

Editorial

On the mainstream liberal view it is both possible and desirable to separate out political and economic power from prescriptive normative views of how life ought to be led—at least beyond a relatively restricted ‘overlapping consensus’ about what constitutes the right process for resolving disputes about political leadership, justice and the economy. This is said to establish a public realm where claims to resources and recognition are framed in universal terms, and a private realm where particular beliefs about God, family and culture reside. Only by compromising views of politics justified by particular visions of the good life can we who value freedom and equality co-exist peacefully and prosperously, especially in an increasingly multi-cultural and socio-economically diverse world. In various ways the articles in this edition challenge this view, and offer more complex portrayals of the theoretical and empirical relationships between democracy, morality and discipline.

Chantal Mouffe attacks the very heart of the Rawlsian liberal conception of politics claimed to be both rational and right, holding that it represents a particular view that masquerades as universal, and thus fails to both understand the world and prepare us to deal with evolving challenges. Mouffe argues that the new liberal paradigm, heavily influenced by John Rawls, is incapable of understanding the contemporary global political condition as it fails to grasp the antagonistic dimension which is constitutive of the political. In making this case Mouffe refers to Rawls’ arguments in both *Political Liberalism* and *The Law of Peoples*, both of which present the legitimate political order as dictated by morality and reason, and thus effectively marginalise all views not consistent with liberalism. Mouffe argues that Rawls’ ideal society is based on a set of liberal conceptions of justice that are mutually recognised by reasonable and rational citizens who act according to its injunctions. They may have very different and even conflicting conceptions of the good but those are strictly private matters and they do not interfere with their public life. Conflicts of interests about economic and social issues—if they still arise—are resolved smoothly through discussions within the framework of public reason, by invoking the principles of justice that everybody endorses.

However, Mouffe holds that to present the institutions of liberal democracy as the outcome of deliberative rationality is to reify them and make their contestation impossible. The fact that, like any other regime, pluralist democracy constitutes a system of relations of power is denied and the democratic challenging of those forms of power becomes illegitimate. Instead Mouffe holds that the kind of consensus needed in a pluralist democracy is a ‘conflictual consensus’. This means that while there should be consensus on what she calls the ‘ethico-political’ principles of the liberal democratic regime, i.e., liberty and equality for all, there should always exist the possibility of serious dissent about their interpretation, a dissent that can never be overcome thanks to rational procedures. Further, it is the tension between consensus on the principles and dissensus about their interpretation which constitutes the very dynamics of pluralist democracy. Such a tension can never be reconciled and the project of deliberative democrats like Rawls of trying to reconcile the logics of liberty and equality, of human rights and popular sovereignty, of liberalism and democracy—whose articulation is constitutive of liberal democracy—not only is bound to fail, it also has very negative consequences for the way we envisage democratic politics.

Mouffe then joins her voice to those who criticise mainstream liberal political thought as reducing politics to a question of moral philosophy. Further, she points out that by falsely affirming its own norms as both rational and right liberalism covertly delegitimises other approaches and other conceptions of politics. This is, in effect, an act of power, but one which Mouffe implies is made through misunderstanding rather than malice. Hence liberals are incapable rather than unwilling to correctly grasp politics as inherently adversarial, at least over the interpretation of the core values of freedom and equality, and similarly mistake the appropriate response to global political challenges as a universal rather than ‘pluriversal’.

The second article by Michael Allen points to the political limits to the kind of ethical behaviour desired by deliberative democrats, a recognition which opens the way for the recognition of non-deliberative tactics as legitimate if, under certain conditions, they ‘force’ a return to deliberation. Allen explores the boundaries of the commitment of deliberative democrats to communication and persuasion over threats and intimidation through examining the hard cases of civil disobedience and terrorism. The case of civil disobedience is challenging as deliberative democrats typically support this tactic under certain conditions, yet such a move threatens to blur the Haber-

masian distinction between instrumental and communicative action that informs many accounts of deliberative democracy. However, noting that civil disobedience is deemed acceptable to many deliberative democrats so long as it remains ‘relevantly tied to the objective of communicative action’, Allen holds that certain kinds of terrorism cannot be ruled out either.

In making this case Allen notes that many deliberative democrats like Archon Fung have affirmed civil disobedience as a tactic to reopen a dialogue where, for instance, a majority chooses to ignore the legitimate views of a minority. Fung holds that key conditions here are those of exhaustion and proportionality—that is, instrumental tactics may only be embraced when deliberative avenues are clearly exhausted, and such tactics must be proportionate to the injustice at hand. Where for Fung violent acts never meet these conditions, Allen is not so sure. Pointing out that a violent act can be both moral and communicative, he holds that deliberative democrats cannot simply dismiss such acts as outside the bounds of legitimate communicative action. Whilst acknowledging that the deliberative democrat cannot really justify taking life as a tactic to induce deliberation, as ‘dead people cannot deliberate’, Allen notes that this does not rule out terrorism per se, the object of which is not death so much as generating overwhelming fear. Further, while a permanent condition of fear would set limits on deliberation, limited and temporary physical harm to persons need not. This implies that deliberative democrats must explain why intentionally causing some physical harm to property or persons is always an illegitimate form of communication.

By distinguishing the ideal of deliberative democracy from the practice of deliberative politics Allen moves from, and affirms, the reality of conflict, and a pragmatic recognition that institutions are not enough to secure deliberative practice. That is, advocates of deliberation cannot rely on citizens being good or ethical deliberative democrats. Hence, after the spirit of John Stuart Mill, deliberative democrats must acknowledge that it is possible for a majority to ignore a minority, and this opens the door for legitimating non-deliberative, instrumental strategies by minorities to force majorities ‘to listen’ and re-start a more inclusive deliberative process. In recognising the limits that it is reasonable to assume that power places on ethics, Allen shares a methodological sensibility with Mouffe.

J. Christopher Paskewich explores the arguments of the political philosopher Leo Strauss (1899-1973) concerning a new cycle of regimes for the modern world, just as Plato and Polybius did for the

ancient world. Since the Enlightenment, Strauss describes three primary regimes available to modernity: traditional regimes, liberal regimes, and the universal state (in the manner of the French philosopher, Alexandre Kojève). The cycle begins with the premodern origins of the traditional regime. The particular conventions of this regime act as a compass for determining the best life. According to Paskewich, Strauss ultimately finds that the foundations of modern thought driving this regime cycle are based on a faulty premise: that humans have a choice to leave behind the particular in pursuit of autonomy.

Strauss continues to pit the traditional regime against the other two modern—and secular—regimes. An important question is raised: which of the regimes confronting us today is best for us? To the degree that traditional regimes persist in modern times, it is considered an increasingly archaic and even backward alternative. He admits that the age of small, traditional states has passed. He also rejects the universal state outright. Strauss's ultimate preference for liberal democracy thus represents a compromise of sorts. Though he finds liberal democracy to be inherently unstable, it is at least somewhat compatible with particular traditions (unlike the universal state, which by definition, is incompatible with the particular). He notes that foundations of liberal democracy must be bolstered by the particular, especially if states are to swim against the current that would eventually push them toward the universal state. His regime cycle thus ends with the universal state being aspired to, but never attained. As Paskewich notes, while never explicit, Strauss seems to think the end of the cycle has yet to be determined: will it stay at the universal state, revert back to liberal democracy, or come full circle to the traditional regimes?

Notably the notion of regime cycles for modernity connects with the question of morality and politics in the centrality of particular and stipulative culture to the traditional view of politics. In so doing it anticipates the kinds of arguments made by advocates of cultural politics as well as the often contradictory nature of liberal systems, both themes identified in the paper by Thembisa Waetjen and Gerhard Maré that follows. Indeed, considered together, the two articles raise the question of precisely what relationship between politics and morality is endemic to modernity *per se*, and what is linked to the character of the various modern regimes?

Waetjen and Maré examine the recent trial of ANC president Jacob Zuma, and how gender power was framed in respect to, and within,

the politics of culture. The trial centred on allegations of rape by Zuma of an HIV positive woman many years his junior, who was also the daughter of a former anti-apartheid struggle comrade. All of these details were considered pertinent, not only to the legal debates about whether a crime had been committed, but also to the political debates raging around the nation's key challenges of high rates of sexual violence and the 'denialist' state response to devastating levels of HIV infection. In his public capacity, Zuma had been outspoken about the need for sexual caution and 'condomising'. He outraged health professionals and AIDS educators when he told the court that, after consensual sex with an HIV positive woman, he had acted to remedy the absence of a condom by taking a shower. Meanwhile, many Zuma supporters saw the accusation of rape as politically motivated and as evidence of anti-Zuma conspiracy, citing the complainant's presence in Zuma's house, and her choice to wear a kanga, as cause for believing her to be a 'honey trap'. Expressing this conviction outside the courthouse, pro-Zuma constituents rallied in T-shirts bearing Zuma's face and holding placards with phrases like 'Burn the Bitch'. In visibly smaller numbers, women's rights groups were present on the streets as well, trying to draw attention to the general problem of the nation's extraordinarily high rates of sexual violence and the general failure of the justice system to address cases of rape.

Waetjen and Maré argue that in the fervour surrounding this trial, the burning political question of women's status was continually cast as a private matter: debates about relations between men and women came to be focused on issues of propriety, behaviour and etiquette rather than on questions about rights and power. In short, the privatisation of gender was effected through the politics of culture. Hence Jacob Zuma's portrayal of his sexual actions as neither aggressive nor irresponsible but rather as those prescribed by the wisdom of culture, familiar to him since his youth. He was acting, he claimed, as a Zulu man. And what it meant to act as a Zulu man in such a context was to act with awareness that he was confronting a potential danger which was none other than the nature of women. Waetjen and Maré's concern is not with the validity or non-validity of Zuma's claims, nor the debate about what can be claimed as a cultural norm. Rather it is the political power and masculinist content of cultural claim-making. Hence, women are situated in an ambiguous and painful position in the politics of culture. As culture is politicised as a legal and secular 'right', gender is de-politicised to become a normatively 'private' and 'customary' domain. Asserting the rights of women can come to be

defined as cultural treason. Women who do so risk losing access to resources and important kinds of community over which men preside. This is not merely a South African dilemma, but a dilemma which is concomitant to the social conditions of modernity itself.

As noted, not only do Waetjen and Maré illustrate the often contradictory character of liberalism, but they also point out an inversion of the formal liberal view such that culture becomes affirmed as a public right, whereas gender relations are depoliticised as a private and personal domain. Notably this politics represents a direct inversion of the classic liberal characterisation of the relationship between the public and private and gender and culture. Instead of gender equality being defended in universal terms that have clearly liberal origins it becomes relegated to the private, and the substantive world views of one culture are presented in the language of rights and liberation. Perhaps the very possibility of inverting the liberal idea indicates flexibility that is a clue to the relative durability of liberalism over the rival traditional and universal modern regime types.

Indeed the Waetjen and Maré article is read quite productively with the Roger Deacon/Dirck Coornhert illustration of both the politics of punishment and the evolving social role of punishment. Notably, and this is a point echoed by the final article by Deacon, the relationship between morality and punishment reflects evolving social power relations, often down long periods of historical time. Thus as Deacon outlines, in 1587, Dirck Coornhert (1522-90), a Dutch humanist, wrote and published a short book, *Boeven-tucht*, proposing a means of countering the numerous 'criminal idlers' and 'scoundrel vagabonds' that beset the Dutch Republic at the time. Among other things, Coornhert advocated the confinement of offenders and their subjection to hard but productive labour on public works. Coornhert died in 1590, but six years later, in 1596, a *tuchthuis* or 'house of discipline', known as the Rasphuis in that inmates were required to rasp redwood logs for dye-making purposes, was established in Amsterdam. The Rasphuis proved in many respects to be the prototype of many subsequent institutions intended not merely as responses to crime but also to address much broader social issues like poverty, welfare, health and education.

According to Deacon, the importance of Coornhert's text lies in the fact that it offers a snapshot of these disciplinary techniques at a time when they were as yet only gradually emerging from the monasteries and lay fraternities in which they had been incubated, and before they spread into all facets of modern society. Deacon follows Foucault in contrasting the power of the sovereign as centralised and concentrated

in a few hands, with the power of discipline as dispersed across society, manifesting itself particularly at the level of local and everyday social relations. It is in the space between unmediated sovereignty and full-blown discipline that *Boeven-tucht* is located. It can in this sense be described as a transitional document. The theme of the re-establishment of order through confinement was accompanied by a new sensibility to poverty and social assistance, new forms of reaction to unemployment and idleness, a new ethic of work, and the dream of a perfect city combining moral obligation with civil law. Hence *Boeven-tucht* portrays poverty as the main cause of idleness, and the solutions to the problem of idleness are seen as better surveillance, enforced and useful labour, and a punishment so severe, unrelenting and long-lasting as to be 'more bitter than death'.

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