party exemplifies this well, as does Nicaragua under the Somoza family. At the same time, multiple authoritarian regimes may come and go within the same authoritarian spell (or span of years). The experience of Cuba illustrates this. Cuba has been authoritarian since 1952, but two distinct authoritarian regimes have led it during this time period: the first under Batista (in power from 1952 to 1959) and the second under Castro and later his brother (in power from 1959 to the present). Chapter 2 discusses both of these distinctions and why they matter in greater detail.

Because definitions of authoritarian regimes occasionally differ across the literature, the book will make clear, where relevant, when specific theories conceive of authoritarianism differently and the impact such conceptualizations have on understandings of authoritarian politics.

How Have Conceptualizations of Authoritarian Regimes Changed throughout History?

Authoritarian regimes have existed for hundreds of years, as the pharaohs of ancient Egypt, the Emperors of Rome, and the absolute monarchs of Europe exemplify. Yet, today's authoritarian regimes have evolved considerably since their predecessors governed many centuries ago.

Early authoritarian regimes typically featured monarchs and chiefs as the sole individuals with power; concentration of authority was the norm and there were few efforts to pretend otherwise. The goal was to demonstrate complete control, not hide it. Today's authoritarian regimes, by comparison, exhibit a fuller range of behaviors. In some power is highly concentrated in the hands of a single individual, while in others it is dispersed across an elite leadership group. Even in those instances in which there is one-man rule, today's authoritarian regimes often go to great lengths to conceal that they are authoritarian (a characteristic that is emphasized throughout this book). For example, though Jordan and Qatar today are monarchic dictatorships that use hereditary succession procedures for determining leadership, unlike the monarchic dictatorships of the past, they feature institutions that we typically associate with democracies, such as legislatures and elections.

Not surprisingly, how observers conceptualize authoritarian rule has changed in line with these developments. As an illustration, though many of today's definitions of an authoritarian regime emphasize how it differs from a democracy, only in the past few centuries has democracy as a form of government become popular and widespread. Because conceptualizations of authoritarianism have evolved in tandem with manifestations of authoritarianism, the two are referenced simultaneously here.

Research on early experiences with authoritarian rule is abundant. This discussion focuses on developments beginning around the turn of the twentieth century to narrow the lens.

In the first part of the 1900s, a crop of new democracies emerged on the global scene only to face serious challenges, such as Weimar Germany. These developments inspired theoretical work on

authoritarian rule that was normative in nature, centering on an analysis of the "ideal" type of government. A number of scholars at this time promoted the benefits of oligarchic rule and questioned whether liberal democracy was possible. Indeed, though we often think of democracy as the preferred form of government, "before 1945 the very idea of liberal democracy was anathema." Observers on both sides of the political spectrum criticized liberal democracy for its inability to address key social problems and the corruption of its politicians, among other issues.

Such critiques drew from the elite theorists of this era, such as Gaetano Mosca, Robert Michels, and Vilfredo Pareto, who proposed that oligarchic rule was the most feasible form of social and political organization. They observed that every political system featured a small group of elite that dominated a large, disordered mass citizenry. According to this reasoning, the intellectual superiority of the elite coupled with the masses' disorganization meant that any concerted political action required elite governance. Carl Schmitt, for example, wrote in his seminal 1921 book Dictatorship that governments' need for extraordinary powers during times of emergency necessitated authoritarian rule." Liberal democracy, in this view, is thus unfeasible. Emilio Rabasa advocated similar ideas in his analysis of Mexican politics and the authoritarian regimes of Benito Juarez and Porfirio Diaz, suggesting that periods of authoritarian rule are necessary precursors to liberal democracy.

Subsequent global developments, however, transformed the types of authoritarian regimes in existence, and consequently how scholars thought about them. The aftermath of World War II led to the emergence of a new concept: totalitarianism. Drawing heavily from the experiences of a handful of notorious authoritarian regimes, namely Nazi Germany and the Soviet Union, research on totalitarianism identified a number of traits specific to these types of regimes. Hannah Arendt, for example, stated in her seminal work The Origins of Totalitarianism that totalitarian regimes were extreme forms of authoritarian rule in which the leadership exercised full control over "atomized, isolated individuals." In such regimes, ideology was central to political power and—to perpetuate the

illusion of an ideal society—government propaganda was widespread. Governments used these messages to fundamentally transform society in line with their vision and turned to terror to ensure compliance. Other scholars picked up on Arendt's themes, emphasizing the following key features as critical to totalitarianism: reliance on a single political party, the use of a highly developed regime ideology, and the maintenance of a powerful security apparatus.

Totalitarianism started to lose its analytic appeal around the time of World War II, however, as new dictatorships emerged that did not fit the totalitarian mold. Though many Communist regimes in Eastern Europe and Asia exemplified the totalitarian model, for example, others behaved quite differently. Take Spain under Francisco Franco. The regime did not seek to fundamentally change society, nor did it rely heavily on ideology to maintain control; instead, the central goal was the depoliticization and demobilization of the masses. Scholars distinguished such regimes, which they referred to as "authoritarian," from their totalitarian counterparts based on the contrasting role of ideology and nature of citizen-regime relations. Before long, however, the emphasis on ideology as a means of differentiating authoritarian regimes waned, as well, and totalitarianism as a concept lost its analytical utility.

World War II brought with it the collapse of many colonial empires. Many of the new authoritarian regimes that emerged at this time therefore came on the heels of the independence movements that swept across much of the developing world in the 1950s and 1960s. Opposition groups often used a political party as the vehicle to mobilize their supporters during the independence struggle, and—where authoritarian regimes were established afterward—the same political party frequently remained dominant. Examples include the Kenya African National Union, which governed Kenya following its independence in 1963, and the People's Action Party, which governed Singapore following its independence in 1965. Indeed, many of the authoritarian regimes that have emerged since World War II feature a dominant party, just as in Nazi Germany and the Soviet Union. Yet, they have been quite varied in terms of the extent to which they emphasize a specific ideology, societal

transformation, or mass mobilization. These developments prompted new ways of thinking about dominant-party rule and efforts to classify it. Samuel P. Huntington and Clement H. Moore, for example, disaggregated dominant-party regimes based on the strength of the ruling party. In strong dominant-party regimes, the party is supreme, whereas in weak dominant-party regimes, the leader or the military is. Analysis of the intensity and duration of the regime party's struggle to gain power helps account for these different paths.

Cold War geopolitical dynamics brought to power a number of military-led dictatorships in the 1970s, particularly in Latin America. A single man in uniform governed some of these regimes, such as in Uganda under Idi Amin. In others, the military as an institution took over the reins of power, such as in Brazil under its military junta. This led to analyses of particular features of military rule and attempts to distinguish such regimes. Amos Perlmutter, for example, split military dictatorships into two categories: ruler types, which seek to maximize power and view civilians as threatening to stability, and arbitrator types, which seek to restore order to the country and have little intention of governing for long periods of time.

This era also saw the emergence of strongman rulers, particularly in sub-Saharan Africa. Examples include Mobutu Sese Sekú s regime in what is now Democratic Republic of Congo (formerly Zaire) and Jean Bedel Bokassa's reign in the Central African Republic. These regimes feature a single leader at the helm unchecked by other actors, similar to the Latin American caudillos who governed much of that region many decades earlier. New research came to the fore to better understand these regimes, as well, such as Michael Bratton and Nicolas Van de Wallé s work on neopatrimonial rule in sub-Saharan Africa.

The end of the Cold War led to additional changes in the authoritarian landscape. International pressures for authoritarian regimes to pursue political reforms (often tied to foreign aid) prompted many to open up their political systems. Though a number of authoritarian regimes featured legislatures and multiparty electoral competition even before the Cold War's end, the percentage that did so increased substantially after 1990 (a subject discussed in more detail throughout this

book). Today, dictatorships with pseudo-democratic institutions such as these are the norm. New research emerged concurrently to make sense of these developments, generating a variety of new terms to refer to them, including "hybrid," "gray-zone," "electoral authoritarian," and "competitive authoritarian".

To summarize, authoritarian regimes have evolved considerably over time in response to historical events and global political undercurrents, as has how we conceptualize them.

Are Authoritarian Regimes, Dictatorships, and Autocracies the Same Thing?
In this book, yes. Though in the past, scholars made clear distinctions between the terms "authoritarian regime," "dictatorship," and "autocracy," contemporary research increasingly uses them interchangeably. This book will follow suit. In those instances in which specific studies make a point of differentiating these three terms, the discussion will be clear to indicate and explain this, but otherwise this book views them as one and the same.

If Governments Hold Regular Multiparty Elections, How Can They Still Be Authoritarian?
It is common to associate regularly held multiparty elections with democracy. After all, the defining feature of democracy is free and fair electoral competition. Not all electoral competition meets these requirements, however; simply holding a multiparty election by no means guarantees that the contest will be free and fair. A free election is one in which most of the adult population can vote; a fair election is one in which multiple parties are able to participate and compete on a relatively even playing field absent widespread fraud. If a government bars a certain sector of the population from voting, such as a specific ethnic group, the election is not democratic. Likewise, if a government bans a major political party from competing, jails its leaders, or stuffs the ballot box to ensure its own victory (to give but a few examples of what unfair means in practice), the election is not democratic. This means that it is very possible for multiparty elections to fall short of standards of freeness and fairness, and consequently very possible to have multiparty electoral contests occur in authoritarian contexts.

A multiparty election, therefore, tells us little regarding whether a country's political system is authoritarian or democratic. To make such an assessment requires many more details regarding the nature of the electoral race, as well as government behaviors leading up to and after it. For example, an election may appear competitive on election day, but conceal unfair activities that occurred prior, such as the incumbent prohibiting opposition parties from accessing the media. Likewise, incumbents may lose a competitive election, yet opt to annul the results and stay in office. Put simply, multiparty electoral competition does not imply democratic rule.

In fact, most contemporary dictatorships feature institutions that mimic democracy, such as elections with multiple political parties. Though such institutions are a defining feature of "hybrid," "gray-zone," "electoral authoritarian," and "competitive authoritarian" regimes (terms explained in Chapter 5), they are actually not unique to this subset of authoritarian systems. In modern dictatorships, it is common to see multiparty elections that occur on a regular basis.

Most scholars agree that authoritarian regimes incorporate pseudo-democratic institutions for survival purposes. Though the logic explained for this varies, the evidence suggests that dictatorships with multiple political parties, legislatures, regular elections, and so forth last longer in power than those without them.

In conjunction with their survival benefits, post—Cold War geopolitical dynamics have also incentivized authoritarian regimes to adopt pseudo-democratic institutions, as referenced earlier. In 1970, for example, 59 percent of all dictatorships held regular elections with multiple political parties. As of 2008 (the most recent year for which there are data), 83 percent of all dictatorships do. This indicates that the vast majority of today's dictatorships feature multiparty electoral competition.

What Time Period Does This Book Focus On?

This book is about contemporary authoritarianism. It therefore focuses primarily on authoritarian political dynamics from the post-World War II period to the present, consistent with most contemporary research on authoritarian politics. World War II triggered the collapse of many colonial empires and set in motion a string of independence movements worldwide. The number of countries in the world increased dramatically in the years that followed as a result, making World War II a reasonable starting point for analyzing contemporary authoritarianism.

Why Does This Book Emphasize Trends over Time in Authoritarian Politics?

Most of the research from which this book draws analyzes authoritarian politics in the post-World War II period, as explained earlier. And most of the central insights that surface from this research are applicable to the authoritarian regimes of today, as well as those of the 1940s and 1950s. For the most part, the same political actors that were important then are important now and their preferences now are the same as they were then.

That said, there are indications of changes in authoritarian political dynamics on a variety of fronts from the Cold War compared to after it. During the Cold War, many countries served as pawns in the strategic game the United States and Soviet Union were engaged in. Not only were many nudged (and in some cases coerced) into establishing an authoritarian system of government, but those authoritarian regimes that did exist often received financial and material backing to support their rule. In a number of instances, authoritarian regimes exploited these dynamics to their advantage, exaggerating the threat of Communism (or, conversely, overstating their commitment to it) as a means of increasing their bargaining leverage. After the Cold War's end, however, many of these geopolitical relationships unraveled. The dramatic withdrawal of external support exposed many authoritarian regimes to serious vulnerabilities, in turn setting the stage for a global wave of democratization.

Since the end of the Cold War, the consensus to emerge in the international community is that democracy is the preferred form of government. As a consequence, countries often must demonstrate support for democratic norms and institutions in order to secure external financial and material assistance. Such pressures partially explain why we see so many authoritarian regimes today feature pseudo-democratic institutions, as discussed earlier.

These are but a few indicators of how the geopolitical landscape during the Cold War differed from the one that emerged after it in ways that significantly affected the nature of authoritarian politics.

For this reason, this book places special attention on trends in authoritarianism occurring over time. It makes a point, where relevant, to highlight how authoritarian political dynamics are different today than they were in the past and why such differences matter. Readers should therefore come away from the book with a solid understanding of how authoritarian politics works in the broad sense, as well as the nuanced ways in which it has changed and may continue to change down the road.

What Data Are Used to Measure Authoritarian Regimes in This Book?

This book presents basic statistics about authoritarian regimes, where relevant. These statistics draw from the Autocratic Regimes Data Set, unless otherwise noted. The Autocratic Regimes Data Set measures the start and and dates of authoritarian regimes in countries with populations over one million. It also measures authoritarian regime type (whether personalist, military, dominant party, or monarchic—categories discussed in greater detail in Chapter 5), how authoritarian regimes end, and whether democracies or new authoritarian regimes succeed them. The original data set covers the years 1946 to 2010. I updated a number of the variables in this data set through 2014. The authoritarian regime statistics offered in this book will therefore vary in the years they cover (either through 2010 or through 2014), depending on data availability. This will be noted, where relevant.

What Will You Read in the Chapters to Come?

The goal of this book is to give readers a clearer understanding of authoritarian politics. To do so, it will cover the basics of how politics works in authoritarian regimes and how this, in turn, affects key things that we care about.

Chapter 2 sets the stage for the subsequent chapters. It outlines who the key actors are in authoritarian regimes and defines their preferences and interests. It suggests that politics in

authoritarian contexts typically centers on the interplay between three actors: leaders, elites, and the masses. Leaders and elites take part in a constant struggle for power, rooted in a desire for greater political influence, all while working to main¬tain the support of critical sectors of the masses. Authoritarian institutional environments (discussed in Chapter 5) shape how these struggles take place and their subsequent political outcomes. This chapter closes by explaining the importance of differentiating authoritarian leaders from authoritarian regimes as units of analysis. Though in some instances the leader and the regime are indistinguishable, in many others the regime lasts well beyond the tenure of any single leader. It also explains how authoritarian regimes differ from authoritarian spells and why this matters for analyzing authoritarian politics. Specifically, multiple authoritarian regimes can come and go during a single authoritarian spell. Nicaragua was authoritarian for the entire period between 1936 and 1979, yet experienced two distinct authoritarian regimes: the regime of the Somoza family from 1936 to 1979 and the regime of the Sandinistas from 1979 to 1990. The chapter makes clear the implications of these and other distinctions.

Chapter 3 paints a portrait of the authoritarian landscape. It describes the relationship between economic conditions and political regime type and disentangles the causal mechanisms that link them. Just as modernization theorists observed many years ago, democracy and economic development seem to go together. Richer countries are more likely to be democratic, and poorer countries are more likely to be authoritarian. This chapter offers insight into why. It also explains what "waves" and "reverse waves" of democratization are and highlights when and why we have seen them. It closes by describing where we see authoritarian regimes today and how the ge¬ographical dispersion of authoritarian regimes has evolved since the end of World War II.

Chapter 4 narrows the focus to authoritarian leadership. All authoritarian leaders have the same goal: to stay in power for as long as possible. Because of this, most try to secure personal control over as many major political instruments as they can while in office, such as assignments to key posts, policy directives, and the security forces.

Some are successful in their efforts to maximize power, such as Amin of Uganda, but many are not, such as Mahmoud Ahmadinejad of han. This chapter discusses the behaviors of authoritarian leaders, with a special emphasis on the process of personalization—or concentration of power in the hands of the leadership. It discusses the negative consequences of personalization for global democracy, economic prosperity, and other outcomes of interest; shows that personalization is on the rise worldwide in authoritarian contexts; and identifies clear warning signs that it is occurring. The chapter also offers basic information about how authoritarian leaders typically leave power, what happens to them once they do, and how fear of post-tenure punishment can provoke them to engage in aggressive and predatory behaviors.

Chapter 5 broadens the analysis to authoritarian regimes. Authoritarian regimes are not one and the same, as the stark contrast between places such as Mexico under the Institutional Revolutionary Party (PRI) and Nicaragua under the Somoza family makes clear. Differences among them help explain differences in their behaviors across a wide range of domains. Scholars have proposed a number of ways to categorize authoritarian regimes for this reason, which this chapter reviews. It discusses the advantages and disadvantages of the major contemporary typologies, being careful to differentiate continuous typologies (e.g., gray-zone regimes, hybrid regimes) that place authoritarian regimes along a linear spectrum ranging from authoritarian to democratic from categorical typologies (e.g., military regimes, monarchic regimes, party-based regimes) that place them into distinct categories regardless of how "authoritarian" they are. This discussion is intended to help readers make sense of what the variety of terms used in the media and elsewhere to categorize authoritarian regimes actually refer to. This chapter goes on to explain in detail one of the most commonly used typologies in the literature, which disaggregates authoritarian regimes based on whether they are ruled by a military, dominant political party, royal family, or single individual. It then shows the consequences of these differences for a variety of policy outcomes in international and domestic arenas.

Chapter 6 covers how authoritarian regimes gain power. Some authoritarian regimes seize control via coup, such as the Chilean regime under Agosto Pinochet that remained in power from 1973 to 1989. Other authoritarian regimes assume control in a subtler fashion via authoritarianization, such as the regime Hugo Chavez established in Venezuela in 2005 that is still in power at the time of writing. How an authoritarian regime gains power is important because it often sets the stage for how politics will work down the road, such as the role the military will play and the constraints the leader will face. This chapter discusses the major ways that new authoritarian regimes form. It makes clear how these modes of entry differ based on whether the outgoing regime is an authoritarian regime or a democracy. In light of the global trend of democratic backsliding in recent years, much of the chapter is devoted to the dismantling of democracies. It explains what backsliding is, how it is that we know it when we see it, and the types of democracies that are the most vulnerable. It also details the relationship between populism and backsliding, illustrating how populist rhetoric among democratically elected leaders can be a springboard for transitions to authoritarianism.

Chapter 7 delves into authoritarian strategies for survival. All governments face the challenge of how to hold on to office. This is particularly true for authoritarian governments, which confront the constant threat of ouster because they cannot rely on electoral legitimacy to defend their position. To address this challenge, authoritarian regimes have two broad tools at their disposal: repression and co-optation. Repression is a defining feature of authoritarianism. Unlike in democracies where governments that repress heavily can be voted out of office, in authoritarian regimes repressive acts often go unpunished. For this reason, authoritarian regimes are far more likely to rely on repression to maintain control than are their democratic counterparts. In addition to repression, authoritarian regimes often use co-optation. Patronage is one form of co-optation, but so is the establishment of institutions, such as political parties and legislatures. These institutions incorporate potential opponents into the regime apparatus, thereby reducing their incentives to seek the leader's overthrow. In devising their plan for survival, authoritarian governments weigh the costs

and benefits of both tools. This chapter discusses repression and co-optation in detail, showing the ways in which they are used in authoritarian regimes and how their use varies across authoritarian contexts. It offers insight into how contemporary authoritarian regimes differ from those of the past in terms of how they repress and co-opt. Rather than using brute force and a narrow set of traditional tools of co-optation to maintain control, today's authoritarian regimes use strategies that are subtler, wider ranging, and seemingly more democratic in nature.

Chapter 8 looks at how authoritarian regimes leave power. Given the persistent centrality of authoritarian regimes to the foreign policy agendas of many of the world's states, understanding their specific vulnerabilities is of substantial importance. This chapter reviews the major ways in which authoritarian regimes collapse and what happens afterward. Though about half of the time democracies are formed, the other half of the time we see new authoritarian regimes instead. This chapter identifies the major triggers of authoritarian regime failure more generally, before narrowing the focus to the factors that increase the chance of democratization specifically. It also discusses what political liberalization refers to and how it differs from democratization. It emphasizes that many authoritarian regimes adopt the same institutions that we have historically viewed as quintessential hallmarks of democracies—including elections, parties, and legislatures—even though they have no intention of using them for democratic purposes. As a consequence, political liberalization in authoritarian regimes does not necessarily suggest a likely turn to democratization down the road.

Chapter 9 summarizes and reviews the major themes of the book, before turning to a discussion of the critical unanswered questions that remain and the road that lies ahead in better understanding contemporary authoritarianism. <>

Organization Design: Creating Strategic & Agile Organizations by Donald L. Anderson [SAGE Publications, 9781506349275]

To thrive in today's rapidly changing, global, dynamic business environment characterized by constant change and disruption, organizations must

be able to adapt and innovate to maintain their competitive edge. Organization Design: Creating Strategic & Agile Organizations prepares students to make smart strategic decisions when designing and redesigning organizations. Structured around Galbraith's Star Model™, the text explores five facets of organization design: strategy, structure, processes, people, and rewards. Author Donald L. Anderson distills contemporary and classic research into practical applications and best practices. Cases, exercises, and a simulation activity provide multiple opportunities for students to practice making design decisions.

Excerpt: Observers of contemporary organizations continue to enumerate the enormous challenges facing leaders today. Leaders are required to operate with global teams to serve global customers; to cope with increased competitive pressures from rivals large, small, new, and unexpected; to innovate in agile ways to secure even a short-term competitive advantage; and to do all of this with fewer resources than ever before. Organizations are developing increasingly complex designs to account for the collaboration required in today's rapidly changing, global, dynamic environment. In many ways, organization design is a core leadership competency to address these challenges. Yet while dozens of publications introduce students and business leaders to the foundations of strategy or talent management,

there are few introductory publications in the field of organization design.

Organization design is a complex subject that can be intimidating to newcomers. Students who come to the field of organization design through strategy find themselves quickly mired in complex discussions of four-sided matrix designs or virtual organizations. These frameworks seem to forget that people design organizations and execute on their strategies. Other students who come to design from the people side or human resources discipline tend to become lost in discussions of strategy and complex global operating models. Practicing organization design requires an understanding of industry trends and strategic positioning as well as an understanding of organizational behavior, organizational change, and even psychology.

Organization design is an interdisciplinary field of theory and practice. Students and managers who apply design concepts need to not only understand design theory, but how to translate that theory into practice. These topics can be difficult to understand, much less to apply in an ever changing contemporary environment and adapt to the unique needs of any given organization.

The purpose of this book is to expose you to not only classic and traditional but also contemporary and innovative organization design concepts, and to do so in a way that is accessible to a novice. Design practitioners come in many forms: You might be a leader looking to enhance your knowledge of organization design so that you can create a department or team that is aligned with the organization's strategy and removes barriers to performance. You might be a human resources (HR) professional or organization development consultant whose role is to work with leaders in your organization on their organization design challenges and to facilitate them through a design process. In any case, the concepts, theories, and approaches in this book are intended to provide an introduction to the field of organization design and the choices that must be weighed. You will find the term organization designer throughout the book to emphasize these different roles, from leader to consultant to HR practitioner.

Consistent with the view that there is no one right organization design, you will not find any

particular design advocated or an attempt to push the latest fad designs. Instead, it is important that as managers, students, and practitioners we have an appreciation for the thought process involved in organization design.

It is more helpful to develop an understanding of the choice points, trade-offs, considerations, and consequences of any design alternative than to adopt a design just because it is popular. By learning more about organization design in this way, you will be a better observer of organization design challenges and a better critic of proposed designs and their consequences. You will also be in a position to recommend alternatives that are more likely to result in the objectives you are trying to reach.

Overview of the Book

We will begin in Chapter 1 by defining organization design and outlining its history. We will explore why organization design is a relevant field of study for today's managers. Chapter 2 will expose you to key concepts of organization design, including the STAR model that we will use as the foundation of the book. We will learn the organization design process of understanding the scope of the design effort, conducting design assessments to evaluate strengths and weaknesses in an existing design, testing a design, and developing design criteria.

Chapters 3 through 7 will address the five components of the STAR model of organization design. We will begin with an exploration of the concept of strategy in Chapter 3 where our goal will be to assess whether the organization has a consistent or defined strategy and where we will understand foundational concepts in the field of strategy. In Chapter 4, we will examine different kinds of organizational structures and the advantages and disadvantages of each. We will look at matrix organizations in depth to understand their unique benefits and challenges. In Chapter 5, we examine the lateral capability of an organization's design to understand the information and decision-making processes that cross the structural units of the organization. Here we will also delve specifically into global operating models as a central concept. In Chapter 6 we will focus on the people issues of the design. We will consider the relationship between organizational

capabilities and individual capabilities and how to manage talent practices in a way that support the strategy. Chapter 7 will consider rewards and how to develop effective reward and recognition programs that motivate employees in a way that is consistent with the other aspects of the design.

In Chapter 8, we will discuss reorganizing, that is, how to implement organization design changes and manage transitions between current and new designs. We will also examine a leader's role in organization design and how organizational culture relates to design. Chapter 9 will expand on the contemporary challenge of agility. Organizations today are faced with developing designs that can respond quickly to market changes, and becoming an agile organization means changes at each point of the design. To conclude, in Chapter 10, we will examine future issues of organization design and some of the capabilities that managers need to have to be successful designers.

Exercises, Activities, and the Organization Design Simulation

Throughout the book, you will find discussion questions, exercises, and case studies intended to bring design concepts to life. Many of these case studies will invite you to put yourself in the shoes of the leader and consider the real life choices that they face, as leaders must be conscious of the trade-offs they make. What are the advantages of choosing option A over B, and what are the consequences of that choice? What problems does that choice solve, and what additional problems might that choice create? Are there ways of mitigating the new problems that get created? As you learn the principles and concepts of organization design and you are able to debate these issues with others, your answers to these questions will become clearer.

A unique organization design simulation activity in the Appendix will also allow you to practice designing your own fictional organization. You will find instructions guiding you to this simulation exercise following Chapters 3, 5, 7, and 8. The activity will invite you to roll the dice and invent an imaginary organization of your choosing. Whether you design a global manufacturer of virtual reality headsets, a national franchise of yoga studios, a citywide bakery serving local restaurants, or something else entirely, the organization design

principles you learn in the text will guide you through the very real thought process of design as you create your company. <>

Uncivil Warriors: The Lawyers' Civil War by Peter Hoffer [Oxford University Press, 9780190851767]

 In the Civil War, the United States and the Confederate States of America engaged in combat to defend distinct legal regimes and the social order they embodied and protected. Depending on whose side's arguments one accepted, the Constitution either demanded the Union's continuance or allowed for its dissolution. After the war began, rival legal concepts of insurrection (a civil war within a nation) and belligerency (war between sovereign enemies) vied for adherents in federal and Confederate councils.

In a "nation of laws," such martial legalism was not surprising. Moreover, many of the political leaders of both the North and the South were lawyers themselves, including Abraham Lincoln. These lawyers now found themselves at the center of this violent maelstrom. For these men, as for their countrymen in the years following the conflict, the sacrifices of the war gave legitimacy to new kinds of laws defining citizenship and civil rights. The eminent legal historian Peter Charles Hoffer's Uncivil Warriors focuses on these lawyers' civil war: on the legal professionals who plotted the course of the war from seats of power, the scenes of battle, and the home front. Both the North and the South had their complement of lawyers, and Hoffer provides coverage of each side's leading lawyers. In positions of leadership, they struggled to make sense of the conflict, and in the course of that struggle, began to glimpse of new world of law. It was a law that empowered as well as limited government, a law that conferred personal dignity and rights on those who, at the war's beginning, could claim neither in law. Comprehensive in coverage, Uncivil Warriors' focus on the central of lawyers and the law in America's worst conflict will transform how we think about the Civil War itself.

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A Civil War of, by, and for Lawyers?

The United States and the Confederate States of
America engaged in combat to defend distinct
legal regimes and the social order they embodied
and protected. Considering the arguments on both
sides, one could find in the Constitution grounds to
assert the Union's perpetuity or reasons on which to
base its dissolution. During the war, rival legal
concepts of insurrection (a civil war within a nation)
and belligerency (war between sovereign enemies)
vied for adherents in federal and Confederate
councils. In a "nation of laws," such martial legalism
was not surprising, no more so than that the nation's
lawyer/politicians—men who went from the
practice of law into politics—found themselves at
the center of the maelstrom. For these men, as for
their countrymen in the years following the conflict,
the sacrifices of the war gave legitimacy to new
kinds of laws defining citizenship and civil rights.

The war would affect almost all of the nation's
lawyers, in 1860, according to the US census, some
101,000 men out of a free white male adult
population of over 7 million. Many rushed to the
colors. Others found jobs in the greatly expanded
bureaucracies of the two governments. A few, the
subjects of the pages that follow, played an even
more important role. In positions of leadership they
struggled to make sense of the conflict and, in the
course of that struggle, began to glimpse a new
world of law. It was a law that empowered as well
as limited government, a law that conferred
personal dignity and rights on those who, at the
war's beginning, could claim neither in law. But not
at first. For at first, adherence to an "old
Constitution" in the words of Lincoln's first Inaugural
Address, constrained the legal imagination.

In the summer of 1862, former Supreme Court
justice Benjamin R. Curtis was troubled for this very
reason. A Whig in politics with a large and
successful legal practice, he joined the US Supreme
Court in 1851 and served for six years. After he
resigned his post on the Court following a bitter
dispute with Chief Justice Roger Taney in 1857 and
returned to his thriving and prestigious private
practice in Boston, he supported the candidacy of
Abraham Lincoln and opposed secession. But in
1862, Curtis had become worried that Lincoln
overstepped his constitutional role in proposing to
emancipate slaves in Confederate territory. Rooted
in the ground of the old Constitution, Curtis wrote
what amounted to a legal brief against Lincoln's
broad assumption of executive wartime powers.
The short book became a bestseller among
Northern Democrats and caused Lincoln genuine
pain. Curtis's was a valedictory for an older
jurisprudence of limited central government.
Republicans like Lincoln had pledged themselves to
it during the presidential campaign, but as New
York Democrat Samuel Tilden—a lawyer/politician
who supported Stephen Douglas's bid for the
highest office—warned during the 1860 campaign,
some Republicans seemed overly willing to
"interfere with the affairs of other communities, and
to seek to regulate and control them as they
rightfully do their own." The danger of such
interference was that it unbalanced the division of
powers between federal and state governments
embedded in the old Constitution. Curtis saw
President Lincoln's actions coming dangerously close
to this state of affairs. The exchange between
Curtis and Lincoln in 1862 was virtual litigation, one
of the many critical occasions when the lawyers in
the Civil War employed their talents to vie for
approval in the court of public opinion.

In that endless summer of battle, with the fate of
the Union hanging by a thread, Lincoln sought legal
ways to justify his course of action and Curtis
decried the seeming illegality of Lincoln's acts. Both
men were lifelong practitioners of law, and both
made sense of the crisis in legal terms. They were
not alone in this. At the very center of the federal
and Confederate governments, lawyers as lawyers
played a vital role in the Civil War Era. Their ideas
and acts were not confined to formal pleadings in
courtrooms or the language of judicial opinions.
Executive orders, treatises, election debates, even

journal entries and letters were filled with legal ideas. These came from widely disparate sources reaching back to the first tracts on the laws of war and up to futuristic visions of civil rights. The lawyer/politicians were everywhere in the executive and legislative branches of government as well as the judiciary. From the framing of the first secession ordinance in Charleston and the drafting of the Confederate constitution in Montgomery through the last great act of wartime statesmanship—the passage of the Thirteenth Amendment in Washington, DC—government lawyers, performing as policymakers, litigators, and jurisprudents, shaped the Union and Confederate causes. Some of these legal practitioners, like Abraham Lincoln, James Buchanan, T. R. R. Cobb, Robert Toombs, Alexander Stephens, and Reverdy Johnson, are well known to history. Others, like the author of the South Carolina Ordinance of Secession, Francis H. Wardlaw, Buchanan's legal advisor Jeremiah Black, and Confederate lawyer/politician and soldier Patrick Cleburne, now rest in obscurity.

The extent to which two governments growing in size, expense, and powers waged a civil war based on older ideas of national govern-ance would not have surprised lawyers on either side of the battle lines. Confederate lawyers believed that they were battling for the framers' "old Constitution." Lawyers in Lincoln's cabinet and the Republican majorities in Congress saw the cause of the Union rooted in the framers' constitution as well. As Abram D. Smith of the Wisconsin State Supreme Court put it in defense of his state's personal liberty laws, "The American people could no longer enjoy the blessings of a free government ... whenever the state sovereignties shall be prostrated at the feet of the federal government." During the conflict, the justices of the United States Supreme Court struggled to find a way past the "old Constitution" to justify the prosecution of the war. With the wisdom of hindsight, one can see the gestation of federal supremacy, human rights, and governmental obligations emerging from the struggle, but that birth was a long and painful one.

What did the presence of lawyers in the governments on both sides mean to the conduct of the war? Called the last war of gentlemen, it was, unlike civil wars before and after, remarkably rule-bound. Civil wars are customarily lawless events, by their very nature exhibiting extremes of brutality on both sides. While there were civilian casualties and the destruction of private property in the Civil War, the war was fought with a kind of genuine, if sporadic, law-mindedness, bordering on civility. After all, the leaders of the two sides had governed the nation together before secession. For example, Lincoln offered the rebels generous peace terms, hedged by legal requirements, on at least three occasions. On the eve of the first battle, he longed for a "civilized and humane jurisprudence" in which lawyer/politicians on both sides could find common ground. Confederate vice president Alexander Stephens labored almost incessantly to bring about an honorable peace. The war was horrific, but constrained. I propose to show that one important reason for this was the influence of the lawyers—making ours a Civil War by lawyers, of lawyers, and in the end, for lawyers.

The lawyers transformed the war, but the war also transformed the lawyers' world. Not only did the war (and the reconstruction measures that immediately followed) provide new venues for legal work, but the war also changed the very nature of federalism. No longer would the national government be a junior partner in the federal system of states. The lawyers who managed the war might return to private practice when it ended, but the Union they left behind bore an entirely new constitutional face.

Each of the chapters that follow, along with the prologue and epilogue, focuses on what may be called a legal "moment," a cross section or slice of time when a set of disputed questions about law was at issue. One may reply that such disputes, wars of words, had little impact on the course of politics or battle, but consider the null hypothesis: What if these legal questions had never been raised? If secession had not been defended as legal and contested as illegal, would there have been a Civil War at all? If Lincoln had not suspended the writ of habeas corpus and arrested Maryland pro-Confederate agitator John Merryman, then ignored Chief Justice Taney's opinion in the matter, would Maryland have joined its sister slave states in the Confederacy? If the Supreme Court had struck down the blockade as unconstitutional, would the Confederacy have won

the war? If Lincoln had not found a legal ground to emancipate slaves in territories in rebellion, would the eventual end of slavery have come with the end of the war? If the lawyers in Congress had not found a way to end slavery after the war with the Thirteenth Amendment, would slavery have survived the conflict? Each legal decision, as a legal decision, had a real-world impact. Legal words became political and military deeds.

One might, in contrary fashion, argue that by focusing on moments in Civil War history that have inherent connection to law or that gave birth to new laws, I am stacking the deck in favor of my thesis that lawyers had a vital role to play during the war. In one sense, that charge is a fair one; for of course I am making the best case I can for my contribution. But in reply I ask whether the moments I have chosen were not crucial ones, not just for law, but for the course of the war? I think they are.

The work here presented is a legal history, and it features a close reading of certain crucially important public texts. I have tried to emphasize the way in which the Civil War lawyers' legal training, experience, and approach to issues framed how they handled the great questions of secession and the war. At the same time, those great questions were never wholly legal ones. Political ambitions, military events, and personality played important roles as well. Hopefully, these essays navigate a safe intellectual passage between the Scylla of too narrow a doctrinal exegesis and the Charybdis of too broad a reliance on the externalities of political biography.

In reading the texts I employ a method familiar to an older generation of legal historians and intellectual historians that might be dismissed as naïve realism. That is, I view the central documents as a product of their times and the immediate purposes of those who conceived and drafted them. I assay both public sources (the documents themselves, speeches, official correspondence, contemporary publications) and private sources (memoirs, diaries, private letters) in this endeavor. There is therefore a good deal here in the words of the lawyers, some of which are "terms of art" (words whose legal usage is different from their common usage). I have tried to translate them into lay language when it does not distort their meaning.

In the interests of keeping my focus and the reader's attention, I have not spent much time on the course of ordinary litigation during the war. Although the war dramatically affected the volume of that litigation and wartime legislation provided new forms of action (for example, confiscation in the federal courts and sequestration in the Confederate courts), these matters were quite distinct from the larger legal issues of the war. I have devoted only one chapter to Civil War—era judges, and this to the justices of the US Supreme Court. While the judges and justices were lawyer/politicians before they ascended the bench, in the main they supplied what Judge Richard Posner has called "corrective justice" rather than applying law or lawyerly thinking to provide novel solutions to policy questions. In laymen's terms, this means that the judges and justice simply applied known law to particular cases. I did provide a fuller account of the Civil War—era federal judges in chapter 5 of [The Federal Courts: An Essential History](#) by Peter Charles Hoffer, William, James Hull Hoffer, and N. E. H. Hull [Oxford University Press, 9780199387908].

There are moments in American history when all eyes are focused on a federal court: when its bench speaks for millions of Americans, and when its decision changes the course of history. More often, the story of the federal judiciary is simply a tale of hard work: of finding order in the chaotic system of state and federal law, local custom, and contentious lawyering. The Federal Courts is a story of all of these courts and the judges and justices who served on them, of the case law they made, and of the acts of Congress and the administrative organs that shaped the courts. But, even more importantly, this is a story of the courts' development and their vital part in America's history.

Peter Charles Hoffer, William, James Hull Hoffer, and N. E. H. Hull's retelling of that history is framed the three key features that shape the federal courts' narrative: the separation of powers; the federal system, in which both the national and state governments are sovereign; and the widest circle: the democratic-republican framework of American self-government. The federal judiciary is not elective and its principal judges serve during good behavior rather than at the pleasure of Congress, the President, or the electorate. But the

independence that lifetime tenure theoretically confers did not and does not isolate the judiciary from political currents, partisan quarrels, and public opinion. Many vital political issues came to the federal courts, and the courts' decisions in turn shaped American politics.

The federal courts, while the least democratic branch in theory, have proved in some ways and at various times to be the most democratic: open to ordinary people seeking redress, for example. Litigation in the federal courts reflects the changing aspirations and values of America's many peoples. The Federal Courts is an essential account of the branch that provides what Massachusetts Supreme Judicial Court Judge Oliver Wendell Homes Jr. called "a magic mirror, wherein we see reflected our own lives." <>

[Religious Discrimination and Cultural Context: A Common Law Perspective](#) by Kerry O'Halloran [Cambridge University Press, 9781108423052]

Generations of festering culture wars, compounded by actual wars in predominantly Muslim countries, the terrorism of Isis, and the ongoing migrant crisis have all combined to make religious discrimination the most pressing challenge now facing many governments. For the leading common law nations, with their shared Christian cultural heritage balanced by a growing secularism, the threat presented by this toxic mix has the potential to destabilise civil society. This book suggests that the instances of religious discrimination, as currently legally defined, are constrained by that cultural context, exacerbated by a policy of multiculturalism, and in practice, conflated with racial, ethnic or other forms of discrimination. Kerry O'Halloran argues that many culture war issues - such as those that surround the pro-choice/pro-life debate and the rights of the LGBT community - can be viewed as rooted in the same Christian morality that underpins the law relating to religious discrimination.

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Introduction
PART I Background

Excerpt: The eruption of ISIS' onto the international stage registered the issue of culturally based religious discrimination as one of the most important challenges facing civilisation in the early decades of the twenty-first century. The putative caliphate may have been inspired by an ambition to achieve religious/cultural coherence, within redrawn geo-political borders in the Middle East, but its efforts to do so have impacted on such coherence much further affield. Within its present boundaries, religious/cultural communities non-aligned with ISIS values have suffered, and continue to suffer, not just religious discrimination but mediaeval barbarism and possible annhiliation. Outside those boundaries, ISIS atrocities in Western cities and the scale of armed response — including aerial bombing of Islamic cities — from the developed and mainly Christian nations, are threatening to both reopen East/West religious divisions and rupture the religious harmony and carefully cultivated multiculturalism that, in general, have grown to become the hallmark of Western civilisation in the post-cold war period.

While the ISIS challenge and the response of the Western nations demand attention, the resulting jolt to social cohesion in those nations also calls for close examination — and has been a motivating impulse for this book. The fact that the ISIS cause attracted volunteers from all over the world, adherents prepared to kill and die for it, is in itself significant: they came not only from eastern Islamic countries, as might be anticipated, but also from the traditionally Christian countries of Europe, the USA, Canada, Australia and elsewhere; from nations,

communities and families where values of tolerance, equality and non-discrimination have been long and deeply embedded. Thousands of citizens of democracies chose to uproot themselves from the cultural context that had nurtured them for an opportunity to launch murderous attacks, in the name of religion, against that culture, its values and people. Moreover, a reverse flow, comprising many hundreds of thousands of migrants seeking refuge in the West, is now flooding into those still largely Christian countries, where the mainly Muslim migrants are experiencing some difficulty in accepting, and being accepted within, democratic lifestyles. The international and multi-cultural dimension of this religiously driven, ideological phenomenon is inescapable. How did it get to this? What are the implications for Western society?

This book sets out to explore such matters. Being primarily a law book, however, it doesn't presume to address geopolitical issues, except insofar as seems appropriate to draw attention to the causes and effects of not dealing with discriminatory activity when it first surfaces. Instead, it confines itself, primarily, to examining the flow of religious discrimination cases through the courts in order to better understand the main types of issues that are currently deemed to meet that definition and the reasoning behind the judicial response. It proceeds on the basis that religious discrimination cannot be satisfactorily addressed without considering the cultural context in which it has been formed and now functions. It therefore takes a checklist of the main areas of such discrimination as statutorily identified, tracks how they are processed through regulatory or judicial systems and considers the significance of any jurisdictional similarities or differences in the way issues are resolved.

In the main, the book concentrates on this age-old scourge of civilisation as defined in statute and manifested in everyday settings such as family life, employment and education. The focus is largely on a comparative analysis of judicial judgments on the same agenda of issues - accommodating religious practices in the workplace, religious beliefs in education, wearing religion-specific clothing and so on. It is an exercise restricted to six common law nations chosen because they share the same legal system, have been engaged in prolonged warfare in the same Muslim countries and are now

struggling to adapt their domestic multi-culturalism policies to cope with the influx of refugees and migrants from those countries. Of necessity, that policy context also arises for consideration as it forms a largely shared jurisdictional backdrop for discriminatory activity, and its role - whether as part of the problem or part of the solution - deserves attention.

In addition to religious discrimination as statutorily defined, the book also considers the phenomenon known as "the culture wars." It links the two. It argues that the same morality may be seen at work in both phenomena: that, in effect, the latter often serves as a proxy extension of the former; that many if not most of those resisting legalised abortion, same-sex marriage and other such contemporary moral imperatives are doing so in defence of traditional religious values and beliefs (although not always; e.g. it is not necessary to have religious values to oppose gay marriage). It suggests that the morality platform of the culture wars is often little more than a collapsed version of its legal counterpart - religious discrimination. Only by taking into account the associated culture-war issues is it possible to give a full picture of the jurisdictional experience of religious discrimination in a cultural context. This important theme is developed throughout the book.

Parts I and II of this book examine the causes, nature and consequences of religious discrimination. The four chapters therein deal with themes of "identity" and "alienation", with what in contemporary society is meant by "culture" and what now constitutes "religion" and how we understand, in the light of those constructs, what is meant by "religious discrimina¬tion" Part III, the heart of the book, contains six chapters, each focusing on a developed, multi-cultural, common law democracy - England and Wales, Ireland, the USA, Canada, Australia and New Zealand - in which the institutions, laws and legislatures take care to respect and differentiate between the many cultures they now accommodate. In these modern societies, a reassuring principle - that to differentiate is not to discriminate - is often trotted out as the rationale for a multi-cultural policy. Cultures, we are assured, are categorically distinct and must be treated in ways that acknowledge and maintain their particular characteristics.

Identity - whether for individual, group or culture - is wholly dependent upon difference, and difference must be respected. All very well, but even if the delineation of difference is pursued for the most laudable of motives, it will still result in social divisions where pride in distinctiveness can lead to disparagement of others, and from there perhaps to discrimination.

While each chapter in Part III focuses on jurisdiction-specific judicial rulings, arranged in accordance with a schematic of legally defined religious discrimination issues, they also draw attention to associated "culture-war" disputes. The previously mentioned premise - that culture-war issues often operate as religious discrimination by proxy - forms a unifying theme for Part IV. This concluding section ties the findings in Part III to themes examined in Parts I and II. It identifies and considers areas of jurisdictional commonality and difference in the judicial treatment of religious discrimination and then reflects on the bearing these might have on the themes explored earlier.

It is hoped that Religious Discrimination and Cultural Context will lend a little weight to a recommendation in a recent British report, with relevance for all the jurisdictions surveyed, that the time has come for government to "review the anomalies in how the legal definitions of race, ethnicity and religion interact in practice.

The progenitor common law jurisdiction would seem to be steadily shedding the Christianity it once so proudly championed and transplanted throughout its empire. There are indications that the post-colonial jurisdictions are now following suit, at a varying pace and subject to qualifications in respect of some growth in evangelicalism. The decline in Christianity is accompanied by a numerically slight but proportionately significant increase in adherents of Islam and some growth in other minority religions and beliefs. In all, the stoical acceptance of religion's diminishing importance has been shaken by the virulence of the recent ISIS onslaught: the realisation that it has attracted the active support of many fellow citizens; the resulting danger to the general public in everyday urban settings, particularly in relation to what may be construed as religious targets; and

mostly the scale and triumphalism of its many murderous acts of religious discrimination.

Clearly, there are implications not just for the future of Christianity - indeed, for religion - but also as regards government response to the ISIS phenomenon and to everything it represents. There are questions as to what will fill the vacuum created by what seems to be the slow but inexorable demise of Christianity: will secularism steadily acquire equivalent legitimation and accede to the social role and leverage that religion once exercised; will it, too, develop a fundamentalist wing? What will be the impact on a culture which seemed so inextricably fused with Christianity? Will these changes - the move away from a reasonably coherent, religiously flavoured culture to national accommodation of a spread of religions, beliefs and non-beliefs - lead to more, and more varied, opportunities for religious discrimination? Will this in turn push government on from an equivocating commitment to State neutrality to assert a positive policing role, regulating for the public benefit, in respect of religious matters? If Christianity continues to lose its public, institutional character and becomes more a matter of private piety, will the consequent lack of potency cause religious discrimination to be diverted, diluted and sublimated into an expanding pool of culture wars? How will this post-millennial transition in the West be affected by the unleashing of Islamic mediaeval fundamentalism in the East; in particular, how will it affect the growing population of Western Muslims? Will the current flare up of populism and pluralism lead to a collective circling of the wagons and a revival of national cultural identity? Are Western developed nations now stuck in a "waiting for the barbarians"' phase?

This book opened with a consideration of matters concerning "identity" and "alienation" as precursors of religious discrimination. During the course of writing, the twin phenomena of the migrant crisis and ISIS - both essentially Muslim in nature, and both, in large part, products of sustained warfare by the USA and its allies against Muslim countries - have grown to upstage what was to have been no more than a routine academic research project limited to a comparative analysis of religious discrimination as evidenced in the patterning of jurisdictional caselaw. Overtaken by events, the

book has had to be recalibrated to take into account alongside that analysis the significance of ISIS as an unavoidable measure of the nature and impact of contemporary religious discrimination. As both the migrant crisis and ISIS are unmistakably entangled with matters of identity and alienation, it seems appropriate to conclude by revisiting the themes outlined at the outset, considering them in conjunction with these phenomena and reflecting on some implications for the cultural context of religious discrimination in the twenty-first century.

Religion and the Politics of Identity

A theme in the considerable body of academic work on "the politics of identity"' concerns the striving to acquire recognition and status, not so that an entity may join with others in a community of equals, but rather so that it may establish its own uniqueness, assert its difference and be free and able to stand its own ground, apart from all others. Religion or belief can have that effect - as reinforced by religious discrimination, the culture wars and associated ideology or fanaticism. Pluralism may offer the best policy option for counteracting competitive religiosity, but probably only if accompanied by regulatory mechanisms that police and mediate to prevent insularity and polarisation and protect the public interest.

Liberal Democracy: Identity and Alienation

All the Part III jurisdictions share much the same media-dominated lifestyle that typifies modern Western society. It is one of relative wealth, opportunity, personal rights and freedom of choice. For those from more repressed cultures, escaping circumstances of poverty and fear, it may also appear sexualised and permissive. Even without exposure to pro¬tracted war, migrants would naturally gravitate towards Western society. The effects of some fifteen years' deployment of high-tech weaponry by these jurisdictions in a range of impoverished Muslim countries, destroying much socio-economic infrastructure, have added greatly to their difficulties and served to push waves of migrants towards safety and opportunity in the West. A logical consequence of the direction, duration and devastation of the allies' war effort can be seen in the numbers and ethnicity of the migrants: never before have so many Muslims

sought refuge in Western society within so short a period.

The lifestyle excesses that affect the margins of society in all Part III jurisdictions are anathema to those who adhere to traditional religious beliefs and may well be responsible for the retreat of some Christians into evangelical or fundamentalist bunkers. Similarly, they are likely to be a factor in distancing many Muslims (and others) from mainstream Western culture: dissuading them from fully subscribing to policies of pluralism or multi-culturalism; inducing them instead to cohere in communities around their local imams and madrassas; causing them to look outwards for support - financial and cultural/theological - to ethnic-specific countries, rather than inwards to local government sources; in short, leading them to identify with their religion rather than with the culture of their host nation. The arrival of many more - often direct from patriarchical tribal cultures - exacerbates that distancing.

Arguably, the underlying issue here is more about morality than religion. A widening gap is appearing between those who would champion liberal democracy because they see it as facilitating the freedom of lifestyle choice, subject to the rights of others, and those who object to the excesses licensed by that political model and react by attacking it and/or retreating into religious fundamentalism. This perception would seem to underpin the culture wars as much as religious discrimination, and at a more visceral level it may also be a driving force for Islamic militants. As illustrated by the attacks on tourists on beaches in Tunisia, on a holiday charter flight from Egypt, at airports and in nightclubs, and by that on the free press in Paris, the aggression is often pointedly aimed at targets representing the contemporary Western lifestyle: on the identifying hallmarks of liberalism. In response, governments in the developed Western nations are: defiantly extolling the merits of liberalism while also drumming up solidarity by tightening border controls, increasing the visibility of security forces and facilitating public demonstrations where patriotism is routinely expressed through flag-waving and the singing of national anthems; expanding their war efforts in Muslim countries; and adopting an increasingly wary attitude towards Muslim immigrants, towards

any overt public displays of Islamic culture and towards related family values that are perceived as somewhat patriarchical and misogynist.

Morality and Religiosity

It may seem axiomatic that morality and religion are synonymous - from the subjective perspective of an adherent of any particular religion - but objectively, the morality can be seen to vary across religions, and within the same religion across time and cultural context - as it does among the irreligious. It is, therefore, important that social policy in the Part III jurisdictions should know and take into account the different morality codes currently represented in their modern multi-cultural societies. If a drift towards alienation is to be forestalled, and with it the risks of radicalisation, it may be best to ensure a more respectful and welcoming public space - in employment, education, etc. - for all whose lawful beliefs are at variance with the mainstream. This suggests that an objective assessment is required to ascertain whether current difficulties in Western society regarding religious discrimination and the culture wars - leaving aside the ideology represented by Islamic militants - are more about morality than religion.

A useful start could be made with an analysis of the ways in which the Christian heritage continues to shape social norms in the Part III jurisdictions - to identify and weigh its presence in laws, institutions and processes - in order to obtain a clearer understanding of its visible and subliminal affect on others. There may be a need to develop a language to "read" the religiosity in contemporary Western society, to translate the cultures of immigrants and Indigenous People in religious terms and to understand the culture wars accordingly. By so doing, it might be possible to map areas of moral congruity and customise public space to optimise social cohesion - subject to the principles of pluralism, equality and freedom of expression - and subject also to such restraints on the latter as may be necessary to deter conduct that is gratuitously offensive. Arguably, not until we have such a language can we hope to identify the varied positive and negative impacts of religion-based contributions to society and appreciate the consequences for the latter of government intervention - or non-intervention. With that

understanding, however, we could then consider the feasibility of formulating a social policy, under the protective human rights umbrella, that would best facilitate the functioning of a coherent civil society. Without such a language, it will remain difficult to anticipate the many different circumstances and levels in which religious discrimination may come into play. Should it prove possible to learn from the religion-related dynamics that now threaten our domestic and international safety, and thus move forward, then the challenge in the concluding lines of the Cavafy parable may come to seem prescient:

> And now what's to become of us without barbarians.
> Those people were a solution of a sort.
> <>

[Machiavelli on Freedom and Civil Conflict: An Historical and Medical Approach to Political Thinking](#) by Marie Gaille [Thinking in Extremes, Brill, 9789004323230]

The reason why Machiavelli is not understood is that he combines the most acute feeling for the contingency or irrationality in the world with a taste for the consciousness or freedom in man. Considering this history in which there are so many disorders, so many oppressions, so many unexpected things and turnings-back, he sees nothing which predestines it for a final harmony. He evokes the idea of a fundamental element of chance in history, an adversity which hides it from the grasp of the strongest and most intelligent of men. And if he finally exorcises this evil spirit, it is through no transcendent principle, but simply through the givens of our conditions. With the same gesture, he brushes aside hope and despair. If there is an adversity, it is nameless, unintentional. Nowhere can we find an obstacle we have not helped create through our errors or our faults. Nowhere can we set a limit to our power.

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The Latin word civis, like the Sanskrit terms śeva- and śiva-, is associated with social togetherness, connoting a commonality of dwelling and political rights. The genuine meaning of civis is more precisely 'co-citizen' than simply 'citizen'. Considering the element of reciprocity inherent to civis, the word civitas must be understood as a collective concept.

To arrive at a conception of co-citizenship in our own times, can we limit our vision to that of a political body of free and equal citizens, whose rights are defined in relation to each other? The only problem conceived — or, at least, the main problem — this vision permits us to consider concerns potential abuses by leaders in charge of the institutions theoretically designed to maintain and promote freedom and equality. If we judge that the structure provided by liberal political thought only barely (if at all) enables us to wonder about the fringes of the city, and the rights of those who are denied the status of citizen, or perhaps of those who are considered 'second-class citizens', if we hope to understand the citizen's political action, which is most often a collective enterprise, from the taking of sides to the public demonstration of opinion, if we suspect that democracy is a political regime that cannot get rid of social unrest, protest, and civil conflict, in itself, and if we ultimately consider that the question of the legitimacy of sovereign institutions, even democratic ones, is still unresolved, we must explore other ways of describing co-citizenship.

Machiavellian thought can contribute to this endeavour. The most compelling reason for us to reread the Florentine is not his best-known and most extensively commented work, The Prince, or even the most common interpretation of his thinking, this 'Machiavellian delusion', as Montesquieu termed it, which consists of 'having given to Princes, for the maintenance of their power, principles which are necessary only in despotic governments, and which are useless, dangerous, and even impracticable in monarchic ones'.

Instead, we shall examine three closely connected dimensions which are part of the structure of Machiavelli's thinking. The first is his conception of the body politic, in which the citizen is never envisaged as an individual, but rather grasped within aggregations or groups defined by a certain type of behaviour and interest. The city is perceived not as an entity made up of different parts, but as a dynamic whole with unstable borders that are constantly shifting and evolving. Machiavelli drew metaphors from classical writings on medicine, describing the city as a 'mixed body' composed of elements called 'humours', which are defined by the dynamic relationship they maintain with each other. This vision provided him with the theoretical resources necessary to observe the institutional dynamics of the cities, from the reform of the distribution of power to regime change. When Machiavelli writes the terms 'people' and 'great', he is referring less to social categories that can easily be identified by economic and social indicators than to a couple of elements that played a driving role in this institutional dynamics.

The analysis of this relationship centres Machiavellian thought on the many power struggles going on within the city. From the outset, he avoids the negative judgment usually associated with civil disorder, based on the fright caused by its manifestations — the sound and the fury — and its effects, such as assassinations, destructions, exiles, and institutional dysfunctions. Machiavelli succeeds in fulfilling two requirements: describing the diversity of forms that may be assumed by civil conflict, of variable intensity; and defining the principle of this conflict, in a way that accounts simultaneously for its irreducible presence in the city and for its multiplicity of expressions. Thus, Machiavelli sees in the city an irreconcilable opposition, and considers it impossible to simultaneously satisfy the humour of the great and that of the people. One side wishes to establish control, and the other side refuses to be controlled. The conflict between the two is expressed with varying intensity, in a variety of forms, because of the way the desires of the parties are modulated as a function of power relationships that have gradually accrued throughout the city's history, and also due to the tendency of desire to continually expand. By nature, desire is never satisfied; it is always being transferred to new objects.

Machiavelli's opposition between a desire to control and a desire to be free of control may be judged simplistic, at first glance. However, lest we forget, the philosopher puts it forward for the purposes of identifying the source of a dynamic, and not in order to describe the attributes of such and such a social class, like a sociologist. Moreover, compared to an approach strictly limited to socio-economic terms, Machiavelli's vision is intrinsically valuable insofar as it provides ample perspective for the analysis of the subject of all policy: collective passions and feelings – hatred, fear, ambition, envy, wrath, discontent.

In relationship with this role granted to civil conflict, Machiavelli is led to write a whole new type of history, which radically departs from a 'Jupiterian history' representing the powerful. Jupiterian discourse, in addition to defining the image of power, also constitutes 'the reinvigoration procedure' thereof. In other words, Machiavelli breaks away from history as an exposition of the obligations to which the people must submit, as a testimonial to the brilliance of state power and to the fear it engenders in subjects. The Machiavellian history of the institutional dynamic of societies, based on civil conflict, provides absolutely no basis for the establishment and protection of a political order. His statements are undeniably startling, regardless of the group to which the proved or presumed reader of his work belongs. They reveal the fact that any given political order, any distribution of power, corresponds to a certain balance of forces between the desire of the great and that of the people.

Machiavelli binds the analysis of civil conflict to an investigation of the conditions of freedom. Although, in his eyes, co-citizenship is essentially adversarial and conflict-ridden, this relationship does not lock every member of society in a perpetual civil war. In the first place, the conflict of humours does not systematically correspond to a generalized form of armed struggle. It is occasionally manifested simply as a 'dispute'. Secondly, and especially, in Machiavelli's eyes, this relationship is where the fate of political freedom is determined: its advent, maintenance, decline, and disappearance. It is in this sense that the terminology of humours, inherited from ancient Greek medicine, is re-invested by Machiavelli in

order to create an original metaphor for the institutions of the free republic. When he casts the humours in a key role, he opens the imagination of the reader to the sorts of institutions that might govern a politics of freedom which accepts civil conflict as its fundamental condition, rather than denying it.

These three dimensions place the thinking about co-citizenship under the auspices of a question that, initially, might seem to be unanswerable: How can we conceive of difference and commonality, of conflict and the public interest together? Machiavelli suggests an answer to this question by putting forward his theory of civil conflict as the laboratory where freedom is forged.

Machiavelli's response to our question invites us to evaluate the many uses to which his writings are applied today. He himself, attuned to conjuncture, to the specificity of situations and of eras, stands at the opposite extreme from a 'monumental history', to cite Nietzsche's expression when he is considering the advent and fate of freedom. Contrary to current interpretation, there is no encouragement in Machiavelli to imitate the men of the past. Events, phenomena, and moments, past and present, should be used rationally and critically. As a consequence, it is now our task to define the conditions according to which the contemporary debate on freedom might be broadened by Machiavelli's contribution.

Machiavelli's success has endured. He is one of the rare authors familiar to the general public, and at the same time, his writings have been the subject of innumerable scholarly interpretations: to the surprising number of 'interpretations of Machiavelli's political opinions' is added a continuously growing 'cloud of subsidiary views and glosses', as Berlin states. As a result, the reader might be surprised that a new analysis of Machiavelli's oeuvre is offered herein, one that is particularly focused on the three closely connected dimensions. By only rarely defining the terms he employs, Machiavelli did not facilitate the task for readers seeking to understand the relationship established between civil conflict and freedom. Moreover, in Rome, this relationship is defined as the advent of freedom due to discord, whereas in Florence, civil conflict seems to lead only to exile, assassination, and the incessant transition from one

form of government to another. This absence of definition and lack of uniformity from one case to the next are troubling, confusing the reader. True, the relationship between civil conflict and freedom has been remarked upon before, in the long tradition of scholarly commentary on The Prince. For example, we need only think of Maurice Merleau-Ponty's observations emphasizing how much 'at each instant, Machiavelli speaks of oppression and aggression', and sees 'collective life' as 'hell'. However, Machiavelli's work is original in that, 'having laid down the source of struggle, he goes beyond it without ever forgetting it'. Nevertheless, few commentators have actually granted this relationship their full attention, and it has never been approached or interpreted unequivocally.

The school of contemporary interpretation that identifies with republicanism – essentially John G.A. Pocock and, with some nuances, Quentin Skinner – pays only limited attention to this relationship. Actually, The Machiavellian Moment excludes it from consideration entirely. Pocock's omission is all the more surprising in light of his position that civil upheaval degenerating into violent, armed conflict is one of the elements that weaken republics; disorder characterises his conception of the 'Machiavellian moment'. Skinner, in the commentary he devoted to Machiavelli, grants only minor importance to the theme of civil conflict, citing it chiefly to underscore the role played by laws in dealing with manifestations of disagreements between the great and the people, and the scandalous nature, in the eyes of Machiavelli's contemporaries, of his positive assessment of civil disorder. Liberal authors display an even more striking lack of interest in the theme, with the notable exception of Italian political theorist Niccoló Matteucci, whose vision of a necessary theoretical reform of liberalism implies a better understanding of civil conflict.

Certain Marxist and post-Marxist historians and scholars, particularly those who sustain a critical relationship with Marxism, show a greater interest in this theme. Among our contemporaries, Claude Lefort examined this relationship repeatedly, within the perspective of totalitarianism conceived as a negation of the sphere 'of politics'. Surmising that Machiavelli is closest to effectual truth when he is

considering social division and political freedom, Lefort observes that he does not conceive of freedom independently from civil conflict. According to Lefort, this is due to the nature of the people's desire, which is a desire for freedom and, more precisely, the confrontation of this desire with the desire of the great. Left to its own devices, in fact, this desire of the people swells to the point where it in turn becomes a desire for domination. The ongoing confrontation between these two desires is therefore what matters. Moreover, Lefort points out, in the Machiavellian universe, it is vain to hope for the advent of a peaceful, reconciled society. It is impossible to end the conflict between these opposing desires; in fact, there is no reason even to seek such a goal. Lefort's conception of civil conflict has a dual impact. On the one hand, the classical typology of governments (government by one, by a small number, by a great number, and by respective corrupt forms of these three) is no longer current, because it prevents us from considering how power is acquired in the first place, and then maintained. On the other hand, the idea of the law takes on a new meaning: it is neither the effect of natural regulation, nor the product of a reasonable instance. Instead, it is conceived as the fruit of the confrontation between the two opposing desires, and more specifically as the final outcome of the people's desire for freedom and their refusal of oppression.

Antonio Negri also examined Machiavelli's writings on civil conflict, within the context of his reflection on the concept of constituent power. In Negri's opinion, Machiavelli, Spinoza, and Marx are the only thinkers in the philosophical tradition who develop theories that are capable of understanding the idea of democratic politics and their creative dimension. In analysing Machiavelli's contribution to his own conception of democracy, Negri emphasizes the Florentine's vision of conflict, as put forth in books II and III of Florentine Histories (Istorie fiorentine).

Nevertheless, these analyses are all similar in that they consider Machiavellian civil conflict in terms of class struggle. An attentive reading of Machiavelli's oeuvre, however, makes it clear that this perspective is extremely limited. Of course, it is impossible to integrate Machiavellian thought into a theory according to which a natural harmony of

interests is produced by free-market mechanisms. Nevertheless, Machiavelli also resists confinement within the sphere of Marxism or that of the social theorists who borrow concepts from Marx.

For those reasons, it is necessary to write a new interpretation of Machiavelli's oeuvre, focusing on the following three dimensions: his description of the body politic, the nature of civil conflict, and the conditions for freedom.

...

The objection might be raised that such a rereading is liable to distort Machiavelli's thought by concentrating too closely on these three dimensions. Is it possible to dismiss Machiavelli's 'delusion'; that is, The Prince, and his considerations on cruelty and the uses of evil — in short, all that has constituted the raw material of Machiavellianism? In response, we attest that we have absolutely no intention of ignoring either The Prince or the strong connection existing between that work and the Discourses on Livy (Discorsi sopra la prima deca di Tito Livio), in which we will be seeking the key to the relationship between freedom and civil conflict. Furthermore, we are convinced that it is futile to attempt to present the thought of Machiavelli as a whole, because it lacks homogeneity and does not function as a system. It is true that we have chosen only a single path through Machiavelli's writings, venturing that it will be a productive one. If the reader, following it with us, gains deeper political insight as a result of our travels between past and present, between the questions Machiavelli examined and our own, we will have achieved our goals.

The interpretation we offer herein is based on The Prince, the Discourses on Livy, and the Florentine Histories. An immense body of Machiavelli's writings is available to contemporary scholars, and much of it has been translated into various languages other than Italian. In addition to the three works we have just cited, one may refer to the Legations, to proposals and plans for civil or military reform, plays and poetry, a few portraits, various collections of maxims, a biography — Life of Castruccio Castracani, letters, and a dialogue, The Art of War. This last work was the only one of Machiavelli's books published during his lifetime, and it quickly became a 'best-seller' throughout

Europe. For the purposes of our investigation of how Machiavelli can inform contemporary conceptions of co-citizenship, however, The Prince, the Discourses on Livy, and the Florentine Histories are the sources that provide us with the most valuable and explicit material.

These three works contrast in terms of form and subject. It would seem that The Prince was composed over the course of about six months, in 1513. However, certain researchers believe Machiavelli rewrote or retouched it several times in 1514, and may have returned to it as late as 1518. This question will probably never be resolved completely, because the autograph manuscript of the work has been lost. More crucially, in addition to the philological disputes still surrounding the date when the text was established, it is important to determine whether Machiavelli was working on The Prince at the same time as he was writing the Discourses on Livy. Before The Prince, it is likely that Machiavelli drafted a book about republics, upon which he then drew more or less directly for the first 18 chapters of the Discourses. He may have referred to it in The Prince:

> I shall leave out reasoning on republics because I have reasoned on them at length another time. I shall address myself only to the Principality, and shall proceed by weaving together the threads mentioned above; and I shall debate how these principalities may be governed and maintained.

It is believed that after writing the pamphlet, before embarking on The Art of War, Machiavelli resumed working on the Discourses, restructuring his earlier draft and adding to it.

Whereas The Prince, dedicated to Giuliano de Medici (1479-1516), and then to Giuliano's nephew Lorenzo, is written in a dense, straightforward, unadorned style, the style of the Discourses on Livy is quite different. The pace is much freer and less hurried. It comments a well-known work on Roman history.

> [Petrarch rediscovered some Decades, and seems to have owned and annotated two manuscripts (later annotated by Lorenzo Valla, as well). They are now catalogued

as MS. Paris Lat. 5690 and MS. Harley 2493 (British Museum). The Harleian manuscript contains the 1st, 3rd, and 4th Decades, the 1st and 4th dating from the first half of the 14th century and the 3rd from the late 12th-early 13th. The manuscript copy of the set is not written entirely in the hand of Petrarch or his assistants. Moreover, the manuscript contained many blanks, particularly in the 3rd Decade. Petrarch assembled the three texts into a single set we now call Ab urbe condita. The textual tradition of the 1st Decade is the least problematical, because it has been studied by several scholars. Conversely, even today, that of the 3rd is still a mystery. Petrarch patiently reconstituted the text, drawing on a variety of sources, some of which are lost to us today. The 4th and 5th Decades were the most neglected ones. The first five books of the 5th – the only ones to have survived – were discovered only in 1527 by Simon Grynaeus. A single manuscript copy of them survives, catalogued as Vienna Lat. 15. The 4th, after having disappeared for several centuries, reappeared in the early 14th. Starting then, it was diffused far and wide.]

Conversely, the two works are not at all opposed in terms of subject: the first is no more a tyrant's bible than the second is an argument for the republic. Were we to substitute the word 'republic' for 'principality' in Machiavelli's description of The Prince to Francesco Vettori, it would apply just as well to the Discourses:

> I have jotted down what capital I have made from their conversation and have composed a little work [opusculo], De principatibus ('Of principalities'), in which I delve as deeply as I can into the cogitations concerning this topic, disputing the definition of a principality, the categories of principalities, how they are acquired, how they are maintained, and why they are lost.

In both cases, Machiavelli is seeking to elucidate the genesis of an imperium – regardless of form – and what causes it to emerge, grow, decline, and dissolve.

Because it was written on commission, Florentine Histories stands apart from the rest of Machiavelli's oeuvre. Indeed, on 8 November 1520, Machiavelli was entrusted with the task of writing the annalia et cronacas of his native city, by the domini officiales Studii florentini, then presided by Giulio di Giuliano de Medici, the future Pope Clement VII. Due to this fact, generations of Machiavelli scholars have dismissed the Florentine Histories as failing to offer a reliable portrayal of Machiavelli's opinions. Machiavelli's letter dated 30 August 1524, addressed to Francesco Guicciardini, attests to his awareness of the limitations that might be imposed by official historiography. Nevertheless, it is also evidence that he remained faithful to his ambition to tell the truth:

> I have been staying and now stay on my farm begun to write the History, and I would pay ten soldi – I do not intend to say more, to have you by my side so that I could show you where I am, because, having to come to some particulars, I need to learn from you if I give too much offense either by raising or by lowering these things. But I shall keep on taking counsel with myself and shall try to act in such a way that, since I tell the truth, nobody will be able to complain.

We are convinced that Florentine Histories deserves the same consideration as The Prince and the Discourses. It provides an endless source of material for the analysis of civil conflict and its relationship with freedom, a subject Machiavelli explicitly places at the centre of his narrative. We find the same questions, strategies, and processes as in The Prince and the Discourses. Finally, as the other two books already suggest, Machiavelli's political thinking unfolds chiefly within a conception of the historical fate of cities and their evolution. From this perspective, his account of Florence's growth, from the time it was founded until the death of Lorenzo de Medici in 1492, represents an outstanding case study. The fact that Machiavelli did not write the work on his own initiative does not constitute an argument for disqualifying the book. Admittedly, the official nature of the writing makes the book more of a puzzle: it is necessary to read between the lines, and to identify the omissions or gaps in Machiavelli's account by comparing it to earlier histories and chronicles of Florence.

...

Our interpretation relies upon certain fundamental principles. Regardless of which of the three works we consider, Machiavelli develops a reasoning that travels between several incompatible viewpoints: that of the great and that of the people; that of the prince, of the governors, of the governed. He seeks neither to reconcile them nor to unite them from some overarching position. The reader is sorely tempted to do something Machiavelli avoids: to arrange or rearrange these viewpoints so that a guideline for thinking emerges. Our primary principle, as we interpreted the text, was to resist that temptation. Machiavelli deliberately refrained from assigning an order to these viewpoints – 'the work is there to carry out these transitions from one place, and one phrasal universe, to another place, and another phrasal universe'. The primary manifestation of the implacable nature of civil conflict is the impossibility of the various 'humours' of the city to share the same outlook.

It is also easy for the reader to observe that in most cases, Machiavelli delivers only partial and fragmentary truths. A single example will suffice to illustrate this feature. At the end of Chapter 14 of The Prince, we read that Scipio was wise to imitate Cyrus, described by Xenophon in the Cyropaedia. By copying Cyrus's chastity, cheerfulness, kindness, and generosity, Scipio magnified his own glory. But in Chapter 15, Machiavelli abruptly ceases this praise. In the name of effectual truth, he makes a point of outlining how the Prince should behave in order to maintain his power. For, to remain powerful, the Prince must occasionally be wicked. Thus, from one paragraph to the next, from one chapter to the next, from one book to the next, we come to possess the wariness Nietzsche recommended in relation to 'systematisers'. Nietzsche asserted that the core of the system is its lack of integrity: and that statement certainly seems to be true, at least when applied to Machiavelli's writings. As a result, we have not assumed that from one book to another, or within one book, Machiavelli's rhetoric would not evolve, deviating significantly from its original course. And although we were able to accomplish certain aspects of our analysis no matter which book we consulted, others

required careful book-by-book examination and comparison.

Moreover, certain specific features of Machiavelli's style are worthy of attention. Various voices utter sentences, not always speaking the same language: the doctor, the legal scholar, the philosopher, the historian, the astrologer, etc., all speak in turn, as if each knew how to say something that no other is able to express, or knew how to say it better than the others. It is important to distinguish between these languages, trace them to their sources, and analyse the uses to which Machiavelli puts them.

It is also interesting to note that verbs, particularly verbs of motion and action, command a prominent position in Machiavelli's rhetoric. Although he does not relegate the substantive – the name given to the substance – to the background entirely, he does not endow it with the conceptual importance it is usually given, in philosophical discourse. Mainly, a noun must be analysed hand-in-hand with the verbs surrounding it, for they make a decisive contribution to understanding its meaning. In most cases, the most important terms in Machiavellian reasoning are abstract, with multiple and sometimes even ambiguous definitions. This is the case of 'libertà', 'corruzione', 'ordine', 'costumi', and 'civiltà', for example. On the surface, this ambiguity and polysemy could be construed as an obstacle to the elaboration of a coherent commentary on Machiavelli's thought. Nevertheless, the slippery nature of the definition actually proves to play a key role. By endowing a term with several meanings, a writer can use it in many different contexts, to link separate and distinct realities, in order to show the similarities between them or, on the contrary, the contrasts. It is therefore essential for us to overcome the challenge posed by the multiple meanings and ambiguity, and attain an understanding of how this semiotic device functions within Machiavelli's oeuvre.

> [Let us take the term 'corruption', for example [corruzione]. In Discourses 1, 55, it is used to describe the cities or territory inhabited by a multitude of 'nobles' and lords. Within the commentary on the history of Rome and the fall of the republic, the term appears again and again to qualify a neglect of public interest. From one context in which it is

uttered to the next, the use of this term is relatively coherent. In the 'regions' where 'nobles' and 'lords' have settled in such great numbers that the desire to be free of domination is impossible to express, the humour of the great prevails absolutely, and no concern for public interest can emerge. Nevertheless, significant differences between the two usages exist:
— In Chapter 55 of Book 1, instead of being characterised as a gradual process, corruption is described as a permanent condition, always identical in intensity.
— By asserting in the same chapter that it is impossible to create a republic in a corrupt region, Machiavelli stipulates that such a condition is unchangeable, whereas if corruption is construed as a process, it can be countered, to some degree.
— Finally, although Machiavelli's account of the decline of the Roman republic emphasizes the tendency of popular sentiment to evolve toward excess, in this chapter he insists on the 'excessive ambition and corruption of the powerful']

Finally, let us note the unusual purpose served by example in Machiavellian rhetoric. Example is hardly ever illustrative, and only rarely indicates the path to follow. In writing this way, Machiavelli departs significantly from the humanist practice that, as J.D. Lyons points out, tends to evoke ancient wisdom and elevate it to the status of a model for action. When Machiavelli draws an example from ancient or modern history, it is usually the heart of the demonstration — for which, if necessary, the historical material is rewritten, reworked, or given some cosmetic touches. In this sense, the example is valuable from the viewpoint of reflection, rather from that of action. It plays the same role as it does in Kant's Critique of Judgment: serving to expose 'the reality of our concepts' when it is a matter of empirical concepts, a function fulfilled by the schema, for the pure concepts of understanding. Thus, the analysis of Machiavellian examples requires that we seek a simultaneous understanding of the parts of the example that refer to the specific, and those that refer to the general; in other words, the example may have a general scope we must highlight.

...

Reading Machiavelli demands that we engage in a two-sided exercise of contextualization. In addition to a familiarity with the historical events and characters to whom he refers in his ancient and modern examples, a familiarity that is necessary in order to see to what degree he has reworked his textual sources, it is important to be aware of the issues and references that Machiavelli shared with his contemporaries in the early 16th century. Machiavelli's implicit or explicit references raise all sorts of questions: in his time, which books were most influential? Did he and his peers have access to translations, if they were unable to read the works in their original language? Which books might he have merely discussed orally, without actually having read them? Which authors does he refer to, and which ones does he omit? In what way does he make reference to them — does he praise them, or criticize them? In this regard, three aspects require particular attention: Machiavelli's relationship to classical texts, his reference to medical and physiological writing belonging to the Hippocratic-Galenic heritage, and his conception of historical time.

Moreover, Machiavelli's reflection on the relationship between civil conflict and freedom is part of two debates and his opinions cannot be perceived as such and understood unless one knows their subject and participants. The point is not to reduce the scope of Machiavellian judgment to these discussions. Nevertheless, knowledge of the context in which Machiavelli asserted his opinions helps us avoid the pitfall of reading Machiavelli in light of questions that have nothing to do with him. First, as suggested by his foreword to the Florentine Histories, his account of the city's past, and his interpretation of it, should primarily be confronted with those of the historians who preceded him. In addition, during his lifetime, Machiavelli was engaged in discussions about government policy in Florence: what should be done to reform failing civilian and military institutions? How could the stability of the government of this turbulent city be guaranteed? If freedom is part of the nature of this city, what institutions correspond to such a nature, and how should they be set up? We have attempted to give the reader some idea of these discussions by analysing the sermons of the Dominican monk Savonarola, the writings of

Francesco Guicciardini, and the Venetian myth of good government, all of which were important themes in Machiavelli's day.

At first, the argument set forth in Chapter 1, 58 may appear insufficient. In fact, Machiavelli asserts that the vices of which the commoners are accused – fickleness, lack of wisdom – are true of all men, and of princes, in particular. The effect of this statement is to include the people in the group of human beings, without claiming they are innocent. The fact is they simply share the same flaws as everyone else. Likewise, princes, like other humans, fail to foresee crises in times of peace (Chapter 24 of The Prince). Nevertheless, corruption is the decisive factor. If the people are corrupt, they will lack constancy and wisdom; if they are not, they will possess these qualities. Finally, contradicting the statement he developed in Chapter 1, 53, he goes so far as to lend an occult virtue to the people: the ability to discern the truth and to choose properly between two opposing orators.

Machiavelli does not conceal the highly controversial nature of this certification:

> That nothing is more vain and inconstant than the multitude so our Titus Livy, like all other historians, affirms. [...] I do not know if I shall take upon myself a hard task full of so much difficulty that it may suit me either to abandon it with shame or continue it with disapproval, since I wish to defend a thing that, as I said, has been accused by all the writers. But however it may be, I do not judge nor shall I ever judge to be a defect to defend any opinion with reasons, without wishing to use either authority or force for it.

This broad-mindedness is reminiscent of the tone of Chapter 15 of The Prince, in which Machiavelli also announces a significant departure from prevailing opinion. It was a truly radical shift, in light of debates in Florentine institutions surrounding the foundation and role of the Great Council. The confrontation between the Machiavellian perspective and the theory of good government put forth by Guicciardini in Dialogo del reggimento di Firenze illustrates the schism. Guicciardini's Bernardo figure voices the opinions of those who are opposed to the idea of allowing the people to participate in the legal system to any significant

extent, granting them merely a minimal, symbolic role. For, in the absence of the people's participation, small as it might be, in courts and other institutions where legal matters were deliberated and ruled upon, Florentine freedom was in danger. It would leave too wide a horizon for the ambition of the great. According to Bernardo, commoners lack good judgment. They are like unskilled doctors, who 'use on the head ointments that are only effective on the stomach'. Add to this the fact that the majority of commoners are 'incompetents', that they know nothing of others' lives, and Bernardo arrives at the conclusion that they should not demand participation in the magistracy. This contrasts with the analysis of 'opinione universale' Machiavelli constructs in Chapter I, 58, grounding the people's claim to a participation in government. In the Discourses, then, the people emerge as a community that is capable of government, and likely to demand a share of power.

The malleable quality of the internal and external borders of the Machiavellian city make it impossible for him to engage in a representation of the city as a body politic, the organic metaphor that dominated in the Middle Ages and Renaissance. The purpose of these metaphors is to emphasize the collective, supra-individual character of the city, and the rigid hierarchy of its internal organization. Like the organic metaphors employed by the Ancient Greeks, they are based on the idea that the head – the soul – rules the other parts of the body. [Prior to the rediscovery of Aristotle's Politics, the body-politic metaphor was relatively rare. When it was used, it was derived from the Paulist idea of the mystical body. P. Archambault notes such a kinship in De institutione regia by Jonas of Orleans (a 9th-century treatise): there, the body of Christ incarnates the universal Church, the head of which is Christ himself. In a later treatise, the Tractata de regia potesta by Hugo de Fleury (11th century), the prince's power over his kingdom is compared to the soul's power over the body, while Christ embodies the double figure of the perfect king and prince (Archambault 1967). Until Policraticus by John of Salisbury (1159), the metaphor of a body dominated by the head was used to raise the question of the relationship between the power of Christ (and, by extension, of

the Church) and the power of the king. Through Policrati-cus, John of Salisbury played a fundamental role in the elaboration and diffusion of the organic metaphor (ést autem respublica corpus quoddam...'). To the question of how the two powers, temporal and celestial, should be articulated, he added the one of the articulation and hierarchization of the parts of the body. After the rediscovery of Aristotle (the first Latin translation of Politics dates from 1260), there is a great deal of evidence of the grip of the organic metaphor on political theory. On Kingship, by Thomas Aquinas, for example, asserts that the heart and head refer to the reigning part of the city; moreover, he demonstrates the need for government by comparing the city to the human body. In Defensor Pacis by Marsilius of Padua, the organic metaphor is employed to show that the city is in good health when each citizen fulfills the purpose that corresponds to him in nature. The reference to nature makes it possible to introduce the distinction between men according to their skills or talents, leading to the constitution of habitus: working together, the body of men accomplishes perfection in the city.]

 These analogies offer a vision of the city as a whole made up of parts, differentiated by their respective nature and function. They are also designed to support the idea of a natural hierarchy among the citizens, or to make everyone feel more secure in his position. In Machiavelli's writings, they appear solely to establish a map of military forces, in The Prince and the Discourses. Because this metaphor depends upon rigid definitions of the boundaries of the body, the number and functions of its parts, it cannot be used in the description of the city.

Yet Machiavelli does conceive of the city as a body. Borrowing his vocabulary from the medical conceptions of his time, combined with Aristotelian natural philosophy, Machiavelli develops another organic metaphor. In his work, the city appears as a living, mortal body, a complex mixture, like a human being, composed of simple, opposing elements. Each city has its own lifespan. Some cities die before they reach a ripe old age, but if their rulers are wise enough to take the appropriate measures, cities endure. These city-bodies undergo

an alteration, in the Aristotelian sense of the term: that is, a modification that affects their properties alone, not their substratum. Growth and imperial expansion are examples of such changes. Cities are also subject to another type of evolution which, by contrast, modifies their nature. It necessitates a change in institutions and procedures. This evolution is corruption.

Such a conception of the body politic differs significantly from the other organic metaphors dominant in the Middle Ages and Renaissance, due to its fundamental egalitarianism (the simple elements that form the mixed bodies are not ranked hierarchically). Likewise, it differs in that it insists on one aspect that these metaphors elude: the life cycle, from the moment of birth to that of death. The metaphor of the city-body identified in the Discourses is not Machiavelli's alone. We encounter some semblance of it in the authors who were his contemporaries, like Guicciardini – a thinker who insists on the pace of growth and decline, and on the possibility of staving off the fall or death of the city. Nevertheless, as we shall see, Machiavelli uses this metaphor in an original way, in his thinking about institutions.

[On this point, it is important to point out that 20th-century French philosopher and physician Georges Canguilhem's criticism of the use of organic metaphors for the body politic notably excludes Machiavelli. The fact that Machiavelli refers to the theory of humours rescues him, for his logic does not steer him towards a representation of the city as an organic whole. It is worthwhile to cite Canguilhem's remarks in full, because far from constituting an objection to Machiavelli, they attest, on the contrary, to a shared conviction: the government of men is essentially fragile and precarious: 'Concerning society, we must address a confusion that consists in the confounding of organization and organism. That fact that society is organized – and there's no society without a minimum of organization – does not mean that it is organic; I would gladly say that organization at the level of society is of the order not of organic organization, but of design. What defines the organism is precisely that its purpose, in the form of its totality, is present to it and to all its parts. I apologize – I will perhaps scandalize you – but society has no

proper purpose; a society is a means; a society is more on the order of a machine or of a tool than on the order of organism. Certainly, a society bears a resemblance to what is organic since it is a collectivity of living beings. We cannot, properly speaking, decompose a society, but if we analyze it, which is a very different thing, we discover that while a society is a collectivity of living beings, this collectivity is neither an individual nor a species. It is not an individual, because it is not an organism endowed with a purpose and a totality that are obtained by a specialized system of devices of regulation; it is not a species, because it is, as Bergson says, closed human societies are not the human species. Bergson shows that the human species in is search of its own specific sociability. Thus, society, being neither an individual nor a species, but a being of ambiguous genus, is as much a machine as it is a living being; not being its own end, it simply represents a means, it is a tool. Consequently, not being an organism, society presupposes and even calls for regulations; there is no society without regulation, and there is no society without rules, yet in society there is no self-regulation. There, regulation is always, if I may say so, added on and always precarious.]

Reading Florentine Histories confirms two aspects of the Machiavellian description of the phenomenon of the city, for which the Discourses lay the groundwork. Yet, at first glance, it would seem that Florence is a special case, in many respects. Whereas Rome is apprehended from the outset as an example of discord, Florence remained united until 1215. Until that time, antagonistic humours had not really had an opportunity to develop, because the city was preoccupied with its survival and independence. As a result, there was no room for internal dissension. Moreover, when the first hostilities appeared in 1215, they turned out to be the product of a family conflict. True, the dispute, which began as a private matter, rapidly broadened in scope until it turned into the opposition between Guelphs and Ghibellines. It is not related to the conflict between the desires of the people and those of the great, because each party included a combination of noble families and commoners.

Starting in Chapter II, 12, however, we encounter the familiar template set up in The Prince and, especially, the Discourses. Machiavelli actually establishes a hierarchy between two sorts of antagonism:

> The wars without and the peace within had almost destroyed in Florence the Guelph and Ghibelline parties. There remained active only those disagreements that naturally exist in all cities between the powerful and the people, because, since the people wish to live according to the law and the powerful to control the laws, it is not possible for them to agree. Such disagreement was not revealed as long as both feared the Ghibellines, but as soon as they were conquered, it showed its power; every day, someone of the people was injured, and the laws and the magistrates were not strong enough to avenge him, because relatives and friends protected the noble against the power of the Priors and the Captain.

Thus, different sorts of humours exist, as attested by Machiavelli's occasional employment thereof to designate all of the inhabitants of a city, a region, a country, etc. Nevertheless, the predominant usage refers to the people and the great: these are 'ordinary' humours. Likewise, different sorts of conflicts exist within the city, but the antagonism that plays a driving role in its history is the one opposing the great and the people. Just as Marx later emphasized the real class struggle (between the proletariat and the bourgeoisie), so Machiavelli favours the conflict that opposes the ordinary humours, those of the great and those of the people.

In Book II, we find several references to a description of the city which, it would seem, was inspired more by a concern for reporting on the social reality of Florence, and based on the terms that were commonly used at the time to designate the various categories of the population. These terms are: the 'no-ble'/the 'lower class'/the 'people' (II, 34); the 'people'/the 'noble'/the 'lower class' associated with the 'humble people' (II, 36); the 'noble'/the 'people'/the 'lower people' (II, 39 et 40).30 Such designations are the echo of the qualification of social groups that gradually entered the vocabulary starting in the 10th and

11th centuries in Italy's city-states. Initially, the maiores were landowners, who were also engaged in merchant activities. They held de facto domination over the processes of political deliberation and decision-making, by contrast with the minories – that is, the craftsmen or peasants. Some of the latter lived in the surrounding countryside; others, in the city, where they sold what they produced. A third class, the mediocres, covered craftsmen organized into guilds and merchants who were not nobles. By the 12th century, the need emerged to establish more precise distinctions, particularly to describe the richest members of the people. Some of the expressions we noted were boni homines de populo, or grandi e nobili popolani. The latter is fairly surprising, since by definition, the popolo is not noble. As a result, there is a name for the more powerful among the people, differentiating them from the more humble (popolo minuto and plebe), excluded from wielding any power. It is important to note that, on the whole, these terms refer to a classification forged primarily from socioeconomic distinctions, to which political distinctions were then grafted.

Nevertheless, just as the socio-economic remain fairly rare in the Discourses and are mediatized by the analysis of a feeling, this description of the Florentine city is presented only in its vaguest outlines. It is as though Machiavelli had ventured towards a socio-economic vision of the composition of the city, only to turn away from it in the end. It appears in his work, but does not play any real role in the heart of his thought. In the Discourses, the analysis of the conflict opposing the desires of the great and those of the people, in Rome, is the exemplary case of conflict. The history of Florence is penetrated by an identical conflict, the particularity of which is that it is borne by different agents. First, two communities of nobles clash; then the nobles clash with the people; and finally, at the point where Machiavelli concludes his account, the people are opposed to the populace.

Machiavelli's treatment of the Revolt of the Ciompi (1378) confirms two things: first, the primacy, in Machiavelli's mind, of the conflict between the desire to command and the desire not to be commanded and, secondly, his tendency to conceal

a socio-economic analysis, preferring an examination of the passions and collective sentiments in play in the conflict. The account centres on provisional access of the populace and popolo minuto to the magistracy. A similar process was already mentioned in the Discourses, in reference to the Roman plebs. Here, the lines of opposition are drawn between the populace and the populo minuto, on the one hand and, on the other, the rich citizens, the heads of guilds, and their henchmen. The working classes despised the rich citizens, 'because they were not paid for their labour according to what they believed their just deserts'. Indeed, these two lower classes were not organized into their own guilds and corporations. As a result, they were subject to arbitrary treatment, and had absolutely no way to defend themselves or make demands:

> Moreover, in organizing the corporations or the gilds, many of those trades in which the lower class and the very poorest people engage did not have corporations or gilds of their own, but were subject to various gilds according to the nature of their trades. Hence when they were dissatisfied with their labors or in any way oppressed by their masters, they had nowhere to go for refuge except to the magistrate of the gild that ruled them, yet they believed he furnished them with no proper justice.

This dissatisfaction led to a riot. Initially, its outcome was positive for the common labourers and lower classes. Guilds were created for them, and they were granted magistracies. Nevertheless, the Ciompi turmoil ultimately ended in a failure for them because, three years after the revolt occurred, Florence returned to its earlier guild organisation, and access to the most important magistracies was forbidden to the populace and popolo minuto. At the end of this period, conflict broke out between two other groups, the 'wealthy citizens' and the 'lowest class'.

Our reinterpretation of The Prince, the Discourses, and the Florentine Histories shows that three descriptive modes are operating in the Machiavellian conception of the city, but the emphasis he places on them is unequal. The first,

belonging to a socio-economic register, casts the groups by distinguishing between their relative wealth or poverty, and the methods adopted by the city over the course of its history to distribute the sources of wealth. The number of groups is not rigidly fixed; it varies, depending on the city and era under consideration. This descriptive mode appears 'mutedly' in Machiavelli's analysis. The second, which is of an institutional nature, refers to political participation. It catalogues and names the groups which have access to magistracies. Again, in this case, the number of groups is not necessarily defined, nor is the nature of their composition. In Rome, for example, the people's tribunes did not appear until 479 BC. The signification of the institutional mode becomes apparent when it is compared to the third, which is concerned with humours, desires, and appetites. The people and the great fight over access to magistracies and how they are distributed. This mode describes communities that identify themselves by a specific desire or interest (not to mention the passions and social habitus associated with these desires and interests).

The third mode ushers us into the universe of relativity and viewpoint. Indeed, Machiavelli does not describe the city objectively. Instead, he portrays the city in terms of the communities that make it up. The desire of each of these communities is what determines the history of the city and the distribution of power. Machiavelli's work does not produce any all-federating or overarching rhetoric. No single viewpoint wins out over its opposite. Each desire produces a different painting of the city. Because Machiavelli demonstrates the civil conflict and makes it possible to decode the history of hot societies, the third mode of describing the city takes precedence over the others. It represents Machiavelli's specific contribution to conceptualizing the body politic. <>

[An Introduction to Transnational Criminal Law, Second Edition](#) by Neil Boister [Oxford University Press, 9780198795995]

National borders are permeable to all types of illicit action and contraband goods, whether it is trafficking humans, body parts, digital information, drugs, weapons, or money. Whilst criminals exist in a borderless world where territorial boundaries

allow them to manipulate different markets in illicit goods, the authorities who pursue them can remain constrained inside their own jurisdictions.

In a new edition of his ground-breaking work, Boister examines how states must cooperate to tackle some of the greatest security threats in this century so far, analyses to what extent vested interests have determined the course of global policy and law enforcement, and illustrates how responding to transnational crime itself becomes a form of international relations which reorders global political power and becomes, at least in part, an end in itself.

Arguing that transnational criminal law is currently geared towards suppressing criminal activity, but is not as committed to ensuring justice, Boister suggests that it might be more strongly influenced by individual moral panics and a desire for criminal retribution than an interest in ensuring a proportional response to offences, protection of human rights, and the preservation of the rule of law.

Excerpt: The six years since the publication of the first edition of this book have seen some significant changes in the development of transnational criminal law. At a substantive level, there has been a perceptible shift in global attention from core transnational crimes such as drug trafficking, corruption, and organized crime to a range of ever more demanding concerns such as cybercrime and migrant smuggling, as priorities in the inter-state system of crime control change. At a procedural level, the emphasis remains on making cooperation between states in the exchange of information, things, and sometimes people more efficient and therefore simpler. While members of the transnational law enforcement community appear to be content to go along with the necessity of international criminal cooperation with an ever-broadening scope of states, there are some signs of a domestic political backlash against the acquiescence to the long-arm' jurisdiction that this entails. Finally, when it comes to the shape of transnational criminal law itself, the swing away from reliance on treaty-based agreement to structure relations between states in the suppression of cross-border crime, to greater reliance on a combination of soft law and direct legislating

through the UN Security Council, appears to be becoming entrenched.

This book explores these changes and others in a general examination of the nature and main features of transnational criminal law. Part I examines the nature of transnational crime and introduces the concept of transnational criminal law. Part II examines the substantive offences. Part III examines the allied procedures which make cooperation in regard to these offences possible. Part IV looks at the institutions that perform different functions within the system and the implementation of the system, and makes some remarks about how the future development of the system might be structured using a system of general principles to achieve better protection for those subject to it—potentially any one of us.

Contents

Excerpt: What is Transnational Crime?

A state's borders represent the geographical boundaries of its enforcement jurisdiction, yet borders neither prevent criminals from exiting nor entering states. Criminals cross borders in a range of ways, walking, riding, driving, sailing, and flying across them, and tunnelling under them.' They cross at regulated and unregulated points of entry, or they dispatch or transmit things across them—every kind of contraband, humans, body parts, digital information, messages, money, things of value. They appear to work in a borderless world, whilst the authorities that pursue them are constrained by borders. But they rely on these geo -political boundaries for advantage. Borders create markets with different prices for illicit goods, which the criminals exploit. Borders also provide impunity from the criminal jurisdiction of states seeking to arrest and prosecute these criminals. For criminals engaging in trans-national crime in the unembellished sense of cross-border crime, borders are part of their business.

As transnational crime has increased, increasing efforts have been made to bridge the gaps between the criminal laws of different states. This book is an introduction to the law designed to suppress transnational crime—transnational criminal law. Transnational criminal law is constitutive of transnational crime—nameless activities only become transnational crimes once they have been described, identified as a threat, and criminalized. This chapter takes a look at the distinctive features of cross-border activities and the kinds of harm they cause. It then charts the policy process for the development of special international legal measures to suppress these activities as transnational crimes. This analysis is cross-disciplinary in nature, embracing criminology, international relations theory, security studies, and other disciplines.

The Nature of Transnational Crime: The meaning of `transnational crime'

In 1971 the international relations theorists Keohane and Nye argued that transnational relations—the movement of money, physical objects, people, or other tangible and intangible items across state boundaries when at least one of the actors involved in the movement is non-governmental—was becoming as significant as inter-state relations in international relations? The term `transnational crime' was first used at the Fifth UN Congress on Crime Prevention and the Treatment of Offenders in 1975 by the UN Crime Prevention and Criminal Justice Branch 'in order to identify certain criminal phenomena transcending international borders, transgressing the laws of several states or having an impact on another country'. The Fourth UN Survey of Crime Trends and Operations of Criminal Justice Systems made in 1976 defined transnational crimes as `offences whose inception, perpetration and/or direct or indirect effects involved more than one country. This tendency towards broad definition is reflected in article 3(2) of the 2000 UN Convention against Transnational Organized Crime (UNTOC). An offence is `transnational' if it satisfies one of a number of alternative conditions:

1. it is committed in more than one State;
2. it is committed in one State but a substantial part of its preparation, planning, direction, or control takes place in another State;
3. it is committed in one State but involves an organized criminal group that engages in

criminal activities in more than one State; or

4. it is committed in one State but has substantial effects in another State.

Transnational crime has been criticized as over-inclusive.' One problem is that it contains different types of crime including organized, white-collar, and political crime. Indeed, cross-border activity can potentially include most forms of currently recognized criminal activity.

Transnational crime can also be criticized for being under-inclusive. In the 1970s the UN took a broader view of transnational crime, including within it both trafficking offences like narcotics trafficking and corruption, but also harmful (but not necessarily strictly criminal) cross-border economic exploitation by powerful trading partners.' A further criticism is that `transnational' implies cross-border activity when in fact not all crimes understood to fall within this category actually cross borders.' Trans-boundary drug supply, for example, is dependent on national production. The counter argument is that purely local criminal activity may be a legitimate concern of other states because it supports or creates conditions conducive to transnational criminality and criminal activity in those states. These criticisms suggest that transnational crime is perhaps better understood as a precondition for a transnational normative response than as a concept for understanding the different types of crimes it includes. The threshold at which purely intra-national conduct is sufficiently serious to justify foreign interest may vary widely depending on the type of crime, the sensitivity of the interested state to that crime, and the acceptance of that interest by the state in which it occurs.

A more profound criticism of the concept of transnational crime considers it a construct of the law itself, rather than an empirical reality (and by extension each of the sub-categories examined in the chapters in this book, from piracy to counterfeiting of medicines). In this view transnational criminal law makes transnational crime in order to transform otherwise unregulated conduct into an object of governance. Transnational crime is thus a contested concept, or as Sheptycki puts it 'an object of study [that] has not been a

disinterestedly academic matter of purely scientific inquiry'.

Characteristics and causes of transnational crime

The institutionalization of responses to transnational crime at the intergovernmental level has led to the development of a bureaucratic criminology that attempts to serve the interests of states both at the national and international level while trying to maintain theoretical integrity in analysis of transnational crime' Nonetheless, realist criminological analyses are most influential in the law-making process. They identify a loosely defined range of characteristics and causes, currently considered typical of illicit markets.

Private crime

Transnational crimes are commonly characterized as private or non-governmental crimes, that is crimes, usually of a transactional nature, committed by non-state actors, either individually or in groups, for unofficial ends. These individuals may be private natural persons, or juridical persons such as companies, or they may be officials acting in their private capacity, or government organizations such as the police acting unlawfully. Importantly, however, transnational crimes are not (at least not usually) sanctioned by a state. It follows that the threat they present is usually asymmetric unless it grows to such proportions that it challenges state authority.

Economic crime

Most transnational criminal activity is considered to be driven by desire for personal economic gain. Put simply, transnational criminals take advantage of the production of cheap goods or services in one state and move them across borders to another state where there is strong demand and the goods or services can be sold or hired out at a profit. This illicit arbitrage may take any of a myriad forms ranging from small-scale smuggling to transnational activities of great complexity and value. It includes white-collar crime in the sense of financially motivated cross-border transactions by individuals of a relatively high social status, but it is a much broader concept. There is nothing characteristic about the kind of person nor the products involved. They could be anyone smuggling anything

amenable to trafficking across a border: cigarettes, cars, drugs, radioactive waste, stolen works of art, women for prostitution, firearms, information. The differences in the nature of the `goods' involved lead to markets that are differently organized, demanding a nuanced approach if these markets are to be properly understood, and suggesting different legal responses may be necessary. Transnational criminal flows are essentially cross-border chains of supply—the mechanisms for the illicit trade itself—composed of producers, wholesalers, distributors, transporters, exporters, and importers and retailers that exist for each illicit product or service. Sometimes supply chains are used only for one product or service, sometimes for multiple purposes. The main difference with licit economic activity is that these activities are prohibited in respect of the particular product or service in one or other or both states. The key to responding to chains of illicit supply is to understand the incentives and disincentives that operate at each stage of the chain's route.

Economic disparities between states are among the main causes of transnational crime because they strengthen demand for illegal products and services across borders 16 Poverty or relative poverty is the main `push' factor in source or producer states, but political conflict, culture, and opportunity also play a role. Low wages mean that illicit products and services are cheap to produce or secure. Various facilitative factors make cross-border supply possible including the availability of transport and corruption. `Pull' factors in destination or consumer states include the demand for products and services. The absence of appropriate law and/or enforcement in a particular state may push or pull by facilitating production, supply, or consumption. Some states may seek to attract crime because of the benefit from taxation of financial activity (eg bank secrecy jurisdictions) while others may try to repel it because of the cost to victims (eg the US and drug use)." A range of domestic policies can influence the growth of transnational crime including economic protectionism, fiscal austerity, privatization, public procurement, promotion of domestic industries, domestic prohibition of commodities like drugs, and the imposition of quotas on immigration. Strategies and

tactics in enforcement of these laws shape illicit markets, conditioning the steps taken by traffickers to avoid apprehension including the use of corruption. And while one set of factors may explain the rise in incidence of a transnational crime, an unrelated set of factors may explain its spread. For example, the collapse of the Colombian drug cartels gave Mexican criminals the opportunity to switch from the transit to the production of illicit drugs, and the failure of local policing, corruption, and poverty in Mexico explain the spread of this involvement, although the instigation of a war on drugs by President Felipe Calderón in 2006 is blamed for the recent upsurge in drug-related violence. Criminal markets are also spread through displacement; they react to suppression by relocating their activities or switching to other less visible crimes.

Although these illegal markets often have close relationships with legal markets by, for example, using the banking system to launder profits, illegal and legal markets are not identical in form. Government regulation of cross-border transport of licit goods usually requires permission to import/export and the payment of duty of some kind, but for illicit goods, corruption, secrecy, and intimidation are the options, and the costs involved in avoiding apprehension have to be built into the market prices of illicit goods. Moreover, legal markets rely on contract and solve disputes through a variety of legal means. Illegal markets must rely on personal relationships, ethnic, and other group loyalties, although violence may be used to `enforce' contracts as well as to gain market share.

Political crime

Not all transnational criminals pursue economic advantage. Some transnational criminals seek political advantage through violence or the threat of violence. Violence may be used for instrumental or ideological purposes. Transnational terrorists, for example, may hatch a plot in one state and execute it in another. Though shocking, violence is an incidental feature of their activity, as their main aim is to influence either official or public opinion to achieve their own political goals.

Organized crime

Although organization is not a necessary condition of transnational crime—cross-border smuggling by

one person would suffice—transnational crime is heavily associated with organized crime. The concept of organized crime is, however, not settled and remains highly controversial' The difficulty is what is meant by `organized': it may mean a range of things from hierarchical organizations to individuals in the loosest of relations, a range so broad as to render the term almost meaningless. The organizing of transnational crime is perhaps a more productive focus.

Globalized crime

An economic model of crime suggests that it is rational for criminals to go where they can to do business and to spread out into unregulated areas. In antiquity, when formal boundaries were weak, it was relatively easy for criminal activity to cross borders. The `harder' borders (border controls, passports) characterized by the rise of the nation states of the post-Westphalian era made cross-border crime more difficult and tended to offset improvements in transport and communication mechanisms. It is believed today that the conclusion of the Cold War led to ideal conditions for transnational crime to flourish because legal controls became weaker as transport became cheap, frequent, rapid, and easy to access, communication became international and mobile, and financial transactions instantaneous and unregulated. The conclusion of free trade agreements reduced or removed the legal barriers to trade. As market control of the legal economy grew and state control withered it became easier for criminals to move goods, persons, and money. In what he calls the 'dark side of globalization', Levitsky claims that transnational criminals responded more rapidly in exploiting these new market opportunities than states did in shutting the markets down.

Others recommend caution when equating the apparent boom in transnational crime on globalization. Political events such as the breakdown of the Soviet bloc have also contributed, as have insufficiently regulated markets in the finance sector or over-regulated markets in the labour and agricultural sectors. Moreover, some question whether transnational crime is a novel phenomenon, pointing out that cross-border trade of an illegal kind is a long-standing practice predating the current phase of globalization and many modern economies are rooted in contraband capitalism 2' Technological developments have always impacted on the spread of crime, triggering calls for a legal response. In 1934 Kuhn commented:

> Modern civilization and the relative shrinking in the size of the planet on which we live have given impetus to the principle that the efficient administration of criminal justice is a matter of importance not only to a single community or state but to civilized society as a whole.

Whether or not there is a strong relationship between globalization and the upsurge in transnational crime, it should always be borne in mind that states are not always in an antagonistic relationship with these dark forces of globalization. Frequently they are in symbiosis: states have been compliant in sanctions busting, money laundering, transfer of nuclear technology, weapons trafficking, counterfeiting, drug trafficking, among other things. A strict division between transnational crime and other forms of transnational harmful activity carried out by politicians, business, and even law enforcement organizations ignores the fact that in many cases the latter frequently act in partnership with the alleged transnational criminals. Moreover, global business activities can be much more harmful than transnational crime. It has been pointed out that in the 1970s transnational crime was conceived of by UN officials as the abuse of power by transnational corporations in developing states, until in the mid-1980s it was `bleached' from the UN's agenda as a more narrowly defined crime control emerged as the principal concern.

Localized crime

Prioritizing the global aspects of transnational crime also ignores its local aspects. As Hobbs, puts it: The notion of ... "transnationality" needs to be reconsidered in the light of empirical research, which indicates that ever mutating interlocking networks of locally-based serious criminality typifies the current situation. All transnational processes have domestic roots. Transnational criminals are both global and local, able to operate across borders but based locally. Hobbs coined the neologism `glocalization' to describe the locally embedded nature of transnational crime.

Categorizing transnational crimes

Transnational crimes are usually categorized by the harm they cause. Transnational crimes harm a range of different private and public interests including security, human rights, social interests, religious beliefs, and morality. The most obvious harm is to individuals and to the fabric of societies in which they live. Drug use, for example, has negative effects on individual users and on the society in which those users live. The degree to which society respects the choices of the individuals being harmed when there is no clear harm to others presents a significant difficulty in deciding whether criminalization is the appropriate response. Moreover, one person's harm is usually to another's benefit. While the consumption of copyright-violating movies downloaded from the Internet harms the intellectual property of their creators and producers, for consumers they are a source of satisfaction. At a larger scale, it has been argued that the narcotics economy had significant benefits in drug-producing regions in Latin America. This relativism is intrinsic to the identification of harm at the transnational level because different value systems prevail in different states, and frequently those who are being `harmed' live in other states.

At a broader economic level, transnational crime causes harm by compromising financial and commercial institutions, making economic management difficult and eroding tax bases. It can slow economic development in poorer states by, for instance, forcing the diversion of scarce resources to combat crime. Yet it does not always have a negative impact and can produce significant profits in underdeveloped areas through, for example, the use of forced labour in agricultural production.

Transnational crime can also undermine the internal sovereignty of states by providing an alternative system of authority. It can provide order and security in social spaces where the state's authority is negligible or absent. It can undermine public institutions through, for example, the corruption of the police force. It can openly challenge the state's authority, particularly when that authority is re-asserted. A recent example is the 2010 violence in Kingston, Jamaica, precipitated by the attempt to capture wanted drug trafficker Christopher `Dudus' Coke in order to extradite him to the US.

Potentially more dangerous situations emerge when transnational criminals and the state enter into a symbiotic relationship. Regional or local state capture is most common. In 2014 in Iguala, Mexico, for example, forty-three college students protesting at the influence of organized crime disappeared after being arrested by local police with the cooperation of the corrupt local mayor. They had been turned over to a Mexican crime group, Guerroros Unidos Naim coined the term 'mafia states' to describe what he argues is a novel phenomenon: the situation where instead of using criminals for their purposes, governments fuse with criminal organizations, presenting a political rather than merely a law and order problem to other states The break-away borderland of Moldova, Transnistria, is considered an example of such a `criminal state'." Others respond, however, that this fusion is nothing new and the threat exaggerated. Nonetheless, it serves as additional grist for the categorization of foreign organized crime as a national security issue.

Transnational crimes can also be categorized using an orthodox criminal law taxonomy based on the values protected in the sense of individual human rights or interests. Harms against personal interests might include slavery, harms against property interests piracy, harms against social interests drug trafficking, harms against the state terrorism, and so forth. The likelihood of considerable overlap in these categories suggests that a more useful division might be made between essentially violent crimes directed at humans' bodily integrity, such as terrorism, and essentially non-violent crimes based on contraband, such as drug trafficking, in order to justify a more severe deterrent response. Nevertheless, even this demarcation has its difficulties—human trafficking being a case in point of commercial exploitation through violence. Finally categorization may also be made in terms of violations of individual or collective morality. Offences such as slave trading are the product in part of collective moral condemnation. It is difficult, however, to construct degrees of such condemnation at a transnational level in order to differentiate levels of suppression, the diverse moral positions on drug trafficking at a global level being a case in point. Perhaps even more troubling are the obvious cases of selective morality used, for example, to

control the transnational mobility of certain kinds of individuals—migrants and sex workers—through offences of migrant smuggling and human trafficking—but not others. Finally, we should always be wary of the possibility that interest-based agendas such as control of the high seas will evolve into normative arguments such as condemnation of drug trafficking on the high seas with a potential for transformation into law.

Using categorization to tailor a response is made more difficult by the fact that transnational activities affect different states at different levels of intensity. Moreover, these activities only become `crimes' in the legal sense through legal suppression—the use of legal authority to prohibit as criminal offences certain activities and to use executive power to enforce these prohibitions and punish these offences. In addition, the legal suppression of transnational activities creates illicit markets and as a result can itself harm consumers through unreliable product quality, incidental violence, and corruption. Finally, it is not always clear which links in chains of illicit supply are responsible for most harm (and are thus most deserving of the attention of the law)—the producers, suppliers, or consumers. Given the variable nature of these activities and their impact, how is a global consensus for criminalization generated?

Assessing and Responding to Transnational Crime: Global cooperation: an unavoidable response to a global threat?

It is claimed that transnational crime will be among the defining security threats of this century. It is a threat said to arise out of the global spread of powerful criminal networks, which take advantage of weak law enforcement in many states. It is argued that transnational crime can only be suppressed by the cooperation of states and that the failure of states to do so provides an opportunity to transnational criminals to use the barriers of sovereignty to protect themselves and to operate with impunity. However, other commentators warn against reflexively accepting this logic.

What evidence supports the identification of specific threats and who is making that assessment? These are not always questions of concern to the officials and diplomats who operate the system; many consider the problems self-evident and unworthy of analysis. Van Duyne and Nelemans comment caustically: 'At UN policy-making level proper substantiation appears to be a mere detail if unanimity can be attained by formulating strings of emotive words.'" International civil servants are, however, often asked to make policy forecasts by their political masters in areas where they have no expertise and no or very poor data exists.

Criminalization of transnational activity that is the result of unaddressed social, economic, and political pressures, is a suspect tool for its effective suppression. Moreover, both the size and novelty of different transnational threats are commonly overblown. Current efforts to analyse the global spread of crime have been criticized as justifying legal action because law enforcement have a direct interest in playing up the scale of the problem. Sterner critics argue that transnational crime is being constructed as a global threat in order to increase the coercive power of states. As Chapter 2 of this book illustrates, responding to transnational crime is a form of international relations that reorders global political power and is at least in part an end in itself.

The scale of transnational crime

Although we do not know the true scale of transnational crime, the scale of offending is the main driver of criminalization. Policy documents are replete with frighteningly large figures representing the incidence of particular transnational crimes and the amounts of money made by those engaging in them. There has, however, been little thorough research in regard to the incidence of transnational crime. The figures are not always reliable, and the transnational context allows them to be amplified by policy-makers seeking to raise concern. The danger is that facts worthy of a response are created by this repetition and amplification. An example of this is the way in which a self-acknowledged speculative estimate by two researchers that there were 1,420 cases of human trafficking in the UK in 1998 blew out first to an estimated 4,000 cases in a UK Home Office

report in 2003, and then to a Labour MP's estimate that there were 25,000 sex slaves working in the UK in 2007; all of which started with actual data of seventy-one cases. The unavailability of crime statistics in many states and their notorious unreliability when available, justifies scepticism about many of the global figures based on these national statistics. Moreover, it is uncertain what percentage of all crime is transnational and thus how concerned we should be about it compared to purely national crime. The UN Office on Drugs and Crime (UNODC), the main administrative organ in the UN's criminal justice system, is making an effort to be more precise in this regard. For example, in 2002 it estimated that there were 185 million users of illegal drugs worldwide. In 2015 it more circumspectly estimated that 246 million people used drugs but within a range of 162 million to 329 million, which points to the underlying problem of precision. The UNODC responded to criticisms that there was no overall threat assessment in regard to transnational crime with publication in 2010 of The Globalization of Crime: A Transnational Organized Crime Threat Assessment.. In spite of this the critics are still unconvinced, stressing that evaluations of this kind do not withstand careful analysis55 The UNODC appears to be responding by producing regional and thematic threat assessments . The methodology for data gathering remains problematic. For one thing, comparative data gathering is extremely difficult: the response to the UN Crime Trends Surveys is, for example, low and mainly from developed states, making evidence-based policy-making at a global level difficult S7 Only substantially improved national level data collection can provide an unassailable rationalization for action at the international level. Finally, quantifying the problem is only one step towards understanding it. Tonry believes that the only rational way to respond is to make a better effort to understand the activities in question, to `develop rich narrative and econometric models of transnational markets in which goods move, identifying both push and pull factors that facilitate their movement.

Threat identification, the formation of a transnational interest, and pathways to the development of a policy response

There is no clear international system to identify and respond to transnational criminal threats and nor is it clear what weight of evidence of a threat is necessary to tip the scale towards suppression. The history of transnational criminalization indicates that while in regard to some crimes it requires exposure of considerable evidence, some-times little more than a single headline-grabbing incident is sufficient. The hijacking of the cruise ship Achille Lauro in 1985, for example, led to the adoption of the Conventions for the Suppression of Unlawful Acts at Sea discussed in Chapter 3.

The development of a transnational interest in suppression of the activity is the key to international action. Such interests are common. Latin American states, for example, have a valid interest in the control of firearms in the US because of the flow of these weapons across their borders and consequent rise in violent crime. The development of a transnational interest does not always, however, lead to a coherent position among affected states. In the 2015 migration crisis into Europe, for example, the European Union (EU) argued that central European states were unable to control their borders while they responded that the problem lay with Germany for issuing an open invitation to migrants.

Many different actors with their own motivations may try to use this transnational interest—well-grounded in evidence or not—to trigger what ultimately becomes a legal response. Non-governmental organizations (NGOs) have been active in highlighting criminal threats and developing responses at least as far as back as the nineteenth century when the British Anti-Slavery Society agitated for the suppression of slavery. It played a significant role in the passage of the Slave Trade Act of 1807, which made slave trading illegal throughout the British Empire. It was followed by Royal Naval action to interdict the trade in the next half century. Finally, it culminated in the abolition of slavery itself, first in Great Britain and then elsewhere. Modern analogues of the Anti-Slavery Society include international NGOs such as Transparency International, which

played a key role in the development of the corruption conventions discussed in Chapter 9.

States have the most significant formal role in identifying and responding to transnational crime through international cooperation. Commonly a law-enforcement agency will raise the alarm at the national level, but any agency with a relevant mandate may do so. Threats may also be identified by legislators through the proposal of new legislation. Pressure within a state will sometimes reach a sufficient threshold to transform into pressure from that state on others to cooperate in suppression. For example, the recent elaboration of a Protocol on the Illicit Trade in Tobacco Products originated in pressure from the EU's customs fraud unit, OLAF.

Private individuals and public officials have always played a prominent role in identifying and responding to transnational criminal threats. A good example is Harry Anslinger, who joined the US Federal Bureau of Narcotics from the Bureau of (Alcohol) Prohibition as its first Commissioner of Narcotics in 1930 and held the office until 1962. As the US representative at a number of international drug control conferences and on the UN Commission on Narcotic Drugs (CND) from its establishment until 1970, he embarked on a personal crusade which linked domestic US drug policy to foreign drug policy and saw the threat to the US as primarily external in origin. His efforts resulted inter alia in establishing total drug prohibition after the Second World War, and the identification of cannabis as a major threat at the national and international levels. Officials such as investigators, prosecutors, and judges that link up in transnational law enforcement networks with officials from other states can be highly influential in steering the response to transnational crime when they share a global understanding of the problem.

The battles about if, and if so how, to respond to particular threats are fought out in various international institutions, including the UN's criminal justice organizations discussed in greater detail in Chapter 21. There is no single pathway within the UN system for identifying emerging transnational threats; Redo wryly notes 'the meandering way in which such ideas surface at the global level. Various organs have a mandate to explore

criminalization. The quinquennial UN Crime Congress serves as a talking shop to explore new concerns. The CND makes policy in regard to drug offences, the Commission on Crime Prevention and Criminal Justice (CCPCJ) makes policy in regard to other crimes of concern, and the conferences of the states parties (or COPs) to the various crime-suppression conventions make policy in regard to the specific crimes that fall within their mandates. The process may begin with a state calling attention to a threat by, for example, a resolution of the CCPCJ. With sufficient support that resolution could become a resolution of the UN Economic and Social Council (ECOSOC) and finally receive General Assembly endorsement calling on the Secretary-General to initiate the treaty development process. Alternatively, a COP might be asked by a state party to consider passing a resolution urging further steps against a particular form of conduct that falls within the COP's mandate. To study emerging threats the UN relies inter alia on the International Scientific and Professional Advisory Council (ISPAC), an umbrella organization bringing together NGOs and the professional and scientific community, and the United Nations Interregional Crime and Justice Research Institute (UNICRI). The UNODC also plays a key policy-making role. As the secretariat to the CCPCJ, CND, and the various COPs, its principal function is to administer the policy they develop, but it contributes to that policy development because it shapes and leads much of the work of these bodies. Other inter-governmental organizations (IGOs) with a strong role in transnational criminal policy and law making include the Organisation for Economic Co-operation and Development, G8, G20, EU, Council of Europe, Association of Southeast Asian Nations, International Maritime Organization, World Customs Organization, etc. The list is growing. Even the UN Security Council has begun to play a role in the identification of and response to transnational criminal activities such as terrorism that threaten international security.

The nature of the policy-making process

When NGOs, individuals, states, and IGOs engage in policy-making to suppress emerging transnational crimes they act as transnational norm entrepreneurs, developing rules to protect a range

of economic, political, moral, and emotional interests. In many instances, a general sense of social unease and anxiety creates the fertile ground for developing a response. The transnational moral entrepreneur focuses public attention on the perceived threat and links it to those societal anxieties. Their ability to point to a few examples of behaviour provides supporting evidence for the recommendation of legal action Moral proselytism, for example, underlies the development of laws such as slavery and drug prohibition. Norm entrepreneurs mobilize support for a particular norm beyond national boundaries in jurisdictions where the particular activity may still be regarded as legitimate. They seek to redefine the activity as an evil. The proselytizers agitate actively for the suppression and criminalization of the activity by all states and the formation of an international convention. While a transnational interest motivates and aids the norm entrepreneur, it is the transnational hook—`it affects all of us'—which serves to rally interest in other states. Their targets are the political elites that control the legal systems of potential partners in action. Their ultimate goal is law reform in those states. Slowly what Nadelmann terms a 'global prohibition regime' emerges—the activity becomes the subject of criminal laws and police action throughout much of the world, and international institutions and conventions emerge to play a coordinating role. The success of a prohibition regime will depend on a complex array of factors, not least of which is a proper understanding of the problem addressed. A weak understanding of the problem may lead to the adoption of inappropriate strategies, laws, and institutions that fail to achieve their goals, as well as a variety of consequential social ills including over-criminalization and law enforcement overreach. <>

EU Customs Law, Third Edition by Timothy Lyons QC. [Oxford European Union Law Library, Oxford University Press, 9780198784029]

The third edition of EU Customs Law provides a fully updated treatment of legislation, new treaties and cases in the two courts of the EU especially but also in Member States.

This volume also includes commentary on the Union Customs Code and secondary legislation, and increased coverage of areas such as the wider role of customs authorities apart from the collection of customs duty, such as security of goods and post 9/11 developments generally, the history of customs unions and their implications for governments, non-EU customs unions to which EU law is relevant, and the inter-relation between customs duty and direct tax.

Excerpt: The customs law of the EU is sometimes regarded as a specialist field, having little association with the main body of EU law and divorced from some of its most interesting developments. Nothing could be further from the truth. As the Union Customs Code acknowledges, the Union is `based upon a customs union'. This is true to some extent financially because customs duties form part of the Union's own resources. The foundational role of the customs union also ensures that customs law affects, and is affected by, EU law and policy in a wide range of areas. On the one hand, customs law is inextricably associated with internal elements of the Union, such as freedom of movement of goods and their free circulation. These are matters that are particularly examined in Chapters 2 and 3. On the other hand, it is fundamental to the relationship between the EU and the rest of the world, particularly, of course, in relation to trade relations and development policy. These matters are considered in Chapters 1 and 6.

Chapter 1 contains some new material on the history of the development of the customs union in the EEC. It also contains an extended discussion of the economics of customs unions. The author cannot pretend to approach the work of specialist economists as anything other than an interested general reader. The law of the customs union needs, though, to be put in an economic as well as a historical context. If nothing else, the new sections on economics will help to do that. Chapter 6 has been substantially altered so as to reflect the current priorities of the EU's trade policy. No one who considers that policy in any detail, with its pivot to Asia amongst other things, can sensibly accuse the EU of introspection.

Customs law has also proved to be an arena in which the competences and powers of the institutions of the EU, and the relations between them, have developed. The EU's trade policy is

significant in this context as the recent consideration by the Court of Justice of the EU of the EU/Singapore agreement has shown. More generally the Union Customs Code itself, with its frequent references to delegated and implementing regulations, reflects the new architecture of the Union established under the Lisbon Treaty. In the internal affairs of the EU, the exercise of discretion, particularly by the Commission, is of considerable significance. That is a topic which is considered in Chapters 4 and 5 which deal with customs legislation and administration and the common customs tariff. Relationships between EU institutions and traders have also been examined within the context of customs law. Chapter 13 has, consequently, to consider what amounts to matters of EU administrative law in relation to claims for repayment and remission of customs duty.

Even many of those aspects of customs law which, at first sight, appear most closely concerned with exclusively customs matters prove to have a wider significance. For example, the consideration of customs legislation in Chapter 4 has to cover matters such as the effect and application of legislation and the difference between procedural and substantive rules. The discussion of rules of origin in Chapter 7 has significance for many activities concerned with the regulation of markets. The treatment of valuation in Chapter 8 is significant too beyond the field of customs duty.

Of course, there are matters which are frequently the preserve of customs lawyers and the book seeks to ensure that these are covered too. Chapter 5 is concerned with the common customs tariff and its interpretation, and seeks to outline the principles established by the numerous classification cases which the European Court of Justice has had to consider. Chapters 9 to 12 are concerned with matters such as the customs declaration, customs procedures, approved treatments and uses (including, of course, the economically important matters of transit and inward and outward processing), and the customs debt.

The UCC has significantly amended the law relating to customs procedures and Chapters 10 and 11 reflect the changes which have been made. In these chapters, as throughout the book, I have

kept in mind that many practitioners will want to consider customs law from the perspective of the Community Customs Code as well as from that of the Union Customs Code. Legislative references are frequently made, therefore, to both codes. Decisions of the EU courts on the Community Customs Code are referred to regularly. Many of these will continue to be significant.

In many areas, although the customs union has been in place a long time, customs law and practice are still developing. To see that, one need only look at the Work Programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code which will not conclude for a number of years yet. Other areas of potential development include penalties for customs infringements. In a relatively short time, the customs union will be reduced in size because of the departure from the EU of the UK. The reduction in the size of the customs union will not, however, result in any reduction in the importance of the law of the customs union. That law will continue to be highly significant for those outside the EU as much as for those within it.

Throughout the book I have sought to describe the guiding principles and rules of customs law, in the Union Customs Code and secondary legislation, and to consider them in the context of the relevant case law of the Court of Justice, in a way which is useful to experienced customs lawyers as well as to those coming to the subject for the first time. It is true, of course, that the courts and tribunals of the Member States, just like the national customs administrations, play a vital role in the application of customs law. I have not attempted, however, to incorporate the domestic case law, or statute law of any Member State, into the text. To do that would require a different and much larger book.

I have attempted to state the law as at 1 December 2017.

Preface to the Second Edition
It is a pleasure to welcome this new edition of EC Customs Law. Although customs law might, at first,

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seem a subject of limited academic and even practical concern, that branch of law is in fact - as this book shows - of central importance in the European Union.

The European Community is based, according to the EC Treaty, on a customs union. That union is indeed the foundation of the Community. Because of its foundational status, customs law, as the author admirably explains and demonstrates, forms a vital part of EC law and policy across a very wide field.

Customs law is of course of critical importance for the internal market of the Community. But it is fundamental also to the European Union's relations with the outside world: not least to the common commercial policy and to the Union's development policy. The subject has now to be seen in its global setting, being governed by many international arrangements and agreements. The interaction of EC law and international law is one of the themes of this work.

The book firmly places customs law in its broader context. It examines against that background the main branches of the subject—including, for example, rules of origin; classification under the Common Customs Tariff; valuation; customs procedures; customs debt—while never losing sight of the wood for the trees.

All those concerned with trade law and with the operation of the customs union will welcome this clear, expert, and systematic exposition of the subject. Because of its focus on the guiding principles, as developed in particular in the case law of the Court of Justice, and by its emphasis on the place of customs law within the Community legal system and international law, the book will appeal also to an even wider readership. Francis G. Jacobs

Preface to the Third Edition
We very much welcome this third edition, to what is now EU customs law. Much has changed in EU law since the previous edition, in particular, but by no means exclusively as a result of the Lisbon Treaty. There is nevertheless also a lot of continuity, as this outstanding analysis of customs law shows. Change and continuity have become the hallmarks of the EU project. The author continues to succeed in his excellent exposition of the subject, praised in the

preface to the second edition. The perspective has even been widened, with more focus on economic theory, and some forward-looking sections which highlight a possible end state - that of a truly unified, "federal" customs administration - which was hardly imaginable when the EU customs union was in its infancy.

At the time of writing this preface one cannot help but noticing that the author does not discuss Brexit - no doubt a wise decision given the current uncertainty surrounding this process. The book nevertheless makes a great contribution to the debate about the future trade relations between the EU and the UK: it shows the scope and depth of the law, and its institutions (not least the Court of Justice), which are required to make a customs union work well - or indeed other forms of advanced trade relationships and customs cooperation and facilitation. To echo the preface to the second edition: this book will now appeal to an even wider readership. Piet Eeckhout

For the Commission, the customs authorities, and traders, planning for the future is essential. To some extent, given the huge changes and possibilities brought about by factors such as e-commerce, the challenge is as much to adapt to the present as to prepare for the future. In doing that there are many new challenges to be met and the traditional aims of reducing tariffs and eliminating quotas in respect of goods appear somewhat dated in comparison with them. The traditional aims have not, however, become irrelevant, even assuming a global trading environment in which tariffs are not imposed as a negotiating weapon. The development of high-technology goods into world markets raises new and difficult questions of a traditional nature. At one time the focus was on how to classify microprocessors, networking equipment, and games' consoles. Charlene Barshefsky, US Trade Representative in the administration of President Clinton, said:

> Classification will become even more difficult as new products continue to flood the market. Given that many countries maintain high tariffs on products considered to be consumer electronics, the ITA" will need to be widened to include new categories of products and ensure

that existing high-tech products do not slip out of the duty-free category.

The ITA was indeed widened in 2015 some considerable time after those words were written. The pace of change has not, however, slowed and certain high-technology devices have continued to demand attention. As an example one may take well-known streaming devices which have given rise to a considerable amount of litigation.

The focus of attention may have moved from duty rates to safety and security and all the other matters dealt with by contemporary customs authorities but, clearly, the customs lawyer, administrator, and negotiator face many challenges facilitating trade in goods. So far as the EU is concerned, the customs union has, since its creation in 1968, proved to be a solid foundation on which to build. After fifty years it continues to be so. Its budgetary significance for the EU remains considerable despite a general reduction in tariffs. Its significance so far as global trade is concerned cannot be underestimated. <>

American National Security, Seventh Edition by Michael J. Meese, Suzanne C. Nielsen, Rachel M. Sondheimer, foreword by General John P. Abizaid, US Army (Retired) [Johns Hopkins University Press, 9781421426938]

American National Security remains the ideal foundational text for courses in national security, foreign policy, and security studies. Every chapter in this edition has been extensively revised, and the book includes discussion of recent security policy changes in the Trump administration. Highlights include:

- An updated look at national security threats, military operations, and homeland security challenges
- An analysis of the evolving roles of the president, Congress, the intelligence community, the military, and other institutions involved in national security
- A revised consideration of the strengths, limitations, and employment of instruments of national power, including diplomacy, information, economic tools, and armed forces

- An exploration of the economic and national security implications of globalization
- An enhanced examination of the proliferation of transnational threats, including security challenges in space and in cyberspace
- A new assessment of how international, political, and economic trends may change US leadership of the post–World War II international order
- A comprehensive update on changing dynamics in key states and regions, including Russia, China, East Asia, the Middle East, South Asia, Europe, Sub-Saharan Africa, and Latin America

An authoritative book that explains US national security policy, actors, and processes in a wide-ranging yet understandable way, American National Security addresses key issues, including challenges to the free and open international order, the reemergence of strategic competition among great powers, terrorism, economic and fiscal constraints, and rapid advances in information and technology.

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III Ways and Means of National Strategy

Excerpt: A successful approach to the challenges and opportunities that we face in a dynamic and complex world must be based on an informed discussion of the issues that is open, clear, and unambiguous. This book, American National Security, provides an impressive, comprehensive discussion of the issues, actors, policies, and history that have influenced national security policy in the past and will shape its direction in the future. Just as America and the world are continuously evolving, the authors have significantly revised this edition based on recent US history, some of the initial policy approaches of the Trump administration, and changing global dynamics.

A comprehensive approach to American national security policy is necessary to avoid the strategic myopia that can often afflict policy makers. It is not sufficient to conduct a "soda straw" examination of issues using a country-by-country or issue-by-issue approach. It is important to look at regions and strategies holistically to understand trends and to anticipate how actions in one area will reverberate throughout the world.

For example, in the Middle East, the world is facing a number of challenges that have affected and will continue to have implications for US national security. First, Sunni Islamic extremism, which is embodied in al-Qaeda, the Islamic State in Iraq and the Levant (ISIL), and their affiliates, continues to motivate and support violent attacks that foment instability. Second, Shia Islamic extremism, as led by Iran and its proxy forces fighting throughout the Middle East, exacerbates conflicts in the region and exploits state weakness to further Iran's strategic ends. Third, the Arab-Israeli conflict remains salient throughout the region, in spite of significant efforts of the United States and others to achieve a long-term solution. Finally, in spite of recent increases in US energy production, the world remains dependent on energy resources from the region, which is why the Middle East will continue to be strategically important. These trends are difficult to discern if one only examines particular incidents, but they become clearer through a more comprehensive review of the issues. Circumstances are changing in the Middle East and opportunities abound, but considerable strategic dangers remain.

The information revolution is affecting security and political stability throughout the Middle East, as well as the broad array of US national security interests in that region and beyond. More individuals throughout the world have greater access to information, which compresses decisionmaking cycles and accelerates the effects of any particular action, either by the United States or by those who would oppose US policy. Individuals and organizations are networked globally and have the ability to see beyond the local areas in which they live, which can be positive, as it opens opportunities, but also negative, as it raises expectations and enhances perceptions of relative deprivation. Moreover, ubiquitous technology empowers and connects individuals, corporations, and others in ways that can be extremely unpredictable and potentially harmful to American interests and to the ability of states to influence the trajectory of events.

The United States led the West during the Cold War, and US policy was the driving force behind many global issues, especially after the attacks of September 11, 2001. Today, American leadership remains essential to global security and to developing and executing strategies to confront challenges. That does not mean that the United

States should have policies that only employ American assets, but it does mean that there should be an American commitment to lead so that other countries understand there are some enduring policies that the United States will continue to support over time. To manage costs, the United States will need to demonstrate its sustained commitment to allies and to international peace and security through means that do not always include a large-scale deployment of US forces. The Trump administration's National Security Strategy recognizes the continuing challenges in the Middle East but also clearly points to the growing strength of America's near-peer competitors, China and Russia. When these issues are considered alongside persistent and emerging security challenges in places such as North Korea and parts of Africa, it becomes clear that the United States will face an extremely complex security environment for the foreseeable future.

It is important to understand the perspectives and approaches that provide the context for American national security policy making. As discussed in part I of this book, "National Security Policy: What Is It, and How Have Americans Approached It?," one of the strengths that the United States brings to policy making is its values. Those values are represented both by the ideals enshrined in the Constitution and Declaration of Independence and by the strength and dedication of the American people to do the hard work necessary to make the United States and the world a stronger, safer, and better place for future generations. A successful and sustainable approach to national security will rest on these values, which should continue to influence policy choices in the future.

With national security policy, it is sometimes difficult to understand all the players involved, which is addressed in part II, "National Security Policy: Actors and Processes" During my career as a military leader, I worked with all the actors discussed, often engaging with the White House and Congress. With the intelligence, diplomatic, and homeland security communities as partners with the military, the challenge was to integrate our efforts in support of shared strategies. Understanding the proper role of the military, the vital importance of the budget process, and the

intricacies of national security decision making are crucial to the effective formulation of security policy. There is no substitute for learning about all of these actors and agencies firsthand, but studying their history, culture, organization, and practices is a great first step toward understanding their important roles in American national security.

Recently, the United States seems to have had an overreliance on the military element of power. As this book describes in part III, "Ways and Means of National Strategy," it is critical to understand and incorporate all elements of power when developing a successful long-term strategy. Our overreliance on the hammer of military power has created a dynamic that makes every problem look like a nail. While military action can gain time for political activity to take place, it is vital that we incorporate economic, diplomatic, informational, educational, intelligence, law enforcement, and other aspects of power in the development of a sustainable strategy. All elements of national power need to be adequately resourced so that we can most effectively advance American interests in the world.

Finally, understanding the history and dynamics of global security issues, examined in part IV, "International and Regional Security Issues," is particularly important. There is a tendency to view the issues in a particular country or region in only their current circumstances, without understanding the historical context or perceptions of past US policy in the region. Many of the issues that policy makers deal with today are the legacy of previous, seemingly well-intentioned decisions that may not have adequately reflected the underlying reality of the various groups on the ground. Only by being willing to listen to the issues from the perspective of those who live with them will US policy makers be able to understand how to develop an effective, sustainable strategy over the long term.

American National Security is an ideal resource that ties together theory, actors, instruments of power, and regions of the world, with clear, detailed explanations that facilitate understanding of international relations and security policy. The people who are likely reading this book—students of national security policy, diplomats, policy makers, military officers, intelligence professionals, engaged citizens, and others—collectively provide

the strength, insight, and hope for America going forward. The challenges that we face are great, but the wisdom in this book will help its readers develop a comprehensive understanding of the issues affecting national security policy. That understanding can lead to effective, long-term strategies that will serve US national interests while enabling the United States to continue to lead allies and other international partners in fighting for shared prosperity and peace. General John P. Abizaid, US Army (Retired)

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The seventh edition of American National Security continues the rich tradition of providing a single authoritative book that describes and explains US national security policy, actors, processes, and issues in a comprehensive and understandable way. This edition has been substantially rewritten to account for significant changes in the national security environment in the past decade. It is intended to provide a foundation of understanding for teachers, students, and practitioners of national security policy, one of the most important and least understood subjects in public policy.

This book provides this foundation in a logical structure that introduces the reader to the subject and provides a topically organized reference for immediate or future use. The first part of the book explains what national security policy is and how Americans have approached it over time. Understanding the theory, history, and evolution of American national security policy helps explain existing institutions and strategy. Part II describes each of the major actors and processes, including the president, Congress, homeland security, intelligence, the military, budgeting, and the national security decision-making process. Part III explains the ways and means of national strategy, including diplomacy, information, economics, and military power. Part IV tours the globe with chapters on each major region of the world, which examine the history of American engagement, current US interests and policies, and enduring issues likely to affect American national security policy in each area. Finally, part V encourages the reader to consider major dynamics that may shape American national security decisions in the future.

All seven editions of this text are the result of the dedicated scholarship and unparalleled knowledge and experience of the two men to whom we dedicate this book: Amos A. Jordan and William J. Taylor Jr. Brigadier General Joe Jordan graduated as the highest-ranking cadet in the West Point Class of 1946, studied at Oxford University as a Rhodes Scholar, earned his PhD from Columbia University, and served on the faculty in the Department of Social Sciences at West Point for twenty years, eventually retiring as the Professor and Head of the Department. He continued to serve in senior civilian positions in the Department of Defense and the Department of State and was a member of the President's Intelligence Oversight Board. He served as President and Chief Executive Officer of the Center for Strategic and International Studies (CSIS), President of the CSIS Pacific Forum, and as a Senior Advisor at the Wheatley Institution at Brigham Young University. Colonel Bill Taylor was commissioned through the US Army Officer Candidate School (OCS) in 1955 and was later elected to the OCS Hall of Fame. He earned his PhD from American University and served on the faculty in the Department of Social Sciences at West Point for sixteen years. At the time of his retirement, he was serving as the Director of National Security Studies. He then became an Adjunct Professor at Georgetown University's School of Foreign Service and served at CSIS, where he led the International Security Program, was a Senior Advisor, and helped lead the professional development program. These men provided a tremendous legacy of excellence, precision, rigor, and clarity—one that continues to inform this seventh edition of American National Security.

As faculty in the Department of Social Sciences in the 1970s, Jordan and Taylor recognized the need for a textbook that would explain US national security to an audience with renewed interest in security issues after the Vietnam War. The first edition was published in 1981 and quickly became the most relied-upon text in national security policy courses at institutions serving undergraduates, graduate students, and military and civilian government professionals. Subsequent editions of the book followed the same basic approach—

identifying the history, continuities, and trends in American national security policy that provide context for the contemporary challenges that policy makers face on a daily basis. Jordan and Taylor combined their efforts with Lawrence J. Korb of the Brookings Institution for the third and fourth editions, and Michael J. Mazarr of CSIS for the fifth edition. The sixth edition returned partial responsibility for the book's authorship to the Department of Social Sciences at West Point, as Jordan and Taylor recruited Michael Meese and Suzanne Nielsen, previous and current Department Heads, respectively, to co-author that edition. Rachel Sondheimer, an Associate Professor who teaches American politics at West Point, has joined Meese and Nielsen to co-author this seventh edition.

The Department of Social Sciences at West Point is responsible for teaching the disciplines of political science and economics to cadets, and it is also home to the Combating Terrorism Center, which provides cutting-edge research on the terrorist threat, as well as the Office of Economic and Manpower Analysis, which sup¬ports the Army's senior leaders as they shape the future force. It is a national resource of talented military and civilian faculty who teach cadets about the national security policies that they will observe, encounter, help develop, and execute throughout their professional careers. Classrooms at West Point are the ideal laboratory to test the concepts from this text, and the current version has benefited greatly from the insights of faculty and students as it was developed. Indeed, this work would not have been possible without this collaboration at the United States

Military Academy, which is among the reasons why proceeds from the sale of this book are donated back to West Point. Several faculty members leveraged their considerable national security expertise to help draft significant revisions to many chapters. In particular, we would like to acknowledge the work of Terry Babcock Lumish ("Putting the Pieces Together: National Security Decision Making" and "Nuclear Policy"), Jordan Becker ("Europe"), Ruth Beitler ("The Middle East"), Ryan Bell ("Putting the Pieces Together: National Security Decision Making" and "Nuclear Policy"), Steven Bloom ("Economics"), Roxanne Bras

("Irregular Threats: Terrorism, Insurgencies, and Violent Extremist Organizations"), Tania Chacho ("East Asia"), Robert Chamberlain ("Latin America"), Meghan Cumpston ("The International Setting"), Joe DaSilva ("The Evolution of American National Security Policy" and "Congress"); Brian Dodwell ("Homeland Security"), Dean Dudley ("Planning, Budgeting, and Management"), Brian Forester ("Presidential Leadership and the Executive Branch" and "South Asia"), Jim Golby ("The Role of the Military in the Policy Process" and "Military Power"), Jessica Grassetti ("Planning, Budgeting, and Management"), Lies' Himmelberger ("East Asia"), Seth Johnston ("Europe"), Bonnie Kovatch ("Sub-Saharan Africa"), Patrick Kriz ("Latin America"), Charlie Lewis ("The Evolution of American National Security Policy" and "Congress"), David Myers ("Latin America"), Rob Person ("Russia"), Don Rassler ("South Asia"), Adam Scher ("Traditional Approaches to National Security" and "Intelligence and National Security"), Nathan Strickland ("The Evolution of American National Security Policy"), Mike Walker ("Economics"), Ray Walser ("Latin America"), Tom Walsh ("Diplomacy and Information"), Jason Warner ("Sub-Saharan Africa"), and Richard Yon ("Presidential Leadership and the Executive Branch" and "Congress").

We would like to express our appreciation to the Department of Defense Minerva Project, which supported the completion of this volume. We would also like to recognize Brandon Mohr, whose significant cartographic design assistance is reflected in the maps in part IV. Teresa Lawson provided exceptionally helpful editorial assistance as the manuscript was being developed that improved it significantly. The book would not have been possible without the help of Lauren Straley and Julie McCarthy at Johns Hopkins University Press, who oversaw its development and production.

With the cacophony of information that bombards practitioners, teachers, and students of national security policy, it is critical that individuals from all backgrounds have a good understanding of the history, concepts, institutions, processes, and policies that provide essential context. We hope that this book serves as a foundation that will help students

and practitioners to understand better the important issues that affect American national security. The more that individuals learn, the better they will be able to contribute to effective national security policy development and implementation.

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The Oxford Handbook of Distributive Justice
edited by Serena Olsaretti [Oxford Handbooks, Oxford University Press, 9780199645121]

Distributive justice has come to the fore in political philosophy in recent decades: how should we arrange our social and economic institutions so as to distribute fairly the benefits and burdens of social cooperation? Thirty-eight leading figures from philosophy and political theory present specially written critical assessments of the state of research into a broad range of questions about distributive justice. The first seventeen chapters consider how to understand distributive justice and its importance in our world. The remaining fifteen chapters investigate questions about the implementation of distributive justice with regard to a range of aspects of society, including gender, race, the family, education, work, health, language, migration, and climate change. This Oxford Handbook will be a rich and authoritative resource for anyone working on theories of justice.

Excerpt: The Idea of Distributive Justice by Serena Olsaretti

As any student of contemporary political philosophy can attest, theorizing about distributive justice has played a considerably large role in the discipline over the past half-century. Distributive justice has concerned political philosophers of other historical periods,' but nobody can deny—indeed, this is by now a well-worn refrain—that since the publication of John Rawls's A Theory of Justice in 1971, debates about how we should arrange our social and economic institutions so as to distribute fairly the benefits and burdens of social cooperation have proliferated. Nor can anyone deny that these debates address some of the

deepest and most pressing questions in political philosophy. Together with the question of the legitimacy of the state or of political authority, that of distributive justice lies at the heart of our attempt to identify criteria for evaluating and justifying to each other our shared political practices and institutions.

This volume is a reflection of the wealth of issues that contemporary debates about distributive justice have been treating, and continue to treat. The chapters it comprises provide an overview of the state of those debates and identify the trajectory in which they are, or—according to the philosophers who have written these chapters— ought to be, moving. Before providing an outline of what the volume includes, this introduction offers some remarks on the idea of distributive justice: how do theorists of justice, including the ones who contribute to this volume, conceive of distributive justice, as opposed to other types of justice, and as opposed to other, non-justice-based, demands?

Like the idea of justice simpliciter, with which it is often used interchangeably, the idea of distributive justice has been taken to refer to different things: theorists of justice have adopted different views, mostly without any explicit acknowledgement or defence of them, about what characterizes and delimits the demands of justice as opposed to other moral demands (for example, the demands of legitimacy, community, efficiency, or stability, to mention a few central ones). They have also adopted different views of what characterizes distributive justice as opposed to other types of justice.

Some, for example, have assumed or claimed that justice, as opposed to humanitarian concerns or charity, concerns our perfect duties, that is, duties owed to specific individuals that leave no room for discretion on the part of duty-holders in deciding how to discharge them (see Buchanan 1987). Some have held that justice regards the negative duties we have to not harm others, as opposed to any duties to assist or aid others (Campbell 1974). Alternatively, or additionally, some have assumed that what characterizes duties of justice is that they are enforceable, that is, they are duties which a legitimate authority may use coercion to ensure are fulfilled (Nozick 1974). As far as distributive justice

is concerned, some have assumed that what distinguishes it from other types of justice is that it is justice in the distribution of material or economic advantages only, or that it only concerns the allocation, as opposed to the production, of given goods; others have instead equated the idea of distributive justice with that of social justice, and used it to refer to all the principles regulating the balancing of individuals claims to all of the possible benefits of social cooperation. These different usages of the ideas of justice and of distributive justice reflect different views of what characterizes these social values and distinguishes them from other moral demands, and in what follows I identify some key dimensions along which such views vary.

As a preliminary to that discussion, it is helpful to clarify how the variation I am drawing attention to here relates to the more familiar variation among different interpretations of the demands of justice, or between competing principles of justice.

Theorists of justice widely endorse shared, abstract concepts of justice and of distributive justice: they agree that justice consists in giving each person his or her due, or treating like cases alike; and that distributive justice is justice in the distribution of benefits and burdens to individuals, or consists in the balancing of the competing claims persons make on the benefits that are up for distribution.' But, as is often observed, theorists of justice disagree about how to interpret these abstract ideas and, accordingly, formulate different conceptions of justice and of distributive justice. Crucially, these conceptions reflect different understandings of what considerations are relevant for treating like cases alike and different cases unalike, or for determining a balance of claims. For example, is people's deservingness, or their neediness, relevant for giving individuals their due? Is treating people equally necessary for settling fairly their competing claims? These questions are the staple of many debates among theorists of justice.

Besides disagreeing on what justice demands, theorists of justice also disagree about which other features, if any, of justice and distributive justice, apart from those that characterize the abstract ideas captured by the shared concepts, are essential to understanding these ideas and to

demarcating them from other moral demands. This variation is what interests us here: what do theorists of justice mean by saying, and what follows from their saying, that a particular principle they defend as the most defensible interpretation of the concept of justice (for example, desert, need, or equality) is a principle of distributive justice, rather than, say, one of corrective justice or a humanitarian principle?

In identifying the different views theorists adopt of what characterizes distributive justice, it is helpful to note that there are four main and inter-related dimensions along which they tend to vary, which concern, respectively, (i) the preconditions; (ii) the subject; (iii) the object; and (iv) the normative significance of distributive justice.

(i) The preconditions of distributive justice are the conditions that must obtain for considerations of distributive justice to be pertinent at all. David Hume's `circumstances of justice' are a case in point: most contemporary theorists agree with Hume that questions of distributive justice arise only when there is relative material scarcity (neither great abundance nor extreme scarcity in the resources people need and want). Under these conditions, there is both an identity and a conflict of interests among individuals that make the quest for principles needed to resolve conflicting claims equitably both necessary and possible. Understanding distributive justice as involving a balancing of competing claims over what is distributable, as was suggested earlier, reflects acceptance of the view that claims of distributive justice only arise if the circumstances of justice obtain. This point is widely shared among theorists of distributive justice, but alternatively, or additionally, some think that the existence of social cooperation is necessary for the demands of distributive justice to arise, in that it is only in the context of relations of reciprocity that individuals can assert claims to sharing fairly the goods that social cooperation makes available. A different view holds that considerations of distributive justice are only pertinent where there are shared institutions through which we exercise coercion over each other, or which speak in our name (Nagel 2005), as only these practices trigger a demand for justification which can only be met by making

those practices just. We could furthermore believe that, within the context of shared institutions, only disadvantage that is intentionally and avoidably caused by those institutions, rather than the result of natural causes, is unjust.

Discussions of distributive justice also conceive of what characterizes it differently in line with what they take the primary subject of distributive justice to be: is it individuals' acts that are primarily just and unjust, all social practices, or only certain institutions? Famously, Rawls's view of justice is institutionalist, in the sense that for Rawls the principles of justice are principles that regulate primarily the basic structure of society. Drawing on Rawls, various theorists now assume that what characterizes the demands of justice is precisely the fact that they are demands which (certain) social institutions, specifically, must satisfy (see, for example, Scanlon 1998; Tan 2004). Demands of justice, on this view, identify a subset of the moral considerations that concern what we owe to one another, where what helps demarcate them is the fact that they are to regulate a particular domain. Alternatively, we could think of the demands of justice as applying primarily to distributions of whatever burdens and benefits are thought relevant; on this view, legal institutions, social norms, and individual acts can all be assessed as just or unjust, depending on whether they help to bring about, or disrupt, just distributions.

Thirdly, different theorists of justice take different views of the object of distributive justice. On a doubly narrow interpretation of the object of distributive justice, to focus on distributive justice is to focus on the justice of the mechanisms and procedures that only allocate a given amount of goods, and only a subclass of distributable goods, namely, distributable economic goods like income and wealth. A wider interpretation of the idea of distributive justice adopts a more generous view of the goods whose distribution raises concerns of justice, and/or considers productive mechanisms, as well as allocative ones, as subject to the demands of justice.

For example, we could think that a theory of distributive justice bears on how distributable goods other than economic ones are distributed; or, more broadly still, that it bears on how individuals

fare with regard to any aspects of advantage that we think morally relevant (for example, how happy individuals are, or whether they enjoy recognition). These types of advantage may not be themselves distributable, but it is true both that individuals can enjoy them, or have access to them, to different degrees, and that we can affect the degree to which persons can access or enjoy them, and these two facts make it intelligible and sensible to apply justice considerations to the distribution of these types of advantage. A wide interpretation of distributive justice can also take as its concern the productive mechanisms that affect which and what amount of distributable goods there are in the first place, rather than focusing merely on the mechanisms for the allocation of pre-given goods. The idea of distributive justice in this wider sense, which Rawls explicitly endorses, is often associated with that of social justice. Although most theorists of justice are silent on whether they conceive of the object of distributive justice as narrow or wide in this sense, their principles often have implications for what productive processes, as well as narrowly distributive mechanisms, should be in place. (A simple example is a principle enjoining maximal equal opportunities for welfare as a demand of justice: different productive arrangements, as well as allocative schemes, affect how great the range of welfare opportunities people enjoy is, and realizing the demands of justice thus understood therefore requires setting up some, rather than other, productive schemes.)

(iv) Finally, and crucially, theorists of distributive justice conceive of it differently depending on what view, sometimes explicitly but mostly implicitly, they take of the normative significance of distributive justice claims. On most views, distributive justice considerations offer us very weighty reasons for action. Even more strongly, injustice is on most views a decisive reason for altering arrangements: as Rawls famously stated, 'laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust'. On some views, as was mentioned earlier, justice considerations offer us reasons for action that leave no room for discretion in deciding what exactly we must do for others, and on most views, moreover, they offer us reasons for action that are enforceable, that is, that can justifiably be backed

up by force by a designated legitimate authority. On other views, however, justice-based reasons are not essentially action-guiding, and identifying an injustice is thought to be primarily an evaluative task, one that is carried out independently of whether there are reasons to do something about the injustice and indeed, of whether it is possible for anyone to remedy it. Reasons of justice, here, track primarily what we have reason to regret, or find disvaluable. Detecting variations in the usage of the concept of justice along the lines just sketched is helpful for two main reasons.

First, because theorists of justice have used importantly different concepts of distributive justice, and have generally done so implicitly, without clearly stating what they mean when they affirm or deny that something is a demand of distributive justice, they—and their critics—have sometimes argued at cross-purposes. Some defenders of the politics of identity, for example, who reject the `distributive paradigm', rely on an understanding of distributive justice according to which it is concerned only with the distribution of material resources. This is a narrower understanding than one that is held by many theorists of distributive justice. Similarly, it has been argued, the anti-constructivist critique of Rawls developed by G. A. Cohen partly relies on Cohen's using a different concept of justice from Rawls's. For Rawls, principles of justice are action-guiding, and more specifically, they are principles for facilitating citizens' cooperative interaction with one another, so they must be ones which citizens can understand, and which citizens can verify are being followed by others. For Cohen, by contrast, justice considerations need not play this particular social role. (For another diagnosis of Cohen's critique of Rawls as premised on the use of different concepts of justice.) Noticing that philosophers have used different concepts of distributive justice reveals that some disagreements are more apparent than real.

Bringing the diversity of uses of the concept of justice and of the substantive commitments that underlie that diversity to the fore is also important for another reason, this one directly relevant from the point of view of introducing this volume. Once we notice that the idea of distributive justice can be and has been used in many ways, we get a clearer

picture of the vast range of questions that can be tackled by debates on distributive justice. It becomes apparent, for example, that a concern with distributive justice can inform our stance on what productive arrangements a just so¬ciety should host, as much as what stance we take on the allocation of whatever a just society produces; or that theorists of justice can be as concerned with individuals' unequal enjoyment of recognition as they are with their unequal access to resources. As Michael Walzer points out: '[t]he idea of distributive justice has as much to do with being and doing as with having, as much to do with production as with consumption, as much to do with identity and status as with land, capital, or personal possessions'.

In line with Walzer 's remarks, the choice of topics for this volume reflects a generous understanding of the purview of distributive justice. The volume opens, in Part I, with discussions of the main competing interpretations of the demands of distributive justice as advanced in contemporary debates—what I earlier referred to as 'the staple questions' for theorists of justice. While all contemporary theories of justice are premised on the assumptions that all persons have equal moral status and ought to be treated as equals, thereby sharing an `egalitarian plateau' (Kymlicka 1990: 5), they diverge substantially over exactly what treating people as equals requires. They diverge, centrally, in line with what pattern in the distribution of advantage the demands of justice are supposed to help create, and in line with what the currency of justice is, that is, what aspect of people's situations should command our attention when assessing whether or not there are distributive injustices among them.

As far as the pattern of distributive justice is concerned, some theorists favour redistributive policies with a view to mitigating or eliminating the gap between the better off and the less well off (whom we might call distributive egalitarians, or egalitarians simpliciter, discussed in Chapters 2 and 3), while others hold that these must only ensure that the badly off have enough, or have their basic needs met (Chapter 4), and yet others that improvements in the situation of the worse off are given priority (Chapter 3). Yet other theorists view

redistributive policies as required by justice insofar as they help ensure that people are as well or as badly off as they deserve to be (Chapter 7), while some reject any redistributive policies as unjust because the only rights people have are rights to use, control, and exchange at full tax immunities justly acquired private property rights (these are right libertarian views, discussed in Chapter 6).

Theories of justice also take a stand on what the currency of distributive justice is: according to some, what resources people have access to is what is relevant for justice (see Chapters i and 2), while on other views what matters is the opportunities for welfare people have (Chapter 2), or the effective freedom to achieve valuable states of being and doing (or `capabilities' to function, such as, for example, the capability of being well nourished, or escaping morbidity; Chapter 5 discusses the capability approach in general, in its egalitarian and non-egalitarian variants).

These two orthogonally related sets of questions, about the pattern and the currency of distributive justice, have structured many debates among defenders of the main competing contemporary conceptions of justice, and broadly guide the division of topics among the chapters in Part I. Since John Rawls and Ronald Dworkin have offered the two best worked-out contemporary egalitarian theories (both of which take resources to be relevant for justice), the two opening chapters focus on discussing those and related approaches (those of 'luck egalitarians') that have taken their inspiration from one or the other of these theories. Other important related questions the chapters of Part I address include the role of personal responsibility for justice, the relevance of individuals' subjective assessment of their situation as compared to others' for determining whether they are unjustly advantaged or disadvantaged, and the possibility of reconciling egalitarian commitments with the endorsement of robust rights of private ownership over one's body and mind (and hence, a strong presumption against paternalism), which animates the left libertarian project.

Parts II and III treat issues, some substantive and some methodological, that are less often treated in the context of debating distributive justice.

As was mentioned earlier, all philosophers acknowledge that distributive justice, however important, is not the only social virtue that we have reasons to endorse, so questions arise about how its demands relate to those of other central values which a society should promote or protect. The chapters of Part II address these questions. They ask how the requirements of justice in punishment, which are often thought to require conferring punishment in accordance with desert, relate to those of justice in the goods of social cooperation (Chapter 8); whether and how the promotion of impersonal values such as excellence in the arts or sciences or environmental goods, while not itself demanded by justice, ought to be pursued in a good society, and whether this would be in tension with justice (Chapter 9); whether a concern with the value of care and caring relationships ought to be endorsed alongside justice (Chapter 10); and whether a just society is also one which heeds individuals' and groups' multifaceted demands for recognition, including recognition of people's distinguishing identities (and hence their differences), social acceptance of their authentic selves, and appreciation of their worth (Chapter n). As emerges from some of the discussions, and in line with what was said in the opening pages of this chapter, it is possible to conceive of the idea of distributive justice more or less encompassingly, and depending on how wide or narrow an interpretation of justice we embrace, our view of its place relative to other social virtues will differ. (People's demands for recognition, for example, can themselves be thought to be something which people have a justice-based claim to having met; by contrast, on a narrower understanding of the idea of justice, the latter is claimed to be both different from, and potentially in tension with, the values championed by defenders of the ethics of care.)

The chapters of Part III turn to some central questions concerning the nature of our theorizing about distributive justice; these are questions that any theory must take a stand on, implicitly or explicitly. Do our theories of distributive justice presuppose a particular view of human nature? What would follow, both for the viability and the defensibility of a theory, from acknowledging that certain human dispositions and desires have an

evolutionary explanation (Chapter 12)? Do demands of justice arise only in a context in which political institutions exist, and how does the demand that our political institutions be legitimate—which, as I mentioned earlier, is thought to be a fundamental demand that we should make on our shared institutions—relate to the concern with justice (Chapter 13)? What assumptions about the nature of moral demands do competing theories of distributive justice make, and what do we learn about such theories when we keep in view crucial distinctions in normative ethics, between consequentialists and nonconsequentialists, deontological and teleological theories, agent-neutral and agentcentred requirements, and forward-looking and backward-looking views (Chapter 14)?

The last three chapters of Part III address overtly methodological questions which theorists of justice have been paying increasing attention to. What facts should our theorizing about justice abstract from, and is the attempt to formulate principles that would guide institutions of an ideally just society—one in which we assume that everyone would comply with the principles we formulate, and in which conditions for realizing justice are favourable—a useful and necessary part of a theory of justice, or an unnecessary and potentially misleading idealization (Chapter 15)? What is the de¬fensible method for justifying principles of distributive justice? How do the ostensibly different methods of justification that are deployed by different theorists of justice—constructivism, intuitionism, and conceptual analysis—relate to each other (Chapters 15 and 16)?

The final part of the volume, Part IV, turns to discussions of the demands of distributive justice in various areas of social, economic, and political life. The titles of these chapters are self-explanatory. Many of these pieces deal with different but importantly related topics and could be helpfully read together—this is true, for example, of the chapters on gender, on the family, and on education, or of the chapters on cultural and religious minorities, language, justice beyond borders, and migration. With regard to some of the social and political issues discussed here, there is already widespread agreement that the

challenges they raise can fruitfully be analysed through the lens of a distributive justice approach. This is the case, for example, with respect to the distribution of educational opportunities, employment, access to health, and the claims to resources by individuals beyond borders. (Saying this, as was already noted above, does not amount to saying that distributive justice concerns are the only concerns we have reasons to acknowledge with respect to these issues.) With other challenges we face, such as those presented by the persistence of social divisions along racial lines and the need to heed the claims of future generations, but also the wrongs of exploitation and of discrimination, whether the questions we face are helpfully viewed as questions of distributive justice is disputed. The chapters on these topics discuss this important issue among others. While the topics covered by the chapters of Part IV are not supposed to exhaust the areas of our social lives that give rise to problems of distributive justice, they constitute a sizeable selection of the central cases. The debates they survey, and the discussions they contribute, are a good reflection of how rich and wide ranging distributive justice is as an area of political philosophy. <>

[After Injury A Historical Anatomy of Forgiveness, Resentment, and Apology](#) by Ashraf H. A. Rushdy [Oxford University Press, 9780190851972]

[After Injury](#) explores the practices of forgiveness, resentment, and apology in three key moments when they were undergoing a dramatic change. The three moments are early Christian history (for forgiveness), the shift from British eighteenth-century to Continental nineteenth-century philosophers (for resentment), and the moment in the 1950s postwar world in which British ordinary language philosophers and American sociologists of everyday life theorized what it means to express or perform an apology. The debates that arose in those key moments have largely defined our contemporary study of these practices.

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Excerpt: On December 14, 1989, two South African security policemen, Mbambalala Glen Mgoduka and Amos Themba Faku, and one askari, Sheperd Shakati, were killed by a car bomb near Port Elizabeth, in what became known as the Motherwell bombing. Although at the time they blamed it on the African National Congress, the South African Police Security Branch had actually ordered the action because they suspected that the three might reveal the Security Branch's involvement in the 1985 murder of the Cradock Four. In 1996, five members of the South African Police were indicted and found guilty of the Motherwell bombing murders. On October 1, 1997, one of them, Eugene de Kock, the head of Vlakplaas, as the Security Branch was known, appeared before South Africa's Truth and Reconciliation Commission (TRC) to testify about the Motherwell bombing and appeal for amnesty. At the end of his testimony, he asked if he could express his deep contrition to the widows of the two police officers whose murders he had planned. This was not the first, nor would it be the last time de Kock apologized to the survivors of his victims. The judge at his trial had noted that de Kock felt impelled to "reveal all the details which had been weighing heavily on his mind for many years." De Kock presented himself as a tormented soldier who sought expiation from his trauma through contrition. At later appearances before the TRC and after, from his prison cell, de Kock continued to seek out and apologize to the South African families whose lives he had destroyed. Many of those families felt that his apologies were sincere—"His apology came from his soul," as one put it in 2014—and they supported his repeated appeals for parole. In early 2015, having served almost twenty years of his sentence of two terms of

life imprisonment, and an additional 212 years, de Kock was released on parole.

Unlike the TRC hearing, de Kock's apology to the widows was not broadcast on national television. It took place in a private room, arranged by the TRC, with the parties attended by their respective lawyers. After he had apologized for murdering their husbands, Doreen Mgoduka and Pearl Faku felt the relief of finally knowing the truth of what happened. Mgoduka said that she could now "mourn properly" for her husband, and Faku sobbed tears she had held in for years. Each also responded to de Kock's apology by forgiving him. "I was profoundly touched by him," Faku reported. "I couldn't control my tears. I could hear him, but I was overwhelmed by emotion, and I was just nodding, as a way of saying yes, I forgive you. I hope that when he sees our tears, he knows that they are not only tears for our husbands, but tears for him as well.... I would like to hold him by the hand, and show him that there is a future, and that he can still change." Even in the rarified climate of that moment in South African history awash with grace and emotion, this episode stood out as a particularly shining example. One of the TRC commissioners, Pumla Gobodo-Madikizela, said that "there was something divine about forgiveness expressed in the context of tragedy" and that what the widows did "had no equal" in her experience of the TRC hearings.

It may have had no equal, but it was certainly not isolated. Many South Africans were eager to forgive those who had tortured, brutalized, and killed their loved ones. Nombuyiselo Mhlauli and her daughter Babalwa, for instance, ended their testimony to the TRC by stating: "We do want to forgive, but we don't know whom to forgive."' It is not surprising that the commission should have made forgiveness so essential to its work. The Xhosa term used to translate `reconciliation' in the publicity for the commission was uxolelwano, which according to clinical psychologist Nomfundo Walaza "is much closer  in meaning to `forgiveness. " Reverend Bongani Finca inaugurated the first hearing of the commission with the Xhosa hymn "Lizalise idinga lakho" (`The Forgiveness of Sins Makes a Person Whole'). And those who led the com¬mission strongly endorsed forgiveness as the only means of

salvaging South Africa. The chairperson of the commission, Reverend Desmond Tutu, tided his book on the commission's work No Future Without Forgiveness. The vicechairperson, Dr. Alex Boraine, noted at the end of his book that without "forgiveness as a means of assisting individuals and societies to overcome the evil of their past, there "can be very little hope in the world." Here, then, was a commission that for many who told their stories to it had "forgiveness" in the tide, that began with a hymn to forgiveness, and that was led by prominent advocates of political forgiveness as the only way to establish peace, the only path to the future.

The final report of the TRC even defined the explicit terms for forgiveness when it stated outright that forgiveness required "renouncing resentment, moving past old hurt."' While many South Africans did renounce resentment, as we see in those examples above, many also did not. Some felt coerced by the climate of the hearings and the unexpected apologies offered them. They, like Jubulisiwe Ngubane, for instance, whose mother and children were killed in the Trust Fields Massacre, felt they "have no choice" because the person who committed the crimes, Brian Mitchell in this case, "stepped forward and asked for forgiveness." They were surprised by the apology and felt constrained by the commission setting. Others felt coerced by the commissioners themselves. One woman named Kalu clearly resented what she described as the commission's effort "to dictate my forgiveness" when she was not ready to grant it. Kalu reported her frustration after her TRC hearing: "What really makes me angry about the TRC and Tutu is that they are putting pressure on me to forgive.... I don't know if I will ever be able to forgive. I carry this ball of anger within me and I don't know where to begin dealing with it. The oppression was bad, but what is much worse, what makes me even angrier, is that they are trying to dictate my forgiveness."' Kalu is a good representative of the secular witnesses who found themselves annoyed by the prayer-filled ethos of the TRC, since they were seeking more justice and less amnesty and forgiveness. And their resentment, lingering and justified, struck them as something they should not renounce since it was the

sign of their injury and the motive for their seeking justice.

Here, then, are the three practices with which this study is concerned: resentment as a response to injury, apology as an expression of remorse and responsibility for the injury, and forgiveness as an act of rehabilitation and reconciliation in the wake of the injury. These are neither discrete events nor assured and final ones. We should consider, at first separately, each of these elements.

Kalu was doubly resentful for what she perceived as two separate insults. The first was the crime committed, and the second the insinuation that she was unreasonable in holding onto that resentment. The TRC was created by the Government of National Unity a year after the legal end of apartheid and held its hearings shortly thereafter. For some, it provided the mechanisms and impetus to save the nation—to produce reconciliation through truth. For others, it seemed an evasion in the way that all mechanisms of transitional justice could be—it risked producing injustice through amnesty. The critics' argument was effectively that amnesty produces amnesia—that forgiving would lead to forgetting (as the conventional wisdom counsels us). Was this feasible in a nation seeking "truth"? Would the truth, as the Biblical injunction puts it, set us free? Or would it only set them free, those who committed the crimes? What Kalu's response suggests is that she was not yet ready to forgive; her continuing resentment was what it was, that is, a sign of that festering wound of the oppression that had legally ended a year or two earlier. Giving it up prematurely struck her as a betrayal of her genuine emotions, not an opportunity to open herself up to new ones. She was not alone, nor was South Africa's an isolated case of coerced forgiveness. Some survivors of the Holocaust likewise expressed profound resentment that so hastily, so precipitously, so shortly after the end of World War II, they were asked to participate and frequently did participate in collective rituals of forgiveness. Some refused because what they still felt, deeply felt, was what one survivor, Jean Améry, described as "resentment" as the "existential dominant" of their lives.' They felt they were justifiably resentful.

Resentment is often cast as a stalled state; one is stuck in resentment and expected ultimately to be free of it. Those who retain their resentment are seen as reveling in their negativity, wallowing in their pain, unwilling to release themselves from the past ("to let bygones be bygones"). Resentment is a moral sentiment that we accept in others only as temporary—as a sign of their having been injured and then, if it lingers, as a symptom of their having a spiteful character. We counsel those who hold on to their grudges that it is time to let them go and free themselves. Tutu's counsel to Kalu—or at least her perception of whatever it was he did say to her—probably amounted to the same thing. It is time to forgive, he urged; I am not ready, she maintained. To appreciate how resentment is widely understood as being connected to some abstract but intuited sense of time, let us turn to the second of the three practices—forgiveness—and consider two cases from the United States.

In the first, in October 2006, an armed gunman entered the West Nickel Mines School in Lancaster County, Pennsylvania, and killed five Amish girls in revenge on God for having taken his firstborn daughter nine years earlier. The Amish community expressed its forgiveness almost immediately. Within hours, several community representatives had sought out members of the gunman's family and comforted them by telling them that they held no grudges. A man whose two granddaughters were among the slain told media reporters that he had already forgiven the gunman. "I don't think there's anybody here that wants to do anything but forgive," one Lancaster County resident was quoted as saying. "We don't need to think about judgment; we need to think about forgiveness and going on." The media were mostly fascinated by this response and quickly made the Nickel Mines Amish community into "the world's most forgiving people." Others were skeptical because they felt that the forgiveness was given with what they deemed to be unseemly haste. How could one forgive a crime of this magnitude in a matter of hours or days? In the second case, in June 2015, a gunman entered a prayer service at Emanuel African Methodist Episcopal Church in Charleston, South Carolina?

What many of these examples share is that the crimes for which the victims are resentful and

expected to forgive are crimes that are historic—in two senses. They are historic in their magnitude; these are atrocities, some of them mass atrocities that redefined the world. They are also historic in that they are expressions of enduring forms of targeted hatred and oppression: notably anti-Semitism and anti-black racism. The shootings and mass killings are events that occur against the backdrop of, and emphatically as a result of, long-standing philosophies and political practices that sometimes take legal form (ghettoization, segregation, or apartheid) and sometimes murderous (police terrorism, white supremacist lynching, or pogroms). And when apologies are offered for those events, there is a question of what specifically these apologies are addressing—the events only, or also the intellectual foundations that made them possible? Consider Dabru Emet, for example, a millennial statement signed by a group of 170 interdenominational Jewish scholars that addressed the apologies that Christian churches were making for their inaction during the Holocaust. While seeking reconciliation with these remorseful churches and acknowledging their apology for a specific event, the group also insisted on addressing the long and desolate history of what it called "Christian anti-Judaism." An apology, they hinted, was meaningful when it provided a full accounting of motivations for, as well as talking about the effects of, the wrong, sin, or mass atrocity.

That kind of apology is rare, of course. In the numerous apologies made to people of African descent in what Wole Soyinka called the 'fin de millénaire fever of atonement," such acknowledgment was simply absent. Pope John Paul II, President Bill Clinton, and President George W. Bush all apologized or expressed remorse and regret for the slave trade; but they were focused on the trade rather than the white supremacy that made it possible and supported it for centuries." These were apologies for what these church and national leaders considered a historic event that was in the past, while the people to whom they addressed these apologies, the descendants of the victims, many of them at least, were focused less on the event and more on the backdrop that made it possible, and continues to make possible an entire repertoire of ongoing oppressions. Why apologize

for a historic event, they ask, when the effects of that history and the underlying cause of that event are still with us? An apology is seen as sincere and meaningful when it addresses something that has ended, since it is an expression of remorse for behavior that is now acknowledged to be wrong. Someone apologizing for an activity that he continues to exhibit can hardly be said to be apologizing, or at least sincerely. Likewise, a politician apologizing for an event in her nation's past that has discernible ongoing effects and was itself an expression of an enduring intellectual legacy of hatred is going to meet with skepticism from those who feel those effects and are victims of that legacy. An apology that "comes from the soul" is going to express something deeper and reflect a more probing analysis of the past of the person, church, or nation making it.

What these accounts reveal about each of these separate practices is that resentment has layers, apologies can occlude as much as they express, and forgiveness can in some ways be a coercive and illusive ideal. This might be surprising, since we often think of resentment as a shallow emotion, apologies as straightforward, and forgiveness as more of an opportunity than an enforced practice. It is likely that we expect forgiveness to happen because we are sociable creatures who desire a moral and social equilibrium that forgiveness seems to bespeak. We are often uncomfortable in a state of social irresolution, and, sometimes, whole households or communities are rendered anxious while awaiting the comforting reassurance of resolution to conflicts in which we do not necessarily have a part other than witnesses. It is possible that we are trained to expect and seek forgiveness because it represents the kind of denouement that centuries of exposure to a particular narrative form have educated us to desire (although it is equally possible that we have created that narrative form because of our desire for tidy resolution in our lives). In any case, seen separately, then, there is a great deal of profound meaning in each of these practices of resenting, apologizing, and forgiving.

There is a large and robust body of writing on these practices. Philosophers, psychologists, sociologists, linguists, and historians have written about each of them; and in recent years, that body

of writing has grown considerably, especially in the study of apology and forgiveness as concepts and practices.

The least studied of the three practices is resentment, primarily, one suspects, because of the bad reputation it has in general and because of the particular nastiness it has assumed in the Western philosophical tradition since Nietzsche. Philosophers who have focused on emotions and passions have briefly studied resentment, sometimes to support and sometimes to contest Nietzsche's representation of it. Some social historians have recently turned their attention to it to see how we can understand particular historical phenomena (revolutions and other forms of social transformation) as manifestations of class resentments of all sorts. Some intellectuals have affirmed the value of resentment in general. One sort, like Améry, who write about historical atrocities from a personal or interested position, have maintained that the resentment they feel is justified both because of the magnitude of the atrocity and because a lingering resentment is one of the few ways for a person or group to keep alive the memory of the past in an amnesiac age. A second group, philosophers who are either committed or reluctant retributivists, has asserted that it is the emotion that is at the core of our sense of justice.

Forgiveness—usually defined, since Bishop Butler in the early eighteenth century, as the forswearing of resentment—is the most studied topic of the triad. And both the intellectuals who celebrate and the philosophers who affirm the value of resentment tend to do so while writing about forgiveness. This is the case in both French and American philosophy—notably, Vladimir Jankélévitch and Jeffrie Murphy—where resentment assumes a distinctly minor role in the discussion of the more significant practice of forgiveness. These philosophers—some retributivists or recovering retributivists—write about what forgiveness means when it is performed in a way congruent with the values of justice and condemn what they feel are the travesties of forgiveness when it is done for reasons they deem immoral. They tend to focus on the conditions in which forgiving is moral and the conditions when it is not forgiving at all. Others,

often writing from a religious perspective, challenge this representation and argue for a less restrictive set of conditions for when forgiveness can be forgiveness and not something else like condonation, acceptance, or otherwise a manifestation of weakness or failure of self-esteem. They value forgiveness for what it accomplishes, what reconciliation and hope it inspires, and what it represents for the forgiver and the forgiven.

Apology, like forgiveness, is receiving renewed interest from philosophers and sociologists. It is worth noting the difference between an earlier moment when these intellectuals attended to the subject of apology and our current moment. When philosophers and sociologists wrote about apology in the 1950s, they wrote about what kind of speech act or what sort of interactive communication it was; they focused on what apologies did, what work they performed, what communicative norms served as a backdrop, and what these ritual practices meant in a secular setting. And their focus was exclusively on apologies that individuals made to each other, most often privately. Sometime in the postwar period, there emerged the new social practice of the public apology. Politicians—Nixon in his famous "Checkers" speech in 1952, for instance—began to make apologies, or statements that appeared somewhat apologetic, for actions related to their roles as public figures. Representatives of states, congregations, and other social groups began to make apologies for how their nations, churches, or corporate bodies had mistreated others in the near and then the distant past. Public apologies—for political malfeasance, for tragic historical episodes, and, by celebrities, for being caught in rude or unruly behavior or being overheard uttering racist or homophobic slurs—are now a routine feature of our culture. And so, when philosophers and sociologists write about apology now, they tend to focus on these public apologies in order to see whether they meet some strict set of criteria for authenticity, sincerity, and plausibility. There is certainly good reason for us to be suspicious of the numerous public apologies that celebrities and politicians routinely offer; they are often shoddy, ill-conceived, and practiced theatrical events. If being in love means never having to say you're sorry, as Love Story affirmed, being famous means having to say it regularly but

not really caring. It's not clear yet which is better—the foolishness of that sentiment in Love Story or the folly of our apologetic culture. The problem, though, is that these public apologies are only one kind of apology, and there are, conceivably, more promising ways of approaching the topic of apology as a practice than by focusing on whether public acts of penance resemble, or should resemble, private acts.

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Two things stand out in these studies of the practices of apology and forgiveness. First, they are studied separately. Those who write about each practice tend to imply that there is something important about the relationship of the given practice to the ones to which it is related. Those who write about forgiveness mention resentment as the emotion that forgiveness forgoes or apology as the necessary or unnecessary precursor to the granting of forgiveness, but neither resentment nor apology constitutes a significant part of their studies. Likewise, those who write about apology sometimes make passing reference to what apology is intended to alleviate and what it is meant to elicit—respectively, the resentment and the forgiveness of the offended party—but their focus is less on the context of apologizing and more on the constituent features that an apology must have in order to be defined as a successful and not a faux one.

That is the second thing that stands out in these studies. To use two metaphors, they tend to dissect and police the practices they study. They identify just what makes an apology or an act of forgiveness that, and not something else, by designating what are its necessary parts. Usually, and understandably, they focus on the parts that are apparent (what is said and how it is said) rather than the parts that are impossible to verify (the emotional backdrop). This dissection, however, sometimes misses the point because it assumes that there is only one form the practice may take, and likewise that that form of communication follows only one set of rules and norms. Or, in the terms of the other metaphor, they police the definition of the practice in ways that are understandable—in the age of rampant public apologies—in order to protect its integrity from what they (most often

correctly) see as illegitimate use. But, again, the policing of the terrain suggests that we are thinking of the practice in a particular way—in need of protection or possessing an inviolate integrity, for instance. The policing of these practices means we don't appreciate the ways they operate in the communities, where they often don and doff different roles, just as dissecting them as species of things means we can't understand them as part of a larger, more vibrant ecosystem in which they are at play with others.

Let me be clear: there is value in identifying what constitutes an apology or an act of forgiveness and in showing in what ways particular deviances from the accepted norms reveal something that cannot meaningfully be called an apology or an act of forgiveness but must be designated either as something else or, more often, as a failed or infelicitous or faux apology or forgiveness.

And I am deeply indebted to those studies that have performed that important work. Yet, there is also something quite promising and potentially illuminating in opening up the terrain and approaching these practices with a different sensibility—of an anthropologist, say—in order to see what possible work they do in the situations in which they operate.

This study makes such an attempt, first by looking at these three practices together. It takes seriously what connects them. They are, after all, serial responses to what precedes them—resentment to injury, apology to resentment, and forgiveness to apology. There is a logic in their connection that I hope to tease out by devoting equal space to each of them in order to draw out what is implied in the practice in its relati0nship to the others it either precedes, produces, or both. I should note, though, that I am not studying them as an ensemble, that is, looking at particular moments in which all three are involved. I have two reasons for avoiding that strategy. First, I think such case studies limit what can be said about the practices, separately or together. Rather, I limn out each practice in its own section in order to reveal what is particularly important about it and then address in the conclusion what we can make of the dynamic interactions among the three practices. Second, the only evidence one readily has for producing such

case studies is of public acts—public apologies and publicly given or publicly withheld forgiveness— and the distinction between private and public apologies, as I discuss in the second and third sections, is profound. Such case studies necessarily limit the study. One could, I suppose, draw on acts of resentment, apology, and forgiveness from one's private life with those one loves; but I suspect that one would then truly test the fortune cookie wisdom of Love Story.

Second, this study recognizes that these practices are evolving and polysemantic. There is no one single way to feel resentment, express apology, or forgive; and there is no single set of meanings for those practices. Consider the case of forgiveness, for instance. There is a healthy debate about whether it is an emotion (a change of heart), a speech-act (saying, "I forgive you"), a gesture of another sort (a waving of the hand, say), a process (with stages toward fulfillment), or a disposition (to be a forgiving person). Each of these determinations of what forgiveness is (or should be) as an entity provides one way of defining when forgiveness happens or doesn't as an event.

Moreover, these practices are intrinsically more complicated and more polysemantic (if such an idea is possible) because they involve us in the insoluble problem of "other minds" (I discuss this point more fully in later chapters). We might begin by stating the obvious, first about resentment and then about apology and forgiveness. First: resentment is an emotion, and therefore requires us to approach it in a way respectful of that determination. All emotions, including resentment, have their own logic; what they know cannot be known in the way our "reason" knows "facts." Indeed, their status is something that challenges and perhaps makes possible the practice of knowing itself. As both neuroscientists and philosophers have shown us in the last few decades, emotions are in themselves cognitive, not failures of cognition. Neuroscientists have recently attended to the ways that "emotions and feelings may not be intruders in the bastion of reason at all" but rather "enmeshed in its networks," as Antonio Damasio puts it. Damasio studied the relation of emotion to cognition by focusing on patients with injuries to their orbital cortex who have diminished capacity

for processing emotional information. Joseph LeDoux studies different parts of the brain (the lateral, anterior cingulate, and orbital prefrontal regions) that make up the integrated working memory system, and his findings too are that our conscious emotional feelings and our conscious thoughts are not that different, can be studied through the same mechanisms, and all take place in what he calls "the emotional brain."

Philosophers, too, have rejected the long tradition of seeing emotions as the enemies of reason. Jean-Paul Sartre argues that an emotion is, in fact, another form of reason, "a certain way of apprehending the world," as he puts it. "Emotion is not an accident," he concludes, not an aberration to rational thinking and understanding but rather "a mode of existence of consciousness;' one of the ways consciousness "understands (in the Heideggerian sense of Verstehen) its 'being-in-the-world. " Reason itself, as Robert Solomon wisely puts it, "is nothing other than perspicacious passion." Emotions do not distract us from rational thinking; they enable it and are it. Our passions, he concludes, are "judgments, constitutive judgments according to which our reality is given its shape and structure." So, when we say that resentment is an emotion, we do not render it beyond the pale of cognition. We instead recognize the need to approach it with an appreciation for what it is, how it is constituted, and what might prove more fruitful for us to ask of it in order to understand better what it is, does, and reveals.

Or, to state the obvious about the other two practices: forgiveness and apology are matters of belief not knowledge. There is simply no way for us to "know" that the person forgiving us has indeed had a change of heart toward our offense, nor is there any way for us to "know" that the remorse we hear in the voice and gestures of the person apologizing to us is indeed sincere and means the sane thing that we mean by remorse. Most people, I think, would grant this and then dismiss it as either obvious or unimportant in, and to, our philosophical discussions of apology and forgiveness. But this point should not be dismissed, I think, since it reveals something about these practices that seems to go unnoticed, or is actively disregarded, in those discussions. In a word, many studies treat these

matters as if they were indeed practices that involve knowing and not believing. The most obvious way this sensibility is manifest is that scholars of apologizing and forgiving forge definitions that clearly do treat the concepts as being matters of knowledge, and not belief.

Let me use as an example two recent books, both very fine and intelligent studies from which I have learned a great deal but that also demonstrate this tendency. Charles Griswold's Forgiveness and Nick Smith's I Was Wrong (2008) both offer what are accurately called "categorical definitions" of forgiveness and apology, respectively. Smith deserves the credit for this term, since he offers the neologism "categorical apology" to describe what he calls "a kind of prescriptive stipulation," or "regulative ideal." Smith is quite open in acknowledging the terms of his project. His interest, as he says at the outset, is not in "asking what an apology is" but rather in arguing "what an apology should be in various contexts." Given this premise, it is not surprising that he defines apology by designating what twelve elements it possesses (thirteen in his later book). And while he is open to accepting that certain practices might be apologies in an unusual sense, his "categorical apology" remains just that—categorical—not only unambiguous but, as I argue later, somewhat Kantian. Griswold uses more tempered terms but abides by the same principles. He sometimes refers to "forgiveness at its best" and "imperfect forgiveness," which suggests that he sees forgiveness as a practice that falls into a spectrum, which I think is a promising model, but that spectrum quickly becomes something much less open. His more common usage is to refer to "paradigmatic forgiveness" and "non-paradigmatic forgiveness," and his own practice is to establish what he calls "threshold conditions?

These are the strategies I referred to above as policing the terms and meanings of the practice. If, as they believe, apology or forgiveness means a particular thing (that is, one is sorry or forgiving) and expresses and requires a relatively stable set of sentiments (one repents the wrongdoing or forgoes resentment over it), then these terms are meaningful only when these sentiments are present. When they are not evident, the terms apology and

forgiveness are used promiscuously, improperly, or meaninglessly. I have some sympathy with the policing sensibility (what teacher doesn't?), and I am troubled, as they are, when it is clear that someone is using either term to describe an activity that is not recognizably either apologizing or forgiving. Yet, I am also aware of the very narrow limitations (and effectiveness) of that policing strategy when it comes to terms that describe emotions or beliefs. And it is not because people will simply abuse those terms, calling things what they are not. It is because there is no way to prove the absence of the emotion or belief that the sentiment is supposed to express. We are inevitably confronted, as I will discuss later, with the problem of "other minds."

Given that these practices are interrelated and that we can tease out their potentially deeper meaning by attending to them as vibrant practices rather than static ones, we might approach them by focusing on them together and by focusing on them as evolving. In this study, then, I will attempt that. Rather than striving to define the borders and boundaries beyond which an act cannot be described as resentment, apology, or forgiveness, I instead explore the premises, assumptions, and traditions of these practices.

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This is, admittedly, a hybrid study (in a presustainable economy, it would have less generously been called an un0rthodox study). It is unorthodox in a general way, as I have said, because it is organized around all three practices and implicitly argues that they can be understood in a more meaningful way when they are studied together than when they are studied separately. In addition, though, I should note three particular unorthodoxies in the structure of the book.

First, I do not study three practices in what is their serial relationship to each other—that is, resentment, first, and then the apology in response, and the forgiveness as the finale. I begin with forgiveness, then turn to resentment, and finally to apology. I do so because I think it is important for us to see first what possible meanings there are in the culmination of the dynamic interaction and because we can better understand that dynamic

interaction by seeing what is its expected culmination. I then turn to resentment in order to show how there are two discernible traditions in the philosophical thinking about this subject that help us see what happens when we turn from thinking of resentment as an individual sentiment and think of it as a social condition. Finally, I examine the practice of apology by again employing that distinction—between private, individual apologies and collective, public apologies—to show what a range of apologies can mean in different sites and situations.

Second, I situate the study of each practice in a different way. I introduce each of the three sections with an opening chapter (Chapters 1, 4, and 7) by looking at a set of texts from different traditions and media. In Chapter 1, I examine two moments in the New Testament—Jesus' ministry and Paul's and deutero-Paul's epistles—to tease out what are two distinct models of forgiveness that have very different implications. In Chapter 4, I draw on two literary works, a nineteenth-century Russian story and an ancient Greek tragedy, to reveal the continuities and discontinuities in our understanding of resentment and to discern the primary divisions in how resentment has been rendered as either a form of spiteful envy or hopeful striving for justice. In Chapter 7, I examine two contemporary films in order to explore two different renderings of what social conditions permit and enable, or prohibit and disable, the act of repentance.

Finally, and most significantly, I do not approach each of these practices in the same way, with the same questions or methodology. My study of forgiveness is more philosophical and polemical, my study of resentment more obviously historical, and my study of apology more typological. I wish to reveal the premises in arguments concerning what forgiveness may be said to be, to discern the trajectory in thinking about what resentment may be said to represent morally, and to explore the variety of different forms apology may be said to assume.

In the first section, on forgiveness, I am involved in a set of debates with philosophers about the nature of secular forgiveness. Some affirm that forgiveness is impossible, while others argue that it is possible but that it cannot be described as forgiveness when

the act is premised on or motivated by some set of desires that fall outside the narrow range they designate. I wish to suggest that these arguments are premised on a particular understanding of what forgiveness is that we can trace to a very particular origin. In this section, then, I am mostly limning out the debates, revealing the premises supporting them, and showing how these premises are traceable to an earlier moment that is perhaps the origin of our modern understanding of forgiveness in a secular sense. In the first chapter, then, I discern and tease out the implications of what I believe to be two distinct models of thinking about forgiveness—one that we can find in Jesus' statements and the other in Paul's epistles. After showing what is implied in these two models, I then turn, in Chapter 2, to the first question of whether forgiveness is indeed impossible, as several philosophers argue, and then, in Chapter 3, to the question of what conditions, if any, make forgiveness possible.

In the second section, I pursue a more historical approach to the ways we can understand the evolution of resentment as a moral concept. My primary concern here is to reveal two things—first, that resentment is a deeply complicated emotion that has the potential to stifle and stall us in a self-involved anguish or to liberate and open us to seek greater justice and, second, that there is an important and revelatory trajectory in the evolution of the concept of resentment. In the opening chapter of the section, I look at some literary works that help us appreciate the complexity of the emotion, drawing on two very different worlds. Once we have a sense of the major issues involved in resentment's complexity, I offer a historical survey of the evolution of the moral concept. In Chapter 5, I trace the writings of a set of eighteenth-century British moralists who represent resentment as primarily the condition of an individual conscience. In Chapter 6, I examine the writings of nineteenth-century Continental existentialists who argue that resentment is best conceived as the condition of a collective society. I should also be clear that this evolution, like ours, is not one that is directed toward a particular end, nor one in which one species inevitably gives way to another that replaces it. The resentment described by the British moralists who wished to see

it as a source of our search for justice continues to exist in robust ways at the same time as, and after, the appearance of a Nietzschean species of resentment as a debilitating cultural condition and source of weakness.

In the third section, I offer a taxonomy of apologies in their two forms, private and public. My interest in this section is to make what I think are necessary distinctions that will assist us in appreciating better what to make of practices of apologizing. We tend to expect certain properties in particular events that permit us to judge whether that event is successful or not. In the case of apologies, though, we have largely—and, I think, mistakenly—applied our norms for private apologies to our expectations of public ones. Many of us are dissatisfied with most public apologies, I believe, because we have thought that they should resemble in form and sincerity and meaning the ones we make and receive in private life. I offer, instead, this taxonomy in order to reveal in what different spheres we can find different norms for and meanings of apologies. In the opening chapter, I look at two films in order to discuss how certain social conditions produce an ethos that makes apologizing more or less possible. In Chapter 8, I focus on private apologies, and my discussion is largely theoretical as I examine the conceptions of what work an apology can do in an interpersonal relationship. In Chapter 9, my theorizing is buttressed by a series of case studies as I attempt to identify the variety of different types and sites of public apologies.

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While the term historical anatomy in the subtitle of this book reflects an obvious desire on my part to echo Nietzsche's "genealogy" of morals, I am also making an important distinction between what we can say about the historical evolution of the formation of these three practices and what we wish to understand about the relationship of the parts to each other within our present formation. I am interested in, and dwell at length on, critical moments in the historical development of these ideas (the genealogy of them), but my primary intent is to reveal what properties each practice contains so that we can better understand the interactive dynamic in the interplay of the three of

them. In one central aspect of our moral life—that concerning how we respond to injuries we caused or suffered—we face a series of choices. Injured, we can respond with resentment or stoic apathy. Recognizing that we have injured another, we can feel remorse and offer an apology or feel indifferent and offer nothing. Faced with an apology, we can forgive or continue to resent what the original injury signified about our place in the world. These are by no means the only choices or the only possibilities for organizing these choices. But they are the ones most of us face, and the terms most of us use in the aftermath of injury. My interest, after giving some genealogy of these terms, is to see what kind of moral body they together assemble. Like Dr. Frankenstein, but, one hopes, with better results, the best way to approach that work is through anatomy.   <>

Appeal to the People's Court: Rethinking Law, Judging, and Punishment by Vincent Luizzi [Value Inquiry Book Series, Studies in Jurisprudence, Brill-Rodopi, 9789004363854]

In all the world and in all of life there is nothing more important to determine than what is right. C.I. LEWIS, The Ground and Nature of the Right

In Appeal to the People's Court: Rethinking Law, Judging, and Punishment, Vincent Luizzi turns to the goings on in courts at the lowest level of adjudication for fresh insights for rethinking these basic features of the legal order.

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Excerpt: With his background in both philosophy and law, as well as his longtime service as a municipal court judge in Texas, Vincent Luizzi is eminently qualified to write this book. He writes with both the passion of an experienced people's

court judge and the clarity of a well-honed philosophical mind. His research takes up primary subjects of jurisprudence—law, judging, and punishment— and he offers a mature, insightful look at them through the lens of a people's court. For each of these topics, the author underscores how values figure into a dynamic reconception of these traditional concepts.

Luizzi enlivens the work with accounts of his visits to people's courts in the United States and abroad— in the United Kingdom, Indonesia, Hungary, and China—and with first-hand accounts of his communications with their judges.

This work will have wide public appeal in addition to its being a significant contribution to both the philosophical and legal communities, because it is written in a way that is accessible and because it addresses topics relevant to current public interests. A lucid, first-hand account of the working of people's courts, both here and abroad, comprises a unique contribution to the field.

Founded as Natural Law Studies, the vias special series Studies in Jurisprudence publishes works in all areas of philosophy of law and maintains a special interest in the relationship between values and morality and the laws of nations and peoples. Thus, Appeal to the People's Court: Rethinking Law, Judging, and Punishment precisely reflects well the objective of the series, and as such, constitutes a superb addition to it.

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A pet project of my career as an academic and a judge has been to join philosophical inquiry with my experiences in judging in a municipal court. This book is the culmination of a thirty-five year journey that brings to light how these seemingly insignificant people's courts, courts that handle minor offences without complex procedures, can offer valuable insights about law, judging, and punishment for the whole legal order. In a work of applied philosophy intended for the generally educated reader, I include accounts of personal experiences, visits to similar courts around the world, and conversations with their judges.

People's Courts and Legal Philosophy

In a people's court, citizens typically represent themselves, and the court functions without lawyers. These features, which make a people's court so different from other courts, suggest that the goings on in a people's court would reveal little of significance about the legal order. The participants seem analogous to amateurs rehearsing for a local production of a Broadway show or firstyear medical students treating patients in an emergency room. Still, there is an important sense in which the dominant presence of the citizen in these courts forces issues that might otherwise be obscured in higher courts. Judges are obliged to think about their role as enablers of citizens representing themselves. Citizens and judges alike look to sentencing alternatives that engage the citizen in the community or make the citizen a better person. Alternatives to incarceration are entertained, such as community service or an alcohol awareness class.

In keeping with this study of how people's courts might inform our thinking about aspects of the legal order such as judging and punishing, we can also bring it to bear on the nature of law itself so that, here too, we highlight the activity of citizens. Common conceptions of law, as well as many views put forth by legal theorists, focus on rules as the main, defining feature of law. Laws are rules, to be sure, but, as rules for people to follow, the essential interconnectedness of law and the activity of citizens is evident. We can build on this insight to create a fresh conception of law that explicitly acknowledges this activity.

Traditionally, law, adjudication, and punishment are among the most prominent subjects of study by legal philosophers; they figure large in any common understanding of the legal order. Importantly, the proceedings of a people's court readily suggest ways of rethinking these concepts. These insights originate in observations about people's courts, and articulating the specific fea¬tures and details of them is part of the overall project. Equally important is establishing the plausibility of these new views about law, adjudication, and punishment, presenting the case for each one, and fully evaluating countervailing views.

Methodology

The investigation and establishment of the claims made in this volume rest on the collection and evaluation of arguments, ideas, theories, and evidence, some of which include first-hand accounts of my judging in a municipal court, a variant of a people's court, along with observations about the nature of philosophizing and judging. However idiosyncratic including such accounts in this approach might appear, it stems from long traditions in law and philosophy. In law, cases are built on the testimony of individual witnesses, some of who may be experts and especially well-suited to be offering information and evaluating it. In philosophy, from ancient through modern times, thinkers have coupled their ideas about how to philosophize with their philosophizing about substantive issues; they recount experiences that led to, illustrate, or assist in establishing their views. Thus, we find Socrates offering his dialectical method as he tells about his investigation into an oracle's remark about his being the wisest of men. Descartes, in a personal quest for certainty, and faced with his own doubts about the veracity of what other people had taught him, formulated his famous method of doubt, to accept as true only what is self-evident, clear, and distinct.

For example, in my experience with continuing education classes for judges of people's courts, speakers frequently advise the judges that citizens primarily want the judge to listen to their accounts and to acknowledge that they have a side to tell. Judges themselves make this point. Because my experience differs, it seems worthwhile to relate and evaluate it. I find that this listening and acknowledging function, however important, by no means addresses the range of wants and expectations of the citizenry. Some citizens are fixated on pre¬vailing or securing a windfall after a gamble, such as might occur when a case is dismissed because the police officer scheduled to testify does not appear. Some of them want to inconvenience or badger the police officer as a means of getting even. Sometimes they want the judge to listen, to be sure, but it is not so much to have someone hear their side as it is for the judge to take some specific action on a matter. Sometimes the actions they request are beyond the scope of judicial powers, like having the city remove tree branches that make it difficult for a driver to see a stop sign.

Many requests are quite appropriate for a judge to act on. A citizen may not be contesting a charge but wants to keep it off his or her record because, for example, insurance rates may rise once 'running a red light' shows up on the record, or because records with offenses like theft and assault may impede access to a job or educational institution. In these cases some form of probation that leads to a dismissal may be appropriate. A citizen may be seeking release from custody with a personal promise to appear at a future hearing without posting bail. Examples like these require the judge to explore and evaluate the circumstances surrounding the request for a specific action to be taken. They show how a simplistic adage, that citizens just want judges to listen to their side, serves poorly to guide judges in thinking about the citizenry and shows how first-hand experience becomes important for making this limitation apparent.

Rethinking Adjudication: A Dilemma Prompts Judges to Reflect on Their Roles

Similar experiences have also made it apparent that forces are at work in people's courts that involve a complex dynamic between judge and citizen. A primary one involves what I call the dilemma of the people's court judge. Its exploration shows how judges at this level confront a problem whose solution demands reflection on adjudication and the role of a judge. Their doing so serves as a model for judges and citizens alike to debate and decide how best to conceive judges and adjudication.

In serving as a municipal judge in San Marcos, Texas, I became increasingly aware that successful adjudication in a court at this level, where citizens typically represent themselves, requires the introduction of enough informality into an otherwise formal proceeding to allow for this direct involvement of the citizenry. The judge' s dilemma is defined by the conflicting demands of running both a formal proceeding and an informal one. It becomes imperative for the judge to address the dilemma, and, in doing so, the judge becomes an active inquirer into how best to conceive the role of judge or the institution of judging. In so doing, the

judge in effect is rejecting a predominant view that there is a single, fixed conception or model of judging, like that of the judge mechanically applying rules to facts.

This approach builds on my call in A Case for Legal Ethics for people in any of their roles—citizen, parent, worker, or parishioner—to construct viable conceptions of the roles they occupy (Luizzi 1993). The approach requires people to identify competing variables that might figure into their roles and forge critically reflective roles. For example, the traditional conception of a professional depicts someone who has special skills and knowledge that cre¬ate special obligations in a career of public service. Law, like medicine, education, and religion, was conceived as an occupation for people responding to a special calling. In this model, it would be quite inappropriate for these people to advertise. Still, as lawyers developed an identity that overlapped that of a person in business, the profession and individual lawyers brought advertising within the legitimate activities of a lawyer. Individual lawyers still have to decide for themselves whether to build this feature into the role they occupy.

Other roles lend themselves to this sort of rethinking and development. Consider the journalist and the suggestion that they do more to strengthen their communities and reaffirm their role as critical evaluators of the news in the wake of criticism of their uncritical coverage of events leading up to the war in Iraq. The poet and politician, Václav Havel, who was the last President of Czechoslovakia and the first of the Czech Republic, calls upon politicians to rethink their roles and to be self-aware of how the comforts associated with power, like being driven by chauffeurs and having coffee made for them, can transform them for the worse. They become distant from their constituents and indifferent to the needs of common people. In Havel's view, we should think of requiring moral purity of politicians to minimize the corrupting influence of power and abandon the idea that politics is dirty business for politicians willing to engage in it.

It is likewise for judges and their activity. There are matters at issue to think about and resolve and, for the judge of a people's court, balancing formality and informality is a primary one. Jurisprudence has much to say about the nature of adjudication, and this investigation into the role of the judge confers on all existing theories of judging a new relevance, for it allows each of them to make a suggestion which judges may incorporate into their conception of themselves as judges. These theories may also be seen as suggestions for how citizens or legal philosophers forge conceptions of judges that we would have our judges adopt. The insight is that the dilemma of the judge of a people's court compels these lower court judges to participate actively in forming a coherent conception of themselves as judges, and this activity of forging one's role becomes a paradigm for what other judges should be doing.

This attempt cuts against almost every other theory of judging, since the others purport to render the correct view of judging to the exclusion of all others; the other theories, considered by any one theory, are dismissed as faulty. The view I offer allows for many of them to bear on the conception which judges use to direct their activity. We can factor out of the competing conceptions of judging such variables as whether judges have discretion or are constrained to apply rules to facts with no discretion, whether customs and moral rules bind judges, whether a balancing of interests is ever appropriate, and whether judicial activism or the creation of law from the bench is in the offing. These variables become the grist for critical assessment and a reflective construction of a viable conception of a judge.

As much as the dilemma gets us thinking broadly about the role of the judge and makes other theories of judging relevant for constructing this role, the dilemma also suggests criticisms of the various views on judging. Their most significant deficiency is that they fail to grant judges any latitude to adopt useful elements of other theories for guidance. This omission in effect cuts off inquiry into the nature of judging and confines the judge's world and possible experiences to the four corners of any one theory.

Rethinking Law

In many ways, this work is a continuation of the U.S.'s great and enduring contribution to jurisprudence, American Legal Realism. Among the

most prominent realists are Oliver Wendell Holmes, Jr., Jerome Frank, Benjamin Cardozo, Roscoe Pound, and Karl Llewellyn. One of their essential insights is that the activity of judges and courts is a key feature of the legal order and for understanding the nature of law. Jerome Frank offered the most extreme but clearest connection between the two with his equating law with the actual decision of a judge in a particular case, the decision being an action of a judge. In the standard view of law as rule or norm, we would be confident in saying what the law is in speaking about future cases. But, in Frank's way of thinking, until the judge rules, all there is for that case is probable law, a prediction of what the judge will do. Views like these move us away from thinking about law's essence as being a rule as they feature judicial activity as central, what judges actually do with legal rules. If the realists reconceived law so as to highlight the acts of judges, our view is far more inclusive as it brings in the acts of all citizens.

The idea is that the phenomenon of citizens guiding their conduct with legal norms is an overlooked yet essential feature of law. A woman who had been arrested for public intoxication appeared before me the following morning. She was perplexed because she felt she had done just what she should have under the circumstances. She had been drinking and wanted to comply with the law against drunk driving. She curled up in the back seat of her car, which was legally parked, and went to sleep. The arresting officer disrupted her slumbers, determined she was intoxicated, and placed her under arrest for public intoxication. In the probable cause affidavit, the officer stated why he believed she was intoxicated, the location of the public place where she was intoxicated, and his reason for thinking she would be of danger to herself or others were she not taken into custody. Conceiving law as the act of a citizen guided by a legal norm brings the activity of citizens to the forefront of the notion of law. It allows us to connect this woman's activity with the essence of law. The insight does not exhaustively list every feature of law but captures as an essential feature of law the phenomenon of the citizen's acting under the guidance of a legal norm. The legal norms or rules themselves figure into the conception of law but no more prominently than linguistic rules

do when we think of the essence of language as the actual activity of people communicating with one another.

Some other examples should help. Sometimes a single legal rule stands out as what guides people as they slow down for a yellow light in the intersection or as they are tempted to delay a car inspection until a time when they can better afford some essential repairs. We are interested in the phenomenon of their being guided by the rule and referring to it as law. Other times a number of rules may be involved as when citizens seek to adopt children, obtain a building permit, or represent themselves in court; in this last case, they are paying heed to their best understanding of the rules of procedure and evidence. In each case what I am referring to as law is this rule-guided conduct of the citizen, the slowing down, the adopting, the representing.

Suppose I am preparing to go on a trip. I stop at the drug store for a prescription and pay with a special credit card that accesses tax-free money I have set aside for medical expenses. I am careful to pay cash for items not falling in this category; I know the aftershave lotion doesn't qualify, am not sure about the dental floss, and use my imperfect understanding of the regulations to guide me in deciding to pay cash for the floss. I then tend to some banking, first endorsing some checks 'for deposit only,' knowing that this restricted endorsement provides me with protections that a blank endorsement, one with my signature only, does not. I check in at the airport and submit my suitcase, briefcase, and self for security inspection in accord with what I understand as my obligations created by Federal regulations. At my destination, I rent a car, waive insurance coverage, and accept responsibility for any damage given my understanding of the coverage of my own insurance policy. I buckle up and travel through one state after another, follow their speed limits, traffic signs, and officials directing traffic. Throughout this scenario we have many instances of a citizen's acts being guided by legal rules. It is this phenomenon that I single out as an essential feature of law. As noted, the realists brought judicial activity into the equation of judging and used it to approximate a more accurate notion of what the law is. Judges

are working with legal rules and guiding their decisions with their understanding of them. If you want to know what the law is, look at the activity of the judges. Pressing this way of thinking one step further, if you want to know what the law is, look at the activity of citizens.

Rethinking Punishment and Responses to Wrongdoing

If people's courts have drawn our attention to citizens and their conduct for thinking about adjudication and law, they likewise inform us about the third major category of jurisprudence—punishment. Tying the proceedings in a people's court to a new theory of responding to wrongdoing initially rests on evidence that is primarily first-hand and anecdotal. I do find offenders seeking alternatives to the usual penalty of a monetary fine in court, alternatives like community service, defensive driving, classes on rage management and alcohol and tobacco awareness, teen court, and probationary terms with conditions directly related to the specific offense. I get expressions of interest in doing something of worth and in eschewing what otherwise amounts to a meaningless penalty of a fine; the offender, while willing to take responsibility for the offense, seeks an alternative. These communications of citizens about their interests are themselves part of the direct participation of the citizen in the affairs of a people's court which defines the nature of the proceeding, and their import, I think, is ultimately to consider seriously veering from the traditional model of punishment of 'do bad to offender' to one of 'offender to do good.'

Usually we think about offsetting the wrong, harm, or evil of the offender with penalties that, in effect, deliver something bad or unpleasant to the offender. We do this in the name of deterring the offender and other citizens from engaging in objectionable conduct in the future. We use the penalty to show people what happens to people when they engage in wrongdoing. Sometimes we use the penalty in the name of giving offenders what they deserve; we take the life of offenders who have taken the lives of other people or at least punish the worst crimes with the maximum penalty.

The new model employs the scales of justice, but offsets the 'bad' that the offender has done, not by directing something else considered to be bad at the offender, but with a requirement of the offender's doing some good. While the model upsets traditional views about punishment, it does retain important concepts, like responsibility and desert, which extreme views—such as those of abolitionists Leo Tolstoy and Clarence Darrow—discard along with punishment itself. Support for the new model comes from how people think about taking responsibility for their own wrongdoings at a personal level. People do not think in terms of causing evil or pain for themselves in the face of trying to rectify some injury to another person. Rather, they think in forward-looking terms of ameliorating the situation, compensating the victim, or doing something connected with the offense that is good or worthwhile. The call is for a basic shift in how we respond to crime while preserving such strong social commitments like insuring that offenders are held responsible and that society does respond in a meaningful way.

Let us call this proposal 'New Balance' and, to elucidate it further, locate it on a spectrum of alternatives for responding to crime, some of which use the scales of justice and some that do not—balance models and no balance models. 'No Balance' refers to the absence of any scale of justice in responding to crime. Vengeance is a case in point, insofar as it is said to know no limits and be a form of retaliation unauthorized by a legal system. 'Old Balance' legally authorizes a penalty to offset the offender's wrongdoing, and in doing so, introduces the scales of justice. Defining features include the scales, the legality of the response, and the response being some sort of measured harm to the offender. New Balance similarly invokes the scales in a legal fashion but requires contributions from the offender to offset the offense. When 'No Balance' is a response of the legal system, it might take the form of the treatment model, where crime is considered an illness and society's response is one of turning to the medical experts for the cure.

At one extreme we have punishment that amounts to lawless vengeance and, at the other, law that has abandoned punishment as society's response to crime; punishment beyond the law versus law

without punishment; no scales at either extreme. In between is the use of the scales to restore a balance, offsetting harm with harm on Old Balance and harm with good with New Balance. The continuum is conceptual insofar as violence or harm decreases as we move along it. It is roughly historical as Western society departed from punishment's being the prerogative and pleasure of the sovereign to do as he wished with the wrongdoer. Reform meant legal punishment equal to or proportional to the crime or sufficient to serve as a deterrent, and these determinations employ the scales of justice. Recent movements to replace or vary old balance, like a call for a system of pure restitution or restorative justice, enter the realm of New Balance.

Summary
A focus on people' s courts brings the citizenry to the fore. The practical problem that their participation creates for judges of these courts has a counterpart for all judges. The dilemma of how best to balance the formal and informal in peoples' courts requires their judges to think critically about their role as judges and serves as a model for judges of other courts and citizens alike to do so. Likewise, when we orient our thinking from the perspective of a people' s court where citizens figure large, we build their activity into a conception of law, and we offset evil with good, thereby rethinking traditional conceptions of adjudication, law, and punishment.

These ideas challenge some well entrenched views about law, judging, and punishment in their rejection of the claims that laws are rules independent of people, judges merely apply rules to facts, and punishment is a social necessity. Let us begin this project of rethinking law, adjudication, and punishment through the lens of a people's court with an informal account of people's courts and their nature. My discussion will draw on correspondence and conversations with judges of these courts, a polling of them, and first-hand observations of them. <>

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The legal position of visiting forces transcends domestic and international law and is of growing importance in our increasingly globalized and insecure world. 'In area' and 'out of area' operations, both for the purpose of establishing and maintaining peace and in connection with the conduct of other military operations and training, are likely to become more frequent for a variety of reasons. Finding where the applicable law places the balance between the interests, sensitivities and needs of the host state and the requirements, often practical in nature, of the visiting force.

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Excerpt: Military forces serving in the territories of other States have become a key characteristic of the post-World War II era. Tasked by their Sending States and often mandated by an international organization, they are conducting operations that need to be regulated to ensure compliance with international law, develop cooperation with the Receiving State, and achieve an effective mission performance.

Military Alliances, such as the North Atlantic Treaty Organization (NATO), have developed general principles and rules and, indeed, a body of status-of-forces agreements (SOFAS) that influenced the conduct of military operations also in other areas, thus addressing a subject matter of particular relevance to the current security environment. An expanding practice of peace operations conducted by the United Nations and regional organizations has brought a wealth of experience to Sending States and Host States alike.

The present Handbook of the Law of Visiting Forces, first published in 2001, was well received in a new wave of international cooperation in NATO's Euro-Atlantic Partnership for Peace Program. It has also served as a welcome tool for developing deeper understanding of the UN peacekeeping experience in times of expanding demands, involvement of regional organizations and increasing challenges. Together with my co-authors I welcome the opportunity in this revised edition to revisit established principles of military cooperation, address current developments, and thus contribute to further international cooperation and academic research. It is this coincidence of multiple goals and perspectives that has made this project both challenging and rewarding.

Even prior to its publication the development of this new edition has provided an excellent opportunity to facilitate and intensify international cooperation at various levels. Scholars and practitioners from different legal systems, different security environments, and different policy perspectives have participated in this rewarding exercise; some of them offering peer review comments to colleagues and all sharing the conviction that a frank exchange of views will enhance the efficiency of their professional work and support mutual understanding. I may express my particular gratitude for this very effective assistance on behalf of all co-authors.

International efforts taken in many countries to implement and further develop military cooperation programmes, continuing day-to-day cooperation between Sending States and Receiving

States, and the rapidly developing peacekeeping experience (an experience that includes multinational cooperation in actual armed conflict situations) have convinced participants of the necessity to elaborate clear status provisions for military and civilian personnel of foreign armed forces in a Receiving State. For exercises and even for transit operations in foreign countries, observance of international and national legal requirements is essential and must be ensured by all parties. A solid assessment of what is required and what is achievable in terms of agreement policy and legal framework for the implementation of current cooperation programmes is of both practical and theoretical significance.

The aim of the present Handbook is to compare and evaluate the role of Visiting Forces in legal doctrine and existing State practice with a view to describing options for further legal development. A special focus on status issues is necessary to achieve this goal. Consequently, this Handbook does not go into a detailed discussion of issues of international humanitarian law, or the law of military operations in general, branches of international law many readers will be more familiar with. It will address rights and obligations stemming from the presence of foreign forces in a Receiving State or Transit State. In this context international and national rules are of equal importance. States are not free to develop rules for Visiting Forces without regard of their international obligations. The relevant rules of international law need to be implemented at national level, a task that makes close cooperation and international exchange essential. This requires a good perception of the objectives of the law of Visiting Forces based on historic developments and current treaties (Section I). The relationship between international law and national law is 0f particular interest for any activity of foreign armed forces in a Host State (Section II). Out-of-area deployments, i.e. deployments in third countries not belonging to the same regional organization or military alliance, will require specific considerations insofar as specific Status-of-Forces Agreements (SOFAs) will be necessary (Section III). Existing international law and practice needs to be evaluated with a view to the question whether rules of customary law are evolving in this respect (Section IV). Based on these

more general considerations the design of the present Handbook will be explained (Section V).

Objectives of the Law of Visiting Forces

The status of foreign forces in a Receiving State or a Transit State (jus in praesentia) is subject to international law. In the absence of a SOFA, it is informed by customary principles and rules regarding the immunity of foreign military forces as organs of their Sending States.

For Member States of the North Atlantic Treaty Organization (NATO), the NATO SOFA serves as a by now classic tool to solve status issues of allied forces stationed in the territory of another Member State. Representing a widely accepted framework for regulating the legal status of foreign forces, the NATO SOFA provides a good compromise between the primacy of the law of the flag and the principle of territorial sovereignty. Although its rules are sometimes used for solving status issues also outside NATO, their applicability as treaty law is limited to stays in the territory of its Parties. Other SOFAs were concluded by various States in the form of treaties or executive agreements (to become legally binding, the latter may or may not require ratification). There is a wide SOFA practice, e.g. between the United States and a large number of States; between France and several African States; or between the United Kingdom and other States (e.g. Cyprus, 1960; Belize, 1981; Brunei, 1984; and Kenya, 1985).5 It may be noted in this context that also within the European Union (EU) a special SOFA was concluded.6 The EU SOFA, like NATO SOFA, is confined to regulating the relations between Member States. It does not apply to peace operations by Member States in third countries, for which purpose special SOFAs have been concluded by the EU. NATO, too, followed this practice in its relations with third States. The Alliance extended the rules of NATO SOFA to the Participants in the Partnership for Peace Program; but it also negotiated different SOFAs for military operations in third States in which it was involved. Furthermore, specific agreements were concluded for meeting special requirements of military headquarters in a Receiving State.

Different objectives of Visiting Forces may result in different SOFA provisions. This becomes most obvious if one compares deployments for training

and exercises on the territory of an Ally with those for crisis management by peace operations. In the latter case reciprocal and long-term agreements are hardly available, but the Parties have to conclude an arrangement for a specific purpose. In such cases Sending States will not be ready to share jurisdiction on their contingents with the Receiving State. The UN Model SOFA provides for privileges and immunities of members of military components including locally recruited personnel from jurisdiction of the Receiving State." In no case has the practice of UN peace operations deviated from this principle (see Chapter 20).

In many situations, SOFAs could not be concluded in time or have not yet entered into force before deployment. Thus interim solutions had to be found to s0lve practical issues. For certain peace operations, binding solutions were found under the authority of the Security Council, in that the Security Council Resolution establishing the peace oper¬ation provided that the UN Model SOFA or an existing SOFA for another peace operation shall apply provisionally, pending the conclusion of a specific SOFA. Such decision has to be accepted and carried out by participating States in accordance with Art. 25 of the UN Charter; but this cannot fully replace the conclusion of a SOFA, its ratification in the Receiving State, and active cooperation of the participating States in its implementation.

NATO's Partnership-for-Peace programme is another case in point. Defence Ministers hosting exercises have issued goodwill declarations to facilitate such solutions. The text of these declarations differed in various respects and some of the provisions stated, in particular as far as jurisdiction is concerned, went far beyond the competence of a defence minister. As far as damage claims were concerned, it was declared that these should be solved by mutual agreement of both sides, which means that a settlement of claims clause could not be agreed upon in advance.

The entry into force of the Partnership for Peace Status of Forces Agreement (PfP SOFA) and its Additional Protocol of 19 June 1995 on the renunciation of the right to carry out death penalties and its Further Additional Protocol of 19

December 1997,15 which regulates the status of NATO military headquarters and headquarters personnel in the territory of States participating in the Partnership for Peace, has solved at least some of questions all Partners and thus extends the NATO SOFA regime to all PfP countries. Thus, indeed, the PfP SOFA may be seen as an offer to all new Partners of the Alliance to participate in this cooperation on an equal basis.

The PfP SOFA provides in Art. IV: `The present Agreement may be supplemented or otherwise modified in accordance with international law.' For such modifications, the rules codified in Art. 41 of the Vienna Convention on the Law of Treaties are relevant. By application of that Article, Parties to the PfP SOFA may modify it only as between themselves alone and subject to the following conditions: the modification in question must not be excluded by the PfP SOFA; it must not affect the enjoyment by the other Parties of their rights under the PfP SOFA or the performance of their obligations; it must not relate to a provision, derogation of which is incompatible with the effective execution of the object and purpose of the PfP SOFA as a whole; and the Parties in question shall notify the other Parties of their intention to conclude the agreement and of the modification to the PfP SOFA for which it provides. Thus, the scope of possible modifications is clearly limited. In practice, there will be hardly any requirement for modifications of SOFA rules in the implementation of the Partnership for Peace, but supplements may be useful and practical as between the Member States of the Alliance, e.g. for logistic support.

It is worth noting that not all instruments governing the law of Visiting Forces are of a nature that could guarantee their legal entry into force. Many SOFAS cannot be formally ratified by the appropriate organs of the participating States. This may influence, but often does not limit, their relevance for international cooperation. The legal status (and practical value) of less formal instruments, such as Memoranda of Understanding, Declarations of Intent and the like, will be discussed in the Commentary.

Relationship between International Law and National Law

The relationship between international law and the national law of the Receiving State, Transit States, and the Sending State is a matter of particular relevance for any Visiting Force. As certain SOFA provisions will affect the national legislation of the Receiving State and even Transit States, it would be difficult to see such rules being applied without regard to national law. Ratification and implementing legislation will be required in most States and existing national legislation may call for the conclusion of additional agreements to supplement general SOFA rules. In many States there is a trend in legislation for further specifying rules to conduct military operations. General principles are often not considered sufficient and governments and parliaments may wish to react in a very specific way to issues related to the exercise of military power.

Generally, diplomatic clearance is coordinated and approved between Sending and Receiving States as a prerequisite for a Visiting Force to enter the Receiving State's territory. In some States there exist special legislative requirements for the authorization of foreign military units to enter the State territory: provisions of the Receiving State may include general limitations as for purpose, size, and duration of the stay of foreign military forces; there may also be procedural regulations on coordination within the government of the Receiving State and the exercise of parliamentary control. Special procedures may also to be observed for the decision to send a State's own military forces abroad for participation in partnership activities or national training exercises for which appropriate facilities are not available in the own country. Legislative requirements, although they may be very different from country to country, do reflect an evolving trend to underline the legislative power of both the Sending and the Receiving State in decisions on temporary and permanent stays of national armed forces in another State. There is no doubt that such requirements must be strictly observed, even if more liberal usages are practised in other States.

Many SOFA provisions are far from being self-sufficient. This of course is a strong argument in favour of cooperative approaches by Receiving and Sending States in the interpretation and implementation of the SOFA. Furthermore, requirements of contemporary State practice should be considered: neither the UN Model SOFA nor NATO SOFA include provisions on the right to stay on foreign territory (jus ad praesentiam), which may be regulated both at international and national level and generally remains subject to a special agreement. As far as the rights and obligations during such stay (jus in praesentia) is concerned, there may be specific requirements for specific agreements in addition to a general SOFA (see Chapter 29). To offer only a few examples: issues of environmental protection were not dealt with in 1951 by NATO Member States, nor has the issue been addressed in the 1990 UN Model SOFA; support in terms of telecommunications or health services is not fully regulated in the NATO SOFA; transport regulations and other provisions on the conduct of exercises are missing altogether in this classic instrument. In many cases supplementing agreements are necessary to comply with host nation legislation or to meet special requirements of the Parties. Bilateral and multilateral discussions on such requirements might show certain congruence in the interests of participating States. Sending States and Receiving States should develop cooperative solutions for evolving issues, thus respecting the immunity of Visiting Forces and at the same time ensuring that national laws and regulations of the Receiving State will be complied with.

The NATO SOFA expressly restricts modifications by providing in the Preamble, paragraph 2: 'that ... the conditions under which [the forces of one Party] will be sent, in so far as such conditions are not laid down by the present Agreement, will continue to be the subject of separate agreements between the Parties concerned'. According to Serge Lazareff,18 this means that 'only the conditions not laid down in [the NATO] SOFA can be dealt with in separate arrangements ... the Parties cannot deviate from SOFA but have the perfectly normal right to agree on complementing provisions... and the mere fact that SOFA is a compromise should not allow it to be modified'. Indeed, NATO SOFA is a fair compromise between the interests of more powerful States who would be in a better positi0n to obtain

concessions through bilateral negotiations, and less powerful States whose interests are best protected by strictly adhering to NATO SOFA.

The promulgation of distinct rules is necessary for the implementation of international legal obligations in this field. In controversial cases there may also be only limited confidence in the sound judgment of responsible authorities and individuals in the implementation of agreed general principles. For national parliaments and governments of both Sending and Receiving States it will make little difference whether military activities are those of the own national forces or of foreign or even multinational units. But in all circumstances, the overarching purpose of SOFAs, their implementing agreements, and their related domestic national legislation is to facilitate the orderly and efficient presence of Visiting Forces in Receiving States—by clearly defining the relevant and agreed legal framework and processes at all levels of government.

Out-of-Area Deployments

The concept of 'out-of-area deployments' is unique to regional organizations and military alliances; it does not apply to the UN. For NATO, operations outside the territories of its Member States raise political and legal concerns that need to be solved in accordance with the rules of international law.

In 1995, NATO troops were deployed to Croatia and Bosnia-Herzegovina under the authority of the Dayton Peace Agreement in the first major out-of-area military action by NATO since its inception. Due to the fact that this deployment was to non-NATO countries, the NATO SOFA was not applicable. As a result, it was necessary to negotiate agreements on the status of the personnel of the Implementation Force (IFOR) while in the territory of Croatia and Bosnia-Herzegovina. The identical agreements entered into by NATO with these two Host States provide as follows: "NATO personnel" means the civilian and military personnel of the North Atlantic Treaty Organization with the exception of personnel locally hired: 20 The personnel present in Croatia or Bosnia-Herzegovina were personnel involved in the military operation itself, that is, either the implementation by NATO of the peace plan in Bosnia and Herzegovina or the possible withdrawal

of UN forces from former Yugoslavia. As the presence of dependents was never a consideration, the definition in the two IFOR SOFAs was narrowly drafted to include only those personnel who were involved in the military operation. Due to the fact that the national military units participating in IFOR required substantial support from national support units not part of IFOR, Art. 19 of the agreements provided SOFA status to civilian and military personnel of the contributing NATO nations, acting in connection with the operation, even when not under NATO command and control. The NATO operation in Bosnia was also unique because IFOR included troop contributions from non-NATO nations. In order to provide equivalent status for the non-NATO personnel, it was necessary to insert a special provision in the SOFAs. Art. 21 of both the Bosnian and Croatian SOFA states that non-NATO personnel participating in the operation will be given the same privileges and immunities as those given to NATO personnel.

Subsequent NATO operations in the Balkans required the negotiation of additional agreements relating to the presence of NATO personnel. The experience in Bosnia with regard to the important activities of contractors and their non-military or NATO status caused NATO representatives to seek the inclusion of contractors within the definition of NATO personnel. Paragraph 1 of the Exchange of Letters between NATO and the Republic of Albania expanded the definition of NATO personnel found in the earlier agreements; now NATO personnel included `military, civilian and contractor personnel assigned or attached to or employed by NATO, including military, civilian and contractor personnel from non-NATO States participating in Operation'. When the International Security Assistance Force (ISAF) was tasked in December 2001 `to assist the Afghan Interim Authority in the maintenance of security in Kabul and its surrounding areas, so that the Afghan Interim Authority as well as the personnel of the United Nations can operate in a secure environment', NATO could build on this experience. The status of ISAF personnel was specified in a Military Technical Agreement confirming full immunity of ISAF personnel in Afghanistan and regulating its rights and obligations.

Evolving Customary Law?

Already five decades ago when certain rules of the NATO SOFA including its principles regarding allocation of jurisdiction had also been taken up by the Warsaw Pact Powers, the argument was made that these rules, because of their fairness and plausibility, may pass into customary international law. This process has now been underlined by subsequent developments. The invitation by NATO and its Member States to participate in a new Partnership for Peace (PfP) and its acceptance and support by presently 22 States in Central and Eastern Europe has brought a variety of new military contacts: there has been a considerable increase in joint military and social activities, in conferences, study periods, seminars, exchange programmes, and military exercises in recent decades. Another significant example is military cooperation between South and Central America, the Caribbean, and the United States which included the Comité Juridico Militar de las Americas (COJUMA) with its first comparative study of NATO SOFA and UN Model SOFA rules.

Yet still today the question remains open, whether and to what extent SOFA rules may become applicable by custom. The very example of the allocation of jurisdiction under Art. VII of NATO SOFA is a good test for such critical consideration: There are often situations in which this balanced rule of NATO SOFA which provides for a right of the Sending State to exercise criminal jurisdiction through its own military authorities within the Receiving State, and includes regulation on concurrent jurisdiction by the Receiving State and the Sending State on specific groups of cases, would hardly be appropriate. A Sending State w0uld have to bring judges and prosecutors to the Receiving State to execute this right, and it would have to accept the Receiving State's jurisdiction at least in certain cases, if Art. VII 0f NATO SOFA had to be applied. Where jurisdiction over military personnel is vested in civilian bodies, as is the case in Germany and other States, the Sending State's jurisdiction within a Receiving State would face additional problems. In the case of short visits for the purpose of PfP exercises and similar activities, the Sending State will hardly be prepared t0 exercise its jurisdiction within the host country. Considering the short period of such visits it is

normally fully sufficient to adjudicate upon soldiers after their return to their Sending States. While waivers from jurisdiction accorded to the Receiving State may be difficult to achieve, the Sending State will remain interested in cases of crimes committed by any of its soldiers to have them returned as soon as possible from the Receiving State. Effective solutions have to be worked out by agreement.

An additional and more substantial objection against an unlimited application of Art. VII of NATO SOFA is its designed purpose to provide general rules for cooperation among Allies and its Partners: for military operations going beyond this framework, which in particular for peace operations in the territory of a third State, is in interests of the participants and the relevant legal requirements may be quite different. The Dayton Accord, for example, provided that NATO military personnel under all circumstances and at all times shall be subject to the exclusive jurisdiction of their respective national elements in respect of any criminal or disciplinary offences which may be committed by them in the area of operations.

Hence NATO SOFA rules, while being balanced and fair and enjoying wide acceptance even beyond the North Atlantic Alliance, do not provide blueprints for every possible situation. Supplementing provisions may be required and sometimes other solutions have to be found and be put into force by new agreements. At the same time, there is a now greater awareness among the public at large in many countries with respect to military activities: environmental considerations and budget restrictions influence operational planning. There is also a changing attitude in parliaments where military matters are no longer considered to be the exclusive realm of the executive power. Rather, the legislative power is influencing foreign and security policy matters. This is not only true in the case of noise pollution, of environmental damage, or of damage to roads and bridges as a consequence of military exercises; it applies more or less to all military activities. Hence NATO SOFA rules, although they are widely acceptable as a model for a balanced and convincing solution even beyond the North Atlantic Alliance, cannot be seen as being customary law today in toto. In many events a new assessment of the given situation and

the various interests involved remains necessary. In most cases, and this is true even for the cooperation between the members of the Alliance, NATO SOFA rules have to be supplemented by additional agreements.

A far more positive answer may be possible to the question whether rules of the UN Model SOFA29 have entered into customary law for peace operations. Their well-established standards do reflect a widely shared opinio juris of Sending States and Receiving States alike. UN and State practice confirms that these standards are considered as mandatory for individual SOFAs to be concluded between the UN and Host States. Peace operations conducted by other organizations such as the African Union (AU), the Economic Community of West African States (ECOWAS), the European Union (EU), or the North Atlantic Treaty Organisation (NATO), may also use the UN Model SOFA, mutatis mutandis, as a basis for agreements between the latter organizations and Receiving States in which military and civilian personnel are deployed. This appears to be practical, as similar issues are to be solved in peace operations conducted by these organizations. The UN experience may thus help to standardize similar activities. SOFAs for peace operations are serving a clearly delineated purpose, as distinct from other SOFAs regulating such different objectives as military cooperation, training or exercises, or unilateral presence for other purposes. It may thus be easier for peacekeepers than for other Visiting Forces to develop consistent practice and opinio juris in the absence of existing treaty provisions.

The fact that the United Nations adheres to the practice of concluding SOFAs on the basis of the UN Model SOFA for each peace operation, and Security Council resolutions establishing a peace operation often provide that the UN Model SOFA shall apply provisionally, pending the conclusion of a specific SOFA, would not speak against the customary validity of UN Model SOFA rules. It is a frequent phenomenon that treaty law confirms customary rules. This practice may be followed to provide more clarity, to add certain specifications, and to ensure cooperation on implementation and the settlement of disputes. Once enacted in the national law of the Host State, these provisions may

effectively contribute to the success of the peace operation and likewise to an even more widely accepted customary status of the relevant rule. Acceptance by participating States will be necessary even in those cases in which SOFA rules apply by decision of the Security Council.

The question whether a SOFA rule has developed into customary law, requires an indepth assessment rule by rule. This Handbook aims at contributing to such exercise.

The Design of this Handbook

The aim and purpose of this book required an approach that combines commentaries to rules widely used with case studies on situations of a more specific nature. Particular attention was given to broad participation in this project, to show that the global relevance of the subject is to be matched by cooperative efforts and `ownership' by those affected. To provide the necessary background for the reader, some more general chapters precede the commentaries to specific rules and case studies. Chapter 2 describes the historical developments influencing the present law of Visiting Forces, not only focusing on North Atlantic cooperation and the work which led to the conclusion of NATO SOFA, but also discussing former Warsaw Pact arrangements and challenges by new types of military operations in the post-cold-war era. The chapter also evaluates the requirement for different rules in situations where military operations are being conducted for peacekeeping, peace enforcement and post-conflict peace-building. Specific requirements for and existing practice of multinational units are dealt with in Chapter 3, in which common trends of this new form of military cooperation are assessed, command and control issues are discussed, and the need for a continuous review is highlighted. Chapter 4 offers a legal evaluation of various forms of UN peace operations, showing their development over the last decades, commenting on accepted principles, and addressing current challenges. Chapter 5 explains the general legal status of Visiting Forces including their military and civilian members as a status of immunity ratione materiae under international law, a concept deriving from the sovereignty of States and the immunity of the international organization involved.

As this status is neither fully confirmed, nor completely regulated in current treaty law, issues of customary law and general principles of law are in the focus of this chapter.

A commentary on applicable status law provisions is provided in Part II. It explains typical SOFA rules, commenting on the relevant sections of the UN Model SOFA and the corresponding Articles of NATO SOFA in context. This is to provide insight into similarities and important differences of the various provisions. Particular attention is taken to show that the conventional applicability of SOFA provisions is limited to stays in the territory of another Party and that deviations for other cases need to be contracted. This Part of the Handbook represents the most comprehensive and up-to-date commentary to the UN Model SOFA and NATO SOFA existing today, and it shows that these rules indeed provide a useful practical basis for solving similar cases in specific arrangements outside the field of application of the two SOFAs. At the same time, important differences are made apparent.

Legal issues of international military headquarters, both inside and outside UN or NATO command structures, are discussed in Part III. This Part again starts with the UN and NATO experience by offering comprehensive commentaries on the relevant treaty law, including non-legally binding instruments as relevant for State practice and the practice of international organizations. It also examines the situation of other inter-national military headquarters established by regional organizations, such as the African Union, the European Union, or the Collective Security Treaty Organization, formerly Commonwealth of Independent States.

Part IV describes the legal status and headquarters agreements of the International Committee of the Red Cross (ICRC) and national Red Cross and Red Crescent Societies providing humanitarian assistance in foreign countries.

The case studies offered in Part V evaluate State practice of Visiting Forces in Germany, Japan, Korea, Afghanistan, and of Russian forces in various Receiving States. A chapter on a specific legal approach taken in certain military operations, i.e. agreements conferring status similar to the status of administrative and technical staff of embassies (A&T Agreements), concludes this Part.

In Part VI conclusions are drawn on the role of Visiting Forces in respect of their legal background, lessons learned, and certain contentious issues. This Part includes practical guidelines for lawyers involved in pre-deployment negotiations and tasked to cooperate on SOFA negotiation and implementation. <>

[Titans: how superheroes can help us make sense of a polarized world](#) by Armond Boudreaux and Corey Latta [Pickwick Publications, 9781532604027]

Superheroes as Myth—ARMOND BOUDREAUX

Why We Need Superheroes

Why are superhero stories important? Some people will say that they aren't. Recently, one of my college freshmen said to me that a movie like The Avengers "doesn't have anything to do with the real world. It's just dumb entertainment." I had to

forgive this student for such an outrageous statement. She's new to college, and I have no control over whatever subpar education that she received before now. What in the world do they teach in schools these days?!

So why are superhero stories important? Some people would tell my student that superheroes give us something to aspire to. Zack Snyder's film Man of Steel deals with this idea. Jor-El, Superman's biological father, tells him, "You will give the people of Earth an ideal to strive toward. They will race behind you. They will stumble. They will fall. But in time, they will join you in the sun, Kal. In time, you will help them accomplish wonders." And we could all certainly do worse than to emulate Superman, Captain America, or Spider-Man. Each embodies ideals of human behavior that we could all learn from.

But while this view of superheroes isn't wrong, it's only one answer to the question—and it might not ever be the most important one. More important than being moral exemplars, superheroes can also do for us what mythology did for ancient cultures like the Norse, the Greeks, and the Egyptians. Other writers have made this argument before, but here I'd like to describe two particular features of mythology (both ancient and modern), because they are important to the argument of this book.

The Moral Playground

The word "mythology" gets used in different ways by different people, but to most people today it means something like "false belief." For example, Christians might refer to the beliefs of the ancient Egyptians as "myth" in comparison to biblical theology, or a scientist might describe geocentrism as a "myth."

But that's not how we're going to use the word "myth" in this book. It comes from the ancient Greek word mûthos (OW, which means "story." In spite of its common usage today, "myth" doesn't originally refer to some belief that turns out to be false. Instead, it refers to stories—especially stories that dramatize the beliefs, values, and fears of a culture.

We can find a good example of this in Greek stories about sons betraying their fathers or taking away their fathers' power. These myths reflect

certain beliefs and fears about mortality, about the passage of time, and fatherhood. For example, in Hesiod's Theogony, an ancient Greek poem about the beginning of the world, Ouranos, the sky-god, rejects his children and prevents their birth by pushing them back into the womb of their mother, Gaia. But Kronos, the eldest son, uses a sickle made of a mythical metal called adamant (yes, think of adamantium, Wolverine fans!) to castrate his father and allow him and his siblings to be born.

The cycle of conflict between fathers and their children continues when Kronos, now the king of the Greek pantheon, consumes his own children as they're born because he believes that they are destined to overthrow him. But his wife Rhea hides their youngest son, Zeus, from him, and when the child grows up he forces Kronos to vomit up the children that he consumed. After he saves his brothers and sisters from the belly of Kronos, Zeus and the other gods of his generation wage a war against the Titans (a conflict called the Titanomachy).

Interestingly, the name Kronos seems to be related to one of the ancient Greek words for "time." This is one clue to tell us that myths are more than just fanciful stories. Kronos is related to the idea of "time" because ultimately, that's what his story is about. All children are reminders to their parents that one day, they will die and be replaced. (Think of Ultron's sermon to the Maximoff twins in Age of Ultron: "Everyone creates the thing they dread.... People create ... children—designed to supplant them, to help them end.")

The Greeks seem to have been particularly concerned with the generational struggle between parents and their children, and they dealt with this problem through their myths: in Theogony and in later works like the play Oedipus the King. Stories like these helped them to work out the possible consequences of their fears, to dramatize those fears in a way that helped them to better understand what they were afraid of.

Superhero mythology can do the same thing for us that myths did for the Greeks, Romans, Norse, Babylonians, and others. Myths about Superman and Ms. Marvel and Black Panther dramatize the things that we think are most important. In other

words, they turn the things we care about the most into story. They give us interesting and engaging ways to think about what it means to be good—really good. They often confront us with difficult questions like: Who has a right to exercise power? When should we obey, and when should we stand up to authority? What is the nature of identity? They give us a playground where we can freely answer those questions and see the consequences of our choices.

Though comic books have had a certain philosophical sophistication for a while now, recently the films have taken on a similar sophistication. For example, The Avengers presents audiences with a difficult moral problem: is the obligation not to kill innocent people so important that we should obey it even when doing so might result in the death or enslavement of many people (maybe billions)? When an alien race called the Chitauri invades New York, the Avengers try to protect the city while the World Security Council orders Nick Fury to launch a nuclear missile at the alien army—knowing that it will kill everyone in New York. "If we don't hold them here," says one Councilman, "we lose everything." Nick Fury responds that if he launches a nuclear weapon at the island of Manhattan, then "we already have [lost everything]." Though the film clearly favors Fury's position, the scene still presents viewers with a difficult question: is it better to risk the whole world to save a few, or is it better to sacrifice the few in order to ensure the safety of the many?

While some might call such a moral dilemma outlandish and sophomoric, a not dissimilar dilemma arguably confronted American leaders at the end of World War II—and more importantly, this kind of intellectual or ethical puzzle is characteristic of ancient myths: Is Oedipus free or fated? Is he culpable for his crimes? Should Agamemnon have refused to sacrifice Iphigenia? How do we explain the way Zeus and Poseidon treat the Phaiakians after they help Odysseus?

We ask ourselves these kinds of questions in order to help us better understand our lives and our world. We need these kinds of puzzles to work out how to best handle the real-world problems that confront us. And the stories we tell about the X-Men, Captain Marvel, Green Lantern, and the rest all seem especially good at giving us vehicles for exploring those questions. As Mark D. White puts it,

Luckly, literature—and by "literature" I mean comic books—provides us a way to discuss [moral problems] without having to experience them. We don't have to ... have a real-life Batman and Joker. That's what the thought experiments are for—they let us play through an imaginary scenario and imagine what we should and shouldn't do.

Serving as a kind of "moral schoolyard" seems to be one of the oldest func¬tions of stories. They help us figure things out without hurting ourselves (though our heroes often suffer a lot while we make sense of ethical or spiritual problems).

The Modern Myths

Walk into your local comic shop and browse the new comics, the trade paperbacks, or the used bins, and you'll find plenty of examples of the kinds of stories that I've just described:

- Superman: The Man of Tomorrow's origin is a mythologized version of the story of immigrants to America (as well as the stories of Moses and Jesus). Kal-El's parents send him away from their doomed home planet of Krypton just before it is destroyed, and he arrives on Earth as a refugee. Though Kal looks human, though his adopted parents raise him as their own son, he can never quite shake the sense that he is somehow an outsider in this world. But by his devotion to virtues like humility, fairness, and justice, he grows up to use his powers to help the world in the best way he can. His story speaks to the experience of many immigrants, who also often feel like outsiders and who use their talents in the best way that they can in order to prove their worth to society.

- Batman: In the story of the Dark Knight we find the ancient pagan story of the indomitable will: the human drive to fight on, even though we know we will ultimately lose the war. We see this ethos in classical stories like Antigone and the poetry of Homer, as well as in northern European literature like Beowulf. And even though it is a very old value, it still has a lot of purchase for people today. We live

in a world full of threats that seem unconquerable, and Batman represents our drive to be unyielding in the face of overwhelming obstacles. He can't ultimately defeat crime in Gotham—he is only a man, after all; he will die some day—but he achieves a kind of victory simply by his refusal to give up.

- Spider-Man: It might be tempting to think of Peter Parker's story as a teenage boy's power fantasy, but scratch the surface and we find something more: the story of many young people in the modern world who, despite their feelings of social awkwardness, find themselves empowered through unexpected means.
- The X-Men: The Children of the Atom give mythological weight to modern rejection of racism and prejudice. Though mutants often suffer persecution and bigotry because of their differences, the X-Men prove their value by protecting a world that often hates them, embodying the principles of men like Martin Luther King, Jr. Meanwhile, the Brotherhood of Mutants, led by Magneto, take a more radical stance, rejecting the idea of integration with normal humans.

I could cite any number of examples, but thankfully, superheroes, both in comics and on the screen, have gained some of the legitimacy that they deserve over the last several years, taking their rightful place as the modern world's Olympians and Asgardians.

Evolving Stories

Ancient myths changed over time. This happened in part because they were passed down orally, and stories told that way are bound to see some alterations. This will happen simply because people don't always pass along information reliably, but also because different people might interpret a story differently. They might adapt it to suit the needs of their time or their audience. For example, the story of Oedipus, the king of Thebes doomed to kill his own father and marry his own mother, was most famously told by Sophocles, but variations of that story show up in Homer and in other writers. When Oedipus appears in The Odyssey, Homer doesn't mention a prophecy that destines Oedipus to kill his father and marry his mother. But when Sophocles takes up the story of the doomed king, the prophecy becomes very important—not just to the plot, but to the major themes of the play. Oedipus the King is very much about what determines human destiny: are we fated to whatever end we come to? In other words, Sophocles takes a traditional Greek story and uses it to explore questions that concern him most.

Superhero mythology also has the same kind of applicability or adaptability. Different writers and artists can reinterpret familiar superhero stories so that they can use them to speak to the relevant questions of their time.

Maybe the best example of a superhero who has changed with his times is Batman. The Caped Crusader first appeared at the beginning of World War II, and in his first appearances, he was dark, remorseless, and sometimes brutal. During the optimistic fifties, however (partly because of the restrictions placed on superhero publishers by the Comics Code Authority), he took on a lighter, more child-friendly persona—a persona made famous by the 1960s television series. Batman kept this light-hearted tone through the Silver Age of Comics, but when Frank Miller wrote The Dark Knight Returns in 1986, the character took on a much darker, more adult tone. Miller used the Batman myth to write a withering critique of the politics, pop-psychology, mass media, and popular culture of the 1980s. With The Dark Knight Returns, the character became mature, darker, and more cynical.

In Christopher Nolan's 2008 film The Dark Knight, Batman's story takes on a new dimension in light of post-9/11 geopolitics. In Nolan's Gotham, the Joker becomes a terrorist, while Batman, Jim Gordon, and Harvey Dent find themselves in dangerous and uncertain territory in their response to his crimes. In this way, the film reflects the problems that global terrorism poses against the nations of the West. How do you fight against an enemy who is completely unpredictable, immoral, and lawless? How far can we go in the fight against terrorism? Can we justify spying on average citizens in order to keep them safe? And if so, who can we trust with that kind of power? What

kinds of interrogation tactics can we legitimately use in order to get the information that we need? And how does a figure like Batman—someone who operates outside the established order—fit into society's response to radical terror?

This adaptability in our myths allows them to change to suit the needs of the time. It allows them to speak to the values that are important or in question for new generations. And superheroes have proven remarkably able to adapt to the problems and societal changes of each generation without fundamentally changing as characters.

Think of Captain America, for instance. When he first appeared in 1941, he represented simple patriotism. The first image of him that the public saw—Cap delivering a right cross to Adolf Hitler—spoke to the spirit of the time. But as Steve Rogers learns when he wakes from the ice, America and the rest of the world have changed a lot since the 1940s. Though Cap remains a symbol of national pride, he is no longer an instrument of the United States government. Instead, he stands as a guardian of American ideals. That position leads him to oppose American institutions on a number of occasions when they fail to live up to the ideal. In Civil War, for example, he opposes the Superhuman Registration Act because he believes that it violates the rights of the individual. People who have only a passing familiarity with Steve Rogers might assume that he would support a bill like the SHRA. After all, it passes with overwhelming support. It is designed to defend the American public. And let's face it: the guy wears the flag as a costume. But as he has grown, it has become clear that Captain America is not a stooge of the United States government or of whoever happens to be in power at any given time. He is the Sentinel of Liberty, and he will oppose anyone who threatens freedom or equality…

Some Objections

Some people might raise objections to my view that superheroes constitute a new mythology For example, someone might argue that since we already have the classical myths, we don't need a new mythology. If we want to explore the question of freedom and fate, we've got Oedipus the King and The Odyssey. If we want to think about warfare, we've got The Iliad. If we want to think

about masculinity and femininity, we might turn to Agamemnon. If we want to think about power and the individual's relationship to the state, we've got Antigone. Why do we need these new myths? Why spend time reading comic books when the ancient myths will do?

My first answer is that while the classical writers did pretty well cover just about every major human concern, that does not mean that it isn't worthwhile to apply those questions to modern contexts. For example, Marvel's 2006 series Civil War takes the idea of civil disobedience that we find in Antigone and places it into a very contemporary situation. In doing so, it raises questions about gun control, the regulatory power of government, the ability of science to predict human behavior, and other important topics that weren't necessarily an issue for the ancient Greeks. That doesn't make Civil War "better" or "more relevant" than Antigone. Instead, it makes it clear that the questions raised by Antigone haven't been put to rest or answered satisfactorily, and it gives us an opportunity to apply those questions to contemporary political life.

My second answer is that this new mythology doesn't have to replace the old one. We can read and appreciate both. Now someone might object, "But nobody has the time to read all of the classics, let alone both the classics and this 'new mythology,' so why devote time to the newer, inferior works?" But even if we grant that new literature is inferior to ancient literature, this kind of thinking leaves us having to say that nobody should write anything new. One of the great beauties of humanity is that we must constantly be creative, even if that creativity means taking ancient ideas and presenting them in new ways.

Another serious objection to the idea that superheroes are a modern mythology is this: unlike Prometheus and Re, Batman and Captain America and the rest of the superhero pantheon are products to be bought and sold. They are created by multi-million-dollar companies for the primary purpose of making money. They are featured not only in works of art like comic books and films, but also on T-shirts, lunch boxes, children's toys, and on popcorn bags at movie theaters. It seems absurd to

argue that such blatantly commercial characters can rise to the level of mythology.

Even worse, the behavior of the companies who produce comics and superhero movies undercuts the idea of a superhero mythology In a recent blog post, philosophy professor Mark D. White complained about the crass way in which the editors and writers at Marvel decided to kill off a character in one of their major story events:

> Representatives of both the Big Two [Marvel and DC] comics companies like to say how superheroes comprise our modern mythology However, that also makes the Big Two the stewards of that mythology and the characters that ground it, and stewardship implies responsibility. Create characters, change characters, kill characters, ... they're all fine if done well, but please do so with a little more respect for those who want to revel in the mythology.

If superheroes are mythology for our culture, then they deserve a kind of respect not afforded to some other kinds of fictional characters. It is hard to imagine characters who are subject to every whim of the creators (or worse, editors and company administrators) existing on the same level as Beowulf or Odysseus.

But this objection leaves out an important characteristic of comic book characters: because of the nature of the creative and publication processes, over time these characters have taken on lives of their own. Even though he would not exist without Jerry Siegel and Joe Schuster, Superman no longer belongs to any one creator. He has taken on a life outside the minds of his original creators, outside the mind of any creator since then, and has become a myth, a story, in the public consciousness. Though creators have some control over individual changes to Superman and his story, his evolution is under the control of no single person. A toy company can make a Superman action figure, a cereal company can put images of him on cereal boxes, and Gene Luen Yang can de-power him— but the Big Blue Boy Scout, the refugee from Krypton, the Man of Tomorrow remains a fixed part of American mythology apart from (and

sometimes in spite of) the creators and company who own the rights to publish him.

The New Titanomachy

This book exists primarily because we believe that superhero mythology can help people better understand a major problem in contemporary life. Unless you've been on a long vacation in the Negative Zone (or the Phantom Zone, if you prefer the Distinguished Competition) for the last twenty years or so, you've noticed how deeply divided the political and social life of Americans has become. I'm not just talking about the differences between Republicans and Democrats. Like the Divide in Marvel's 2015 version of Civil War, there seems to be a real schism running right down the middle of our country that nobody can cross.

People of every political persuasion seem ready and even eager to think the absolute worst that they can of anyone who disagrees with them: "Hillary Clinton wants to destroy America!" "Donald Trump wants to kill all immigrants!" "You disagree with me about X, so you must be a bigot! Or a socialist!" We can't seem to be able to grasp the possibility that people might be convinced that they have good reasons to believe what they believe. Worse, we can't fathom the idea that we ourselves might be wrong about something. If someone disagrees with us, the only possible explanation has to be an irrational fear, a sinister prejudice, an unforgivable bigotry, a willful stupidity.

Besides our seemingly unbridgeable divides, there is the problem of reconciling two principles that are equally important to the American ideal: compromise, and standing by your convictions. I think that most people can see the value in both approaches, but the two are in constant tension with one another. So how do we reconcile them?

It might be tempting to say that people should be more willing to meet each other half-way, that politicians should be more willing to compromise in order to get things done, but there are plenty of important issues on which compromise isn't really possible. There are times when we have to stick to our principles, when there is no possibility of compromise. To use an example that nobody should find controversial, there was no way for the northern and southern states to compromise with

one another about slavery. Either slavery was acceptable, or it is unspeakably evil. There is no middle ground.

Even though many politicians are inept and selfish, many (is it too much to say "most"?) of them believe that they are acting for the "greater good." I hear people say all the time that politicians should stop bickering over their particular interests and do what is best for the people. But the problem isn't really that public officials aren't working for the good of the people. The problem is deciding what the "greater good" is. Republicans, Democrats, Libertarians, and Socialists all believe that they know how to achieve the greatest good for the greatest number of people, but they hold some incompatible ideas about what that "greater good" is—not to mention how to reach it. Politics means rational people deliberating about how to best order their lives together—but how do people who have fundamentally different beliefs about humanity and about right and wrong deliberate about anything?

In this book, Corey and I will try to show how superhero mythology, especially stories in which good people find themselves in conflict with other good people, can help us better understand the modern political and social situation. To do this, we will look at superheroes both on the page and on the screen, and we will discuss heroes from DC and Marvel. In the end, we hope that we can find something in superhero myths that might help us be better neighbors and better citizens. Very often, however, what we'll see are dire warnings about the frightening consequences of our political and social choices.

Sometimes Superheroes Best Say What Needs to be Said —COREY LATTA

That superhero films and comic books often address weighty and politically relevant ideas will come as no surprise to those familiar with stories about Superman, Batman, Spider-Man, Captain America, and others. To comic book readers it need not be said that comics have taken up serious themes since the Golden Age of Comics. Death, the existence and nature of God, the possibility of the afterlife, the problem of evil, one's identity and its meaning in society, the abusive nature of power—comics

have explored all of the major questions and issues that matter to human beings.

But to the casual comics fan or the average moviegoer just looking for a popcorn flick, it might not be obvious why comics visit crucial political and philosophical topics so frequently and so effectively. In 2016 alone we saw superhero films take up such important issues as civil disobedience, the problem of evil and theodicy, the relationship of the individual to the state, and the role of myth in the creation of society. How can movies about people who can't possibly exist help us to think about such issues?

Famed fantasy writer and renowned literary critic C. S. Lewis might be able to help answer that question. He once said that in some cases, with some messages, fantastic stories—or what he called "fairy stories"—can do a better job of saying what the author means to say than more realistic stories. Speaking of his fantasy series The Chronicles of Narnia, Lewis said that for the kind of story he wanted to write—one that required "no love interest and no close psychology"—the fairy tale proved ideal. Each genre comes with its unique virtues. For Lewis, virtues such as the fairy tale's brevity, restraints on description, and its traditionalism, made it the ideal form for what needed to be said: "I wrote fairy tales because the Fairy Tale seemed the ideal Form for the stuff I had to say." But then he came to a more profound realization: "I thought I saw how stories of this kind could steal past a certain inhibition which had paralyzed much of my own religion in childhood."

Knowing that some people might accuse the religiously allusive Chronicles of Narnia of being preachy, Lewis thought that the fairy form might allow him and his readers to avoid any obligations to feel overtly religious sentiment. Lewis concluded,

> But supposing that by casting all these things into an imaginary world, stripping them of their stained-glass and Sunday schol associations, one could make them for the first time appear in their real potency? Could one not thus steal past those watchful dragons? I thought one could.

In other words, to project important and weighty ideas onto an imaginary world is to remove

stereotypical and stigmatic associations from the subject, allowing one to see the thing anew.

The fondness that comic and superhero scriptwriters have for heavy philosophical ideas is due to the freedom their form allows. Hence, a miniseries like Kingdom Come can explicitly explore Christian eschatology without reading like a work of systematic theology. A reader can forget that behind the aged Justice League's war with the metahumans is an exploration of traditional morality versus the amorality of postmodernism. The very presence of figures like Superman and Captain Marvel encourages readers to disassociate themselves from entrenched ideas of universal morality and the ethics of violence by depicting those ideas in an unfamiliar and fantastic setting.

Likewise, a film like Captain America: Civil War asks that viewers consider afresh what it means for one's personal convictions when public consensus demands that those convictions be compromised. Within the complexities of Captain America's disagreement with Iron Man stands an age-old tension—the conflict between the state and individual—yet because the idea is projected onto an imaginative form, the idea of civil disobedience steals past the watchful dragons of preconception and prejudice. By wearing a mask, the struggle between the personal and the public can be approached as a stranger and seen as if for the first time. Where a realist exploration of a political idea brings in real entanglements of partisan bias that discourage critical thought, an imaginative approach unfetters the subject from familiarity.

To understand how exactly a superhero film causes ideas like civil disobedience to appear for the first time in their real potency, I turn to J. R. R. Tolkien—author of The Lord of the Rings, friend of C. S. Lewis, and fellow member of the Oxford intellectual community known as the "Inklings" In a masterful essay, "On Fairy-Stories," Tolkien writes that fantasy—of which I include Civil War as an example—"is founded upon the hard recognition that things are so in the world as it appears under the sun; on a recognition of fact, but not a slavery to it." The premise behind Civil War is that the fact that things are wrong ought not enslave one to the idea that they should remain wrong. Civil War's chief aim is to show that the world as it appears

under an encroaching governmental sun needs saving by free men and women not beholden to it. Tolkien ascribes three functions to fairy stories—recovery, escape, and consolation—which shed light on how the superhero film achieves that purpose. We can use these concepts in order to understand how a movie like Captain America: Civil War explores a theme like civil disobedience so effectively.

Tolkien says that fantasy's first operation can help us to see something about reality more clearly: "Recovery (which includes return and renewal of health) is a re-gaining—regaining of a clear view." In Civil War, the fundamental object of recovery is the moral fortitude required to resist power. As tensions heighten between Captain America and Tony Stark over the Sokovia Accords, which place the Avengers under the authority of a government bureaucracy that Cap fears can be corrupted, there arises an imperative for moral courage. Ironclad policy must be met by unbreakable personal conviction.

When Sharon Carter speaks at the funeral of her Aunt Peggy, she be¬comes an agent of recovery by describing the moral courage that Cap will have to show:

> I asked [Aunt Peggy] once how she managed to master diplomacy and espionage at a time when no one wanted to see a woman succeed at either. And she said, "Compromise where you can. Where you can't, don't. Even if everyone is telling you that something wrong is something right. Even if the whole world is telling you to move, it is your duty to plant yourself like a tree, look them in the eye, and say, 'No, you move:"

That final imperative—"No, you move"—becomes the new lens through which Cap regains sight of moral conviction. Agent Carter cleans the window, as Tolkien describes the act of recovery, of perspective for Captain America, and gives him a new vision of a familiar conviction.

The second way Civil War goes about exploring political ideas is through what Tolkien labels "escape." According to Tolkien, this second function of fantasy draws the audience out of time-bound provincialism and particulars so that the timeless

truths of the story might appear. Fairy stories, Tolkien says, have "more permanent and fundamental things to talk about.' It's on this point that Civil War as a story operates most effectively. In its imaginative presentation—even in ancillary things like Ant-Man's ability to change his size or Iron Man's newest gadget—the story is loosed from the constraints of realism and allowed to stand on the legs of its ideas. By presenting its ideas in a fantastic way, Civil War allows us to see politics in a fresh and unfamiliar light.

The final way Civil War fulfills its role as a work of fantasy is in what Tolkien calls "consolation." Tolkien says that the truest form of consolation comes in what he coins the "eucatastrophe," the story's upward turn. In the arc of a story, the eucatastrophe comes with dire consequence. Often veiled by catastrophic circumstance and loss, the eucatastrophe is that unexpected promise of fulfillment, comfort, even joy. This, according to Tolkien, is a story's highest function—to promise the reader that in spite of the conflict and loss that we suffer, better things lie ahead than behind. Tolkien writes, "In such stories when the sudden `turn' comes we get a piercing glimpse of joy, and heart's desire, that for a moment passes outside the frame, rends indeed the very web of story, and lets a gleam come through."" In Civil War, this upward "turn" is hard won, the joy earned by pain. The eucatastrophe comes in a poignant letter that Steve writes to Tony at the end of the film:

> I know I hurt you, Tony.... I wish we agreed on the Accords. I really do. I know you're doing what you believe in, and that's all any of us can do. That's all any of us should. So no matter what, I promise you, if you need us—if you need me—I'll be there.

Conflict need not lead to despair. In Civil War, "the joy of the happy ending"—what Tolkien calls the consolation of the fantastic—lies in the very moral conviction the film aims to recover. The moral conviction that leads Captain America to stand against Tony is the same conviction that compels him to promise future loyalty. For Cap, and for the film, civil disobedience is an inflexible commitment to what the conscience confirms as right. On the issue of the Sokovia Accords, Cap's convictions lead him to opposition. On the issue of friendship, his

convictions insist upon fidelity. As consolation, Civil War seeks to bring peace to rival factions by reclaiming harmony between friends.

What makes Civil War an effective political statement about civil disobedience is the genre in which the statement is made. I've here tried to argue that the thing said is only as good as the way in which it is said. In a superhero story that deals with important ideas, we see those ideas in light of their ideal forms. When we look at the reflection of political or social themes in comics, we're meant to see not only what a thing is, but also what it should be. Lewis writes that fantasy stories seek "to generalize while remaining concrete, to present in palpable form not concepts or even experiences but whole classes of experience, and to throw off irrelevancies." That is what Civil War and other superhero stories can do for us. They can say best what needs to be said. <>

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