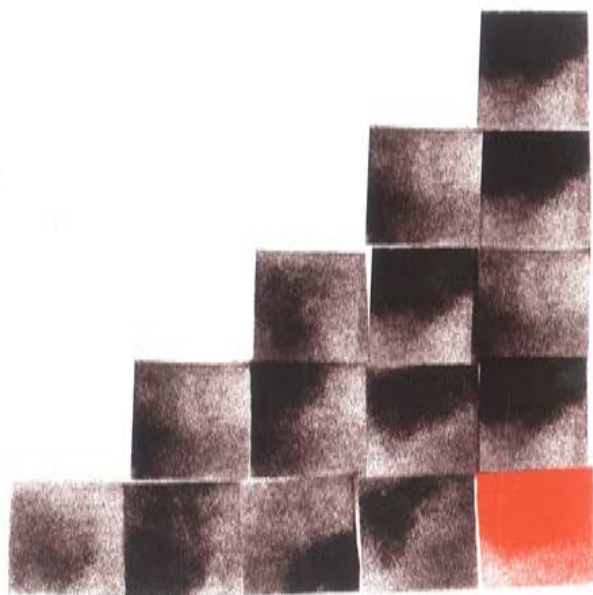


Center of Governance for Civil Society Keio University

Democracy and Governance for Civil Society

edited by Yoshihisa Hagiwara



FUKOSHA

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Foreword

This book brings together the research conducted in the past year by the Democratic Theory Subunit of the Keio University Global COE program ‘Designing Governance for Civil Society’.

The Center of Governance for Civil Society (CGCS) builds and develops upon the legacy of the 21 COE program ‘Designing towards the Ordering of Political Society in a Multi-cultural and Pluri-generational World’, which was led by Prof. Yoshiaki Kobayashi.

The main focus of the 21 COE program was on identifying the multi-layered characteristics shaping citizens’ political attitudes and how these attitudes changed. The CGCS adds a further dimension to this research agenda, namely, analyzing the thought and behavior of the policymaking elites. In doing so, we bear in mind the following two points. First, that the existing theories of governance and radical democracy, being reactions to traditional concepts of ruling and top-down democratization, tend to marginalize the role of the ruling elites, as we can see from slogans such as ‘governance without government’ and ‘grassroots democracy’. As a result, citizen attitude analyses and elite analyses tended to be studied separately from each other. By contrast, our research focuses on the mutually complementary relationship between citizens and elites, for we believe that it is not possible to have a good political society without co-operation between citizens and elites. Secondly, however, it is important to register that people’s identities are shaped by various factors, and that they are multi-layered. Thus, we believe that a sociological approach to the relationship between people and society helps to distinguish our research from institutional theories. It should also be noted that individual identities are not the only things that are multi-layered. As the research of the 21 COE program has shown, there is a multi-layered relationship between the shaping of multicultural worlds, communal identities, or in other words, transnational identities — for example, the EU and ASEAN — and issues concerning citizens’ attitudes on lower levels, that is, the national level, local level, or even the familial or individual attributive level.

While applying the insights of a sociological perspective, we endeavor to uncover the ‘multi-layered structure of governance’ at the local, municipal, the national, and the international levels. In addition to this, we aim to examine the theoretical aspects of governance.

Another important aim of the CGCS is to reform postgraduate education. To this end, we believe that one of Keio University’s mottos ‘hangaku-hankyo’ (mutual education) may be useful. This is a form of education in which students and teachers alike teach and learn from each other by exchanging their ideas. We believe that this is the most appropriate form of postgraduate education to help research students grow as independent scholars. In this sense, we are very glad that we have here, in this volume, contributions by three Ph D candidates.

Ultimately, the CGCS strives to contribute to the study of politics by offering a novel analytical framework of democracy centering on the concept of governance, and also, become a leading educational and research institution of political science that nurtures many internationally active young researchers.

When this program was selected as a Global COE, the Selection Committee commented that ‘the program should endeavor to make clearer the concept of governance’. This book is an attempt to respond to this request. It begins by seeking to combine the concept of governance with the ideals of democracy. The central position maintained in this book is that the collaboration of democratic theory and governance theory may serve as the lynchpin of the development of civil society. The book then moves on to consider global governance and specific cases stemming from it, including just war theories and environmental problems. Furthermore, it addresses the positive and negative roles played by religion and religious groups through historical, theoretical and case study approaches.

Although it has only been two years since the launch of this Global COE program, this book offers a promising start to our project, and will hopefully serve as a springboard for further research.

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Program Leader, Yoshihisa Hagiwara

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1

Concept of Governance for Civil Society: A Critical Assessment

Yoshihisa Hagiwara

1. Introduction: The Rise of Governance: Its Background

The term ‘governance’ has been used in various disciplines in the social sciences such as political science, economics and public administration since the latter half of the 1980s, but its meaning is, as often criticized, ambiguous and has brought more confusion than analytical clarity (Pierre 2000: 14; Chhotray 2009: 3). There is nothing surprising about this situation, for this term has been traditionally associated with ‘government’ by state institutions.

The word ‘*governance*’ or ‘*govern*’ originally derives from the Greek verb κυβερνάω [*kubernáo*], which means *to steer, lead, guide, conduct or to pilot a ship* (Kjaer 2004: 3) and was used in the context of collective societal decision-making by Plato to describe the role of a ruler. It then spread via Latin (*gubernare*) to many European languages. In the 13th century, the French word ‘*gouvernance*’ was used as the equivalent of ‘*gouvernement*’, which meant the way or manner of the governor, and since 1478 it was used to indicate certain territories in northern France, which were granted particular administrative status.¹ On the other hand, it is said that there is no readily identifiable word that signifies governance in the German language (Rosenau 1992: 6). In English, the distinction between government and governance is not so clear: according to James Rosenau, there being sixteen different types of situations in which governance operates as a system of rule (Rosenau 1992: 7).

1 Cf. document on etymology prepared by the European Commission at http://ec.europa.eu/governance/docs/doc5_fr.pdf. See also (Kjaer 2004: 3).

Another reason why the term ‘governance’ has brought so much confusion seems to be an unclearness as to whether this new term is a descriptive concept for explaining certain states of political conditions, or an analytical tool to understand certain modes of society, or still yet a normative concept to describe an ideal goal of political society.

Thus, in this chapter we will begin by surveying the historical and social context in which the concept of governance emerged in order to help us clarify the problem to which this concept was a response.

The concept of governance emerged in works of political science and public administration in the West around the 1990s (Kjaer 2004: 3) as a response to the ‘crisis of the social sciences’ in the 1980s. This crisis can be characterized by the following features:

1. A crisis of governability in the advanced democracies characterized by the decline of turnouts in elections, voters’ distrust of politics, the inability of government to meet people’s demands, increase of citizens’ protest activities and so on.
2. The failure of the World Bank Structural Adjustment in ‘the lost decade’ of the 1980s.
3. The success of neo-classical economics (‘less state, more market’) and the effort to make administration efficient by the way of New Public Management (NPM)
4. The collapse of communist regimes (an end to a collectivist planned economy)
5. The collapse of authoritarian regimes: democratization in the developing countries and the failure of the Westminster model of democracy (parliamentary sovereignty, strong cabinet, responsible politics realized by election, domestication of bureaucracy by the majority party, strong opposition party, principle of the open discussion and so on)

In Japan, the concept of governance was first used by a scholar of public administration, Tsunao Imamura in his treatise, *The Idea of Governance* (Imamura 1994), and in 1996, by Fukashi Utsunomiya who called his new framework on environmental policy towards the 21st century

‘environmental governance’ (Utsunomiya 1996). Given this circumstance, the main theme in the 1998 conference of the Japanese Society for Public Administration was ‘Reform of Japanese Administration: From government to governance’. The following reasons may help us to explain this change in Japanese academia:

1. The government administrative reforms since the 1980s: The Second Ad Hoc Commission of Administrative Reform, under the banner of fiscal reconstruction without a tax increase, can be characterized by 1) its ideal of a medium-sized state through cuts in expenditure, and 2) its trust towards the market and the energy of the private sector (Muramatsu 1999: 77). The direction persistently pursued was to promote the efficiency of the government through promoting small government, decentralization, and transferring power to the market.
2. Changes in methods of government: There was a tendency in both the central and local governments to shift the weight from methods based on ‘authority’ backed up by force to methods based on ‘information’ distribution.
3. The limits of government activities: This became particularly conspicuous in the aftermath of the Great Hanshin Earthquake (1995). In order to mobilize the government, which serves the community as a whole, in the local communities, the consent of the majority of the local citizens is necessary, but this causes the government to lose mobility.
4. The rise of volunteers and NGO/NPOs: The contribution of volunteers and NGO/NPOs were particularly remarkable in the aftermaths of the Great Hanshin Earthquake and the Nakhodka Oil Spill in the Sea of Japan (1997). These events drew attention to a shift from hierarchical organizations to network organizations.

These things considered, we can say the following: From a concern that the traditional system of democratic government was not properly working, the following moves were made, under the slogan ‘from government to governance’:

1. A shift from a centralized to a decentralized model of government.

2. A focus on information distribution as opposed to exercise of power as a method of government.
3. This responsibility is not to be monopolized by the state, but rather shared by the state, the industrial world, and civil society. These private actors will be involved in the process between policy-making to their implementation.
4. The characteristic feature of the principle governing the relationships between the actors is to be organized horizontally as opposed to vertically organized.

2. Development of Governance Theories: A Sketch

The major works on governance started to appear in the 1990s. Early works include James Rousenau's *Governance without Government* (Rousenau 1992), which became a slogan itself, Jan Kooiman's *Modern Governance* (Kooiman 1993) and R.W.A Rhodes's *Understanding Governance* (Rhodes 1997), which primarily targeted British public administration. A work which had a particularly large influence was Jon Pierre and B. Guy Peters's *Governance, Politics and the State* (Pierre & Peters 2000).

According to Pierre and Peters, governance is a mode of developing and implementing collective goals. The most important function of governance is to 'steer' the economy and society and to reach coherent, collective goals (Pierre & Peters 2000: 1-2). They also acknowledge that governance is a confused term and try to conceptualize it under an 'umbrella concept' (Pierre & Peters 2000: 14), which has the following three components.

1. New Public Management (NPM): NPM aims to change the public bureaucracy and remove the obstacles to efficient service delivery. More specifically, NPM includes a) the transfer of private sector management principles to the public sector, b) privatization, c) agencification, d) competition, e) decentralization and f) citizens' empowerment (cf. also Kjaer 2004: 25).
2. Coordination of sectors of the economy, public-private relationship

3. Good governance (participatory system with transparency and accountability)

Moreover, Anne Mette Kjaer proposes a 'new governance'. In the traditional account of governance, the state has a central role and takes a top-down approach in controlling social and economic activities. By contrast, the 'new governance', while preserving the role of state institutions, puts more emphasis on how the state interacts with society (Kjaer 2004: 11). According to Kjaer, the core concepts in governance theory should be legitimacy, efficiency, democracy and accountability (Kjaer 2004: 11).

Parallel to these academic efforts of conceptual elaboration, there are various kinds of 'governance indicators', which are aimed at measuring the conditionality of the developing countries in order to make ODA more efficient. These indicators tend to be, in the course of nature, linked with the foreign policies of developed countries.

For example, the United States Agency for International Development (USAID) proposes the following five conditions in order to further 'America's foreign policy interests in expanding democracy and free markets while improving the lives of the citizens of the developing world'.²

1. Strengthening the rule of law and respect for human rights
2. Promoting more genuine and competitive elections and political processes
3. Increased development of a politically active civil society
4. More transparent and accountable governance
5. Promoting free and independent media

It should be noted here that in this list, governance is distinguished from the problems of provision and maintenance of the democratic institutions such as rule of law, respect for human rights, and establishment of an election system. This 'governance' is also indifferent to the maturity of civil society. USAID seems to be saying that for an American ODAs they

² http://www.usaid.gov/about_usaid/

only need the passing mark of governance and neither democracy nor civil society. To be sure, the pre-existence of democratic institutions and political processes cannot be a necessary condition for expanding democracy to developing countries. Governance in this list is measured by the following five components.

1. Anti-corruption
2. Democratic governance of the security sector (this component is related to military-civil relations)
3. Decentralization and democratic local governance
4. Strengthen legislative function and processes
5. Policy reform through strengthened executive and public sector performance

United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP), on the other hand, defines governance as the process of decision-making and the process by which decisions are implemented (or not implemented) and includes the five conditions of USAID under one single concept of governance. UNESCAP focuses on the formal and informal actors involved in decision-making and implementing the decisions made and the formal and informal structures that have been set in place to arrive at and implement the decision. 'Good governance' has, according to the Commission, eight major characteristics. It is participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law.³

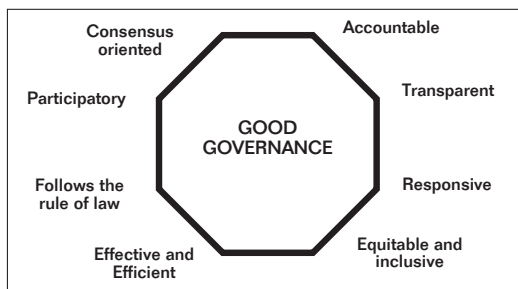


Figure 1. Good Governance in the view of the UNESCAP

Among these efforts to make indicators for international comparison, the Worldwide Governance Indicators project of the World Bank is by far the most comprehensive. These indicators, sometimes referred to as the 'KK-', 'KKZ-', or 'KKM-' indicator define governance as follows. Governance consists of:

...the traditions and institutions by which authority in a country is exercised. This considers the process by which governments are selected, monitored and replaced; the capacity of the government to effectively formulate and implement sound policies and the respect of citizens and the state of the institutions that govern economic and social interactions among them. (Kaufman, Kraay & Mastruzzi, 2009) ⁴

1. Voice and Accountability (the extent to which a country's citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association, and a free media)
2. Political Stability and Absence of Violence (perceptions of the likelihood that the government will be destabilized or overthrown by unconstitutional or violent means, including domestic violence and terrorism)
3. Government Effectiveness (the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies)
4. Regulatory Quality (the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development)
5. Rule of Law (the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, the police, and the courts, as well as the likelihood of crime and violence)
6. Control of Corruption (the extent to which public power is exercised

3 <http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.asp>

4 Daniel Kaufmann, Aart Kraay & Massimo Mastruzzi, Governance Matters VIII 2009. <http://info.worldbank.org/governance/wgi/index.asp>

for private gain, including both petty and grand forms of corruption, as well as ‘capture’ of the state by elites and private interests)

The aggregate indicators are based on several hundred underlying

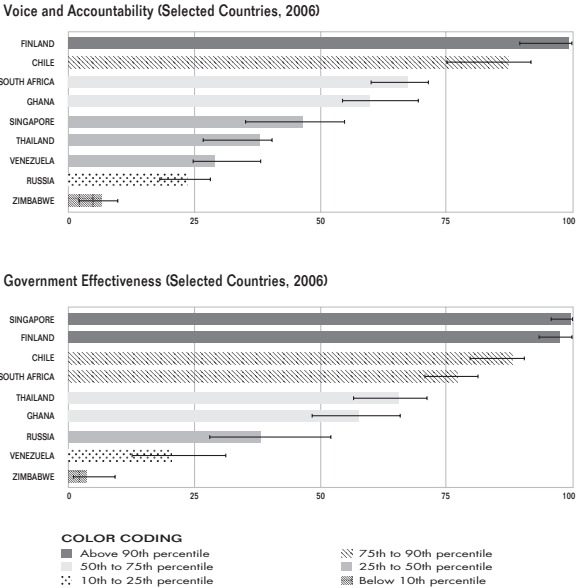


Figure 2. Some results of the Worldwide Governance Indicators

variables that reflect perceptions of a wide range of governance issues. For the 2007 release, for example, the governance indicators are drawn from 33 separate data sets maintained by 30 different organizations worldwide. The data consist of surveys of firms and individuals, as well as the assessments of commercial risk-rating agencies, NGOs, think tanks, and multilateral aid agencies.

3. Critical Assessment

So far, I have surveyed various governance conceptions. In this section, I would like to investigate some problems from a critical point of view.

However, I must impose a restriction on my considerations: Hereafter I will treat the state or government not as an (main-) actor of the governance in order to avoid theoretical confusion, although sometimes it is useful to regard the state as an actor among others, if we will talk about the global governance, where there is almost no supra-national authorities.

1. Neo-liberal Governmentality

How is governance related to government? Concerning this question, there can be four conjectural positions: 1) incompatible hypothesis, which sees governance in opposition to government, 2) instrumental hypothesis, which sees governance as a new instrument of governmental power, 3) complementary hypothesis, which is a position that governance must be complementary to government and 4) transitional hypothesis, which sees the style of collective decision-making in transition from government to governance. The worst combination among them is between 2) and 3).

In my view, the governance indicators, such as Worldwide Governance Indicators of the World Bank, of the USAID and of the UNESCAP tend to adopt the combination between the instrumental and complementary hypothesis, which leads to the emergence of neo-liberal governmentality, which Prof. Tosa, in Chapter Three of this volume, criticizes. In this neo-liberal governmentality, not only the state, but also nongovernmental actors, such as NGOs, international organizations and multi-national conglomerates, play important roles as ‘subcontractors of the state’. As a global benchmarking system, worldwide governance indicators coerce each country to improve its own performance within the given ‘neutral’ scale and reach as high a ranking as possible. If a country cannot or will not meet this demand, it proves itself to be a failed or collapsed state and will be punished (no self-help, no ODA).

2. Placing too much emphasis on economic growth

Many of the governance conceptions tend to be content with efficient outcomes. Leaving aside the incompatibility between some indicators (for example, consensus oriented decision-making may need considerable time and energy and not always be efficient), many of the governance approaches pose some serious problems from a democratic perspective.

First, governance approach poses challenges in terms of democratic legitimacy. Democracy is, in the most standard definition, ‘the continuing responsiveness of the government to the preferences of its citizens, considered as political equals’ (Dahl 1972: 1). Here are two kinds of legitimacy: Input-oriented legitimacy, which poses a question as to whether the opinions of the citizens are reflected in the decision-making, and output-oriented legitimacy, which questions whether the common welfare of the citizens is attained. The governance approach poses questions regarding input-oriented legitimacy, for it admits the development of policy-making largely by the hand of officially unauthorized actors, who are not elected through legitimate political procedures. With regard to output-oriented legitimacy, its position is suspicious. If policies are not conducted by elected officials but rather by the interaction of multiple actors, it is difficult to identify who is to be held responsible for them. Additionally, there is no assurance of the quality of policy-outcomes in the governance approach: Self-interested actors may or may not produce outcomes that serve the common welfare and public interests.

In my view, the concept of governance can fully develop its potential if we combine the first and forth conjecture. I will say more about this in the conclusion.

4. Governance as a Normative Theory

The term ‘governance’ is referred in some governance concepts as a desirable social condition in the name of ‘good governance’. However, this desirable condition has often been identified with the Westminster model of democracy. In the previous section, we have examined the theoretical necessity to ‘steer’ governance in the direction of democracy and civil society, but this democratization and the strengthening of civil society must not necessarily follow the Westminster model.⁵ For what we need here for the redefinition of governance is ‘a double-sided process of democratization’

5 Cf. Lijphart (1999, esp. chap. 2). Westminster model is characterized by a) concentration of executive power, b) fusion of power and cabinet dominance, c) bicameralism d) one-dimensional party system, e) plurality system of elections, f) unity and centralized government and g) parliamentary sovereignty.

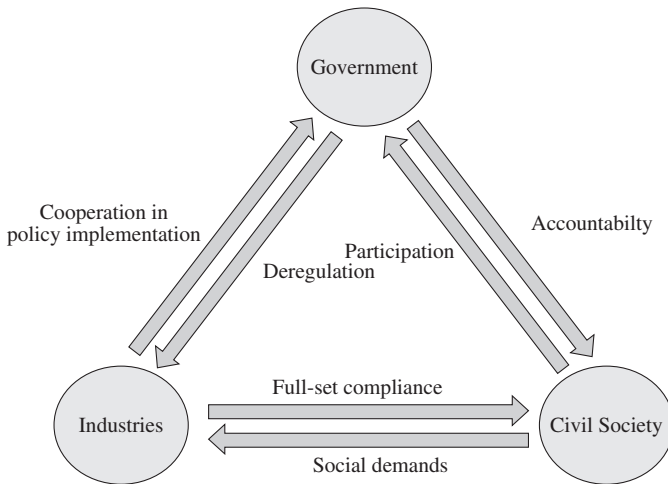


Figure 3. The ideal model of well-functioning civil society

in both political and civil society, as David Held called it (Held 2006: 289).

The following subjects are the problems, which now confront us in such a redefinition.

1. Deepening democracy in (formal and informal) institutions
2. Improvement of performance in public and private institutions
3. Strengthening of civil society
4. Decentralization and strengthening of local autonomy

Figure 3 shows the ideal model of a well-functioning democratic civil society, which consists of cooperation between government, industries and civil society.

In this context, it may be worthwhile to pay attention to the recent development of the Governance Network (GN) approach by the hands of the 'second generation of governance network' (Sørensen & Torfing 2007: 1 and 14).

What is the GN approach? Sørensen and Torfing identify the following five characteristics as the core of their approach. First, this approach articulates a number of private, semi-public and public actors, who, on the

one hand, are *dependent* on one another's resources and capacities, and, on the other hand, are *operationally autonomous*. Second, the members of governance networks interact through *negotiations*. Third, the negotiated interaction between actors proceeds within a relatively *institutionalized framework*. Fourth, the governance networks are *relatively self-regulating*. And fifth, governance networks contribute to the *production of public purpose* (Sørensen & Torfing 2007: 9-11).

At first glance, these characteristics are not at all novel. The difference between the first and second generation of governance studies is in the research agenda of the second generation about new and as yet unanswered questions, including especially the following four questions:

1. How can we explain the formation, function and development of governance networks?
2. What are the sources of governance network failure and the conditions of success?
3. How can inter alia public authorities regulate self-regulating governance networks through different kinds of metagovernance?
4. What are the democratic problems and potentials inherent to network governance?

In our context, we can positively evaluate this GN approach because it tries to tackle the difficult task of the democratic aspects of governance, and to seek the reasons, why some governance models succeeded in state A but failed in another state B. This is important because the traditional concepts of governance tend to conceive their model as an alternative to conventional parliamentary democracy and pay less attention to its failure. And we can always learn more from our errors than successes.

5. Governance and Post-liberal Theories of Democracy

When we want to tackle the democratic problems in relation to the GN approach, we will have to confront another question, about what kind of democratic theory we are talking about.

As we have already examined, the GN approach also cannot easily be

made compatible with standard liberal democratic theory. It will appear rather as a threat to democracy. Various actors, sometimes public and sometimes private actors, enter in the process of governance. How can their legitimacy be obtained? Not only the legitimacy of the actors but also the legitimacy of the decision-making is suspicious. It is also difficult to pinpoint the responsibility for a certain decision. A parliamentary democratic system can endow the election and elected representatives with legitimacy. Informal actors can lead to undermining the legitimate authority of the elected government. And when collective decision-making has been brought into the private sphere of self-interested individuals, it can not only destroy individual freedom but endanger the public interest. There is a danger of invisible self-regulating disciplinary power. Such a model of governance may or may not be effective, but surely is not democratic.

When we see traditional liberal democratic theory as the only one conceivable, we cannot help evaluating the GN approach overly negatively. However, to jump to the conclusion that governance and democracy are incompatible is too hasty, because there are alternative theoretical approaches to democracy in recent years, which can be generally called post-liberal democracy. Among them I will pick out in this chapter 1) deliberative democracy, 2) communitarianism, and 3) agonistic democracy, and examine, how the GN approach can be evaluated from these models of democracy.

1) Deliberative Democracy

Deliberative democracy is a model of political decision-making that relies on citizens' deliberation to make sound policy. In contrast to traditional democratic theory, in which inclusion through participation in democratic processes by voting is central, deliberative democracy theorists argue that legitimate law-making can arise only when citizens come together for discussion in public spheres, where their communication is undistorted by the factors of power and money. This model builds upon the philosophical works of Jürgen Habermas (1992; 1999), as well other political theorists such as Cohen (1989), Dryzek (2000) and Young (2000).

Recently, Archon Fung and Erik Olin Wright (2003) have developed a model of democracy, which they call 'empowered participatory governance

(EPG)'. Their approach is, however, more pragmatic and praxis-oriented than that of Habermas. An EPG orientation is namely based on principles of bottom-up participation, starting with a pragmatic orientation to solve concrete problems. At the same time, it seeks to foster deliberation in which 'participants listen to each other's positions and generate group choices after due consideration' (Fung & Wright 2003: 17). It has also several design properties, including (a) a focus on devolution, but to mechanisms which have public authority, (b) coordination and supervision by a strong central body to insure quality and to diffuse learning, and (c) an attempt to harness state power (Fung & Wright 2003: 20-23). Finally, the EPG approach also recognizes the importance of countervailing forms of power, which help to open public spaces in order to protect them from existing power-holders.

This EPG approach to democracy may not be so incompatible with the GN approach because the GN approach a) also seeks solutions to specific concrete problems, b) tends to foster bottom-up participation, and c) provides spheres of public deliberation between autonomous and mutually dependent actors.

However, there are some dangerous moments in the GN approach for deliberative democracy: There are still possibilities to cause situations where specific stake-holders can be systematically excluded from GN and few actors with strong debating ability can dominate the networks. There is also a utopian 'invisible hand' aspiration in the GN approach which might lead to fragmentation and atomization of the political process.

2) Communitarianism or Civic Republicanism

A key question to the theory of deliberative democracy is, how can public deliberations lead to a consensus among the people of different thoughts Amitai Etzioni, one of the leading American communitarians, argues that consensus is possible insofar as the community members share the common values of that community. He believes that the preservation of individual liberty and human rights depends on the maintenance of well-integrated communities. In this sense, contemporary American society has, in his view, overvalued individual rights, so much that they should be curtailed (Etzioni 1993). He also proposes to limit identity politics, which

tends to stress group differences and endanger cooperation within a community.

Quite the contrary to Etzioni, Michael Sandel, another leading figure of the American communitarians, denies the notion that democratic political process presupposes a homogenous community. Sandel states that self-government today 'requires citizens who can think and act as multi-situated selves. The civic virtue of our time is the capacity to negotiate our way among the sometimes overlapping, sometimes conflicting obligations that claim us, and to live with the tension to which multiple loyalties give rise' (Sandel 1996: 350). Communitarians, often referred to as civic republicans, tend to define citizenship as political activity: 'Within civic republicanism, citizenship is an activity or a performance or a practice, and not simply a status, so that not to engage in the practice is, in important senses, not to be a citizen' (Oldfield 1990: 5).

As long as the GN approach tries to bridge together communication coordination, negotiation and cooperation between citizens, it can contribute to enhancing such citizenship and to increasing citizens' public engagement. However the GN approach can pose a threat to this kind of democracy. It can marginalize certain communities and identities in a systematically structured way. It can produce the empowered and engaged few and the disempowered and disengaged many. The relatively loosely coupled nature of the GN approach may or may not cultivate civic virtues.

3) Agonistic democracy

In the theory of agonistic democracy (often referred to as agonistic pluralism), politics is understood not as a consensus-making process, but rather as a continuous struggle against a fixed, uniform order. Theorists like Chantal Mouffe stresses the potentially positive aspects of certain forms of political conflict, which is not so radicalized between *friend-enemy* relationship as Carl Schmitt once formulated, but rather the agonistic contest between *adversaries*, who have accepted common rules of contestation (Mouffe 1993; 2000; 2005). In an interview, Chantal Mouffe defines her model of democracy as follows:

I use the concept of agonistic pluralism to present a new way to think about

democracy which is different from the traditional liberal conception of democracy as a negotiation among interests and is also different from the model which is currently being developed by people like Jürgen Habermas and John Rawls. While they have many differences, Rawls and Habermas have in common the idea that the aim of the democratic society is the creation of a consensus, and that consensus is possible if people are only able to leave aside their particular interests and think as rational beings. However, while we desire an end to conflict, if we want people to be free we must always allow for the possibility that conflict may appear and to provide an arena where differences can be confronted. The democratic process should supply that arena.⁶

According to Mouffe, genuine politics doesn't take place without an agonistic ethos. In this sense, mere legalism or constitutionalism lacks an antagonistic energy for politics. In contrast to the communitarian position, the public sphere shall be fostered not by nostalgia for community (communal ties, claims for belonging and so on), but by seeking for a vital arena for an open-ended future.

This means, to be sure, to renounce the possibility of a unanimous consensus and the formation of a homogenous collective will, to which deliberative democracy aims. There is no idea of the 'good life', to which all rational people can consent. Rather, we have to acknowledge the contingency and ambiguity of the agonistic outcomes of hegemonic struggles, segmentations and oppositions, because disagreements, deviations, and contradictions to the 'truth', necessity, normality and 'goodness' have an innovative energy. Thus, agonistic pluralism lays a foundation for us to seek for well-being of humanity beyond our own happiness: a foundation for the care for the world, for *amour mundi*. Conventional democratic theorists and also Carl Schmitt have required national homogeneity for the solid foundation of democracy. And if this requirement can be fulfilled only through the exclusion of the heterogeneous, the agonistic model of democracy can offer an alternative model to democracy.

6 Hearts, Minds and Radical Democracy: Interview with Ernesto Laclau and Chantal Mouffe by Dave Castle. <http://www.redpepper.org.uk/Hearts-Minds-and-Radical-Democracy>

This model of agonistic democracy has the closest affinity with the GN approach, because it also tries to involve a plurality of various actors for widening the scope of discursive contestation, and because it aims at overall politicization as an integrated part of the policy process. The problem is, whether the GN approach can succeed in transforming antagonistic relations into agonistic relations, *enemies* into *adversaries*; otherwise it will go beyond it and transform agonistic disputes into rational-technocratic problem-solving.

6. Conclusion

I have suggested in section three that we should regard the relation between democracy and governance as in the incompatible (or better; not always compatible) one. In other words it may be better to say that democracy is now in a transition to the democratic governance. In this conclusion I would like to examine this shortly.

1) As *forma imperii* democracy means ‘government of the people by the people’ and the people is the One

It is well-known that Immanuel Kant admonished in his *perpetual peace* the confusion of the form of sovereignty in the state (*forma imperii*) with a form of administration (*forma regiminis*) (Kant 1795: 351-2). There are only three forms of *forma imperii* possible: The sovereignty may be located in an autocracy (i.e. Monarchy), an aristocracy, or a democracy. This is a distinction according to the difference of the *persons* who hold the absolute authority in the state. If there were legal rights against the sovereign, they must be capable of enforcement against him, but this could be accomplished only by somebody who can coerce the sovereign. Such a body would, however, be the true sovereign, or further limited by some still stronger power. The series of limitations must end at some point, if you want to avoid the infinitive regress and here appears the unlimited and illimitable sovereign of the state. In this sense we can say ‘Monarchy, aristocracy, and democracy are nothing else than forms of management of the One’ (Negri 2006: 173). When Antonio Negri defines governance as the ‘attempt to inscribe social conflicts and administrative

procedures within the specific, punctual, and singular mediations of sovereign power’ (Negri 2006: 181) and finds in the concept of governance a possibility to resist against the government, he believes that this One cannot conserve multiplicity (Negri 2006: 184). While ‘the constitutional political form of democracy is theorized as a function of the One and as a mystification of multiplicity’, Negri seeks for ‘the possibility of a *soft*, continuous transition from the conception of democracy [...] to the exercise of democracy as a practice of the common’ (Negri 2006: 175). Thus he understands governance as the practice and exercise of constituent *potentia* of the multitude. However we can understand this mode of democracy from another perspective, using the words of Lincoln’s at the Gettysburg Address (1863) as ‘government of the people by the people’. Modern democracy has introduced election system and representative democracy in order to create this ‘people’, this One. For that reason we should always ask ‘our’ government about its legitimacy.

2) As *forma regiminis* governance means ‘government of the people for the people’ and who bells the cat?

As *forma regiminis*, that is, as form of administration, Kant understood only two kinds: republican or despotic. We can say now that various concepts of governance doubtless aim at this republican moment and that is ‘government of the people for the people’. But who can monitor this politics for the people, for the governed? Who is the supervisor to the

Democracy is government of the people, by the people, for the people
Its possible combination

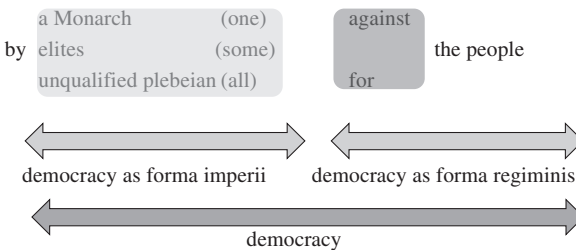


Figure 4. Relation between forma imperii and forma regiminis

One decision, thorough many opinions

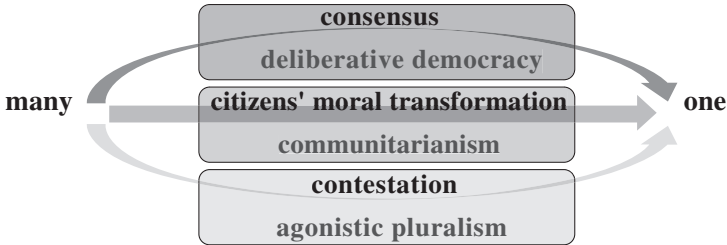


Figure 5. Form of management of the One in various democracy conceptions

sovereign power? Against those who proclaim themselves the protector of our well-being or the 'tribune', we should have any time the right to say, 'No thank you. Mind your own business!'

How can we manage to make this democratic principle (government of the people by the people) compatible with the republican one (government of the people for the people)? If we take the democratic principle literally, we should submit every political agenda to the national referendum and majority rule, but is this really the best way for the people?

On the other hand, governance arguments tend to prefer the principle 'for the people'. This easily leads to the notion that a certain group (usually from experts and specialists) who know better how matters stand, can promote the well-being of the whole society and implement a policy for the people. Democratic governance theory is on the way to fulfill this difficult task, to make by-the-people principle compatible with for-the-people principle.

Exactly cited, Lincoln's words were as following: 'government of the people, by the people, for the people, shall not perish from the earth'. He was wrong, because such a democracy never existed on the earth. Not yet.

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2

The Art of Governance: Performance, Legitimacy, and Trust

Ryuichi Yamaoka

1. Introduction

The idea of ‘governance’ has been becoming a part of our ordinary language, at least that of social scientists. A prominent example is the term ‘corporate governance’, which seems to be gaining an established status in the university curriculum today. Another famous example is the frequent usage of ‘good governance’ by international institutions like the World Bank or IMF.

The deliberate employment of the idea of governance indicates an idea which is *not* used, and that is apparently ‘government’ or ‘management’. Both words imply a hierarchical order, which contemporary users of the idea of governance consciously or unconsciously try to avoid. Indeed, the idea of governance is certainly loaded with some normative or utopian connotation. This is obvious when we compare the idea of ‘global government’ with that of ‘global governance’. The former is usually considered not only unfeasible but undesirable, because it would become a certain kind of tyranny, while the latter is usually welcomed as a future vision of global order. Given the fact that originally both words are almost interchangeable, this distinction in social image is so interesting as to be worth close examination. Perhaps, this is a task for linguists or sociologists, but the force that the image of a normative concept has is an important topic for political theorists as well.

A brief visit to recent governance discourse¹ shows that this idea is a typical game for investigation of philosophers or historians of ideas. As is often the case with an important, popular and normative idea, the idea of governance is so elusive as to need some careful clarification. It has

different meanings in different contexts, even among those who are engaged in the same academic discipline. The meanings of governance are partly descriptive, and partly normative, and what is worse, it seems to me, some users of this word deliberately enjoy this compound of descriptivity and normativity, and regard it as a virtue. So that we sometimes find difficulty in understanding whether what is told is a fact or norm in governance discourse.

Against this linguistic background, one approach which I will not adopt is Kjaer's. Her book, *Governance*, is indeed concise and useful, but her attempt to seek out the *core* concepts in a variety of usages of the word does not seem promising. If we take the complexity of the meaning seriously, any attempt to pin down 'the core' tends to be arbitrary. The core seems to be as such, only because of a certain interest which the observer of the usages happens to embrace. We should rather try to articulate the family resemblance of the usages so as to enhance our command over our language use. We should be pragmatic. Therefore, our attempt of articulation should be strategic.

2. Governance and the State

My strategy is to situate governance discourse in relation to the idea of the state. This is surely a reasonable way, because one of the reasons of the advent of this discourse is the recent phenomenon concerning the so-called decline of the state. In political science discourse, we can find a rise and fall of the idea of the state (Dunleavy and O'Leary 1987). At the beginning of the 20th century, the idea of the state occupied a central status, and this tendency was enhanced by the failure of the market, i.e. the social disorder brought by the Great Depression of 1929. However, the idea of the state began to wane in the middle of the century because of the dominant methodological trend in American political science, namely the behavioral

1 Convenient surveys of the idea of governance we can find in two books; Kjaer (2004), and Bevir, (2009). There is a massive amount of literature, so, to tell the truth, my list below is very selective (even arbitrary). Pierre and Peters (2000); Pierre and Peters (2005); Pierre (2000); Bentz and Papadoulos (2006); Rhodes (1997); Kooiman (1993).

revolution. After that, there were some revivals by the Marxist approach in the 1960s and 1970s, and American political scientists in 1980s. However, the end of the 20th century and the beginning of the next century saw a remarkable decline of the idea of the state, the symptom of which we can remarkably find in the popularity of the new right ideology and the New Public Management (NPM). Of course, the most important key concept in this context is globalization, which many argue is the main cause of the decline of the state. By globalization I mean the general phenomenon caused by the extremely rapid change or development of technologies in communication and transportation at a global scale which results in the advent of the interconnectedness between far distant affairs. Globalization is a slippery idea, so we should be careful in its use for the explanation of another slippery idea of governance. All we have to make sure of at this point is that globalization sometimes is attributed to the very cause of the difficulties which modern states must face in their activities of controlling its environment in both internal and external senses.

It is certain that the idea of governance emerged in an attempt to explain how modern political agents, including state government, try to adjust themselves to the changing environment, with more and more dispensation of the traditional governmental equipments. Here, I would like to articulate the meanings or images of governance which we would encounter in contemporary governance discourse by contrasting them with those of government. If we make a rather caricaturally simple contrast, it would be as follows: On the one hand, the idea of government invokes the image of hierarchical, command and order style of governing with fixed priority of values determined by the central authority and with the ultimate institutionalized power of arbitration over the conflicts within its domain. Among this image exists the concept of sovereignty which is the very characteristic of the modern state. On the other hand, the idea of governance invokes the images of networks, consensus, and bargaining as a means of constituting a transitory harmony without the exercise of formal, institutional and unilateral power. Another image of governance is the dissolution of the distinction between the public and the private; governance is considered to erode spatial distinctions so as to accomplish the desired collective goals. As the phrase 'governance without government'

indicates, governance is a broader concept than government, and governance is sometimes considered to be antagonistic to government.

However, as I already mentioned, the idea of governance is slippery, so it is misleading to exaggerate the antagonism between state government and governance. For many governance theorists, institutionalized national government is a major, even indispensable, element of governance. Considering this point, among numerous interpretations of governance, that of Pierre and Peters seems to be promising.² Therefore, from now on, I will mainly rely on their conception of governance in this paper. What is then the point of Pierre and Peters's approach? They particularly regard governance as primarily a dynamic relationship between state and society. Although in an older book, they called their own approach 'state-centric' in the sense that in spite of its decline state is still 'the centre of considerable political power' (Pierre and Peters 2000: 12), in a recent book they stress the mutual balance between the two. 'Understanding governance', they insist, 'is basically a matter of understanding the nature of the state-society relationship in the pursuit of collective interests' (Pierre and Peters 2005: 6). Pierre and Peters then give us quite useful ideal types concerning governance, which are located in a continuum of understanding over the state-society relationship (Pierre and Peters 2005: ch.2). The continuum consists of the two extreme poles which express the strength of state and society; the right pole can be called state-absolutism, while the left one anarchist. Pierre and Peters locate five models in between these two extremes: (1) *Étatiste*, (2) Liberal-democratic (3) State-centric, (4) The Dutch governance school, (5) Governance without government. The far right is of course the *etatiste* model, which would usually remind us of the French government — however, care must be taken that it is an ideal type after all. The liberal-democratic model denotes the most standard understanding of government usually accompanied with a pluralist model of politics. By the state-centric model, they mean what is called corporatism, which contains both state-centric models of corporatism (Schmitter 1974), and 'corporate pluralism' (Rokkan 1966). The Dutch governance school model represents the products of certain research groups which are

2 See note 1 above.

inspired by Dutch politics where autonomous civil societies are strong while the state is said to be steering at a distance. Finally, the governance without government model refers to rather idealized or theoretical models which typically feature the concept of networks while minimizing the importance of central governmental control (Rhodes 1997).

The idea of governance can cover all of these five models, although the sphere to the left of (3) is the main materials of the recent governance discourse, and perhaps (4) should be the most interesting subject of investigation. However, utility of the five ideal types consists in that governance theorist can employ all of them according to his or her own context. It is not necessary to pin down the core meaning.

Moreover Pierre and Peters add to this intellectual tool another illustration of governance; that is the multilevel governance (MLG) model (Pierre and Peters 2005: ch. 5). This is a noticeably well-known phenomenon concerning the relativization of national government in the context of globalization. The most typical case is the complicated power structure of the EU, where multiple layers of political agents such as local, regional, national and transnational governments interact rather independently. The picture of MLG nicely depicts a characteristic aspect of governance.

The joint outcome of globalization, decentralization, deregulation, and agentification has been erosion of traditional bases of political authority. Furthermore, although democratic government still resorts to its traditional institutional setup, contemporary governance seems to bypass or ignore traditional definitions of authority: the realities of governance seem to escape the boundaries of the nation-state. (Pierre and Peters 2005: 90)

3. Governance and its Problems

Another, and perhaps the most apparent, benefit which Pierre and Peters provides us is that they properly identify the theoretical puzzle contained in the phenomenon of governance; that is, the problem of legitimacy and accountability (Pierre and Peters 2005: ch.7). Let me represent their argument for this issue in a thumbnail sketch below.

According to Pierre and Peters, one of the remarkable characteristics of the shift from government to governance is the elevation of the importance of performance. This is particularly true of NPM, which is supposed to contribute the efficiency of public service by introducing marketization and corporate management into public service bureaucracy. Although the assessment over its success is still unclear, the main ideas and techniques involved in NPM — ‘management by results, performance measure, value for money, and closeness to the customer’ — are well-known as constituting a typical picture of contemporary public administration (Bevir 2009: 10-12).

NPM is but one important element of new governance, which can be considered an attempt by the modern state to come to terms with the new social environment. In the heyday of western welfare states in the 1960s, there was already the worry of overloaded government. That is to say, the very success of large, strong executive government promoted much more demands from society than its own administrative capacity. This tendency was accelerated by the populist bent of competitive political parties which promised the public more than the government could actually do in order to win elections. The results were twofold: the legitimacy crisis of the state on the one hand, and the sense of ungovernable society on the other. The sense of ungovernability was then strengthened by the structural changes of late-modernity, some of which were the results of the impact of globalization.

With regard to the legitimacy crisis of the state thus understood, we can identify at least two conceptions of legitimacy at hand. In order to clarify the problem, let me temporarily examine the concept of authority, which bears a close resemblance to that of political legitimacy. When we say, for instance, ‘He is an authority of fishing’, the idea of authority demonstrates certain excellence in performance. It is the concept which points to the place of expertise. However, when we deal with a kind of performance which is difficult to evaluate promptly, the function of the idea of authority should be different. This is the case with political performance in general. The meaning of political performance is usually controversial, for example in the choice of its goals, the means of implementation, and the methods of evaluation of its results. Authority can be utilized to resolve

such indeterminacy by appealing to the pre-existing consensus about the way to terminate controversy.³ So we can find two conceptions of authority; one is substantive, the other is formalistic. Employing this substantive/formalistic dichotomy, we can say that the legitimacy at issue in the problem of the overload state is surely substantive in kind.

The advent of governance can be considered to be an answer to the legitimacy crisis of this sort because it is its excellence in performance that is the attractiveness of governance. However, Pierre and Peters identify a serious problem in this answer; that is the problem concerning the legitimacy of the exercise of political power. No matter how NPM prides itself of its expertise and efficiency, as a matter of fact it will bring about a result of certain kind of power exercise which may not be legitimized by some political (i.e. democratic) mechanism. Considering that modern governance frequently mobilizes the private sectors in its performance, this problem of legitimacy is very serious. Another problem Pierre and Peters detect is that of incoherence. 'In the NPM', they insist, 'the emphasis is on the performance of individual civil servants and/or their organizations, with little or no concern about the cumulation of that performance, or indeed about its integration across the range of interconnected organizations within the public sector' (Pierre and Peters 2005: 127). The other problem Pierre and Peters identify is the lack of responsibility. The state analyzed in governance discourse is sometimes called 'the enabling state', which means that the state today exercises its control over society more and more through indirect ways: 'the state now attempts to capitalize on, and to coordinate, resources controlled by a wide variety of actors, and to employ those resources in the pursuit of collective goals for the society' (Pierre and Peters 2005: 128). As a result, the attribution of the responsibility of a failure in policy or performance, that is to say, the identification of the most

3 The most famous example of the formalistic conception of authority is Hobbes's argument for authorization. According to Hobbes, authority of the state consists solely in the delegation of natural rights to the state by the men in the state of nature. The content of performance of the state is irrelevant for the authority of the state. The authority of the modern liberal-democratic state is, as I understand, the reconstruction of this Hobbesian idea into the one which seems to be more accountable to the public in one way or another.

responsible political agent, becomes more and more difficult.

These problems can boil down to the problem of accountability. Conceptually speaking, this is a quite natural result, because the invoking of governance originated from the task of overcoming the legitimacy crisis in the substantive sense. In this context, this attempt was exercised at the expense of the legitimacy in the formalistic sense. According to H. Pitkin, the idea of accountability is a formalistic explanation for the concept of good representation; it is 'formal and empty of substantive content'. 'For the accountability theorist', Pitkin holds, 'a representative is someone who is to be held to account, who will have to answer for what he does. The man or men to whom he must eventually account are those whom he represents'. Accountability concerns the formal relationship between two agents, representatives and those represented. Holding to account means to be subject to elections (Pitkin 1967: 55-56). Indeed, our conception of accountability in politics has been closely intertwined with the accountability mechanism which is embedded in the representative government of liberal-democratic state. Let me quote a famous account of the political accountability.

Governments are 'accountable' if citizens can discern representative from unrepresentative governments and can sanction them appropriately, retaining in office those incumbents who perform well and ousting from office those who do not. An 'accountability mechanism' is thus a map from the outcomes of actions (including messages that explain these actions) of public officials to sanctions by citizens. Elections are a 'contingent renewal' accountability mechanism, where the sanctions are to extend or not to extend the government's tenure. (Prezeworski, Stokes, and Manin 1999: 10)

If our conception of political accountability is hard to tear away from the idea of accountability mechanism, the problem of accountability in governance is hopelessly difficult to solve because we will find the virtue of governance outside such a mechanism.

4. The idea of *Gubernaculum*

Let me tackle this problem by taking a roundabout course. I would like

to reexamine the very idea of governance from the perspective of the history of ideas so that we might come up with some theoretical insights to cope with the problems. Etymologically, governance comes from the medieval Latin *gubernaculum*, which originally means ‘the holding of the tiller’, that is, ‘piloting’. In the political and constitutional discourse in medieval Europe, the idea of *gubernaculum* signifies ‘the act or manner of governing’, with the contrast to the idea of *jurisdictio*, which means ‘the saying of the law’.⁴ *Jurisdictio* of course relates with the idea of jurisdiction, so that *jurisdictio* might refer to a territory or to a particular set of people. As the metaphor of the ship of state is as old as the ancient Greek political thought, *gubernaculum* — activity of a helmsman — means those powers or authorities to decide or to act which belong to a ruler.

Schematically speaking, *gubernaculum* represents an open-ended aspect, and *jurisdictio* represents limited aspect of a kingship. In respect of the rights of *gubernaculum*, a king is not bound by law; *gubernaculum* is an enabling concept which gives a king discretion which is indispensable for such political activity as diplomacy. Naturally, these two concepts of power can conflict each other. Oakeshott explains the problematic relationship between the two in the following way.

(1) That a ruler denied the rights of *gubernaculum* would be ill able to deal with the emergencies of politics and ill equipped to guard the interests of the realm.

(2) That a rule in which *jurisdictio* was constantly being invaded by *gubernaculum*, a rule in which a king constantly governed on the edges of the law, appealing always to his personal, gubernatorial, ‘prerogative’ rights, would constitute a serious breach of the notion of medieval kingship (Oakeshott 2006: 321).

According to Oakeshott, the politics of the modern European state was created in a way which compromised these two concepts in favor of *gubernaculum*. As the law-making activity i.e. the legislation became an

4 My understanding of the idea of *gubernaculum* is based upon, McIlwain (1940), Pocock (1975), and Oakeshott (2006).

everyday affair, such an activity came to belong not to *jurisdictio*, but to *gubernaculum*. The invasion of *jurisdictio* by *gubernaculum* became a matter of course. A distinctive feature of modern state is the priority of the policy over the existing laws. 'A modern state is a 'policy' state; and this, in its extreme, is a 'police' state' (Oakeshott 2006: 368).

We can understand this aspect of the modern state as its adaptation to the environment. In early modernity, European states had to cope with the restructuring of the political order against the background of constant wars, both external and internal. What was indispensable then was statecraft, an art of governing contingencies. According to Pocock, '*gubernaculum* was in the last analysis a craft rather than a science'. And the 'pure *gubernaculum* was pure mystery'. As a result, early modern kingship suffered from a legitimacy 'crisis' — at least from the medieval points of view.

Since the king was charged with this terribly difficult task, he enjoyed an authority analogous with or based upon that of God's providence; since, too, there were points of contact between it and what was done in councils and courts of law, there were moments when the king, face to face with his counselors or his judges, might speak 'as the roaring of a lion', with the terrible and quasi-divine authority of *gubernaculum*. (Pocock 1975: 28-29)

This is the problem in which 17th century English political debates actually engaged themselves. In the Revolution of 1642, how to tame the king's prerogative, that is *gubernaculum*, was the most serious problem for the constitutionalists in the parliament. English lawyers tried to bound the king's *gubernaculum* by demonstrating that the king was charged with the business and welfare of the kingdom; the famous Ciceronian tag, *salus populi suprema lex*, was frequently cited. However, even this principle could justify the policy exercise of the king after all. Seventeenth century England saw the attempts by the parliament to plunder the right of *gubernaculum* from the king so as to establish the sovereignty of the parliament (Weston and Greenberg 1981). This is an important episode of taming governance in the history of modern state building.

5. Locke on the Prerogative

Here I would like to pick up Locke's argument for government/governance. There are sensible reasons why we had better go to Locke's texts in this context. Given that we can regard his argument in general as liberal, Locke's theory of government is characterized by its lack of an accountability mechanism. Historically, this is a matter of fact because Locke lived before the construction of the liberal-democratic state. However, his silence regarding a constitutional mechanism is peculiar compared to his contemporaries like Sidney, Tyrell, or Harrington. And although it is not well known, Locke was an expert on statecraft literature. Despite the fact that Locke does not mention Machiavelli in his *Two Treatises of Government*, his library contained many volumes of this teacher of statecraft (Harrison and Laslett 1971).

In spite of the common image of Locke as a champion of constitutionalism, he justifies the vast discretionary power of the prerogative in his *Two Treatises of Government*, where he nonetheless insists that the legislative power is 'the supreme power of the Commonwealth' (Locke 1988: II.94).⁵ Locke defines the prerogative as 'nothing but the power of doing public good without a rule' (II.166). The prerogative is, therefore, the supreme executive power able if necessary to overwhelm the limits of the standing laws. It is, nevertheless, not an arbitrary and unconstrained power. What Locke considers a limitation on the power of the prerogative is not the laws enacted by parliament, but the *trust* that the people place in the prince for the public good of the community (II.163). The laws cannot prescribe everything that will happen in the future. The discretionary power of the executive, therefore, is indispensable for any government, which needs the art of attending to the unpredicted. This kind of art is not demonstrable from the principles of

5 About the context of Locke's argument for prerogative, see Tarlton 1981 and Skinner 2009. According to Skinner, many of Locke's contemporary republican (i.e. democratic) thinkers denied the legitimacy of the existence of the prerogative power itself. 'It needs to be emphasised that what theses writers abominate is not the misuse of discretionary power but its mere presence within the constitutional fabric of any legitimate state' (Skinner 2009: 121).

rights.

The concept of trust bridges the constitutional and prudential parts of politics. The truster puts trust in the trustee on the ground that the latter has special skills and power to accomplish the good of the former; the people trusts the prince because he is 'a good prince' who has 'power to good'. In other words, 'a weak and ill prince' does not deserve the trust (II.164). Therefore, although the prerogative is a limited power, it should not be weak. Not only the power of the prince but also of the legislative, that is to say, the power of a government as a whole (i.e. governance), is dependent on the trust, and when the government breaches the trust, it becomes a tyranny, and the people can and should make an appeal to heaven, i.e. revolution (II.168, 222). The government is responsible to do good for the people. In a sense, trust is a technique. It is an act of judgment which is different from an art of government which the ruler is supposed to own; it is an act of judgment concerning the public good in general. The people, Locke assumes, can make right judgment about the nature of the public good, because they are supposed to be able to detect the breach of the trust. If we employ the contemporary usage of the concept of governance, the art of government by the ruler and the art of judgement by the people compose the art of governance.

When Locke says that 'people shall be judge', he means community by the people, not the mere aggregation of individuals; the judgment is collective. This however does not mean that the people in the original state of nature can make such a judgment. The 'people' in this context does not remain in that state; they already belong to a particular commonwealth. Once commonwealth is established, the people cannot voluntarily return to the state of nature (II.121). And one or a few persecuted men's opinions would not become an appeal to revolution, unless the majority of the people could be persuaded that there is a breach of the trust in the government (II.208-9). Locke therefore presupposes a kind of public discourse among the people.⁶ The people's judgment is not a collective impulse of their wills,

6 However, we should be careful of the fact the member of 'the people' are considerably limited in number according to Locke's standard of citizenship which is based on the property ownership.

but a collectively reasoned will.

6. Conclusion

As a conclusion, I would like to derive some suggestions for the legitimacy crisis of governance from my interpretation of *gubernaculum* and Locke's argument. There are three points. Firstly, it is true that the origin of the contemporary problems of governance springs from the structure it happens to take at present, but it does also from its very nature. Governance is *gubernaculum*, and the predicament of modern politics is the continual attempt of taming *gubernaculum* which has always been trying to escape from the net of *jurisdictio*. The advance of modern technologies seems to be advantageous to *gubernaculum* rather than *jurisdictio*, for the time being at least.

Secondly, although the standard strategy of taming in the liberal-democratic state is the construction of various kinds of institutions which restrict *gubernaculum*, Locke's answer is rather different. Against the art of governance, Locke matches the *art* of trust. What are necessary from Lockean perspective are the institutions or cultures which would cultivate the trust between the governor and the governed.

There are at least two arguments in this interpretation of Lockean politics. First, although it is usual for modern constitutionalist liberals to appeal to some conception of rights in their attempt to restrict the activity of *gubernaculum*, there is a good reason for us to avoid this approach. It is true that Locke's theory contains certain appeal to natural rights, if we employ his arguments for natural rights in our interpretation of his attempt of justifying the prerogative power, it would result in the moralization of Lockean politics. That is to say, if we understand Locke's justification for prerogative power as a direct deduction from his theory of natural law, it would mean that 'Locke sees the law as a set of instructions for performing the right actions' (Letwin 1988: 22). This is indeed a defensible interpretation. However, it is possible to detach Locke's argument for trust from that for natural rights (cf. Dunn 1990), and my interpretation of Lockean politics of trust can be sustained without full reliance on the normativity of moral rights.

Second, the appeal to the concept of trust has a great advantage in our treatment of governance as an art. Trust is the concept which both constrains and augments the activity of governance at the same time. This duality of the concept is important, because what is at issue here is how to place effective restrictions upon governance without sacrificing its good performance. According to Onora O'Neill, the contemporary culture of accountability and audit — arguably the latest mechanism of constraining the professional performance — tends to put unnecessary burdens on the activities of professionals and public institutions so much so that the accomplishment of their expected and proper aims might be impeded. 'In the end', O'Neill says, 'the new culture of accountability provides incentives for arbitrary and unprofessional choices' (O'Neill 2002: 56). What is necessary is not the culture which generates the mistrust, but the culture which develops the trust among the phenomenon of governance.

As a third, i.e. final suggestion, care must be taken about the fact that Lockean politics of trust is buttressed by the possible appeal to heaven by the people. The image of 'the appeal to heaven', it seems to me, is quite suggestive for our understanding of governance. If the lack of accountability mechanism is the part of the problem, what is needed is to give a chance of appealing to the oppressed. It might be nice if we can construct certain mechanism of objection or contestation for the people in governance. There is one thing very important in this proposal. The appeal of objection, I dare say, should be distinct from the input mechanism of governance; it should remain external to the governance, otherwise, the appeal of objection would easily melt into the amorphous sphere of governance. By stressing this point of externality, I hope to bring back the political into governance, because I believe this is a good antidote to the utopian slumber of governance supporters.⁷

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7 If what governance provides us with is good performance, those who sincerely protest against it can be called evil. This distinction between good and evil is a moral category, which should be distinguished from a political one. Cf. Schmitt (1976).

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Neoliberal Governmentality and the Politics of the Governed¹

Hiroyuki Tosa

1. Introduction

While neoliberal global governmentality promotes the homogenization of self-improving subjectivities at the global level through its networked powers and benchmarking system, it also promotes the politics of exclusion by targeting deviant groups in the periphery. This highly disciplinary social control of the marginalized population sometimes leads to a state of exception where the people have to endure bare lives as *homo sacer*. Here we should pay an attention to the way in which the global governance based upon the neoliberal governmentality creates an informal sector at an enormous scale, which leads to a failed governance in which vicious cycles of violence becomes normal. In addition, the failed governance as a threat is not only a politico-economical byproduct of neoliberal globalization but also an indispensable symbolic supplement for the liberal peace order. In other words, while the neoliberal governmentality resonates with the state of exception at a semiotic dimension as well as at a materialistic dimension, it promotes securitization of the risky groups in the marginalized periphery.

For purposes of explaining the fact that the neoliberal global governmentality is complementary to the state of exception, this article is divided into three parts. The first part reviews Foucault's concept of governmentality and bio-politics in the context of hegemonic neo-liberalism and re-examines the complementary relationship between the governmentality as political rationality and the sovereign power to kill. The

¹ An abridged version of this paper was published as 'Anarchical Governance', *International Political Sociology* 3 (3) (December 2009), pp. 414-430.

second part examines neo-liberalism as a technique of governing from a distance by focusing on the case of a global benchmarking system. While the benchmarking system operates in order to fabricate self-improving subjectivities, it also works for identifying risky areas or groups. In relation to the governance of risky groups, the third and the fourth part examines targeted governance as a state of exception by focusing on the case of Gaza Strip and global slum as failed governance. The global slum including Gaza Strip represents the risky area or group, which the governance system tries to eliminate by exceptional means of violence or to contain by building up the security walls. Here it is noteworthy that an urban informal sector like slum, in which a state of exception sometimes emerges, constitutes an essential component of neo-liberal global governance because the latter produces the former by restructuring the whole system alongside the post-Fordist flexible production. In addition, the contradictions inherent in the sovereign states system also cause such as refugee issues that sometimes lead to a state of exception, which we can notice in the case of Palestine issue. In sum, although the state of exception is over-determined by various kinds of factors, it is certain that the neo-liberal governmentality resonates with the state of exception, which could be described as 'anarchical governance'. In conclusion, I try to engage with the possibility of an alternative politics against such neo-liberal global governance which fabricates the homogenous subjectivities at the center and securitizes the dangerous other at the marginalized periphery.

2. Neo-liberalism as Political Rationality and the Transformation of Bio-politics

Since 1979, when the first English version of Foucault's lecture 'On governmentality' appeared in the journal *Ideology and Consciousness*, many scholars focused on his concept of governmentality and began to investigate the notion of liberalism as a technique of governance. These scholars began to apply this focus to the analysis of the present neoliberal governance (Cruikshank 1999; Dean and Hindess 1998; Dean 1999; Ericson et al. 2003; Foucault et al. 1991; Garland 1997; Hindess 1997; 2005:344-384; Hunt and Wickham 1994; Nadesan 2008; Rose 1999). The study on

neoliberal governmentality has become a sort of fashionable knowledge industry. The 'Foucault effect' now seems to have become much more influential in the scholarly arena. This renewed focus was prompted by the recent publication-in the original French and in an English translation-of Foucault's series of lectures that were delivered at the *Collège de France* (Foucault 2003a, 2003b, 2005, 2006, 2007, 2008). Although most IR scholars were initially conducting research into the governmentality of advanced capitalist states at a national level, they have also begun to pay attention to it at regional and global levels, against a background of rapidly expanding globalization (Barnett and Duvall 2005; Larner and Walters 2004; Lipschutz and Rowe 2005; Merlingen 2003; Walters and Haahr 2005). Some scholars have also tried to examine the transformation of biopolitics as well as governmentality within the context of global politics, (Edkins et al. 2004). It may well be appropriate to assign Negri and Hardt's book *Empire* into this category (Hardt and Negri 2001).

Foucault outlined the details of neoliberal governmentality in his lecture at the *Collège de France* in 1979 (Foucault 2008). It is not very surprising that Foucault recognized the emergence of neoliberal governmentality, when we take into account the context at the time: Friedrich von Hayek had received the Nobel Prize in Economic Sciences in 1974 and Milton Friedman had also received it in 1976. However, his attempt to understand the totality of networked powers through the prism of governmentality is still very relevant today. In particular, as networked powers have become increasingly skillful in the global arena, and as neoliberal techniques of governance become increasingly prominent in this post-Fordism era, the applicability of the Foucauldian concept of governmentality seems more appropriate than ever for the purposes of analyzing the power operations of global governance.

The nexus of 'power/knowledge' has been restructured so that it now exists alongside the neoliberal globalization process. This is not just an extension of neoliberal governance from the domestic level to the global level; it is a much more qualitative transformation of governance. As neoliberal governmentality extends into the global arena, it promotes qualitative change, a de-territorialization of the global order, and a movement from the so-called Westphalian system to the post-Westphalian

system. In the post-Westphalian system, it is not only states that play an important role in sustaining neoliberal global governance, but also other kinds of transnational actors, such as NGOs, IGOs, and MNCs. As part of this de-territorialization process, networked power begins to form a global 'power/knowledge' nexus, based upon the logic of neoliberalism. According to conventional understanding, global governance implies 'governance without government'. This means that there is no central authority, which itself results in a need for multi-level collaboration or cooperation among governments and other actors who seek to encourage common practices and goals in addressing global issues (Rosenau and Czempiel 1992; Weiss and Gordenker 1996). However, this kind of conventional understanding of global governance lacks a recognition of the strong link between neoliberal political rationality and multi-level global governance (Bache and Flinders 2004).

The fact that neoliberal rationality has received very little attention indicates that, in the present situation, neoliberalism has already been accepted as the natural 'order of things'. As neoliberal governmentality spreads throughout the world, the presentation of an alternative governmentality becomes increasingly difficult. During the Cold War, state socialism, despite being problematic, still managed to countervail governmentality, to a certain extent. With the total disintegration of state socialism, any viable alternative to neoliberalism seemed to disappear, with the exception of Islamic theocracy. However, any real possibility of an alternative governmentality that would be acceptable to western intellectuals disappeared when the 1956 Hungarian uprising was crushed by the Soviets. It was for this reason that some of intellectuals tried to identify a viable alternative in Mao's China or Tito's Yugoslavia. Foucault himself also showed a keen interest in the Iranian Revolution of 1979, and he tried to identify it as a spiritual alternative to neoliberalism (Afary et al. 2005). However, all of these possible alternative systems that initially looked attractive, resulted in complete failure, which has resulted in a neoliberal governmentality hegemony at the global level.

This process of expanding neoliberal governmentality at the global level is also transforming the shape of biopolitics in various ways. In relation to this issue, Foucault saw the birth of biopolitics in the nineteenth century as

follows:

I think that one of the greatest transformations the political right underwent in the nineteenth century was precisely that I wouldn't say exactly that sovereignty's old right - to take life or let live - was replaced, but it came to be complemented by a new right which does not erase the old right but which does penetrate it, permeate it. This is the right, or rather the opposite right. It is the power to 'make' live and 'let' die. The right of sovereignty was the right to take life or let live. And then this new right is established: the right to make live and to let die. (Foucault 2003b: 241)

To clarify, modern biopolitics emerged as a response to the transition that was occurring, from an age of 'the right to take life or let live' to an age of 'the right to make live and let die'. Under welfare regimes, the latter concept became much stronger. However, as the cost of 'governing too much' became too high, full-scale neoliberalism was introduced as a technique of governance in the late 1970s. After this, the notion of 'the right to make live and let die' seemed to retreat drastically, until it existed only as a peripheral notion of governmentality. Furthermore, the notion of 'the right to take life or let live' reappeared, particularly after the instigation of the so-called 'war on terror'. Although Deleuze had pointed out that the biopolitical paradigm would shift from a disciplinary society toward a society of control (Deleuze 1992), the disciplinary mode of control has never disappeared in global politics. On the contrary, it often plays a complementary role in societies of control. In his lectures, Foucault himself also mentioned the complementary relationship between both techniques of governance, in the following terms:

Now I think we see something new emerging in the second half of the eighteenth century: a new technology of power, but this time it is not disciplinary. This technology of power does not exclude the former, does not exclude disciplinary technology, but it does dovetail into it, integrate it, modify it, to some extent, and above all, use it by sort of infiltrating it, embedding itself in existing disciplinary techniques....The two sets of mechanisms - one disciplinary and the other regulatory - do not exist at the same level, which means of course that they are not mutually exclusive and can be articulated with each other. (Foucault 2003b: 242-250)

Although the articulation of both disciplinary and regulatory mechanisms remains intact, they are in a different form in the present than they were in the past. The Fordistic form of biopolitics—where positive intervention is made in each life—that had close connections with welfare states, has now been transformed into a post-Fordistic form. To clarify, this notion has now been transformed into one that is focused on the neoliberal biopolitical message ‘to let live and let die’. On the other hand, we notice the reemergence of the right of ‘the sovereign power to take life’, in the periphery of the world system.² For example, instances of the state of exception tend to appear more and more as the dominant paradigm in contemporary politics when faced with the unstoppable progression of ‘global civil war’ (Agamben 2005: 2). In this case, the camp is the arena where life is nothing but ‘bare life’ — an example of the extreme case of biopolitics. In this sense, the camp at Guantánamo Bay seems to be emblematic of the increasing instances of states of exception.

However, the proposition that the ‘bare life’ that is lived in the camp is a representative form of biopolitics, or that it is a permanent of state of exception in current global politics is dubious. Firstly, we should pay attention to the relationship between, on the one hand, the neoliberal global governmentality or quasi-legality that lies at the center of the world system and on the other hand, the state of exception at its periphery. Although it is clear that both complement each other, we cannot be certain that the latter will necessarily swallow up the former. The conceptual context behind the practices at Guantánamo, Abu Ghraib, and elsewhere are saturated with a received colonial history that can reactivate our colonial past (Gregory

2 In his lectures, Foucault raised the issue of racism and the role of race in relation to the sovereign power’s right to kill and wage war several times in 1987. Michel Foucault, *Society Must Be Defended: Lectures at the Collège De France, 1975-76* (New York: Picador, 2003b) xxxiii, 310 p.. This issue might be important when considering the power to kill without homicide, in the context of ‘a state of exception’. This is because racism often promotes dehumanization of the subjects and makes it easier for the sovereign power to kill without punishment. In other words, racism might occur at the periphery of liberal governmentality as a necessary supplement to overcome ‘a state of exception’. The recent racial profiling targeting Muslims in ‘the war on terror’ might also be one of such practices.

2007). This means that a continuity exists between our colonial past and the present violence. In other words, the state of exception or emergency, which had been rather normal in colonial governments, under the guise of martial law, seems to reappear in a new form (Hussain 2003: 99-131). To summarize, the rule of law always accompanies a state of exception. However, it is not clear that the latter will become decisive in future global politics.

Furthermore, there must be recognition of the diversity within such terms as harsh biopolitics. Even within the same category—for instance refugee camps—we can see a diversity in the kinds of biopolitics that are deployed, from extreme cases like the massacred Palestinian refugees at Sabra and Shatila in 1982, to the case of Burundian refugees who live in a camp that functions like a kind of a laboratory for UNHCR (Turner 2005). If the extreme cases, such as the ‘bare life’ that is lived in the camp at Guantánamo, represent the total picture, then there can be neither possibilities nor hope for emancipation. Agamben’s concept of the exception-as-the rule seems to leave no room for resistance from the social realm, nor for the Schmittian concept of exceptional rule (Huysmans 2008). As Laclau has pointed out, Agamben’s message seems to reflect his own political nihilism (Laclau 2007: 42). Therefore, we should handle Agamben’s assertive statement with caution.

On the other hand, the theory of governmentality or the meta-theory of governance is also too general. Governmental programs are never perfectly realized in practice (Garland 1997: 194). Therefore, governmentality studies have to go beyond the tendency to totalize, and they must instead look at specific ways in which the actual powers operate, and how resistance and movements can modify governmentality. This article tries to examine not only the intricate relationship between neoliberal political rationalities and the state of exception, but also the actual practices that instantiate neoliberal rationality at the global political level, in order to explore some possibilities of resistance against the present global governmentality.

Before discussing the intricate relation between neo-liberal global governmentality and a state of exception, we need to clarify the concept of governmentality itself. Although Foucault himself tried to define and

explain the concept of ‘governmentality’ in various ways, his famous definition, ‘conducting the conduct’, seems to be the most significant. In relation to this definition, he mentioned the following at the *Collège de France* in 1979:

So, we have been trying out this notion of governmentality and, second, seeing how this grid of governmentality, which we may assume is valid for the analysis of ways of conducting the conduct of mad people, patients, delinquents, and children, may equally be valid when we are dealing with phenomena of a completely different scale, such as an economic policy, for a example, or the management of a whole social body, and so on. What I wanted to do — and this was what was at stake in the analysis — was to see the extent to which we could accept that the analysis of micro-powers, or of procedures of governmentality, is not confined by definition to a precise domain determined by a sector of the scale, but should be considered simply as a point of view, a method of decipherment which may be valid for the whole scale, whatever its size. In other words, the analysis of micro-powers is not a question of scale, and it is not a question of a sector, it is a question of a point of view. (Foucault 2008: 186)

To summarize, governmentality might be an example of meta-governance, which is structured around a supreme principle that directs various aspects of actual governance. As the word ‘govern’ is derived from the Latin word *gubernare*, meaning ‘steer’, the government is the appropriate arena for the promotion of policies that are implemented to lead the people toward a suitable goal — rather like steering a ship toward a destination. Following Guillaume de La Perrière’s text, Foucault also used the metaphor of the ship in his lectures:

What is it to govern a ship? It involves, of course, being responsible for the sailors, but also taking care of the vessel and the cargo; governing a ship also involves taking winds, reefs, storms, and bad weather into account. What characterizes government of a ship is the practice of establishing relations between the sailors, the vessel, which must be safeguarded, the cargo, which must be brought to port, and establishing these relations in the face of all those eventualities, like winds, reefs, storms and so on. (Foucault 2007: 97)

At this stage it would be fitting to recall the fact that meta-governance also changes depending on historical conjuncture. This means that the direction of ship and the practices of shipping might also change. Foucault gave a more general explanation of governmentality in the same lecture. Despite its length, I quote the whole paragraph here because of its importance:

By this word 'governmentality' I mean three things. First, by 'governmentality' I understand the ensemble formed by institutions, procedures, analyses and reflections, calculations, and tactics that allow the exercise of this very specific, albeit very complex, power that has the population at its target, political economy as its major form of knowledge, and apparatuses of security as its essential technical instrument. Second, by 'governmentality' I understand the tendency, the line force, that for a long time, and throughout the West, has constantly led towards the preeminence over all other types of power-sovereignty, discipline, and so on-of the type of power that we can call 'government' and which has led to the development of a series of specific governmental apparatuses (*appareils*) on the one hand, [and, on the other] to the development of a series of knowledges [sic] (*savoirs*). Finally, by 'governmentality' I think we should understand the process, or rather, the result of the process by which the state of justice of the Middle Ages became the administrative state in the fifteenth and sixteenth centuries and was gradually 'governmentalized'. (Foucault 2007: 108-9).

Here Foucault defined governmentality as akin to a nexus between governmental apparatuses (*appareils*) and knowledge (*savoirs*). Governmentality as a nexus of power/knowledge provides political rationality as a base for each actual governance. According to Foucault's rough sketch, the principle behind the notion of western governmentality in its role as a meta-governance, began as Christian pastoralism and shifted to embrace the principle of *raison d'état*, which-after secularization-refused to subordinate the needs of the state to divine command (Foucault 1981). This transformed either into the police theory (*Polizeiwissenschaft*), which promoted public tranquility and security in Germany, or into liberalism, which promoted governance through self-governing spheres in England between the eighteenth and nineteenth centuries. After the crisis of liberalism, the politically rationalistic justification for active intervention

into each life emerged, and it became institutionalized in the form of welfare states.

However, this system also faced difficulties in sustaining itself during the 1970s. It has been generally accepted that political rationality transformed into neoliberalism at this point. While the technique of social-liberalism under the welfare regime was an attempt to directly control the ‘social problems’ that were caused by an excess of *laissez-faire*, neoliberalism was a technique that indirectly controlled the problems by ascribing responsibilities to each individual and socializing them in the context of an eternal self-improvement movement. It is noteworthy that neoliberalism is a technique that governs ‘the social’ from a distance, not only through the markets, but also through civil society, which includes non-governmental organizations. In this regard, neoliberalism is not simply a return to the past *laissez-faire*. As this kind of new political rationality penetrates the global system, a multi-level global governance based on a benchmarking system emerges. Even after the global financial crisis, this political rationality seems to survive by tuning itself to new fluctuations.

3. A Global Benchmarking System: Power/Knowledge Ranking, Auditing, and Monitoring Subjects

In the context of a neoliberal governmentality as a power/knowledge nexus, each actor’s ability to self-govern is crucial. Therefore, the governing system attempts to standardize a scale for measurement and to implement a classification of the whole, which is governed according to that numerical standard. At the global level, intergovernmental organizations, nongovernmental organizations, journals, and OECD countries-in particular the United States-are now making an effort to produce various kinds of indicators and classify the performance of each state’s governance, by using these indicators to promote the smooth running of a neoliberal global governance.

Among these international organizations, the World Bank plays a leading role both in the supply and use of cross-country governance ratings. One of the most widely used set of indicators are the World Governance Indicators (WGIs) that the World Bank Institute has provided bi-annually

since 1996. Another is the Country Policy and Institutional Assessment (CPIA) that has also been produced by the World Bank since 1977. While both are perception-based assessments, the World Bank also provides fact-based indicators such as 'Doing Business' Indicators. NGOs and private companies are also main providers for cross-country governance ratings—Transparency International's Corruption Perceptions Index (CPI), Freedom House's rating of freedom, the International Country Risk Guide (ICRG), *Foreign Policy's* Failed States Index and Globalization Index, Ibrahim Index of African Governance and so on.

What prompted this explosive growth in the supply and use of cross-country governance? Christiane Arndt and Charles Oman have identified four factors: 1) the spectacular increase in international investment in developing countries; 2) the end of the Cold War; 3) the failed development policy reforms of the 1980s and 1990s; and 4) the emergence of a new institutional economics (a new awareness of the importance of institutions in economic development and policy reform) (2006: 35). It is clear that these combined factors have contributed to a greater interest in the quality of governance in developing countries. Furthermore, it is noteworthy that collapsed states harboring terrorists are being perceived as threats to the United States and international society, particularly since September 11, 2001. During the 1990s, phrases such as collapsed states, failed states, and fragile states became fashionable on the back of the situation occurring in countries such as Somalia, Angola, Rwanda, Bosnia-Herzegovina, Sierra Leone, DRC, and Afghanistan. While it became very important for security policymakers to reconstruct failed states, and to improve bad governance, in order to prevent collapsed states (Rotberg 2004), international financial institutions like the World Bank also became interested in governance issues. This interest developed following the post-Washington consensus, and was implemented by revising its market fundamentalism, particularly after 1996, under the presidency of James Wolfenson. In other words, serious governance issues including failed or fragile states, emerged at the point where security and development concerns converged (Duffield 2001).

What kind of political mechanism operates when there is a growth in the supply and use of cross-country governance indicators? First of all, the system indirectly coerces each member to improve its own performance

and forces him or her to aim for as higher ranking as possible, within the given scale. Although there are many criticisms of perceptions-based governance indicators, in particular the CPI, WGI, and CPIA (Arndt and Oman 2006; Kurtz 2007a, 2007b; Thomas 2007), they continue to be adopted as 'objective' by donors. Despite the systemic bias that emerges on the back of the policy preferences of vested interests, the calculable knowledge still remains neutral. While the benchmarking system succeeds in depoliticizing indirect domination through numericalization and standardization, it also promotes 'governing at a distance' (Rose 1999: 43) by setting an objective for 'the governed'. This regulative power controls societies predominantly through standardization, rather than hierarchical organizations or markets, although all three sometimes complement each other (Brunsson and Jacobsson 2000: 21-39). The benchmarking system is an attempt to implant the principle of self-reliance and continual improvement into 'the governed', by auditing and monitoring conducted by a third party, which includes NGOs. In short, a society of control is an audit society. As Michael Power writes in his book *Audit Society*: 'The audit explosion has its roots in a programmatic restructuring of organizational life and a new 'rationality of governance' (Power 1997:10). In addition, a society of control is also a benchmarking society. To borrow Larner's words, 'benchmarking sits alongside auditing and contractualism as another technique of advanced liberalism...If auditing is about checking, and contract is about performing, then benchmarking is about comparison' (Larner and Walters 2004: 214). The combination of benchmarking and auditing has become an integral part of the society of control both at the global and national level.

This benchmarking system is aimed at forming a kind of self-reliant subjectivity, through the use of regulative powers. From the neo-Gramscian perspective, this kind of auto-control system could be described as an aspect of the neoliberal 'passive revolution', which is occurring at the global level (Morton 2007). However, if the populace is not perceived as being self-reliant yet, then the governing system tries to intervene in his or her life in the name of 'empowerment', in order to promote a 'passive revolution'. At this point, we should take notice of the complementary relationship that exists between regulative powers and disciplinary powers.

While disciplinary powers try to force the populace into the same mold by using punitive methods, regulative powers try to persuade the populace-indirectly by using their networks, including NGOs and intergovernmental organizations-to pursue incessant improvement and adjustment. According to Nikolas Rose, 'in disciplinary societies it was a matter of processing from one disciplinary institution to another-school, barracks, factory-each seeking to *mould* conduct by inscribing enduring corporeal and behavioral competences, and persisting practices of self-scrutiny and self-constraint into the soul. Control society is one of constant and never-ending *modulation* where the modulation occurs within the flows and transactions between the forces and capacities of the human subject and the practices in which he or she participates. One is always in continuous training, lifelong learning, perpetual assessment, continual incitement to buy, to improve oneself, constant monitoring of health and never-ending risk management' (Rose 1999: 234).

Through a process of unlimited modulation, some developing countries succeeded in internalizing the requirements of good governance to some degree. In other words, the World Bank works within sovereign frontiers, to create a specific role for these states as mediators in African societies' interaction with global forces. Graham Harrison called these 'governance states' or 'post-conditional states' (Harrison 2001, 2004). However, if some states do not respond to the improvement requirement positively, then they are labeled as deviants, and will be punished by the disciplinary powers. In relation to those occupying the lowest rank, the global benchmarking system specifies this as a risk group that includes fragile or failed states. It classifies them thus in order to manage them effectively, because they represent the threat of ungoverned political space within the global system.

Mark Duffield also points out the same thing in the following terms. 'Within policy discourse, it exists as a set of technical prescriptions to bolster administrative capacity and strengthen international oversight, the aim of which is to transform the fragile state into governance state. In contrast to governance states, which are funding regimes providing stability to the donor-state relationship in aid-dependent countries, fragile states are dangerous because they lack the capacity to become aid-dependent and thus a known part of the West's sovereign frontier' (Duffield 2007: 170).

Furthermore, donors use governance indicators for aid-allocation purposes, and they sometimes suspend economic aid for countries that do not meet their criteria. It is clear here that typical discipline is being exercised here. International economic institutions and OECD countries try to embed neoliberalism into the infrastructure of developing countries by allocating a showcase status such as ‘governance states’ to those states that are regarded as the best, they also impose a low cutoff line that is used to define those who do not meet these standards, and sometimes they punish these states that do not meet this cutoff by suspending aid.

4. Targeted Governance as a State of Exception: the Wall & Targeted Assassinations

Influential powers always use so called sticks (coercive methods) in combination with carrots (regulative methods). In the same way, the society of control is always accompanied by a disciplinary society. Although Deleuze predicted that a disciplinary society would be replaced by a society of control, the proportion of the former to the latter seems to be on the increase again. As the global hegemony begins to disintegrate, it seems that violent disciplinary power is now becoming conspicuous at the periphery of global politics. This means that, as political rationality begins to lose its legitimacy, neoliberalism and its rule becomes something like ‘domination without hegemony’. In other words, the politics of exclusion begins to dominate over the politics of inclusion as the traditional hegemony declines.

At this stage, we must pay attention to the transformation of disciplinary power at the global level as well as the domestic level. Several works of critical criminology have identified some important recent changes in the way that authorities govern offenders and deliver state punishment (Garland 2001). While the modern penalty focused on the offender as a soul or as a psyche, and aimed to normalize them, the neoliberal approach attempts to deal with penal issues and penal populations by using risk techniques that identify and evaluate the presence and the magnitude of risk factors that are involved with people and environments, in order to reduce necessary spending. In the same way, the neoliberal global governmentality seeks to govern security by deploying risk techniques. The

idea of risk governance or target governance has been linked to the idea of efficient, apolitical, and knowledge-driven policies because of a disappointment with, or outright rejection of, the more totalizing dreams of governance that had come to be seen as hubristic and dysfunctional (Valverde and Mopas 2004: 245).

A global benchmarking system is also one sort of targeted governance that is aimed at establishing effective controls that minimize costs and maximize development/security outcomes, by using CPIA, WGI, and CPI. As this system uses the insurance paradigm of risk based upon quasi-scientific calculus and group profiling, it seeks to identify how to target problem states, populations, and activities. This targeted governance is always accompanied by policing activities. Since September 11, 2001, targeted governance has come to rely on a much more precautionary and arbitrary method of policing (Aradau 2007). The *2002 National Security Strategy* has stated that ‘the United States today is threatened less by conquering states than we are by weak and failing ones’. U.S. policy makers can no longer consider failed or fragile states as peripheral to its security concerns, and it must do more now than put them in its watch-list of state sponsors of terrorism or rogue states. By placing insecurity and threat, at the center of the governmental grid of risk, it is transformed into a total surveillance system complete with conservative ‘lock-them up’ policies. As Valverde and Mopas have pointed out, ‘the contradictory dream of information-driven targeted governance is dialectically intertwined with a vision of targeting everything’ (Valverde and Mopas 2004: 246-7).

With regard to the precautionary and arbitrary methods of targeted governance, we can see a prototype in ‘the war on drugs’ that was declared by U.S. President Nixon in 1969. As part of an international crackdown on the drug trade, which expanded rapidly in the 1980s when both presidents Reagan and Bush declared their own wars on drugs, the U.S. drug enforcement agents implemented a variety of investigative techniques, including ‘buy and bust’ tactics and more extensive undercover operations, including ‘controlled delivery’ of illicit drug consignments, various forms of non-telephonic electronic surveillance, and offers of reduced charges or immunity from prosecution to known drug dealers (in order to ‘flip’ them into becoming informants) (Andreas 2006: 131). The U.S. drug

enforcement agents also provided the impetus for the creation of paramilitary enforcement groups composed of U.S. military and police officials, to target drug facilities in South America. This kind of ‘illegal’ policing operation for ‘law’ enforcement becomes much more conspicuous in targeted governance in the period after ‘the war on drugs’ was replaced by ‘the war on terror’.

On the other hand, the U.S. pushed forward international laws such as the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (ratified in 1988), which mandated extensive cooperation in all law enforcement tasks directed at international drug trafficking, including extradition, mutual legal assistance, and the seizure and forfeiture of assets. In order to strengthen law enforcement, the State Department promoted its war on drugs through the annual *International Narcotics Control Strategy Report*, which, since 2000, has graded countries in terms of their level of cooperation with U.S. anti-drug objectives. In order to curb the trafficking of women and children, the State Department has also, since 2000, published its annual *Trafficking in Persons Report*. In both cases, the State Department has warned that countries that are deemed to not be in compliance with the minimum standards that have been set out, and countries that are not making significant efforts to uphold the standards, might be decertified, which itself might bring with it sanctions such as aid cutoffs. Here we notice typical global disciplinary power being exercised again.

Corruption is also one of the most important issues for globally targeted governance. This targeted governance also began as a unilateral U.S. initiative to criminalize bribery through the U.S. Foreign Corrupt Practices Act of 1977 (Andreas 2006: 55-56). This eventually became the 1977 OECD Convention on Combating Bribery for Foreign Public Officials in International Business Transactions and thence to the 2003 UN Convention against Corruption, which required signatories to prohibit their corporations from paying bribes to foreign officials. During this process, the NGO Transparency International (TI), founded in 1993 by former World Bank officials, played a key role in strengthening this targeted governance by offering usage of its ‘informal surveillance camera’. In 1994, TI began to publish its annual Global Corruption Report, in which it provides a ranking

of countries from most to least corrupt, by using the Corruption Perceptions Index. It also began to publish the Bribe Payers Index. It is noteworthy that the World Bank also makes reference to TI's Index in its WGI and CPIA assessment. Despite its perception-based subjective evidence, TI's publication of this index has a big impact on the targeted subjects, due to its effective public shaming tactic. In sum, the U.S., International Organizations, and NGOs have all cooperated with each other, in order to strengthen their targeted governance through deployment of their disciplinary power, while governing the subjects from a distance. The desired outcome of this collection of groups is still the subjects' docility, rather than their auto-control.

This targeted governance is operated by new social control techniques that are highly dependent on punishment and exclusion, rather than penal-welfarism (Garland 2001). Therefore, its legitimacy is sustained by the continuing existence of threats and the incidents that represent them. As the penal system is only one part of an overall mechanism of domination, the very failure of the system is central to its success (Foucault 1991: 272), this targeted governance would also succeed in sustaining itself by continuing to stigmatize the dropout states and blaming them for their own poor self-regulation. However, in as far as it assigns the responsibility for failure at the local level and does not attempt to solve problems at the systemic level, it merely sustains the systematic contradictions. For example, governing elites would attribute a humanitarian crisis to bad local governance rather than systematic problems at the global level in the neoliberal context. This is in spite of the big impact that the fluctuating global economy has upon the population who exist on the periphery. The rise of this kind of neoliberal thinking might be related to the decline of the dependency approach or the Neo-Marxist approach, which emphasized the structural causes of poverty in the South. However, if the governance system overemphasizes individual risk management responsibility and depends too much on punishments and quarantine techniques, coercive rule ends up reducing the agency of 'the governed' and eventually loses its legitimacy. This could lead to the rise of resistance, or even possibly the uprising of violent rebellions. By responding to that kind of situation, the ruling elites promote the securitization of bad governance spaces (failed

states or rogue states), by strengthening targeted governance, which itself might lead to a state of exception. We can see this kind of typical vicious cycle not only in Afghanistan and Iraq but also in the Israel/Palestine issue.

According to the ratings published by NGOs and IGOs, Israel is not such a bad offender in terms of governance indicators. For example, in 2008, the NGO Freedom House assigned Israel the first grade score in terms of its political rights while it gave the Palestinian-authority administered territories the fifth grade score in the same category. Even in terms of the World Bank's WGI (percentile rank) in 2008, Israel is given relatively high scores in all areas (84.4 in governmental effectiveness, 75.4 in control of corruption, 82.5 in regulatory quality, and 73.3 in rule of law) except political stability (13.0). However, a cursory look at the situations around the Palestinian territories, reveals that these indicators do not reflect the disgusting conditions that exist on the ground. This must be because of a political bias in the indicator and its measurements.

At the very least, we should put aside these scores and look at the real state of exception that exists around the Palestinian territories. The Israeli manner of handling the Palestinian issue might well be an extreme case of targeted governance that relies heavily on punishment and quarantine techniques. This targeted governance became more salient after the Oslo peace process³ failed. In 1993, Prime Minister Yitzhak Rabin's Labor Party-led coalition government secured a breakthrough agreement with the Palestine Liberation Organization (PLO). The Declaration of Principles outlined a phased Israeli withdrawal from the West Bank and Gaza Strip and limited Palestinian autonomy in those areas, in exchange for Palestinian recognition of Israel and a renunciation of terrorism. However, in 1994 a right-wing Jewish extremist assassinated Rabin in Tel Aviv and an extended summit at Camp David with the U.S., Israeli, and the Palestinian leadership failed to produce a final settlement. Following the breakdown of

3 It is noteworthy that the Oslo agreement itself was congruent with Israeli terms and 'failed to improve or strengthen the Palestinian position relatively or absolutely and in fact worsened this position to the point where an acceptable and meaningful compromise became politically — and physically — impossible' Sara M. Roy, *Failing Peace: Gaza and the Palestinian-Israeli Conflict* (London Pluto, 2007) , p.xxiii.

negotiations and a controversial visit by Ariel Sharon-the then leader of the right-wing Likud Party-to the Temple Mount in September 2000, the Palestinians launched the second Intifada (Al-Aqsa Intifada). In March 2002, after a series of particularly devastating attacks by Palestinian militants, the Israel Defense Forces (IDF) reoccupied many of the West Bank areas that had been ceded to the Palestinian Authority (PA), and they later withdrew unilaterally and imposed a blockade, in particular on the Hamas-controlled Gaza Strip. Israel also began the construction of an eight-to-ten-meter-high wall, running 670 km roughly along the West Bank. However it has often been noted that over 95 percent of the wall intrudes into the West Bank, beyond the armistice ('green') line that is in place to protect the new Jewish settlers in the occupied enclave (Koury 2005: 49).

The wall has a significantly negative impact on the Palestine people in terms of their socio-economic conditions. This was not only because it hindered their free movement but also because it enabled appropriation of their land. Conditions in the West Bank and Gaza steadily and dramatically deteriorated to the point where the situation is worse than during any other period of Israeli occupation (Roy 2007: 234). In addition to the wall, Israel built up various kinds of obstacles including permanent and partially manned checkpoints, concrete roadblocks and barriers, metal gates, tunnels, and trenches that limit the freedom of Palestinian to move only between school, hospital, home and work. These barriers have substantially dissolved the remaining West Bank into many isolated areas, by sorting them into several zones-A under Palestinian authority, B under mixed authority, C under Israeli authority and so on.⁴ In addition, by constructing tunnels and highways, Israeli archeological incursions into the occupied territory are three-dimensional. Eyal Weizman described this aspect as follows:

After fragmenting the surface of the West Bank with walls and other barriers, Israeli

4 For targeted governance, group profiling using ID cards is also crucial. While Israeli citizens and permanent citizens including Arabs are issued with ID cards with blue casing, residents of the West Bank and the Gaza Strip are issued with orange cards and Palestinians who are barred from Israel are issued green cards.

planners started attempting to weave it together as two separate but overlapping national geographies—two territorial networks overlapping across the same area in three dimensions, without having to cross or come together. One is an upper-land—the land of the settlements—a scattering of well-tended hilltop neighborhoods woven together by modern highways for the exclusive use of its inhabitants; the other, Palestine—crowded cities, towns, and villages that inhabit the valleys between and underneath the hills, maintaining fragile connections on improvised underpasses. (Weizman 2007: 182)

In other words, the Palestinian Territories no longer maintain their territorial integrity in three dimensions. Although the Israeli government justifies the wall as a necessary instrument for its own security and calls it a security fence, it is clear that the aim of the built-up barriers including the wall is not just for defensive security but also to implement offensive politicide or spatiocide of the targeted people (Hanafi 2005; Kimmerling 2006). It has been noted by several scholars and journalists that there are some similarities with the Bantustan system under the former Apartheid regime in South Africa (Farsakh 2003), but the politics of segregation in Palestine seems to be much harsher than that in South Africa in terms of its intensity of antagonism.

At the time of withdrawal from the Gaza Strip in September 2005, the IDF demolished more than 3,000 buildings and left the bulldozed rubble there. This kind of scene is not unusual. When the IDF attacked the Jenin camp in the West Bank in response to the Palestinian suicide bombings in 2002, the IDF used armored bulldozers to demolish many residents' homes. Its destruction extended well beyond that which could be conceivable for the purpose of gaining access to fighters, and was vastly disproportionate to the military objectives pursued. According to a UN report, the IDF placed the Palestinian death toll at approximately 52 while the Palestinians Authority alleged that some 500 were killed and over 1200 residential properties were damaged (UN 2002). Throughout the military operation, the IDF continued to deny access to its self-proclaimed military zones for everyone, including medical doctors, ambulances, humanitarian services, and journalists. Therefore, ascertaining exactly what happened there is a significant challenge. However, it is certain that the rule of law was suspended and the state of exception was established as the norm in that

situation. In addition, since the beginning of the second Intifada, the IDF had begun to rely on the extreme tactic of targeted governance, specifically, it introduced targeted assassinations to disrupt Palestinian armed and political resistance (Weizman 2007: 237-258). This extra-judicial state execution is undertaken mostly from the air and sometimes causes heavy collateral damages to innocent civilians. Here we can notice the most advanced form of targeted governance. It goes without saying that 'the war on terror' at the global level has promoted this kind of Israeli targeted governance enthusiastically since 9/11.

In short, it seems that most of the Palestinians are to all intents and purposes placed in outlaw situations. To borrow Agamben's words, Palestinians seem to be regarded as '*homo sacer*'. According to Agamben, a *homo sacer* is a person who can be killed without any punishment and yet may not be sacrificed in religious ritual (Agamben 1998: 71-74). In other words, it is permitted for the IDF to kill Palestinians without committing homicide and without celebrating the Palestinian death as a sacrifice, within the sovereign sphere-such as military zones. As, in this case, the sovereign nation appears by taking the form of 'the state of exception', Palestinian lives are subject to a power that can take their lives and they are as abandoned, destined to be only *homo sacer*. However, it is noteworthy that Agamben raised the issue of *homo sacer* as an aspect biopolitics while at the same time bearing in mind that this could apply to the Jews in the Nazi concentration camps, not the Palestinians in the refugee camps. In reality, the Jewish dead were cast as sacred sacrifices who had symbolically contributed to the founding of the state of Israel. This attitude is clear from the Yad-Vashem Holocaust History Museum in Jerusalem. In James E. Young's words, 'Yad-Vashem functions as a national shrine both to Israeli pride in heroism and shame in victimization, a place where Holocaust history is remembered as culminating in the very time and space now occupied by the memorial complex itself' (Young 1993: 244). Israeli official nationalism seeks to use this preeminent national shrine to highlight the link between the Holocaust and statehood in. The murdered Jews were conferred with Israeli citizenship posthumously, so they are no longer *homo sacer*. At present we are now witnessing the historical irony of the founding and expansion of Israel, which is based upon the myth of 'a land without

people for a people without land'. This process includes sacrilizing those Holocaust victims by ironically producing more *homo sacer* out of the Palestinian refugees both in the occupied territories and outside of Israel.⁵

In this historical and political context, it is natural that constantly high levels of contiguous antagonism led to the production of 'a state of exception' as normal. The wall therefore appeared as an architectonic representation of that violence which suspends the rule of law (Azoulay and Ophir 2005). As the wall itself indicates, in Israel-Palestine, the significant sovereign power suspends the rule of law while establishing a highly securitized political process. Furthermore, the sovereign power suspends law in a modern form of colonial violence, by dehumanizing the targeted subjects. That is one of reasons why the International Court of Justice (ICJ) issued a very critical opinion on a wall that was constructed in the occupied Palestine territories in 2004 (ICJ 2004). According to the ICJ, the construction of the wall, and its associated régime, are contrary to international law and Israel is under an obligation to terminate its breaches of international law.⁶ However, the Israeli government continued to construct the wall. Furthermore, major countries-including the U.S.-tacitly permitted this and, instead, suspended economic aid to the Hamas-dominated Palestinian government, despite of its electoral victory in January 2006. In sum, the wall functions as an aspect of the 'a state of exception', representing the exclusionary politics that is prevalent in

5 In addition, this kind of Israeli official nationalism ignored Primo Levi's paradox: survivors must bear witness in the name of the impossibility of bearing witness Giorgio Agamben, *Remnants of Auschwitz: The Witness and the Archive* (New York: Zone Books, 2000) 175 p..

6 The advisory opinion is as follows. 'In sum, the Court finds that, from the material available to it, it is not convinced that the specific course Israel has chosen for the wall was necessary to attain its security objectives. The wall, along the route chosen, and its associated régime gravely infringe a number of rights of Palestinians residing in the territory occupied by Israel, and the infringements resulting from that route cannot be justified by military exigencies or by the requirements of national security or public order. The construction of such a wall accordingly constitutes breaches by Israel of various of its obligations under the applicable international humanitarian law and human rights instruments'.

present global governance, as well as the deviant governance of Israel.

In relation to the politics of exclusion that is at work in Israel-Palestine, we should pay attention to how the Jewish question, in the same manner as the inherently contradictory concept of the nation-state system, was transplanted from Europe to Palestinian soil. As Arendt pointed out in *the Origins of Totalitarianism*, there are always gaps between the rights of citizens and the Rights of Man, gaps which might derive from the inherent contradictions of nation-states (Arendt 2004: 344-384). If nations try to promote their homogeneity alongside ethno-nationalism, they cannot help but exclude the unassimilated other, in order to purify their own collective identity. The issue of refugees, stateless people, or oppressed minorities represents the kind of aporia that is present in modern territorial governmentality. In short, the Jewish question, as an instance of the 'aporias of nation-states', has been transformed into a Palestinian question through geo-political forces, but the aporia itself still remains intact and unsolved. The wall as an example of the 'state of exception' and the 'nearly bare' life of the Palestinians inside the camp yet surrounded by the wall, are rooted in these political and historical conjunctures. Now targeted governance under the influence of neoliberal global governance, and conducted in the name of 'the war on terror', is also strongly imposed on this political mechanism of exclusion.

5. Global Slums as Failed Governance and the Politics of 'the Governed'

To reiterate the above argument, the biopolitics at the Palestinian refugee camps in the Gaza Strip are an extreme case. This is because they reflect not only the exclusionary politics of the present neoliberal global governance but also the inherent contradictions of the nation-state system. However, if you focus on the former aspect, it becomes clear that the case of the Gaza Strip is just one part of the global slums that represent failed governance at the global level. Following Neza (Mexico City), Libertador (Caracas), El Sur (Bogotá), San Juan de Lurigancho (Lima), Cono Sur (Lima), Ajegunle (Lagos), Sadr City (Baghdad), and Soweto (Gauteng), Gaza is the seventh largest mega-slum. which embraces 1.3 million people

(half of them refugees) (Davis 2006: 28). If you look at the ratio of slum dwellers as a proportion of the urban population, the Sub-Saharan African region has a conspicuously high proportion (72%)-this is clearly contrasted with Europe, where the proportion of slum dwellers is 6% (UN Human Settlements Programme. 2003: 15). The world's highest proportion of slum dweller in the urban population is found in Ethiopia (99.4%), followed by Chad (99.4%), Afghanistan (98.5%), and the list continues. These slums are characterized by overcrowding, poor structural housing, inadequate access to safe water and sanitation, and insecurity. UN-HABITAT estimated that the global slum population reached approximately 837 million in 2003, and was growing by 25 million per year. Although the United Nations proposed the concept of 'cities without slums' as one of its Millennium Development Goals (MDGs) in 2000,⁷ the outlook for the world's global slums is becoming increasingly bleak. Jan Breman, a Dutch sociologist who has conducted field research on the poor in India and Indonesia for decades, said: 'My own extensive research on the informal sector has shown very little evidence, at least not on any large scale, of such upward mobility. In my opinion, it is a myth inspired by wishful thinking' (Breman 2003: 174).

This means that slums are not just manifestations of a population explosion. As the UN-HABITAT report pointed out, 'slums must be seen as the result of a failure of housing policies, law, and delivery systems, as well as national and urban policies' (UN Human Settlements Programme 2003: 5). In other words, the collapse of formal urban employment in developing countries and the rise of the informal sector must be seen as a direct result of liberalization. It goes without saying that political factors have impacted particularly strongly on the collapse of the formal sector, in the case of Gaza. However, there are, to varying degrees, similarities to be found among these various kinds of slums.

Generally speaking, the slum is a political space where urban governance has collapsed. The urban poor there are trapped in an informal and 'illegal' world where waste is not collected and public securities are not provided. The amalgam of exclusion, poverty, and informality also

7 Target 11 is: 'By 2020, to have achieved a significant improvement in the lives of at least 100 million slum dwellers'.

accelerates violence and the militarization of a city-life: the militarization of gangs, drug cartels, and militia; the proliferation of religious and communal armed conflicts and violence; and the absence of legitimate authority. In Appadurai's words, 'urban war zones are becoming armed camps, driven wholly by *implosive* forces that fold into neighborhoods the most violent and problematic repercussions of wider, regional, national, and global processes' (Appadurai 1996: 152-3). In these urban war zones, the militarization of social control-from U.S.-style zero tolerance policing to outright urban warfare on the streets of Rio de Janeiro-has also increased, while the upper classes have retreated to their own heavily guarded 'gated communities'. As Teresa Caldeira has pointed out, 'from Johannesburg to Budapest, from Cairo to Mexico City, from Buenos Aires to Los Angeles, similar process are occurring: the erection of walls, the secession of the upper classes, the privatization of public spaces, and the proliferation of surveillance technologies are fragmenting the city space, separating social groups, and changing social groups, and changing the character of public life in ways that contradict the modern ideals of city life' (Caldeira 2000: 323).⁸

In this fragmentation processes, the slum population has become the securitized target, which requires continuous policing. A well-ordered civil society is shaped by the process of classical modern policing (Neocleous 2006: 27) The state fashions the market, generates new forms of subjectivity, and subsumes resistances in order to fabricate a social order of wage labor. In addition, the key to the science of policing is ensuring that the police can deal with the criminal 'underclass' who have fallen from indigence into crime. The function of the police is therefore to prevent the impoverished classes from falling into destitution. The essence of the policing project is to identify and implement the mechanisms that are deemed necessary to prevent the poverty-stricken classes from falling further into indigence and from there into crime (Neocleous 2006: 31). In this age of the global slum, the essence of the policing project still remains

8 In this 'dual cities' structure, we notice some continuities or similarities with the colonial urban governmentality Stephen Legg, *Spaces of Colonialism: Delhi's Urban Governmentalities* (Malden, MA: Blackwell Pub., 2007) xvi, 254 p.: 216-219.

the same. However, as I have shown above, the prospect of the whole slum population (the informal sector) being transformed into wage laborers (the formal sector) is impossible. Therefore, it is inevitable that preventive policing and the surveillance of global slums will become one of the perpetual characteristics of the present global governmentality. Furthermore, as Caldeira has pointed out, 'the symbolic order of the talk of crime visibly mediates violence. Support for private and violent solutions has fueled the phenomenal growth of private security enterprises. Additionally, it has generated indifference to the illegal and brutal actions of a police force' (Caldeira 2000: 39).

In this context, the lower classes of society are forced to accept a life that is nearly bare. This is the case in the global slums as well as in the Gaza Strip. Although Agamben has proposed that it is not the city but rather the camp that is the fundamental biopolitical paradigm of the West today (Agamben 1998: 181), in fact parts of the city becomes akin to a camp. In short, the slum has become the fundamental biopolitical paradigm in the present global political context. While the upper classes enjoy an insured life by managing their risks, slum dwellers must endure harsh bare lives outside any insurance system. As Mike Davis has written, 'everywhere the Moslem slums constitute seemingly inexhaustible reservoirs of highly disciplined desperation. Not surprisingly, the recent suicide bombers in Turkey came from Istanbul's sprawling slum of Bagcilar, as well as the grim provincial city of Bingol, where 60 percent of the population is jobless' (Davis 2004: 14). On the other hand, the U.S. military constructed Arab cities against an Orientalist framework, as little more than 'terrorist nests', targets to soak up its military fire power (Graham 2006). The vicious cycle of violence that centers around the slums at the global level as well as the local level are clear.

Apart from suicide bombings, people in global slums attempt to respond to their structural marginality in various ways, ranging from charismatic churches and prophetic cults to ethnic militias, street gangs, neoliberal NGOs that attempt to empower the poor, and revolutionary social movements (Davis 2006: 202). It is noteworthy that the politics of 'the governed' in the global slum is not always passive and weak. For example, responding to the depoliticization process of the present

neoliberal governmentality, squatter villagers have sometimes tried to place political pressure on the administrative office (Chatterjee 2004). In Chatterjee's words, 'although the crucial move here was for our squatters to seek and find recognition as a population group, which from the standpoint of governmentality is only a usable empirical category that defines the targets of policy, they themselves have had to find ways of investing their collective identity with a moral content. This is an equally crucial part of the politics of 'the governed': *to give to the empirical form of a population group the moral attributes of a community*' (Chatterjee 2004: 57). While the global governmentality promotes the depoliticization of the politics of 'the governed' through policing, the people attempt to open up the sphere of 'the political' by turning the hegemonic political grammars to their own advantage.

On the other hand, the governing political elites are still pursuing an apolitical approach, seeking technical solutions that mitigate economic damage rather than political solutions that will enable structural change. The global slum as an instance of failed governance is not a technical problem but a political one, and it requires a political solution. As long as the governance system continues to deal with issues in the technocratic way and tries to avoid producing a political solution, the crisis will continue to become serious. In relation to this point, Toni Negri has made an assertive diagnosis, in the following terms:

Replacing the authoritarian mechanisms of government by the mediation procedures of governance-that have been introduced to resolve the difficulties encountered by the government-increases, deepens, and probably renders the crisis of government irreversible, including in the modern exceptionality of its definition. Consequently, it is within the context of governance that the class struggle led by the multitudes must be developed. (Negri 2008: 141)

It is not certain whether or not this kind of eschatological prediction will be fulfilled, but it is clear that the neoliberal global governmentality now faces a deep crisis. We are surrounded by various examples of failed governance and instances of the state of exception. Furthermore, it seems that the present mode of global governmentality is related to these

instances of failed governance, which I name ‘anarchical governance’. We can see this in the representative landscape of Nairobi, where the modern headquarters of UN-Habitat are based. Just several kilometers away from these headquarters is the second largest slum in Africa (Kibera), where about one million people live without running water, sewers, sanitation, or toilets. The sharp contrast between the headquarters and the slum represents the crisis of the present governmentality. However, this kind of crisis, which is a direct result of the anarchical governance, may well offer an opportunity for ‘the governed’ to initiate and promote counter-hegemonic movements.

6. Concluding Thoughts

At present, neoliberal global governmentality is promoting the homogenization of the whole society at a global level through participatory empowerment projects. This homogenization has been implemented through a network of power that has been established by the mobilization of global civil society and by the production of a benchmarking system, in particular since the end of the Cold War. While neoliberal governmentality attempts to measure each act of ‘the governed’ according to a one-dimensional calculable scale, it also pressures them to pursue self-improvement ‘voluntarily’, according to that scale. To paraphrase Lukes, naked one-dimensional power, which forces the subject to do something that they would not otherwise do, is being replaced by a third or the fourth dimensional power. This power induces ‘the governed’ to ‘voluntarily’ pursue the goals outlined by the hegemony it by fabricating the preferences and desires of ‘the governed’, and even constructing their own subjectivity itself (Lukes 2004). In this process, the imposed scale is becoming accepted as the naturalized one, and ‘the political’ subconsciously becomes increasingly difficult to contemplate for ‘the governed’. This means that, in a Gramscian sense, complete hegemony is being established at the global government level. In other words, the idea that there is no alternative governmentality is being inscribed onto the political consciousness of the majority of the population.

Beside the promotion of a politics of inclusion, implemented by

governing from a distance, the global governmentality also promotes a politics of exclusion, such as establishing targeted governance that is aimed at deviant groups, who exist at the periphery of society. This highly disciplinarian model of social control that is imposed upon the marginalized population sometimes leads to instances of the state of exception, in which people are forced to endure 'bare lives', and exist as *homo sacer*. For example, the extreme case makes this clear, in particular the refugee camps in the Gaza Strip and the West Bank. At this point we should pay an attention to the fact that this kind of exception existing at the marginalized periphery of the neoliberal global governmentality becomes normal. This neoliberal governmentality creates an informal sector of an enormous scale, an informal sector whose spatial representation is the global slum, and where vicious cycles of violence become normal.

What is clear is that the global slum as an example of failed governance, reflects the inherent contradictions of the present neoliberal global governmentality. The global slum is not only the politico-economical byproduct of neoliberal globalization, but is also the indispensable symbolic supplement for the liberal elite. In short, failed states or instances of failed urban governance, such as post-colonial global slums, which exist on the peripheries of society, result from the inherent contradictions of the current global governance. On the other hand, the hegemonic liberal elite can maintain its homogeneity within, by demarcating its own borders and excluding all heterogeneous others. Although the homogeneity of the liberal elite can be sustained by demarcating lines and excluding others, the borderline itself is contingent and not eternal. In addition, due to this unstable and porous border, intruding outsiders often jolt the homogenous political space. In the politics of inclusion/exclusion, there are always some ambiguities and contingencies. In relation to the indeterminacy and contingency of the border, Georg Simmel wrote an interesting paragraph in his short essay, *The Bridge and the Door*, in 1909:.

Because man is the relating being who must go on separating, but cannot relate without separating, therefore we must grasp the mere indifferent being-there of two river banks with our mind as being separate in order to unify them by a bridge. Similarly, the human being is the being with limits who has no limits. The seclusion of his being-at-

home achieved by the door means that man severs a piece from the uninterrupted unity-of-being in nature. But just as amorphous limitation finds a shape, so man's being limited finds its meaning and its dignity in what is signified by the door-the possibility at any moment stepping into the freedom and out-of-being limited. (Simmel 1994: 412)

To paraphrase, the human being is a being with boundaries who has no boundaries. Here we can identify the ambiguities of the human's relationship with boundaries as well as doors. The realm of the liberal elite can be stabilized by demarcating lines and excluding the other. On the other hand, while the inside might embrace some instability by linking to the outside, it might be free by doors leading to the outside. As far as both the inside and the outside constitute each other, through their defined borders, the outside would continue to be a necessary element to define the symbolic order within. In relation to this point, Agamben writes:

Insofar as the production of man through the opposition man/animal, human/inhuman, is at stake here, the [anthropological] machine necessarily functions by means of an exclusion (which is always already a capturing) and an inclusion (which is also always already an exclusion). Indeed, precisely because the human is already presupposed every time, the machine actually produces a kind of exception, a zone of indeterminacy in which the outside is nothing but the exclusion of an inside and the inside is in turn only the inclusion of an outside. (Agamben 2004: 37)

As long as the human (the inside) and the animal (the outside) both share the borderline that constitutes each other, the meaning of life can be sustained. However, if the boundary disappears, the animalization of humanity would occur. We can notice this tendency in any society where a neoliberal governmentality prevails and the depoliticization process of everything is being pursued. The people who exist in these societies only perpetually improve their own performance according to a one-dimensional benchmark. There is no *telos* anymore.

...man has now reached his historical telos and, for a humanity that has become animal again, there is nothing left but the depoliticization of human societies by means of the unconditional unfolding of the oikonomia, or the taking on of biological life itself as

the supreme political (or rather impolitical) task. (Agamben 2004: 76)

As Agamben has pointed out, the issue of the animalization of man (Nietzsche's the last man) is closely related to the appearance of a reality that includes aspects such as the end of telos. It seems that the present governmentality is merely aiming at a vacant signifier that promotes endless capital accumulation. In order to imbue the vacant signifier a fictitious meaning and to identify its provisional direction, the present governmentality-in its metaphorical role as a ship-needs the targeted outside as a referent for its own positioning. This is one of the reasons why the present governmentality needs outsiders such as 'terrorists', as a replacement for communists. While failed governance leads to the making of an 'outside'-an unintended consequence of the inherent politico-economic dynamics, the governance system itself actually requires this symbolic 'outside' in order to overcome the politico-cultural vacuum that is exemplified by notions such as the end of *telos*.

However, the making of an 'outside' also opens up possibilities for transforming this homogeneous and depoliticized space. To paraphrase Simmel, a man whose freedom is limited by the wall finds his meaning and his dignity in the significance of the door to the outside — the possibility of stepping into freedom. In other words, pace Agamben, if we can open the door or break the wall and bring the outside in, it will create opportunities for resistance to aspects of the homogenizing technocratic governance, aspects such as the global benchmarking system. The heterogeneous outsiders would bring different values that would de-naturalize the hegemonic benchmarking system and could promote agonistic democracy by pluralizing the current hegemonies. For the outsiders too, breaking down the wall means the emancipation from their 'bare' life. We need to strive to bring the political back inside the hegemonic benchmarking system to break down the wall, and move towards the goal of 'cities without walls'.

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4

Does Global Democracy Rule Out National Self-Determination?¹

Chikako Endo

1. Introduction

The systematic interdependencies of people and policies in the world today have led to questions regarding the appropriate sites of democratic politics, traditionally understood in terms of the framework of the nation-state. The dispersal of political power in areas where states are subject to global pressures, as well as transnational issues that transcend the concerns of a particular state, have led to debates concerning the possibility of a new framework for democratic decision-making. Global democracy is an idea that has emerged in response to the shifting sites of political power and influence beyond and across the boundaries of the nation-state. At the same time, this raises a variety of theoretical questions, such as, what exactly do we mean by ‘global democracy’ — can we understand it simply as an extension of national democracy to the global level — and is it desirable? Furthermore, how does global democracy affect traditional forms of national self-determination?

The purpose of this paper is to consider firstly, different justifications for global democracy and to assess their validity. Secondly, it considers the relationship between global democracy and national self-determination, mainly by considering what constitutes a viable conception of democracy on a global scale.

While many theorists agree that interlinked interests across borders create transnational obligations of justice that require transnational

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regulation, there is considerable disagreement as to whether and how these institutions should be made 'democratic'. On the one hand, some proponents of global democracy argue that global institutions should be democratic as the new arena in which citizens can be democratically self-governing given the erosion of state sovereignty by global forces (e.g. Held 1995; Archibugi 2004; McGrew 2002). On the other hand, opponents have responded by arguing that various demands for global democracy are not always met by the corresponding conditions of democracy. In particular, they stress the absence of an identifiable global 'public' of people who can engage effectively together in democratic deliberation (e.g. Bellamy and Jones 2000; Kymlicka 2001). Difficulties regarding the institutionalization of global democracy arise since there is a discrepancy between the 'demands' of global democracy, that is, the interlinked interests and common challenges that people encounter across state borders, and the 'supply' of global democracy, that is, the social conditions and institutions that make democracy possible (Bellamy and Jones 2000).

While some theorists argue that democracy by definition is simply not suited for application at the global level, in this paper, I consider the normative demands for global democracy, based on the assumption that mutual obligations of justice arise from peoples' interlinked interests across borders. If relationships of justice are to limit national self-determination in a way that affects individual citizens, questions of democratic control and accountability may arise. Once we have established that some kind of global democracy is normatively desirable, we can go on to consider what kind of democracy, if any, is suitable for democracy across state borders. Depending on the kind of global democracy we adopt, we can assess its compatibility with traditional forms of state-level democratic self-determination.

In the second section, I contrast two different types of 'demand' for global democracy. The first demand is the practical need for a way politically to deal with common global pressures. The second is the normative demand to regulate transnationally interlinked interests justly. I discuss the implications of both types of demands on national self-determination. The third section goes on to consider the 'supply' side of global democracy. In particular, I assess the views which stress the need for

a global democratic *demos* or public, as the basis of democratic deliberation. While this view focuses on the practical conditions of democracy, I argue that individuals may have normative entitlements to democratic participation, even without sharing a sense of public membership. Finally, in the fourth section, I consider what kind of 'global democracy' we should envision in light of the problems that arise when we try to extend a state-based model of democracy to the global level.

2. The demands for global democracy

Global pressures

While the extent and comprehensiveness of global interactions and the degree to which they engender a global political 'community' is a matter of contention,² many theorists agree that common global pressures, as well as the interdependence of people across borders, call for common institutions to regulate such interactions (Held 1995; McGrew 2002, Tan 2004; Young 2000). The view that there are systematic interlinked interests at the global level have thus given rise to calls for global institutions to account for human interaction that can no longer be contained within the borders of nation-states. Nevertheless, there is disagreement on whether, how, and to what extent such global institutions should be made democratic.

Some theorists argue that global or transnational institutions should be democratic from the perspective that states today are subject to immense global pressures, most notably from the global economy, which erodes state autonomy and efficacy. While political communities have always been subject to external influence, globalization theorists argue that what is distinct about globalization today is the intensity as well as extensiveness of interdependencies in multiple areas in a way that puts into question the traditional notion of the global order as a system of sovereign, autonomous states (Held 1995). In addition to growing international trade, production and finance, David Held cites the permeation of media and culture,

2 For views that increasing interdependence has made the world into a 'global community', see e.g. Beitz (1999; 1979), Young (2000), Held (1995, 2000). For various positions that contest this idea, see e.g. Hirst and Thompson (2000), Kymlicka (1999; 2001), Walzer (1980), Wendt (1999).

environmental issues, international law, and national security and defense policy as prominent issues which limit the collective autonomy of traditional political communities (Held 2000, 1999). These theorists hold that such global pressures weaken the sovereignty of the nation-state as they erode the capacity for meaningful democratic citizenship and self-determination at the domestic level (Held 1995, 1999, 2000; Archibugi 2004; Sandel 1996). From this perspective, the need for global democracy arises because a 'common structure of political action...alone, ultimately, can support the politics of self-determination' (Held 1999: 106). Global democracy is a practical way to adapt to contemporary global conditions while preserving the possibility for political self-determination and democratic control in the face of diminished state autonomy.

Despite the unavoidable effects of transnational forces on domestic politics however, we can argue that this does not necessarily rule out meaningful political self-determination within nation-states, since there is still room for citizens of nation-states to respond to such global pressures in distinctive ways. As Kymlicka states, 'what determines the boundaries of a community of fate is not the forces people are subject to, but rather how they respond to those forces, and, in particular, what sorts of collectivities they identify with when responding to those forces' (Kymlicka 1999: 115). State policies today are undoubtedly constrained by the global economy and international competition. Nevertheless, there remains significant scope for state-based decision-making, firstly with regard to largely domestic policies such as education, healthcare and labour policies, and secondly, with regard to how countries respond to global forces. As Kymlicka (1999) argues, even if multiple countries are affected by similar pressures, they may respond in distinctive ways that reflect their political cultures, which, in turn, are reflected in the different social policies which are adopted from one country to another.

Domestic politics may be affected not only explicitly by issues of common concern such as the global economy or the environment, but also in more implicit ways. As theorists of globalization stress, the internal political culture of nation-states are unavoidably affected by the permeation of media and culture across borders (Held 1995, 1999, 2000). In addition, transnational civil society and social movements give rise to global norms

that may shape or restrict domestic public opinion, which in turn, affects the way that people vote in domestic politics (Cf. Dryzek 2000). Nevertheless, while the public culture of individual nation-states may be importantly affected by global forces in these ways, this does not undermine the possibility of democratic self-determination by the citizens of such states. This point may be illustrated through an analogy with an individual. Individuals are, of course, born into particular social contexts and are shaped by various external forces-family, friends, social and economic environment etc.-throughout their lives. Although individuals' life courses are constrained by these factors in various ways, we would not say that they have no room for autonomous self-direction. Individuals make autonomous choices in ways that are meaningful to them in light of their social contexts, relationships and past experiences. Similarly, a societal or public culture³ in democratic societies evolves in relation to changing historical circumstances, external influences, or the change in the demographic structure of the population, but citizens can contest and deliberate democratically on such changes while drawing from the resources of their evolving public culture. Therefore, even if states today are shaped by global forces, this does not undermine domestic democracy or imply that the only form of democracy possible is global in scale; national democratic self-determination would still be possible in terms of how a particular political community responds to global forces.

Global justice

In this sense, the impact of global pressures on nation-states is not a sufficient factor to justify the need for global democracy. Yet, we may find other justifications for democratizing global institutions. While the argument above stressed the practical need to democratize global institutions as an alternative arena for democratic politics based on the assumption that state-based democracy is no longer effective, global institutions may morally limit state-based self-determination in the name of justice. If global institutions thus have implications on citizens of particular

3 For a defense of societal culture, see Kymlicka (2001) and for an account of the significance of a public culture, see e.g. Miller (2007).

nation-states, we may find normative reasons for democratizing such institutions.

According to this view, common global institutions are required, not simply because states are powerless in the face of global forces, but because interlinked interests and the common benefits of cooperation among people across state borders give rise to obligations of justice that require global institutions to regulate such interactions (Cf. Tan 2004). Iris Marion Young describes this position in the following way:

Wherever people act within a set of institutions that connect them to one another by commerce, communication, or the consequences of policies, such that systematic interdependencies generate benefits and burdens that would not exist without those institutional relationships, then the people within that set of interdependent institutions stand in relations of justice. (Young 2000: 246)⁴

In other words, once people stand in relationships of mutual cooperation, questions of justice, that is, how to distribute the benefits and burdens of social cooperation, arise. Thus, even if national political communities may indeed respond in different ways to global forces, globally interlinked interests create moral obligations of justice that limit the ways in which states can respond to them.⁵ This is because rules of fairness and reciprocity arise when parties are involved in a system of social cooperation from which they reap common benefits⁶ What constrains domestic political self-determination, then, is not external global pressures as such, but the mutual obligations of justice that arise from being involved in a system of social cooperation that gives rise to mutual benefits.

Of course, not all issues or types of policies affect people across and beyond state borders equally, as the degree to which transnational considerations of justice come into play differ according to the policy issue.

4 See also Beitz (1999), O'Neill (1996), Tan (2004), Miller (2007).

5 This means, for instance, that states are not free democratically to determine to emit as much CO₂ as they please for their economic gain or to decide to impose trade policies that favor their own state over their counterparts.

6 Rawls (1971).

Nation-states may continue to exercise a significant degree of sovereignty on domestic policies such as those on taxation, education and welfare,⁷ while being constrained by global obligations of justice on policies on war, trade, immigration, or economic development which significantly affect people in other countries (Cf. Gutmann and Thompson 2004: 36). Moreover, the fact that there are global obligations of justice by itself does not rule out the moral significance of state-borders since there may be substantial differences in the degree and significance of systematic relationships of interdependence-and thus obligations of justice-among nationals and between people of different citizenship. In this sense, global obligations of justice still leave room for domestic sovereignty and self-determination. Nevertheless, global justice may limit national self-determination on policy areas where significant interactions and common interests exist across state boundaries.

The earlier argument by globalization theorists that global institutions should be democratic in order to account for the diminished effectiveness of domestic democracy assumes that state sovereignty would be *effectively* limited by global forces. By contrast, the idea that mutual cooperation and interdependence create obligations of justice suggests that a state's sovereignty is not simply effectively curtailed, but is rather, *morally* so.

The question in relation to global democracy is whether the scope of obligations of justice morally corresponds to that of democracy. Many theorists agree that interlinked interests across borders call for transnational norms of justice. Yet, there is disagreement on whether global institutions that implement these norms should be made democratic.⁸ For some theorists such as Young, 'Other things being equal, the scope of

7 Although domestic policies may also increasingly be considered within the domain of global justice concerns, given the increasing numbers of non-citizens within many nation-states today who are affected by domestic policies. Cf. Carens (2008), Benhabib (2004).

8 The relationship between justice and democracy is a topic of much debate. Some may question the need for transnational interactions to be governed democratically if only they are just. Principles of distributive justice determine how to distribute the benefits and burdens of social cooperation, while democratic participation is a matter of having control over policies which affect us.

political institutions ought to correspond to the scope of obligations of justice...if the scope of some obligations of justice is global, there ought to be stronger and more democratic organizations of global governance with which to discharge those obligations' (2000: 250). Thus, she argues that international regulatory institutions must be reformed so as to become more democratic (2000). The idea is therefore, that the scope of justice corresponds to the scope of interlinked interests, which in turn call for democratic institutions for their regulation. Nevertheless, others argue that democracy is unsuited for application at the global level. In the following section, I will consider such an argument against global democracy which stresses the insufficient 'supply' or conditions for effective democracy on a global scale, and assess its moral significance.

3. The conditions of global democracy: a democratic public

*The need for a global *demos**

For those who acknowledge global obligations of justice but object to the view that this suggests that global institutions of justice should be made *democratic*, one of the main reasons for their objection is the lack of the conditions for global democracy. According to Bellamy and Jones, new demands for global democracy-transnational issues that proponents of global democracy argue diminish the effectiveness of nation-states-are not necessarily met by a corresponding 'supply' or the preconditions of global democracy (Bellamy and Jones 2000). One of these conditions is an identifiable global public that makes democratic reciprocity possible, and gives rise to a political will for democratic self-determination.⁹ Issues that cut across the interests of multiple states have not necessarily created a global *demos* or a transnational public, a political community where relationships of political equality and trust for democratic reciprocity and common decision-making can take place. Moreover, globalization often has highly differentiated effects: 'Instead of creating new communities of

9 Various theorists stress the need for ethical communities bound by norms of reciprocity and trust — usually historical communities of fate — as the basis for effective deliberative democracy. See e.g. Kymlicka (2001), Miller (2007).

common fate, it may accentuate differences, especially when linked to cultural diversity' (Bellamy and Jones, 2000: 210). Thus, theorists argue that when we talk about global democracy, we need to 'distinguish more explicitly between the objective and subjective bases of community, between the reality of transnational common fate, which is increasing, and perceptions of common fate, which are lagging' (Wendt 1999: 127). Even if objective demands for global democracy may be increasing, global democracy would not be possible if perceptions of common fate on a global scale are lacking in the internal outlook of individuals.

Kymlicka is also skeptical about the prospects for global democracy or the possibility of 'transnational citizenship' for similar reasons (1999, 2001). For Kymlicka, territorially bound national communities remain the most significant locus of democratic politics since 'People belong to the same community of fate if they *care* about each other's fate, and want to *share* each other's fate' (1999: 115), not simply if they are subject to common global forces. In other words, a common national history and culture provide the basis for *subjective* perceptions of common fate. Furthermore, participants in collective deliberation and legitimation must understand and trust one another since democratic deliberation requires participants reciprocally to offer public-regarding reasons for their political claims (Kymlicka 1999, 2001; Miller, 2007). Kymlicka, in particular, emphasizes the importance of a common language for democratic politics since democracy by the people-rather than by elites-is 'politics in the vernacular' (1999; 2001). Thus, for Kymlicka, the conditions of democratic deliberation, such as shared language, mutual trust and understanding, and a shared political will for self-determination are best met by a common national identity (see also Tan 2008; Miller 1995; Walzer 1980). Even if obligations of global *justice* may arise from peoples' interlinked interests, such theorists argue that if these conditions do not exist at the global level, talk about global democracy not only remains in vain, but also could create a serious regulatory hole to the detriment of the possibility of any kind of collective self-government.

While effective democracy-especially the kind that involves collective deliberation-indeed requires a demoi of individuals who see each other as political equals and fellow participants in collective self-government, with

which political community individuals today identify most strongly is an empirical question. While acknowledging the pulls on people today of multiple political loyalties, some, like Kymlicka,¹⁰ argue that national communities still provide the most adequate basis for a democratic public, while others like David Held stress the 'changing contours of political community' (Held 2000; see also Young 2000; Beitz 1999). While few people would deny that intensive globalization has created interlinked interests and mutual impact across borders, the degree to which this has created a global political *community* or *society* also requires empirical investigation and is likely to vary according to different communities and individuals.¹¹ What seems clear is that there is truth in both claims, and that the balance of the argument may shift with time. Yet, the arguments above by skeptics of global democracy that focus on the lack of a global democratic public are more issues of democratic possibility rather than a normative argument. That is, their concern is whether global institutions *could* practically be democratic given the current existence or non-existence of a transnational *demos*, rather than whether they *should* be democratic in light of people's interlinked interests across borders.

The arguments against global democracy which focus on the need for a democratic public often feature historical communities-usually in terms of a shared nationality-as the most plausible candidate for a democratically self-determining political community (Kymlicka 2001; Miller 1995, 2007; Walzer 1980). But here, we need to distinguish between the practical motivations for democratic self-determination and the normative basis of democratic entitlements. From a practical perspective, a sense of shared historical and cultural membership may be a significant factor in motivating political will among a particular group of people to aspire towards collective self-

10 See also Walzer (1980) and Miller (2007) for views that stress the continued importance that people attach to national self-determination in a way that reflects their distinct public cultures.

11 Some stress how globalization has actually been divisive, giving rise to new nationalist movements. Others point out how mass opinion is considerably more nationalistic and anti-integration than elite opinion, and that the transnational community that exists is one of capital and states rather than of peoples (Wendt 1999: 129; Bellamy and Jones 2000).

determination (Cf. Miller 2007). Moreover, a sense of shared public membership with a particular set of people gives rise to an ethical relationship of mutual reciprocity in the same way that people who consider each other as friends would, for instance, offer companionship and special concern for each other. People who don't share such a relationship may not owe these kinds of ethical obligations to each other, but may still owe each other mutual obligations of justice and fairness—whether or not they relate to each other internally—by virtue of sharing in a common system of social cooperation.

From a normative perspective, people who share membership in a particular nation-state are morally owed democratic entitlements, not because they share a sense of ethical membership, but because their interests are commonly affected by the policies of their government.¹² Thus, from a normative perspective, we can argue that historical communities are contingencies of the fact that the interests of people who share such communities are intertwined in a morally significant way — that is, in a way that gives rise to mutual obligations of justice. Robert Goodin has recently argued that 'The reason we think that territorial or historical or national groups ought to make decisions together is that, typically if not invariably, the interests of individuals within those groups are affected by the actions and choices of others in that group' (Goodin 2008: 134). According to Goodin, the significance of a shared history, nationality, or territory derives from being approximations of what has come to be referred to as the 'all-affected principle' of democratic participation, which holds that all those who are affected by democratic decisions should have a say in their formulation.¹³ As various critics have pointed out, there are various problems with the all affected principle for defining the boundaries of a demos. For one thing, it is extremely difficult to identify any set of people

12 Within nation-states, in the past, many men may not have felt that they share public membership with women or have seen them as political equals. But from a normative perspective, this does not justify women having been deprived of their entitlements to democratic participation and subject to laws and policies over which they had no control.

13 For other accounts of the all affected principle, see Whelan (1983), Arrhenius (2005), Goodin (2008).

who are consistently affected on all policy areas. This gives rise to problems of both under-inclusiveness and over-inclusiveness depending on the policy issue. Moreover, not all forms of mutual affectedness may give rise to normative entitlements to democratic governance. Thus, the all-affected principle requires refinement in terms of specifying what kinds of affectedness may normatively give rise to democratic entitlements.

My view is that one of the ways in which we can qualify the all affected principle is to hold that people who stand in relationships of justice that give rise to common institutions to regulate the distribution of the burdens and benefits of social cooperation have normative entitlements to democratic participation with regard to these institutions of justice. Thus, we are owed democratic entitlements, not simply when our actions affect each other in any kinds of ways, but rather when our actions affect each other in ways that gives rise to obligations-and institutions-of justice. By qualifying the boundaries of the demos in this way, we can restrict the application of democratic participation to political relationships that have to do with the sphere of justice, as well as give more concrete shape to the all affected principle, which by itself, can be overly dispersed and elusive.

In sum, interlinked interests and social cooperation that cut across borders create transnational obligations of justice that call for global institutions for their regulation. So long as there is need for global institutions to regulate mutual obligations of justice, there are normative reasons for these institutions to be governed democratically regardless of the current existence of a global public or demoi. At present, we may find discrepancies between the demand for global democracy on the one hand, and the supply for democracy at the global level-that is, a global public community as the basis of democratic deliberation. Nevertheless, we should take into account, not only the practical necessity and possibility of global institutions to deal with transnational issues, but the normative demand for global institutions democratically to regulate transnational relationships of justice. Global institutions would not regulate obligations of justice as comprehensively as domestic political institutions, but only in areas over which transnational social cooperation come into play. Thus, the justification for global democracy is not that domestic democracy has been made obsolete due to global forces, but rather that global

interdependencies give rise to obligations of justice that should in some way be regulated democratically.

4. Global democracy: international or cosmopolitan?

What kind of democracy is suited for the global level? While there are numerous variants of democracy, modern democracy has taken the nation-state as its basic framework. Robert Dahl presents a familiar conception of democracy which has developed with the nation-state in the following way: ‘we interpret it as consisting of rule by the people, or rather the demos, with a government of the state that is responsive and accountable to the demos, a sovereign authority that decides important political matters either directly in popular assemblies or indirectly through its representatives, chosen by lot or, in modern democracies, by means of elections’ (Dahl 1999, 20). Democracy is understood as a political system where citizens of the nation-state vote in elections to select government officials that represent their interests in making public policies. In turn, the national government and state institutions serve as the deliverer of public goods vis-à-vis the citizens whose interests they represent. Many of the arguments against global democracy—including those of Dahl—are based on the view that the conditions that make democracy possible within nation-states do not hold at the global level. If normative demands for transnational or cross-border democracy arise from interlinked interests, then, how should we implement it? In this section, I will consider what kind of global democracy we should envision in light of two alternative conceptions of global democracy: *international* and *cosmopolitan*.

We can distinguish conceptions of global democracy in broadly two ways. The first way is in terms of *international* democracy, which reserves a special status to nation-states as a dominant basis of collective self-determination (Tan 2008). While this idea does not rule out transnational institutions of global governance, it basically sees global democracy as democracy among internally democratic states, or more precisely, among representatives of nation-states (Tan 2008: 172). Rather than making global democracy directly accountable to individuals through their membership in transnational associations, the idea of *international* democracy takes

individuals to have ‘only an *indirect* role at the international level’ (Tan 2008: 172).¹⁴ Supporters of this view usually seek to preserve the conditions of democracy that the nation-state is seen to provide—a common public culture, sentiments of trust and solidarity—while accounting for the interlinked interests and interdependencies between people across state borders.

By contrast, cosmopolitan democracy envisions the ‘implementation of democratic society *within, among and beyond* states’ (Archibugi 2004: 438). Cosmopolitan democrats see global democracy as a ‘new way of understanding and regulating worldwide political relations’, rather than simply a question of democratizing the internal regimes of independent states (Archibugi 2004: 439). Unlike international democracy, cosmopolitan democracy questions the traditional structure of global order made up of sovereign nation-states and seeks to make transnational institutions and associations directly accountable to individuals regardless of their citizenship.

The main distinction between the two conceptions lies in whether we give a special status to the nation-state as a primary framework of democratic politics, as well as the basis of a global conception of democracy, or whether we think of global democracy in a way that does not place any special significance on nation-states. The extent to which global democracy may limit traditional understandings of national self-determination may depend on which idea of global democracy we adopt. In this section, I will examine cosmopolitan and international democracy respectively in order to assess which can offer us a more viable conception of global democracy.

Cosmopolitan democracy

Cosmopolitan democracy is ‘primarily a transnational ideal that is directly applicable to individuals of the world taken as a single social scheme’ (Tan 2008: 166). Cosmopolitan democrats, however, usually do not envision a single world government that is directly accountable to

14 For further positions on inter-national, rather than cosmopolitan, democracy, see e.g. Thompson (1996) and Wendt (1999).

individuals as an extension of national or state governments at the global level.¹⁵ The idea of a unified, single world government is problematic for democratic governance for several reasons, including two of which I take up here.

First, seeking to make global institutions directly representative of individuals in the sense that national governments are representative of individual citizens faces the problem of scale. If we understand democracy as a 'system of popular control over government policies and decisions' (Dahl 1999: 20), it would be impossible for international decision-making to be meaningfully democratic since these institutions would be too abstract and distant for popular democratic control. Dahl, who takes this position, argues that if nation-states in mass modern societies are already too abstract for citizens to exercise political control, it would simply be impossible for them to have any meaningful input at the global level (1999: 23). Furthermore, in addition to the problem of political control, the problem of scale would also exacerbate and intensify the conflicts among diverse interests and perspectives among individuals which are already difficult to manage at the intra-state level. Thus Thompson points out the tension between the widespread universalization of human rights norms in the world today on the one hand, and the growing disagreement about how to interpret these norms on the other (1999).¹⁶ A democratic world government would face the overwhelming task of managing widely diverging political claims, values, and interests in a democratic way.

Secondly, the concentration of sovereignty on a single world government would undermine the very reason cosmopolitan theorists

15 In this sense, cosmopolitan theorists distinguish between legal or institutional cosmopolitanism and moral cosmopolitanism. The former 'is committed to a concrete political ideal of a global order under which all persons have equivalent legal rights and duties, that is, are fellow citizens of a universal republic' (Pogge 1992: 49). For such a position, see e.g. Kai Nielsen (1988). Moral cosmopolitanism, on the other hand, does not necessarily make any institutional prescriptions but sees all individuals as ultimate units of moral concern. For positions on moral cosmopolitanism, see e.g. Tan (2004; 2008); Pogge (1992).

16 For a discussion on the relationship between global human rights norms and democracy, see Cohen (2008).

oppose national governments, which is based on the cosmopolitan morality of respecting each individual as the ultimate unit of moral concern. In the same way that national governments can oppress smaller political units, a world government could be overbearing on individuals' rights and freedoms (Cf. Pogge 1992). Under the current system, nation-states in a relationship of sovereign equality can check each others' activities or put pressure on each other to behave in certain ways.¹⁷ Moreover, a system of states provides options-although limited-for individuals to opt out of their own state, if conditions are intolerable, for life in another. For this reason, Walzer argues that there are reasons to be cautious of transcending the nation-state as the critical arena of political life, for

If the outcome of political processes in particular communal arenas is often brutal, then it ought to be assumed that outcomes in the global arena will often be brutal too. And this will be a far more effective and therefore a far more dangerous brutality, for there will be no place left for political refuge and no examples left of political alternatives. (Walzer 1980: 228)

Due to the problems of scale and unilateralism that could oppress political pluralism, cosmopolitan democrats usually do not argue for a single, global democratic polity that can be applied to the entire world as an extension of state institutions.

By contrast, without denying that nation-states still have an important role as a basis of political organization, cosmopolitan democrats see it as only one among multiple loci of democratic governance: 'the basic idea of cosmopolitan democracy is that there ought to be overlapping transnational institutions and associations in which individuals have a direct and deliberative role' (Tan, 2008: 166). Institutionally, cosmopolitan democracy would entail a 'network of regional and international agencies and assemblies that cut across spatially delimited locales' where states will be one among multiple overlapping and divided centres of democratic politics (Held 1995: 237). The point for cosmopolitan democrats is that citizens should govern themselves through a number of differentiated political units,

¹⁷ See Pettit (2006).

‘without any one political unit being dominant and thus occupying the traditional role of state’ (Pogge 1992: 58; see also e.g. Young 2000).¹⁸ According to this view, political authority and loyalties should be dispersed from the local to the global, among neighborhoods, towns, NGOs, local and transnational civil society associations, states, regional institutions-most notably the EU-and IGOs such as the UN, ILO and WTO.

This cosmopolitan approach to global democracy overcomes the problem of a unilateral world state, but faces problems for democratic self-determination from precisely the opposite perspective, that is, it disperses political control too widely. If political control is dispersed among multiple associations and organizations without giving special weight to any particular one of them, there would be a lack of collective focus which allows people to engage in meaningful public debate and collective self-determination. By collective self-determination, I refer to the process of public decision-making via public debate to determine public policies that determine the shape and future direction of the political community in which one lives. Political communities engage in collective decision-making to determine which rights of its members to secure and how collectively to secure them. For instance, a particular political community may decide to strengthen its public education system based on egalitarian principles, while another may support the privatization of its education system to increase competition and educational diversity. Either way, it is the people who live in that society who determine which course their education system would take. Such publicly determined policies have political, social and economic consequences that shape that society. Part of the value of the right to democratic participation comes precisely from this ability to shape the context within which one lives. A plurality of non-state organizations-above, below and across states-may put pressure on democratic states in various ways. Civil society organizations may put pressure on the state to respect minority rights, or international organizations may press states to observe certain environmental standards. Nevertheless, democratic decision-making-and collective self-determination-requires a particular locus for public debate in which ordinary citizens can take part to legitimate

18 Pogge refers to this as the ‘vertical division of sovereignty’ (Pogge 1992).

these multiple demands.

From this perspective, a network of regional and international agencies where political authority is equally dispersed would face the problem of coordination and control. According to Thompson, a network of regional and international agencies ‘does not give those citizens outside particular agencies or assemblies any significant control, and does not provide any way for citizens within them to deal with the effects of the uncoordinated decisions of other agencies and assemblies’ (Thompson 1999: 116). Thus, ‘The dispersal of authority may generate more points of influence and more opportunities for participation, but it is also likely to offer less effective control and coordination’ (Thompson 1999: 116).

An over-reliance on civil society also faces similar problems relating to the dispersal of political authority without a clear regulative center.¹⁹ While a free and active civil society is important for promoting communicative interaction and democratic inclusion, ‘The anarchistic and particularistic impulses of civil society sometimes mean that plural organizations pursue their own ends either ignorant of or in direct competition with others’ (Young 2000: 190). Without a collective public sphere to regulate such interactions, civil society has the potential to be divisive, rather than building broad social trust. Furthermore, engaging in collective self-determination means that citizens need to make collective decisions on matters that affect society as a whole, in a way that encompasses the plural and separate decisions made by the institutions of civil society (Thompson 1999: 116). Government institutions have been important for maintaining the public sphere in which civil society can flourish. As Thompson argues, the problem with the civil society approach to global democracy is that, without denying the need for government institutions, it ‘neglects the importance of improving and strengthening them’ (1999: 116).

Therefore, the idea of cosmopolitan democracy that avoids the idea of a single, world government but seeks to be directly accountable to individuals-cosmopolitan governance by multiple political organizations, and the civil society approach-could give us a ‘highly decentralized world

19 For an account of global democracy that emphasizes the communicative role of transnational civil society, see Dryzek (2000).

order, in which self-governing communities proliferate...' (McGrew 2002: 43-44). Such conditions may well result in a 'tyranny of community' rather than global democracy.

Inter-national democracy

If not a world state or the division and multiplication of sovereignty, what kind of global democracy, then, should we envision? Excessively dispersed decision-making means no collective decision-making at all, and may erode a sense of collective political action. The arguments above suggest that effective democratic self-determination requires the framework of an identifiable political authority and a political public that brings together the interests of multiple communities towards a 'common good' without extending so far as to produce conflicts of unmanageable scale. In our world today, the most prominent form of such a political framework, both in terms of scale, as well as in terms of historical contingency, is the nation-state.

National communities, as I argued in the previous section, are historical contingencies, and what makes them morally significant as a unit of democratic self-determination is that they approximate the representation of citizens who have an interest in, and who are directly affected by its public policies. Indeed, there may not be any special normative basis for giving them, over other political units, special status as a framework for collective politics.²⁰ Yet, if effective democratic control at the global level requires some intermediary level of political authority for legitimating political control at more local as well as transnational levels, nation-states may contingently be a convenient and effective unit of such an intermediary political organization that anchors more dispersed forms of decision-making. Notice that this argument differs from the earlier arguments, which

20 In this sense, I do not wish to give an absolute status to nation-states — they may be replaced by other units of political organization if such units arise. For this reason, Jean Cohen uses the term 'polity' rather than nation-state as such, to indicate that the size and nature of autonomous political units can change (2008: 591). What is important is that autonomous polities stand in a legal relationship of sovereign equality to one another in a way that protects their autonomous political agency.

puts weight on the nation-state by virtue of their being historical communities bound by trust and solidarity. By contrast, the position here stresses the political significance of nation-states as the basis of legitimacy, accountability, political control, and collective self-determination, while preserving political pluralism which a world government would undermine. Giving a special status to such a public framework does not reject other levels of 'governance'-by local communities, cultural groups, civil society associations and transnational organizations-but can function as a point of reference for politically contesting and legitimating the decisions of these other levels of political authority (see Kymlicka 1999).

If we follow this line of argument, global democracy can be understood as democracy among nation-states-or polities-rather than cosmopolitan democracy where transnational organizations must be directly accountable to individuals who are seen to exist within a single social scheme. According to this system, individual citizens will democratically elect representatives to represent them in global forums of deliberation, where these representatives will democratically determine international policies with other democratically elected representatives of other states (Tan 2008). In order for such a system to be democratic for individual citizens, nation-states themselves must be internally democratic. Hence, the idea of international democracy envisions a two-stage procedure which consists firstly, in improving democracy within current nation-states, and secondly, in democratizing international institutions (Tan 2008).

As Tan argues, such a state-based idea of global democracy does not conflict with cosmopolitan *justice*, which sees the individual as the ultimate unit of moral worth and concern regardless of her citizenship (Tan 2004, 2008; Gutmann 1996; Thompson 1996). Even if global democracy is not directly accountable to individuals, it is motivated by respect and concern for individuals based on the view that state-based political self-determination is the most effective way (if only contingently) to represent individuals' interests at the global level in a viable way, while preserving a sense of meaningful collective self-determination for individual citizens.²¹ An effective and viable form of global democracy may be one that strengthens democracy at the national level, while at the same time as improving representation and inclusion among state representatives at the

global level.

What would such a structure of global democracy imply for national self-determination? If effective global democracy requires strengthening democracy at the local level in order to increase the political accountability of their representatives in global forums, then, such a view of global democracy could coexist with collective self-determination at the national level. Nevertheless, national self-determination that is consistent with the two-step model of global democracy comes with the following conditions.

First, collective self-determination within nation-states must be democratic. If states are not internally democratic, decision-making by state representatives in global forums would not be accountable to individual citizens. This would rule out non-democratic forms of national self-determination, such as authoritarian regimes. This may lead to worrying arguments concerning the legitimacy of 'democratizing' non-democratic regimes. However, it may be possible to conceive of plural models of internally-led democratization and democratic governance without imposing a unitary global standard of democracy on all societies.

Second, the idea of inter-national democracy does not mean that individuals owe loyalty only and absolutely to the state. Nation-states today exist within, against, and in relation to competing political forces-including local communities, cultural groups and transnational civil society. Internally democratic states, by definition, cannot suppress these plural political forces, but are meant to provide a forum within which they can be contested and legitimated. Moreover, states will be subject to democratically determined regional and international policies, in whose formulation they themselves take part. Yet a vision of inter-national democracy would reserve a special status to state-level politics as the framework within which these plural political forces can be contested collectively by ordinary citizens.

21 For this reason, Gutmann argues that the aims of cosmopolitanism are better achieved through cultivating a strong sense of democratic citizenship at home than by transplanting the nation-state system to the global arena (1996: 71)

5. Conclusion

What I have tried to stress in this paper is that the empirical question of whether a transnational public exists today-nor the argument that the conditions for democracy at the national level are lacking at the global level-does not rule out the normative demand for global democracy. Mutual obligations of justice that arise from sustained interaction and interdependence across state borders call for global institutions to regulate them; in this paper, I argued that such institutions themselves need to be subject to democratic control from a normative perspective. But the idea of *international* democracy holds that such institutions need to be subject to the democratic control of state units, rather than being directly accountable to individuals, namely because effective democratic control requires the framework of an intermediary level of political authority between a single global government and excessively dispersed loci of political authority.

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5

Governing Violence by War? Michael Walzer on Humanitarian Intervention

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1. Introduction

Since the 1990s, there has been a growing interest in how to evaluate the politics of humanitarian intervention. ‘Humanitarian intervention’ means a military act by external power(s) to prevent or stop internal inhumane affairs (such as ethnic cleansing, massive coercion, illegitimate imprisonment etc.) in another state, even at the risk of overriding the rights to territorial integrity and political sovereignty that the country is normally assumed to have. The reason why such military actions have come to be paid more and more attention in the post-Cold War period is that, given the grave human rights violations like genocide or ethnic cleansing that occurred in the former Yugoslavia, Rwanda, and Somalia etc. in the early 1990s, whether the use of foreign military power on humanitarian grounds is ever morally permitted has become an urgent global issue.

This paper is an attempt to examine the argument on humanitarian intervention developed by Michael Walzer, a notable theorist of just war, and to clarify its points. When arguing about the validity of humanitarian intervention under the framework of just war theory, one will immediately face a dilemma that arises from the fact that just wars are generally limited to defensive wars according to that framework. On the one hand, defensive war is a military campaign to deal with an *external* evil of foreign aggression, and its validity derives directly from the ideal of state sovereignty. Humanitarian intervention, on the other hand, is a military campaign to deal with an *internal* evil of human rights violations, which entails a temporal suspension of that very ideal. In short, the two occupy sharply contrasting positions in the framework of just war theory-and

especially in its part of *jus ad bellum* (Caney 2005: chs. 6-7).

A country engaged in domestic human right violations does not commit an illegal act of aggression in international society. The country is innocent in terms of the aggression/self-defense criterion in the framework of just war theory. Moreover, Walzer explicitly states that self-defense against aggression is the only justifiable cause for war in principle (this is called ‘the legalist paradigm’). In this respect, there seems to be no room for justifying humanitarian intervention in his just war theory. Nevertheless, Walzer admits the necessity of military action in an extreme situation based on humanitarian grounds, though a little hesitantly at first. Thus, we need to understand why and how he justifies humanitarian intervention as an exemption from the general principle that just wars are only limited to defensive wars.

Re-examining the validity of humanitarian intervention within the framework of just war theory also relates to how to evaluate ‘war on terrorism’ in the 21st century. The politics of humanitarian intervention has so far often been condemned by left liberals. In their view, it has a strong tendency to be combined with an imperialistic ambition that uncivilized countries be civilized by external forces. Nowadays, however, some liberals are rather sympathetic to the imperial role played by the U.S. and vindicate war on terrorism as a kind of humanitarian intervention. In this paper, I will compare the contrasting evaluations on the Iraq war by Ignatieff and Walzer, to make clearer the point of the latter’s argument on humanitarian intervention.

The arguments of this paper unfold in four stages: first, I will overview the basic framework of Walzer’s just war theory in terms of its ‘legalist paradigm’ approach and, secondly, examine why and how he justifies some humanitarian interventions as an exemption in his general framework with reference to his communitarian notion of just war. Thirdly, I will point out that faced with new realities in international society in the 1990s (namely, the massive human rights violations that occurred in the former Yugoslavia, Rwanda, and Somalia), he has shifted his position from reluctant to resolute towards supporting the overseas use of military force on humanitarian grounds. Finally, I will try to identify Walzer’s (not always explicit) presumption that seems to revolve around his argument on humanitarian

intervention, by contrasting it with the Liberal Hawkish case for war on terrorism.

2. Self-Defense: The Paradigmatic Just Cause for Waging War

In this section, I want to overview the basic framework of Walzer's just war theory, relying mainly on the arguments in his *Just and Unjust Wars*. Walzer wrote the book in 1977 in the wake of widespread opposition to the Vietnam War that lasted until 1975. While he actively took part in antiwar movements such as the Vietnam Summer and the Cambridge Neighborhood Committee on Vietnam, Walzer thought that the theory of *bellum justum* (just war), whose history reached back to the era of the Roman Empire, was an appropriate intellectual source for explaining why the U.S. invasion in Vietnam was morally wrong. Looking back on that time, he now calls it the period of 'the triumph of just war theory' (Walzer 2004: ch. 1).

Now, what is just war theory? It is a theory that tries to set a limit to the range and strength of war by providing a series of criteria for discriminating actual wars into more or less just or unjust categories. This means that we can make moral judgments even in wartime. In this sense, just war theory differs from pacifism, which claims that all wars are intrinsically unjust and should never be permitted on the one hand, as well as from realism, which assumes that warfare does not fit well with moral judgments and should entirely be based on policy judgments on the other. Just war theory holds that there can be more/less just wars and that we need to draw certain discriminations between them (Brown 2002: 99-102).¹

The criteria for discriminating actual wars into more or less just or

1 should add two further points. First, a just war is not a war of justice. War as an ultimate means of violence is presumably evil, and the term 'just war' does not imply that waging a war can be 'justice' in a strong sense but only that it is 'justifiable' in a weak sense (Walzer 2004: x-xi). Secondly, the theory of just war taken up in this paper relates only to *jus ad bellum* (justice of war), not to *jus in bello* (justice in war). The two are independent of each other (Walzer 2006: 21). A war that is just in the first sense can be fought unjustly in the second sense, and since this is the reality that holds true of almost all modern wars, one can even say that there will never be a perfectly just (i.e. justifiable) war.

unjust categories roughly correspond to those developed in the field of normative ethics in general: utilitarianism based on the value of utility and rights theory based on the value of fundamental rights. Utilitarians assume that every act is judged correct to the extent that the state of affairs caused by the act comes as close as possible to 'the greatest happiness for the greatest number'. War is one of the acts whose validity is judged by the utility criterion. Those who develop such a utilitarian theory of just war include Richard B. Brandt (1972) and R. M. Hare (1972).²

Other just war theorists support rights theory. According to them, a war is just to the extent that it aims to, and actually does, protect people's rights in some sense. In this respect, a war that is protecting rights is judged correct, while a war that involves the infringement of rights is judged wrong. The rights theory of just war is sub-classified according to on which, among the varieties of rights, the greatest value is placed: statist think that the rights of *states* (to territorial integrity and political independence) are most important, while cosmopolitans suppose that the highest priority is to protect the rights of *individuals* (to life and liberty) (Rodin 2002: 122). In the former sense, whether a war is right or wrong depends on the fact that it is protecting/violating the rights of states. For example, defensive wars with the aim of stopping aggression are justified as an act to restore state sovereignty. Terry Nardin (1983) develops this statist kind of just war theory.

Cosmopolitans, at the other extreme, regard a military campaign as just when its aim is to protect the rights of individuals. Defensive wars are normally judged just, because they are presumably launched to protect the rights of citizens via protecting the *prima facie* immunity of their state's sovereignty. Thus, from their point of view, humanitarian intervention to stop the mass violation of individual rights may be permitted, even though it involves overriding the sovereignty of the intervened state. While statist and cosmopolitans are on the same side of rights theory, it is likely that they come to different conclusions concerning the same military campaign,

2 They develop rule-utilitarianism or the two-tier theory instead of mere act utilitarianism, and their real arguments are of course more complex than this simplified model.

as the criteria they develop are substantially different from each other in the above sense.

Walzer's argument is based on rights theory and rejects any utilitarian way of thinking in evaluating the morality of war (Walzer 2006: ch. 14).³ But it is less certain whether he is a statist or a cosmopolitan. This uncertainty must be resolved before considering his argument on humanitarian intervention. Let me examine it in more detail.

As is also the case with many other just war theorists, Walzer thinks that the only justifiable cause for waging war is in principle limited to self-defense against aggression. Defensive war is a military campaign whose aim is to resist aggression to maintain existing borders. He names this idea the 'legalist paradigm' and summarizes it in the following six points (Walzer 2006: 61-2).

1. There exists an international society of independent states.
2. This international society has a law that establishes the rights of its members—above all, the rights of territorial integrity and political sovereignty.
3. Any use of force or imminent threat of force by one state against the political sovereignty or territorial integrity of another constitutes aggression and is a criminal act.
4. Aggression justifies two kinds of violent response: a war of self-defense by the victim and a war of law enforcement by the victim and any other member of international society.
5. Nothing but aggression can justify war.
6. Once the aggressor state has been militarily repulsed, it can also be punished.

In the first vein, these might seem to be a paradigmatically statist argument as they refer only to the rights of states. But the case is not so simple. Let me explain further the reason why Walzer assumes that 'an act of aggression justifies defensive war'.

³ Walzer, however, moves to the utilitarian side at the moment of what he calls 'supreme emergency' (Walzer 2004: ch. 3; 2006: ch. 16).

The reason is provided by the ‘domestic analogy’ (Walzer 2006: 58-63). The analogy tries to explain the legal/moral status of states in *international* society by comparison with that of individuals in *domestic* society. Individuals in domestic society have the inviolable rights to their lives and liberties. Thus, when someone threatens these rights, they do not hesitate to resist him even by force. This is called ‘justifiable self-defense’ and its legitimacy is both legally and morally acknowledged. The domestic analogy tries to apply this to the case of states that constitute the members of international society.

As is manifest here, behind the logic of the domestic analogy lies the idea that states in international society are bearers of rights as in the case of individuals in domestic society. This is clearly a statist idea. Walzer, however, adds that ‘The two [i.e. the rights to territorial integrity and political sovereignty] belong to states, but they derive ultimately from the rights of individuals, and from them they take their force’ (Walzer 2006: 53). This means that the (instrumental) value of state rights depends on, and is derived from, the (intrinsic) value of individual rights. In this respect, his argument may be assimilated to the cosmopolitan rights theory. How does he fill the gap between statism and cosmopolitanism?

The key lies in his appeal to the logic of social contract. The logic holds that once individuals in domestic society come to agree that their government acts on their behalf in international society, the rights to life and liberty that they originally have are replaced by the collective form of state rights to territorial integrity and political sovereignty. ‘States’ rights are simply their [i.e. individual rights] collective form. The process [...] is best understood [...] as it has commonly been understood since the seventeenth century, in terms of social contract theory’ (Walzer 2006: 54). A state comes to possess its sovereignty on condition that its citizens have agreed on its representative legitimacy in international society. Thus the justice of war waged against external threats ultimately derives from the justice of protecting the rights of individual citizens.

Walzer assumes here that there is no contradiction between protecting state and individual rights. The statist rights theory can presumably be reconciled with the cosmopolitan rights theory. This reconciliation is ‘our baseline’, ‘our model’, and ‘the fundamental structure for the moral

compression of war' (Walzer 2006: 61). This is why justifiable military actions are limited to defensive wars *in principle*. However, 'exceptions are always necessary, principles are never absolute' (Walzer 2007a: 237). These exceptions include situation where protecting the rights of states (to territorial integrity and political independence) is in conflict with protecting the rights of individuals (to life and liberty)-that is, the situation of a humanitarian crisis where a state is actively committed to the genocide or ethnic cleansing of its own citizens.

3. Making Room for Humanitarian Intervention in Just War Theory

While declaring self-defense as the only justifiable cause for war in principle, Walzer at the same time mentions some exceptions from it and revises the 'legalist paradigm' in *Just and Unjust Wars*. Humanitarian intervention, the use of military power on humanitarian grounds, is one of them.⁴ The revised version reads as follows: 'states can be invaded and wars justly begun [...] to rescue peoples threatened with massacre' (Walzer 2006: 108). The next question is, why and how can it be justified in the overall framework of Walzer's just war theory?

Given that the value of state rights depends on and is derived from the value of individuals rights, Walzer would put priority on the latter if the two are in conflict with each other-namely, if he cannot but make a choice between statist and cosmopolitan ways of thinking. The *raison d'être* of a state is nothing but to protect the lives and liberties of its citizens. Thus, a state that violates these rights would immediately lose its supposed legitimacy as a sovereign in international society. If a just cause for war is ultimately based on the value of individual rights, then humanitarian intervention that aims to rescue those in danger would be regarded as just, far from aggressive, in that situation.

Many cosmopolitans approve of the idea of humanitarian intervention, saying that their highest value is to defend human rights by any means. Let

4 Other exceptions include anticipations, secessions, counter-interventions, and preventive measures such as demilitarization (Walzer 2006: chs. 5-7).

us see the argument of Gerald Doppelt. Suppose that the (instrumental) value of state rights depends on, and is derived from, the (intrinsic) value of individual rights, as Walzer says. From a cosmopolitan point of view, the use of military force by foreign powers to stop internal human rights violations should not be seen as constituting aggression. If an intervention aims at, and is actually engaging in, the relief of oppressed individuals, then the intervened state can no longer appeal to the principle of non-intervention. It is not the intervened but the intervening state that strives to protect the fundamental rights of individuals to life and liberty: 'aggression is immediately an attack upon the state, but its criminality stems from the fact that it is an attack upon the basic human rights of its individual citizens. [...] Suppose one state uses military force on another state which consistently and brutally violates these basic rights of its citizens. In such a case this action would not in itself constitute aggression' (Doppelt 1978: 6).

Walzer, however, has some reservations to such a cosmopolitan way of thinking, stating that the list of individual rights depends considerably on the social meanings and shared understandings in that community. This does not mean that state rights should be respected in spite of its devastating impact on individual rights: 'sovereignty also has limits, which are fixed most clearly by the legal doctrine of humanitarian intervention. [...] The principles of political independence and territorial integrity do not protect barbarism' (Walzer 1997: 21). Walzer, however, is still very reluctant to invalidate immediately the rights of a state that fails (or, seems to fail) to protect the rights of its citizens. In short, his just war theory is different both from that of statists and from that of cosmopolitans, to be more precise.

Walzer differs from the two in the sense that he puts the legitimacy of a state on its relationship with the political community: 'a state is legitimate or not depending upon the "fit" of government and community, that is, the degree to which the government actually represents the political life of its people' (Walzer 2007a: 223). The moral standing of states does not derive directly from the rights of citizens to life and liberty. Rather, it draws its moral force from the fact that the states are intimately connected with, and actually represent, the collective life of a political community. A political community means a collection of people who normally share certain

common characteristics such as language, history, religion, cultures, social institutions etc., and develop their own social meanings and common understandings about how to live. In this sense, it is neither the rights of states nor those of individuals, but the 'rights of political community' that ultimately supports Walzer's deontological mode of just war theory (Walzer 2006: 53-8). This is explicit in his logic of social contract mentioned in the last section:

The rights of states rest on the consent of their members. But this is consent of a special sort. State rights are not constituted through a series of transfers from individual men and women to the sovereign or through a series of exchanges among individuals. What actually happens is harder to describe. Over a long period of time, shared experiences and cooperative activity of many different kinds shape a common life. 'Contract' is a metaphor for a process of association and mutuality, the ongoing character of which the state claims to protect against external encroachment. The protection extends not only to the lives and liberties of individuals but also to their shared life and liberty, the independent community they have made, for which individuals are sometimes sacrificed. (Walzer 2006: 54)

Thus, he admits lesser room for justifiable humanitarian intervention than cosmopolitans do. A state loses its rights to territorial integrity and political sovereignty not because it violates the rights of individuals but because it lacks the 'fit' with political community: 'interventions can be justified whenever a government is engaged in the massacre or enslavement of its own citizens or subjects. In such cases, the usual presumption is reversed, and we ought to assume either that there is no "fit" between the government and the community or that there is no community' (Walzer 2007a: 225). To put this differently, the sovereignty of a state would not be nullified immediately because it infringes part of the rights of its own citizens. Walzer mentions the example of Algeria, where the citizens are not secured of their civil/political rights and live under strict military and religious rules (Walzer 2007a: 231-2).

Walzer's communitarian concern for the self-determination and self-help of political communities can perfectly be aligned with the cosmopolitan concern for the lives and liberties of individuals. If the latter

are at risk, ‘we *ought to assume* either that there is no “fit” between the government and the community or that there is no community’ (emphasis added). We think of humanitarian intervention as the exceptional cases from the communitarian theory of rights, which plays a fundamental role in the entire framework of his just war theory. An intervention is legitimate because it is the only way to restore the rights of political communities to self-determination and self-help, via stopping the violation of individual rights.

Thus Walzer judges the legitimacy of humanitarian intervention by seeing if it meets the requirement of the ‘in and out’ test: that is, the readiness of the intervening force to leave once the military victory is won and the inhumane actions have ended. One may think that the purpose of intervention should go beyond this to instill liberal democratic institutions in the local community. Walzer sees this purpose as illegitimate. As was once argued by John Stuart Mill (and Walzer follows him at this point), intervening with other countries for the sake of liberty or democracy does not lead to preferable results even for the local citizens (Mill 1867).⁵ This argument is important when Walzer’s evaluation on the legitimacy of war on terrorism is concerned. But, before moving on to this topic, I shall take a look at a noticeable change in his argument that took place in the 1990s.

4. Walzer’s Argument: What Has Changed and What Has Not?

Let me give a brief summary of what I have made clear. Just war theory is a theory that tries to set a limit to the range and strength of war by providing a series of criteria for discriminating actual wars into more or less just or unjust categories. The criteria are roughly divided into utilitarianism and rights theory. The latter is subdivided into a further three categories, according to whose rights are taken into account. Statism thinks of wars for protecting the rights of *states* as just, while cosmopolitans places the highest value on protecting the rights of *individuals* (see Table 1).

Humanitarian intervention involves violating the rights of states to territorial integrity and political independence in the name of protecting the

5 As to the details of Walzer’s evaluation on Mill, see Walzer (2007b).

Table 1 Types of just war theory

<i>Types</i>		<i>Aims</i>	<i>Theorists</i>
Utilitarianism		Maximization of utility	Brandt, Hare
Rights theory	Statism	Protection of the rights of states	Nardin
	Communitarianism	Protection of the rights of political communities	Walzer
	Cosmopolitanism	Protection of the rights of individuals	Doppelt

rights of individuals to life and liberty. It seems, in this sense, to be assimilated to the cosmopolitan just war theory. But we have also seen that Walzer values the rights of *political communities* as the primary concern in the justice of war. As a result, his case for humanitarian intervention is more restrictive than that of cosmopolitans. The sovereignty of a state would not be immediately nullified even if it violates (or seems to violate) part of the individual rights of its citizens, when it passes the ‘fit’ test with the local political community.

Walzer, of course, does not exclude any possibility of humanitarian intervention. He refers to the Indian intervention in East Pakistan (now Bangladesh), the Tanzanian intervention in Uganda, and the Vietnamese intervention in Cambodia in the 1970s (Walzer 2004: 19, 69, 103) as legitimate cases. But, even in these cases, the proper aim of intervention is limited to setting out the conditions under which each local community can establish its own legitimate government. The justice of humanitarian intervention is thus determined by asking whether it meets the requirement of the ‘in and out’ test. In Walzer’s view, protecting the rights of political communities and protecting that of individuals are not only mutually inclusive, but the latter cannot take place to the detriment of the former. Thus, in the 1970-80s, Walzer was basically not much sympathetic towards the idea of humanitarian intervention.

After the end of the Cold War, however, one can see a marked change or development in his argument, namely a shift from a reluctant to positive attitude towards supporting military intervention on humanitarian grounds. In the 1990s, a series of chaotic and tragic events followed civil wars and secessions as the former Soviet Union lost its control over its satellite regimes. In a number of places he admits that although nearly all the

arguments developed in *Just and Unjust Wars* are still valid after the passing of the Cold War, he cannot but change his substantive argument on humanitarian intervention (Walzer 2004: xii-xiii, 70; 2006: xi-xii, 3rd ed.; 2007a: 246).

A dilemma Walzer finds in this new reality is that there have been an increasing number of humanitarian disasters that do not fit well with the requirement of the 'in and out' test. As we have seen, humanitarian intervention is justifiable for him when 'there is no "fit" between the government and the community or when there is no community'. These are exceptional cases where the usual norm of protecting the rights of political communities does not hold, and the legitimate aim of intervention is limited to rescuing the lives of innocent people. Political institutions should not be established by external powers, but by local communities through their self-determination and self-help.

Walzer now faces several cases that cannot appropriately be dealt with by the 'in and out' test. 'Where the policies and practices that need to be stopped are widely supported, sustained by local structures and cultures, any potentially successful intervention is not going to meet the "in and out" test. It is likely to require a much more sustained challenge to conventional sovereignty' (Walzer 2004: 72). Such cases are apparent in 'failure states' like Rwanda and Somalia, where the ethnic divisions are deep and military clans are supported by local popular feelings. And, as Nardin rightly points out, 'Human rights can be grossly abused even where there is "fit"' (Slater and Nardin 1986: 89).⁶ We can no longer simply suppose that protecting the rights of political communities would necessarily protect that of individuals.

Against the background stated above, Walzer comes to re-evaluate the importance of *jus post bellum* (justice after war) (Walzer 2004: 18-22, 75-7; 2006: xv-xvi, 3rd ed.; 2007a: 246-8). It is not enough to stop human rights violations for the time being. Humanitarian interventions since the 1990s need to be accompanied by the re-establishment of political institutions by external powers as in the case of the post war reconstructions of Japan and

6 Note, however, that Nardin is a statist and is as reluctant as, or perhaps more reluctant than, Walzer to admit the politics of military intervention on humanitarian grounds. As to Nardin's argument on humanitarian intervention, see Caney (1997).

Germany: ‘given what is now going on in Southeast Europe and Central Africa, morally serious people have to think again about the human costs and benefits of what we might call “standing interventions”’ (Walzer 2004: 77). This may also require a series of military actions including a long-term military presence, social reconstruction, or what used to be called ‘political trusteeship’, though they are clearly inconsistent with the assumption underlying just war theory that the only legitimate aim for using force is to restore the *status quo ante*.

How do we analyze his change? It is true that he is getting closer to the cosmopolitan understanding that individual rights should be assigned important value. This does not mean, however, that he has abolished entirely his communitarian way of thinking. Given that cosmopolitans attribute only secondary importance to the self-determination and self-help of political communities, they might bring about what Immanuel Kant calls ‘terrifying despotism’ in international society (Walzer 2004: 175-7). The legitimate range of humanitarian intervention is being broadened, but exceptions are exceptions and principles are principles. ‘I don’t mean to abandon the principle of nonintervention-only to honor its exceptions’ (Walzer 2004: 81). Thus, in the 1990s, Walzer (1994) comes to investigate the relevance of binding communitarianism and cosmopolitanism together, instead of supporting/abolishing either of them.

He is especially wary about the idea of humanitarian intervention when it is associated with imperial desire. ‘The presumption against intervention is strong; we (on the left especially) have reasons for it, which derive from our opposition to imperial politics and our commitment to self-determination’ (Walzer 2004: 68). One of the characteristics in Walzer’s argument on humanitarian intervention is that it is always accompanied with recognizing the danger of its imperialistic tendencies, and at this point he is sharply in contrast with other Liberal Hawks. I will shed light on this contrast in the next section.

5. War on Terrorism: Humanitarian Intervention or Defensive War?

The September 11 terrorist attacks and the following wars on terrorism

(War in Afghanistan and the Iraq War) made substantial changes to the arguments on humanitarian intervention. The United States carried out a series of wars on terrorism even at the risk of political isolation in international society, and this is supported by Liberal Hawks who maintain that the U.S. should bear the responsibility as the only superpower in the 21st century. In this section, I will compare Walzer with Michael Ignatieff in their evaluations on the legitimacy of war on terrorism, to make clearer the limits of justifiable intervention in Walzer's just war theory.

There are not a few intellectuals who (at least temporarily) supported war on terrorism as a kind of just war, not only among right-wing conservatives, but also among left liberals. Those include an international legal theorist Richard Falk (2001a; 2001b; 2001c) and a journalist Christopher Hitchens (2003), along with Ignatieff and Walzer who are commonly called 'Liberal Hawks' as they actively supported appealing to military means for humanitarian ends in the case of Kosovo. But the relevant point here is for which reason they regard war on terrorism as justifiable.

We should pay attention here to the fact that Liberal Hawks often appeal to the notion of *humanity* to liberate the intervened people in their case for war on terrorism. Ignatieff (2003b; 2003c; 2004), for example, states that the Iraq War that aims to subvert Saddam Hussein's regime is justifiable as a kind of humanitarian intervention.⁷ In his view, the Saddam regime is first oppressive to internal ethnic/religious minorities, secondly once ordered the use of chemical weapons against Kurds, and thirdly aims to possess the weapons of mass destruction. The United States, which has the power to act as the *de facto* empire in today's world, should take the corresponding responsibility to defeat the both internally and externally dangerous regime. In short, Ignatieff justifies deploying the U.S. and its allies' forces in Afghanistan and Iraq as a politics of humanitarian intervention.

In contrast to this, the reason for launching war on terrorism has, for Walzer, no relationship with any humanitarian concern. He supports wars

7 Ignatieff (2007) now explicitly admits that his case for launching the Iraq War in 2003 was wrong.

on terrorism as just wars because they are for self-defense and not because they aim at liberating the local people.⁸ In this sense, though often seen to be on the same side as Liberal Hawks, Ignatieff and Walzer have definitively different points of view concerning the legitimacy of the war in Iraq. The former supported it because he associates war on terrorism with a kind of humanitarian intervention, while the latter criticized it because he thinks that the justifiability of war on terrorism lies solely in its self-defensive feature. In fact, Walzer states that the establishment of the no fly zone in the North Iraq functioned as a kind of humanitarian intervention, which made unnecessary a further military action to impose regime change in Iraq (Walzer 2004: 151-7).

How do we explain the definitive difference between the two? One may call to mind here the 'lesser evil' approach Ignatieff (2005) has recently developed. He thinks of the doctrine of humanitarian intervention as a necessary evil to stop a larger evil of humanitarian crisis, though it more or less unavoidably causes human and material damages. What he recommends in this approach is not to stick to a certain value such as utility or rights, but to strike a careful balance between the two, pragmatically to avoid the worst state of affairs. In this sense, he has a different criterion for moral judgments from Walzer's rights theory. 'The disagreeable reality [...] is that there are some occasions-and Iraq may be one of them-when war is the only real remedy for regimes that live by terror. This does not mean the choice is morally unproblematic. The choice is one between two evils' (Ignatieff 2003b).

Another cause, however, seems to me to lie in Walzer's communitarian understanding that places the highest priority on the rights of political communities. Regime change did not constitute an appropriate aim of the war in Iraq, for the danger of gross humanitarian crisis had already passed due to the establishment of the no fly zone. Saddam's regime was still very oppressive and dictatorial, but this does not meet the (narrower) criteria Walzer sets for engaging in military intervention on humanitarian concerns. In such a case, we need to give up the idea of humanitarian intervention.

8 'I supported the war in Afghanistan because I believed that this was a defensive war (the paradigmatic case of just war)' (Walzer 2007a: 299).

Iraq's internal affairs should be left to the Iraqi people.

Ignatieff also recognizes a great practical difficulty in the American role as an empire to liberate the oppressed peoples abroad, in reference to the case of the Vietnam War (Ignatieff 2003a: ch. 5). Walzer, on the other hand, opposes the U.S. taking on the role of empire on moral, not only practical, grounds. In my understanding, this communitarian notion has its origin in his opposition to the Vietnam War that goes back to the 1960s. Even in recent years, Walzer is acutely aware of the wrong of the failed American war, saying that 'it was an imperialist adventure unwise even for the imperialists'. Indeed, when judging the justifiability of humanitarian intervention, he seems repeatedly to remind us of this failed adventure.⁹

6. Concluding Remarks

This paper has examined Walzer's argument on humanitarian intervention and specified some of his points. In particular, it has made clear the following points: first, his just war theory is based on the fundamental importance of securing the rights of political communities, and he admits only limited room for justifiable humanitarian intervention in comparison to cosmopolitans. Secondly, he perceives a gap between the practices of humanitarian intervention in the Cold War period and those in the post-Cold War period. Based on this perception, he now takes a more positive attitude towards intervening with other states on humanitarian grounds. Thirdly, in contrast with other Liberal Hawks who tend to confuse the legitimacy of war on terrorism with that of humanitarian intervention,

9 He, for example, draws the following distinction between the American intervention in Vietnam and the Vietnamese intervention in Cambodia. 'The Cambodian Communists are, by all reports, fanatic and brutal rulers. If the massacres [...] have actually take place on the scale reported, and if they are continuing, then it seems to me that foreign intervention to stop the killing — what the lawyers call "humanitarian intervention" — is clearly justified'. On the other hand, 'Before the massive American intervention began, the [Vietnamese] Communists had already succeeded in making themselves the chief representatives of Vietnamese nationalism. No doubt, they are bad representative [...] Nevertheless, their success undercut the moral and political rationale for intervention' (Walzer 1978: 390-1).

he sticks to the original communitarian understanding of just war, and adamantly opposes the U.S. taking on the role of empire.

From the above discussion I conclude that although he comes to support the cosmopolitan way of thinking, Walzer still does not abolish his idea that the criteria of just war should focus on the rights of political communities to self-determination and self-help. In this sense, his argument on humanitarian intervention remains to be built on the communitarian theory of just war. But it is another issue whether his argument is consistent or not. Indeed, it is still a controversial issue in the theory of global justice whether he is a communitarian or a cosmopolitan thinker (Jones 1999: ch. 7), and the question of how to understand the ambiguity we have seen in his nuanced evaluations on intervention forms part of a larger task of how to theorize his main idea about justice. That is a subject I shall deal with elsewhere.¹⁰

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6

Climate Refugees: Normative Problems and Institutional Solutions

Jörgen Ödalen

1. Introduction

It has been estimated that there are currently about 25 million people in the world seeking refuge from environmental degradation. As we are beginning to experience the consequences of climate change, this number is likely to increase significantly. Climate change causes drastic environmental disruptions-such as earth erosion, water shortages, water poisoning and deforestation-which force people to leave their homes and seek refuge in other places, either within or outside their own country. The most unpromising estimates say that the number of environmental refugees could reach about 200 million by 2050. If these estimates turn out to be correct, we will within forty to fifty years experience a doubling of the total number of migrants in the world (Brown 2007: 5; Myers 2002; 2005; Stern 2006: 3). It would also make migration in response to environmental degradation the most pervasive form of forced migration to occur in the 21st century (Bell 2004: 136).

The most conspicuous environmental cause for the displacement of people is probably the rising sea level and the subsequent floods. The IPCC has estimated that by the end of this century the sea level will rise between 28 and 43 centimeters as a result of thermal expansion, and the melting of glaciers and ice caps (IPCC 2007: 409). Moreover, regional variances will likely result in small island states suffering disproportionate consequences in terms of land loss (IPCC 2007: 413-14; 2008). The rising sea level will not only affect small island states however; countries with low-lying coastal areas will also suffer extensive land loss. In regions with high population densities, e.g. in South Asia, the problems will be even more accentuated. A

country like Bangladesh has already been quite severely affected by flooding which has resulted in salt contamination of previously arable land (McFerran 2007).

Unsurprisingly, the vast majority of current and future environmental migrants are, and will be, citizens of developing countries. Most of them will end up either within their own countries, and become internally displaced, or they will move to neighbouring developing states. Only a minority will find their way to developed states. This emerging phenomenon of environmental migration highlights once again the vulnerabilities of developing states and their citizens. To be sure, a few developing states will become better off as a consequence of climate change. But it is quite uncontroversial to say that in the aggregate, developing countries will suffer more from the impacts of climate change than developed states (Grubb 1995: 467).

Historically, societies have constantly displayed their astounding ability to adapt to drastic changes in their environment. However, climate change will probably bear down on the limits on this adaptability. This will be particularly true in the long run, as climate changes threaten to transform weather patterns, destroy coast lines, cause environmental disasters and give rise to armed conflicts (Barnett 2003: 12; Bell 2004: 135-6; Suhrke 1994: 474).

The possibility of such a bleak future brings forth fundamental normative challenges for, in particular, the developed world. With their extensive emissions of greenhouse gases, developed states carry the largest causal responsibilities for initiating the processes of climate change. In contrast, developing states have done the least to contribute to climate change at the same time as they will experience the most severe impacts. As Michael Grubb has pointed out, what we have here is a major normative issue stemming from the fact that greenhouse gas emissions involve the rich imposing risks upon the poorer and more vulnerable (Grubb 1995: 467-8).

The normative issue I will discuss in this chapter is that of which claims climate migrants can legitimately make against developed states. I will briefly outline a normative basis for such claims which construes it as a right for people to be relocated whenever they are forced to leave their homes as a result of environmental degradation. But I will not engage with

this issue right away. Instead, I will start out with a discussion of the so called ‘boundary problem’ in democratic theory. The emerging phenomenon of climate migration constitutes yet another challenge to traditional ideas about how the demos of a democracy should be demarcated. Climate migrants are obviously severely affected by decisions taken in democratic states, but they have had no influence over these decisions.

If democracy rests on a principle that says that those who are affected by a decision should have a possibility to influence that decision, then the phenomenon of climate migration poses a challenge to traditional notions of democracy, as do indeed environmental problems in general since they are so often genuinely transnational. I will focus on the particular problem of environmental migration however, and work my way through a solution to the boundary problem, and further towards a suggestion of how the climate migration issue can be solved. The solution, I believe, involves moving the authority of dealing with the issue to the supranational level, more specifically to build a new regime for issues of climate migration within the UN Climate Change Framework. I will spell out such a proposal which relies to a large extent on suggestions made by Biermann and Boas (2007; 2009), two researchers who are in the forefront of designing a workable governance system for protecting climate migrants.

2. A Methodological Note

Before I proceed with my discussion of the boundary problem in democratic theory I need to make a methodological note that will be of some importance at a later stage in the chapter. When dealing with issues in political theory there is often a choice one has to make about what attitude one should adopt towards current political institutions. Michael Blake explains that there are a variety of such attitudes a theorist might take toward the political institutions present in our world today. We could abstract away completely from the institutions currently in place, and ask what kinds of institutions we should build if we were to start from scratch. Such an approach would be an exercise in *non-institutional theory*, and it would not privilege the institutions we currently have over others we might have developed. The question of whether the world should be divided into

sovereign states at all would be a perfectly valid question for a non-institutional theorist (Blake 2002: 261-2).

At the other end of the spectrum, we find an attitude which would lead the political theorist to ask what the institutions we currently have would have to do in order to be justified, instead of what institutions we ought to have in the first place. This would be a question for *institutional theory*, and for purposes of analysis it takes much more of the current world as a pre-theoretical given. In institutional theory we do not ask whether we ought to have developed the world we have, but what our current institutions must do for their powers to be justifiable. As Blake points out, these two forms of theory should be regarded as ideal types. It is perfectly possible to develop forms of theory that mix both institutional and non-institutional forms of analysis (Blake 2002: 262).

The two kinds of theory, in their ideal forms, are designed to answer different types of questions. It is quite clear however, that the institutional approach is best equipped to deal with issues which are most pressing in the current international arena. Blake says that '[i]f we want to ask what states as we know them owe to their own citizens and to others, we ought to begin with states as they are currently situated-both in terms of the powers they possess and in terms of the territory over which they have authority' (Blake 2002: 262). But, as Blake acknowledges, there are drawbacks to the purely institutional approach. Since it takes much of the current world, most notably the fact of state borders, as a pre-theoretical given, this type of theory is not well-equipped to answer questions about, for instance, territorial change. Consequently, no single approach can answer all normative questions we need to address.

In this chapter, the wish for present-day guidance on how to solve the issue of environmental migrants is an instrumental concern which leads us to adopt an approach close to the institutional end of the spectrum. I will take the world as it is, with nation states, but also with supranational institutions, pretty much as a pre-theoretical given. But my approach is not completely institutional, but rather mixed, since I will also question the state's authority in dealing with the issue of environmental migrants. Furthermore, I will also suggest that an attractive solution to the problem at hand lies in the creation of new institutions at the supranational level.

3. The Boundary Problem in Democratic Theory

The so called ‘boundary problem’ has quite recently surfaced as a fundamental issue for democratic theory. All different notions of democracy have in common a reference to a community of individuals, ‘a people’ who are in some sense governing themselves through collective decision procedures (Arrhenius 2009: 1; Goodin 2007: 40; Abizadeh 2008: 45; Whelan 1983). The problem is how we should mark out ‘a people’.

If our methodology were non-institutional, this would be a question about how we should determine ‘the people’-or a *demos*-from scratch, in the absence of territorially defined states. If, however, we start out from an institutionalist standpoint, we observe that in today’s world a people is most often defined through some sort of ‘territorial state principle’. According to this principle, we should just take existing state borders as a given and include in ‘the people’, roughly, every person who is born or residing on a state’s territory (Arrhenius 2009: 6; Whelan 1983).

Goodin points out how the rationale for demarcating ‘the people’ in accordance with a territorial state principle, or for that matter in accordance with nationalist, historical, or geographical principles, is the way that factors like these generally lead to peoples’ interests becoming intertwined: ‘[T]he reason we think that territorial or historical or national groups ought to make decisions together is that, typically if not invariably, the interests of individuals within those groups are affected by the actions and choices of others in that group’ (Goodin 2007: 48). But there are a number of problems with these ways of demarcating a *demos*, the most interesting of which, in the context of this chapter, is their *underinclusiveness*. There is far from a perfect correlation between territoriality, or nationality, or history on the one hand, and shared interests on the other. Decisions made by the people living in one state might have profound effects on people living in another. As Arrhenius points out, in a world where pollution, goods and capital move more or less freely over state borders, territorial state principles just won’t suffice (Arrhenius 2009: 7).

What we should bring with us from attempts at defining ‘the people’ in

accordance with principles of territoriality, nationality, or history is that they are approximations at defining ‘the people’ on the basis of what really matters, i.e. interlinked interests (Goodin 2007: 49). When we conjure up counterexamples, often having to do with the cross-border effects of state action in a globalising world, what we are really showing is that these traditional forms of constituting the demos are often underinclusive¹, and thus wrongly exclude people whose interests are affected by the decisions of the demos. There is an implicit ‘all affected interests’ principle at work here, which constitutes the standard by which approximations of territoriality, history, nationality and so on, are to be assessed. This principle, which states that all affected interests should have (the right to have) a say, seems to be the most plausible candidate for determining how to demarcate the demos (Goodin 2007: 49-50).

4. The ‘All Affected Interests’ Principle and Climate Refugees

Current climate refugees have obviously been affected in a profound way by decisions made by people in developed countries; decisions over which they have had no influence. Future climate refugees will continue to be affected by decisions already made, as well as future decisions by people in developed countries; once again these will be decisions over which the climate refugees have not had, and probably will not have much influence. But it is not this breach of the all affected principle which is my main focus. Instead I want to highlight how another risk of breaching the principle surfaces at a later stage, when we are trying to find political solutions to the climate refugee issue. Today, when this emerging phenomenon has been identified as a problem and we are searching for solutions, we need to observe the danger of ignoring the all affected principle once again. If it is left to individual states to handle the problem through their regular policies of immigration admission, development assistance, or disaster relief, then

1 They are sometimes overinclusive as well, in that they include people who are living on a territory, or are members of a nation, and who are not affected by all decisions in which they are allowed to take part (Goodin 2007: 49).

there is a great risk that an insignificant weight will be given to the interests of those climate refugees who will be profoundly affected by the decisions made by individual states regarding this issue.

A case in point here is Tuvalu, a Pacific island nation doomed to disappear beneath the ocean surface within 50 years if the sea level continues to rise. Tuvalu has requested refuge in both Australia and New Zealand. In 2007 over 3,000 Tuvaluans had already left their homeland. The largest exile community is to be found in Auckland, New Zealand. There is currently no resettlement strategy in place for the Tuvalu nation, but New Zealand accepts 75 Tuvaluans per year as part of a labour programme. Since it is a labour programme, it contains several restrictions, such as an age limit. Meanwhile, Australia, a country in which immigration has long been an election issue, has so far spurned all advances to help resettle the Tuvaluans (Biermann & Boas 2009: 5, n. 1). The policies and non-policies of these two developed states are obviously of great significance for future Tuvalian climate migrants.

We do not necessarily run the risk of underinclusiveness just because we leave it to individual states to handle the climate refugee issue. One can imagine individual democratic states realizing that underinclusiveness is a problem and deciding to somehow bring the interests of climate refugees into the process of deciding what measures should be taken to handle the issue. But this is an unlikely scenario. If it is up to each individual state to decide whether and how they want to contribute in resolving the climate migration issue, they would want to minimize the cost assigned to them in order not to become-in game theoretic terms-a sucker who ends up shouldering an unproportional part of the burden. This tendency would constitute an obstacle to any extensions of the demos.

If the 'all affected interests' principle is the most plausible principle upon which to base a demarcation of the people, then we will quite quickly arrive at the conclusion that, in principle, 'we should give virtually everyone a vote on virtually everything virtually everywhere in the world' (Goodin 2007: 64). But this is of course widely impractical, and we therefore need to figure out feasible institutional arrangements which would best approximate the ideal expressed in the 'all affected interest' principle. One way off approximating the ideal when it comes to global issues such as that

of climate migration, where decisions made by a territorially defined people would affect the interests of people and peoples not included in the demos, is to move the issue to a higher level of authority (Goodin 2007: 64-66).

Goodin envisions a global federalism, where the role of the upper tier of government is to make lower tiers of government responsible for the consequences of their actions when they are making decisions adversely affecting people in other territorial subunits. At the same time, Goodin is unsure about precisely how such a system would work in order to solve the boundary problem, unless the upper tier of government were in its turn somehow answerable to a demos comprised in a maximally expansive way. And this, once again, seems impractical or even utopian (Goodin 2007: 66). From an institutionalist standpoint however, I believe we can assume quite a pragmatic approach to the issue and make use of the institutions we currently have. In the absence of a democratic world government, or a world comprised entirely of democracies, the UN is the closest we get to a maximal expansion of the demos. What we should do then, is to build on this only available existing institution.²

When it comes to the issue of climate refugees, the question is whether or not we should build on the current refugee regime provided for by the 1951 Geneva Convention Relating to the Status of Refugees and its 1967 Protocol Relating to the Status of Refugees. This could be done by extending the definition of 'refugee' in the Geneva Convention to include migrants who are victims of climate change, a suggestion which has been supported by some commentators (Cooper 1998; Lopez 2007). Alternatively, a new regime could be created with the particular purpose of recognizing, protecting, and relocating climate refugees. I think there are good arguments for the latter approach, and later in this chapter I will relay a suggestion to that effect made by Biermann and Boas (2007; 2009).

Our pragmatic, institutionalist, approach exposes a trade-off between the value of including all affected interests on the one hand and the value of democratic accountability on the other. Ideally, when we move an issue to a

2 Many theorists have proposed that reforming the UN is the most feasible way to achieve global justice. See for instance Galtung (2000), and Tännsjö (2008) for two quite recent suggestions.

higher level of authority with the purpose of including all affected interests, the institution to which the issue is assigned should be democratically governed. Democratic accountability in the context of world politics would require a system in which those in power not only would have to report to people whose lives they profoundly affect, but they would also be subject to sanctions by these people (Held 2004: Ch. 6; Keohane 2009: 13). But the UN, of course, lacks a body of directly-elected representatives. Democratising world politics might be desirable in its own right, but global democracy is, if not utopian, at least not likely to emerge within the next few decades (Keohane 2009: 13). In the absence of global democracy, however, moving an issue from the level of the nation state to a higher level of authority inevitably creates a democratic deficit. An expansion of the demos, in this sense, comes with the cost of diminishing democratic accountability. The question is whether we are prepared to accept this cost.

I believe we can make a rather strong case for including the interests of climate refugees when we design political solutions to cope with the issue. Indeed, I think we can make the case strong enough to outweigh concerns about diminished democratic accountability. I have argued that we should take the interests of climate refugees into account in order to not offend against the ‘all affected interests’ principle. But I think there are even stronger moral reasons for an inclusive approach to the claims of climate migrants, namely that they have a *right* to be relocated when their physical environment faces destruction. I will defend this suggestion in the following section.

If one thinks democratic accountability is of greater importance than including all affected interests and respecting the right to relocation, one would have to defend a rather strong right for each individual to have a ‘democratic say’ — a right that would be more expansive than what is suggested by the ‘all affected interests’ principle. Such a right would entail that everyone has a right to set coercive rules that significantly limit how other people will live their lives. But here I agree with Richard Arneson that one simply cannot have a basic moral right to exercise significant power over the lives of other people (Arneson 2004). What the ‘all affected interests’ principle suggests is something weaker, i.e. that one has a right to have one’s interests taken into account in the process of democratic

decision-making. If there is no strong right to a ‘democratic say’, democratic accountability becomes an instrumental concern, the importance of which derives from the requirement that people’s interests should be accurately reflected in democratic decision-making. We should be worried about democratic deficits, because if the interests of people are not accurately reflected, the whole point of expanding the demos gets lost. When the trade-off is made between including all affected interests and the value of democratic accountability, one should make sure there are instruments in place that protect people’s interests. Otherwise we run the risk of diminishing democratic accountability *and* violating the ‘all affected interests’ principle. Here, civil society might play a crucial role. I will return to this matter in section 7.

5. A Right to Relocation

The philosophical literature on climate or environmental refugees, is still very scant. There is an expanding debate on the more general normative issues of how the responsibilities and costs for mitigation and adaption should be distributed.³ But the more specific issues relating to climate change remain to be dealt with. The only two normative works on environmental refugees I know of are Bell (2004) and Risse (2009). Only the latter makes a positive contribution by developing a normative framework for assessing the claims of environmental refugees, in particular the claims of those who are fleeing from disappearing island states. Bell (2004) is mainly occupied with criticising general theories of global justice for their inability to handle normative problems concerning environmental refugees. Here I will briefly relate Risse’s theory, and suggest some revisions which I think makes his account of the rights of environmental migrants even more plausible. As will become apparent, I find Risse’s approach quite attractive, but I have some problems with its individualistic bias.

Risse bases his account on the classic idea, found in for instance the

3 See for instance Caney (2005), and Page (2008) for excellent introductions to these issues.

works of John Locke and Hugo Grotius, that humanity collectively owns the earth. Since the earth's resources and spaces are the accomplishments of no one, at the same time as they are needed by everyone in order to make a living, the most plausible view of the ownership of natural resources is, argues Risse, that they belong to humankind collectively. More specifically, this collective ownership is *egalitarian*, in the sense that all humans, no matter when and where they are born, have *some* sort of symmetrical claim to the earth's natural resources. This idea of egalitarian ownership need not entail that every human has a legitimate claim to an *equal share* of these collectively owned resources. Instead, Risse interprets this idea to say that all co-owners ought to have an *equal opportunity to satisfy basic needs* to the extent that this turns on collectively owned resources (Risse 2009: 286-288).

From the standpoint of *collective ownership of the earth* then, we can derive entitlements in a way that stresses the symmetrical position of human beings in relation to external spaces and resources that they have done nothing to create, but that they all need for survival.⁴ Further, this means that states can claim exclusive control over portions of the originally commonly owned resources and spaces of the earth only if they accept certain conditions that make such an arrangement acceptable to other co-owners. One such condition is that states must provide support for people who find themselves unable to exercise their ownership rights in their native location due to, for instance, environmental degradation. This support ought to amount to, at least, providing opportunities for individuals to lead a life at the level of basic-needs satisfaction. When the circumstances are such that a territory is either lost completely or so damaged as to make it inhabitable, there is no longer a way of respecting the troubled party's co-ownership rights by supporting them in their current location. Instead, the only way to respect these rights is to help the affected people relocate to new territory (Risse 2009: 284, 293). It should be pointed out that these kinds of obligation only apply to states insofar as they have the capacity to fulfil them without making it impossible for some

4 Risse also argues that these entitlements are most plausibly construed as *human rights*, but I will here leave that part of his argument to the side.

of their present citizens to satisfy *their* basic needs (Risse 2009: 291).

This way of defending a right to relocation has an interesting upshot, namely that we do not really need to worry too much about the causes behind the kind of environmental degradation that pressure people to leave their homes. People will retain their right to relocation when their home environment is destroyed, regardless of whether the environmental changes are natural or man-made. This contrast the argument for relocation based on a collective ownership of the earth approach, from arguments based on compensation. One could certainly argue that developed countries owe developing countries compensation for the suffering they have caused, and will continue to cause, through their extensive emissions of greenhouse gases. Such an argument, while it might have some strength, is sensitive to complicated questions about the extent to which certain environmental changes are actually caused by the actions of developed countries, or whether they are completely natural. Further, compensation based arguments are also sensitive to the issue of whether, even if we can establish causality between certain environmental damages and historical emissions, today's citizens of developed countries can really be held responsible for the often uninformed actions of previous generations. An approach based on the idea collective ownership of the earth sidesteps these complex issues.

6. The Right to Relocation as a Group Right

A problem with Risse's way of construing the right to relocation for environmental refugees is that it seems to be indifferent between the two alternatives of either relocating a population on an individual basis, or relocating a population on a group basis. The specific case Risse discusses is the one of Kiribati, another island nation situated in the Pacific Ocean. Just like Tuvalu, Kiribati is threatened by extinction due to rising sea levels and salination caused by climate change. The Kiribati government is currently planning for the relocation of its people. Ideally, they would prefer to identify an area where the Kiribati people could relocate as a whole. But since this seems to be an unlikely scenario, the plan is instead to scatter the people of about 100,000 individuals throughout the nations of

the world (Risse 2009: 281).

Oftentimes environmental migrants will relocate within their own country. This can be done either on an individual basis or as a group. Sometimes relocation will necessarily be to another county, as is the case when whole states disappear. On very rare instances a whole nation will have the possibility to relocate and recreate itself on new territory. A few very wealthy states might have this opportunity if they manage to strike deals with some other states to buy territory to which they can relocate their whole populations. More likely, a people forced to leave their homeland for environmental reasons will face the choice of either relocating to other states on an individual basis, or as a group without the possibility of recreating themselves as a nation. The question now, is whether the group based solutions are to be preferred, or whether it makes no difference, normatively speaking, if we relocate people on an individual or on a group basis.

Even if we acknowledge the impracticality of relocating as many as 100,000 individuals as a whole, intuitively there seems to be something odd about the suggestion that there is no *moral* difference between the two alternatives of either scattering the people of a nation throughout the world, or relocating them as a collective. But Risse's account provides no way of explaining this intuitive unease. The right to relocation is derived from each *individual's* entitlement, as a co-owner of the earth, to an equal opportunity to satisfy basic needs to the extent that this turns on collectively owned resources. This does not seem to leave any space for thinking of the right to relocation as a group based entitlement.

To be sure, Risse discusses whether his approach supports the Kiribati government's wish for relocating their people, or most of them, as a whole, to the same location. He states that this question cannot be answered in the absence of empirical investigations revealing whether there are countries that are under-using the spaces they occupy. If there are countries under-using their share of the earth relative to other countries to such an extent that the whole or most of the population of Kiribati, or some other threatened nation, could be admitted without creating an over-use situation, then troubled nations could indeed make claims vis-à-vis under-using countries to be admitted as groups (Risse 2009: 294). Or so, at least,

Risse claims. But it is difficult to see how considerations of collective ownership could base such claims without adding something to the argument. How do we move from individual entitlements stemming from co-ownership of the earth to a collective account of the right to relocation?

I believe we can add to the argument in the following way: we can note, first, that the derivation from individual entitlements based on collective ownership to a right to relocation goes through a step where it is imagined that a certain physical environment has been so damaged that the only way of respecting co-ownership rights is to help people relocate to new territory. Here, Risse focuses exclusively on the loss of external resources necessary for satisfying peoples' basic needs. His idea is that if a system of states is to be acceptable to all co-owners of the earth, states have to accept certain conditions, one of which is that they must provide support for individuals who find themselves in a situation where a lack of external resources makes it impossible to make a living in their native location.

But people use external resources for other things than for food, shelter and individual necessities of that sort. By using external resources in certain ways people also endow their national territory with symbolic significance. David Miller points out that living on and shaping a piece of land does not only mean increasing its value in an economic sense, it also means 'endowing it with meaning by virtue of significant events that have occurred there, monuments that have been built, poems, novels and paintings that capture particular places or types of landscape' (Miller 2007: 218). Some ways of utilizing external resources transform them in ways that are of importance because it gives the territory a symbolic nature which becomes part of a peoples' history and culture. The loss of external resources due to environmental degradation deprives people not only of resources needed for maintaining a life at, at least, the level of basic-needs satisfaction. It also deprives them of resources needed to sustain a culture and create a common history, at least insofar as this is dependent on endowing a territory with symbolic significance.

It can be plausibly argued, I believe, that for each co-owner of the earth to accept an arrangement with states that claim exclusive control over territories, there need to be conditions in place that require states to support not only individuals who find themselves in peril in the needs based

sense, but also to support groups of people who face the risk of losing external resources to the extent that they will not be able to sustain part of their common culture. Indeed, as Kymlicka (1989: 175) has argued, cultural membership deeply affects our impression of personal identity and capacity. And further, cultural heritage, the sense of belonging to a cultural structure and history, is of significance for individuals' emotional security, personal strength, and even sense of agency. If we believe that cultural belonging is of such great importance to individuals, it would put the significance of external resources for satisfying basic needs on a par with the significance of external resources for upholding a cultural heritage. For us as co-owners of the earth to accept a state system, we would require conditions on such a system that protect us from the loss of external resources for both kinds of purpose. And if the kind of protection people is owed in some extreme circumstances require a support to relocate, then there is indeed such a right to relocation for individuals as well as for groups insofar as group based relocation is feasible and needed to provide opportunities for a peoples' continued cultural existence.

7. A New Regime for Climate Refugees

I have already proposed that one way of protecting climate migrants is by moving the authority for handling the issue to a higher level of authority, i.e. the UN. By doing this we might, at least to some extent, escape the risk of breaching the all affected interests principle; a risk that would be considerable if we leave it up to states to individually handle the issue. That there is also a moral case to be made for individual as well as collective rights to relocation for environmental migrants only strengthens the reason for making a concerted effort at coping with this issue. A failure to protect climate refugees would constitute a serious moral failing because it would not only mean a failure to take their needs or interests into account; it would also be a violation of their rights.

As I have already mentioned, some commentators have suggested that climate refugees, or environmental refugees in general, should be recognized and attributed with legal status by incorporating them into the current refugee regime. The Refugee Convention adopts a rather restrictive

definition of 'refugee' and thus limits refugee status to a fairly strict legal interpretation. There are two core elements to the requirement of refugee status under the current Refugee Convention; Article 1A requires that there must be a 'well-founded fear of being persecuted', and moreover the reasons for persecution are limited to 'race, religion, nationality, membership of a particular social group or political opinion'. As it stands then, there is no apparent provision for environmental refugees within this definition (Williams 2008: 507-508). Some have argued however, that the definition should be widened to include people who have been displaced for environmental reasons. Indeed, some have even argued that since environmental degradation is in some sense induced by governments, environmental refugees already fit within the Refugee Convention definition if we allow more permissive interpretations of what it means to be persecuted (Cooper 1998: 501).

There are good arguments against taking this approach however; most of them based on the fact that there are crucial differences in the kind of protection required by environmental migrants when compared to refugees of the traditional kind. One such difference has already been touched upon in the discussion above about the right to relocation as a group right. While the Refugee Convention is tailored to the needs of individually persecuted people, environmental refugees have rights as groups. Further, as Biermann and Boas have pointed out, even though the impacts of climate change will eventually manifest themselves in unpredictable singular events, the increase in magnitude and frequency of such events can be predicted. This opens up the possibility for planned and voluntary relocation and reintegration of affected populations over long periods of time, as opposed to the spontaneous flights which are often unavoidable during political turmoil or war (Biermann and Boas 2007: 12; 2009: 15).

There are further differences: refugees as they are defined in the current Refugee Convention can, at least in theory, return to their homes once state-led persecution has ended. This is most often not the case for environmental migrants. They must therefore be seen and treated as permanent immigrants to the regions or states to which they are relocated. Further, the safeguarding of political refugees is invariably directed at protection outside of their home countries. But environmental migrants

still, in principle, enjoy the protection of their own state. Assistance to environmental migrants must therefore have as its target the support of governments, local communities, and national agencies in order to protect people within their country (Biermann and Boas 2007: 13; 2009: 15).

All this tells against the idea of building upon the current refugee regime when we venture to design a workable system for governing the climate refugee problem. Dealing with the climate refugee issue calls for a different kind of approach. Biermann and Boas propose a separate, independent legal and political regime created under a 'Protocol on the Recognition, Protection, and Resettlement of Climate Refugees' to be added to the UN Framework Convention on Climate Change (Biermann and Boas 2007: 12; 2009: 14-15). I will not get into the details of Biermann and Boas' proposal, which also include ideas about funding and procedural operationalisation. Of importance to notice here is that with its focus on groups rather than exclusively on individuals, and its commitment to bringing in affected developing countries into the decision-making procedures, this proposal squares quite well with the normative framework developed above, at least when compared to the alternative proposal to extend the current refugee regime to include climate migrants.

Admittedly, as I have indicated earlier, there might be limitations to this kind of top-down-solution. In a commentary to Biermann and Boas' proposal, Michael Hulme (2008) worries that it adopts a paternalistic and centralizing approach to climate migration and resettlement, far removed from participatory citizen-based dialogues between community, government, and stakeholders. If this is what the proposal entails, we should be worried indeed. Biermann and Boas reply that there is no inherent contradiction between the international political process and local participation. In their proposal, every procedure under the climate refugee protocol will have to be initiated by the affected countries and all decisions will be based on hearings and deliberations that take the preferences of the affected communities into account. We could also highlight the important role civil society can play in this process. Civil society, particularly in the form of NGOs is often key in providing a bottom-up-perspective. NGOs can for instance mobilize local public opinion through campaigns and broad outreach, vocalize the interests of persons not well-represented in

policymaking, and legitimize global-scale decision-making mechanisms (Gemmil & Bamidele-Izu 2002: 7). By engaging civil society in environmental governance in general, and in the governance of the protection of climate refugees in particular, the international society might avoid the risk of becoming paternalistic towards climate migrants.

8. Conclusions

There is currently a growing phenomenon of climate change induced migration. Most estimates point towards a rapid escalation of the problem. We need to ask what moral obligations the developed world, in particular, has towards current as well as potential climate refugees. I have suggested that shutting the interests of climate refugees out of the political deliberations concerning potential solutions to this problem would constitute a breach against the all affected interest principle, which is the only plausible principle for demarcating a demos. I have also argued that climate refugees have a right, as individuals and as groups, to receive assistance to relocate when their native lands face environmental destruction. Following a proposal outlined by Biermann and Boas about how the protection of climate refugees should be governed, I ended up with suggesting that creating a new global protocol for the protection of climate refugees, and add it to the UN Climate Change Framework would be better in line with my normative framework than a solution building upon the current refugee regime.

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7

Democracy, History and Subjectivization: A Consideration of Rancière's Poetics of Knowledge

Yohei Kawakami

1. Introduction

Recently, Jacques Rancière's theory of democracy has received much attention. For example, in 2009, two collections of papers concerning Rancière were published,¹ featuring many high-quality studies on various aspects of Rancière's thoughts and critical commentaries on his thought by leading contemporary philosophers such as Jean-Luc Nancy, Alain Badiou and Étienne Balibar. However, there are no substantial discussions concerning how his political thought can contribute to contemporary democratic theories. Given this situation, I would like to examine Rancière's theory of democracy by comparing it with Chantal Mouffe's 'agonistic democracy', clarifying the similarities and differences between them.² I shall argue that Rancière's theory of democracy has a very different view from agonistic democracy regarding the actual condition of democratic societies, and that it contains a moment of 'community' rather than 'agonism'.

1 *Jacques Rancière : History, Politics, Aesthetics*, ed. Gabriel Rockhill & Philip Watts (Durham and London : Duke University Press); *Jacques Rancière et la Politique de l'Éthétique*, éd. Jérôme Game et Aliocha Wald Lasowski (Paris : Éditions des archives contemporaines). There was also another collection of papers concerning Rancière, published in 2006, *La philosophie déplacée : autour de Jacques Rancière, colloque de Cerisy*, textes réunis par Laurence Cornu et Patrice Vermeren (Lyon: Horlieu).

2 Mouffe herself emphasizes the similarity between her theory and that of Rancière, because, according to her, both criticizes 'the erasure by the post-political approach of the adversarial dimension which is constitutive of the political and which provides democratic politics with its inherent dynamics' (Mouffe 2005: 29).

Concerning Rancière's theory of democracy, I focus on his earlier work *The Names of History* in which he mainly analyzed the historiography of the 20th century. One can find in his theory of democracy, depicted in his political works such as *Dis-agreement* (1995) and *Hatred of Democracy* (2005), the tendency to be a universal theory.³ But by examining *The Names of History* (1992), it becomes clear that Rancière's concern lies in particular contemporary problems and that he inquires into the mode of knowledge which can fit into today's social condition. This is why he examines critically the typical mode of knowledge in the historiography of the 20th century. He maintains in this book that even though the new historicism in France has tried to write a history which focuses on the 'people', a history required in the age of democracy, it ended up justifying the anti-democratic mode of knowledge. The logic of his criticism of contemporary intellectuals in his recent work, *Hatred of Democracy*, is an extension of this examination in his earlier work on historiography.

Now what kind of 'knowledge' does Rancière design against the knowledge in the historiography of the 20th century? It is a knowledge that contains 'poetic' elements, elements that new historicism has attempted to throw out of the historiography. And Rancière's theory of democracy which flourished after *The Names of History* can be interpreted as an attempt to construct a community by means of this 'poetic' knowledge. But we can also see here a perspective which holds both 'knowledge' and 'poetics', maintaining at the same time the contradiction between them. In this paper, I shall try to show that Rancière's attempts to reconstruct this poetic community can serve as an alternative to democracy that aims for consensus, but in a distinguished form from agonistic democracy.

The main parts proceed as follows: in section 2, as a preparation for the interpretation of Rancière's theory of historiography, I shall review the historical method of the *Annales* school, which is a new academic trend in the historiography of the 20th century, and the criticism of it by post-modern philosophy after the so-called 'linguistic turn'. Based on this review, I shall show in section 3 that Rancière's theory of historiography, while employing the criticism of historiography after the linguistic turn, analyzes

3 See, for example, Rockhill (2009a).

the *Annales* school's works by using his original method called the 'poetics of knowledge'. I shall then clarify, by focusing on his idea of 'subjectivization', that these analyses of historiography and his theory of democracy have the same concern. Finally, I shall compare his theory with that of Mouffe.

2. The *Annales* School's historiography and the 'Linguistic Turn'

2-1. *Annales* School

In this section, as a preliminary, I review the context in which the *Annales* school's history had established, and show that Rancière's criticism against this school can be understood in the context of the arguments by post-modern theorists after the linguistic turn. By these genealogical works, we can shed light on the original point in Rancière's argument.

The *Annales* school, founded by Lucien Febvre and Marc Broch, was an ambitious movement which attempted to construct a 'New History' based on a strong awareness of the crisis of the current situation of historiography. This movement was taken over by the second generation of the school led by Fernand Braudel, and the third generation including various types of historians — the most eminent figure of them is perhaps Emmanuel Le Roy Ladurie, and became the main trend of 20th century historiography in France⁴.

What kind of crisis led the first generation to the search for the 'New History'? Let us consider this by drawing on Febvre's articles included in his collected works *Combat for History* (1953). The target of Febvre's criticism was the then blooming historical trend called 'positivism', represented, for example, by Charles V. Langlois and Charles Seignobos's *Introduction to the Studies of History* (1896). Febvre finds in this trend two main problems. Firstly, it overlooks the fact that without hypothesis or

4 Regarding *Annales* school, see, Burke (1990), Burke(1991a), Hunt(1989), Iggers (1997). I classify the *Annales* school into generations drawing on the classification in Burke(1990).

questions, there will be no history. According to Febvre, even though positivism attaches great importance to the objectivity of history, historical facts are not 'given' but 'created by historian...by the aid of hypothesis and conjecture, with the delicate and passionate work' (Febvre 1992: 7). In order to elucidate the 'fact', it is necessary to 'start by bearing in mind a precise design, a problem to be resolved, and a working hypothesis to be verified' (Febvre 1992: 8). In sum, 'if there is no question, there would be nothing' (Febvre 1992: 8).

Secondly, against the 'positivism' which holds that history can be made only by analyzing documents and connecting them objectively, Febvre insists on the necessity of examining materials other than documents.

This or that king was born in so-and-so a place and in so-and-so a year. There was a decisive victory, in a certain space, against its neighbor. Search all the texts which refer to this birth or this combat, select among them only those which can be credited, and by using them compose exact and precise story. All these procedures can go without difficulty?

Over long centuries, Tours Livres have been progressively depreciating; over some years, salaries have been debasing, or price of commodities have been rising. These are certainly historical facts, and are for us more important than the death of a king or a conclusion of a short-lived treaty. (Febvre 1992: 6-7)

For the purpose of knowing those 'historical facts' in the latter sense, it is indispensable for historiography to cooperate with the neighboring disciplines, such as sociology, economy, geography, and ethnology. This tendency to the totality became the main character of the 'New History'.

According to Febvre, this inquiry of the 'New History' was demanded by the mentality of the époque after World War I, because among the young people who experienced the tragedy of the war, 'some abandoned history, and others smirked at it' (Febvre 1992: 25). For they thought that there are 'other tasks, more urgent, more *utile* ...than studying history' (Febvre 1992: 11). In addition, there were revolutionary impacts in the sphere of natural science. 'Newtonian or rational dynamics' (Febvre 1992: 29), which had not been doubted for a long time as the basis of positive science, suddenly collapsed. By several 'revolutions' such as the emergence of relativity

theory or quantum theory, concepts based on our natural senses such as 'time', 'longevity' and 'quantity' were forced to be modified. 'This science, and the postulate based on it were all shaken, criticized and surpassed' (Febvre 1992: 30). From this fact emerged the following question: 'we, historians alone, continue to recognize them as valid?' (Febvre 1992: 30). Moved by this feeling of crisis, Febvre claims the necessity to inquire into history by various methods which can focus on other materials than documents and thereby recover confidence in history.

This inquiry into scientific history by the first generation of the *Annales* school was taken over by the attempt of the second generation to construct a 'total history'. Fernand Braudel, the main figure of this generation, tried to elucidate the 'structure' which lies under political events, or the restraining elements by which people have obeyed without being conscious. Braudel, in his main work *The Mediterranean and the Mediterranean World in the Age of Philip II* (1949), divided the historical stratum into three stages: the short term as 'events', the medium term as 'conjuncture' and the long term as 'duration', and investigated the relations among them (Braudel 1975-78). But unsurprisingly, Braudel's concern lies in the elucidation of the deepest stratum of history which determines political events as a surface of history. For this purpose, he described the history of a space, the 'Mediterranean' by using the neighboring human sciences, above all, geography. As a result, this great work gained reputation as a brilliant success of the *Annales* method and gave Braudel and his successors a high status, sometimes called 'Braudel Empire', in the discipline of history.

The followers of Braudel, the third generation of the *Annales* school, while taking over *Annales'* concern to grasp the 'totality' which the history of 'events' misses, produced various works in the subdivided spheres in cooperation with neighboring disciplines. Especially, the new trend of history, 'history of mentality' which makes it its task to dig up the 'mentality' of people, has flourished. These studies which lay stress on people's unconscious and unwritten mentality was sometimes called the 'history from below' in contrast to the 'history from above', a history focusing on power or the ruling class.⁵ And because these attitudes have met the demands of the times in which democracy has increasingly gained

legitimacy, it may safely be said that the works of the third generation of the *Annales* inherited the ambition of the founders of this school, in which history was required to respond to the problems of its age.

The *Annales* school, however, while becoming a great power in 20th century historiography in France, received much criticism against its negative attitude towards political events. One occasion of this criticism was the ‘revolution’ of May 68, in which many historians experienced the power of political events.⁶ They thought that political events are not mere ‘foam’ of a big river, that is, a surface of the deep structure of society, but has an autonomous meaning in history. But these criticisms, even if they demanded to modify the *Annales*’ basic attitude, are not a denial of this school. This is symbolically shown in the fact that Le Roy Ladurie himself, the typical figure of the history of mentality, later turned to political history while maintaining his earlier method. The *Annales* school received, however, more radical criticism in the middle of the 80s. This criticism originated in the tide outside of historiography: the ‘linguistic turn’ in semiology or philosophy. In the remainder of this section, I review this tide, mainly because Rancière’s examination of *Annales* inherits many elements of this tide, and against this tide, the originality of his argument will be shown.

2-2. Linguistic Turn

Now, what is the ‘linguistic turn’? Put simply, it can be defined as follows: it is a turn from the idea that words can represent the facts as such, to the idea that the words themselves produce the ‘reality’ without assuming any ‘real’ fact outside of the words. That is to say, reality existing as a meaning of ‘texts’, there is nothing like ‘brute facts’ which exists outside of language.⁷

The theories based on this linguistic turn had developed in post-

5 Sharp (1991) presents E. P. Thompson’s study of English working class(Thompson [1963]), as an example of this ‘history from below’.

6 As for the general trend of ‘revival of narrative’ in *Annales* School, see Burke (1991b).

7 As for the ‘linguistic turn’, see, Chartier (1989), Iggers(1997), Joyce (1991), Kramer (1989), Spiegel(1990), Stone (1991, 1992).

modern philosophy. But it was by a monumental work written by American philosopher Haydon White, that this theory was introduced into the realm of historiography. In the work entitled *Metahistory: the Historical Imagination in Nineteenth-Century Europe* (1973), White elucidated by analyzing closely the historiographies of 19th century that historiography is in fact a 'poetics'. Against a common idea that history, in contrast with novels, describes facts as such, he presented the anti-thesis that historiography, like novels, must be written in a 'poetic' mode which the authors 'choose', whether consciously or not. According to White,

they [histories (and philosophies of history as well)] contain a deep structural content which is generally *poetic*, and specifically linguistic, in nature, and which serves as the precritically accepted paradigm of what a distinctively "historical" explanation should be. This paradigm functions as the "metahistorical" element in all historical works that are more comprehensive in scope than the monograph or archival report. (White 1973: ix, emphasis added)

White classifies the modes of this 'poetics' dealing with historians and philosophers of the 19th century. The reason why he examined not only historians, such as Michelet, Ranke, Tocqueville and Burckhardt, but also the 'philosophers', such as Hegel, Marx, Nietzsche and Croce is that, the latter 'were able to grasp, more or less self-consciously, the poetic, or at least linguistic, grounds on which the putatively "scientific" theories of nineteenth-century historiography had their origins' (White 1973: xi). It is not our subject to consider the details of this classification or the propriety of his analysis on each historian or philosopher. What matters here is rather that after this work which convincingly made clear the fundamental 'poetic' structure of 'scientific' historiography, historians no longer can simply believe that their work is an 'objective' description of the past as a reality distinguishable from fiction. History, as far as it is written as a coherent plot, cannot escape from its narrative elements, despite its effort to be a science.

Nevertheless, this radical challenge was made in two ways outside of the *Annales*. On the one hand, it was challenged in the U.S., particularly in the tide of American literary criticism. White, who pointed out the poetics

of history, and LaCapra, who argued on the rhetoric of history, are the main figures in post-modern literary criticism which positively accepted the so-called post structuralism into literature.⁸ On the other hand, the subject of their analysis was limited within the historiography of the 19th century. The historiography of their own age was not their immediate concern. Before long, however, a work which discussed the 'poetics' of historiography of the 20th century, examining mainly *Annales'* work, emerged in the European intellectual context. It was *Time and Narrative* (1983-85) written by French philosopher Paul Ricoeur. Influenced by White's narrative theory, he showed by analyzing the whole structure of Braudel's *The Mediterranean*, that even though it aims to be non-narrative historiography focusing on the 'long duration' of history, still, it is a narrative history (Ricoeur 1984). Ricoeur's work was received as a great contribution even to the *Annales* school itself. Henceforth the fourth generation of the *Annales* school, partly accepting Ricoeur's argument, begun to reorganize its historical method.

This kind of examination, in the tide of the linguistic turn of historiography, has distinctive significance, even though it runs abreast with the revival of political history or historical events. For, it was not the insistence on the necessity of taking the 'events' into consideration that the linguistic turn in history advocated, but what one may call the deconstruction of the dichotomy between science and narrative: White and Ricoeur insisted not that history *should* be a narrative, but it *cannot* be other than a narrative, no matter how it attempts to be a science.

But despite of the accuracy of their analysis, or rather because of its accuracy, we are forced to take a risk by accepting their theory. If, history is, in the end, nothing but a 'poetics' and cannot be distinguished from literary fiction, how can we make a distinction between true history and false history? This problem aroused widespread controversy in the early 90s, that is, soon after the Cold War. In this controversy, White's theory was criticized for being doubted its theoretical relation with historical revisionism which attempts to relativize the mass murder of Jews under the German Nazis. Rancière's *The Names of History* published in 1992 should

8 See LaCapra (1985), Kramer (1989).

be interpreted in this context.

The criticism of the 'poetics of history' regarding the representation of Auschwitz proceeds as follows: if, as White maintains, history is nothing but a fiction, it follows that we cannot have any chance from the beginning to prove the existence of Auschwitz. That is to say, if any history is equally a fiction, we cannot regard the history written by 'negationists' who deny the existence of Auschwitz as being more fictional than others.⁹ Regardless of the author's good intention, the introduction of the linguistic turn in historiography can be employed as a means of theoretically justifying the claim of the new conservatism; that it is necessary to liquidate the 'past that will not pass' (Ernst Nolte).

Against this criticism, White insists that his intention is not the denial of historical existence, but a suggestion that it is necessary to invent a peculiar method to describe extreme events such as Auschwitz. To be concrete, White proposes 'modernist modes of representation' (1992: 52) apart from 19th century realism, drawing on Roland Barthes and Jacques Derrida.

What modernism envisions, in Barthes' account, is nothing less than an order of experience beyond (or prior to) that expressible in the kinds of *oppositions* we are forced to draw (between agency and patiency, subjectivity and objectivity, literalness and figurativeness, fact and fiction, history and myth, and so forth) in any version of realism. (White 1992: 49)

As an example of these descriptions, White refers to the 'Proustean narrator' (White 1992: 49) who writes in the 'middle voice'. But what matters here is rather that for White the problem of negationism which arises from the assumption that the only way to describe history is to employ 19th century realism: '[T]he kind of anomalies, enigmas, and dead ends met with in discussions of the representation of the Holocaust are the result of a conception of discourse that owes too much to a realism that is inadequate to the representation of events, such as the Holocaust, which are themselves "modernist" in nature' (1992: 50). In a word, White replies to

9 As for the Negationism, see Eaglestone (2001).

the argument that his theory justifies the claim of negationism, that it is rather their assumption which regards 19th century realism as the only method that led to negationism. The experience of totalitarianism is one of the 'experiences that are unique to our century and for which older modes of representation have proven inadequate' (White 1992: 52). If we adhere to 19th century realism, regardless of these new experiences, the events of the Holocaust necessarily appear as something not 'real'. That is why, White thinks, historians should elaborate the 'modernism mode of representation'. Therefore, White's 'metahistory' is an attempt (at least in the context of negationism) to defend history against the criticism that history cannot describe a new 'reality', by modifying the concept of 'reality' itself. What he suggests is not that 'we will give up the effort to represent the Holocaust realistically', but rather that 'our notion of what constitutes realistic representation must be revised' (White 1992: 52).

It is the fourth generation of the *Annales* school, whose typical figure is Roger Chartier, that seriously received the impact of the 'linguistic turn' on history and thereby rearranged its historiography. Chartier's attempt was, though, not the description of the history of the 20th century, but that of the Ancient Regime, focusing on the 'reality' which was made by means of language or 'representation' (Chartier 1989). Chartier's cultural history, criticizing the ambiguity of the concept of 'mentality' advanced by the third generation of the *Annales*, made its subject the relation between the world formed through representation by language, and society as an 'outside of texts'. This cultural history has long been giving widespread influence on historiography, because it is a very pliable historiography, which, while receiving the representative theory after the linguistic turn, yet inherited the central concern of the *Annales*.

Yet, there is a figure who, like Chartier, took over the proposal of White and Ricoeur, but developed it to another direction than Chartier, and has been gathering attention in another sphere from historiography. In contrast with Chartier, who went back to the Ancient Regime with the theory after the linguistic turn, he tries to argue on the democratic age after the French Revolution. This person is none other than Jacques Rancière. In what follows, I show that Rancière examines the *Annales*' method from another perspective than White and Ricoeur, even though he inherited many

aspects of their arguments, and that against this examination we can shed new light on his central idea of democracy, namely 'subjectivization'.¹⁰

3. 'Poetics of Knowledge' in Rancière's Theory of Democracy

3-1. Historiography and 'Poetics of Knowledge'

Rancière's theory of history basically took over the points of criticism after the 'linguistic turn' against history. First of all, the method he employs for the study of history, the 'poetics of knowledge' is clearly a variation of White's 'poetics of history'. He defines the 'poetics of knowledge' as follows: 'a study of the set of literary procedures by which a discourse escapes literature, gives itself the status of a science, and signifies this status' (Rancière 1994a: 8). Rancière intends to clarify what kind of attempts historians after the 19th century have made to give itself a status as 'science', in other words in what way they have tried to rid the French word '*histoire*' of its dual meaning: history and story. And he claims that these attempts themselves are nothing but 'literal procedures', namely a construction of a narration.

But the 'poetics of knowledge' cannot be reduced to a study of this entanglement between 'science' and 'narration'. If Rancière's 'poetics of knowledge' consisted of only these two elements, his theory of history would not be more than a variation of White's and Ricoeur's arguments. The originality of his argument can be seen in that he characterizes the 'poetics of knowledge' as a threefold contract, namely scientific, narrative and 'political' contract (Rancière 1994a: 8). For Rancière, the political contract is a condition of the age of democracy: an age which requires a bond between 'science' and narrative'. For democratic history, unlike traditional history which narrates only the deeds of great figures, must make 'visible' the deeper 'structure' or 'anonymous', which lies behind the 'events' as something 'invisible' (Rancière 1994a: 9). The age of democracy is an age in which the duality of history becomes manifest and yet it is not permitted to

10 'Subjectvization' is English translation of Rancière's key concept, 'subjectivation'. Though there are other translations as to the word (such as 'subjectification'), I followed recent custom in the studies of Rancière. Consequently, as for this word, I changed the translation in the citations below.

run away from this duality. In other words, the escape from this duality is nothing but the escape from the demand by the age of democracy. But it seems to me that Rancière also thinks the age of democracy as a time in which there exists an unavoidable escape from democracy, for he characterizes the age of democracy as ‘the age in which democracy appears, *even in the eyes of those who combat or fear it*, as the social destiny of modern politics’ (Rancière 1994a: 8-9 emphasis added). And his analysis of the *Annales* school implies an ambiguity for he sees it as a production of the demand of the age and yet it turns its back on the age (this would be one of the reasons why *The Names of History* is an extraordinarily complicated book).¹¹ I will clarify later that this ambiguity reappears in his theory of democracy. But for the moment, let us consider his analysis of *Annales* historiography.

Rancière finds in the *Annales*’ argument a noteworthy character: it cannot deal with ‘death’ because it has its base on ‘fear of death’. He formulates this point by going back to Hobbes, because, for Rancière, it was Hobbes who identified the political problem of how we can avoid ‘the death of king’ with a problem of knowledge: ‘The disorder of politics is strictly identical to a disorder of knowledge. ...Hobbes thus founds an alliance between the point of view of science and that of the royal place, a theoretical tradition that I propose to call royal-empiricism’ (Rancière 1994a: 21-2). This point of view which finds ‘fear of death’ at the core of Hobbes’ theory, is not of course a peculiar one. Amazingly, however, he claims that there exists even at the center of the *Annales*’ history, this ‘fear of death’ in another form. What Rancière bears in mind is the history of mentality, developed by the third generation of the *Annales*. One of the most famous work in the history of mentality is *Montaillou : Cathars and Catholics in a French Village 1294-1324* written by Le Roy Ladurie. This work, following the *Annales*’s ambition to write people’s history, brought

11 For example, Lynn Hunt remarks, regarding *The Names of History*, that ‘[t]his is no an easy book, despite its shortness, and some might reasonably argue that it verges on the incomprehensible because of what Hayden White aptly calls its aphoristic and even oracular style. The combination of Derridean deconstructionist literary discourse and the mystical historical language of Michel de Certeau does not make for quick perusal’ (Hunt 1996: 129).

back to life the ordinary lives and faiths of peasants in the 14th century, which have been neglected until then. Conventionally, historians of the medieval époque had been suffering from the lack of documents. Particularly, we cannot know the voice of the people of the ages because they had usually not been recorded in documents. But Le Roy Ladurie finds a breakthrough in a document: a record of inquisition. The 'author' is a diligent inquisitor Jacques Furnie (future Pope Benedict 12th). In a village, Montaillou, which had been doubted of being a heresy of Catharism, he recorded the 'voice' of the villagers by the interrogation 'in minute detail and for many hours in order to track down among them Catharism heresy or simply the deviation with relation to the official Catholicism' (Le Roy Ladurie 1982: 10), and left voluminous manuscripts of the records. Le Roy Ladurie regards it the best material for knowing the mentality of peasants who suffered from the inquisition. As Le Roy Ladurie says kiddingly 'it was a fortune for us, but a misfortune for villagers'¹² (Le Roy Ladurie 1982: 9).

Rancière, however, maintains that it is not voices of 'heresy', but the 'land' that can be expressed through the voice of peasants. For Le Roy Ladurie interprets peasants' heretical faith only as a product of their land. Peasants' 'words' which express their 'heretical' elements — Rancière understands these words as 'a speech with out place' — become a part of the land called Montaillou: 'His object is not heresy, but the village that gives it a place' (Rancière 1994a: 73). We can find here a paradoxical relation between the history of mentality and heresy: For the history of mentality, heresy must exist and at the same time it must not exist. On the one hand, those who attempt to write a history of mentality need the existence of heresy: 'There is material for a history of mentalities *inasmuch as there is heresy*, the production of speech without a place, devoted to death' (Rancière 1994a: 74). The reason why their voices are exceptionally recorded is that they were exceptional beings. But nevertheless the history of mentality cannot deal with the heresy as it is in the end. The heresy in the history of mentality must be generalized as a part of the entire 'mentality' of the land: 'there is a history of mentalities

12 This is one of the points on which Rancière bases his judgment that Le Roy Ladurie does not seriously confront the death of heresy. (Rancière 1994a: 73)

inasmuch as there is no heresy, no speech that is not the expression of the life of a place, no heaven that is not the expression of an earth'(Rancière 1994a: 75). Rancière sees in the work by historians of mentality a suppression of heresy like that of the inquisitors.

The inquisitor suppresses heresy by eradicating it: he marks it, he locks it up, he kills it. The historian, on the contrary, suppresses it by giving it roots. He removes it, as it were retrospectively, from the inquisitorial condemnation by giving it the color of the earth and the stones, by rendering it indiscernible from its place. (Rancière 1994a: 73)

The historians of mentality 'bury' the death of heresy to the land, by reducing the voices of heresy to the land. This was led by the same 'fear of death' as that of Hobbes. While the death of the king, or 'Regicide', that Hobbes tried to avoid by dominating the 'knowledge' was 'unredeemable death'(Rancière 1994a: 74), the death of heresy was 'redeemable death' (Rancière 1994a: 74) because it can be included in the 'knowledge'. Rancière ascertains that historians of mentality have been averting their eyes from their object, that is 'the death of heresy', by retrospectively redeeming the death.

It is indeed the problem of 'knowledge' that Rancière speaks here as a problem of 'death'. Like Hobbes, for whom it was the death of the king that required the absoluteness of 'knowledge', it was on behalf of 'knowledge' for historians of mentality that the death of heresy must be redeemed. In a word, for intellectuals, the death itself is something to be kept away from them whatever the method. Rancière says as follows concerning Michelet: 'death is itself only another name for this non-knowledge. ...To be dead is not to know, to be waiting for the liberating knowledge of oneself. To clam the turmoil of the voices is to calm death, to appease the crowd of those who have died from not knowing and not knowing how to say what it means to live' (Rancière 1994a: 62). It may be said that Rancière regards the attempt of history of mentality as a typical manifestation of 'fear of death', or the desire towards 'knowledge'.

Rancière argues, however, that it was only the age — 'monarchical and inquisitorial times' (Rancière 1994a: 94) — in which there was a land as something unquestionable, that historians can bury the death of heresy to

the land. On the contrary, the age after the collapse of the Monarch is an age in which events outside of the 'land' or 'mentality' have significance. 'In the symbolic universe structured by the ordering identities of the royal body, the divine word, and the poetic Muse, the scholarly history of the age of the masses must go searching for its markers. What comes afterward — the history of democratic revolutions, of modern class struggles, of the workers' movement and legend, falls outside its field' (Rancière 1994a: 90). Therefore, the history of democracy cannot be written in the *Annales*' 'poetics' of which reduces heretics to the land.

The historical science of the democratic age can't be the science of its own history. For the distinctive feature of the latter consists in ruining the very ground on which the voices of history let themselves be territorialized. The excess of speech that gives a place to the modern social movement doesn't let itself be *redeemed*. (Rancière 1994a: 91)

Rancière, therefore, explores the direction of what he calls 'a heretic history.' It is a history of democracy in which 'laic heresy' emerged. In the age, since it is not permitted to assume the 'land' behind the words, historians must deal with words themselves. Otherwise, they in the end have to deny the object of history itself. Rancière, like White, regards the problem of negationism as a result of, not the narrativity of history, but the scientificity of history, which attempts to deny the narrativity. It is when scientificity of history goes to extremes as to exclude all the words separated from the place, that the existence of the Holocaust, which can be explained neither by the rationality nor the ethos of Germany the time, must be denied.¹³ And again, Rancière follows White in that the former thinks that we can learn from literal experiments in the early 20th century concerning the problem of the way to describe the words separated from the place. But the point we should focus on is the difference between them. As we saw briefly in the previous section, White maintains that today's social order requires a totally different mode of narrative than that of the 19th century.

13 As for Rancière's criticism against negationism, see notably Rancière (1994b, 1996, 1999 ch6).

[T]he history which modernism confronts is not the history envisaged by nineteenth-century realism. and this is because the social order which is the subject of this history has under gone a radical transformation — a change which permitted the crystallization of the totalitarian form that Western society assumed in the twentieth century. (White 1992: 51)

Rancière would agree with this understanding that there were some discontinuities before now, even if they don't share the opinion concerning precise point where this discontinuity should be found. But what matters here is that Rancière does not regard this discontinuity as something like a *substitution* from one order to another. He describes the democratic movement as a *process to destroy* the 'land'. In other words, for him, there is still a land. Besides, the word 'laic heresy' cannot have significance without an assumption that there is still something like 'laic orthodoxy'. And, though I will discuss the point in detail in the next section, it was in *The Names of History*, particularly in the description of the combat of 'Laic heresy' against 'symbolic order' that the key concept of his theory of democracy, 'subjectivization' first appeared. Rancière maintains that for the purpose of narrating the history of democracy, the threefold contract of the 'poetics of knowledge' requires 'renewing' (Rancière 1994a: 95). But as the word 'renew' suggests both continuity and discontinuity, he does not deny entirely the *Annales*' mode of 'knowledge'. 'Subjectivization' rather can occur in the relation to such 'knowledge'. From this point of view, we can see the character of his theory of democracy.

3-2. 'Subjectivization' in Rancière's Theory of Democracy

Given Rancière's theory of historiography, how can we characterize his theory of democracy? To begin with, let us examine his well-known idea 'a part of those who have no part (part des sans part)'. He says that 'politics' or 'democracy' (for him, these are synonyms) is 'counting a part of those who have no part'. He contrasts it with 'not counting such a part' (Rancière 1999: 125). Rancière calls the former the 'demos' and the latter the 'ethnos'. But what does the 'part' indicate here? We can interpret it as 'mentality' or 'land' which was characterized in *The Names of History* as dominating a society before the age of democracy. This is suggested by the fact that in

the book, he calls the history of mentality 'ethno-history' (Rancière 1994a: 95). In sum, he is calling the operation of burying the words separated from the land, in more universal expression, 'not counting a part of those who have no part'.

Therefore, for Rancière, the age of democracy can be characterized by this duality of the *demos* and *ethnos*. We can see his understanding of this duality in his criticism of Claude Lefort. Lefort maintained that modern democratic society can be characterized as 'a society in which power, law and knowledge are exposed to an antagonistic indetermination, a society that has become the theatre of an uncontrollable adventure' (Lefort 1986: 305).¹⁴ Lefort contrasts this society with that of the Ancient Regime in which 'the markers of certainty' (1988: 19) had been provided by the king's transcendental and symbolic instants (Lefort calls it the 'King's two bodies' that is, his natural and divine bodies, drawing on E. H. Kantrowicz's well-known study of medieval political theology). Such a characterization of democratic society was succeeded by his disciples (the most famous thinker among them is Marcel Gauchet), and became a framework of today's theory of democracy in France. It is clear that Rancière also employs this framework as a base of his theory of democracy. But we must not overlook a qualification he makes. Rancière writes as follows:

Democracy is the designation of subjects that do not coincide with the parties of the state or of society, floating subjects that deregulate all representation of places and portions. One could no doubt evoke at this point Claude Lefort's conceptualization of democratic "indetermination," but there is really no reason to identify such indetermination with a sort of catastrophe in the symbolic linked to the revolutionary disembodiment of the "double body" of the king. (Rancière 1999: 99-100)

For according to Rancière, the duality represented by the king's body at one time has been maintained even in a democratic society, under a different form. The King's 'dual bodies' were secularized and moved into people's bodies: 'the duality of a social body and a body that now displaces

14 As I will treat in the conclusion, this is the phrase often cited in Mouffe's articles (1993).

any social identification' (Rancière 1999: 100). It is unquestionable that this 'dual bodies' of people corresponds to the duality of *demos* and *ethnos*.

This correspondence between *diachronic* duality, namely before and after the democratic revolution, and *synchronic* duality, as it were, in people's bodies, is suggested in the fact that the key concept of Rancière's theory of democracy appeared in a historical context in which modern democracy has had a form. In other words, for Rancière, democracy is not an activity held in an already formed democratic space, but rather a 'historic event' performed in each moment as a combat against non democratic society. Let us see concretely this point by his explanation of 'political subjectivization' in *The Names of History* and *Dis-agreement*.

Rancière presents in *The Names of History* as a typical example of subjectivization, the first rule of the 'London Corresponding Society' in 1792, reported in E. P. Thompson's *The Making of the English Working Class* (1963). The rule reads 'That the number of our Members be unlimited' (Thompson 1963: 18). According to Rancière, this rule was *époque* making because it manifested that it excludes all exclusion and send this message to all others (this is the rule of *Corresponding* Society). 'The modern social movement has its place of origin in this pure rupture or pure opening, which the political practices of incorporation and the modes of objectification of social science will apply themselves to warding off. It is that of a class that is no longer a class but "the dissolution of all classes"' (Rancière 1994a: 92). Of course, in reality it is not possible for any community to include members unlimitedly. But this manifestation itself, as an 'events of word' has a political significance.

The class [— as the dissolution of all classes —] that declares itself in the pure invocation of its limitlessness of number is rather identified with the act of a speech without place and of an uncountable collectivity, one impossible to identify. It is the advent, in the field of politics, of a subject that is such only in its recrossing and disjunction of the modes of legitimacy that established the affinity between discourses and bodies. (Rancière 1994a: 92)

This fiction of unlimited members indicates 'collectivity ...impossible to identify'. That is not to say that these communities really exist. Rather, this

fiction works as if it is possible to belong to 'the community that specifically counts the uncounted' (Rancière 1994a: 93).

Rancière considers the 'political subjectivization' more intensively in *Dis-agreement*. He gives it a comprehensive definition:

By *subjectivization* I mean the production through a series of actions of a body and a capacity for enunciation not previously identifiable within a given field of experience, whose identification is thus part of the reconfiguration of the field of experience. ...A mode of subjectivization does not create subjects *ex nihilo*; it creates them by transforming identities defined in the natural order of the allocation of functions and places into instances of experience of a dispute. (Rancière 1999: 35-6)

Rancière examines as examples the 'status' of 'labor' and 'woman'. The meanings of these statuses are seemingly evident. But actually, these statuses connote the gaps between the 'identity' that the social part of the status gives them and a part which the status cannot count ('a having no part') (Rancière 1999: 36). The 'political subjectivization' is, then, a manifestation of this gap; it is not another 'authentic' identity. It is rather a manifestation of this gap itself between a *who* and a *what* (that is between words and things): 'Any subjectivization is a disidentification, removal from the naturalness of a place, the opening up of a subject space where anyone can be counted since it is the space where those of no account are counted, where a connection is made between having a part and having no part' (Rancière 1999: 36).

Rancière gives the following example. In 1961, some Algerians who participated in the demonstration for independence of Algeria, was killed by the French police, and the corpses were thrown into the Seine River. Rancière says that the political subjectivization produced in France against this injustice was not brought about by identification with the victimized Algerians. It was formed, rather, by 'dis-identification' with France. Regarding this delinquency conducted in the name of 'French people', French people 'dis-identified' by calling the identity of 'France' into question: 'The denial of humanity was thus constructable within the local, singular universality of a political dispute, as French citizenry's litigious relationship with itself' (Rancière 1999: 139). 'Political bond' was possible

because, they maintained 'litigious' relation with the identity of France.¹⁵

It is important, for Rancière, that these movements are neither the claims of identity, nor a mere escape from identity. Rather it is a movement which moves the identity through conversations with the dominant 'mentality' or 'ethos' according to the word in *Dis-agreement*-which imposes identity on a society. 'Political subjectivization' is not a simple denial of a given name (identity), but emerges in moving of the name, while keeping the relation with those who call them in the name. One of the most often given examples by Rancière of this subjectivization is 'indecent' practice performed by participants of demonstration in the May Revolution of 1968: a practice of manifestation in which they reversed their imposed name, and called themselves in a name of victim of Holocaust.

At the beginning of the May '68 movement in France, the demonstrators defined a form of subjectivization summed up in a single phrase: "We are all German Jews." This phrase is a good example of the heterological mode of political subjectivization: the stigmatizing phrase of the enemy, keen to track down the intruder on the stage where the classes and their parties were counted, was taken at face value, then twisted around and turned into the open subjectivization of the uncounted, a name that could not possibly be confused with any real social group, with anyone's actual particulars. (Rancière 1999: 126)

Rancière maintains, in this way, it is not that the mode of 'mentality' which gives each part of totality each identity, has vanished, but that subjectivization is realizable only in connection with it. Subjectivization in London in the middle of the French Revolution can still be reproduced in 1960s. Rancière does not stand on the position of agonistic democracy which assumes that in our time symbolic order has already vanished and therefore only the combat (agon) among adversaries within a rule-shared world is politics. For Rancière, rather, there exists two conflicting worlds: on the one hand, the world of science in which each 'part' has its identity in one mentality or ethos (that is correspondence between word and thing); on the other hand, the world of narration, produced by the words separated

15 This case was examined also in Rancière (1998: 120).

from their proper places, a world in which all parts can be counted without any exclusion. The construction of a community, by standing between these two conflicted worlds, and acting as if there is a conversation between them — what Rancière calls ‘the practice of the as if’ (Rancière 1999: 90) —, is nothing but subjectivization. For him, only this practice can be politics, or history, in the age of democracy.

4. Conclusion

Now, we have interpreted Rancière’s theory of democracy in light of his ‘poetics of knowledge’. As a result, we saw that the deeper meaning of the fact that the ‘poetics of knowledge’ consists in a threefold contract, namely scientific, narrative and political contract. Rancière maintains that politics or democracy can exist only in the contradiction between science that requires the correspondence of words and things, and narrative that can be made of the words separated from things.

Rancière’s design in part accords with that of agonistic democracy advocated by Chantal Mouffe, in that they both criticize consensus based democracy. Mouffe tries to show that the dominant discourse which is considered to be rational is in reality a contingent hegemony which has no rational ground. What Mouffe expects is, however, a turn from consensus based democracy into agonistic democracy in which people share the understanding of the agonistic nature of democratic order, and based on this understanding, each part of a community exhibits its own identity. On the contrary, Rancière does not think that such a ‘turn’, as it were, can be carried out. For him, the mode of knowledge (and its philosophical version called para-politics, in which everyone can be counted based on their each identities¹⁶) which does not admit itself being a narrative is natural tendency of knowledge as ever, and therefore it continues to exist even in the age of democracy. Consequently, there exists politics only as a combat against this kind of knowledge.

This difference is symbolically shown in the conflict of opinions between Rancière and Mouffe concerning the validity of Lefort’s understanding of democratic society. While Rancière calls into question Lefort’s theory of democratic society, Mouffe often makes it a precondition

for her argument.¹⁷ For Mouffe, the politics, or combat among adversaries (distinguished from Schmittian friend/enemy) can exist only in a space in which people acknowledge the uncertainty due to the absence of transcendental instance. But, for Rancière, such combat as Mouffe understands it would be no longer a combat. He judges that the desire to a total knowledge which can be realized by giving each things or persons its proper 'identity' is increasing more and more, as shown by the reputation of the Annales school. It is the very deep-rootedness and inevitability of that pre-democratic logic that Rancière analysis in his recent work *Hatred of Democracy*. If there can be politics in this situation, it is only by constructing a space in which one group accept their imposed identity in order to continue the conversation with the ruling groups, but nevertheless use it in a way that subverts rulers' assumptions. For Rancière, a 'combat' can be undertaken not as agonism in a rule-shared arena, but as a construction of community in which thus far unnoticed equal relations between the rulers and the ruled can be manifested. For example, Rancière esteems in *Hatred of Democracy*, the manifestation performed by Orampe de Gouges who proclaimed, in the period of the French Revolution, The Declaration of the Rights of Women and Citizen. De Gouges claimed that if women have 'rights to mount the scaffold', it follows that they also have 'rights to mount the rostrum stage'. The revolutionary regime, aiming to confine women's bare life within the private sphere, unintentionally acknowledged by attributing to them the '*rights* to mount the scaffold' that women's bare life itself *is* political. De Gouges performed, then, by using

16 Rancière (1999) classify 'political philosophy' into three modes: archi-politics (Plato), para-politics (Aristotle, Hobbes, Burke) and meta-politics (Marx). Against both archi-politics which does not doubt the correspondence between 'word and thing', and meta-politics which denies 'word' because it cannot correctly represent the 'thing', para-politics recognizes the gap between 'word and thing'. Nevertheless, because it cannot endure this gap, it requires the authority who can decide the 'word' which really corresponds to the thing. I believe that Rancière recognizes this political function in the *Annales'* knowledge which, knowing the gap between 'word and thing', nevertheless seeks authentic 'word' which corresponds to the 'thing'.

17 See Mouffe (1993: 11, 51, 64, 105, 122).

the logic which imposes her 'the rights to mount the scaffold', *as if* she has 'the right to mount the rostrum stage', which in reality she does not have. The world in which she has this right, and the world in which she does not have it, the duality of these two worlds is, for Rancière, nothing but the space in which politics can be performed. "Have' and 'not to have' are terms that split into two. And politics is the operation of this splitting into two' (Rancière 2006: 61).

In conclusion, I would like to maintain that Rancière's political design can contribute to recent theoretical efforts, including agonistic democracy, for elaborating alternative design to the consensus based democracy, by adding them a new perspective.

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8

Religion and Civil Society in Modern British History: Anglican Theories of Church and State

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1. Introduction

Civil society in Britain is almost seen by many social and political theorists today as one of the most ideal forms for such explorations; the historically evolved character of civil society as autonomous and independent of the state and government, the strong tradition of civil and political liberties and self-governing associations, and the certain legal and political institutions that sustain them, all of which are supposed to be founded on people's sense of decent life and the so-called 'spontaneous order' of society. It is believed that civil society, particularly of the British kind, was given its first theoretical foundation by John Locke, flourished in eighteenth-century commercial society, and became an ideal model for other nations to adopt in subsequent centuries.¹

When civil society is conceived as a 'pre-' or 'non-political' thing in its claim to oppositional status to the state, religion too can be counted as a major constituent of civil society or be in parallel with it. In fact, the mainline organized religion in England, the Church of England, not only at one time formed a part of the state and depended on it, but at times confronted with the state and government to refuse political interference.

1 The most classic and popular account of British civil society would assuredly be Jürgen Habermas's *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society* (1962). For contemporary attempts to extricate historical and theoretical problems concerning civil society, together with the task of rereading the entire history of British, European, and even global political thought, see Harris (2003), Kaviraj & Khilnani (2001).

Besides, diverse religious voluntary associations as nonconformist basis have greatly contributed to the growth of civil society and freedoms, though in circumstances where religion is conceived primarily as a ‘privatized’ and ‘personal’ thing. As distinctive to the British experience, the public sphere or the notions of the public and common (good) have been formed through interactions of numerous agents in civil society including individual’s beliefs and practices and the churches (once called ‘*societas perfecta*’), rather than by the state’s initiative alone. Thus the development of civil society and the expansion of liberty in modern Britain presuppose a long and complex process in which the official church and the pluralizing non-established denominations finally accorded to establish a mutual autonomy of religion and the freedom of conscience. In order to construct the democratic self-rule and equality of citizens — which may form the entire subject of this publication — it would be of merit to clarify in its historical setting how the freedom and rights primarily of religions have been attained to the present, and how the established church itself dealt with and managed religious pluralism from the centre. This perspective of religion may suggest a peculiar understanding of civil society and the making of modernity in Britain, which may have been built on its insular character.

So this article aims to explore the historical prospects and limits of how the Church of England representative of English Christianity has addressed religious diversity and has in turn influenced the state’s practice and the formulation of political discourses. According to Veit Bader (2007; 2009), the way and manner to manage religious diversity to bring about political order and mutual coexistence by collective efforts in society are called the ‘governance of religion’. The Church of England has justly applied continuous pragmatism of balancing principles with practices to reach a consensus on the nation’s religious opinions by means of its characteristic ‘*via media*’ mind. Another perspective of the ‘political history of religion’ which Marcel Gauchet (1985) indicated — meaning that the nature of religion could be best understood in relation to social and political contexts and implications — might rightfully be applied to Anglicanism. The Church and its relation to politics and society were almost common themes and often provoked heated debate in the history of British political thought. Hobbes, Locke, Hume, Bentham, and J. S. Mill each confronted and had to

‘overcome’ the problem of religion and the church. Moreover, it is interesting to know that Anglican thought could have been one of the central forces in formulating various strands of modern political ideologies, including not only royalism and conservatism, but also (religious) nationalism, imperialism, and (Christian) socialism. In particular, this article looks at the emergence of ‘Liberal Anglican’ thought² in the seventeenth century and how it is connected to the modern political thinking in terms of theological foundations and moral dimensions.

Anglicanism can also be examined from a wider spectrum of ‘civil religion’, which implies hugely intricate politico-religious nexuses ranging from state religion, national religion and political religion to secular religion.³ It raises a serious question of whether civil religion, as artificially contrived as inseparable from a particular nation or polity, could still retain its essential spiritual autonomy and theological depth. Anglicanism too, being arguably the most ambivalent of all civil religions,⁴ had to face further difficulties in maintaining both spiritual distinctiveness and social relevance in a pluralizing world. In that respect, I hope to clarify changing modern conditions for the various faces of historic Anglican thought, and also takes a truly critical approach to it from the perspective raised by J. H. Newman and J. N. Figgis (both Anglican thinkers), which I shall examine later.

2. The Liberal Anglican settlement of church and state

As implied above, modern Britain starts with an ‘essential complementarity’ of the nation-state and the national church, for it required theoretically that secular as well as ecclesiastical jurisdictions should be fully transferred to the national sovereign, the English King. So Henry VIII broke up with Rome and established the Church of England, becoming its

2 Liberal Anglican ideas have been explored in multiple ways, such as Forbes (1952), Brent (1987).

3 Discussions over this controversial term have been sparked since the monumental article by Robert Bellah (1967).

4 As shall be shown below, Anglican religion had to (and will continue to) experience the fundamental tension between ‘state Anglicanism’ and authentic Christianity.

‘supreme head’. Under the strong caesaropapal character of the English Reformation, reformers like William Tyndale were suppressed and the ‘Erastian’ nature of the Church became a ‘yoke’ and burden to be overcome by subsequent churchmen. Under Elizabeth I’s reign, however, when the royal supremacy in church governance was moderated and the character of the faith was wholly Protestantized, another settlement of church and state, or political order and ecclesiastical community, legally supervised by the sovereign was hoped for. In fact, the changing relationships of contest, compromise and separation between the two constitute the whole history of Anglican thought up to the present. The long medieval tradition of the Church’s freedoms and privileges (as stipulated in Magna Carta) was to be upheld, and even the idea of the ‘divine right of bishops’ was asserted in opposition to the king’s divine right claims.⁵ In the English structure of civil and ecclesiastical constitutions which was neither theocratic nor wholly secular, exercises of secular power (*imperium*) could be moderated and tamed by introducing the eternal concern (viz. salvation) that transcends the temporal world, and also on the grounds of natural and eternal laws of God.

The most important theoretical champion of the Elizabethan settlement is Richard Hooker. In his *Of the Laws of Ecclesiastical Polity* (1593), after making explicit the duality of church membership and political citizens as the state’s subjects, he attempts to find a moderate unification in a comprehensive English constitution (VIII, 1.2, 1.7). What was imminent to him and his contemporaries was the potential schism of the Church created by Separatists and Calvinists on the one hand and the political danger of Catholics holding loyalty to the foreign jurisdiction, the Pope, on the other. In response to the religious and political crises at home and abroad, he sought for a comprehension of as many Christians as possible into the official church, characterizing it as the bridge church and ‘*via media*’ between Rome (Catholics) and Geneva (Protestants). Then he defended a submission to a unified religio-secular order as a collective umbrella for the security of individuals and the salvation of men’s souls from the awareness

5 A rather unfamiliar doctrine by the ultra-High churchmen was employed to pose a slight attack on royal supremacy by their episcopal sacerdotal power.

of the limits of human reason and plurality of human societies.⁶ Though may be seen as Erastian or '*politique*' in his giving priority to civil peace and temporal order, Hooker, in association with Anglican bishops like John Jewel, also recognized the need to provide the Church with doctrinal as well as institutional foundations; the historic episcopacy as apostolic succession, the whole Anglican religiosity as 'Catholic and Reformed' as represented in the Thirty-Nine Articles and the Common Prayer Book, and the embodiment of 'One, Holy, Apostolic and Catholic Church' in England as one branch of universal Christendom.

The question of an ideal balance between religiosity and the secular, or the temporal and the unearthly, with the task of comprehension, has been succeeded to the seventeenth century commonly called the 'age of Confessionalism'. There certainly emerged a huge variety of ideological trends and innovations on both sides of the Royalist-Anglican and Parliamentary-Puritan camps toward the Civil War (which exceeds the scope of my argument). Yet in one case, Thomas Hobbes, reacting against a civil war situation as the 'state of nature', took the most extreme Erastian position on the aforesaid Anglican duality and argued for the establishment of a sovereign 'Leviathan' state, consequently leaving no room for the spiritual and the otherworldly in that polity. However, a more moderate form of unification carrying forward the Hookerian formulation in a constructive way was put forward by liberal Anglican thinkers then labeled as the 'latitude-men'.⁷ Latitudinarianism first got the germ of an idea during the Civil War and Interregnum periods and found its fullest expression in the Restoration context of political conflict and intellectual struggle. Thinkers like John Hales, William Chillingworth, Jeremy Taylor, the Cambridge Platonists, and John Tillotson shared a common aim of seeking for a certain mediation and reconciliation between the reason of religion

6 This kind of political legitimation characteristic of an age of scepticism is thought to have become typical of subsequent conservative thinking in Britain. See Quinton (1978).

7 The term was at first a pejorative one at the time of the anonymous publication of *A Brief Account of the New Sect of Latitude-men* (1662) by Simon Patrick. Even to this day, however, a scholarly definition of 'latitudinarianism' in the seventeenth century remains a controversial subject.

and that of politics amid the confessional crisis of the state, and showed a renewed *via media* mind in addressing more deepening religious pluralism.

What was unprecedented in Anglican history was their insistence on the freedom of conscience and the faculty of reason in individuals based on a rational theological foundation concerning freewill and practical morality. They countered the sceptical crisis of early modern Europe by simply mitigating or moderating it — asserting that men should be content with lesser degrees of the certainty of truth, namely ‘moral certainty’ or mere human probability that was sufficient enough for practical human conduct — and advocated a reconciling spirit of toleration founded on a deep awareness of human fallibility.⁸ Then they sought for the dual goals of achieving a minimally overlapping consensus on things essential and necessary to salvation, and of securing the individual’s choice and freedom on non-essentials (‘things indifferent’ or *adiaphora*), while abandoning uniformity in church discipline so forcefully pursued by Puritans and radicals. The forms of church government can never be justified by divine right, and the comprehensive Church of England was conceived to be a mutual *modus vivendi* in visible form which assures plural ways to salvation. The temporal world as the ‘state of trial’ or ‘probation’ constitutes a crucially important moral preparation for the afterlife and is needed to be properly governed by the two visible institutions of God on earth, church and state, on fallibilistic grounds. Upon that view there existed the certain metaphysical foundations laid out particularly by the Cambridge Neoplatonists; the idea of the ‘great chain of being’, hierarchy of creatures, human souls as microcosm, and a reconciliation between the One (God) and the many (creatures). They presupposed an orderly continuity and succession from the natural to the supernatural, or from human to the divine,⁹ and Neoplatonism in that period is understood to have made possible an escape from dogmas and outward forms of government to individual’s inward freedoms and the spirit of mutual toleration, in short, the undermining of the role of the state in religious affairs.

8 For overall intellectual characters of liberal Anglicanism, see Van Leeuwen (1963), Shapiro (1983), Popkin (1992), Spellman (1993).

9 Lovejoy (1964) underwrites such intellectual shift and transformations in early modern Platonism.

It is assumed that the latitudinarian views of reasonable religion and the twofold vision of comprehension and toleration have been embodied in a post-revolutionary product of religious settlement, the Act of Toleration (1689). It first sets forth the inclusion of maximum English Christians into the national church and, second, recognizes toleration and freedom of worship for Nonconformists only who believe in the Trinity, such as Congregationalists and Baptists.¹⁰ One can say that the former national church is charged with the 'political' role of managing religious diversity from the centre, while the latter are to freely constitute vital forces in civil society through religious and social activities. With this 'ideal union' of church and sect or denomination, the Revolution Settlement in 1689 represents a newly established religio-political order which many historians recognize as another starting point for the modern British state. It should be noted, however, that it entailed a serious reservation about the extent of toleration, essentially for the political rather than religious reason. That is, Catholics who held allegiance to the foreign Pope and atheists who held no God in their consciences were denied toleration and were virtually excluded from the political order, for they were considered to endanger the British national sovereignty. John Locke's argument on toleration (*A Letter concerning Toleration*, 1689) is representative of that prioritization of civil order over full religious pluralism. The strict Protestant-Anglican structure that had been upheld in the Corporation Act, the Test Act and other legislations by the Cavalier Parliament remained intact even in a relatively liberal and pluralist constitution after the Revolution.¹¹

Accompanying both limits and prospects, liberal Anglican thought is still considered to have contributed to the creation of a paradigmatic ideology in post-revolutionary English society called 'Newtonianism' (Jacob 1976) or 'conservative Enlightenment' (Pocock 1989).¹² These definitions suggest an ambivalent nature of overall British modernity and stipulated

10 In fact, the doctrine of the Trinity was regarded as an essential of orthodox Christian faith by Anglican theologians in the eighteenth-century Deist and Unitarian controversies.

11 These measures, it must be pointed out, functioned not only as a regulation and control on Protestant nonconformists, but as an ecclesiastical check and resistance against the Catholic rule under Charles II and James II.

one interpretational aspect of it which has been heavily influenced by the historic Anglican mind, namely the '*via media*'. However, the same ambivalence poses further questions about the status of Anglicanism as a *de facto* civil religion in 'Protestant England'. The fundamental question of the essential tension between religion and the world remained unresolved and the Anglican church is to face more difficulties in implementing religious diversity and even in maintaining its own identity, being exposed to serious modern challenges, not least from Catholics as minority citizens in British society, which I shall examine in the next section.

3. The Anglican *via media* and British modernity

British society formed from around 1689 through the eighteenth century was, in a sense, an emblematic stage or arena in which political systems, religious organizations, and intellectual history made significant developments toward the shaping of its modernity. I will define a basic character of that condition where religions exerted a variety of influences and arrangements upon the formulation of civil society.

To begin with, eighteenth-century Britain has been characterized and almost idealized as the rise of commercial society, a new virtue of civility and politeness, and the development of the parliamentary Cabinet system with 'King in Parliament'. After overcoming the 'crisis of the European mind' (Paul Hazard) in the previous century, there emerged a relative optimism and confidence in the intellectual world, though they produced a secularizing tendency in morals and faith due to the Deist natural religion in Enlightenment thinking. There are historians, nonetheless, who assert that British society still remained an '*ancien regime*' and 'Confessional state' (Clark 1989; Clark 2000), and that intense political and religious struggles have continued between parties even on the issues that touched the very legitimacy of the Revolution Settlement (the Nonjuring schism and the Jacobite rebellion, for example). What is still important here, however, is

12 He emphasized the uniquely British character of the role of Anglican social elites in the making of clerical Enlightenment there, contrary to the overtly anti-clerical mode in Revolutionary France.

that there may have existed a certain common ethos or habits of people that made possible that conflicts and diversity of opinions were in some way 'institutionalized' and 'systematized' into one constitution. The British constitution as an unwritten one is supposed to comprehend and embrace multiple agents of constitutional power and authority, both *de jure* and *de facto*, including intermediate groups and associations, secular or confessional. One can emphasize the significant place given to the non-institutional disposition, that is, the informality of the agents' ethos, actions and consciousness in that polity. And as regards religions, they were largely permitted to be the major components of civil society, contrary to the French laic principle. It is understood, on the whole, that these undertakings may have contributed collectively to produce a peculiar 'concord of discordances' and political stability in Britain's 'long eighteenth century' as an unintended consequence (Plumb 1967).

What was at stake in respect of the management of religious diversity in the century was at first more of the troubles within the Church itself than of other denominations. The Anglican Church, becoming a *de facto* 'fourth organ' within the British constitution—apart from the monarch and both houses of parliament — had to embrace the High-church, Broad-church and Low-church factions (in other words, parties within the Church) created around 1689. The continuing tension between the High-church and the Low-church in association with their parliamentary allies (Tories and Whigs respectively) has occurred successively in the symbolic events like the Sacheverell trial, the Hanoverian succession, and the Bangorian controversy.¹³ The governing role of moderate Anglicans or the broad-church men who had ascended to the leadership under William and Mary's reign — successive Archbishops of Canterbury John Tillotson, Thomas Tenison, and William Wake were all liberals—was thus highlighted, though they have been hugely troubled about coping with the crisis.¹⁴ Another grave challenge for the Anglican establishment came from the Methodist movement led by John Wesley. Reacting against a perceived moral and

13 For a glimpse of the church's condition in these periods, see Bennett (1975).

14 A group of higher clergies called 'party bishops' (the most notable was Edmund Gibson, the Bishop of London) received persistent criticisms for their political connection with the Whig oligarchic regime under Robert Walpole.

spiritual decay in the century which was to be responsible for Protestant liberal theology or Deism, Wesley, an Anglican priest, originally wished to remain within the cadre of the Church, but was later forced to be separated from it because of the disagreement over church governance and doctrines, and looked to the American continent to gain a huge influence there.

Despite these turmoils inside and outside the church, one can easily find that the entire 'Protestancy', regardless of the established or the non-established, has persistently been thought of as a fundamental assumption of the British national identity during these periods. The 'holy alliance' between Protestantism and the state has led to the creation of a peculiar form of British nationalism, namely 'Protestant nationalism'. As Linda Colley has argued, an extreme form of jingoism has appeared especially out of the people's religious sentiment against Catholic nations like France, as expressed in providential languages such as the building of 'new Jerusalem' by the 'elect nation', the Pope as 'Antichrist', etc (Colley 1992). Moving into the nineteenth-century era of imperialism, such representations and discourses (as typical of the 'white man's burden' by R. Kipling) were used to legitimate and sanction the colonial rule in India and other parts of the world that was usually accompanied by Christian missionaries. Out of the archetypal conceptions and analogies of God and the nation which, for instance, William Blake and Isaac Watts — both of them committed nonconformists-frequently portrayed in paintings, poetry and music, there was created among all parties a common shared identity based on militant Protestant sentiment that would have been virtually enough for them to undermine or forget denominational differences.

However, these conditions that seem perfectly domesticable within Britain, together with the 'classical' framework of the Protestant constitution, became untenable due to the significant challenges by the end of the eighteenth century and through the next. These incidents were; the growth of the Catholic emancipation movement essentially of Irish origin, the demand for more radical politics (e.g. the electoral Reform Act) prompted by the French Revolution, and the rise of science in opposition to religion such as Darwin's theory of evolution (contrary to the classical 'Newtonian harmony' between the two), all being supposed to have constituted a wider European phenomenon that would imply fundamental

transformations in the British practice and even press for another paradigmatic change to it.

We should investigate next how overall Anglican thought could be able to counter with such predicaments. Firstly, it is interesting to know that in the eighteenth and nineteenth centuries the conventional CofE (Church of England) debate and theorizing have been invoked especially by the Romantics, lay and clerical, in a renewed interest in how religion could play its rightful role in a democratizing world. Edmund Burke in earlier times, after showing his distinctive understanding of the prescriptive rights and liberties of the English and of tradition and history as displaying divine Providence, defended the visible established church whose role was to 'consecrate' the state and make a counterbalance and restraint to corruptive reason and self-interest of men (Burke 1989: 84, 142-3, 148-50). He evaluated the church and state as a moral community as well as an institution in which the people were placed under the fear of God, and such instrumental or 'utilitarian' defence of the divine institution is typical of modern conservative arguments running through Hooker and him. S. T. Coleridge, drawing on Burke's argument, wrote *The Constitution of the Church and State* (1830) on the eve of the passing of the Catholic Emancipation Act. Emphasizing the organic and moral character of the state, he conceptualized the visible 'national church' (as distinct from the invisible church of Christ) as a unifying force for the embodiment of the English nation and culture. The goal imposed upon church and state represented by one personality, the English sovereign, was considered first and foremost to be the personal improvement and moral perfection of individuals, to be good and virtuous citizens who sustain civilized society. What was given particular importance in that vision was the role of the educated class or intellectuals called 'national clerisy' in improving the nation's standard of knowledge and morals (Coleridge 1976: 23, 32-6, 42-9, 82-4).¹⁵ Influenced by Coleridge's discussion, Thomas Arnold, a latitudinarian educator and historian, wrote *Principles of Church Reform* (1833), though, contrary to his predecessor, supporting the Catholic Emancipation and more toleration for nonconformists. While proposing the

15 He was actually advocating a kind of Protestant nationalism here.

church reform in rituals and ceremonies in order to embrace more believers into the national church, he thought that the chief end of it was the progress of morality in all humanity and that church and state constituting a moral community with a distinctive national character should be united to serve the same end. His son, Matthew Arnold, not so reformist but more conservative figure, highly estimated the Anglican *via media* mind and established church for its intellectual disposition which sets and occupies the middle way between the two strands of the European mind, Hellenism and Hebraism, and would serve as a preservative against the Puritan-minded enthusiasm and radicalism of democracy, to form a sound human spirit (Arnold 1965: 235-45).

But in the meantime, one can still observe that the preceding arguments retain a strong preoccupation with the 'Incarnate' in their defences of the church conceptualized primarily as a visible institution and the establishment, which was resulted from the still deep-rooted analogy of God and the state or nations. Some scholars point out that liberal Anglican theorists (Thomas Arnold, in particular) had a tendency to think that the state could easily be 'consecrated and sanctified' by certain religiosity and, more surprisingly, that they nearly lost the fundamental distinction between the secular and the religious (Nicholls 1967). Apart from their naïveté and optimism concerning the construction of church and state, there was a strong indication of specific historical theology or teleology shared among them, which prescribed a (Hegelian) providential completion of reason and spirit in history and of liberal theological basis on which the state could be defended as a supreme moral entity.

But in a real context, these Anglicans were undoubtedly the moderates who have faced the High-church on the right and radicals on the left and have carefully aimed at a middle ground to meet the actual problems in society with the aid of theological speculation reconciling religion with the world. In that respect, they were swift in reacting to the changing modern realities and in continually transforming themselves. The first such example was the British kind of Christian socialism or the 'social gospel' movement which F. D. Maurice and Charles Kingsley (both of them Anglican clergies) first invented. Under the conviction that the reform of the world and the removing of evils provide a moral preparation for Christ's coming and

millenarian events, they looked to tackle diverse social and economic problems such as poverty, labour conditions, city's problems, and the improvement of education. But upon that belief there was a rather optimistic premise about the orderly continuity from human to the divine, or the earthly to the afterlife, a general confidence in religion's ability to change worldly conditions, and hence, the maximized secular concern and social involvement of religious faith. As far as the Anglican legacy of social achievement is concerned, two distinguished noblemen of Anglican evangelicals are mentionable here. They are William Wilberforce who led the campaign for the abolition of slave trade, and the 7th Earl of Shaftesbury who invented a first-ever philanthropic enterprise or charity and the movement for factory reform. Another notable case was the founder of the British Idealist school, T. H. Green. He was believed to have sympathy for the latitudinarian cause, and could also be counted as a no less Anglican political theorist of the day. Arguing against empirical philosophy, utilitarian ethics, and laissez-faire teachings of classical liberalism, Green proposed the so-called social liberalism which stressed the ideas of the common good, social justice and equal citizenship, and was actually engaged in various activities for the radical reform of politics. However, one cannot emphasize enough the fact that when he conceptualized the positive liberty and moral perfection of citizens drawing on Hegelian or Rousseauian ideas, he was surely turning to (more or less) a collectivist or statist tendency, the state becoming a powerful principal agent in history and the world. In the often mutually converging religio-political nexus of British characteristics as indicated earlier, one can observe Anglican thought at any given time moving in the same direction as the concurrent political developments in theory and practice, whether they be liberal, socialist, or authoritarian ones.

At this point lie both the value and limits of Anglican thought, and the significance of the latter instances was manifested symbolically in the Oxford Tractarian movement of 1830s-40s to which liberal Anglicans uniformly opposed. The consequence and effect of this movement were grave. One of the leading members, John Henry Newman heavily criticized the liberal and latitudinarian tendencies in the church ever since the Protestant establishment of it and impeached the current church's

condition of being simply reduced to a 'department of Government and a 'mere collection of officials' and having no real identity (Newman 1908: 288, 294-6; Newman 1901: 6). He did so in the pure hope of finding in his church its own spiritual integrity, and 'apostolic succession' and 'catholicity' as the legitimacy of the communion of Christ, but in his judgement it had lost all of them, and he finally made a sensational conversion to Rome in 1845.¹⁶ His consequential 'apostasy' is considered to have posed a serious question to the identity of the modern Anglican church, especially to its long-cherished *via media* mind or pragmatism that had continually compromised principles with realities. The very critical points that the church was to be exposed to and to reflect upon were; a perceived spiritual decay dating back to Protestant natural religion which may have encouraged the exit from revealed religion and the erosion of Christianity, the church's close relationship with or dependence upon the state without its essential spiritual autonomy, the historically built monolithic Protestant assumption, various doctrinal heterodoxies such as Socinianism and Unitarianism, and so forth. The broad-minded theologians have tolerated or permitted these undertakings, some of which were essentially of Low-church or Whig origin. Thus it was to be severely questioned whether modern religion could keep hold of its integrity, while retaining particular influences upon social and political realms.

Another profound effect that Newman and his adherents had on British society and culture thereafter was significant. It was the overall revival of Catholicism, as manifested in the widespread dominance of Catholic converts like G. K. Chesterton, Graham Greene, Christopher Dawson and Evelyn Waugh in literary circles, the creation of the Anglo-Catholic forces (including, of course, T. S. Eliot) within the church that would replace the slightly outdated 'High-church' denotation, and the revival of traditional ritualism in arts motivated by medievalistic interests, all being supposed to constitute a major challenge for the Anglican constitution forcing it to reconsider its fundamental arrangements in society and with the state. With

16 In the Catholic Church, he was regarded as a relatively liberal figure because of his temporal reservation about the doctrine of papal infallibility and ultramontane cases, and this position was to be partly succeeded by the prominent English liberal Catholic, Lord Acton.

a somewhat strange historical hindsight, it can be said that the recurring claims from Catholics as long-standing minority citizens in modern English history¹⁷ have provided a chance and opportunity to rethink about religious diversification and social and political structures, including the sustainability of the establishment, not through violence or ‘plot’ as in the early modern rebellious contest, but through legitimate means of parliamentary and intellectual fight.

4. The place of the church in contemporary multi-faith society

This section aims to identify some of the key transformations and changes in and around the Church of England after Newman’s legacy amid the contemporary setting of the religious face of the UK.

To begin with, we have to briefly mention the specific role of moderate Anglican intellectuals during another tumultuous period of the first half of the twentieth century. It is observed that the Church of England, receiving high regard irrespective of political left or right as one of the important national and public institutions (some have called it a ‘spiritual NHS’), made it possible for the country to weather the interwar crisis and laid the foundations for the rebuilding of post-war society based on diverse values, such as the family life, a regard for individual freedoms, the sense of community, the work ethic, and patriotism.¹⁸ The wartime Archbishop of Canterbury William Temple is regarded as a highly important public figure and also as an emblematically reconciliatory person in the transitional state of the church. Influenced by Idealist philosophy and Christian socialism, he is considered as the spiritual architect of the post-war ‘welfare state’, and has exercised a powerful influence upon the identity of the British nation with a special moral and religious character.¹⁹ Another indicative event was that the church and its leadership in these periods in one way or another

17 J. H. Newman has exactly addressed this issue in his *Lectures on the Present Position of Catholics in England Addressed to the Brothers of the Oratory in the Summer of 1851* (London, 1908).

18 For an extensive argument on the Church’s influence on social and political issues, along with the discussion on Anglicanism as civil religion, see Grimley (2004).

supported or at least permitted the religious diversification and overall ‘de-confessionalization’ (that is, the abandoning of the monolithic Protestantization of the state and society) after the Catholic Emancipation and disestablishment in Ireland and Wales and, more importantly, was becoming to encourage an awareness of how to come to terms with or survive itself in a more pluralizing society.

In the field of theology, a newly created synthesis of the Anglican *via media* called ‘liberal Catholicism’ had been becoming a paradigmatic strand of English Christianity. It was founded principally by Charles Gore, being formed and shaped through the successive publications of works (along with the repercussions to them) such as *Lux Mundi* (1889), *Foundations: A Statement of Christian Belief in terms of Modern Thought* (1912), and *Essays Catholic and Critical* (1926), each a collection of essays contributed from various theological standings. Liberal Catholicism denotes beliefs and practices, or, an overall thinking manner within Anglicanism which seeks for its own spiritual identity on a renovated independent basis, refusing the deep-seated Erastian practice of the church and naïve liberal theology typical of the nineteenth century. It can be said that this brand of another modern Anglican refinement would, in the post-Newman era, substitute for the one-time designation of ‘latitudinarianism’ or ‘liberal Anglicans’ as a moderate wing of the church. It is liberal and catholic in that it seeks for the catholicity of faith and fellowship in a free and rational spirit of individuals,²⁰ and is surely understood to succeed Newman’s agenda of finding a probability and certainty of the development of universal Christian doctrines in a collectively shared source of the historic endeavours of faith, habits, and common consent.

The common feature of liberal Catholics was their ‘de-politicization’.

19 His *Christianity and Social Order* (1942) had a considerable impact on the awareness and need for a comprehensive social vision in the Anglican world even comparable to Catholic social teaching on the Continent. For his role in inventing and even coining the term ‘welfare state’ (in contrast to the ‘warfare state’ of Nazi Germany), see Spencer (2001).

20 This ambiguous but moderate attitude of intellectual inquiry is observable in the official statement by Archbishops Randall Davidson and William Temple at the Convocation in 1914. See, for example, Johnson (1976: 379).

They rarely employ the old-fashioned analogy of the Christian state that had consistently justified the establishment, and tend not to deliberately argue about the defence of the church-cum-state. What was of great concern to them was original sin as well as the spirit rather than the 'Incarnate' or the visible church. As indicated earlier, nineteenth-century liberalism, either theological or secular, stressed the worldly incarnation and embodiment of spirituality from optimism and confidence in human faculty and moral progress, and politics and the state were considered as a natural outcome of such development in the orderly universe. However, out of the profound crisis of scepticism (even without God, according to the saying of Nietzsche) at the *fin de siècle*, a renewed pessimism emerged, calling for a deep reflection upon the sinfulness of man and questioning human existence to be exposed to its nature as a confessional being. That intellectual climate led to create in the Christian world a new theological turn or recurrence to sin, mortality and Christ's work of redemption, as shown by various thinkers such as Karl Barth, Paul Tillich, and Reinhold Niebuhr including English writers like Graham Greene. Moreover, this kind of theological development might have offered an ideal and even natural condition for both church and state, a relative maturity in this historic relation. That means a situation where churches focused on their essential spiritual concerns and no longer needed protection and support from the state, and the state likewise concentrated on dealing with proper secular policy issues and had no ambition to interfere with religious matters. There can be no Investiture contest between bishops and kings as in the middle ages, and Paul Avis has called this twentieth-century setting as 'baptismal era' (Avis 2002: xvi) in Anglican spiritual history, implying that after overcoming its peculiar 'political problems' and tensions with the state over church and governance since the establishment, the Anglican church is now to face more challenges and opportunities to find an essential meaning of the teaching and message of Christ in an even more radical way amid an unavoidably pluralizing world.

In the history of religious diversification in modern British society as outlined so far, Anglican speculation has specifically evolved to invent various ways of embracing the situation successively, to include and reconstruct relations with nonconformists, Jews, Catholics, and foreign

Christian denominations — the last leading to the ecumenical movement initiated by the World Council of Churches. So when we are to take on this subject further in a more radical perspective, what should be paid particular attention would perhaps be J. N. Figgis's 'Anglican pluralism'.

He is often called ambivalently a 'radical Anglo-Catholic', who theologically maintained orthodox positions, reflecting a rather pessimistic temper mentioned above, while politically favouring radical or centre-left standings.²¹ First he theorized the pluralist state in association with such people like Harold Laski, G. D. H. Cole, and, in particular, Otto von Guericke who articulated the medieval conception of corporation. Figgis argued that the state should be moderated and regulated by multiple intermediate groups and that its prime responsibility was the security of the freedom of citizens. And the church, as one of such important bodies constituting civil society, has its own autonomy and function distinct from the state. Emphasizing the fundamental division of loyalty between church and state, he held, unlike liberal theologians, that states or politics could never so easily be 'moralized' by other bodies and put a serious reservation about the rationally 'incarnational' ability of humans and worldly entities. Furthermore, the Anglican Church itself is now placed in a condition to compete in a quasi-free market of religions²² and to survive itself as just one out of many denominations, while its principal duty being the necessary assurance and preparation for the various members' freedom to pursue their spiritual concerns.²³ Incidentally, one of his contemporaries, French Catholic pluralist Jacques Maritain too is recognized as the transitional figure in the Church who, recognizing the democratizing or modernizing force behind the whole Christendom, set forth a renewed possibility and chance for religions (including the organized churches, Roman or Anglican) to reinvigorate the essential Christian mission and the real power of faith in individuals and society. Figgis's and Maritain's pluralistic understanding of

21 Another important figure of contemporary Anglicans with such pessimistic temper would be W. R. Inge, the Dean of St. Paul's, who, unlike Figgis, held more conservative views on current issues.

22 The analysis of modern religion in market situation, or the theory of 'religious economy' has been developed since Peter Berger's *The Sacred Canopy* (1967).

23 Figgis's pluralistic ideas are explored extensively in Nicholls (1994).

welcoming diversity and not countering with but accommodating to democracy is based on their deep scepticism and criticism upon human's ability and collective aspirations as idealized in modern theology.

It is possible here that this point makes a part of the reason why their pluralism, political as well as theological, is now beginning to receive renewed attention after the disillusionment with the state's power after World War II and also after the collapse of the supposed 'post-war consensus' between leftist collectivism and paternalistic conservatism. In fact, Anglican theology historically has, for better or worse, a particular disposition of being connected and converged with the concurrent dominant trends of social and political ideologies of particular times, whether they be liberal, socialist, or pluralist ones. The historic turn toward pluralism in political theory is considered in some degree to be related to the theological shift from the postulation of sovereign, uniform, and absolutist God to the plural, 'democratic', and thus ambiguously 'trinitarian' conception of God. As David Nicholls (1989: 131-57) has argued, Anglican pluralist thinking would make an important source for the ideal of pluralist or federal politics seeking for fallibilistic and plural conceptions of the good, rights, and justice in a liberal society. For instance, the pluralist and federalist ideas of God and government by John Dewey and William James (both pragmatic and liberal philosophers) could be seen as one of such associations of metaphysical and practical dispositions, being indebted to a variety of Anglican or Anglo-American speculations which could best be called 'social theology' or 'public theology'.

5. Conclusion

I have tried to explore one aspect of the long European history of religio-political relations, one reflected in changing conditions of Anglican thought which are closely connected with the public discourse and political culture of Britain. The reason for my (examinational) limitation was that in Britain, as one of the most advanced countries of democracy while still having the traditional established church, we could identify some meaningful observations (along with the limits) on the public practice of modern Christianity.

Anglicanism stands out as a unique position in Christian history between classical 'Constantine regime' in medieval church and modern civil or secular religion (as manifested in the French Revolution or Nazi Germany) for its ambivalent effects on the outside world. The Anglican church since 1689 has sought for an ambivalent position reconciling the establishment with toleration, being charged with the 'political task' of getting religions (including itself) to be engaged with the modern outward surroundings. And in the current situation where social cohesion and common identity of the British people are strongly called for, the church is in quest of implementing more common association or deliberation among pluralized citizens, rather than falling into irresponsible indifferentism. Many historians have characterized Anglicanism as an unfinished project in the modern age, an ever-changing or evolving framework of thinking, or 'doing theology', which implies that it embraces infinite possibilities of future innovation and break-through in theology and in social debate.²⁴ But in a 'sound' secularizing or separation age which Maritain and Figgis probably anticipated, the appropriate tension and carefully disposed engagement between religion and politics, or morals and institutions, are more desirable. Nicholls again argues that the churches' role is 'not to aim at being relevant on all occasions and answering all current political questions to 'influence society', but to proclaim the judgment and justice in the transformation of the world, and to question and challenge current values and assumptions in which the question is posed' (Nicholls 1990: 141).

The current observation, however, is in no sense generalizable or universal for other experiences (including the same Western nations like the US, France, and Germany), but heavily depends on a particular national and historical condition. Moreover, in the face of the crisis of 'national identity' as the global phenomenon, the future prospect and whereabouts of so-called 'British particularity' or 'Britishness' (regarding not only religion but overall social and political construction) are to be highly questioned and

24 Such self-definition is observable in Dormor, McDonald & Caddick (2003). For another theological investigation into the meaning of Anglicanism, see Avis (2007).

problematized in recent years. It seems that the British institutions and practices are following two conflicting ways of Americanizing and Europeanizing tendencies, while nevertheless showing the slight possibility of retaining its own independent place as a unique and inspiring 'third way'. We cannot predict what to follow, but as least, in order to unravel more complexities and tensions arising out of the often unstable place of religious faiths in the world, such cross-national and cross-cultural comparisons are to be further discussed.

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9

Private Groups Acting Publicly: the Limits of Religious Associations' Right to Exclude

Chiara Cordelli

1. Introduction

Equality and freedom of association are fundamental democratic values. Democracy, as a social ideal, requires more than equal participation in elections. It also requires that citizens have equal opportunities to access relevant information. Beyond this, democracy asks its citizens to see each other through the lens of equality: in a democracy citizens perceive each other as equally capable decision-makers. Clearly, in societies characterized by profound inequalities in education, opportunities and wealth this 'perception' is jeopardized and, with it, the democratic *ethos*. On the one hand, those from the educated elites lose trust in the capacity of less educated others to act as competent voters; on the other hand, the most vulnerable ones start regarding the democratic machine with suspicion. They perceive the democratic system as detached from their needs and as operating for the defence and reproduction of the interests of the dominant class.

Yet, equality is not the only democratic value. Democracy also requires the continuous formation of a variety of shared but still plural ideas and enterprises. Freedom of association allows for this. Associations not only play the essential function of revitalizing the democratic debate, through the formation and expression of new ideas and forms of knowledge. They also act as important buffers to state power, as sources of local information and as the voices of those interests, which are often neglected. Where civil society is monopolized by the voice of the majority, and the free formation and expression of pluralistic associations is frozen by excessive public control, democracy is at risk.

However, the fact that equality and freedom of association are both fundamental and constitutive values of any respectable democratic order does not make their coexistence unproblematic. On the contrary, contemporary liberal democracies, in particular those within the Anglo-American tradition are experiencing profound conflicts between these values. Recent debates, both in the UK (BHA 2007: 10-16) and the US (Gill 2004: 748-752), about the threat that religious associations pose to equality, in particular to equal access to employment opportunities, goods and services, well illustrate this point.

On one extreme of the debate, religious associations claim an unconstrained right to be exempted from anti-discrimination regulation when hiring their employees and providing certain goods and services to the public. These organizations, whose claims are defended by some scholars (McConnell 1992, Monsma 1996, Rosen 2001), claim their right to exclude as part of their right to freely define their identity and pursue their beliefs. Indeed, they claim, this is the point and purpose of their organizations. They defend their right to exclude as part of their (associational) privacy: the independence that private actors, unlike public institutions, have in defining, developing and pursuing ends according to partial beliefs, free from external interferences and without having to justify their choices to non-members. Call this argument the *privacy-based defence of exemptions*.

On the other extreme of the debate, some theorists of democracy (Sullivan 1988:1720; Shapiro 1999: 22) and feminists (Rhode 1986:109) contend that letting voluntary associations discriminate is always unacceptable and disastrous in terms of democratic justice and equality. They argue that principles of equal concern, upon which anti-discrimination norms and corresponding obligations are based, should apply 'all way down' to all associations, including religious ones, as they are important sources of social and economic opportunities. According to an egalitarian perspective, equality laws should apply to religious organizations because exclusions, *per se*, negatively affect the interests of both society and individuals. These exclusions constitute a moral harm to, and have a negative impact on, both the social values of justice and equality and individual reputation and self-respect. Call this argument the *impact-based refusal of exemptions*.

In this paper, I do not aim to discuss legal issues raised by specific cases of discrimination. The aim of this paper is the modest one of focusing on the ethical issues that arise from cases in which associational privacy and equal concern, in the form of anti-discrimination principles, seem to conflict. By critically assessing the approaches above, I wish to clarify whether there is in fact a genuine conflict as well as establishing the conceptual basis on which these cases should be assessed.

The aim of this paper is to show that both extreme positions above, which respectively argue for unconstrained freedom to exclude and no freedom to exclude, should be rejected. This is not or not simply because of the undesirable consequences they would lead to but also and mainly because they fail to understand the appropriate scope of the obligations in question. Indeed, I argue, whether an agent can be expected to comply with obligations of equal concern in performing a certain action depends on whether this agent can be properly said to act in a 'public' capacity. Indeed, I will argue, equal concern is a distinctive virtue of the public domain and it is only within this domain that it can be enforced. Whereas the privacy-based defence of exemptions fails to take seriously the existence of conditions under which religious associations cease to act as purely private agents and start acting 'publicly'; the impact-based refusal of exemptions fails to take seriously the privateness of religious associations as setting constraints to their obligations of equal concern.

I contend that there are, at least, two circumstances in which associations cease to act privately and acquire enforceable obligations of equal concern. I clarify that the simple receipt of public funding is not one of them. Instead, these circumstances relate to the type of goods associations distribute and to whether they distribute them, *on behalf of* the state.

2. Background Information

In recent years, both in the UK and the US, there have been several cases of religious organizations, which claimed a right to be exempted from Equality Legislation and anti-discrimination norms. To make just a few examples, consider the case of Christian Charities in the UK, which have

repeatedly claimed a right to be exempted from the Equality Act when delivering adoption services, as their beliefs prevent them from providing these services to homosexuals (Telegraph, 3 June 2009); or the case of The Catholic Church in Scotland, which, in 2007, produced a charter for all Scottish Catholic schools (SCES 2007), requiring all staff to adhere to the teachings of the Roman Catholic Church; or the case of The United Methodist Children's Home in Decatur, Georgia (US), which claimed a right to refuse employment to a Jewish psychological therapist because of his religious affiliation (Scott and Badertscher 2003); finally, see the case of Crossreach, a social care charity in Scotland, which openly requires candidates for its job positions to show a Christian commitment (BHA 2007: 39).

There are two main reasons why these and many other similar cases arose and were brought to the attention of the public and courts, in recent years. First, both the UK Labour Government and the Bush administration have passed welfare reforms (HM Government 2007; US Welfare Reform Act 1996), which actively encouraged, through subsidizes, tax exemptions and other benefits, religious organizations to undertake state functions and to provide public services. Within this context, the range of opportunities for discrimination clearly increased. Whereas before discriminatory exclusions only happened with regards to the acceptance of members and the internal distribution of ministerial offices, now they can easily take place in the distribution of goods, services and employment. Second, Equality Legislation, particularly in the UK, has progressively become more 'egalitarian' and extensive in scope. The Employment Equality (Religion or Belief) Regulations 2003 banned discrimination against people in employment on the basis of their religion or beliefs. Then, the Equality Act 2006 included the provision of goods, facilities and services, education, the use and disposal of premises, and the exercise of public functions, and applied to both the public and the private sector. In brief, the current trend can be summarized as follows: governments give more and more power to associations, while claiming a right to restrict their freedom to exclude.

However, the claim of religious organizations to be exempted from present legislation was given considerable weight and many exemptions have been allowed. The UK Employment Equality regulations not only

permit religious groups to discriminate against non-religious persons when belief is regarded as a 'genuine occupational requirement' but also in cases 'where an employer has an ethos based on religion and belief'. An employer can also discriminate against potential applicants if the employment is for 'purposes of an organized religion' (Addison 2007: 73; Sandberg and Doe 2007: 306). In the US, the Civil Rights Act 1964, which is still in place, allows religious organizations to discriminate in employment when this is required to 'maintain their religious liberty and identity'. However, the so-called 'charitable law', which allows religious groups to administer social services schemes, clarifies that these groups can discriminate in hiring but not in the provision of services to the public (Rosen 2001: 16).

3. Religious Groups' Claims and Associational Privacy

Religious Groups' claims to be exempted from Equality legislation cannot be easily dismissed. Indeed, they are based on what I would call the principle of 'associational privacy', which is a fundamental part of the broader value of freedom of association.

This principle recognizes associations, like some personal relationships but unlike public and institutional ones, as appropriate privacy subjects.

The principle entails that associations are entitled to set and pursue their ends independently and partially, with no obligation to justify these ends to others on impartial grounds and to aim at a general consensus on them. Associations are, in this respect, categorically different from public institutions.¹

Associations are privacy subjects insofar they are fundamentally 'private' actors: their normative significance generates from a special exercise of *individuals' moral authority through contract*. An association results from the voluntary entrance into and, creation of, a relationship with other individuals *for* the invention, expression and pursuit

1 Rawls famously maintains that associations are not part of the basic structure and cannot be directly assessed and governed by the same principles of justice that govern public institutions. Indeed, associations, unlike public institutions, are voluntarily entered and constitutively ends-pursuing types of agents. See Rawls (2001: 10-12).

of any possible purposes and ideas, which can be agreed by the parties in the relationship.

When forming an association, individuals act in a distinct moral capacity, which is collective but still private: they act as independent co-originators of *particular ends* and ideas. This capacity differs from the public capacity in which agents act as decision-makers about the *common good*. Members of associations provide each other with reasons to agree on shared ends. However, they are not under a duty to justify their ends impartially or to justify them according to reasons and values that can be reasonably accepted by all members of the political community. It is not even necessary, in order for an association to be legitimate, that all members equally benefit from the pursuit of selected ends and ideas. Indeed, someone could have religious reasons to accept unequal orders, such as the hierarchical order of the Catholic Church. Instead, institutions and public actions are only justified when mutually advantageous from the impartial perspective of justice: the legitimacy of public and institutional arrangements depends on whether they can be mutually acceptable as mutually advantageous (Gauthier 1986: 11). This does not exclude the fact that a liberal government, before recognizing the contract of an association as legitimate, has a duty to ensure that the association respects the fundamental rights of its members. These rights include a right to exit (Kukathas 2003: 4, 96-97) and to be free from degrading treatments, as in the absence of these rights the exercise of the capacity to associate loses its significance. However, it is not the business of the state to assess what counts as a good reason to act or not to act in a certain way, within an association. Indeed, the origins of both ends and reasons are all internal to the association itself and there are no external criteria to assess them, a part from the agreement between members.

The right to associational privacy is aimed at protecting the independent sovereignty of religious associations in explicating and exercising the following moral powers, as distinctive aspects of their moral status:

Shared autonomy: the moral authority to endorse and interpret, voluntarily and cooperatively, particular beliefs, and to pursue ends

according to these beliefs.

Partiality: the moral authority to generate special and constitutively partial relationships with other specific individuals. These might involve the voluntary sharing of beliefs and ideas that one would not otherwise share with others.²

Identity or self-definition: the moral authority to shape the personality of the association according to particular values; to define the way in which the association and its members want to be perceived by the public; and to require the members to act according to the values of the association to which they belong.

The associational right to privacy is justified to protect associations, *insofar they act as private agents*, that is, as long as they are constituted and defined as independent expressions of autonomy, intimacy and identity. As these moral powers can only be exercised through voluntary entrance and partial reasoning, the right to associational privacy allows for these conditions to be met. Because of this reason, the right to associational privacy imposes strict constraints to what a political authority can expect religious associations to do. Not only a state should refrain from shaping the ends of religious associations, as this would undermine their self-government; it should also refrain from asking them to select their ends and members according to equality principles. Indeed, this would jeopardize the very significance of these associations, by undermining both their partiality and distinctive identity.

Insofar associations act in their private capacity as independent co-origimators of ends and as expressions of the moral powers above, they have a right to justify their exclusion rules and ends on partial grounds according

2 Charles Fried argues that the voluntary sharing of information that one does not share with all constitutes the very point and normative meaning of personal relationships of love, friendship and trust. Privacy is a necessary condition for preserving the exclusiveness of this sharing. (See Fried 1968). I believe that this is also true for religious associations, for which exclusive membership works as a form of privacy.

to the ends of the association. More precisely, the right to associational privacy frees associations from obligations of equal concern toward the interests of non-members. Indeed, a requirement to act according to such obligations would be incompatible with the very point of being an association and would undermine its distinctive private normative status.

Indeed, duties of equal concern, understood as the equal weighting of the interests of others in the distributions of certain opportunities, goods, rights and obligations, are mainly and distinctively 'public' duties. They are duties to distribute things to which individuals are equally entitled because, as cooperative members of a society, they are supposed to have an entitlement to an equal share of them. These duties pertain to public institutions that have the exclusive authority to collect and re-distribute the products of social cooperation, together with, the means of protection of fundamental rights and liberties. They do not pertain to private associations, the point and purpose of which are partial in kind.

If understood from this conceptual framework, religious organizations' claims to be exempted from anti-discrimination rules have a strong *prima facie* legitimacy and rejecting these claims is not so easy as it could seem.

This is because the right to associational privacy and the very normative status of associations that this right protects, not simply demand that associations are sovereign over their own business; they also and more importantly *free them from obligations of equal concern*. Associations do not owe equal concern to others when choosing who should join them or to whom distribute their services, in the same way in which a private individual does not owe equal concern to others when deciding which friends to have or whether to take care of her own child instead of a stranger.

I believe that many of the attempts made by scholars and policy-makers to justify the imposition on associations of anti-discrimination principles fail to take seriously this aspect of associational privacy, that is, the power that the 'privateness' of a certain relationship has to free its members from obligations of equal concern. It is on the above attempts that I am going to focus now.

4. The Value of Equality: the Impact-based Argument

The most intuitive and common way to reject the exemption claims of religious organizations is to say that discriminatory exclusions are harmful: they have a negative impact on society and individual citizens. Indeed, they negatively affect social equality and individual self-esteem and reputation. The state has a duty, the argument would continue, to promote social equality and the common good and to prevent people from harming others. Therefore the state should use legal sanctions to prohibit associations' acts of discrimination and to ensure they act according to equality principles. I called this the impact-based refusal of exemptions.

This argument represents the default position of many feminists and egalitarian theorists. However, despite its intuitive nature there are several problems with it.

First, in a liberal democracy the more efficient achievement of equality and justice is a good reason to justify the use of political authority and coercion but not a sufficient one. Indeed, we would not want a liberal government to compel his citizens to choose the profession of doctors, instead of, philosophy teachers, even if this could benefit the worst off in society and therefore increase social equality. This is because we believe that professional choices are 'private' choices, regardless of the public impact they might have.

Broadly speaking, a liberal government should reject forms of pure consequentialism according to which political authority can be exercised on *any* choice and action, as long as it can facilitate the achievement of desirable outcomes, where what is 'desirable' is decided exclusively from the perspective of the political community. Indeed, a democracy is 'liberal' insofar it endorses, as a matter of principle, some constraints to the political, as both a type of power and a moral dimension. Further, a liberal government should reject forms of monism (Murphy 1998: 254) according to which *all* actions, choices and relationships, no matter of which *kind* they are, can be assessed and governed according to the *same* values and principles, i.e. equal concern. Indeed, this would be incompatible with that normative pluralism that a liberal understanding of social life should

explicate:

An understanding...that comprises multiple sources of authority-individuals, parents, civil associations, faith-based institutions and the state among others-no one of which is dominant in all spheres, for all purposes, or on all occasions.pluralist politics does not presume that the inner structure and principles of every sphere must mirror those of basic political institutions. (Galston 2006: 815-816)

Equal concern is one among multiple values and there are circumstances in which obligations of equal concern cannot be imposed, even if this could lead to a better society.

As Raz points out when he theorizes the limits of political authority, a government should refrain from exercising authority in those matters 'where acting independently is more important than succeeding in doing the best' (Raz 1990:13), and achieving better outcomes.

Political authority should refrain from intervening in areas of *private* relationships where acting independently is not just a functional or instrumental requirement but a normative one. Indeed, 'private' are those relationships of which status independence is a *distinctive* aspect: a constitutive component of their distinct significance. 'Private' also refers to the rights and circumstances-consent, voluntariness and partiality-that permit the free exercise and expression of this independence; and to the constitutive partial and agent-relative nature of the relationships that generate from this exercise.

The private nature of individual sexual behaviours, expressions of religious beliefs and codes of conduct, and choices of friends and partners, sets limits, as a matter of principle, to the use of political authority, even when regulating these activities could benefit society as a whole. The same can be thought of the actions of religious associations, *unless it can be clearly proved that they are not as private as the activities above*.

Second, the impact-based approach seems to adopt a conception of moral responsibility based on causality. According to this conception, since religious associations have a causal impact on social equality, they automatically acquire obligations to act according to principles of equality

However, the idea that it is legitimate to require associations to act

according to equality principles, *because* their actions affect the values these principles support, (they can undermine them, if left free to discriminate, and improve them, if required to act for equality and according to equality principles), is highly intuitive still problematic. Indeed, it is based on the rather controversial assumption that having an impact on certain state of affairs is a sufficient condition to be, not only morally responsible, but also publicly accountable for them. But even a relationship such as friendship has an impact on equality, and a relevant one. Indeed, sociologists (Allan1989) argue that partial choices of friends can have a significant impact on shaping individual opportunities: friendship networks can be precious sources of advice, contacts and knowledge. Nevertheless, none of us would regard these outcomes as providing a sufficient reason to require individuals to choose their friends according to equality principles. This is because the evaluation and moral admissibility of the outcomes produced by an action or practice, and their relevance in justifying moral requirements and public accountability, cannot be assessed independently of the type of agent who produces these outcomes and the normative context in which this agent acts. The distinctive private status of friendship, the fact that its meaning and relevance would be destroyed by the exercise of political authority and the application of impersonal norms on it, provides a sufficient reason to conclude that friendship is one of those relationships where acting independently is more important than outcomes. This to say that, because of *the kind of* relationship friendship is, obligations of equal concern do not arise in the choice of friends and should not be imposed. Therefore, the inequality that derives from the ensemble of these partial choices is morally admissible. But, also in this case, the same could be said of religious associations, *unless it can be reasonably argued that religious associations are categorically different from private relationships such as friendship*.

Third, even the fact that the exclusions carried out by religious associations can cause harm to reputation and self-esteem, is not sufficient, by itself, to justify coercion. Indeed, although, as Feinberg contends, harm is always a 'good reason' for prohibiting conduct (Feinberg 1984: 26), it is not a sufficient one.

Imagine a case in which the owner of a hotel decides to close down her

commercial premise and, by doing so, she affects the interest of the owner of a restaurant located in the proximity (Ripstein 2006:228). As a consequence of the closure, the latter lacks a sufficient number of costumers and is forced to close her premises. Is the interest of the restaurant's owner harmed? Yes. Can we restrict the freedom of the hotel's owner to do whatever she likes because of this? No. Why? Because we believe that within certain contexts, such as the one of competition, independence is more important than outcomes. We also believe that, within these contexts, individuals have no, or at least they have only restricted, obligations of equal concern toward the interests of others when deciding whether to enter or exit these contexts.

The same thing can be said of cases of discriminatory exclusions carried out by private agents. Imagine the following case: Anita is an aristocratic woman living in Manhattan where she exercises a good degree of social influence and organizes parties as occasions for upper class people to meet and exchange contacts and knowledge: a form of networking that greatly benefits their career opportunities. Anita is a racist and she profoundly dislikes non-white people. She therefore refuses to invite them to her parties. Accused of discrimination, Anita admits in front of judges to be a racist.

Anita's action is clearly harmful: not only it offends people but also infringes upon their welfare interests in equal opportunities. Anita's action also seems to be wrong, as racism is wrong and we are entitled not to be the victims of racist treatments. Shall then the law prohibit Anita's exclusion?

We would say that Anita is morally responsible for her action; we would recognize that her action causes harm; however, we would say that none of these reasons is a sufficient reason to hold Anita publicly accountable for her action. We believe that, regardless of the harm caused, Anita's action constitutes a *type of wrong* that is a private wrong and therefore not the appropriate subject of the law. Indeed, inviting people to a party is a 'gift', a form of self-expression or manifestation of one's own desires and affections, which is distinctively partial and independent (agent-relative and self-originating). Therefore her action, although it is wrong, cannot be wrong as a violation of equal concern. Anita, as a private party organizer, does not owe equal concern to others; she has a right to be partial.

Therefore, also in this case, before saying that the harm caused by religious associations' can justify the imposition of anti-discrimination law on associations, *we need to prove that these associations are not acting privately*. Indeed, as long as associations act purely as associations, that is, as distinctively private and independent agents, harm cannot work as a sufficient reason to ban their exclusions.³

By focusing exclusively on outcomes, while neglecting the nature of the agent in question, proponents of the impact-based approach fail to justify why we should treat associations differently from other private relationships.

5. The Public Funding Argument

A first way of avoiding a purely impact-based approach is by arguing that equality principles should be applied only to those associations, which are in receipt of public money. This is a position widely spread among both scholars and policy-makers and it is clearly expressed by Emily Gill: 'Religiously based organizations, if supported by public funds, must therefore be willing to sacrifice some freedom of speech for the sake of compliance with public purposes' (Grill 2004: 742).

This attempt to move the focus from outcomes to the status of associations is certainly valuable. Indeed, it is true that the receipt of public funding distinguishes religious associations for purely private relationships such as friendship, the hotel's owner and Anita's invitation to the party.

However, I am not sure that receiving public funding is, *per se*, sufficient to justify the imposition of equality obligations on associations. The provision of public funding does not automatically allow a state to treat its beneficiaries as if they were its own 'extensions' and therefore to require them to act on and according to principles of political morality. Indeed, if this were true we should give up the independence and privacy of many personal relationships. In fact, mothers can receive public funding for

3 Although harm works as a sufficient condition in cases where a violation of a basic right not to be subject to physical injuries and degrading treatments, or not to have one's properties abused is at stake. In these cases, a harmful action directly corresponds to a wrongful one.

childcare and to spend time with their children. However, this does not lead to conclude that a state can tell a mother how she should spend her time with her children or require her to spend equal time with both children. Equally, a state gives public funding to the arts and the sciences, this does not necessarily entail that it should limit or control the free expression of artistic ideas or freedom of research; it does not even entail that a state should push artists to produce work that promotes equality or other social values. Indeed, we think that a liberal state has a duty to promote and respect the independence of scientific research and the arts. In the same way, a liberal state could decide to fund associations to sustain the value of civic pluralism and the difference of ideas and this value might be better achieved if associations are supported but, at the same time, left to act partially and according to *their own* reasons. The simple fact of receiving public funding is not sufficient, *per se*, to transform a private relationship or activity into a public one and to subject it to state-like obligations.

Moreover, the public funding approach is not action-sensitive. Religious associations are usually funded to carry out specific actions (projects and functions). Even if we could argue that they should not discriminate while carrying out these actions, this would not entail that they should not discriminate in *any* of the actions they carry out. There is a difference, and a relevant one, between the actions of choosing members, employing someone and providing a public service. I will return to this point later.

6. Rosenblum: the Civic Virtues Argument

A second alternative to the impact-based approach, which is also an alternative to the public funding approach, is what I would call the ‘public good’ approach.

Nancy Rosenblum seems to uphold this position when she argues against exempting religious organizations from discrimination law. She contends that religious employers’ right to select their employees should be restricted because of the importance of employment in generating civic virtues. Allowing religious employers to discriminate against would lead to the creation of homogeneous workplaces, whereas the workplace is a place where civic virtues such as tolerance and respect for diversity develop

(Rosenblum 2000: 187-90).

Rosenblum's argument can be read as stating that religious organizations acquire a duty not to discriminate against, in the moment in which they start distributing a 'public' good, represented by the workplace where civic virtues grow and the equal distribution of which is, therefore, in the interest of the public.

This position, if so interpreted, rightly maintains that the type of obligations an agent can be required to respect depends on the capacity in which this agent acts, whether private or public. It also rightly points out that this capacity has something to do with the functions and goods the agent performs and distributes. Indeed, the reason why we regard the state and its institutions as 'public agents' has to do with their exclusive normative capacity and authority to distribute certain goods to which everyone can be said to have an entitlement to an equal share of—i.e. resources which are produced by the system of social cooperation among actors regarded as separated still mutually *dependant*. Equally, the reason why intimate relationships such as the one of friendship are said 'private' has to do with the fact that, these relationships generate values and distribute goods, such as love and affection that a public institution has neither the factual nor the moral power to distribute. These values and goods can only be generated and enjoyed under conditions of *independence*.

However, I am not convinced that the fact of contributing to the development of civic virtues is a sufficient reason for defining the workplace as a public good and, consequentially, the action of hiring as a 'public action'. Indeed, we could perfectly argue that friendship, if equally distributed, could significantly contribute to the development of diversity, civic virtues and, so called, social mobility. However, this does not make friendship a public good, that is, a good of which every citizen is regarded as entitled to an equal share; and which should be distributed according to principles of equal concern.

Further, to say that what makes the workplace valuable is the development of civic virtues is in itself controversial: the fact that something happens to have a positive impact on civic values does not necessarily mean that this is what makes it distinctively valuable. For

instance, religious beliefs can foster fraternity and, in a homogeneous religious polity, this can enhance social cooperation. However, it would be misleading or, at least, controversial, to say that the distinctive value of religion derives from its positive impact on social cooperation. Religion is valuable as long as individuals attribute value to it, by independently endorsing a religious belief or entering religious associations, according to their partial (agent-relative) reasons and from the perspective of their personal system of beliefs. Coerced religion (the coercive imposition of religious beliefs) could not be valuable and would not be 'religion', even if it happened to produce some beneficial outcome for the entire community.

Rosenblum's position risks to collapse into the impact-based approach, according to which the obligations associations can be expected to bear, generate from the impact that their actions are capable of having on publicly desirable outcomes. I argued above that this approach is not sustainable.

How can we, then, strike an appropriate balance between, on the one hand, religious associations' strong interest in privacy and integrity and, on the other hand, the public's and individuals' interest in equality?

I believe that the best way to strike this balance in a way that does not amount to a mere and unstable compromise is by defining and separating the appropriate scopes of the interests at stake. This entails defining, on the one hand, the circumstances under which the *interest* in associational privacy can be claimed *as a right* to privacy, on the other hand, the circumstances under which the interest in equality can generate impossible duties of equal concern. These circumstances should not overlap, if conflict needs to be avoided.

This becomes possible if we refer to the private and public distinction, understood as a distinction between separate agential capacities. As I previously said, *only agents acting in a distinctively private capacity can claim a right to privacy* (they can claim their interest in privacy as a right to privacy) as only when they act in this capacity they exercise the moral power of partiality, autonomy and identity, which the right to privacy is meant to protect. Indeed, public agents, in particular the state, do not have a right to privacy but only a claim to secrecy. This is because public agents are not 'authorized' (it is not part of their normative capacity and

purpose) to pursue partial ends. Indeed, a public institution, by definition, explicates the recognition of citizens as equals. Moreover, everyone can have a say in the way a state and public institutions should carry out distributions, because everyone is entitled to an equal share of their distribution. Equally, *only agents acting in a public capacity can be said to have obligations of equal concern* (the social interest in equality can only impose or public agents primary obligation to act according to principles of equal concern). Indeed, equal concern is the exclusive virtue of the public. The requirements of equal concern are, instead, incompatible with the distinctively agent-relative and not equality-oriented nature of the private.

But if this is correct, in order to determine the circumstances under which a religious association can be subject to anti-discrimination principles, we need, first, to determine the circumstances under which, if any, an association ceases to act in a private capacity and starts acting as a public agent.

7. From the Private to the Public: State Contractors and Primary Goods

I believe that there are, *at least*, two circumstances in which this 'agential' transformation takes place. In these circumstances a religious association ceases to act in a private capacity and, as a consequence of it, becomes subject to obligations of equal concern.

First, by the very act of *signing a contract with the state*, an association voluntarily accepts the assumption of the 'public' obligations of equal concern and therefore releases, for the purpose of the contract, its moral power to partiality and autonomy.

This situation frequently occurs in current liberal democracies, as a consequence of welfare reforms aimed at delegating public functions to private actors. These reforms transformed many religious associations into state sub-contractors and management-based organizations: in exchange of subsidies and tax exemptions, religious associations accept, through contract, to act as arms of the state. They freely endorse the responsibility to distribute services to the public and carry out state functions, *on behalf*

of the state. When a religious association freely accepts to take direct part in the administration and enforcement of state policies, this association ceases to act as a private agent and becomes part of the institutional structure. By signing a contract with the state, members of associations voluntarily decide to enter a relationship, which is no longer a relationship between individuals as co-originators of ends and, therefore, they voluntarily *release* their right to act independently and for the purpose of partial ends. The very act of signing a contract symbolizes the acquisition of new benefits and correlative burdens. This means that in pursuing actions, which are directly related to the policy in question, the association is required to act according to the same principles, which govern the institutional structure. Equal concern obligations arise in the precise moment in which the association freely releases its right to privacy.

This entails, for instance, that state-contractors religious charities, which provide adoption practices to the public, cannot discriminate against homosexual in delivering this service. This is not because of the harm caused to individuals or society at large. This is not simply because they receive public funding. It is, instead, because they signed a contract (they have been ‘hired’ by the government) to become direct actors in *the administration and enforcement of a state policy* and, by doing so, they lost their distinctively private normative character.

Second, there are situations in which the type of good, rather than the way it is distributed, can significantly modify the normative and agential status of an association. In cases where an association is not an integral part of the administration and enforcement of a policy, it might still acquire an obligation to act according to principles of equal concern, *in the act of distributing a primary good*.

‘Primary goods’ (Rawls 1980: 525-27) are different from public goods, as understood by Rosenblum. Primary are those goods, which relate to a basic threshold of rights and conditions of self-respect, they include things such as income through work and a basic level of education. Unlike goods that are simple commodities, primary goods have the normative connotation of *grounding equal rights* and, as such, they generate an entitlement to an equal or fair share of them. Moreover, ‘primary’ entails that they are supra and pre-ordinate with respect to preferences and ends,

as they are pre-conditions of the independent formation and pursuit of any preference and end. Because of this, they cannot be distributed according to preferences and particular ends.

While distributing these goods, associations cease to act as private agents as they lose their moral authority to pursue particular ends and therefore their privacy moral power of autonomy and identity. This holds, for instance, for goods such as employment. Indeed, ensuring a basic level of income through work, as opposed to state benefit, is a necessary condition of self-respect and to respect people as agents, instead of mere patients.

But if work is a primary good and therefore grounds a right the distribution of which cannot be justified according to partial ends, when associations distribute this good, they automatically lose their privacy and become subject to equality obligations. Therefore, *in the particular action* of hiring and paying a salary, all religious associations can and should be required to act according to equality principles. Same forms of accountability arise for compulsory education.

Therefore, claims such as the ones advanced by the Catholic Church's charter for all Scottish Catholic schools; the United Methodist Children's Home in Decatur, and Crossreach should be rejected. Also in this case, the reason for rejecting them is not simply the impact they have on society or the fact that they receive public funding. It is not even the fact that the workplace favours the development of civic virtues. It is, instead, the normative nature of the good distributed: a good to which, by definition, we all have an entitlement to an equal share of and which is conceived as a pre-condition to the free pursuit of any possible particular end. This good, therefore, can only be the object of a 'public', impartial and impersonal distribution.

However, an association's private distribution (no contract signed with a state) of goods, rather than primary goods, should be left unregulated. The first good the distribution of which should not be subject to equality principles is membership -with the exception of few circumstances.⁴ Indeed, membership is the good, which most directly explicates the private nature of an association; it is the means by which the association exercises its three privacy moral powers of autonomy, partiality and identity.

According to the above criteria, the so-called ‘charitable law’, which allows religious groups to discriminate in hiring but not in the provision of services to the public, is wrong. Indeed, whereas discrimination in hiring should be always prohibited, discrimination in the provision of services can be allowed, unless (1) this provision happens *on behalf of the state*; (2) the service distributed is a primary good.

8. Conclusion

Associations’ exclusion rules present an interest case of conflict between two fundamental democratic values: associational privacy and equality.

Selections and differential treatments of various sorts, including those ones which we would regard as morally blameworthy, are justified by a distinctive aspect of religious associations: their private normative status. They are part of the independent exercise of the three moral powers of autonomy, partiality and identity that constitute the privateness of religious associations. They are also part of the independent and intrinsically partial co-generation and pursuit of ends and ideas, which are the very point and purpose of being an association. The right of associational privacy protects associations’ existence and moral significance by freeing them from obligations of equal concern. However, I argued, these obligations do arise in the moment in which a religious association ceases to act in a private capacity and acquires publicity. This ‘agential’ transformation does not generate by the simple receipt of public funding. It does not even depend upon the impact, negative or beneficial, that an association can have on society as a whole and on its values. Instead, this transformation takes place when an association signs a contract with a state and, by doing so, becomes part of the administration and enforcement of a public policy. It also takes place when an association distributes a good that can only, by definition, be distributed under equality obligations, impersonally and impartially. This is

4 This is the case of unequal circumstances, which need to be rebalanced after a long history of discrimination toward specific groups or when membership to a group is a necessary condition to access a primary good.

the case of 'primary goods' that are neither commodities nor personal goods, but rights.

In these circumstances, religious associations lose their privateness and, consequentially, their entitlement to claim their interest in associational privacy *as a right*.

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10

Where does God Act?: Billy Graham and the Political Consciousness of American Evangelicals

Masanaru Tanoue

1. Introduction

Since Alexis de Tocqueville pointed out the significance of Christian churches in American society, many researchers have tackled the problems of the relation between Christianity and politics in the United States. The recent surging interest in them has been caused especially by the influence of the *Religious Right*¹ in presidential elections. It is generally assumed that the Republican candidate George W. Bush gained the support of the Religious Right in the 2000 presidential election and won the office, and that the unsuccessful organization of the Right consequently led to Barack Obama's victory in the 2008 election.² Christianity affects American politics even today.

With this in mind, I would like to discuss a feature of the political consciousness of modern American Christians. When dealing with this topic, *evangelicals*³ are worthy of special mention. Based on surveys, nearly 40 percent of people in the United States identify themselves with

1 Though there are many definitions of 'Religious Right', the word is defined here as a spectrum of Christian conservative movements and organizations motivated by a strong political consciousness. It might appear that the 'Religious Right' and 'evangelicals' are synonymous, but this is not so. 'Even among evangelicals with the highest religious commitment and most active involvement in Christian activities, over one-fifth are not pro-life and do favor increased civil rights for homosexuals, about one-half favor aggressive governmental policies on the environment and in the fight against poverty, and one-half support the idea of national health insurance' (Noll 2001: 25).

2 See Iiyama (2008: 152-240), Fujiwara (2009: 166-167).

evangelicals, and they constitute a large part of the Religious Right.⁴ To simplify matters, it seems reasonable to treat Billy Graham (1918-) as a representative of the evangelicals. Needless to say, '[o]f all notable evangelicals in the United States' recent past, none has come close to the visibility, influence, and sheer presence of Graham (Noll 2001: 44). It is no exaggeration to say that he has been a classic example of a modern American evangelical in view of his gaining the support of many traditional Protestants. With regard to time period, I will focus especially on the 1950s. Organizing his public preaching events — 'crusades' — aggressively in those days, Graham began to activate religious revival movements on a large scale in the United States. He also established friendly relations with American presidents from that time and gained a worldwide reputation. Nevertheless, Graham's Christian faith was called into question soon by some theologians. Therefore, it seems to me that examining Graham's theology in the 1950s allows us to clarify the prototype of modern American evangelicals and the main features of their ways of thinking.

2. Graham, Niebuhr and Public Matters

William Franklin (Billy) Graham was born in 1918 in North Carolina. His parents were not especially devout Christians, but when he was a high school student, Graham was converted at a revival meeting. After graduating from Wheaton College in Illinois, he began to work as an evangelist at a missionary association for young people, *Youth for Christ*. In 1949, Graham succeeded in a series of mass meetings in Los Angeles which drew audiences of tens of thousands, and he became a man of his

3 There are many definitions of 'evangelicals'. I define this word as Christians who have a firm belief in such traditional Protestant doctrines as the infallibility of the Bible, the fall of humanity into sin, the bodily resurrection of Jesus, and so on, and emphasize subjective conversion, namely being 'born again'. The doctrine of the Bible's infallibility is a key issue between the evangelicals and mainline Protestants. For the former, the Bible is 'the words of God,' but for the latter, the Bible becomes 'the word of God' only when one reads the text with faith. See Tanoue (2005: 209-210).

4 See Fujimoto (2009: 158).

time. Since he was first invited to the White House by Harry S. Truman, he has made friends with the successive Presidents of the United States. There were some presidents who tried to use Graham in the election campaign. The resignation of Richard Nixon especially made Graham more circumspect politically, but Graham has tried to be a friend to political leaders. Of course, he has never forgotten his calling. He called the International Congress on World Evangelization in Switzerland in 1974 and contributed to establishing the Lausanne Committee for World Evangelization, which is an organization representing evangelical denominations worldwide. Though numerous scandals have damaged the reputations of evangelists, televangelists and charismatic leaders, Graham has not been involved in them. In 1992, he visited North Korea as a special envoy and met with Kim Il Sung. According to polls, Graham has been ranked as one of the most respected Americans for a number of years.⁵

However, he has not always drawn the admiration of everyone. Above all, it is Graham's political attitude that has been criticized again and again. Some people have pointed out that Graham has cautiously avoided referring to real political issues in spite of his emphasizing the social obligations of Christian. Others have imagined that as a pastor he has always been anxious for the Presidents, and '[h]e wasn't looking for money or power in his alliance with princes and politicians; but in using them to promote his message, did he have to water it down?' (Gibbs and Duffy 2007: xiv). It is necessary to examine Graham's political consciousness in detail.

In my opinion, Graham's theology did not deal with politics. Essentially, it *could not* do so. In order to understand this, it is helpful to contrast him with mainline Protestants in America. Mainline Protestants are characterized by their liberal attitude to politics and religion, in contrast with the more conservative evangelicals. Fortunately, we can find a great theological leader on the mainline Protestant bandwagon. His name is Reinhold Niebuhr (1892-1971). While teaching Ethics at Union Theological Seminary, New York, Niebuhr set out a vigorous argument about the government's foreign and domestic policy. His reputation came to a head in the 1950s, too. It is well known that he exerted a strong influence on later

5 For Graham's life, see Pollock (1965).

leaders like Jimmy Carter and Barack Obama.

Niebuhr mentioned Graham in some articles in 1955. Graham made a very good impression on the great theologian personally, and Niebuhr acknowledged the earnestness of the young evangelist. Moreover, Graham's preaching, which emphasized the original sin and the depravity of humankind, also satisfied Niebuhr, because the latter had criticized an optimistic view of American culture since the 1940s.⁶ Niebuhr found in Graham 'the traditions of our old frontier evangelical piety' which was, by Niebuhr, 'certainly superior to the success cults' (Brown 2002: 171-172). Both Christians shared many things theologically. However, Niebuhr was not able to overlook some problems in the Christian faith of Graham.

Graham was not entirely ignorant of public problems. There are many examples to support this point. For instance, he was very interested in the race issue then and rejected holding his crusades at stadiums where Blacks and Whites had to sit separately. However, Niebuhr had some hard words for Graham's 'individualistic and perfectionist illusions' (Brown 2002: 172). The young evangelist repeatedly said that conversion to Christianity could solve the problem of the hydrogen bomb, and that prayer of both employers and laborers could solve labor disputes. In Niebuhr's view, Graham's preaching 'reduced complex problems to pious slogans' (Dorrien 2008: 141); he expected the direct religious influence on the public issues too much; and his statements were politically irrelevant.

Now, the question we have to ask here is what allowed the confrontation between Niebuhr and Graham to surface.

When Niebuhr began to comment on American Christianity and society negatively in the 1930s, he had been affected by Marxism. However, he became aware of a collective sin from which even proletariats could not be free, and he began again to wrestle with the Old Testament, especially the texts of the ancient Israelite prophets. These texts reminded Niebuhr anew of the biblical God who had acted in concrete historical situations and had

6 'In the mid-twentieth century, the historic doctrine of original sin acquired new relevance in American culture. The doctrine's resurgence was attributable to a number of factors, including the advent of the Age of Anxiety and the personal popularity of its chief expositors, Reinhold Niebuhr, Billy Graham, and Paul Tillich' (Finstuen 2009: 189).

sent prophets for Israelites to gain a keener and concrete sense of justice. For example, God directed the chosen people to take care of widows and orphans and not to oppress the poor.

In addition to learning from the Old Testament, Niebuhr was inspired by the historical philosophy of St. Augustine and the thinking of Edmund Burke in the 1950s. The fruit of this was his *The Irony of American History* (1952). Though Niebuhr, as a Christian Realist, had been aware that history was full of ironies since the 1940s, he expressed anew great interest in history in this book. There are many accidental factors and intentional factors in history. So people should realize both of them and be modest in the process of history filled with irony.⁷ Niebuhr insisted that people could not hope to find easily in history final solutions for the problems of nuclear weapons and communism. Rather, he advised American people to face the facts patiently. For Niebuhr, a sincere Christian faith was grown by humble learning of history where God had acted sometimes even ironically.

3. Graham's Theology and Politics

From Niebuhr's point of view, Graham seemed to be too naive politically. Political matters are always entangled, but 'Graham dichotomized between good and evil, while Niebuhr contended that evil was always constitutive in the good' (Dorrien 2008: 142). It would be almost impossible for Graham to agree with Niebuhr's contention theologically in the 1950s. Graham's first best-selling book, *Peace with God* (1953), offers the key to an understanding of it.

To be sure, Graham did not underestimate the importance of public matters. He justified his approach in this book and said: 'Study the Bible, read it-and then live by it. Only then can you demonstrate to a confused world the transforming power of the indwelling Christ' (Graham 1953: 189). Furthermore, he insisted that 'Christians, above all others, should be concerned with social problems and social injustices' (Ibid: 177). Nevertheless, many people have pointed out that he always speaks on these

7 See Niebuhr (1952: 85).

matters vaguely. Though Graham discussed some public issues, such as labor-management relationships, loyalty to country, and so on, in the chapter 'social obligations of the Christian', the issues are not necessarily considered theologically. The discussion is filled with the words, 'The Bible teaches', or 'The Bible says', but people could argue the same things without referring to the Bible.

Why did Graham's discussion about public matters lack theological features? A major cause of this was, I think, that he was an evangelist. As an evangelist, he was primarily concerned with personal salvation. 'For Graham, the word "salvation" connotes the justification and regeneration of individuals, [.....] the primary mission of church is evangelism, the goal of which is the personal salvation of individual souls' (Sider 2008: 185-186). He always urged each and every one to be 'born again' and to stop being a nominal Christian. To emphasize personal matters in crusades was his primary strategy for evangelism, not to deal with public issues.

Concerning Graham's strategy, it is also important to note that Graham quotes far more texts of the New Testament than of the Old Testament in his books or preaching. It seems to me that Graham consciously used the texts of the New Testament, especially those of St. Paul's letters. In nearly every crusade, Graham first of all points out the sin of each one, then indicates Christ's grace to save sinners, and concludes by trying to persuade each one to decide to become a true Christian. This storyline is especially that found in St. Paul's *Letter to the Romans*. The texts of the New Testament contain the logic useful to evangelists who want to revive half-hearted Christians at the big stadiums or ballparks 'here and now'.

However, frequently adopting the logic of the New Testament has prevented Graham from referring to the message of the Old Testament in his books and preaching. He consequently lost many opportunities to testify about God who acts in history and who uses prophets to accuse people of their injustice. As a result, few people attending Graham's crusades are likely to find political guidelines in the concrete while he says that 'America's greatest enemy is the internal decadence that is causing us to rush faster than any civilization before us toward destruction and hell' (Graham 1947: 21).

From the preceding discussion, we see how the political consciousness

of many evangelicals in the United States, who have been more or less vitalized and influenced by Graham, has been essentially amorphous. It has been individualistic⁸ and has lacked theologically refined guidelines. 'Regenerate persons, of course, have an indirect influence on society, but social action undertaken by Christians is entirely distinct from evangelism, which is the primary assignment' (Sider 2008: 186). However, let it be said that Graham and many evangelicals have expected too much of regenerate individuals to have a positive influence on society and politics. As long as public matters seem to be distinct from the 'primary assignment', people can take them lightly.

4. The Political Possibility of American Evangelicals

As mentioned above, one of the notable features of the political consciousness of the American evangelicals is amorphousness, and whether or not a concrete policy is supported depends in the end on the individual 'born again' Christians. However, needless to say, this does not mean that evangelicals have no political influence in America. Once some leaders have produced a sense of crisis with regard to cultural issues such as same-sex marriages, religious education in public schools, or abortion, many evangelicals who feel anxious about the good old American values have been politicized radically.

Televangelists are particularly in an advantageous position to mobilize modern devout Christians, because many of them are relatively independent from restrictions by denominational synods and because they can make an appeal to audiences directly. As Robert N. Bellah argues, the roles of many American evangelical denominations are getting weak, and many matters are left for each pastor to handle himself.⁹ Consequently,

8 Elkins points out that the theological individualism of Graham is derived from his Arminianism which stresses the free will of the individual. See Elkins (2008: 21).

9 'The anomalous relationship between local churches and national denominations today, then, follows largely from the relationship between local communities and the national society that is favored in our present discourse.[.....] [A]nd movements favoring localism and decentralization have arisen in contemporary religion and politics alike' (Bellah 1991: 191).

pointing out boldly in their TV programs that American morals seem to be declining, televangelists like as Jerry Farewell and Pat Robertson effectively organized Christian conservative political organizations such as the *Moral Majority* and the *Christian Coalition* after the 1970s, and formed them into the Religious Right.

Nevertheless, it is important to note that the evangelicals' awakened political consciousness does not necessarily tend to be conservative. Recently, some evangelicals who are called '*Religious Left*' or '*Christian Left*' are attracting attention. They often object to the U.S. government's domestic and foreign policy. They stress the social obligations of Christians to correct an income differential and criticize America's unilateral foreign policy.¹⁰ That they are properly designated evangelicals deserves careful scrutiny. Their faith is that of religiously conservative Christians, so they believe firmly that the Bible is God's Word, that Jesus was born through the Virgin Mary and resurrected after the crucifixion, and so on.

The fact that opposite political views derive from the same Christian faith has often confused people. However, it seems to me that the two views do not necessarily contradict each other, because both of them derive from the Bible in which every evangelical has a firm belief. To be sure, the Bible is found at the basis of the insistent positions of the Right. Nevertheless it is quite evident that the same Bible inspires the Left. If the Old Testament, for example, gets to be as important as the New Testament for essentially individualistic evangelicals' preaching, it is possible for evangelicals to remind themselves anew of the Liberal responsibility for social and political justice. Actually, Jim Wallis, who is considered to be a leader of the Religious Left, refers to the ancient Israelite prophets such as Hosea and Amos again and again in order to denounce the Bush administration in his book.¹¹

The point is not whether American evangelicals are essentially conservative or liberal, but *how* they become conservative or liberal. Awakening to the concern for justice among evangelicals will happen when they get to have a strong consciousness that God acts not only in individual

10 See Sider (2008: 185-204).

11 Wallis (2005).

hearts, but also in history.

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