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Janus and the Future of Organized Labor

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What does the Supreme Court's five to four ruling in the case of *Janus v. American Federation of State, County, and Municipal Employees, Council 31, Et. Al*.[1]mean for the future of organized labor in the United States? As the four dissenters stressed, the court's majority overruled a precedent that had held for more than four decades even during the Burger and Rehnquist Courts.

More remarkably the majority ignored its own preference for state sovereignty (federalism) by nullifying the authority of the separate states to determine how to manage employment relations for public workers who lack any connection to interstate commerce. And it did so by using the First Amendment in a peculiarly odd manner. The requirement that public employees who choose not to join the union that must represent them pay a fee (agency fee as it is known) that reflects the cost of such representation scarcely impinges on their free speech rights. The agency fee payer need not participate in union activities and remains free to condemn union leaders, union policies, and union actions by speech, pen, artistry, or tweet. What the ruling does, however, is to legalize or constitutionalize the act of "free-riding," that is to enable workers to enjoy the benefits of union representation without paying the costs. Only blatant animus against trade unionism and collective action can explain the court majority's decision.

Janus v. AFSCME resurrected an older judicial pattern of using the law and the constitution to render organization and collective action by workers ineffective. From the founding of the modern labor movement in the late nineteenth until the passage of the Norris-LaGuardia Act in 1932, union leaders had struggled unsuccessfully to liberate the labor movement from judicial interdiction. Several scholars have asserted that the political behavior of the labor movement, most notably the American Federation of Labor and its longtime president, Samuel Gompers, was primarily a response to judicial antilabor animus.[2]The Norris-LaGuardia Act by limiting the ability of courts to enjoin collective action, primarily strikes, achieved labor's greatest desire. The New Deal added positive reinforcement by enacting legislation that guaranteed workers the right to organize and to act collectively. Beginning in 1938, the Supreme Court and most federal appeals courts in the North and West ruled quite consistently that collective action by workers was necessary to counterbalance the far greater power exercised by employers. The Supreme Court found picketing to be a protected free speech right; judges declared employers' attacks on unions during organizing campaigns and elections to be an unfair practice because of their power to hire and fire; and in most cases, federal appeals courts upheld the rulings of the regional National Labor Relations Boards that favored unions.[3]

Protected by the Wagner Act, the decisions of the NLRB, and the rulings of federal courts,

unions grew and flourished. Under the aegis of CIO unions organized the mass-production sector. When World War II brought five years of full employment and required uninterrupted production, federal authorities promoted unionism and collective bargaining as a reward for a no-strike pledge by union leaders. The government authorized union security through the union shop in mass-production industries and validated the closed shop in trades organized by highly skilled craft unionists. The labor movement came out of the war more powerful and more secure than ever before in US history, powerful and secure enough to survive the 1945-46 strike wave with membership and contracts in place. Nearly one-third of all non-farm workers then enjoyed union representation, and the Harvard labor economist Sumner Slichter declared the nation a "laboristic society."

For the next thirty years the labor movement maintained its size, influence, and effectiveness. If unions never exceeded the one-third barrier or completely organized any sector of the economy, their influence on the economy and government remained crucial. Such major corporations as IBM, Eastman Kodak, Sears Roebuck, and Dupont remained union-free by matching union wages and fringe benefits and instituting formalized job ladders and orderly grievance procedures. Whether Democrats or Republicans held power at the national or state level, public officials dealt respectfully with labor leaders and sought their input. When and where Democrats held power labor leaders were more welcome and unions achieved many of their demands. Republicans were cooler to the wants of labor but Eisenhower or "modern" Republicanism accepted the rise of organized labor and the necessity of collective bargaining. The great exception was the Democratic South, outside of pockets of labor strength in Kentucky, Tennessee, Alabama, Louisiana, and Texas. There most Democratic state officials and US senators waged war against unionism and allied with northern and western "non-modern" Republicans.

The years from 1945 to roughly 1973, today commonly referred to as "the great contraction" saw economic inequality diminish, real wages rise steadily, standards of living improve, and contemporaries including the president of the AFL-CIO, George Meany, laud the creation of a middle-class society. Such praise for what John Kenneth Galbraith called an affluent society and others portrayed as a classless society led many labor leaders to forget about what they had once condemned as a "slave labor act," Taft-Hartley. It also cloaked far more malign forces busily at work beneath the surface.

Ever since the New Deal reforms and shifts in judicial rulings had favored the growth of labor power, the opponents of unionism had worked ceaselessly to contain labor power.[4]By 1938 a Republican-Southern Democratic coalition in congress used its influence to undermine the NLRB and attack the CIO as a communist front. Only the war retarded their ability to leash labor power. In 1947 the conservative coalition won its first major victory with the passage of the Taft-Hartley Act overriding a presidential veto. Taft-Hartley failed to roll back or even contain labor where it had emerged unscathed from the postwar strike wave. It did succeed in thwarting the CIO's attempt to penetrate the South. Section 14b authorized states to adopt socalled "right to work" laws that eliminated union security. In states that enacted "right to work," nearly all in the South at first, a union-management contract no longer could require all

employees to join the union although the union remained obligated by law to represent all workers. Hence the “free rider” problem. A second aspect of Taft-Hartley compounded the “free rider” problem. The act enabled employers to voice active opposition to unions and to pressure employees to vote against union representation or to decline membership if a majority voted for representation. What the NLRB and federal courts previously had declared to be unfair labor practices under the Wagner Act, Taft-Hartley sanctioned as a First Amendment free-speech right. At first employers’ ability to act openly against unionism worked primarily in Southern “right-to-work” states. Subsequently, it became an especially effective weapon against established unions as more states adopted right to work laws.[5]

Before the mid-1970s when such unionized industries as automobiles, rubber, and electrical goods followed population south and west, they brought unions with them. But capital began to replace labor (heralded in the 1960s as automation) in the mass-production sector reducing the number of automobile workers, steel workers, tire assemblers, electrical industry employees, textile workers, and even waterfront workers. As total employment declined so, too, did union membership. Fortunately for the labor movement public employee unionism surged in the 1960s and brought us to the present when 34 percent of public employees belong to unions as contrasted with fewer than six percent of private sector workers. For the last quarter of a century the largest unions have been the American Federation of State, County, and Municipal Employees, the Service Employees’ International Union, and the allied American Federation of Teachers/National Educational Association, the unions most imperiled by Janus.

The global economic crises that began in the 1970s and recurred periodically undermined labor power everywhere. On the European continent, in Scandinavia, the British Isles, and North America, unions lost members absolutely and relatively but nowhere was the decline in membership and loss of power as great as in the United States. Once unions of highly skilled workers had been able to use their marketplace bargaining power (MBP) to monopolize the supply of labor and establish closed shops. No longer. By the 1980s closed shops in the building and construction trades had become the exception. Residential building became predominately nonunion and in commercial and industrial construction major national contractors ran double-breasted operations, half union and half nonunion. Simultaneously mass-production workers lost their work-place bargaining power (WBP) as their ability to cease work at the point of production failed to paralyze transnational enterprises, which could shift production to nonunion sites domestically or to plants established overseas. The loss in union power was magnified in the United States by the growing belief among Republicans and even Democrats that in a globalized economy there was no alternative (TINA) to the market. And in a market in which workers no longer held MBP or WPB employers called the tune. In the private sector employers used a combination of their economic muscle and free-speech rights to intimidate employees, compel unions to concede essential contractual rights (concessionary bargaining), break strikes by hiring replacement workers, and oust unions from the workplace. They could also rely on federal courts to find their antiunion activities perfectly legal. Between 1968 and 2012 Republicans controlled the presidency for thirty-two years and they used their power to reshape the judiciary as an anti-union bastion. Between 2009 and 2017, Republicans stymied Obama and the Democrats from rebalancing the judiciary, and since the election of

Trump, Republicans have aggressively stacked the federal courts with jurists committed to principles in which unions and labor power have no place.

Weakening unions and nearly eliminating them from the private sector served a second purpose for employers and Republicans. Ever since the reelection of Franklin Roosevelt in 1936 unions have been the most effective aggregators of Democratic votes. They have educated their members about the issues, financed the campaigns of candidates supportive of labor, and brought union members and their families to the polls. With declining memberships and shrinking treasuries, private sector unions can no longer operate as effectively in the political arena. Hence a declining share of working people have been voting for Democratic candidates and among white union members the proportion voting for Democrats has fallen.

As private sector unions lost their political muscle, public employee unions remained able to finance election campaigns, aggregate voters, and bring them to the polls. Public sector unions also enabled women and nonwhite employees (the majority of public workers) to exercise voice at the polling place as well as the work site. It was the political voice of such unions, not their workplace role, to which Janus and others like him objected; most agency shop payers simply want a free ride. The Court gave Janus what he wanted and in so doing licensed other less ideologically motivated public employees to grab a free ride. Wisconsin, once a laboratory for progressive reform, illustrates one possible result of Janus: the decimation of unionism in the public sector. Since Governor Scott Walker eliminated agency fees and dues check-off among other restrictions on union rights, Wisconsin's public employee unions, teachers the lone exception, have lost two-thirds of their members, most of their income, and hence the ability to act effectively in the political realm.[6]Will Janus have a comparable impact on public employee unionism where it remains strong?

Some friends of labor worry that the federal courts will extend the logic of Janus to the private sector where unions still enjoy the security of the union shop. But unions in the private sector are already so decimated that they are probably beyond resurrection as currently constituted. The real questions are how best to retain union strength in the public sector and how to reorganize private sector unionism on a foundation that will enable it to grow and survive in a global economy.

There are omens of a brighter future for labor power. Clearly a gulf exists between how free market enthusiasts and judges apprehend the reality of power relations in employment and ordinary citizens do. The example of recent teacher walkouts in Oklahoma, West Virginia, Kentucky, and Arizona, right-to-work states, show that public employees can act collectively even in the absence of coordinated union leadership, that "strikers" can win the sympathy and support of fellow citizens even in deep red states, and that teachers can compel extremely conservative legislators and executives to meet many of their demands. Referenda in Ohio and more recently in Missouri demonstrate that voters, unlike legislators who are willing accomplices of conservative political action committees and lobbyists, have far more sympathy for working people and their unions. First two years ago in an Ohio referendum and on August 7, 2018 in Missouri, voters defeated right-to-work laws, in Missouri by a two to one majority.

Such omens should move union officials and organizers to spend far more time and effort with their members explaining what it is that unions do, why members should participate more actively in union affairs, and why an active membership creates a dynamic, democratic union. They must also build working relationships with community reform groups whether in political clubs, religious institutions, or private voluntary associations. Together unionists and community allies must participate politically from the local to the national level to ensure that legislators serve the interests of working people and ordinary citizens not the wealthy. As once was the case with clothing workers unions early in their history and the CIO unions in their formative and halcyon years, unionists must act in their communities as well as their workplaces.

Five years ago, in this same place I noted the words spoken in 1932 by the labor economist George Barnett prophesying a dim future for organized labor. “American trade unionism,” he said, “is slowly being limited in influence by changes which destroy the basis on which it is erected.” Those changes, he added, are likely to continue, and unless an unexpected shock to the system occurred, organized labor as then constituted had no future. His prediction, of course, proved to be far off target. That was 1932 and the New Deal and the rise of CIO followed in short order.

Given the current alignment of forces domestically and globally, will the Janus decision herald doom for labor or will dire predictions today prove as foolhardy as Barnett’s in 1932? Which is a better indicator of labor’s future: Janus or the teachers’ walkouts in Oklahoma, Kentucky, West Virginia, and Arizona and the referenda in Ohio and Missouri. I don’t know. Only a shock on the magnitude of the Great Depression of the 1930s or World War II might be powerful enough to revitalize the labor movement. Today, however, such a shock might produce greater repression than bring a New Deal for workers.

Notes

[1]Janus V. American Federation of State, County, and Municipal Employees, District Council 31, Et. Al., 585 U.S. ? (2018).

[2]Victoria C. Hattam, *Labor Visisons and State Power: The Origins of Business Unionism*, (Princeton, 1993); William E. Forbath, *Law and the Shaping of the American Labor Movement*, (Cambridge, MA., 1991).

[3]Some scholars interpret two Roosevelt Supreme Court decisions as indicating persistent judicial animus toward collective action. In the case of Mackay Radio [304 U.S. 333 (1938)] the court ruled that an employer was free to hire permanent replacement workers during a strike that did not involve breach of contract or an unfair labor practice. But the decision neither enjoined the right to strike nor picketing. In the Fansteel Case [306 U.S. 240 (1939)], the Court found a sit-down strike, that is worker control of company property (legal trespass), to be illegal and enabled the company to fire workers found guilty of criminal action but endorsed

the NLRB's order that Fansteel must reinstate strikers' innocent of criminal breach.

[4]For two histories of the rise of conservative antiunionism see Kim Phillips-Fein, *Invisible Hands: The Making of the Conservative Movement from the New Deal to Reagan,* (New York, 2009) and for a more conspiratorial version of the same process, Nancy Maclean, *Democracy in Chains: The Deep History of the Radical Right's Stealth Plan for America*, (New York, 2017).

[5]Today twenty-seven states have such laws.

[6]Walker exempted police officers and firefighters unions from the limitations on union rights because their leaders supported Republican policies.

Gangster Politics

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In *The Communist Manifesto*, Marx and Engels referred to the state as "the executive committee of the ruling class." Reflecting the collective capitalist interest in maintaining its accumulation process, capable of forging compromises among competing sectors of its own and other classes, this committee was also meant to enforce legal norms, contracts, and other rules of the game.

If necessary, indeed, it would even subordinate individual capitalist interests to the collective interests of the class. The executive committee might foster imperialist ambitions and declare war. But it might also call for redistributive legislation to foster demand even though no individual capitalist would want to pay higher taxes to cover the cost. Recalcitrant elements of the ruling class and protestors from below require punishment. Fascist states easily get carried away in that regard. Banana republics usually exhibit bureaucratic gangster tendencies. In a capitalist democracy, however, things are supposedly different: its executive committee should jail Al Capone and marginalize corruption. The lines between legal and illegal business transactions are blurring and the term "political mafia" is taking on a whole new meaning.[1]

Gangster politics has little in common with the interests of petty criminals, white collar crooks, 'Crips and 'Bloods, and the like. Vast sums are at stake: so, for example, roughly 82.8% of benefits from the 2017 tax bill are being funneled into the portfolios of the top 1%,[2]and the corporate tax rate is being dropped from 35% to 21%. The boss knows where his bread is buttered. That the godfather should get his cut goes without saying: Trump's family will make upwards of "tens of millions of dollars" from his tax legislation.[3]And with the "ca-ching!" (that sweet sound of the cash register) comes the "bling" (the payoffs, the hush-money, and the gifts) along with the "glitz" of the porno stars, the third-rate actresses, the models, and the rest.

Gangster politics hovers between the authoritarian and the democratic. The boss and his posse receive their perks for a reason. Gangster politics immunizes capitalist society from class contradictions that have become too acute or demands from below that have grown too onerous. Its representatives are not exactly fascists. They don't rely on paramilitary forces, concentration camps, official censorship, or explicit ideals of a racially pure society. Sleaze is the ethos of gangster politics. Its style and tone insinuate themselves into existing institutions such as the town meeting, the mass rally, media, electoral debates, and the use of legislative tricks, and legal minutiae. Gangster politicians know how to "game" the system. Their populist rhetoric is window dressing. The old "bicycle mentality" of the petty bourgeoisie holds sway, namely, push up and kick down.

Gangsters have long been identified with capitalists, cops, and state officials. Balzac noted that every great fortune hides a great crime. Upton Sinclair and Frank Norris made the connection as did Ibsen. But, perhaps most notoriously, Bert Brecht saw the gangster ethos uniting capitalists, imperialists, and militarists in a host of plays beginning with *The Three Penny Opera*. Contemporary films and television shows constantly depict the CIA, corrupt politicians and greedy corporate interests as interwoven. But these usually appear as either the work of rogue individuals (who must be brought into line) or an always vague and unalterable "system" that demands utter cynicism as the only appropriate response.

Gangster politics is not a structured institutional formation, as often argued,[4]but rather a semi-legal adaptation to legal forms of governance. It arises when the gangster's clients sense danger. Memories still linger concerning the economic crisis of 2008.[5]Banks are still over-extending unfavorable loans, stocks have been erratic, insider trading is the rule of the day and the "average guy" is panicking as capital becomes centralized in ever fewer hands. Production requires an ever smaller yet more educated working class; consumption is inordinately skewed to the wealthy; and the class question increasingly turns on how best to disempower working people, those living below the poverty line, women, citizens of color, and immigrants

Enforcing gerrymandering, curtailing voting rights, privatizing the prison system, access peddling, and accruing unlimited donations for electoral campaigns are effective tactics that border on the illegal. Right-wing control over an increasingly centralized media helps deflect criticisms and divide the disenfranchised and exploited. The audience has been primed. The boss' mass base detests his critics. Environmentalists, immigrants, people of color, uppity women, decadent gays and the transgendered infuriate the "good citizens" of America clinging to outworn traditions in small towns as well as evangelicals and retrograde (white) sectors of the industrial working class. They despair over loss of jobs, government "waste" and "welfare chiselers," moral decline, and (above all) the loss of their cultural privileges. They look back to a time when "men were men," "America was great!" and "happy days" followed one another non-stop.

Elites nod approvingly, though they have different priorities: de-regulation, lower taxes, fewer welfare policies, and cuts in the "costs of doing business." Oligarchic tendencies are built into capitalism and, as they expand, their exploitative impact on workers and the urban poor become more intense. That is where gangster politics enters the mainstream. Corporate elites require protection from progressive forces.[6]Their leaders must often choose between authoritarianism with profits as against democracy with costs. Thy always assume that they can control their enforcer. Once in office, however, the parvenu begins exercising power in his own interest. Donald Trump turned on mainstream Republicans, who pandered to the Tea Party early in the Obama presidency, just as Hitler turned on his former patron, Fritz von Papen, and his "cabinet of the barons" in 1933. It was the same with General Pinochet who was installed by the traditional conservative Eduard Frei following the fall of Salvador Allende's democratic regime in Chile in 1973. Other examples are available.

Gangster politics has its own logic. Traditionalists like to believe that the conflict is between

"them and us." For the political gangster, however, the struggle is between "them and me." The only fixed rule is — don't cross the boss! And, if only for this reason, he chooses to be feared rather than loved. He taunts his subordinates, publicly humiliates them, throws them under the bus, and perhaps even fires them a few days before their retirement. Cabinet officials and agency directors require no expertise or security clearance,[7]all that counts is loyalty to the boss. But, then, loyalty is a one-way street. Internal security advisers, press secretaries, cabinet secretaries, chiefs of staff, assistants, agency directors, White House attorneys, and deputies of all stripes come and go. Trump's administration has already had a turnover rate of 34%, more than triple that of the Obama presidency.[8]Confusion and chaos proliferate. There is a sense in which the goal of gangster politics is what Franz Neumann termed "the stateless state." It serves a concrete purpose: everyone knows who is in charge of everything.

Gangster politicians like to think that they are slick. They talk slang and curse a lot, grab a girl's ass (or worse), insist that they never read a book, thumb their noses at intellectual elites, boast about their high IQs, and proclaim their "street smarts." They also view themselves both as victims of their critics' malice and "great men" alone capable of curing the nation's ills. They make their base feel the same: they are despised and yet the *real* Americans! Their belief in the boss is unwavering. Only he can make America great again. Those who oppose his policies are traitors and the threats they pose are serious—and, if they are not serious, then they must be made serious. History teaches what might become necessary in order to teach them a lesson. The Reichstag Fire of 1933 and the (staged) assassination of Sergei Kirov in 1934 were the dramatic events that led Hitler and Stalin to justify attacks on enemies, renegades, and supposed traitors to the state. Gangster politicians under internal pressure pray for a crisis, or what Trump once forecast as a "major event," in order to rally the troops and clean house.

Gangster politics requires no ideology. Lack of principle itself becomes a principle.

The great man must do what must be done: if that means lying, reneging on deals, shifting gears, rejecting transparency, and whatever else, then so be it. That he can employ the double standard is a given. Big talk takes the place of diplomacy and, if the bluster doesn't work then America alone – or, better, the boss alone – can rely on "fire and fury" whenever and wherever he likes. Traditionalists employed jingoistic rhetoric and wrapped themselves in the flag. The gangster politician talks like a schoolyard bully and salutes himself. Gangster politicians of times past had subordinates swear an oath of loyalty not to the state but to them. Yesterday's "America! Love it or leave it!" has today turned into: "Trump! Love him –or shut up!"

One scandal follows another: financial irregularities, graft, bribery, conflicts of interest, domestic abuse, falsification of documents, secret meetings, gratuitous tweets, racist comments, White House gossip. The "breaking news" is endless. The president apparently lied 2,000 times in public during his first year in office. And, undoubtedly, every lie was exposed. So, what? Each news hour turns into another mind-numbing confirmation of popular alienation as the gangster's antics steal the headlines. He is seemingly on-screen 24/7. Estimates suggest that Trump received $2 billion in "earned media"– or, better, free publicity — during the 2016

elections.[9]That the president and his cronies should project their own fabrications upon the "fake news" media is just another expression of their contempt for truth.

Audiences of the great American stand-up comedian from the 1950s, Lenny Bruce, broke into laughter when he told them: "Even if they have photos—deny it" But the political gangster takes the next step. Criticisms are always unfair, prosecutors are always crooked, protests are always exaggerated, and every misstep is caused by the "deep state." They are all out for blood. . Checks and balances, the separation of powers, and civil liberties are impediments. Congress, the courts, the media, the bureaucracy, the university, the FBI, the political professionals – or, in short, "the system" – are all in on it! Their accusations are "fake news!" All of them are out for blood. Why? Not because of the gangster's lies, his sewer language, his racism, his illegal dealings, his incompetence, and his policies. No: it's because this street guy *par excellence*"tells it like it is" and because he wants to "drain the swamp"!

Grand strategy is irrelevant: the tactic is the strategy. Success rests on diversion and misdirection. Scandals, investigations, lies, charges, and counter-charges relativize political reality. Public debate thus turns into an ongoing attack on deliberative democracy: logic, argument, and evidence make way for infantile defamations that range from "crooked Hillary" and "little Marco" to "Pocahontas" and "Rocket Man." Attacks on women's appearance, people with disabilities, and "shithole" (African) states keeps the dialogue going. Gangster politics exists at the fringes of democratic will formation, capitalist rationality, and the "system" in which he is actually entrenched. The President has no use for artists, experts, intellectuals, professionals, scientists—all who might know more than he. Gangster politics always has its eye on the lowest common denominator and it aims to depress what Marx termed "the material level of culture." That's because the gangster politician, his collaborators, and his base already know it all. None of them has anything to learn. To the contrary, their confidence and their power rest on maintaining their ignorance.

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A Moral Vindication of Roe v. Wade

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In the 45 years since Roe, much has been written about the morality of abortion, and much has been written about the soundness of the legal reasoning in Roe. The aim here is not to join directly either of those arguments. We will leave aside, for example, the invocation of the "penumbra" and matters regarding the legal reasoning employed in Roe.

Nor is it our aim to establish once and for all the moral permissibility or impermissibility of abortion. Rather this essay aims to argue that there is a plausible moral rationale that supports the "trimester" theory of Roe. This may become very significant in the event that Roe v Wade is overturned, as the issue will likely be determined on a state by state basis, as it was prior to the decision in Roe. In that event, it may prove especially important that there is a reasoned and plausible basis for subsequent state laws.

This is not insignificant. The Roe decision can fail to have a plausible moral rationale in either of two ways. It is argued, for example, that at conception the zygote acquires full-fledged moral status: it has a right to life that abortion violates. Were this argument fully compelling, clearly there could be no moral justification for Roe. Similarly, if the argument that the fetus has no moral status at any time during pregnancy (or even shortly after birth, according to some arguments), then Roe would allow the violation of rights possessed by the woman. So, it is not obvious that there is a moral vindication of Roe. We argue for an accrual view of moral value. This is similar to what is known as the gradualist view. But we identify important differences.

We adopt the following approach in this essay. We believe it is sufficient for Roe to have a moral vindication if:

> 1) There is no compelling argument for the claim that the zygote has a right to life from the moment of conception.
>
> 2) There is no compelling argument for the claim that the fetus has no moral status whatsoever, even immediately before or after birth.
>
> 3) There is a plausible argument, which has as its conclusion the claim that as the zygote/embryo/fetus develops, it continues to acquire moral status. Further, such an argument marks that progression roughly along the trimester lines followed in Roe.

It is important to note that we do not claim that the arguments in (1) and (2) are necessarily invalid. We will not even claim that they are obviously unsound. Rather, we claim that it is not obvious that either a crucial premise or a premise in a supporting lemma requires assent. For

example, John T. Noonan's (justly) famous argument is clearly valid. And it may be sound. But we argue that has not been shown, since either a crucial supporting premise or supporting assumptions are not obviously true. In other words, there are plausible reasons to suspect the supporting assumption or premise. Thus, plausible to hold that this remarkable argument of Noonan's is unsound. And this is all this we need to open the door to providing a plausible moral justification for the trimester view of the legal permissibility of abortion. This is done in the concluding sections of the paper.

We proceed as follows. After a brief explanation of the relevant reasoning of Roe, we present and analyze the "Potentiality Principle." It is our claim that several pro life arguments depend on this principle – a principle that we claim does not compel assent. We then turn to consideration of pro life arguments, beginning with Noonan's "An Almost Absolute Value." As just noted, Noonan's argument is clearly valid. But reasonable doubts about its soundness arise, including its reliance on the Potentiality Principle. We argue that there is good reason to doubt this principle. We then analyze arguments by Kushner and Marquis, arguing that they do not compel assent to the immorality of abortion.

Turning to pro abortion arguments, we survey Warren's argument and Thomson's "violinist" defense. We argue that Thomson's violinist case does not show what she intends it to show. Moreover, we argue that David Boonin's attempted, intricate defense of Thomson's position fails to render compelling Thomson's argument. We think that Thompson's argument is an important step in the general position that abortion is always morally permissible. Thus, we consider hers and Boonin's arguments in some detail.

While still an admittedly brief survey and critique, we think it shows that it is plausible to hold – there is a rational basis for holding – that these arguments do not command intellectual assent. This then suggests a sort of "penumbra," which opens the way to seeing that there is a plausible moral rationale for thinking that as the zygote/embryo/fetus develops, it continues to acquire greater moral status. (Unless there is reason to distinguish the phases, we will simply refer to fetal development.) We then argue that this is sufficient to provide a plausible moral justification for Roe. We suggest a solomonic dividing of the abortion argument into thirds: either end of this argument continuum does not require assent, leaving open a third possibility.

No critical survey of the "abortion morality arguments" and ignore the argument of the late Jane English. In light of what has already been argued, we hold that her argument provides a framework for thinking about the moral permissibility of abortion. We than argue that this position forms a basis for the trimester framework in Roe, but we further note that the basic trimester framework requires emendation, which is the aim of the value accrual theory presented here.

Again, this is not insignificant. While a majority of Americans may favor keeping Roe intact, an even larger majority believe that late term (third trimester) abortions should not be legal, absent an exigent circumstance such as the health of the mother is at serious risk. The fact that a majority of individuals believe that early abortions are permissible but late term abortions are

not generally permissible might seem intuitive to many. Yet he justification of the proposition that late term fetuses have a greater moral status than early fetuses proves difficult.

This essay takes no definitive stand then on the moral permissibility of abortion; similarly no stand is taken on the legitimacy of Roe reasoning. To some this may seem too cute by a third. It is not, however, insignificant to note that there is a plausible moral vindication of a simultaneously widely hailed and reviled Court decision.

I. The Holding

In 1973 the Supreme Court decided the companion cases of Roe v. Wade and Doe v. Bolton. Justice Blackmun wrote the majority opinion, which analyzed the constitutionality of a Texas statute that criminalized the procurement of abortion except where necessary to save the mother's life. In the majority opinion, the Court discussed historical attitudes regarding abortion, as well as English and American common law and statutory law, to discern the justifications for criminal abortion laws in the nineteenth and twentieth centuries. Justice Blackmun began the Court's analysis by recognizing a fundamental right of privacy that protects a woman's decision to choose to terminate her pregnancy. The Court found the right to be a matter of personal liberty embodied in the Due Process Clause of the Fourteenth Amendment. The Court identified the detriment to the pregnant woman if she were not permitted to obtain an abortion:

> *Specific and direct harm medically diagnosable even in early pregnancy may be involved. Maternity, or additional offspring, may force upon the woman a distressful life and future. Psychological harm may be imminent. Mental and physical health may be taxed by child care. There is also the distress, for all concerned, associated with the unwanted child, and there is the problem of bringing a child into a family already unable, psychologically and otherwise, to care for it. In other cases, as in this one, the additional difficulties and continuing stigma of unwed motherhood may be involved.*

The Court acknowledged, however, that the right protecting the pregnant woman's interests must be balanced against the state's interests in assuring the health of the mother and in protecting "potential" human life. The Court was therefore required to determine at what point the state's interests become compelling. The Court held that the potential that the fetus possesses throughout the pregnancy becomes constitutionally significant at the point the fetus can survive independently of the woman, or the point at which the fetus becomes viable. Viability thus counts as a legally significant marker in fetal development. (Although the Court did not understand its ruling in this way, viability is thus also conceptually significant, for it also signals the thought that potential has become sufficiently actual. We will "reinterpret" this with accrual view below.) The Court held that the woman's right to privacy implied that she has an absolute right to have an abortion in the first trimester of pregnancy, but that the states may regulate abortions in the second trimester in order to protect the health of the woman.

Finally, unless the woman's health was at risk, the states may regulate or even proscribe abortions in the third trimester.

In choosing fetal viability – 24 weeks – as the legally significant point in fetal development, the Court rejected the pro-life position that life begins at conception. Accordingly, the Court declined to find that there is a compelling interest in protecting life from the moment of conception, stating that the Court was not in a position to speculate as to when life begins. Insofar as Roe prohibits states from proscribing most abortions, pro-choice advocates have largely claimed it as a total victory, while pro-life advocates have taken it as a devastating loss.

Since Roe was decided in 1973, the Supreme Court has addressed the issue of abortion on several occasions. For our purpose, the opinion in Planned Parenthood v Casey is most germane. In Casey, the Court deleted the trimester framework of Roe, but reaffirmed the fact that women have a right to have an abortion until the point of viability (Id at 872). The Court also noted (Id at 860) that the point of viability may not be precisely at 24 weeks, due to advances in medical science. We will address this below.

Roe (and thus Casey) has been criticized in that it provides no conceptual justification for its holding that the viability of the fetus is dispositive. As noted, the purpose of this essay is to articulate a plausible moral justification for the decision in Roe. While we do not rely on the notion of viability, we think it points to the continuing development of the zygote/embryo/fetus as legally, conceptually and for our purposes here, morally significant. As such, the decision in Roe will be vindicated in the sense that the trimester framework is reasonable, if not logically necessary.

II. Pro-life Arguments

1. The Potentiality Principle

Some pro-life arguments rely on a principle we identify as the Potentiality Principle. The Principle is, however, not obvious and cannot – without further justification – underwrite an argument for the impermissibility of abortion.

The Potentiality Principle claims that an entity has rights or status based upon its potential to develop. The Principle may be formulated as follows:

If A has the potential to be a B, A now has the rights that B will have. However, we do not generally confer actual value on the basis of potential. For instance, an individual who will be sworn as an attorney tomorrow does not have the right to practice law today, and hence does not have value as an attorney, based on that potential. Similarly, an individual who will be a physician tomorrow may not practice medicine today; an individual who will graduate from the police academy may not act in the capacity of a policeperson now.

It might be responded that in such case the individuals may not have the right to act in the capacities or roles indicated; nonetheless, they each have a right to life and the right to

continue to develop the respective potential. But this is misleading. The relevant rights – to live and continue to develop – follow from the actual status as a developed person, not from any potential. We should note now that we take the assignment of types of rights to be an indication of possessing types of value. That is, rights to practice as a physician indicate having value qua physician. Having rights (of a certain type) presupposes having value (relative to that type).

Considering a further response allows us to see the real problem with the principle. It might be claimed that there are indeed some cases in which rights are conferred on the basis of potential. For instance, certain fellowships are conferred on the basis of the attainment of a certain GPA. The attainment of the requisite GPA, and hence the "right" to hold the fellowship, indicates the potential to do well in future study.

There are two problems with this example. First, the example presupposes a specified policy that confers the benefit. That is, there is already an established link between having a certain GPA and receiving a particular benefit or "right." But there is no specified policy in the context of fetal potential; there is no link, in the absence of assuming such to be the case. Such an assumption is question-begging, however.

The real problem is that the existence of even several examples in which rights are conferred on the basis of potential is not dispositive. Since there are cases in which rights are not conferred on the basis of potential, proponents of the Potentiality Principle must demonstrate its applicability in the case of the fetus. Bluntly, mere appeal to the principle is question-begging.

It is worth considering one (possible) explanation of the association of moral status with potential in the case of fetal development. There is no doubt that we value potential. A general manager signs a pitching prospect on the basis of his potential. The general manager (and others) hope or expect or find it probable that, with the proper coaching and experience, the prospect will someday fulfill a certain role. And the fulfilling of the role is a genuine value to the general manager and the team. The connection of course is that the prospect possesses certain properties, which, with the proper development, can "grow into" the properties that warrant the current monetary investment.

A fetus (or a zygote or an embryo) also possesses properties that develop (or the requisite structures for those properties to develop). In the fetus we foresee a being with subsequently developed properties and hold that human being or person valuable in its own right. We understand, at least in broad stroke, how that development goes and thus how the developed human being or person results. Now, it is a relatively easy but not unproblematic step to think that the rights possessed by the developed being are rights that the current being has – because the developed properties have their source in the properties the fetus now possesses. The fetus has rights, it is claimed, because of its *potential to develop into the kind of being that we find valuable in and of itself*.

To see that this move is at least problematic, consider a reasonable account of the ground of these rights. It is plausible to think that the rights or moral value of the developed being (the human being or the person) supervene on the developed properties possessed by that developed being. Indeed various attempts to ground "human rights" rely on certain developed properties, e.g., rationality, autonomy. But it is not at all obvious that the properties a fetus currently possesses are the same properties required for the supervening rights. This "developmental space" between fetal-possessed properties and subsequently possessed properties (which develop out of the current fetal-possessed properties) would then be enough to break the conceptual or logical connection between antecedent and consequent in the Potentiality Principle.

Thus, arguments for the moral impermissibility of abortion that rely, either overtly or tacitly on the Potentiality Principle are certainly not compelling and may indeed be question-begging.

2. Noonan

In his seminal essay, an "Almost Absolute Value in History," John Noonan argues that at the moment of conception, the zygote is a human being, having full moral status, including the right to life. Abortion at any time then is the taking of an innocent human life, and since it is thus a violation of the right to life, abortion is morally impermissible. This latter argument (or versions of it) has become textbook; indeed it is fairly simple to represent it as an AAA-1 syllogism:

> *The deliberate taking of an innocent human life is morally wrong.*
>
> *Abortion is the deliberate taking of an innocent human life.*
>
> *Hence, abortion is morally wrong.*

This argument is of course valid. The burden of Noonan's essay is to argue that the fertilized ovum is a human being at the moment of conception. Noonan takes it that as a human being, the zygote (later the embryo and fetus) has all the human rights you or we have, including the right to life. Noonan sees his task as arguing that the moment of conception is a relevant objective discontinuity, which shows that it is reasonable to count even the zygote has a human being. The argument laid out above thus depends on the claim that any human has full moral status and the claim that "human-beingness" or humanity begins at conception. Below we will see a challenge to the claim that being human carries with it full moral status. For the moment, we are interested in Noonan's attempt to argue that humanity – and hence full moral status – begins at conception.

Noonan argues that "real world" probabilities are a crucial factor in moral discourse. He proffers an analogy to "buttress" his position that humanity begins at conception and hence that abortion is immoral. We quote him in some detail:

Moral judgments often rest on distinctions, but if the distinctions are not to appear arbitrary fiat, they should relate to some real difference in probabilities. There is a kind of continuity in all life, but the earlier stages of the elements of human life possess tiny probabilities of development. Consider for example, the spermatozoa in any normal ejaculate. There are about 200,000,000 in any single ejaculate, of which one has a chance of developing into a zygote. Consider the oocytes which may become ova: there are 100,000 to 1,000,000 oocytes in a female infant, of which a maximum of 390 are ovulated. But once spermatozoa and ovum meet and the conceptus is formed, such studies as have been made show that roughly in only 20 percent of the cases will spontaneous abortion occur. In other words. the chances are about 4 out of 5 that this new being will develop. At this stage in the life of the being there is a sharp shift in probabilities, an immense jump in potentialities. To make a distinction between the rights of spermatozoa and the rights of the fertilized ovum is to respond to an enormous shift in possibilities. For about twenty days after conception the egg may split to form twins or combine with another egg to form a chimera, but the probability of either event happening is very small.

It may be asked, What does a change in biological probabilities have to do with establishing humanity? The argument from probabilities is not aimed at establishing humanity but at establishing an objective discontinuity which may be taken into account in moral discourse. As life itself is a matter of probabilities, as most moral reasoning is an estimate of probabilities, so it seems in accord with the structure of reality and the nature of moral thought to found a moral judgment on the change in probabilities at conception. The appeal to probabilities is the most commonsensical of arguments, to a greater or smaller degree all of us base our actions on probabilities, and in morals; as in law, prudence and negligence are often measured by the account one has taken of the probabilities. If the chance is 200,000,000 to 1 that the movement in the bushes into which you shoot is a man's, I doubt if many persons would hold you careless in shooting; but if the chances are 4 out of 5 that the movement is a human being's, few would acquit you of blame. Would the argument be different if only one out of ten children conceived came to term? Of course this argument would be different. This argument is an appeal to probabilities that actually exist, not to any and all state of affairs which may be imagined. (emphasis ours)

The analogy is questionable. In the case involving a "4 out of 5" chance that the movement in the bushes is that of a human being, it is clear that the action is blameworthy. It is blameworthy because it involves the probable killing of an actual human being.

There are two different ways we might see the Potentiality Principle at work in Noonan's argument, depending on how we interpret certain of his claims. He claims that at conception there is a 4 in 5 chance that "this new being will *develop*." One wants to ask: "Develop into what? And why does this matter?" Noonan cannot respond that it will develop *into* a human

being – for the simple reason that, according to Noonan, it already is a *human being*.

Indeed if we take his development claim seriously, it seems to undermine Noonan's argument fertilized ovum is indeed *fully a human being (and hence possessing the right to life)*. Why? Because if the zygote already has full moral status, further development doesn't matter! The 4 out of 5 objectively probable development is irrelevant – on Noonan's own view. It thus becomes pressing to understand why this zygote – in so many ways different from the whatever stage of the developed being Noonan has in mind – should be accorded full moral status.

It is thus difficult to understand the point of the development claim. Yet that Noonan invokes "development" reveals how easy it is to slide, or better, to import future developed properties to underwrite the moral status of the current zygote. Our suspicion is that Noonan has implicitly relied on the Potentiality Principle, despite his official position explicitly rejecting such reliance. That is, Noonan wants us to see the zygote in the same way we see the developed being. Implicitly his claim is thus that this zygote *potentially has the properties of the developed being*. Noonan is thus not relying merely on a dramatic shift in objective probability. He is fact also relying on the thought that this zygote is potentially like that developed being. Clearly, however, the moral wrongness of the probable killing of the developed being does not underwrite the actual killing of a being with the potential to become a developed being. The two situations are morally comparable only if it is assumed that probable persons have the same or similar moral status as actual persons. It is simply not clear that Noonan has established the former rather than the latter view. Thus, the argument seems to presuppose the validity of the Potentiality Principle. If the Potentiality Principle is suspect or worse, false, then the argument fails.

Suppose, however, that Noonan resists this interpretation, claiming that human beings continue to develop unlike, say, spermatozoa. From conceptus to late stage embryo, we are seeing the continued development of a single being; his point is rather that whatever moral properties the late stage embryo has are also had by the current conceptus because it is but one kind of being undergoing development throughout. But again, why should this continued development matter? It is our suggestion that here Noonan is again implicitly relying on a version of the Potentiality Principle, and he does so in either of two ways. He might be taken to mean that the "human-making properties" of the later stage embryo or fetus underwrite the requisite humanity of the zygote, thus insuring its moral status. Or he may implicitly be relying on the idea that the more clearly vouchsafed moral status of the developed being underwrite the moral status of the zygote. This introduces of course the connection between genetic humanity and moral status and is challenged by later writers, e.g, Mary Anne Warren and Judith Jarvis Thompson. To the extent, however, that Noonan relies on the Potentiality Principle his "probability argument" is suspect. The full force of these comments will be more apparent after we consider Noonan's reliance on the genetic code criterion of humanity.

Noonan also understandably criticizes the viability criterion articulated in Roe, since his argument requires that viability is not the criterion of humanity. The Court held that:

With respect to the State's important and legitimate interest in potential life, the "compelling" point is at viability. This is so because the fetus then presumably has the capability of meaningful life outside the mother's womb. State regulation protective of fetal life after viability thus has both logical and biological justifications. If the State is interested in protecting fetal life after viability, it may go so far as to proscribe abortion during that period, except when it is necessary to preserve the life or health of the mother.

Noonan argues that despite the Court's implication that viability is easily ascertained, viability is not amenable to precise determination. Again, we quote him in some detail:

Before an age of so many months, the fetus is not viable, that is, it cannot be removed from the mother's womb and live apart from her. To that extent, the life of the fetus is absolutely dependent on the life of the mother. This dependence is made the basis of denying recognition to its humanity.

There are difficulties with this distinction. One is that the perfection of artificial incubation may make the fetus viable at any time: it may be removed and artificially sustained. Experiments with animals already show that such a procedure is possible. This hypothetical extreme case relates to an actual difficulty: there is considerable elasticity to the idea of viability. Mere length of life is not an exact measure. The viability of the fetus depends on the extent of its anatomical and functional development. The weight and length of the fetus are better guides to the state of its development than age, but weight and length vary. Moreover, different racial groups have different ages at which their fetuses are viable. Some evidence, for example, suggests that Negro fetuses mature more quickly than white fetuses. If viability is the norm, the standard would vary with race and with many individual circumstances.

Noonan thus holds that the objective variability undermines seeing viability as the criterion of humanity. Unlike conception – which provides a definite and significant change in probable outcome – viability offers a demarcation too blurry to be of significant use in moral argument. It is open to wonder whether Noonan is not guilty of a kind of scope fallacy. While it may be viability varies generally, for any particular fetus, there can be relatively precise determinations of the highly probable ability of the fetus to exist outside the womb.

Noonan offers another "buttressing" argument for the proposition that the right to life attaches at conception, and this buttressing argument has taken on a significance of its own. He appeals to possession of a unique genetic code (although he does not characterize it quite like this:

The positive argument for conception as the decisive moment of humanization is

> *that at conception the new being receives the genetic code. It is this genetic information which determines his characteristics, which is the biological carrier of the possibility of human wisdom, which makes him a self-evolving being. A being with a human genetic code is man. (our emphasis)*

The possession of a unique genetic code is not necessary for having full moral status. A sentient being with a different genetic code from ours would arguably have rights, as would a human who had a genetic anomaly but who had the mental and moral characteristics associated with a normal adult.

Noonan might reply that in the context of the abortion debate the relevant issue is whether the possession of a unique genetic code is sufficient for rights. It appears, however, that the possession of the genetic code by itself is not sufficient for rights. If it were, then each somatic cell in the human body would have rights, as all cells but germ cells have the full genetic complement. Further, neomorts – individuals that have suffered brain death but whose biological life can be maintained for a time – would have a right to what life can be afforded them. Certainly, their organs could not be harvested for the sake of others. Neither of these two consequences seems acceptable.

It is open to Noonan to object, however, that it is organisms that have a full genetic complement that have a right to life. We take the sense of "organism" here to be that of a group of interdependent cells with a higher global and functional organization. Then one might identify a single sperm as an organism (although this is controversial), but it does not have the full genetic code. Skin cells, while possessing the full genetic code, do not count as organisms.

Identifying the relevant object as an organism with a full human genetic code gets closer to what Noonan needs; nonetheless it is problematic. Noonan argues that the zygote is a human being because it possess its own genetic code that is of the type human being. But that is at best elliptical. Noonan needs to also claim that the zygote is an organism, that is, a group of interdependent cells with a higher global and functional organization. It is arguable, however, this higher organization is understood as the aim or purpose of a *developmental process*. And we are thus back to the Potentiality Principle.

3. Kushner

T. Kushner argued that the initiation of brain activity is among the options for establishing the point when human life begins. He further claims that the connection between brain activity and consciousness is morally significant, since it is consciousness that explains what we take to be valuable about the notion of life. Kushner emphasizes that the significance of the onset of fetal brain waves is that the fetus, in addition to being merely biologically alive, now "has a life" and can be the subject of experiences:

> *. . . The important point is that until the infant has developed a brain capable of*

> *consciousness it is impossible for such personal development to occur. Conversely, once a human fetus has developed a brain capable of consciousness its biography – its life in the sense of bios – has begun. Thenceforth it has the capacity to be a person and its moral importance rests on that fact.*

Given the moral significance of fetal brain waves, Kushner concludes that after their onset the fetus is owed certain moral and legal protections.

Unfortunately, the argument is far from conclusive. It is not at all clear that adult and fetal brain waves signify the same thing. Adult brain waves are legally and morally significant because and only because their presence is associated with what we value in life – the capacity for self-knowledge, to communicate, etc. As Kushner states, these qualities include:

> *. . . being the subject of a certain life with its accompanying history, nexus of personal and social relationships, complex patterns of psychological characteristics, plus the whole fabric of events as they happen to and affect the individual. Subjects of lives, in this sense, are capable of some degree of problem-solving, effecting relationships that give satisfaction, benefiting from past experiences to influence present situations as well as being capable of experiencing and expressing a range of emotions . . .*

Valuable life comprises possession of these characteristics, and the criterion for determining when someone has lost these capacities has changed over time. Science has narrowed the search for the organ(s) whose function is absolutely necessary for human, as opposed to merely biological, life. It is now evident that the fully developed brain is "truly unique and irreplaceable" with respect to these capacities.

The crucial issue is, however, whether or not the occurrence of fetal brain waves signifies, as it does in the adult, the possession of the valued faculties or merely the potential to develop these faculties. For fetal brainwaves to signify the same thing as they do in the adult, the fetus at eight weeks of gestation would have to have the same capacities as the adult. Kushner's discussion is ambiguous in regard to this important point, stating both that at the onset of brain waves the fetus is the subject of a life and that it has a developing capacity for being such a subject. In a revealing passage Kushner addresses the fact that while the nervous system is the first to start developing, it is the last system to complete development:

> *Only gradually in fetal and then infant development does he or she acquire the characteristics of personhood. The process of becoming a person is a lengthy one and even at birth the infant has only some of the necessary psychological attributes such as desires, wants, frustrations and feelings. It will take time for the more complex sets of capacities referred to earlier to developing the course of interaction*

between the infant and his environment.

The problem for Kushner is that far from being "logically suggested" by the brain death criterion, the argument that human life begins with fetal brain waves would succeed only if the fetal brain were fully developed at the time of the onset of brain waves. However, it actually seems to be the case that the onset of fetal brain waves is an indication that the fetus is developing normally and has the potential to grow into an adult with the attendant capacities.

The dilemma for Kushner can now be made apparent. Either he is guilty of equivocating on the notion of brain waves (the significance of adult vs. fetal brain waves) or his argument presupposes the validity of the Potentiality Principle. But we have already seen good reason to wonder whether one can advert to Potentiality Principle without further argument. Kushner's appeal then to the onset of brain waves is far from compelling.

4. Marquis

An influential argument by D. Marquis holds that abortion is wrong because it deprives the fetus of a valuable future. Marquis argues that what makes it wrong to kill a normal adult human being is the fact that the killing inflicts a terrible harm on the victim. The harm consists in the fact that "when I die, I am deprived of all of the value of my future": I am deprived of all of the valuable "experiences, activities, projects, and enjoyments" that I would otherwise have had. Thus, if a being has a highly valuable future ahead of it—a "future like ours"—then killing that being would be seriously harmful and hence seriously wrong. But then, as a standard embryo does have a highly valuable future, killing it is seriously wrong. And so "the overwhelming majority of deliberate abortions are seriously immoral— in the same moral category as killing an innocent adult human being."

This argument thus attempts to avoid the Potentiality Principle by holding that both the adult and the fetus actually possess the morally relevant characteristic, i.e., the ability to have and enjoy a future. The argument has plausibility as long as it is agreed that the dispositive harm in killing an adult human being is the loss of a future is the actionable harm.

If, however, it is contended that it is wrong to kill an adult because the adult has *actual* capacities for self-consciousness, etc., that fact would render the argument inconclusive. Given this latter contention, the morally significant issue is the destruction of the adult's *actual, currently-possessed* capacities for moral agency, consciousness, etc. If we take this – the destruction of currently possessed, developed capacities – to be the significant harm, then we have an asymmetry between the adult and the fetal case. It is true that we sometimes say things like a person is in the "prime of life," implying that there is a promising future ahead. But it is open to claim that promising future aside, the morally significant feature of this developed being is that it has these capacities, and they can be manifested *now*.

On the other hand, the fetus has the potential to develop the significant capacities that are associated with personhood. The "future" of the fetus, if it is allowed to develop, will result in

the actual possession of certain morally relevant capacities or dispositions.

It is crucial, however, not to conflate *currently possessed properties*, which can develop into a capacity with its consequent manifestations and the *developed properties* that underlie the *actual* (fully developed) capacity. For these are not necessarily the same properties. Hence, the capacity the fetus has to enjoy certain future experiences is not obviously the same capacity possessed by the eventual adult to enjoy certain experiences. To assume that they are the same capacity is a type of equivocation that we think rests ultimately on the assumption of the Potentiality Principle. Clearly a fetus has the "capacity" to go to college, study accounting, become a CPA. But this is surely a different capacity than that possessed by a graduating high school senior who has been accepted by his preferred college. For the latter relies on many and complicated *developed actual properties* that the high school senior possesses, which the fetus obviously does not possess. In this sense, we might distinguish between the capacity the fetus has and the "manifestation" of that capacity in the future. But this future manifestation will clearly require the possession of other properties and capacities obviously not currently possessed by the fetus.

Here is a slightly different way to make this point. We suggest there is a qualitative difference between the futures of an adult and a fetus. We grant these two points: a fetus has a future and has certain properties that subserve such a future. The important point here, however, is that the requisite properties (for such a future) are quite different from the properties of an adult that subserve such a future. Consider being an accomplished pianist. (We are assuming that there is some genetic basis for "musical talent.") In the adult, it is easy to imagine an actual and current disposition – find a Steinway, sit Georgie down, and Gershwin compositions begin to be musically realized. And we can expect Georgie's future to realize many more Gershwinian compositions. But Georgie's dispositions/capacities manifest themselves in a *very present talent*. To lose Georgie now through some killing is not only to take away some valuable future, but to take away a valuable talent. Upon hearing of Georgie's unjustified passing, we would not only be warranted in claiming that we have lost a great future, but we would most certainly be warranted in sadly proclaiming, "I can't believe he's gone; *he is such a great talent*." Barring any future contributions to the musical world, there is a value in his currently and often manifested capacity; there is value in his *present*.

Now consider the fetus. While it is in some sense true that the fetus has the capacity to be the next Horowitz or Gershwin, it is at best misleading to say that the depriving the fetus of its future is the same as depriving the adult Georgie of his future. Notice that there is considerable genetic development that must still occur, not only in the womb, but outside as well, before we can come to the point of the kind of training that we associate with musical talent. (Acknowledging of course that there are prodigies who require no particular external training; in a roundabout way though, this underscores our point.)

The fetus has a future. Given sufficient embryonic development and post-birth continued genetic development and conducive environments, it will have a *future*. But it is not in the least obvious that we need to appeal to the future of an adult in order to ground the right to life. And

if this is right, then the argument against abortion based on “similarity of futures” fails.

The “future like ours” approach has also been criticized on the basis that it implies that the death of an embryo or fetus is worse than the death of a child or an adult. This is because the embryo or fetus has more of a future than the child or adult ¬

We have been considering three types of argument to show that full moral status attaches from the moment of conception. If any of these arguments were compelling, the relevance for Roe would be obvious: Roe would legally sanction an immoral act. But this section shows – we take it – that these arguments are not compelling, and in some cases, are far from being so.

III. Pro-choice Arguments

1. Thomson

In her well known essay, “A Defense of Abortion,” J.J. Thomson grants for the sake of argument that the fetus has a right to life, but defends the permissibility of abortion by appeal to a thought experiment:

> *You wake up in the morning and find yourself back to back in bed with an unconscious violinist. A famous unconscious violinist. He has been found to have a fatal kidney ailment, and the Society of Music Lovers has canvassed all the available medical records and found that you alone have the right blood type to help. They have therefore kidnapped you, and last night the violinist’s circulatory system was plugged into yours, so that your kidneys can be used to extract poisons from his blood as well as your own. If he is unplugged from you now, he will die; but in nine months he will have recovered from his ailment, and can safely be unplugged from you.*

Thomson argues that the woman may now permissibly unplug herself from the violinist even though this will cause his death. The right to life, Thomson contends, does not entail the right to use another person’s body, and so by unplugging the violinist she does not violate his right to life but merely deprive him of something—the use of your body—to which he has no right.

For the same reason, Thomson contends, abortion does not violate the fetus’s right to life but merely deprives the fetus of something—the use of the pregnant woman’s body—to which it has no right. Thus, it is not that by terminating her pregnancy a woman violates her moral obligations, but rather that a woman who carries the fetus to term is a “Good Samaritan” who goes beyond her obligations. Thomson thus holds that although there is a general duty not to kill others, there is no general duty to save others.

The violinist case is an intuition pump, a helpful term borrowed from Daniel Dennett. The rhetorical force of the case is obvious. As Dennett notes, however, set up the intuition pump in

one manner and you get one kind of result; set it up differently, and it might yield an entirely different result. Applied here, it is neither clear what Thomson's use of the violinist case shows nor is the principle relied upon for that showing.

Thomson appears to want to claim that a *person's* right to life does not preclude, under certain circumstances, another taking certain actions that predictably and reliably result in the death of the person. And it is easy to see one principle that legitimizes such actions – self defense.

Thomson does not explicitly invoke self defense, and later we will try to tease out why. For the moment note that even the general principle of self defense has caveats. Arguably Mary may justifiably stab Tom – causing his death – if Tom has been beating her and now comes at her with a belt. It is less clear, however, that if Tom has passed out from drinking, becomes barely conscious long enough to grab some object, staggers toward Mary, and as he is again passing out and collapsing, she stabs and kills him, *when the threat could have been avoided by merely stepping aside,* that this killing is justified. That we can easily imagine these cases more fully described, rendering our initial judgments more controversial, evidences the limits of the principle of self defense in justifying the moral permissibility of some act that takes the life of a being possessing a right to life.

Does it matter that a person arranges circumstances in such a way so that threats to one's life or well-being are likely to occur? Imagine a variation on a theme from the movie *Death Wish*. Setting aside the motivation of the lead character, if he deliberately puts himself in situations where his well-being or life may be threatened so that he might kill to defend himself, is it so clear that his actions are vindicated by the principle of self defense?

Or consider a variation of a scene in a *Die Hard* movie. Suppose our character simply prefers a kind of excitement and experience not readily available at the community dance or the local golf course. Thus, he goes to a certain New York City neighborhood, wearing a sign with some highly provocative and incendiary message. Imagine further that our character is aware that behaving in this way might not only bring about some heated verbal exchanges with residents of the neighborhood, but it might provoke some actual and serious threat to his mental and/or physical well-being. But our character does not desire this result. He just wants the excitement, not the threats to his physical or mental well-being. Still he is aware that such threats might occur. This does not trouble him, however, since he has someone else who will *step in* at the appropriate time and "defend" him, even taking the life of another if need be. Is it so clear that "self defense" (or "self defense by proxy") applies here?

(Note well: we are not suggesting that the neighborhood residents are justified in attacking our imagined movie character. Our character hopes some excitement will occur and is aware that something more than may occur. Still the example implies nothing about whether the others would be justified in causing mental and/or physical harm to our character.)

Now consider the sort of case exemplified by Thomson's violinist. I am "commandeered" by another. More precisely, I am commandeered by another so that my body may be used – for a

time – so as to preserve the other's life. The other's continued existence depends upon my compliance, my willingness to allow the use of my body.

Thomson apparently wants to hold that it matters how one person's continued existence comes to depend upon another. And clearly she thinks the violinist case is an illustration of a case where the person's dependence does not constrain the actions of the other, and that this applies straightway to the case of abortion.

Yet it is not at all clear how we get to Thomson's desired result. Again, it matters how we understand the violinist case. As the above movie cases illustrate, it matters how we fill out the scene. Consider that we might ask, for example, why it is that the violinist is hooked up to *me*. If there is some other way that the violinist might be saved, e.g., being hooked up to, say, my willing neighbor, does that matter to our understanding of the case? Does it matter what I do, such that it comes about that it is *me* hooked up to the violinist? Would it matter if in the past that I had said I would be willing to be so hooked up, but recently had come to have doubts? Does it matter how we describe how I am "hooked up" and the difference that makes in how I conduct my life? Different "penumbra" may yield different intuitions.

It is not easy to see what precise argument Thomson has in mind. We are prepared to hazard that the following is close to correct as a summary of the intended argument:

> *The right to life is not absolute; there are ceteris paribus conditions attaching to this right (as "normal" self defense cases illustrate). Temporarily taking control of one person's body so that another may benefit from it so as to continue to live would nullify the cp clause (the "other things being equal" clause) if it is done so without first obtaining consent of the person's body who is to be used. In such cases, one is entitled to discontinue this existence-supporting arrangement, even if it brings about the death of the other. The violinist case is a case in which the cp clause is nullified. So, a person is justified in ending the connection between that person's body and the violinist. Similarly, at least some abortions are justified because the woman did not consent to the fetus using her body. (We set aside issues about explicit vs. tacit consent and nothing below depends on this.)*

If there is something other than the absence of consent that nullifies the cp clause, Thomson has not said what that is. And before this proposed argument is even moderately compelling, we need to know the basis for the *cp* nullification. She could have appealed to self defense, but does not. Assume then that it is the absence of consent that worries Thomson about the violinist case.

If so, then we claim that the analogy between the violinist case and abortion breaks down. Consider that the violinist or his apparently capable proxies may request the use of my body. They fail to do so; hence, according to Thomson, I have no moral obligation to permit the continued use of my body. It is morally permissible then to "disconnect" even if the

discontinued use of my body will result in the death of the violinist.

On the face of it, the principle "no consent, no obligation" is not *obviously* true. Imagine a soldier, wounded in battle, awakes to find himself with a tube running from his arm to the arm of another wounded but unconscious soldier in the bed next to him. He is told that he is the only person in the vicinity with the appropriate blood type, there was no way to obtain consent, so "we need to leave you hooked up for a relatively short period of time, making it highly likely the other soldier will survive. You may suffer some discomfort and inconvenience at times and disconnecting you at the proper time might be very uncomfortable." We suggest that it is not at all clear that there would be anything *immoral* about forcing the soldier to remain hooked up to the other soldier.

Our claim is that the no consent, no obligation principle requires some defense. Specifically it requires some defense that it applies in either the violinist case or the abortion case. (Indeed the "no consent" principle might be thought of something as an intuition pump itself: first we want to know what has *not* received our consent.) More to the point, allowing that the principle applies in the violinist case does not straightforwardly show that it applies in the abortion case. The application of the principle may well be as controversial as the conclusion about abortion it is intended to support.

The abortion case is not obviously a case where the "no consent, no obligation" principle applies. On our normal understanding of "consent," it is simply not clear that *consent* makes sense in being applied to the abortion case. But then the analogy between violinist and fetus breaks down, and Thomson's argument is at least unsound.

First notice – there is simply no being (and consequently, no proxies for that being) that can request consent. Fertilized ova cannot request permission to use a uterus. Nor is it obvious that there is some other *person* that may request consent. By itself, this should make us wonder at the very least about the applicability of the violinist case to abortion. There was at least the possibility of requesting consent in the violinist case. The wounded soldier case thus appears to be a better suited in application to abortion, but it is not the case Thomson uses.

It is no more promising to think that consent can be understood merely as a "one-sided" affair. Yet it is widely thought that the deliberate use of contraception by the woman is just such "one-sided" refusal of consent. Indeed, Thomson uses the metaphor of putting bars on the window to prevent "unwanted occupation" of the premises, clearly intended as a metaphor for some sort of use of contraception. Suppose then a woman regularly takes birth control pills. Suppose she even tells a "companion" that she does not wish to become pregnant. She has then – it is presumed – refused consent. Refused consent….*to whom*? And what exactly is she refusing?

Consider the difference in the following two cases (these are actually cases along a continuum, but these two should be sufficient).

As Tom leaves his house one morning, he stands in the front door, and says in a firm and clear voice, "As I begin my walk this morning, I refuse my consent to anyone who might interrupt my

walk by suddenly appearing in front of me and collapsing right there on the sidewalk, not only needing me to call 911 but requiring CPR perhaps for several minutes; I say to all of you possible needy persons, I refuse my consent."

Now the second case: Instead of his doorway assertion, Tom takes out of a drawer and places in the armband that holds his iPod, a signed, notarized document directing any and all medical personnel that should he somehow become incapacitated or even die, he does *not* consent to using his organs for any transplant, medical, or scientific procedure.

The second is clearly a case of refusing consent. It directs specifiable, if unnamed persons, to *avoid* performing some action(s). These are not possible persons so directed. They are actual persons, who under appropriate circumstances, could have the refusal of consent apply to them and actions they might perform.

The first case seems different, however. It is not obvious that this is a case of *refusing consent*. It is certainly a case of stating one's desire not to have one's walk interrupted by someone else's medical emergency. But is it refusing consent?

Consent (or refusing), *qua* performance, requires either some saying or doing. What might be the analogue of Tom's doorway pronouncement for a woman? Perhaps the woman says prior to (during? immediately after?) having intercourse, "I refuse/give my consent to any fetus that might come about as a result of these actions to use my body." Or one can think that making use of some contraception is indication of refusing/giving consent.

But (refusing) consent requires something further, namely, some being to whom consent is given or withheld. And this makes the application of the notion of consent rather odd. Refusing consent to the fetus can occur only after the fetus has already "accomplished" the very thing that is being refused. For the fetus to be the object of the consent refusal (the being for whom consent is refused), the very thing that is being refused must first come about.

If Tom refuses his consent to organ donation, there is something that doctors can avoid doing. If I refuse consent to the violinist's proxies, there is something they can avoid doing. But to be the target of refusal (analogous to the medical personnel specified in the notarized document), the fetus must do the very thing that it is being directed to avoid.

Put simply, it looks as though in the case of pregnancy, refusing consent is puzzling at best, extremely perplexing at worst.

There are three things worth noting about our understanding the consent model application to abortion. The first is the most important. It could be suggested that the above misunderstands Thomson's use of consent. Notice that in the violinist case, she has not asserted the occurrence of any prior refusal. Once discovering how her body has been "commandeered," she may then express her refusal, and this is sufficient. Similarly, once discovering existence of the fetus, a woman is entitled to refuse consent to continued use of her body.

Note that it is difficult to understand Thomson's use of the "bars on the window" metaphor unless this is understood as a sort of prior refusal of consent. It is clearly an expression of preference, but still it is open to ask if it is refusing consent. Further, it is difficult to understand the violinist case as a case of not having given or refusing consent prior to being hooked up. Indeed the most natural reading of that case is that absence of prior consent must be understood as refusing consent. Otherwise, it is difficult to know why, when demanding to be unhooked, the proxies cannot simply assert that since consent was not refused, they were free to make use of the person's body. That the argument can continue from here shows that there is much about the consent model that needs explanation and defense *before it can be applied as a justification for abortion*.

The second and third points are a bit easier. Unless Thomson is granting (at least for the sake of argument) that the fetus is indeed a person *capable of requesting consent*, and to whom consent might be refused, it is hard to know why she uses the violinist example. Third, admittedly this sounds like treating the fetus as a homunculus. But this comes about only in an attempt to understand how it is that Thomson thinks refusing consent applies in the case of abortion. Once again, the fetus can be the target of consent refusal only if the very event being refused first occurs.
The preceding shows that Thomson is not entitled to claim – without considerable further explanation – that the consent model applies to abortion. Hence, the violinist case does not support the conclusion she desires.

Others have taken up Thomson's argument. Two of the more substantial objections are: 1) In the case of pregnancy, the "violinist" is not a stranger but the woman's child; and 2) In the context of a special relationship such as that between a parent and child, the distinction between killing and letting die is irrelevant.

Possibly the most influential defense of Thomson's argument has been proffered by David Boonin. In regard to the child versus stranger argument, he states:

> *…… it seems to be utterly mysterious how the mere fact of biological relatedness could, in and of itself, generate such a difference in moral obligations. It would not be mysterious if the claim turned on the fact that the woman did some voluntary action that led to the conception of the child, since the moral salience of the distinction between voluntary and involuntary actions is relatively straightforward. ……. It seems right to say that the woman "begot" the child in cases of voluntary intercourse, but not so in the case of pregnancies arising from rape. To beget a child is to cause it to exist, and in rape cases the woman does not do anything to cause the child to exist. But if this were the explanation of the moral relevance of the biological relation between parent and child, then the stranger versus offspring objection would simply reduce to the tacit consent or responsibility objection all over again. And while it would certainly have a high degree of prima facie plausibility, it would also remain subject to all of the difficulties I identified*

with those objections in Sections 4.3 and 4.4. In addition, if the objection were construed in this way it would fail to apply to rape cases, and it is clear that the stranger versus offspring objection is meant to apply to such cases as well.

Boonin reiterates his objection to what he terms the "responsibility objection": the woman has a responsibility to the fetus because she was in some sense responsible for the existence of the fetus and has obligations thereto. Boonin's argument against the responsibility argument relies on two cases that he considers variations of Thomson's violinist case.

Boonin's argument turns in part on his identifying two senses of responsibility. The first, sense (1), says that a person is responsible in the sense of being responsible for another's existence. Sense (2) is that a person is responsible for another's neediness, given that the other already exists. Boonin offers then the following case:

Imperfect Drug I: You are the violinist's doctor. Seven years ago, you discovered that the violinist had contracted a rare disease that was on the verge of killing him. The only way to save his life that was available to you was to give him a drug that cures the disease but has one unfortunate side effect: Five to ten years after ingestion, it often causes the kidney ailment described in Thomson's story. Knowing that you alone would have the appropriate blood type to save the violinist were his kidneys to fail, you prescribed the drug and cured the disease. The violinist has now been struck by the kidney ailment. If you do not allow him the use of your kidneys for nine months, he will die.
In Imperfect Drug I, you are responsible in sense (1) for the fact that the violinist now stands in need of your assistance. You are responsible, that is, for his existence. You did a voluntary action such that had you not done it, the violinist would not now exist. If you had not given him the drug, he would not now exist. But you are not responsible in sense (2) for the fact that the violinist now stands in need of your assistance. You are not, that is, responsible for his neediness, given that he exists. It is not the case that you did a voluntary action such that, had you not done it, the violinist would now exist and not need your assistance in order to survive. For there was no course of action available to you seven years ago that would have caused it to be the case both that the violinist would now be alive and that he would not be in need of the use of your kidneys. So you are responsible for the needy violinist's existence, but you are not responsible for his neediness, given that he exists. This is what makes Imperfect Drug I importantly different from what I will call Imperfect Drug II:

This is the same as Imperfect Drug I, except that you could also have given the violinist a perfect drug that would have cured him with no side effects. But out of indifference or laziness you chose to give him the imperfect drug. The violinist has now been struck by the kidney ailment. If you do not allow him the use of your

kidneys for nine months, he will die.

In Imperfect Drug II, you are responsible for the fact that the violinist now stands in need of your assistance in both senses. If you had not voluntarily given the violinist one or the other of the drugs, he would not now exist. And if you had not voluntarily given him the imperfect drug rather than the perfect drug, he would now exist and would not be in need of your assistance in order to survive. So in Imperfect Drug II, life that was available to you was to give him a drug that cures the disease but has one unfortunate side effect: Five to ten years after ingestion, it often causes the kidney ailment described in Thomson's story. Knowing that you alone would have the appropriate blood type to save the violinist were his kidneys to fail, you prescribed the drug and cured the disease. The violinist has now been struck by the kidney ailment. If you do not allow him the use of your kidneys for nine months, he will die.

Based on the differences between the two hypothetical situations, Boonin claims that "It is extremely difficult to avoid the conclusion that you do owe the violinist the use of your kidneys in Imperfect Drug II, but that you do not in Imperfect Drug I." The salient differences reside in the fact – apparently – that in Drug II, there is something else the doctor could do, something else that would both bring it about that the violinist exists and is not needy. It is worth noting that one might wonder about the force of the phrase "given that he exists." Indeed one might worry that the phrase obscures the difference between the doctor's responsibility for the violinist's continued existence and a woman's responsibility for *bringing the fetus into existence* in the first place.

But let us continue with Boonin's argument. He claims that these two drug cases show that a woman does not have a responsibility to the fetus, even in cases of voluntary intercourse:

A woman whose pregnancy is the result of voluntary intercourse, that is, is responsible for the existence of the fetus, but is not responsible for the neediness of the fetus, given that it exists. If the good samaritan argument succeeds in rape cases, therefore, the responsibility objection fails to show that it does not also succeed in nonrape cases as well.

In a footnote, Boonin anticipates the "responsibility objection," namely that the woman could have avoided responsibility by refraining from intercourse. Crucially he then claims that this implies "that you have acquired an obligation to provide aid to the violinist in Imperfect Drug 1," since you couldn't bring about the existence of the violinist without making him dependent on you, but you could have made it the case that the violinist doesn't exist – don't administer the drug in the first place.

Thus, Boonin implies that the option that the woman could simply refuse to engage in

intercourse results in the consequence that it would have been permissible to fail to give the drug in Imperfect Drug I. Boonin claims this latter contention is false – i.e. there was an obligation to give the drug in Imperfect Drug I.

It is important to be clear about this. Boonin claims that according to the objection, the woman could avoid moral responsibility for the fetus by simply refusing to have sex. Boonin then claims that a consequence of this position is that the doctor could have refused to give the drug in Imperfect Drug I. And our intuitions are that the doctor was obligated to at least administer the drug in that case. So, according to Boonin, the "avoiding responsibility by avoiding sex" objection must be mistaken.

It is worthwhile to make the logic of this a bit more explicit. Boonin claims that advocates of the responsibility objection are committed to the truth of the following conditional, call it (R):

(R): *If a woman can avoid moral responsibility by simply refusing to have sex, then the doctor in Drug I could avoid responsibility simply be refusing to give the drug.*

Boonin claims that the consequent is obviously false: the doctor is obligated to give the drug. He then claims that the falsity of the consequent shows that the antecedent is false, namely, that it's false that a woman avoids moral responsibility by refraining from sex. *But is there any reason to think that advocates of the responsibility objection must accept the truth of (R)*? No, there is not.

First Boonin fails to explain why the alleged implication holds. Boonin states that giving the violinist the drug in Imperfect Drug I is what the violinist "would choose," and giving him the drug is the state of affairs that would "leave him best off.'

In order to assess his argument, it is important to note the *ground* of the doctor's obligation. The reason that the physician in Imperfect Drug I had a duty to provide the opportunity for continued existence to the violinist is based upon the facts that:

1. the violinist is an already existing person with a right to life,

2. the violinist is in a fiduciary relationship with the physician, and

3. *based upon that duty*, the physician had a responsibility to provide treatment that is in the best interests of the patient.

(2) and (3) are the core basis of the physician's responsibility to the violinist. There is an *institutional setting* that must be acknowledged to make any sense of the obligation to the violinist. Thus, regardless of the fact that the violinist may require the use of the physician's kidneys in the future, the physician had a duty to a specific existing person to give the drug in Imperfect Drug I.

It does not follow, however, that the physician has a duty to provide the use of his or her

kidneys when the violinist subsequently is in need of their use. Note that there is nothing in (1) – (3) above, which ground the physician's obligation to provide treatment, that also supports his alleged obligation to provide the future use of his kidneys. And this absence of a further future obligation holds, even on the assumption that a woman can avoid responsibilities to the fetus if she forgoes sex. The difference between the two cases lies in the fact that there is a duty to provide the drug in Imperfect Drug I, but there is no duty to have sex. There is then a clear asymmetry between the woman's and the physician's cases. It then becomes very difficult to see why advocates of the responsibility objection are committed to the truth of (R). Thus, a decision by a woman to abstain from intercourse to avoid incurring obligations due to the dependence of the fetus does not have any implications for Imperfect Drug I.

It is important to be clear about this. Suppose a woman forgoes intercourse. No rights are violated in such a case because *there is no duty to the possible fetus that may be conceived to in fact be conceived*. That is, there is no duty for her to have intercourse and cause the existence of the fetus. There is clearly no duty for her to have sex. Suppose she has sex, however, and the fetus is conceived. Then clearly it will be dependent upon her. It seems eminently reasonable to claim that she is causally responsible for the fetus's existence *and its dependency*. And there clearly was a way for her to avoid making it the case that the fetus exists in the first place, a way that would *not* violate any other obligations she had. She could simply have abstained from having intercourse. It is reasonable to hold then that the woman has acquired an obligation to provide aid to the fetus. Therefore, Boonin fails to defeat the objection he interposed.

To recount. According to Boonin, the responsibility objection amounts to the contention that the woman incurs an obligation to provide aid to the fetus precisely because there was no way for her to make it the case that the fetus exists without making it the case that the fetus exists in a state of dependence on her. The responsibility objection holds that this contention constitutes a foundation for the ascription of moral relevance to the biological relationship between the woman and the fetus. But Boonin wants to discount the significance of this biological relationship. Thus, he attempts to argue against the "responsibility objection" by the Imperfect Drug cases.

Yet as noted above there is considerable reason to see the imperfect drug cases as distinct from the conception case – a fiduciary duty to an existing person in those cases that has no parallel in the conception case. The woman does not have any parallel duty to bring the fetus into existence. Hence, Boonin's argument against the significance of the biological relationship between the woman and her fetus fails. And if this argument (against the responsibility objection) fails, there is reason to doubt Boonin's defense of the Thomson line of argument.

2. Warren

The late Mary Anne Warren argues that the morally relevant notion is not that of human being, but rather *personhood*. Being human, she claims, is simply not sufficient for full moral status. Her reasons are for thinking this are perhaps best seen in her further claims about the traits

necessary for personhood and that the fetus does not possess the necessary capacities for personhood:

> *I suggest that the traits which are most central to the concept of personhood, or humanity in the moral sense are, very roughly, the following:*
>
> *1. Consciousness (of objects and events external and/or internal to the being), and in particular the capacity to feel pain;*
>
> *2. Reasoning (the developed capacity to solve new and relatively complex problems);*
>
> *3. Self-motivated activity (activity which is relatively independent of either genetic or direct external control);*
>
> *4. The capacity to communicate, by whatever means, messages of an indefinite variety of types, that is, not just with an indefinite number of possible contents, but on indefinitely many possible topics;*
>
> *5. The presence of self-concepts, and self-awareness, either individual or racial, or both.*
>
> *All we need to claim, to demonstrate that a fetus is not a person, is that any being which satisfies none of (1)-(5) is certainly not a person. I consider this claim to be so obvious that I think anyone who denied it, and claimed that a being which satisfied none of (1)-(5) was a person all the same, would thereby demonstrate that he had no notion at all of what a person is-perhaps because he had confused the concept of a person with that of genetic humanity. If the opponents of abortion were to deny the appropriateness of these five criteria, I do not know what further arguments would convince them. We would probably have to admit that our conceptual schemes were indeed irreconcilably different, and that our dispute could not be settled objectively.*

Apparent implications of Warren's position have drawn the most attention and controversy, but it is worth first noting the following. Though it may be reasonable to assert that the possession of properties (1)-(5) may be a sufficient condition for a right to life, it is unfortunate that Warren simply holds that it is "obvious" that the possession of none of the attributes is sufficient for holding that an entity is not a "person" with a right to life. In effect Warren claims that failure to possess any of these traits disqualifies a being from full moral status. But it can certainly be objected that in selecting these particular traits as constitutive of personhood that Warren has begged the question against those who think a being who doesn't possess these qualities may still have full moral status. The capacities to have interests or to feel pain, for example, seem independent of these five traits. And these capacities have sometimes been cited as sufficient for the right to life. Unfortunately Warren gives us no reason to prefer her list to these or other criteria for moral status.

In a Postscript to her essay, Warren addressed the argument that her position justifies not only abortion at any stage of development, but also infanticide. She grants that "[a] newborn infant is not a great deal more personlike than a nine month fetus." And she further concedes that her argument implies that neither infanticide nor late term abortion is the killing of a person. She claims, however, that unlike a late term fetus, the "deliberate killing of viable newborns is virtually never justified," even though neither killing a fetus nor killing a newborn is the killing of *a person*. According to Warren part of the reason for this is "neonates are so very close to being persons." Since they are so close, killing them:

> *requires a very strong moral justification as does the killing of dolphins, whales, chimpanzees, and other highly personlike creatures. It is certainly wrong to kill such beings just for the sake of convenience, or financial profit, or "sport."*

This response is striking both in how much it leaves unexplained and how much it may end up conceding. She says that newborn infants are "very close to being persons." We can of course wonder what this "very close" comprises. More importantly, we may well wonder why a nine-month fetus is not similarly "very close" to being a person. Further, Warren seems to equate the killing of newborns with the killing of dolphins, etc. This position at least requires more argument in support.

Warren also claims that there are moral restrictions on how we may treat "personlike" creatures. Then notice. If a late term fetus is sufficiently like a newborn infant to count as personlike, and there are moral restrictions on how we may treat them (e.g., when they may be killed), then it would appear that there could be at least some restrictions on the moral permissibility of late term abortions. Thus, her response to this worry about her argument seems decidedly uncompelling.

Warren claims that there are two other reasons sufficient to sustain prohibitions on infanticide. First, she claims that "in most cases" there are plenty of people willing to care for an "unwanted" newborn infant. "Needless destruction" of the newborn then "deprives some person or persons of a source of great pleasure and satisfaction, perhaps severely impoverishing their lives." Second she claims that "most of us value the lives of infants…" and that so long as we are willing to bear the costs, "it is wrong to destroy any infant which has a chance of living a reasonably satisfactory life."

In this argument, Warren seems to suggest that as long as other individuals would provide financial support for newborns, it is wrong to kill them. The blameworthiness (of such killings) is based upon the interests of those who would support the baby, not on the rights of the baby, as it does not have a right to life. It is difficult to see how this argument is valid, however, given that the infant does not have a right to life. It is difficult to see how it could be a *serious* offense to let an infant die or even to kill it, insofar as only the sentiments of other persons are offended. Imagine that we have purchased some prized work of art for the purpose of destroying it as part of a You Tube video. Others protest, even offering us a tidy profit, if we

will sell them the work. We refuse. We film our destroying of the art work, uploading the video of the destruction to You Tube. Have we done anything immoral? Clearly not. But, it will be objected, there is a significant difference between the work of art and the newborn infant. The latter is "personlike" in a way that the work of art is not. *And this is precisely our point*. Warren's argument may look valid, but that is only because she is trading on the "personlike-ness" of the newborn infant. Without the personlike-ness, there is nothing compelling about the "other persons' interests" argument. With it, there is nothing to distinguish the newborn infant from the very late term fetus.

Warren seemingly attempts to dismiss this objection, by allowing that even if infanticide is considered impermissible, late term abortions are permissible:

> *If these arguments show that infanticide is wrong, at least in this society, then why don't they also show that late-term abortion is wrong? After all, third trimester fetuses are also highly personlike, and many people value them and would much prefer that they be preserved; even at some cost to themselves. As a potential source of pleasure to some family, a viable fetus is just as valuable as a viable infant. But there is an obvious and crucial difference between the two cases: once the infant is born, its continued life cannot (except, perhaps, in very exceptional cases) pose any serious threat to the woman's life or health, since she is free to put it up for adoption, or, where this is impossible, to place it in a state-supported institution…….In contrast, a pregnant woman's right to protect her own life and health clearly outweighs other people's desire that the fetus be preserved-just as, when a person's life or limb is threatened by some wild animal, and when the threat cannot be removed without killing the animal, the person's right to self-protection outweighs the desires of those who would prefer that the animal not be harmed. Thus, while the moment of birth may not mark any sharp discontinuity in the degree to which an infant possesses a right to life, it does mark the end of the mother's absolute right to determine its fate.(emphasis added)*

Warren's analogy with a serious threat to life or limb as a justification for late term abortion is revealing. Her argument is based upon the concept of self-defense, a point to be further addressed in the next section. The relevant moral difference, according to Warren, between a newborn infant and a viable fetus is not based on differences in their "personlike" properties. Rather it is because the latter but not the former poses a threat to the life or health of the mother. Notice that she pursues this difference as she considers the wild animal analogy: "if the threat cannot be removed without killing it." It is not clear that Warren sees that this as a serious limitation on the moral permissibility of unrestricted abortion. Indeed, if we accept Warren's argument at face value, there is no justification for abortion on demand or nontherapeutic abortions. And this apparent consequence is consistent with the holding of Roe that abortion in the third trimester may be proscribed except in cases in which the health of the woman is threatened by the continued gestation of the fetus. Warren's stated argument

then does not justify abortion on demand in regard to third trimester pregnancies. (It may be that the stated argument actually imposes greater restrictions; note that Warren mentions a "viable fetus." In some cases, as we noted, viability may extend "further back" into the second trimester.)

3. English

Jane English made two significant contributions to the abortion debate, both important for our purposes here. She insisted on the notion of self-defense as the basis for justifying abortions and on the "unhelpfulness" of the concept of person. We will not be focusing on self-defense. Instead we are interested in her treatment of the concept of a person and it's relevance to the morality of abortion.

English argues that the concept of "person" is both vague and unhelpful in resolving the problem of abortion. She notes that opponents of abortion argue that the fetus satisfies certain sufficient conditions for personhood – having a significant moral status, which includes the right to life – but that:

> *…… friends of abortion counter with necessary conditions for personhood which fetuses lack. But these both presuppose that the concept of a person can be captured in a strait jacket of necessary and/or sufficient. Rather, 'person' is a cluster of features, of which rationality, having a self concept and being conceived of humans are only part. What is typical of persons? Within our concept of a person we include, first, certain biological factors: descended from humans, having a certain genetic makeup…. There are psychological factors: sentience, perception, having a concept of self and of one's own interests and desires… There are rationality factors: the ability to reason and draw conclusions, the ability to generalize and to learn from past experience…There are social factors…Then there are legal factors…Now the point is not that this list is incomplete, or that you can find counter instances to each of its points… There is no single core of necessary and sufficient features which we can draw upon with the assurance that they constitute what really makes a person; there are only features that are more or less typical (emphasis added).*

We have quoted her at length to illustrate her contention that, as the last sentence claims, we cannot settle on a "single core" of features that are clearly constitutive of a person. In some cases, we might draw on selected features; in others we might draw on different features. Settling on biological/genetic factors (Noonan) or rationality or communicative ability (Warren) are both plausible, but neither is compellingly definitive. We might also point out that settling on one set of factors rather than another may say more about the intended conclusion of an argument rather than the actual constitutive properties of a person.

English also argues that the concept of person is not helpful insofar as it is sometimes permissible to kill persons and also sometimes impermissible to kill nonpersons. Nonetheless,

she argues that it is reasonable to assume that, based on similarities to newborn infants, late term fetuses may only be permissibly terminated to "avoid significant injury or death." Further, early abortions are permissible for much less compelling reasons, due to the fact that the early fetus bears little similarity to a newborn.

English attempts to justify her conclusions simply on the basis of similarities of the fetus to newborns in the third trimester and dissimilarities to newborns in the early stages of pregnancy. While we think that English is right to see differences in moral value at different stages, and hence provide a framework for Roe, we believe that there is a better way to sustain the moral underpinning of Roe..

IV. Vagueness and Accrual

Here we argue that the concept of person – or better, a being that has moral value – need not be abandoned simply on the basis that it is a vague concept. Further, we argue that the vagueness of the concept vindicates the decision in Roe. The fact that "person" may be a vague concept, i.e. cannot be defined in terms of necessary and sufficient conditions, need not indicate that it may not form the basis for judicial opinions such as Roe. Vague terms such as "rich" may be indefinite, but that fact does not imply that extreme examples may not be discerned. For example, it would generally be accepted that a person who has a billion dollars is rich, and a person with one hundred dollars is not rich, other things being equal. Further, there may be no way to determine at what point one becomes "rich" when the person with one hundred dollars is given another dollar per second, but clearly that point would be reached.

We take a moment to point out the similarity between the accrual view and what is known as gradualism, the view that the moral value of the fetus increases as the fetus develops. This theory would support the structure embodied in Roe by positing that early stage abortions are morally distinct from late term abortions, due to the development of the fetus. Warren Quinn's summary of the position is apt:

> *The gradualist supposes that our ordinary concepts recognize and make room for processes in which things come into existence and that the motivation behind this is to be distinguished from the very general linguistic considerations that produce vagueness……The resulting picture is this: The fetus is a human being in the making, a partly but not fully real individual human being.*

Little instructively amplifies Quinn:

> *On this view, that is, the human being is always and already there from the start, but only in partial existence. The embryo and early fetus already exist as an organism in empirically determinate form, of course, just as a house in the process of being built [Quinn's example] already exists in fully determinate form as a*

> *"construction." In both cases, though, the entity is more fundamentally understood by reference to another substance—human being and house, respectively—that it is coming to be. "Organism," like "construction," is what Quinn calls a "mock generic"—a sortal we use to mark a determinate reality that, in a further sense, is best understood as a different substance—human being and house—that is gradually coming on the scene.*

We agree of course with Quinn and Little that there is a process. Further, an embryo of course differs from an eight-month fetus. And it should further be pointed out that both embryo and late-term fetus are instances of the same type – human being. In this, Noonan is certainly right. No matter which stage of development we select, the organism we see is an instance of the type *human being*. Our worry, however, is that the Quinn / Little account has yet to explain why it is that moral value accrues as this organism develops.

We are inclined to think Kate Greasely comes closer to a clear articulation of why it is that a 12 week fetus, say, has moral value, but not the same moral value as a 32 week fetus. First, she agrees with English that a cluster of qualities constitutes being a person, but there is no identifiable core; there are no severally necessary and jointly sufficient qualities that can be singled out. The more important point is her distinction between *embodiment of human characteristics and possession of the characteristics sufficient for personhood*. Just as different individuals may possess differing degrees of those qualities constitutive of personhood, so an early term fetus *embodies* human characteristics to a different and lesser degree than a late term fetus.

The concept of the embodiment of human characteristics can explain the existence of a "common fellowship" enjoyed by all human beings. Just as individuals can possess characteristics of archetypical personhood to varying degrees, so also can human embodiment be present in varying degrees. This fact would explain the moral and legal prohibition against desecration of human corpses, the prohibition against cannibalism, and the prohibition against sexual and other types of criminal assault against an individual in a persistent vegetative state.

The consequence of the application of the concept of human embodiment for the analysis of the moral status of the fetus is the following, according to Greasely:

> *Late fetuses do not bear out the constitutive features of personhood any more than embryos do, even if they are more sentient. But they do possess a great deal more of human embodiment. While a zygote possesses hardly more than the genetic coding for a human being, a late-term fetus embodies much of its actual human form.*

Thus, it is reasonable, according to Greasely, to confer greater moral status on late term fetuses than early fetuses. We would add that we must also include the embryo and the zygote.

That is, once one accords moral value to late term fetuses because of its embodying human characteristics, then both early stage fetuses, embryos and zygotes must be accorded *at least some* moral value. It is not simply the potential of a zygote to develop into a fuller embodiment of human characteristics. It is an actual organism, early in the process of development. One consequence is thus seeing an organism that embodies human characteristics as *intrinsically morally valuable*. Noonan was right about being human as morally valuable. He was mistaken, however, that the value is the same throughout. Both Greasely and English seem to slide toward the idea that late term fetuses have greater moral value because we see something in them close to us. But this cannot be the basis of moral value.

As we have seen, the concept of a person, or a being possessing moral value, is vague. This is not, however, just a linguistic matter. There are matters of fact which justify applications of the term. Better: there are degrees of moral value. Or as McBrayer argues, " 'Personhood' comes in gradations."

Here we briefly develop what we mean by "vague." First, we agree with gradualist like Little and Greasley there are no necessary and sufficient conditions for what it is to be a person. More important, a being may fail to be a person in some sense, but nonetheless have moral value.

A second sense of "vague" is perhaps more relevant here. The biological process of fetal development, as pointed out earlier, is continuous. At certain points in this process, it will be evidently true that the fetus possesses a particular property P; at other points it will be evidently true that the fetus does not possess the property P. And still at others, *it will be an open question whether the fetus possesses the property*. Being able to feel pain is likely such a vague fetal property. The relevant property here should come as no surprise: being a person. So, we are suggesting a view that holds, among other things, since the process is continuous and developmental – and while there may be points in the process where it may be clear that the fetus is or is not a person – there are other points where it will be indeterminate, that is, vague. Thus, we are suggesting, among other things, that in answer to the question whether or not the fetus is a person at 24 weeks, the appropriate answer may plausibly be, "Well….."

We are suggesting that there is a plausible view that could serve as a moral vindication for Roe. This view rejects the all or nothing views of those like Noonan and Warren, and it has been the burden of much of the preceding to show that those views are not compelling, even if plausible. Still to make out the case that there is a moral vindication of Roe, it is necessary to proffer a basis for justifying the difference in valuation of the status of the fetus as it develops.

The relevant issue regarding fetal development is the logic of the ascription of value to entities that develop over time. The following is a brief gloss of our view of a developmental process.

We understand the process from conception to term as a developmental process. And we understand this phrase in two ways. First, we take embryonic development as a fundamentally biological process. The principal feature of this process (for our purposes) is that it is a

continuous process. But it is a "rule-governed" process, guided by the individual organism's particular genetic structure. The unfolding of this structure – the development – does not have identifiable markers (of whatever sort) of discrete, determinable phases. We can of course talk about "stages" of embryonic or fetal development. But to do so is, in our view, analogous to the structure/function distinction. Given certain contexts and interests, we might treat some family of cells, e.g., cortical sheets in the brain, as a kind of structure, or, given different contexts, we might treat that same family – or view that family – functionally. There is no bright line where structure leaves off and function begins.

Similarly, we might talk about a certain stage of embryo development, such as the Carnegie stages. But that we identify 23 Carnegie stages, rather than 20 or 24 does not in itself reflect some objective fact. And in this sense, Carnegie stages are "arbitrary" points in the developmental process. Although we can clearly note the difference in morphological changes between stages 13 and 23, these changes are continuous rather than discrete. Similarly the "decision" to draw the line between the embryo and the fetus, while not wholly arbitrary, nonetheless reflects an interest of ours, say, in the separation of the fingers. Part of the importance of Carnegie stages, for illustration of the view here, is that it is not primarily a chronological distinction.

This is not unimportant. Indeed part of Noonan's argument is that "viability" of the fetus does not pick out some uniquely identifiable and objective point in the fetal developmental *process*. To put the matter somewhat paradoxically, we can be as objective about viability as we want to be. Survivability outside the womb varies as a function of a number of factors, including time; probabilities increase the older the fetus. But there is no way to say that a fetus has clearly reached viability. (Within reasonable limits of course: Clearly an eight month fetus is viable. Neither Noonan nor we deny that.) This feature might be called "vagueness" of the process or the "variability" of the process.

There is a second sense in which we want to speak of the process. As part of the argument that Roe has a moral vindication, we are presenting an accrual theory of value, which says that in some cases, certain beings (objects, organisms – nothing turns on which term is used) *become valuable* and *acquire greater* value as they undergo some process. Thus, in this view there is the process of acquiring value, which supervenes on or depends on a number of factors, including being an organism having the DNA of the species type *human*, and the subsequent biological process of embryonic and fetal development. One consequence of this view is that the more developed a fetus (or embryo) the more value it has acquired. The onset of brain waves at about 24 weeks is a new stage in two processes: the fetal development process and the acquiring value process.

It is important to note that this second sense of "process" precludes identifying an unambiguous dividing line. We can talk about a being at some stage of this process having greater value than a being at some earlier stage. But again, it is variable at which point something acquires value sufficient for X. Thus, it is (part of) the aim of this paper in part to argue that (a) this view of value, especially as it relates to embryonic and fetal development is a

plausible view, and (b), given this accrual view of value is plausible, there is then a moral vindication of Roe v. Wade.

The significance of fetal development is not the potential of the fetus to grow and develop. As noted, the Potentiality Principle is dubious. Rather, the fetus accrues moral value as it develops.

Although value is generally not conferred on the basis of potential, it may be conferred on the basis of the degree of "actuality" that the fetus accrues during the process of development. For example, although an individual who will be an attorney in the near future may not practice law prior to being sworn in as an attorney, he or she may function as a Certified Law Student in most states, based upon his or her completion of certain numbers of law courses. Also, an individual may not practice medicine prior to becoming licensed to do so, while he or she may qualify as a Physician Assistant on the basis of completion a certain number of similar courses.

What may be termed the Accrual Principle may be applied in other contexts as well. With respect to inanimate objects that are subject to development over time, value accrues. For instance, a parcel of real property may have a certain value, but the lot with a foundation constructed upon it will, other things being equal, have a greater value. The lot, foundation, and framing of a house will in turn have greater value still, but not the value of the completed house. Similarly, the process of completing a sketch on a canvas, a partially painted canvas, etc., will not have the value of the completed painting. Finally, in a commercial setting, a seed will not have the value of a partly grown tree, which in turn will not have the value of a fully-grown tree.

As a different example, think about the value of a marriage. A marriage that lasts a few days or weeks may have lasted long enough to have some value. But it's easier to think of a marriage that lasts for several years or even decades as possessing greater value. The felt loss is greater in the latter case because something of great value has been lost. That is not to say that there won't be some felt loss in the brief marriage. But note that we might easily say something like, "It had such promise."

It may however be responded that in each of the above cases, the accrual of values is due to the investment of time, resources, and effort by individuals, all of which are irrelevant to the case of the fetus.

In an important essay, R. George and P. Lee argued that the human embryo is the same organism as is the adult, though immature:

> *[The] claim that human embryos are not human beings, or not "full human beings," or merely "potential human life," simply cannot be squared with the facts of human embryogenesis and developmental biology. Briefly, modern embryology shows the following: (1) The embryo is from the start distinct from any cell of the mother or the father, for it is growing in its own distinct direction and its growth is internally*

directed to its own survival and maturation. (2) The embryo is human, since it has the genetic constitution and epigenetic primordial? characteristic of human beings. (3) Most importantly, the embryo is a complete or whole organism, though immature. From conception onward, the human embryo is fully programmed, and has the active disposition, to develop himself or herself to the next mature stage of a human being. And unless prevented by disease, violence, or a hostile environment, the embryo will actually do so, despite possibly significant variation in its circumstances (i.e., in the mother's womb). None of the changes that occur to the embryo after fertilization, for as long as he or she survives, generates a new direction of growth. Rather, all of the changes (e.g. those involving nutrition or environment either facilitate or retard the internally directed growth of this persisting individual.

We have already explained our opposition to the Potentiality Principle. But George and Lee present an argument worth considering, which is fairly rendered thus:

1. The embryo is distinct from any other entity;

2. The embryo is human;

3. The embryo is "complete" or "whole" though immature;

4. The embryo directs it own pattern of growth.

5. Thus, at any stage of development, the zygote/embryo/fetus has full moral status.

It is clear however, that the account provided is mistaken or begs the most important questions. First, there is no dispute as to the truth of the first two contentions. The claim in the third proposition that the embryo is "whole" and "complete" is clearly false if interpreted as meaning that the embryo possesses the fully developed physical and, more importantly, the mental properties of an adult person. Perhaps more importantly, the embryo clearly does not posses the same qualities as a nine month old fetus.

If on the other hand the third claim is interpreted to mean that the embryo is "whole" and "complete," in the sense that it possesses the capacities and properties that entitle a fully developed person to right to life, then the claim begs the question as to the moral status of the embryo. In this connection, the reference to the alleged fact that the embryo "directs himself" (sic) to the next stage of development is patently misleading. The assertion falsely implies that the embryo consciously directs its own development, as a fully developed person might. The assertion, properly considered, is simply a restatement of the Potentiality Principle.

On the Accrual Principle, therefore, fetal development may be seen as the gradual attainment of different degrees of actuality, not merely the possession of potential. The moral status of the fetus would on this analysis accrue as the fetus develops and more closely approximates

becoming an actual person. On this analysis, viability is not a proper criterion for personhood as held in Roe. Rather, viability is roughly correlated with the fact that the fetus has achieved a significant level of development such that the fetus is substantially similar to actual human beings. Given that viability merely indicates a certain level of development, it may be reasonable for states to differ to a limited degree in terms of the significance they assign to viability.

Potentiality Principle proponents will be eager to ask, of course, about the nature of this similarity. They will suspect that in answering this question that the door will be open to their saying that we too have relied on the Potentiality Principle. That is, they suspect that "similarity" comprises, among other things, the potential to…..(where the blank is filled in by some property of fully developed human beings.)

But that misunderstands the claim of *value accruing* as *development proceeds*. Consider a five month old fetus. It has, on the current view, developed *enough* and is *sufficiently similar* to actual persons such that it has now *acquired value*. In other words, the five month old fetus possesses moral value *in and of itself*. The point of the phrase "sufficiently similar" highlights our agreement with Greasely. There is a set of characteristics that are possessed by an "archetypical" human being. We hold – as we think other gradualists must as well – two further important points. Already noted is that this archetype is the end result of a development process. Our perhaps more controversial claim is that just as the fully developed being is intrinsically morally valuable, so the *actual developing organism* at points in the process has acquired moral value. A four month old fetus has an intrinsic moral value *because* it is has acquired a level of actuality as it has continued to develop toward the archetype.

Thus, we agree that Greasely is right that embodiment matters. And Noonan is right that being a *human being* – in the sense of possessing an individualized genetic code – matters. Nor need we deny that intrinsic moral value supervenes on natural properties. (We leave that argument to other theorists, however.) And this acquired or accrued value may be enough to warrant proscribing abortion.

The current view differs from Noonan & George, et. al. in that it does not hold that the value comes all at once. Indeed we think such a view is as counterintuitive as the idea that a nine month fetus is devoid of moral status but an hour old newborn is not. Thus we differ significantly from Warren, who holds that a being has to have the relevant properties of – apparently – an adolescent child, e.g., the capacity to converse, to plan, etc. Warren apparently thinks a being actually has to possess those properties. The accrual view, however, holds that abortion may be proscribed in cases where the fetus is *relevantly similar*. (Again, note the sense of relevantly or sufficiently similar in our view.)

Another way to see this difference is to think of the three views and what it means to have some potential property (= the potential to have the property). For Warren, having some potential property is never sufficient to trump the rights of an actually person. Be as close to an actual person as you please, if a being does not possess the actual (actualized) property

sufficient for being a person, it simply can't "compete" morally with an existing person. George, on the other hand, thinks that once a being has the potential property – no matter how early on the developmental path – that being now has the same moral status as any fully developed human being. On the view presented here, the moral status of a zygote/embryo/fetus having some potential property varies; more importantly, in our view it is having *actual properties* that make it sufficiently similar to beings that unambiguously have full moral status. That is, the actual properties possessed at some point in development that make it the case that the fetus has the potential to develop into the type of being that has full moral status. Early in development it may not be sufficiently similar to have the requisite value. Further along in development, e.g., five months, the fetus may be far enough along in its development such that it has the requisite value, the requisite moral status.

It is perhaps worth noting that the current view distantly approximates St. Thomas's view in the respect that moral status occurs *after* conception. Thomas held that ensoulment did not occur until several weeks into development – approximately six weeks – and longer for female than male. This view was a result of both his hylomorphism and his understanding of an Old Testament text regarding the differences in penalty for someone causing a miscarriage in the early or later stages of pregnancy. Of course, Thomas thought, like Noonan or Warren, that the moral (/spiritual) value came all at once, and with this we disagree.

V. A Note on Accrual and Casey

The fact that "person" or "personhood" is a vague concept, conjoined with the Accrual Principle, demonstrates the plausibility of the Roe framework. The Supreme Court held that abortions are permissible in the first trimester, but that the states may proscribe most abortions in the third trimester, due to the fact that the fetus is viable. Nonetheless, in Planned Parenthood v Casey 505 U.S. 833 (1992), the Supreme Court made what are to this date the most sweeping emendations to the Roe framework. The Court held:

> *After considering the fundamental constitutional questions resolved by Roe, principles of institutional integrity, and the rule of stare decisis, we are led to conclude this: the essential holding of Roe v. Wade should be retained and once again reaffirmed. It must be stated at the outset and with clarity that Roe's essential holding, the holding we reaffirm, has three parts. First is a recognition of the right of the woman to choose to have an abortion before viability and to obtain it without undue interference from the State. Before viability, the State's interests are not strong enough to support a prohibition of abortion or the imposition of a substantial obstacle to the woman's effective right to elect the procedure. Second is a confirmation of the State's power to restrict abortions after fetal viability, if the law contains exceptions for pregnancies which endanger the woman's life or health. And third is the principle that the State has legitimate interests from the outset of the pregnancy in protecting the health of the woman and the life of the fetus that may become a child. These principles do not contradict one another; and we adhere to*

each.

The Court rejected the "rigid" trimester framework, and instead emphasized the distinction between the point of viability and the period preceding viability. Although the Court abandoned the trimester framework, the Court affirmed the right to have an abortion prior to viability, as well as the states' right to generally proscribe abortions after viability. The Court therefore reaffirmed the judicial determination that pursuant to the woman's constitutional rights, she has a right to have an abortion until the point of viability. The Court also held that the states' interest in protecting life vests at conception, but that until viability the states' interest is secondary to the woman's right to elect to have the procedure.

The Court held that although the woman has a right to elect to have an abortion until the point of viability:

> *…it does not at all follow that the State is prohibited from taking steps to ensure that this choice is thoughtful and informed. Even in the earliest stages of pregnancy, the State may enact rules and regulations designed to encourage her to know that there are philosophic and social arguments of great weight that can be brought to bear in favor of continuing the pregnancy to full term and that there are procedures and institutions to allow adoption of unwanted children as well as a certain degree of state assistance if the mother chooses to raise the child herself.*

The Court also held that constraints apply to the states' power to attempt to influence the woman's decision. It held that the state's rules and regulations that are adopted to influence the woman's decision may not be so oppressive as to constitute an "undue burden" on the woman's exercise of her right to have an abortion. The Court held:

> *A finding of 'undue burden' is a shorthand for the conclusion that a state regulation has the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus.*

In the years since Casey was decided, many state legislatures have attempted to ascertain the limit of the "undue burden" test. Both the assertion that the woman has a constitutional right to have an abortion until viability and that the states have a cognizable right to express preference for life from the point of conception are rationalized by the argument presented herein. Because the concept of personhood is vague, it is reasonable for both the Court to hold that the woman has a right to have an abortion until the point of viability and that the states have right to express a preference for life from conception forward.

There is no contradiction between the two positions in the sense that there is a lexical ordering

in terms of the strength of the source of the two positions. The woman's right to have an abortion is based upon constitutional considerations, whereas the states' interest in protecting life is less compelling. The latter, though "compelling," may not override the former.

It would be thus be a mistake to think that the ruling in Casey undermines the analysis here. Since Casey identifies viability as the point at which states may legitimately proscribe abortion, it might be thought that a moral vindication of Roe would be moot. But that is a mistake on two counts.

First, viability is itself a *developmental* notion. Indeed, we agree with Noonan that viability does not provide a single criterion that can be straightforwardly applied in every case. Of course, the reason for this is that viability does not locate a *point*, such as conception, or the detection of brain waves, or birth. Rather viability is best understood as picking out a stage. There is nothing odd, either from the perspective of common sense or biology in speaking of "degrees of viability." Thus, while some identify viability occurring at 23 weeks, about 1 in 5 to 1 in 3 such premature infants will survive, if provided quality care. Likelihood of survival increases noticeably at 24 to 25 weeks, but it is not until 26 to 27 weeks that likelihood of survival increases to almost 9 in 10 (with appropriate care). There is thus a range of a *month*. (Longer if we consider earliest premature survival, born at nearly 22 weeks.) The obvious difference between 27 weeks and 23 weeks is…*development*. We are thus identifying a *developmental stage* when we consider viability.

Second, and equally important, while Casey to some extent supersedes Roe, the moral landscape is unchanged. That is, it remains to provide a plausible moral view, which would sustain Casey. The arguments of Thompson or Noonan must still be met with a plausible account of why Casey, no less than Roe, can be morally vindicated. Our analysis does so not only for Roe, but "carries over" to Casey.

We have undertaken to defend the following claims. Neither arguments for the unrestricted immorality of abortion or the unrestricted permissibility of abortion are compelling. We further take it that the outline of the accrual theory is sufficient to provide a plausible moral theory that might underlie the Roe decision. Thus, we take it there is a *moral vindication of Roe v. Wade*.

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Was Brexit Inevitable?

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In the last few years the balance of power in the world has changed dramatically. Xi Jin Ping has declared that this is the era of China which, he said, “will take global centre stage by 2050”. Who can dispute that China’s star is rising, while the West is in decline? It is not only that its economy is growing at a rate of 6 or more per cent per annum, faster than Europe or the US, and that China is making impressive progress in technological innovation.

A dangerous tide of chauvinist, intolerant and divisive populism is sweeping through Europe and America. The reputation of American democracy has been shattered by the election of Trump. A poll by Pew found that people in many countries, including Indonesia, Germany and Canada, have more trust in China’s leadership than in America’s. Europe’s influence in the world has also been substantially weakened by the expected departure of Britain, one of its three most important members. The Brexit vote could not have come at a more dangerous time for Western liberal democracy.

Britain has not proved immune to the dangers of nationalist populism. When, in the face of protests from ardent Brexit supporters, a court ruled that Parliament should have the fina say on the result of negotiations with the EU after the referendumt vote, the Daily Mail, our most influential daily paper, denounced the judges as “enemies of the people”! It was an outburst reeking of fascism. Only after widespread expressions of outrage from libertarians did the Prime Minister and the Minister of Justice show any inkling of concern. Even then, while they reassured us that they respected the independence of judges, they uttered not a word of criticism of the Mail’s attack on a fundamental principle of democracy. The Mail, unchastened and unrestrained, has since accused those like Philip Hammond, the Chancellor of the Exchequer, who expressed only moderate support for Brexit, of treason!

It has also undermined Britain’s own liberal democracy. We have become a country less tolerant of immigrants. People are no longer ashamed to display xenophobia in public. Until the vote for Brexit, our history, like that of the United States, was one of democracy based on the political philosophy of John Locke, who believed the wishes of the majority must be subject to checks and balances, to the rule of law and to the rights of the individual and of minorities. With scarcely a murmur of dissent, our Members of Parliament have now adopted Rousseau’s doctrine that the will of the majority must always prevail. They have decided that they must act as delegates and not, as the philosopher Edmund Burke insisted, as representatives who take into account public opinion and the evidence and arguments, and then exercise their own judgment.

History shows that, ever since the days of the Committee of Public Safety and Robespierre,

who used to inflict nightly readings from Rousseau's works on the daughters of the landlord in whose house he lodged, Rousseau's disciples have mostly been populist autocrats and dictators. Mussolini loved referendums. Hitler and Stalin invoked the "will of the people" to justify their suppression of human rights. Recently President Erdogan has used a referendum in Turkey to increase his autocratic powers and extend his rule. It is not generally known outside Germany that, in the light of their experience with Hitler, Germans adopted a post-war Constitution which prohibits the use of the referendum by the Federal government except in the case of boundary changes between the Lander. How wise they were!

The Brexit referendum has also illustrated how unsuitable a referendum is as an instrument for making complicated decisions. It is quite simple, we were endlessly told by Mrs May: "Brexit means Brexit." This reminds one of HL Mencken's dictum: "For every complex problem there is an answer that is clear, simple and wrong." In fact, Brexit meant different things to its various supporters. To most it meant "winning back control, especially of immigration: "We want our country back". An influential last minute scare told them that millions of Turks were poised to flood into Britain, since Turkey, according to Boris Johnson, a leading Brexiteer (and until recently our Foreign Secretary), was about to join the EU. No diplomat regarded this as the remotest possibility! Most influential of all were prominent advertisements which declared that we could save £350 million a week to spend on the National Health Service, whereas the government now admits we will have to pay at least £40 billion to the EU as the cost of divorce. Leavers were also promised, and many still believe, that as soon as we are free from the EU Customs Union Brexit will mean a more prosperous Britain created by a glorious bonanza of free trade agreements with the rest of the world – no doubt with the help of Trump and his policy of "America first."

So can nothing relieve the Brexit gloom and must democrats throughout the world reluctantly accept that Britain's self-inflicted harm is irreversible? In fact there are grounds for hope.

First, the negotiations for a unique "deep and special relationship with the EU" that Mrs May hopes to achieve, are likely to fail, leaving Britain with a disastrous No Deal. There is a real problem with securing a deal in time. EU law specifies a limit of two years for any country to negotiate its exit. Since Britain gave notice in March 2017 of its intention to leave, this means exit by March 2019. In practice the time limit is even stricter, as the European Parliament must ratify the deal. This means that at the very least the principles of the deal must be agreed by October 2018, certainly by November at the latest. But so far negotiations have made virtually no progress on the controversial items. The timetable now looks well-nigh impossible.

Ministers assured us that a good deal for Britain would present no difficulty because we were in a strong bargaining position. The 27, they argued, have a big trade surplus in their trade with us and therefore have more to lose from No Deal than we have. It was a ludicrously complacent view. The 27 's exports to us are less than 5 per cent of their total exports; ours to them are 44 per cent of ours. We have far more to lose from No Deal than they have. More important, we have to argue against the clock while the 27 are under no time constraint, which puts us in a weak bargaining position.

The government has now conceded that there is a time problem and has secured a “transition period” of two years after March 2019, to settle outstanding details and allow business time to adapt. But transition to what? The Cabinet has not yet agreed the final destination. Mrs May described the period as one of implementation. But what is there to implement if there is no deal? During the transition after we leave, as non-EU members we will of course no longer have a say in influencing EU laws and regulations. We will become rule-takers and not rule-makers, hardly a strong bargaining position during a period when important details would still have to be negotiated.

The government’s weakness in the negotiations has been that the Conservative party seems irreconcilably split. Brexit fundamentalists, a very powerful group, simply want to leave. They hate the EU and envisage a Britain freed from the shackles of Europe that will prosper in an imaginary world of splendid national isolation. No problem for them about payments for past obligations as the legal price of divorce, no need for agreements about special access to the Single Market or membership of the Customs Union and no further role of any kind for the European Court of Justice. They have no worries about new tariff and non-tariff barriers and new bureaucratic obstacles at borders for exporters and importers if we are outside the Customs Union, losing its huge advantages for trade in by far our biggest market, and having to comply instead with the more constrictive rules and higher tariffs of the World Trade Organisation. Extreme Brexiteers also dislike the transition agreement because while it is in force the government say we would hope to continue as members of the Single Market and Customs Union and be subject to the ECJ’s jurisdiction. They further argue that a “transition” might be infinitely prolonged and prove a backdoor way to remain in the EU.

Most of the Cabinet and moderate, more pro-EU Conservatives accept that we will leave the Single Market and Customs Union, but argue for a ”soft” Brexit, a trade deal with a new kind of Customs Union and with maximum access to the Single Market, even if we are no longer full members. They realise that No Deal would be like “falling off a cliff”. However, the highly restrictive timetable, the weakness of a government with no overall majority, and above all the fact that all the proposals they have made so far were designed to reconcile the party’s internal differences rather than provide the basis of a possible settlement acceptable to both sides, have made its task of securing a soft Brexit almost impossible and No Deal an ever more likely outcome.

What happens next if there is No Deal? Perhaps surprisingly it may lead to No Brexit! The government has solemnly pledged that Parliament will have a meaningful vote before we leave. It seems clear that there is no majority for No Deal in the House of Commons or the House of Lords. Simply to offer the choice to accept or reject No Deal with no alternative is not a meaningful vote. The Government is unlikely to seek a general election, which it would be unlikely to win since the chaos of No Deal will be viewed as due to its own incompetence. Polls show that even most Conservatives blame their own government rather than Brussels for the lack of progress in the negotiations. It would also be inconceivable for a Conservative government to decide that Parliament itself could override the people’s previous vote. The only real choice will be to let the people decide between No Deal or Remain in a new referendum.

Indeed support for a new referendum is growing steadily. It would not be a re-run of the last. The facts have changed. This time people would know what Brexit actually means.

What would be the chances of a different result? Polls show that opinion is beginning to shift. Talk of No Deal is beginning to have an effect. As the prospect becomes more real, the pound is likely to fall further, and already inflation has risen to 3 per cent because of its drop in value while wages have stagnated. Companies are beginning to speak out about the cost of Brexit, especially those like the car industry which depend on integrated supply chains and will face costly delays at border check points, as well as new tariff and non-tariff barriers. They have expressed fears that they may have to abandon manufacture in Britain altogether as it will no longer be profitable.

Our economy is already fragile, with the slowest growth rate among G7 countries, and even this slow growth depends on unsustainable levels of household debt and is forecast to slow down further if we leave. Our productivity compares poorly with that of Germany, France, the Netherlands and the Scandinavian countries. More bad Brexit news is in the pipeline.

People did not vote to become poorer. Would even passionate Leavers remain impervious if Brexit imperils their jobs and impoverishes their families? Perhaps Brexit is not inevitable after all.

When Freedom > Privilege – Oppression: Rethinking Identity Politics, Left Unity, and the Sanders' Revolution

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How can an identity strategy – that seeks to reduce oppression by prioritizing freedom over privilege – better unify the state power winning politics of the Bernie Sanders'-aligned forces, social movements, and the independent left?

Exploring what might be gained and given up by the left, when Sanders' anti-oligarch focused approach is engaged by this, and other identity unity-building strategies, may offer a pathway towards an answer.

1. **Countering Neoliberal Capitalists via an Identity Politics Strategy**

The current political formation inspired by Bernie Sanders targets the oligarchs as the main identity to oppose.[1] Sanders frames this identity strategy in the following way:

It's not good enough for someone to say, 'I'm a woman! Vote for me!' No, that's not good enough. What we need is a woman who has the guts to stand up to Wall Street, to the insurance companies, to the drug companies, to the fossil fuel industry… We need candidates — black, white and Latino and gay and male, we need all of that. But we need all of those candidates and officials to have the guts to stand up to the oligarchy. That is the fight of today.[2]

This quote and its conditional non-exclusionary ending, "that is the fight of today" (which doesn't exclude this or other oppositional-identity emphases in the future) speaks of a Sanders'-aligned strategy and critique.[3] It is a critique of the capitalist-class collaborating, state and party power-elite's exploitation of identity (freedom) politics. And it speaks of a social movement construction of neoliberal capitalist-empowering identitarian practices, that intersect with these elite's politics.

As described by Cedric Johnson in an article entitled, "The Panthers Can't Save Us Now," the neoliberal power elite engage a compartmentalizing, *pluralist, all strata accepting, discrete identities constructing* strategy.[4] Capitalists are one of the strata that are equally accepted into a given, siloed identitarian construct (they are accepted for example, in the name of inclusion). Indicative of this strategy was Hillary Clinton's response to Sanders' critique of capitalism in their first head-to-head debate: as a claimed progressive, she said that contrary to

Sanders, the unity she appeals to is for all people, capitalists included; she then portrayed capitalists as small and medium size business people populating the entire country, insinuating that Sanders would harm these many people (supposedly cleaving the singular unity of "the citizens").[5]

In discussing ways that neoliberal strategies are empowered through social movement milieus, Johnson writes that,

Black Lives Matter co-founder Patrice Cullors gives a sense of this problem when she says that she will continue to work with black neoliberals because of their common racial affinity… Cullors is right when she asserts that political work involves building bonds of trust and a willingness to respect different opinions… [But she] mistakes the core basis of political life, however. Sustained political work is held together by shared historical interests, especially those that connect to our daily lives and felt needs, not sentimental "ties of blood".[6]

Johnson notes that social movement activists help empower a capitalism, and capitalist inclusive identity politics by melding (a putative unity of in-common) *political, historical, and cultural interests with identity*. This "we are all one", *exclusivist* identity-group making regimen speaks of another part of these practices, carried out in front stage, back stage processes. Applying this metaphor and framework to social justice and white-supremacist politics, a front stage interest that is often equated with the white identity, is maintaining white privilege[7]. A back stage interests-identity melded, yet unsettling expression regarding whiteness (in say a neo-Nazi, skin-head, Ku Klux Klan combine) would involve white working-class identifying, white supremacist advocating individuals (whose putative whites-of-all-strata, identity-uniting interests could be undercut by their ostensible capitalist-opposing, working-class interests, e.g., as per their opposition to crony-capitalists, banksters, globalists, too big to jail CEO's); for identities said to be oppressed, in regard to people of color, one front stage interest would be to end racism.

Left Fragmentation and Capitalist Inclusive Identity Politics

When identity engaging activists, a) seek an ideological hegemony for a "we are all one" making – front-stage interests-identity meld, and, b) combine this with a pluralistic all-strata-accepted ethos (within a given identity), the unity formation in question will generally be open to left-power fragmenting, neoliberal power-advancing processes. Obama's electoral strategy set up such left-adverse interventions: posed as unifying multitudes of social movement supporters, he employed his racial identity as a beacon of hope for a multi-racial all, while promising card check for unions and tax justice-reductions for all but the wealthy. The moment he took office, those commitments were shelved in favor of (previously back-staged) capitalist-class collaborationist regimens (keynoted by bailouts for too big to fail corporations).

Social movement activists help accomplish this marginalization process, when, for instance, anti-capitalist expressions are negatively sensed, or as in the Cullors' reference[8] (above), when such participation is accepted in an exclusivist identity-oriented milieu. In this context,

expressions against an internal stratum, in this case, capitalists, could be perceived as unity-breaking (in all but an anti-capitalist oriented identitarian grouping). It could for instance, alienate money giving from small business capitalists. Cedric Johnson notes some capitalist-advancing manifestations of such exclusivist regimens:

The Black Lives Matter slogan can and on occasion already has become a vehicle for entrepreneurial branding and courting philanthropic foundations. Similarly, it can express bourgeois interests (e.g., "Black Wealth Matters") and education-privatization agendas just as easily as it can express working-class interests and the promotion of public education. [As to the former outcome, Johnson notes that] Ferguson activists Johnetta Elzie, DeRay McKesson, and Brittany Packnett have allied themselves with Teach for America, an education privatization group that supplies nonunion, low-wage, inexperienced teachers to urban school districts.[9]

Such developments can advance capitalist wealth-building; this in turn, can enhance their means for "purchasing the political class." Such political-money is often used to weaken left neoliberal-opposing politics and party building. What's more, when a capitalist money-fed power elite, who claim the mantle of progressivism or inclusion, as well as capitalist inclusive, social movement identity-interests melding groups, ply such inclusive identity strategies (as Johnson indicates), Sanders and neoliberal-opposing projects can be stultified. Even without detailing how many resources and activists knowingly or unknowingly engage these forces instead of the Sanders' mobilization, one might surmise how the latter would be diminished. It would be diminished because these (oft-times pre-dating) forces seek separate, and sometimes integrated engagement of activists, polities, politics, and ideologies (e.g., for freedom, against oppression, and for inclusion) that the Sanders revolution *also builds upon and needs* but does not yet adequately engage.[10]

1. **Working Through Strategic Identity Comparisons to Win State Power**

These fragmenting conditions hint at challenges for left and social movement unity-building politics that seek to win majoritarian state power. In this respect, an initial strategy-developing question is: When it comes to winning majority votes in 50 states[11], what are the (electoral-engaging) strengths and weaknesses of Sanders' single identity-opposing prioritization strategy, compared to social movement oriented, single-identity *opposition*-making strategies?[12]

A first point for comparative judgment-making is: the anti-oligarch prioritizing strategy can be appraised by examining who activists in capacious exclusivist-oriented identity mobilizations, generally constitute as a *prioritized opposition*. One relevant dimension for making comparative judgements would be the size of such groupings. As to prioritizing of an opposition group other than the oligarchs, such groups include for example, all men who oppress women; whites who are anywhere from racist to prejudiced vis-à-vis people of color, and/or all people who are institutionally, relationally, and by-privilege connected to white supremacy; or homophobic, trans-phobic, and other sex-gender bigoted polities. By comparison, Sanders'

opposition group is small; in post-Occupy terms, it could be called the 1%, and has been described more like .01%. Because the oligarchs are much smaller, there would be less people to unite against, and more people, ostensibly, to unite with, e.g., in an electoral focused coalition. This would likely create less large-scale divisions among the intended polities that need to be won over in the vote.

Considerations for Prioritizing One Oppositional Identity: Matters of Power and Place

As far as additional assessment points, the identity group of the oligarchs/ruling-class[13]/power-elite[14] have a tight set of political power descriptors and locations that identify individuals to oppose (e.g., elites close to and in state power positions, including people in the top economic strata, such as the politically active corporate power elite; the state power elite, including corporate-favoring elected officials and candidates; the major parties' power elite; and the military/militarized-state-forces power-elites). This is also to observe that the 2016 presidential election revealed rafts of left and right identified voters who disdained this identity grouping.

By comparison, the opposition group of men who oppress women would include men identified across intersecting identity categories (e.g., race and class) and strata in each category. This dynamic implicates a *large number* of candidates to oppose (which is hinted at by the #MeToo movement and evidenced for example, by the resignation of office holders across liberal and conservative lines). The dispersed political location of such candidates moreover, implicates a strategy that in comparison to an anti-oligarch approach, would likely inspire large-numbers-catching targeting criteria; and this could lose majority votes (Trump could be seen as a noxious exemplar vis-à-vis the comparative efficacy of prioritizing this oppositional polity: a widely exposed sexist-predatory male, winning a majority of white women's votes and the presidency).

The identity polity of *open* white supremacists suggests another candidate-opposition-making identity to prioritize. Like the oligarchs it is relatively small and has a tight set of identifying descriptors. This suggests that two criteria points might be met by targeting open bigots who ran for office, i.e., relative small group size and the issues to oppose them on. However, because of the aversion of most candidates to being explicit about any such identity, the state power-location criteria point, is a significant mitigating factor.

This comparative analysis suggests that except for the oligarch-opposing strategy, other single axis-oriented strategies would generate less majority voter-winning capabilities.

Multi-Oppression, State Power-Acquiring Anti-Oppressor Strategy

An alternative approach that pluralistically-equally prioritizes and opposes all oppressors would seem efficacious on the political formation-building side. It suggests a very large coalition by dint of combining activists from anti-racist, feminist, disability rights, indigenous communities, working-class, poor, anti-homophobic, anti-transphobic, anti-xenophobic, and anti-speciesist identity axes, to mention a few. This strategy however could cast too wide a pall

over too many voters. To aptly engage this strategy, the plural-all-oppressions-respecting coalition(s) would likely combine many, and potentially unlimited oppressions to oppose (few candidates would likely avoid being cast as oppressors or privilege promulgators in one respect or another). The ironic development during the elections, in which the claimed representative of women, Clinton, received less votes of white women than Trump, indicates some problems in prioritizing this approach in a 50-state strategy (even if they accepted that Trump was a sexual predator, just in that oppression/identity axis alone, they believed that Trump's position didn't justify voting for someone of their ascribed identity type). Additional voter alienation is implicated if there was for example, extensive de-privileging work called for regarding not just candidates, but voters.[15]

III. Reducing Partisan Pluralist Identity-Left Divides

This analysis suggests the comparative state-power winning efficacy of Sanders identitarian strategy. It doesn't indicate how polities oriented around anti-oppression identity politics that Sanders' doesn't similarly prioritize, could be more appreciably brought into the proclaimed revolution, and how that revolution could become part of the social movements[16]. Two strategic questions will frame an answer seeking process. The first is: *To whom*; by *what ascribed identity*; and *how capaciously* – might a left-inflecting, politically-directed sense of *plural equality for all extend* vis-à-vis each of the following political identity and unity making paradigms:

- To everyone equally, by identity, as individuals (whether or not they are oppressed);
- To everyone (e.g., all voters and/or all who seek common cause) by identity and as individuals, but the oligarchs/power-elite/ruling-class;
- To everyone within single oppressed identity types/axes (i.e., within relatively exclusivist in-common interests-identity melds);
- And/or (in theory) to everyone who simultaneously experiences oppression and privilege, in intersecting ways, but not (preponderantly, in practice) to those who are said to experience mainly privilege.

These paradigms have been analytically-strategically engaged throughout this piece. The first one is associable with horizontalist, participatory-democratic influenced politics such as Occupy Wall Street. The second is the Sanders' paradigm. The third speaks of the single identity-oriented paradigms. And the fourth refers to a multi-oppression uniting, and/or Intersectional paradigm.

Political Pluralism: Partisan Pluralism

Pluralism in politics refers to people's mutual if not formal recognition of laterally equally treated, substantive political differences. These are differences that are manifest between individuals and groups (by religious-beliefs, interest groups, ethnic groups, or party affiliations for instance). Pluralism upholds a principle that no group or individual, and no cause or policy,

should be treated as any more or less important or prioritization worthy, before the pluralistically circumscribed decision-making body and process (e.g., in democratic processes).

As to the partisan qualities of these four paradigms, the notion that any group-asserted pluralism must be *administrated* indicates how they can be considered partisan. Even if administrators – or the political body as a whole – call their facilitation of plural decision-making processes neutral, non-partisan, no-sides-taking, or unbiased, vis-à-vis the running of them, those terms can be understood as partisan. On the one hand, the horizontalist inflecting "all individuals are laterally equal" pluralism, might find some of its advocates claiming non-partisanship (via the claim, for instance, that if every individual is always equal vis-à-vis their participatory-democratic decision-making voice, how could it be partisan and biased-against-them). On the other hand, all of these paradigms, horizontalism included, are no more or less administrated and steeped in disciplinary forms of cooperation/power. None are more or less committed to ensuring or preventing-the-corruption-of their chosen group, power-delegating/decision-making regimen. Ensuring/Administering their chosen regimen is in this sense, a partisan (e.g., enduringly biased) act. Consequently, this alternative view can render as unpersuasive a major ideological divider: none of these paradigms can persuasively claim to be any more or less partisan. As such, none would be persuasively able to claim exemption from (i.e., incommensurability with) being considered equal contenders as to which one or ones to prioritize in a 50-state strategy.

Integrating Pluralist Unity Paradigms: Adding Partisanship to an All-Respecting Pluralism

As to integrating the paradigms, the first one (that's horizontalist) implicates maybe the broadest support and trust-building potential among voters and political coalitions. It asserts: *no person* identified by, and identifying as one identity, or by intersecting identities – *whether viewed as oppressed or not* – would be considered any more or less important or worthy of respect and equal decision-making voice/power/cooperation (ditto for their causes).

Not unlike horizontal partisan-pluralist politics, the Sanders' campaign treated all participants, all people pursuing common cause, and all voters as pluralistically equal (unless proven otherwise, e.g., by dint of being a voter-candidate who is openly racist). They were framed this way, regardless of whether they were said to be oppressed or not. In contrast to the horizontalist pluralist paradigm however, Sanders' horizontalism is also produced with explicit anti-horizontal priorities (manifest, e.g., in oligarch-negating ideologies and practices). This suggests that in relation to joining the Sanders revolution, horizontalist-prioritizing polities would likely have to acknowledge their approach as partisan and rethink their all-individuals-equalizing approach.

Exclusivist Identity Pluralism, Intersectionality, and Conciliation Possibilities

For the more exclusivist identity polities (the third unity-paradigm) partisan-plural respect/power is generally accorded equally to every person identified as, if not also identifying

as oppressed within a single identity axis. Engaging Sanders' 50-state anti-oligarch prioritizing strategy would be challenging for this milieu. One challenge would be to accept the subordination – rather than the prioritization, or in lieu of that, the equalization – of their prioritized identity regimen. Concomitantly, this strategy does not ask Sanders'-aligned polities to do the same.

The fourth partisan plural position is multi-identity engaging. It can also be articulated as an Intersectional approach.[17] While this paradigm can theoretically uphold the plural uniqueness of every person vis-à-vis how multiple identities, privileges, and oppressions intersect in one's subjectivity and social relations, advocates tend to prioritize its politics around fighting oppression. The resistance to subordinating this unity-building regimen to the Sanders' paradigm might be far-reaching. An all anti-oppression-uniting approach, compared to an exclusivist approach for instance, would insinuate a larger unity-inflecting coalition.[18] As such they would be called on to subsume this entire intersectional unity formation and framework to a candidate-opposing and issue-generating identity regimen that prioritizes opposing the oligarchs.

1. **When Freedom > Privilege – Oppression**

Possibly aiding the move of advocates of the other three paradigms towards Sanders is the strategic logic (suggested earlier) that the comparative merits for winning more nationwide state power may be compelling enough to generate significant shifts. The area that Sanders' activists and polities would likely need to rethink and without which they may not be able to ideologically come closer to anti-oppression polities and vice versa, concerns freedom, privilege, and oppression in identity politics. This brings up the second strategic question: Can the notion of privilege in identity politics be conditionally *subsumed* by the notion of freedom, in the context of forging a 50-state, left-inflecting, plural all-individuals-equalizing, power-winning strategy?

A primary ideological dyad in left-inflecting milieus is the *oppressor-oppressed* relationship. It has been posed for example in relation to slavery (in the past) in the United States (vis-à-vis a master-slave relationship). As of late, an historically related anti-oppression-oriented pairing has been widely articulated (e.g., in educational and social justice milieus[19]). This pairing puts "the privileged" rather than just the oppressor, on the other side of the dyad counterposed to the oppressed. As such, the privileged party/identity is said to occupy a traceable, multi-institutional, but not necessarily conscious, beneficiary relationship to the oppressed party in the present, and to the oppressor, and the oppressors' oppressive regimes and actions (including those long past).

The label of privilege, ascribed to particular identities, is often intended in social justice communities to compel the putatively privileged party, to engage in *anywhere from* mutually respectful learning and dialogue (on, e.g., understanding racism, justice, allying-roles, and identity difference) *to* accepting that they are inheritors of morally objectionable identity-related benefits in need of active rectification.[20] Rectifying processes have been applied

through parity-seeking/power-rebalancing strategies to redress historically understood imbalances by identity. As to polarizing reactions to such politics: when these processes seek rectification in relation to people categorized in large identity groupings such as white males (as in early forms of affirmative action), the political reaction has included right-wing exploitation of targeted identity polities (which for purposes of contemporary left, 50-state power winning politics raises the issue of the efficacy of prioritizing small rather than large opposition identity groupings). This speaks of identity demonizing strategies that seek to divide the opposition against itself, e.g., "'progressives'/liberals against white working class"; Trump fomented such power winning strategies pivoting around race and incessantly posing one group of opposition-targeted identity polities as parasitical of other polities' reputed – earned rights, resources, and security.

In the context of a 50-state majoritarian politics in and beyond the Sanders'-related mobilizations the following leading questions and points could help to ameliorate polarizing voter resentments, scapegoating, and authoritarianism-fomenting[21] – left vote and unity diminishing – dynamics: *How many people who claim to be oppressed, and want to end their oppression, want to end it, only to be labeled privileged – rather than free*? *How can plural-partisan equal respect/power be developed* (e.g., among all seeking common cause whether or not they are said to be oppressed) *if insinuations of disproportional benefits, or associations of unfairness or harm, are morally affixed to one identity-labeled polity* (that's said to be privileged) *and not the other(s)*?

In respect to voter and state power-acquiring base-broadening, the oppression/privilege relationship could be re-framed as an *oppression/freedom* and/or *anti-oppression/freedom-seeking* relationship. This could be done by prioritizing freedom over privilege in relation to understanding and working to end identity-focused oppression. In this context, would it not be more base-broadening in majority vote-seeking politics to develop a sense of common cause where people in polities, often posed as privileged – take the putative white working-class persons for example – instead acknowledge that they have freedoms that others should have (*which, by extension, they could not similarly, in good common-faith, say the same regarding privilege, i.e., they have privileges that others with oppressed identity identifications should have:* freedom from being disproportionately stopped, frisked, and killed by police; freedom from racial profiling for deportation)?

Expanding Freedom in Identity Politics and the Sanders' Revolution

- Would it not also be the case (e.g., for electoral base-broadening) that freedom as such could be seen as intersecting with relative equality for all (which might integrate "*freedom from*" possibilities inclusive of those just listed, with "*freedom to*" possibilities, e.g., freedom to take or reject any job due to comfortable-life-sustaining annual yearly income provided for all)?
- Could such an anti-oppression politics (compared to an anti-privilege prioritized politics) open up possibilities (vis-à-vis base-broadening appeals) for "*freedom within*" (this implies a potential freedom or openness[22] between subjectively

produced and socially-"externally" imposed identity-meanings that may feel of a whole/fixed – including, commercially-capitalistically bombarded[23] or oppressively imposed identity-meanings, and one's ever-developing conditionally open/closing subjectivity/identity)?[24]

- Couldn't this freedom orientation, by comparison, offer a base-broadening populist ethos where, if one is not free, none are free (which might also apply across left and right to civil-liberties, freedom of speech and privacy, democratic access, etc.)?
- Could it not also, comparatively, offer a partisan pluralist-unity-leading *priority* within the Sanders' formation, for example, by acknowledging the relative autonomy, and honoring of anti-oppression, freedom-seeking identity politics and polities?

As to applying this framework to the anti-oligarch electoral-engaging strategy, if such partisan pluralistic freedom-over-privilege changes were made, what might it mean to deny the oligarchs this transformative "privilege"? Such a strategy could be based on the following logic: oligarchs have an obscene amount of privileges that subsume many other people's freedom.

Sticks and Stones: Power, Words, and revolution

These leading questions evoke the appeal of a freedom-prioritizing identity strategy for broadening left, 50-state winning electoral politics. It is in this context that two skepticism-implying points seem relevant: Would such an anti-oppression-freedom strategy alienate many in the putatively greater freedom-benefiting polities, from what they would have otherwise been attracted to vis-à-vis Sanders, namely the anti-oligarch/social-democratic strategy and a "common cause and all-individuals respecting" pluralism? Concomitantly, the identity polities that this strategy also appeals to vis-à-vis base-building may say, it doesn't matter if one woos Trump, liberal, or "Obama-turned-Trump" voters, by prioritizing the word freedom over privilege: because they are not fighting oppression in the field, such conditions will remain intolerable. These critiques have merit; they can also be shown to be more problematic than not.

Towards a Transformative Strategy

Cedric Johnson implicates a freedom-evoking, privilege-minimizing opportunity for addressing the second critique. He notes that,

> In 2015, there were 1,138 people killed by police in the United States, and of that number 581 were white, 306 were black, 195 were Latino, 24 were Asian or Pacific Islander, 13 were Native American, and the race/ethnicity of the remaining 27 was unknown. Rather than prompting some version of "all lives matter" post-racialism, these facts should encourage greater discernment on the part of those who want to create just forms of public safety. The unemployed, the homeless, and those who work in the informal economy or live in areas where that economy is dominant are more likely to be regularly surveilled,

> harassed, and arrested. Black Lives Matter activists posit universal black injury where, in fact, the violence of the carceral state is experienced *more broadly* across the working class. What is to be gained from adhering to political slogans that exclude certain victims and *truncate* the potential popular base for *progressive* reforms.[25]

Johnson's critique of the Black Lives Matter approach makes a comparative point that their single-identity prioritizing regimens "truncate" progressive coalitions' potential to transform policing. His alternative appears to equally empower activists across identities in and beyond the working-class, e.g., regarding the homeless and the unemployed. And yet, if being privileged by identity was ascribed to some in such a coalition (as part of a larger organizational power-cooperation making regimen); and if polities linked to that ascription were treated as responsible for continuing the oppression (directly or indirectly) of people in the coalition (and in the larger society); and/or if being privileged as such was seen as something that people who identify or are identified, as oppressed, would forswear rather than aspire towards, not the least because it speaks of a subject position that continues the society-wide harming of people in their midst; an abiding challenge then becomes, how can the coalition produce a police-transforming identity freedom/parity-making politics that treats participants and identities in the way Johnson implies, i.e., as pluralistically equal? Johnson hints at but doesn't address this challenge.

As relevant, if left and social movement fragmentation isn't notably reduced, prospects seem dim for transforming policing. This is to also suggest that a key dynamic in left-inflecting systems-changing politics is winning state power. Questions that then also become strategically salient include: why did some voters move from supporting Sanders' and/or Obama to Trump?[26] How can this be changed? What might this have to do with enduringly defeating neoliberal Democrats and reducing identity politics polarization vis-à-vis Trump, liberal, and abstaining voters?

Towards Empathy in Left/Right Vote-Winning Politics: Marginalizing Bigots via Freedom

When it comes to winning majority votes and more activists, the strategy of subsuming privilege to freedom offers people who might be labeled as privileged a more positive self (and Other) reflecting, common-cause building modus operandi. It can empower empathy such that what people who are widely identified as facing oppression demand, *is no longer as dissimilar* to what those said to already experience such freedoms have, i.e., freedom rather than privilege. It provides a way for the "once branded as privileged" polities to minimize or eliminate resentment by feeling more mutually respected in acknowledging – the freedoms they agree they have, and – those they believe they do not have (e.g., economic freedoms they might feel they don't have; freedoms from racial targeting for deportation, they can acknowledge they do have).

This leads to the second challenge to broadening a 50-state strategy, regarding (e.g., less-left-leaning) voters/people who could perceive the *added* freedom-prioritizing strategy as

alienating. A counter-point is that some of these voters would get its hate/division/resentment reducing elements (some might be helped along by Sanders "all individuals respecting", social democratic, anti-oligarch politics).[27] Others, would keep to the right, because of bigoted or authoritarian-predilections, and/or because of politics such as anti-abortion commitments. This suggests a wedge strategy to win over some of the base from right-wing candidates (and move it towards Sanders – but also to Clinton-like neoliberal inclusion/identity-recruiting forces, if for example, an anti-oligarch position wasn't prioritized). Overall, this strategy builds upon Sanders' pluralist and oligarch-targeting mainstays, while engaging an identity freedom-strategy that, as examined here, would likely add more activists and voters to the effort than it would lose.

Shame and Identity Freedom Politics, Stage Left

Shame can be a moral motivator in unity-building (e.g., in anti-oppression expressions in gay pride and AIDS fighting activism); yet it can also constitute a unity degrading influence.[28] Expressions of pride and shame can "closely" arise in interests-identity melding politics in left-inflecting coalitions.[29] In that context they can be engaged through group decision-making processes that develop representational leadership positions, and attend to power and cooperation matters (and balances, i.e., by identity): indicative of such dynamics is the practice of progressive stack. This is a group-facilitation practice where a facilitator accords turn-taking-ordering priority in all meeting discussion sessions for example, to ascribed marginalized and oppressed voices/people by identity. These practices can engage group and political-psychological identity dynamics of parity, trust, and respect building, freedom-advancing unity-making, and shame.[30]

This complex of identity ensconced practices speaks of the personalizing and socializing of responsibilities of the *privileged-ascribed party*. It implies responsibility in relation to ongoing benefits attributed to them, e.g., gained via slavery, racism, patriarchy, and white supremacy. As to the shame that could be felt by the privileged-ascribed party, stage left, this speaks about acknowledging feelings of anything from subtle guilt, to personal disgrace, when admitting that one continues to be a part of the (multi-institutions-produced) oppression of others.

In this left coalition-building context, motivated, privileged-ascribed activists can be seen as working to end their shameful privilege. This activism could be seen by coalition members as embarking from a starting point where the privileged activist expresses *feelings of being less than* the ostensibly oppressed parties, in relation to experiencing privilege. The privileged party can be mutually understood as such, as embodying *a group-desired alternative* to feeling equal to, or better than those they putatively benefit from (these latter feelings might be said to be the way ascribed beneficiaries of oppression feel in the larger society[31]). Coalition members, from varying socially and subjectively constructed identity standpoints can consequently experience anti-privilege/anti-oppression activism constructively. They can experience it that is, as taking away from those ascribed and/or identifying as oppressed, some of the basis for feeling less than, and ashamed as such (one way of looking at this activism as ironic trust-building moves, is that they bring all coalition members into a more common

psycho-social framework of shared, rather than just sharing, feelings, of being “less than”). It can also be experienced as transferring that basis of negative feelings to the privileged Other. And it can be sensed as letting go of, and/or struggling against these negative shame feelings. It can be sensed as such, not just by the activism of the oppressed-ascribed party but also via the privilege-ascribed party’s efforts to end shame by working to end oppression and their perceived privilege and shameful feelings about it.

When Freedom > Oppression + Shame

These anti-oppression, shame-transferring strategies are intended to create parity in power relationships by identity; through such means moreover, the socio-economic and cultural playing field that is skewed in the larger society can be leveled in the coalition. The price has been steep however, for leveling the field this way, especially when extended to national voter winning processes (where they could be seen as expressing coalition activist’s anti-oppression-extending desire to enjoin large voter polities, e.g., all whites, to feel similarly poised in a “less than”, i.e., a cathartic-shame-release/freedom-for-the-oppressed seeking – psycho-social identity-standpoint). This is to observe that the coalition’s polarization of the privileged-ascribed party, is related to asserting a moral deficit of some in their midst, to the point that few people who are recognized or identify as oppressed would want to move into such positions of privilege; this is in part due to the prevailing meaning of privilege – in such power (re)balancing identity-anchored politics – where the privileged party, whether consciously or not, causes ongoing harm to the oppressed.[32]

To insinuate such negatives, divisions, and Othering onto people in the coalition; and to do this (e.g., for inspiring purposes) in an election, by extending it to large identity-labeled polities, enables the right to advantageously exploit the purported privileged, harm-doing identities (also enabling such leaders and base to push leftists against each other as Trump did by triangulating a neoliberal, working-class hostile Clinton, against a torn left, and posing these parties, via support for Clinton, as hostile to a “white *working-class*”). It can also make for a fragile (e.g., unresolved shame and hurt filled) basis to generate left state power engaging unity. Within a given coalition, this unity-building, shame-transferring framework, premised as it is on rectifying the harming of one grouping by another, can marginalize pluralistic equalized treatment for all individuals. It goes against a corollary part of this framework, and that is, according all, equal power-engaging standing as individuals, regardless of whether or not they are oppressed (whereas the former paradigm is very much about – if one is oppressed or not, and unequal as such). Therein lies the rub: creating identity parity on an all-individuals-are-equal basis, by subsuming privilege to freedom, cannot be fruitfully developed *by disregarding oppression* (privilege, freedom, and all prevalent identity issues). And yet that is what an all-individuals respecting partisan pluralism would seem to intend (if prioritizing oppression and the fight against it, is not understood as being able to coexist/intersect with a plural-all-individuals identity-conscious freedom strategy).

This is the context that substituting freedom for privilege helps to transform. This

transformation could empower ways for activists to assert that identities, beliefs, and conditions described as privilege-engaging, can be redrawn. These conditions can be reframed when activists preponderantly refrain from shame-engaging politics by emphasizing in-common interests and empathetic expressions based in commonly sought greater, lesser, and/or equal freedoms. Such a strategy could also mean that parity by identity would be pursued in the coalition(s) with a greater empathetic "freedom sharing base". In this context identity differences that may currently seem inviolable (and fortified as such by oppression/privilege polarization-relations[33]) could instead be more eminently seen as political and mutable. As to how this might apply to identities that might be posed as essentially different, vis-à-vis for instance, racial profiling for deportation, multiple polities who appear untouched by identity profiling for deportation, could more empathetically understand that they are not free from state-based profiling (with the level of state surveillance/tracking today); rather they are profiled throughout governmental agencies in ways that they pass such reviews, with less incriminating notice. Just as they could be said to be freer as such, an empathetic identity freedom politics could also find them supporting and/or engaging the fight for just immigration and maximal human and labor rights in all countries; this in turn, relates to Johnson's multi-identity unity politics of focusing on "shared historical interests".

This strategy suggests the left politics that Cedric Johnson hints at, vis-à-vis *an expanded* common cause, plural-equalizing, freedom and difference respecting, multi-identity unity basis. Such expanding activism might more effectively extend its politics into majority winning 50-state power-seeking activism (e.g., to transform policing, through majority-won laws and policy). It follows from the earlier comparisons of which opposition identity to prioritize to win state power, that the most effective strategy today focuses on the oligarchs. This suggests linking the anti-oligarch strategy to freedom prioritizing strategies that do not place any large groupings in privilege labeled categories or oppositional, shame-insinuating identity positions.

Subsuming privilege to freedom is a big ask: the struggles this change engages are oft portrayed as life and death struggles for freedoms, steeped in morally-vivifying battles against oppressions that are also understood by some activists as the experience and more rightful province of some identities, not others[34]. That said, as a departing observation, a unity-seeking nostrum of a transformed identity freedom politics goes something like this: no one wants to start, travel as, or end up privileged in these ascribed identities and interrelations; starting out free, traveling free, fighting for freedom, and/or ending up free; how many people would not want that?

Conclusion

Sanders' proclaimed political revolution features a neoliberal-identity politics drubbing, anti-oligarch, egalitarian-seeking, social democratic strategy, and a partisan all-individual/common-cause respecting pluralism. It showed a potential to mobilize millions and win democratic power in 50-states. It may be the case moreover, that prioritizing this one identity, as the opposition, presents an efficacious way of uniting more identity-oriented and left polities, ostracizing neoliberal Democrats, and attracting enough "lost" (e.g., ex-Obama/ex-Sanders),

liberal, and abstaining voters to win majoritarian state power. This strategy also suggests the difficulties for succeeding, of party-building proposals that only prioritize one identity-supporting (as compared to identity-opposing) polity, such as "the working-class". Without considering ways to move identity freedom politics away from voter-polarizing oppression-privilege regimens however, the political revolution aligned with Sanders as well as the social movements and the left today will likely remain unable to accomplish the 50-state power winning goal. Broadening the democratic formation and the vote winning support base, by adding an identity politics that emphasizes freedom rather than privilege can help realize that political power transforming potential.

Notes

[1]Charles Lenchner, "Is a National Progressive Broad Front Possible?" Paul Jay, *The Real News Network*, June 11, 2017.

[2] Brent Griffiths, "Sanders slams identity politics as Democrats figure out their future," *Politico*, Nov. 21, 2016.

[3] Adolph Reed, "Splendors and Miseries of the Antiracist "Left", *Common Dreams*, Nov. 6, 2016. Adam Johnson, "Cornel West & Chris Hedges: How the Black Elite Betrayed the Civil Rights Tradition," *AlterNet*, Aug. 14, 2015.

[4] Cedric Johnson, "The Panthers Can't Save Us Now," *Catalyst*, Volume 1, No. 1, Spring 2017.

[5] Kent Hoover, "Capitalism vs. socialism? Yes, that was an issue in the Democratic presidential debate," *Washington Business Journal*, Oct. 14, 2015.

[6] Cedric Johnson, "The Panthers Can't Save Us Now," *Catalyst*, Volume 1, No. 1, Spring 2017.

[7] which, as per some readings, is not consciously understood by all whites. See, e.g., Ijeoma Oluo, "Welcome To The Anti-Racism Movement—Here's What You've Missed," *The Establishment*, March 16, 2017.

[8] Patrice Marie Cullors-Brignac, "We Didn't Start a Movement. We Started a Network," *Medium*, Feb. 22, 2016.

[9] Johnson, *Catalyst*, Volume 1, No. 1, Spring 2017.

[10] Gloria Steinem's critique of Sanders ("when you're young, you're thinking, where are the boys? The boys are with Bernie.") insinuates such a strategy. She uses identity politics (e.g., by ostensibly shaming women) to influence progressives, feminists, etc., to work instead for

Clinton. See, Jessica Contrera, "Gloria Steinem is apologizing for insulting female Bernie Sanders supporters," *Washington Post*, Feb. 7, 2016; this is also to observe that Sanders eventually prioritized anti-racist issues (e.g., after receiving appreciable criticism), and did this while enduringly prioritizing an anti-oligarch strategy, see., e.g., The Editors, "What Did Bernie Do?" *Jacobin*, Jan. 18, 2017.

[11] Bernie Sanders "Bernie Sanders on making Democrats a 50-state party," Judy Woodruff, *PBS NEWSHOUR*, April 25, 2017; "Expanding Ballot Access in 2018," *Green Party US*, accessed April 21, 2018.

[12] Framing this in relation to a winning 50-state strategy, suggests a few challenges: without getting some base-line agreement that winning and transforming U.S. state power is the imperative of the times, there is little to indicate how a fragmented left will get nearer to being on this same strategic and political page. Then there is the question of what the left would be "getting" in prioritizing winning state power in such a unity formation (and/or there's the mercurial question: is there enough "time left" to avoid such a focus). These questions address the possibility that currently, even the mildest, e.g., egalitarian-establishing social-democratic reforms cannot endure without ongoing, massive unified mobilizations (or as per Sanders' a political revolution) and state power-engaging, stage left.

[13] Sanders alternated between these monikers (while emphasizing the oligarchs); see, e.g., Scott Detrow, "Sanders' Unity Tour With DNC Chair Exposes Rifts But Also Suggests Common Goals," *NPR*, April 22, 2017.

[14] See, e.g., C. Wright Mills, "*The Power Elite*," (New York: Oxford University Press, 1956). Stanley Aronowitz, "A Mills Revival?", *Logos*, 2.3, Summer 2003.

[15] Media coverage showed people in the predominantly white, Trump-supporting working and middle-class milieus, did not feel privileged: i.e., racially, economically, politically, and culturally. See, e.g., Nicholas Confessore, "For Whites Sensing Decline, Donald Trump Unleashes Words of Resistance," *The New York Times*, July 13, 2016.

[16] See e.g., Terrell Jermaine Starr, "Bernie Sanders Is Not a Real Progressive," *The Root*, Nov. 06, 2017.

[17] See, e.g., Patricia Hill Collins and Sirma Bilge, *Intersectionality*, (Malden, Mass.: Polity Press, 2016).

[18] "Largeness" as such, is the tip of the iceberg; Given its partisan, open-to-all-oppressions pluralism, how could coalition activists avoid finding and losing themselves among an unstoppable growing number of laterally-equalized and moated, anti-oppression fighting identity-group types and causes? If such organizationally exhausting, infinite regress were to be staunched how could it be done without cutting out pieces of its founding mutual-respect politics?

[19] Lizzie Crocker, "Do 'White Privilege' Surveys Really Help the Fight Against Racism?", *The Daily Beast*, Oct. 13, 2016; Jennifer R. Holladay, On Racism and White Privilege. *Teaching Tolerance*, accessed Oct. 10, 2017.

[20] See for example, Darron T. Smith, Ph.D., "The Responsibility to End Racism," Huffington Post, 19 April 2013; "Unlearning Racism: Tools for Action," *YWCA Southeast Wisconsin*, downloaded Oct. 10, 2017.

[21] Henry A. Giroux, "Gangster capitalism and nostalgic authoritarianism in Trump's America," Salon, Dec. 3, 2017.

[22] Julian Vigo, "The Trap of (In)Visibility and the Erasure of Difference", *Counterpunch*, Jan. 15, 2016.

[23] Henry A. Giroux, "How Disney Magic and the Corporate Media Shape Youth Identity," *Truthout*, Aug. 21, 2011.

[24] Conversely, if privilege, rather than freedom, were prioritized, wouldn't such psychic processing prompt reactionary unmooring/polarizing inclinations (vis-à-vis base-broadening), by some in the ostensibly privileged parties, because they would resent internalizing a comparatively shame, rather than pride inducing sense of identity?

[25] Johnson, *Catalyst*, Volume 1, No. 1, Spring 2017, italics added.

[26] Danielle Kurtzleben, "How Many Bernie Sanders Supporters Ultimately Voted For Trump," *NPR*, 24 Aug. 2017; Geoffrey Skelley, "How Many Obama 2012 Trump 2016 Voters Were There?", *Sabato's Crystal Ball*, June 1, 2017.

[27] Portia Boulger discussed such an empathy-oriented strategy at the People's Summit; Portia Boulger, "The Nina Turner Show: The Urban-Rural Divide with Portia Boulger," Nina Turner, *The Real News Network*, July 13, 2017.

[28] Paul Hoggett, Politics, *Identity and Emotion*, (New York: Routledge, 2016).

[29] Lory Britt and David Heise, "From Shame to Pride in Identity Politics," Conference paper, *Self, Identity, and Social Movements*, April 17-20, 1997; see also, Phoebe Maltz Bovy, The Perils of "Privilege" (New York: St. Martin's Press: 2017); and Trent Eady, "Racism + shame = more racism," *Medium*, Nov. 11, 2016;

[30] L.A. Kauffman, "The Theology of Consensus," *Jacobin*, May 27, 2015; Jay Dubs, "The progressive stack is being applied to morality," *personality cafe*, May 30, 2017; Kevin Gannon, "The Progressive Stack and Standing for Inclusive Teaching," *The Tattooed Professor*, Oct. 20, 2017.

[31] And where an "equal to" feeling could mean denying the existence of identity-oppression.

[32] such harm is something that the demand for reparations for African-Americans is based upon and seeks to redress.

[33] See, e.g., Michael Eric Dyson, "Death in Black and White," *The New York Times*, July 7, 2016.

[34] This raises a circular moral conundrum that became combustible via a question that skewed right in the elections: who really are the haves and the have-nots? The freedom over privilege strategy is meant to transcend this dilemma.

What Can Liberty Do? For Political Regime Change, First Change the Regime of Critical Thought

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The fall of the Berlin Wall in 1989 was experienced as closing an historic period, that of revolutions inspired by the communist utopia, and marking the entry into the era of ‘natural capitalism’ and of the ‘self-regulating market.’ Naturalization of the current mode of production and exploitation and of the exchange system is the direct consequence of the revocation of history. From now on, we would live under a historically permanent regime which only authorizes technological or management-related modifications.

Thus, it is not so much the absence of alternatives which paralyzes critical, intellectual and political activity, as the impossibility of articulating some sort of an alternative solution for a present which only admits its permanence.What isparalyzed is truly a certain form of critical thinking which allowed itself too much scope in particular, that of ‘revolutionary subject,’ of intrinsically-revolutionary-proletarian-subject. In this regime of critical thought, only the presupposition of socio-economic determinism conferred on each one a possible being which he or she could return to and achieve under certain conditions: a metaphysical condition which would allow us to surround human history with a philosophy of history, that is to say a progressive ideology, for which the future is always already there and which leaves no room for any creativity; and a political condition according to which the candidate subject for revolution is both exploited and alienated. The exploitation that he suffers furnishes him the motivation to revolt while alienation keeps him in his present state. Also, the liberator, the ‘friend of humanity’, has to intervene in the role of an avant-garde party, so that the possible being of the one oppressed can achieve his full potential.

To escape the *mentoring*required by the logic of emancipation and *dare*to try self-empowerment, in Kantian terms, we contend that critical thought must renounce all essentialism—whichencourages all possible facilities—and posit anti-essentialism as one of the decisive conditions, if not *the*decisive condition, for critical thought. Anti-essentialism, in fact, is not one opinion among others, but the core principle of the analysis.

Why Accord This Privileged Status to Anti-essentialism?

Because this is an epistemological principle which offers the possibility of access to a much richer reality than is possible with essentialism. If we go back to the example of the revolutionary subject, it seems that essentialism restricts it to only the revolutionary vocation

deduced from its possible being, defined in a unidimensional manner.

This possible being is heterodetermined both by the historic moment, fixed by a philosophy of history, and the subject's position in the socio-economic order. This twofold spatiotemporal heterodetermination creates a "context"—much like decor—which defines the possibilities for the achievement of a given historical subject's mission. This notion of context must be evaluated as a link in the essentialist conceptual network, contrary to the way a number of theoreticians or social science practitioners, in particular, historians, use it. When the latter refer to the necessary contextualization, they are persuaded to proceed with a legitimate temporalization which forbids, for example, projecting on sixteenth century men the ways of being, believing, and thinking of contemporary men. Yet for both contemporary men and sixteenth century men, there is truly little doubt, because the principle of temporalization is embedded in the conditions in which they are plunged and determines who they are. Drawing upon temporalization, such an analysis concludes with a relativization which only allows for a simple juxtaposition of moments or periods without being able to explain their connection.

Now Hegelian-Marxist philosophy of history easily resolves this question of connection by referring to 'a sense of history,' a sense which is embedded in a transcendent order, and whose ordering efficacy was supposed to always overcome the contingency of historical progression. To do so, it was necessary to distinguish the order of the sense from the order of the activity of 'subjects' in such a fashion that the meaning remained, despite the worried excitement and disorder of subjects' activities, comprehensible by an overarching rationality. Also, the direction was given, once and for all, by some particular regime of domination, it's not important which one, and unfailingly imposed itself on the subjects, in the same way as Smith's "invisible hand" and Hegel's "ruse of reason."

The difficulty of such a stance is to explain how this sense, which operates outside of 'subjects,' makes sense for them. A sense which would not make sense for one or a number of subjects would obviously have neither validity nor efficacy. The being of sense is of the order of being for oneself, not of being in oneself (Sartre). Now, the distinction that we are examining relegates sense to the order of being for oneself, constituting it as an object knowable through scientific rationality, while rendering it foreign to subjects for whom it is announced. For this sense to make sense, or to become a norm, for the subjects for whom it is envisaged, one must suppose that the latter are submissive to a determinism which steeps them in this normativity. Such is the purpose of invoking social determinism: transform (mechanically and not existentially) from sense of oneself to a sense for the subjects. The subjects which incorporate this sense are, therefore, determined subjects, the efficacy of sense being then conceived in terms of causality. On one hand, there is the fanciful illusory sense, that the subjects give themselves and, on the other hand, the sense which is given by social determinism, the only truly efficient one, because it is not conscious, and has an effect on the subjects' activity. The former serves the latter in that it holds or deflects the subjects' attention, making them available to the determining action of the latter.

The Condition of Political Possibility of Social Determinism

Social determinism can only operate if relayed by determinable subjects, that is, subjects previously fashioned, prefabricated, to be 'completely naturally' inserted into the anticipated structure of this discourse. The order designated by social determinism is never the initial one, contrary to what the sociologizing illusion would have one think; it is logically preceded by the political order of the domination which creates these determinable subjects. This notion of determination, as we know, is part of the famous antinomy of determinism and of liberty: for determination to prove its efficacy, it's important that it affect a free being, but the latter, for this reason, will then not fail to escape the determining process. Now the resolution of the antinomy rests in the reduction of libertyand of will: will not entering into play until after the free affirmation of a project on the horizon of organizing the means required to achieve this project—Sartre's central thesis—thisreduction is a decisive element in subjects' determinability. Faced with such a devitalized liberty, determination may readily display its power and reveal its superiority.

Social determinism, thus, seems to be an instrument of political domination. While sociologizing discourse often considers it as an explanatory principle, this is because it is deceived by what determinism confers on the social order—that is, its ideologicalvocation—coherence and autonomy, while such an order is 'second' in terms of a political order which has always already determined the domination. In writing 'second,' we do not refer to the chronological dimension of this term, but wish to indicate that political domination is a cornerstone of the organization of the social order, which would, thus, not be considered self-sufficient.

The mantra of Marxist critique interprets politics as the expression or emanation of the social order, itself conceived as entirely determined by economics. Marxist orthodoxy has been seduced by the economicist illusion depicting relations between people as objective characteristics. This is why it reacts so aggressively to the feminist critique of the 1970s which, however, renews the materialist analysis by rediscovering its initial inspiration, that of a philosophy of liberty. Asking herself questions about how men treat women, Simone de Beauvoir scrupulously tracks domination: the one who takes the initiative in the relationship with others, who is capable of shaping the regime of alterity, dominates. Also, the one who has taken the initiative in the relationship with others is ensured the mastery of material resources. Against the economicist illusion which leads to thinking that the appropriation of wealth provides the means of domination, one must object that the relationship of power precedes—logically—access to resources: the scarcity is first rarity of front power than to borrow an economic form. It is in confining women to an absolute alterity, categorizing them as Other, that men establish a situation of oppression and impose a formidable domination. This amounts to saying that the oppressors are in a position to manipulate the significance of a situation once they determine the conditions of the relationship. They keep the oppressed in the state of being in itself and refuse them access to the world, access to being for oneself, access to existence. Now, a situation only takes on meaning in the light of what it will be through the project of a collective liberty. It is not an oppressive situation in itself, or then it would have to be resolved by characterizing it as necessary, and, thus, insurmountable. A situation is only oppressive for a collective liberty when it anticipates a situation that will no

longer occur, or that will be less than expected.

Therefore, what must be denounced, is this idea of a completed social whole, of a self-sufficient social order, in the sense that it operates both as a unique situation and explanatory principle, without it being necessary to refer to a pre-existing political order, to a system of oppression, to account for this. This famous autonomous social order corresponds very precisely to what Sartre calls a 'hyperorganism' when he undertakes analysis of the notion of a group: 'The group is haunted by organicist significations because it is subject to this rigid law: if it were to achieve organic unity (which is impossible) it would therefore be a hyper-organism (because it would be an organism which produced itself in accordance with a practical law which excluded contingency); but since this it is strictly forbidden this statute, it remains *atotalisation*,and a being which is subsidiary to the practical organism, and one of its products.[1]' In this regard, he warns us that the dialectic he unveils in *Critique of Dialectical Reason*opens up processes of *totalisation*, which could only be grasped with the help of this so-called dialectic taken in its totality? This is always already given, and its sole vocation is to encourage the attainment of some possibilities which contain this entirety (*hyperorganism*, 'because it would be an organism which produced itself in accordance with a practical law which excluded contingency'). This 'contingency' necessitates our being attentive to historical depth, to historicity, and invites us to oppose this disembodied dialectic of totality which 'dialectical materialism,' advances, which only requires an essentialized subject, entirely shaped by the hyperorganism, a simple foil in its self-development. It is not intrinsic that the oppressed push forward to various possibilities; only the oppressed *in revolt*tear apart the horizon which earlier seemed narrowly defined.

Rethinking the Plebeian Experience

Indeed, it is these rebelling oppressed peoples who are experiencing and bring to life what Martin Breaugh calls 'the plebeian experience,'[2]the historical and philosophical thread which he finds in the first and second part while, in the third part, he brings out the new political organization which this experience projects in opposition to the 'dominant political configuration of modernity.' The model of this experience is provided by the first plebeian secession in Rome, in 494 B.C., which Titus-Livius recounts in Volume II, Chapters 32-33, of his*Roman History*. The plebeians, that is those who could not participate in the life of the city, were relegated to an infra-politics, were burdened with debt and risked being reduced to slavery while, as soldiers, they were defending the liberty of Rome against foreign invasions. The flagrant injustice of this fed the plebeians' hatred of the patricians and led them to withdraw to Mount Aventine to establish a camp "with no leader," from which they launched no attack against Rome and where they suffered no offensive from the patricians. This secession, which deprived Rome of manpower and defenders, worried the patricians who, through the Senate, sent Menenius Agrippa as an ambassador to the plebeians entrenched on the mountain, with the mission of bringing them back to Rome. He told them the fable of the stomach and its parts: while harmony did not yet reign in the body, as is the case today, the parties were indignant about what they procured for the stomach, all the pleasures without any hint of compensation in return. Also, they seceded and refused to feed the stomach. Thus, they

were brought to realize that in weakening the stomach, they were weakening themselves, and they had to recognize that the stomach was not a parasite but participated in the vitality of the body. The meaning of the parable is clear: the *patrician*stomach being the vital principle of Rome, the *plebeian*parties in seceding, were harming themselves. The existence of orders and their cooperation are, therefore, essential to Rome's functioning. In this sense, the patrician spokesperson to the secessionists extolled the organicist (hyper-organicist) merits, in terms which are ours, of the social order, so that the plebeians would agree to reintegrate into society. Nevertheless, their status changed somewhat, to the extent that they secured the creation of truly plebeian judicial authorities; which allowed them to gain a sort of political and religious recognition.

From this initial plebeian lesson, Breaugh has discerned two characteristic traits: the political character of the conflict and the affirmation of a radical equality. This means that such an experience carves out a path below the social order to highlight the primacy of politics, of liberty over will, always on our own terms, and, from the outset, characterizes the condition of political possibility once its primacy, that is, equality, is revealed. This is a condition which implies that the political field is only really deployed if the greatest number have access to it. Organizing a camp with no leader on Mount Aventine is shifting the division between the "elite" and the "people" to an "apolitical," or "social" issue. Of course, Breaugh stresses the tragic nature of such an experience, in that its temporality is that of an opening and not permanent; nonetheless, the opening was not closed and leaves its mark.

Obviously, therefore, the key political question, both theoretical and of practical significance, is to know whether the plebeian experience is necessarily committed to spontaneity, discontinuity, while recurring, repeating itself, from time to time, or whether it may be envisaged over time, all while preserving its special character, its originality.

We Are Not in a Democracy

We sincerely hope that these significant, although only allusive, observations allow for the organization of a confrontation with 'the dominant political configuration of modernity' which Breaugh established, stemming from three congruent phenomena: the establishment of representative government; the political party system; and the development of large bureaucracies; to which could be added the autonomization, or naturalization, of the economic field. To the extent that representation serves to select the most enlightened men, according to the wish formulated by Montesquieu, we may conclude from this that representative government is a distinct political form of democracy, an 'aristocratic' form. The selection of magistrates, through the electoral process, provides the means of installing an aristocratic political form and, let us add, of confining political activity to a voluntarist model. (Isn't the election presented as the expression of the popular *will*?) Furthermore, it provides the ideological bias through which the representative government can lay claim to popular approval. Concerning political parties, we refer to Robert Michels' classic analyses[3]denouncing their "oligarchical tendencies." Finally, over time, the bureaucracy allows representative government to bring to fruition its social project. This picture should be

completed with the naturalization of the economy to the degree that liberty, like will, a simple manipulator of means, would be deprived of its ends. An economy organized according to laws of nature could fill this gap: the political will has to obey the imperative that such a necessity seems to harbour, and forces him to be managerial.

So many very common propositions and brought forward so many times! Where is the urgency in repeating them once again? It is so that they encourage us to decide to start thinking of a new regime of critical thought: no longer using the term “democracy” to characterize the political regime of our societies. This matter of words weighs heavily on our way of reflecting on the theoretical and practical political question.

The expression “representative democracy” hampers our analytical capacity in that it compels us to argue from this so-called democratic reality and, at best, to seek to improve it in terms of expanding its degree of democracy. From this, for example, stems the false debate between formal democracy and real democracy, which first agrees to adopt the framework of “formal democracy” to then achieve the conditions of a socio-economic equality to fully meet democratic exigencies, while making the distinction brings us back to a recognition that so-called formal democracy accepts inequalities and is, therefore, anti-democratic. Neither is it our intention to proceed to a deepening of democracy but rather to open up a breach to give democracy a chance. At the end of these remarks, we have gained (and perhaps shared) a certainty, that which assures us that political ambition can only be maintained on the condition of building upon the integrated system of equality and liberty. A number of local actions occurring each day offer proof of the rich promise of this integrated system.

Notes

[1]Jean-Paul Sartre, *Critique of Dialectical Reason*, Volume 1, trans. Alan Sheridan-Smith (London-New York: Verso, 2004) 539

[2]Martin Breaugh, *The Plebeian Experience. A Discontinuous History of Political Freedom, trans. Lazer Lederhendler, foreword Dick* Howard (New York: Columbia University Press, 2013)

[3]Robert Michels, *Political Parties: A Sociological Study of the Oligarchial Tendancies of Modern Democracy*, trans. Eden and Cedar Paul (New York: The Free Press, 2016)

Humanism’s New Frontiers

By | 2018: vol. 17, no. 2

In a book tellingly entitled *Without Offending Humans. A Critique of Animal Rights*,[1]philosopher Elisabeth de Fontenay thus summarizes her disdain for an argument aimed at extending equal moral and legal protection to other than human beings:

> *What seems most serious is a [passage] that condemns article 3 of the Nuremberg code. Ethico-political insensitivity and a dearth of historical culture seem to join forces in this [passage expressing indignation because], at the time, the judges recommended that any therapeutic or experimental approach bearing on man [sic][2]be preceded by animal experimentation. The Nuremberg tribunal only appears… as the moment and place where animal experimentation was officially legalized. And not at all as the trial and historical moment when magistrates… solemnly declared to the whole world that human experimentation should never happen again… [T]he Nuremberg tribunal then becomes nothing more than the exemplary occurrence of the tie that fatally links the proper of man to the torture and murder of animals.[3]*

With truly French *ésprit*, in her attack de Fontenay here captures two fundamental insights of the current anti-speciesist discourse.

On the one hand, she correctly points to the view that there is a “fatal tie” linking human exceptionalism to the oppression of nonhuman beings. On the other, and even more insightfully, she stresses how the Nuremberg Code may be construed as a milestone in the process of the contemporary institutionalization of animal exploitation.

Both these themes are relevant to a critique of that postwar philosophical discourse which was prompted by the reaction to the racist thanatopolitics – or politics of death – of the Axis powers. Such a discourse, focused on the wretchedness of the persecuted and on their reduction to a disposable naked life, as well as on the resistance to victimization and on the means to prevent its recurrence, appears blind to the fact that thanatopolitical practices are clearly implemented with respect to nonhumans – that animals in countless numbers are deprived of any form of protection, and that their bodies are subjected to techno-scientific dispositifs effecting their mass maiming and their phenotypical and genotypical manipulation[4].

On the face of it, this is surprising. How can one understand mass subjugation processes if one decries the condition of the inmate of the concentration camp or of the castrated “defective”

while turning a blind eye to what occurs in research laboratories and factory farms, which raises the specter of an entirely new phenomenon that resists the parallels with intra-human atrocities and that has been defined as "deading life" – life that is not life, life that is not living?[5]Some authors have addressed this problem, pointing to the conditioned ethical blindness of mainstream philosophical approaches. There is, however, another vantage from which such approaches may be considered – one that, starting from the centrality of the notion of humanism, sees deliberateness where there seems to be mere indifference or inadvertence.

According to the plausible reconstruction of an outspoken defender of contemporary humanism, Luc Ferry, supported by other authors,[6]Enlightenment and post Enlightenment speculation looked for something essentially distinguishing "humanity" from "animality" with the aim of accounting for human superior worth, proposing an array of candidate faculties for the "the proper of man" (*le propre de l'homme*) or the "specificity of the human" which, ranging from rationality to self-consciousness to the to freedom of the will, were always linked to the possession of demanding cognitive capacities. As a consequence, the *humanitas*the champions of humanism had in mind did not correspond to *hominitas*as we see it today,[7]and the superior moral worth they pointed at wasn't equally distributed among all the members of the hominid species *Homo sapiens*.

The impact of this discrepancy is well-known, and critically concerns two kinds of exclusion. On the one hand, inferring humanity from the presence of demanding cognitive capacities implied excluding individuals endowed with a mental level that did not match the required standard – the intellectually disabled, who were in fact either institutionalized or derided and teased in the streets and in public places. On the other, the bias for the intellectual was put at the service of other biases, and, when considering different peoples, especially those liable to be exploited, it was usual to collectively grant them inferior rational powers, with the foreseeable outcome of removing them from the protected circle, insofar as "naturally inferior to the whites." In other words, as it has been suggested, "the humanist valorization of man is almost always accompanied by a barely discernable corollary which suggests that some human beings are more human than others."[8]

Within such a discriminatory framework, apart from philosophical approaches, an important role was played by science, and in particular by the budding discipline of physical anthropology, where many authors defended polygenist racial theories distributing human beings along a hierarchical scale of fixed essences. And the post-Enlightenment explosion of romantic-elitist tendencies in philosophy and of nationalistic and then openly imperialistic attitudes in politics only worsened the situation.

Against this background, at the beginning of past century, two new variants of intra-human discrimination made their appearance. First, a growing eugenics movement started to apply to disabled or otherwise stigmatized members of the species policies including genetic screening, birth control, segregation, compulsory sterilization, and forced abortion.[9]Second, after the Peace treaties of World War I, growing number of stateless people – displaced persons, minorities, refugees, denaturalized individuals – were deprived of any legal status and were

gradually forced to live under a “law of exception”, in which the routine solution soon became an internment camp.[10]

Though not unchallenged, these new instantiations of anti-egalitarianism were generally accepted. And, probably, they could have continued to stand in the way of present-day humanism, were not for the momentous fact that, just when the eugenics movement was reaching its greatest popularity and the existence of masses of rightless individuals was becoming commonplace in many countries, both phenomena where appropriated and heightened by the Nazi regime. For one thing, eugenics was appealed to as a justification for population policies which gradually came to involve the sterilization or killing of thousand of “unfit” humans under the T4 Program. For the other, it was in the camps of the Third Reich that the reduction to total powerlessness of human beings was carried to the extreme consequences, subjecting the bodies of the “racially inferior” to such practices as in vivo scientific experimentation.

The close connection thus established between the Nazi regime and eugenics and ethnic cleansing changed the course of history. After World War II, the universal reaction to the euthanasia programs and extermination camps was the wall against which the previously rising waves of official segregation and discrimination programs broke. The shock was so great that humanism was re-founded. And the new global discourses surrounding human dignity of the second half of the past century were so strongly marked by the recent horrors that they devoted themselves to reinforcing the species barrier.

On the scientific side, stances which had previously been pushed to the margins –we know for example, of an abandoned project by the Institute for Intellectual Co-operation to arrange in 1935 a conference aimed at declaring that race prejudice constituted a global menace[11]– regained status in the field. They affirmed, firstly in mainly sociological and ethnological terms, and soon later within a more hard-science framework, an egalitarian vision condemning racism, in whose context the concept of race was defined as a merely “classificatory device providing a zoological frame within which the various groups of mankind may be arranged,” thus implicitly admitting that biological aspects in themselves do not carry any moral import, and where it was stated that “available scientific knowledge provides no basis for believing that the groups of mankind differ in their innate capacity for intellectual and emotional development,”[12] thus decrying group discrimination but skipping the question of single individuals actually deprived of such potential. To this, one must add the more popular version of egalitarianism offered by article 1 of the 1948 Universal Declaration of Human Rights United Nations, which states: “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”[13]

If one thinks that the goal of the postwar political discourse was to reformulate, against the preceding abuses, what allegedly distinguishes “humanity” from “animality” with the aim of accounting for human superior and equal moral worth, the situation seems rather tangled. On the one hand, the traditional intellectual bias – the appeal to cognition in the form of the

“innate capacity for intellectual and emotional development” or of the possession of “reason and conscience” – could perpetuate the exclusion of just the most vulnerable members of the species. On the other, the veiled reference to genetic relationship – the “spirit of brotherhood” (just as the reference to “the human family” in the Preamble to the declaration) – was in sharp contrast with the anti-biologistic stance embodied in the construal of the concept of race merely as “classificatory device providing a zoological frame.”

Confronted with all this, the postwar philosophical defenders of human superior and equal worth – philosophers who, whether they define themselves as humanist, anti-humanist or post-humanist, can be globally classified as “humanistic thinkers” in the elemental sense of endorsing an approach centered on human superiority – looked for different solutions.

A few exemplary perspectives can provide a picture of the situation. According to Emmanuel Levinas, who countered the historical atrocities he ascribed to a construal of the human being as an active and consuming entity by defending an ethics focusing on a radical passivity to the demands of the Other, “man is the being who recognizes saintliness and the forgetting of self… man is not only the being who understands what being means… but the being who has already heard and understood the commandment of saintliness in the face of the otherman.”[14]Giorgio Agamben, on the other hand, in his determined effort to diagnose the experience of extermination camps, while commenting that determining the border between human and animal is a fundamental metaphysico-political operation in which alone something like “man” can be produced, claims that the thesis which summarizes the lesson of Auschwitz isthat “man is the one who can survive man”, and that, since the one whose humanity is completely destroyed is the one who is truly human, the identity between human and inhuman is never perfect, so that “it is not truly possible to destroy the human”[15]. In a rather different vein, Alain Badiou, arguing against what he sees as a perspective too much focused on the aspect of being a victim, which forgets the possibility of revolution and reduces man to his “animal substructure,” claims that “Man” is to be identified by the determination to remain something other than a mortal being, and that the fact that in the end we all die, that only dust remains, “in no wayalters Man’s identity as immortal at the instant in which he affirms himself as someone who runs counter to the temptation of wanting-to-be-an-animal.” [16]

Such a radical deviation from traditional humanistic foundationalism is even more evident in philosophers trained in the Anglo-American analytic traditionbut frequently interacting with the continental tradition such as Richard Rorty and Stanley Cavell, who defend human ethical exceptionalism by appeals to relational frames of reference. Thus, if Rorty suggests that the best argument for bypassing the foundationalist question “What isman?” is that it would be more productive to do so, because it would favor concentrating energies on a manipulation of sentiments aimed at “expand[ing] the reference of the terms ‘our kind of people’ and ‘people like us’,”[17]Stanley Cavell, after suggesting a possible connection between the refusal of the subjection of animals and a wish to declare distance from “one’s fellow human animals,” bluntly concludes that, in response to reminders of the company we may keep with nonhumans, what he would like to say is simply, “I am human.”[18]

What does this all mean? When all the dust is settled, it means that these postwar theoretical defenders of humanism opted for an old/new solution: the introduction, albeit in sophisticated ways, of folk concepts into philosophical reflection. If neither the appeal to biology nor the appeal to cognition are apt to guard the "abyssal rupture" between human and nonhuman beings, because they would legitimate just those forms of intra-human discrimination that the new egalitarian discourse aimed at eliminating, a different identification of *humanitas*could perhaps fill the gap.

Recently, David Livingstone Smith has subjected the folk-concept of the human to a close analysis. What he argues is that being human "is more like being here than it is like being water." It can be useful to sum up, and elaborate on, his argument[19].

A folk concept isa part of the apparatus of a society, which plays a role in the operations of that society. A folk-concept is a product of a community – it is a concept which shapes people's vision of their living environment, and which is not consciously articulated, but lived in an embodied way with its incorporated values. We make sense of the world by classifying the things around us. We sort them into categories and, though some categories are analytic ones, we mostly use non-analytic or folk categories, corresponding to our ordinary, everyday ways of classifying things. Some folk-categories correspond precisely to, e.g., analytic scientific categories. A famous example is "water": anything that's a bucket of water is also a bucket of H2O, and vice versa. But not every folk category is reducible to an analytic one. An example is the category "weed": weeds do not have any biological properties that distinguish them from non-weeds. In fact, one could know everything there is to know biologically about a plant, but still not know that it is a weed, because weeds exist only in virtue of certain social conventions. The category "human," Livingstone Smith argues, has more in common with the folk category "weed" than it does with the category "water." However, in contrast with the term "weed," where, the varied and vague content – a plant that grows rapidly, or that reproduces aggressively, or that takes root in the wrong place – is coupled with a negative connotation – "a plant with undesirable qualities" – the evaluative character of the folk category "human" is decidedly positive. Not haphazardly, it has been quite common for people to count all and only members of their own ethnic group as human beings – a phenomenon on the basis of which native populations call themselves "men," while others are something else − perhaps not defined−but not real men.[20]Analogously, in our more egalitarian world, where "member of the human family" has replaced "member of one's ethnic group," classifying organisms as human is not a morally innocent exercise in descriptive taxonomy, as clearly "attributing humanity carries immense moral weight, and denying it to a creature diminishes its moral status."[21].

In this light, "human" in the contemporary situation – just like "men" in the situation of native peoples – in its commendatory sense is most perspicuously understood as an indexical folk-concept. An indexical concept is a concept which gets its content from the contexts in which it is uttered. Just as the word "I" names the person uttering "I," the word "human" names the speaker's own class ("those like me") – a class which is seen as a set of beings with a shared, distinctive nature.[22]On the one hand, unlike what happens in the paleoanthropological

literature, where “human” is for the most part equated with *Homo sapiens*, in folk taxonomies, as noticed, being human is equated with membership of one’s native group. On the other, however, just like what happens in biological taxonomy, where species saliently stand out as beacons on the landscape of biological reality[23], ethnic groups saliently stand out as beacons in the social landscape. And since salience is, at least to some degree, a function of the speaker’s interests and context, it is fair to interpret the folk-concept of “human” as referring to the maximally salient category – in this case, not a specific ethnic group, as in the paradigmatic form of racism, but the wider community of “our kind” – to which the speaker regards herself as belonging – something which clearly explains the positive evaluative character of the concept, quite independently from any specific substantive content.

It has been claimed that the *form*of racial thinking might reflect a deep feature of our cognition, whereas the *content*of ethnoracial categories is historically contingent[24]. Thus, if for colonial slaveholders “white” and “black” were salient folk categories, which were slided into an intuitive taxonomy, for human beings – including (most) philosophers – “human” and “nonhuman” are equally salient folk categories, endowed with such a strong evaluative charge that the appeal to membership has become the banner of those among *Homo sapiens*who risk exclusion or demotion, as expressed by the anti-discrimination declaration of affiliation “I am a human being”.

As mentioned, the postwar philosophical attempt to defend human exceptionalism was concerned with preserving special human dignity in the face of the horrors of eugenics and ethnic cleansing. This means that, to defend humanism’s inclusive side – the view that all human beings have equal worth – bypassing the Scylla of biologism and the Charybdis of intellectual bias that plagued public discourse, it strongly concentrated on humanism’s exclusive side – the view that only human beings have special worth.[25]And manifestly, as a tool for the work of boundary drawing, an indexical folk-concept of the human, given the discriminating role it has traditionally played in the operations of human communities,offers many advantages.

On one hand, the non-analyticity of folk concepts stands in the way of the universalizing enterprise of showing that it is morally arbitrary to exclude nonhumans from basic equality. For, if this enterprise is based on an attack on the elements used to draw the dividing line, how can the attack be developed in the face of a concept of the human where implausible contents draw their force from an indexical element whose invocation is something so connatural to any conscious being that “it goes without saying because it comes without saying” – which means that it tends to be *unquestioned*.[26]

In Rorty and Cavell, the appeal to the indexical aspect is so prominent as to make it almost unnecessary to give any actual content to the concept, apart of course from the unstated bases for the similarity evoked by such expressions as “like us” or “fellow.” And if in Levinas, Agamben and Badiou, we are indeed presented with some actual content, it is clear that, here too, what really does the trick as far as the severance ofhumans from the other animals is concerned is the covert introduction of the flattering aspect of the indexical *we*as contrasted to

the others. For, just as improbable views defending white supremacy such as the construal of whites as reluctant civilizers[27]were easily accepted by the self-congratulatory *we*of the North Atlantic colonizers, so what, if not the gratified *we*of human beings, might grant plausibility to such improbable markers of humanity as those entailed by the idea that man is the being who recognizes the forgetting of self, or that man is the being who can survive man, or that man is to be identified by the determination to remain something other than a mortal being?

Thus, while it might prima facie appear that the heterodox refounders of humanism have obtained the hoped for result – that they have indeed protected the human citadel – this is manifestly a Pyrrhic victory. Paraphrasing Pierre Bourdieu, one might say that their concept of being human is an indexical folk-concept which, while being smuggled into moral analysis, has imported into it a whole cultural unconscious, and that "this is why this 'concept' works so well, or too well."[28]Actually, in dealing with the most serious question confronting any moral agent – how to treat other beings – what was meant to be a philosophical achievement was purchased only at the price of giving up just what distinguishes theoretical reflection from mere self-serving speculation. Indeed, to return to de Fontenay's words, this is only one further occurrence "of the tie that fatally links the proper of man to the torture and murder of animals."

Notes

[1] Elisabeth de Fontenay, *Without Offending Humans. A Critique of Animal Rights*(Minneapolis: University of Minnesota Press, 2012). The original title is somehow less aggressive: *Sans offenser le genre humain: Réflexions sur la cause animale* (Paris: Albin Michel, 2008).

[2] The use of the term "man" instead of "human" in the literature under consideration is so frequent that the repeated insertion of "[sic]" would disturb the reading of the text. I shall therefore avoid it in what follows.

[3] Elisabeth de Fontenay, *Without Offending Humans*, cit., pp. 58-63.

[4] *See Charles Patterson, Eternal Treblinka: Our Treatment of Animals and the Holocaust (New York: Lantern Books, 2002).*

[5] *See James Stanescu, "Beyond Biopolitics: Animal Studies, Factory Farms, and the Advent of Deading Life," PhaenEx 8 (2), 2013, pp. 135–160.*

[6] See Luc Ferry, "Sur les droits de l'homme," Lecture delivered on April 21, 2008, at the Institut français de Prague,atwww.france.cz/IMG/doc_retranscription-2.doc.See also*John Rodman, "Animal Justice: The Counter-Revolution in Natural Right and Law", Inquiry 22 (1-4), 1979, pp. 3-22.*

[7] For the distinction between *humanitas*and *hominitas*see Raymond Corbey, *The Metaphysics of Apes. Negotiating the Animal-Human Boundary*(New York: Cambridge University Press, 2005), p. 94.

[8] See Leela Gandhi, *Postcolonial Theory: A Critical Introduction* (New York: Columbia University Press, 1998), p. 29.

[9] See Charles Patterson, *Eternal Treblinka*, cit., chapter 2.

[10] See Hannah Arendt, *The Origins of Totalitarianism*(London: A Harvest Book, 1968), p. 279.

[11] See Unesco *International Social Science Bulletin*, 2 (3), 1950, p. 385, at https://unesdoc.unesco.org/images/0004/000411/041187eo.pdf

[12] Unesco Statement on the Nature of Race and Race Differences (1951), at https://unesdoc.unesco.org/images/0015/001577/157730eb.pdf

[13] The Universal Declaration of Human Rights, at https://www.un.org/en/universal-declaration-human-rights/

[14] Emmanuel Levinas, *Alterity and Transcendence*(London: The Athlone Press, 1999), p. 180.

[15] Giorgio Agamben, *The Open*(Stanford, Ca: Stanford University Press, 2004), p. 21, and id., *Remnants of Auschwitz* (New York: Zone, 2002), pp. 133-134.

[16] Alain Badiou,*Ethics*(London: Verso 2001), p. 12.

[17] Richard Rorty, "Human rights, rationality, and sentimentality" in S. Shute and S. Hurley, eds., *On Human Rights. Oxford Amnesty Lectures 1993*(New York: Basic Books, 1993), pp.112-134.

[18] Stanley Cavell, "Companionable Thinking" in A. Crary, ed., *Wittgenstein and the Moral Life* (Cambridge, Mass: MIT Press, 2007), pp. 295-296.

[19] David Livingstone Smith, "Indexically yours: Why being human is more like being here than it is like being water," in R. Corbey and A. Lanjouw, eds., *The Politics of Species: Reshaping our Relationships with Other Animals*, (Cambridge: Cambridge University Press, 2013), pp. 40-52.

[20] A particularly striking example among many is offered by the members of an ethnic group of New Guinea who call themselves "the Asmat" – which means "the people – the human beings," while all outsiders are known very simply as Manowe – "the edible ones." See John Edwards, *Language and Identity: An Introduction*(Cambridge: Cambridge University Press, 2009), p. 36.

[21] David Livingstone, “Indexically yours,” cit., p. 42.

[22] It’s no coincidence that, as George R. Stewart observed, “many tribal names are – at least in primitive stages of culture – *not formal designations, but merely equivalents*of the pronoun ‘we’.” See George R. Stewart, *Names on the Globe*(New York: Oxford University Press, 1975) p. 68.

[23] See Brent Berlin*, Ethnobiological Classification: Principles of Categorization of Plants and Animals in Traditional Societies*(Princeton, NJ: Princeton University Press, 1992), p. 53.

[24] Edouard Machery and Luc Faucher, “Social construction and the concept of race,” *Philosophy and Science* 72, 2005, pp. 1208-19, cited in David Livingstone, “*Indexically yours*,” cit., p. 50.

[25] On the distinction between the inclusive and the exclusive side of humanism, see Paola Cavalieri, “Consequences of Humanism, or, Advocating What?”, in M. DeKoven and M. Lundblad, eds., *Species Matters: Humane Advocacy and Cultural Theory*(New York: Columbia University Press, 2012), pp. 49-73.

[26] For the notion that **“what is essential goes without saying because it comes without saying”**see Pierre Bourdieu, *Outline of a Theory of Practice*(New York: Cambridge University Press, 1977), p. 169.

[27] See e.g. the favorable stir created by Rudyard Kipling’ poem “T*he White Man’s*Burden.”

[28] See Pierre Bourdieu, (with L Wacquant) “Towards a reflexive sociology: a workshop with Pierre Bourdieu,” *Sociological Theory*, 7 (1), 1989, p. 38.

The New Left and the Marxian Legacy: Encounters in the U.S., France and Germany

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In the mid-1960s, as the Cold War seemed frozen into place after the Soviet repression of the Hungarian uprising in 1956, and the stalemate that defused the Cuban Missile Crisis in 1962, the spirit of a "New Left" began to emerge in the West.

Although encouraged by events in the Third World, its common denominator was the idea that the misunderstood (or misused) work of Karl Marx must have offered a theory that both explained the discontent with the present among a new generation of youth and could also offer them guidelines for future action. At once personal and social, critical and political, this expectation was encouraged by publications of the writings of the young Marx as well as the discovery of non-orthodox theorists and political activists whose critical work had been ignored or suppressed by Soviet dominated communist parties. These theories represented an "unknown dimension"[1]that became the object of vigorous debate in the 1960s and early 1970s. The searching candle burned bright for a decade before it flamed out.

Meanwhile, the revolutionary spirit that Marx liked to call the "old mole" had grubbed its way underneath the Iron Curtain; the multi-faceted movement of civil society against the repressive states anchored to the Soviet bloc brought finally the fall of communism. But the critical spirit was too weak, economic need weighed too heavy, and the spirit of utopia waxed. It seemed as if there were nothing to inherit from the past. As in the 1960s, the critical spirit of the young Marx, the critical philosopher searching for his path, can suggest a reason to persevere. In a "Preliminary Note" to his doctoral dissertation, Marx justified his refusal to compromise with existing conditions by invoking the example of Themistocles who, "when Athens was threatened with devastation, convinced the Athenians to take to the sea in order to found a new Athens on another element."[2] This was not yet an anticipation of Marx's turn away from philosophy to political economy. Like the New Left, Marx was trying to articulate the grounds of a critique of a present that he considered "beneath contempt" in order to hold open the political future.

I will use this idea of a New Left to conceptualize the underlying unity of diverse political experiences during the past half century. Although Marx is not the direct object of my reconstruction, his specter is a recurring presence at those "nodal points" where the imperative to move to "another element" becomes apparent. These are moments when the spirit that has animated a movement can advance no further; it is faced with new obstacles,

which may be self-created. I will analyze from a participant's perspective the development of the New Left in the U.S., France and West Germany as it tried to articulate what I call the "unknown dimension" of Marx's theoretical project.

I. Innocent Beginnings

As the Civil Rights movement spread, and more rapidly as it merged with protests against the Vietnam war, it was necessary to propose a political theory to explain both the conditions against which protest was raised, and the future projects and goals of the movement. This two-sided imperative, analyzing critically the present while opening a future horizon could not be realized by a single academic discipline such as sociology or economics; critical analysis of the present coupled with a normative reflection on the positive possibilities latent within it has always been the domain of political philosophy. The dominant mode of analytic philosophy in most major Anglo-Saxon philosophy departments dismissed concern with history or politics as speculative.[3] It was (barely) legitimate to appeal to the existentialist voluntarism of Jean-Paul Sartre; but the French philosopher's demonstration that Marxism is "the unsurpassable horizon of our times," elaborated in the 800 plus pages of his *Critique of Dialectical Reason* (1960) was not translated until 1976. It was (barely) more acceptable to turn to Husserl's or Heidegger's phenomenological concept of the life-world (and the recognition of lived-experience as a "horizon"), although the latter had been discredited politically and only the first volume of Husserl's *Ideas*had been translated. However interested, most Americans did not have the linguistic competence to pursue this path.

Marxism in the adulterated forms of dialectical materialism was not a serious philosophical or political alternative. After the ravages of McCarthyism, there was no political (or commercial editorial) market for it. I bought my first copies of *Capital*in the summer of 1965 from an old communist who would drive from San Antonio to the University of Texas in Austin with a trunk full of literature from Progress Publishers in Moscow. Party control of Marx's writings was maintained so far as possible by its American affiliate, International Publishers. I experience their desire for control when they interviewed me on Christmas Eve of 1970 about a possible translation of the young Marx. The meeting came to a rapid end when I suggested that I would of course add explanatory notes to explain difficult passages.[4] The only option seemed to be to create a new mode of publication. The first step in that direction was taken when the New Left recognized that it was not the first new left, and that America had not always been a status quo society. This insight gave rise to the development of "history from below," which was pursued in the mimeographed pages of the student-run journal, *Radical America*. Although the initiative came from historians (led by Paul Buhle), the pages of this journal were open to philosophical and critical theory as well. The young Marx found a place here, as did contemporary French theory, as did I.[5]

Of the politically engaged theoretical journals that emerged in the late 1960s *Telos* was the most provocative. After two issues as the "official bi-yearly publication of the Graduate Philosophy Association" at Buffalo, the journal defined itself as *"definitely outside*the mainstream" in issues 3 to 5 (Spring 1969-Spring 1970); a year later, it called itself more

modestly an “international interdisciplinary quarterly,” but its radical editors defined themselves as “revolutionary” rather than simply “radical.” in numbers 10 and 12 (winter 1971 and Summer 1972). The labels are unimportant; the fact that the journal remained resolutely international influenced more strongly its future. Its history was marked by disagreement, dissent and ruptures, each justified by appeal to the practical implications of theoretical choices.[6] Intellectual, political and personal issues both bound together and separated the editors.

Speaking for myself, I joined the editorial board in the Fall of 1970 with issue 6 (a 360 page *summum* that contained among contributions by the editors, as well as essays and translations by Tran Duc Thâo on the “Hegelian dialectic,” Maurice Merleau-Ponty on “Western Marxism,” Georg Lukács on the “Dialectics of Labor” and Agnes Heller on “The Marxian Theory of Revolution.”[7]). The editors of *Telos* were fully embarked on a voyage of initiation that began to with two issues consecrated to the repressed works of Georg Lukács (numbers 10 and 11, 1971-2). Looking back today at the old volumes, I am a bit astonished by the breadth and depth of their themes. They present a juxtaposition of the stages of rediscovery of critical Marxism with a concern for French political debate (André Gorz and Serge Mallet, as well as the challenge of structuralism to the Hegel-inspired critical theories), as well as critical readings of Eastern European attempts to save what was critical in classical Marxism (in the theories of the Budapest School, or the work of the Czech philosopher Karel Kosik, as well as the banned Yugoslav *Praxis*philosophers). Hard-to-place figures like Karl Korsch, Ernst Bloch or the Dutch astronomer and founding spirit of the Council Communists, Anton Pannekoek, found themselves alive again in the pages of *Telos*. The diversity of the contributions reflects the avid curiosity of the authors. But this eager openness and free floating critical spirit did not last.

I left Telos officially with issue 36 (Summer, 1978), after a series of critical exchanges among the editors that began already in 1974. The intellectual climate had changed with the political normalization. During the first years of*Telos,*the Vietnam war continued, as did opposition to its senseless pursuit. The rapid self-initiation into the varieties of Marxist theory and the nuances of its practice seemed all the more urgent; working with texts in French and German, providing translations and commentaries on them, the editors had remained, as they promised, “*definitely outside*the mainstream.” In the uncertain political conditions created by imperial war, colonial adventure, and the fight against racial discrimination at home, the serious work of theory was felt to be a kind of *praxis*. But a problem arose from the identification of Marx’s theory as the banner of resistance and the key needed to open the door to a revolution that seemed ever more imperative as repression at home increased. Repression had to be met with resistance, on all fronts, including that of theory.[8]But resistance could become stubborn and dogmatic, pledging allegiance to the flag of Marxism at the cost of creating a climate that discouraged critical thinking.

An expression of this uncritical Marxist dogmatism led me to finally leave *Telos.* The editors were unwilling to publish the essays by Claude Lefort and Cornelius Castoriadis that I had proposed for translation. It was apparent that their explicit critiques of Marx were too much to

accept in a journal that felt the pressured to hold high the partisan banner; to criticize Marx could seem to provide ammunition to the enemy (as if we critical theorists were perceived at all by that enemy). I prevailed ultimately, writing introductions to their essays published in successive issues in the winter 1974 and spring 1975 issues (numbers 22 and 23).[9] The experience left a bitter residue; my concern was not to defend the Marxist faith but to recover the spirit of the New Left. From this perspective *Telos* had become what I called a "meta" forum, publishing analyses or revised interpretations of second generation representatives of that "unknown dimension" whose aura had drawn the original editors to the project. Commentary on commentaries gave me the feeling that the journal was no longer "*definitively outside*" of the establishment. I managed to arrange publication of some contributions, mainly on French themes, but the editorial trains were on different tracks; careers could be made, although it would be unfair to confuse fidelity to dogma with opportunism. In spite of the journal's cosmopolitanism and the diversity of its contributions—some resuscitating forgotten Marxian radicals such as Karl Korsch (e.g., issue 26, Winter 1975), others joining theoretical analysis with contemporary politics (e.g., issue 16 which brought together Marcuse's 1930 essay on the concept of labor with André Gorz's analysis of the division of labor in the modern factory), the reheated dinner no longer satisfied my imagination.[10]

My story had not ended. The motivation that had brought me to *Telos*led me to return to the journal as "Notes" editor with issue 58 (1983). I wanted to take account of new phenomena that were appearing, particularly but not only in East-Central Europe. It seemed necessary to stress their novelty, rather than to insert them into an already valid theoretical framework. The journal had begun to publish originalessays and translations from Eastern Europe where the challenge of Polish *Solidarnosc*trade union to the totalitarian state was relayed by oppositional intellectuals in Hungary and elsewhere. *Telos*benefitted from the presence in New York of two Hungarian students of Lukács, Agnes Heller and Ferenc Feher, as well as the editorial input of Andrew Arato, a native Hungarian. There was excitement in the West as well, as the idea of the autonomy of civil society began to take hold. This seemed to confirm much of what Lefort and Castoriadis had asserted in their essays published earlier, as well as in their articles reprinted by *Telos*on the twentieth anniversary of the Hungarian revolution (issue 29, Fall 1976). I took responsibility for the "Notes" section of the journal because the times did not seem right for a new grand theory. A politics based on the autonomy of civil society had to remain alert to signs of the new rather than rely on old truths.[11].

As it happened, I soon found myself in the modest minority of editors; the proponents of grand theory came increasingly to the fore. I left the journal once again with issue 71, in 1987. I was not surprised to find that issue 72 was devoted to the work of Carl Schmitt; I should have seen it coming. My misperception resulted in part from the fact that I, along with Lefort and Castoriadis, distinguish between "the political" which defines the framework within which the legitimate struggle for power can take place and political action itself. Already in 1974 I had titled an article on Habermas "A Politics in Search of the Political," and a decade later, in the context of the East European emergence of civil society, I analyzed what I saw as "The Return of the Political" which I suggested could make possible "A Political Theory for Marxism."[12] My conception of the "political" differed radically from Schmitt's conservative-decisionist

theory, which came to dominate the journal. *Telos* has continued to publish, apparently remaining on the conservative path accompanied by traditionalist overtones that I am unable to understand.

II. The French Connection

Another option open to a would-be New Leftist in the 1960s could be found in France. As a country where the Communist Party had won a quarter of the vote in the post-war years, France seemed to prove the cultural legitimacy of Marxist theory. What is more, it was also the home of critics of Marx who considered themselves to be leftists, many of whom were philosophers. The most famous was the "existentialist," Jean-Paul Sartre (whose gesture in refusing the Nobel Prize for Literature in 1964 because it implied acceptance of "bourgeois" values pleased many a young iconoclast).[13] An American had a further reason to chose France: its revolutionary tradition appealed to equality, whereas the American tradition of 1776 stressed individual liberty. Indeed, the Civil Rights Movement was demanding protection above all for individual rights rather than seek a cross-racial class struggle. That choice was not a tactical error; but it had to be understood as only the first stage toward revolutionary change.

France between 1966 and 1968 provided both an initiation to Marx and a critique of Marxism. At the Communist Party's annual*Fête de l'Humanité*, I was refused free entry although I explained that I was a comrade getting by on scholarship. Later, at a demonstration against the Vietnam war, a speaker from the Party demonstrated the justice of the anti-war cause while showing its place in a long historical chain; at the end of his discourse, as the public applauded, he joined them, suggesting that he was not expressing his opinion but spoke the truth of historical necessity. A similar Marxist conviction animated the Trotskyist opponents of the communists. Those who attended their (smaller, semi-public) meetings had to sign-in under a pseudonym, increasing the thrill and sense of the exclusivity of participation.[14] The theoretical justification of this practice was that the revolution could come at any time, and that without an organized and knowledgeable leadership to give direction to the working class could fail, or be stolen and deformed (as was said to have been the case in the Soviet Union). The point was well taken; theory was necessary. I moved into the dormitory at Nanterre where I spent a good part of the day reading Marx's *Capital* while watching a nasty yellow smoke rise from the tin shacks of the neighboring *bidonville*.

There are experiences offer lessons that could not be drawn from books. The principal theoretical challenge that occupied me was to identify the working class that was assumed to be the agent of revolution.[15] Had the capitalist economy brought into being a "new working class," as several theorists whom I came to identify with the New Left claimed. Among them were Serge Mallet, whose analysis of *La nouvelle classe ouvrière*appearedin 1963; André Gorz published *Stratégie ouvrière et néo-capitalism*in 1964; and Daniel Mothé published *Militant chez Renaut* in 1965.[16] Mallet had been a functionary of the Communist Party; after he quit the party when it proved incapable of understanding or resisting the new Gaullist regime that came to power in 1958, his research was funded in part by a grant from Jean-Paul Sartre. At

the time, Gorz was a journalist at the weekly magazine, *Le Nouvel Observateur,*author of the existentialist analysis of alienation in *Le Traître,* and a member of the editorial committee of Sartre's journal, *Les Temps Modernes*.[17] Mothé, whom I came to know at the journal *Esprit*, had been a line-worker at the huge Renaut automobile plant at Billancourt while a member of the group *Socialisme ou Barbarie*, insisted on the capacity for self-organization on the part of workers without the need for a political party to show them the way. What the three political thinkers shared was a welcoming eye for the new. Needless to say, all three were eager participants in the "events" of May 1968.

I followed here the French usage in talking about May 1968 as "events." What crystallized in the "March 22nd Movement" at Nanterre before spreading and spiraling across France (and abroad) had little to do with Marx. In retrospect, the losers on the left were what I call the Marx*ists*: the Maoists, who insisted that real revolution could not be led by students; logically consistent, their followers ignored the campuses and went instead to the working class suburbs, where they found no echo; and the Communist Party (and its trade unions) who did their best to restrain the unexpected movement that they could not master. For my part, at Nanterre, I had the feeling during the pre-May meetings on campus that I was back at a New Left gathering in the States. It was as if the over-politicized students who, in earlier meetings I had attended, had harangued one another about the need to support the "peasants and workers of X" rather than the "workers and peasants of X" were now speaking English[18] The price I paid for this comfort was in a way paradoxical; I had come to France to find a theory that could make political sense of my New Left experience not to confirm it, now in a new language.

A first reflection after the experience of May '68 led me back to Marx. What was the relation between the philosophical explorations of the young Hegelian whose analysis of capitalism explored the diverse ramifications of alienation (as both *Entfremdung*and as *Entäusserung*) and the author of *Capital* whose three thick tomes demonstrating the internal contradictions and necessary breakdown of capitalism I had been studying in that dormitory at Nanterre? The ebbing of the spirit of May seemed to lend weight to the structuralist arguments of Louis Althusser, who drew a sharp line between Marx's "scientific" work and his youthful philosophical explorations. The simultaneous publication in 1965 of his *Pour Marx*and the two collaborative volumes of *Lire le Capital* seemed to offer a material foundation for the New Left experience that I had come to France to find. The political price to be paid, however, was not realized by most at the time.[19] The all-encompassing denunciation of ideology in the name of "science" left no room for subjectivity characteristic of the new left or the May movement; the result eliminated the pole of negativity characteristic of the dialectic. I tried to avoid this dead end in my revised doctoral dissertation that proposed an analysis of *The Development of the Marxian Dialectic**[20]***. The qualifier "Marxian" (rather than the substantive "Marxist") was meant to show that his turn to political economy was based on the dialectical elaboration of Marx's youthful philosophical insights.

Other questions raised by the experience of May '68 led me back to the existential Marxism of Sartre. At the "First International Telos Conference" in October 1970, I proposed an analysis

of “Existentialism and Marxism.”[21] I was led to this theme by a slim volume titled *Ces idées qui ont ébranlé la France. Nanterre Novembre 1967-juin 1968**[22]*. The author uses categories developed in Sartre’s *Critique of Dialectical Reason*to reconstruct the tumultuous emergence on one campus of a revolt that “shook the nation.” The author concludes on a note of what can be called pessimistic optimism. Sartre had tried to explain the transformation what he called serial and external relations among alienated individuals through a movement that transforms them into a “group-in-fusion” through which passive participants become for a moment fused as active members of a collective subject. Sartre recognizes that by its very existential nature the fused group is unstable; it has to seek means to conserve its unity. The only possible solution to this political problem seems to demand that the existentialist cedes his subjectivity to objective knowledge of the Party. Sartre is more subtle in the *Critique*than he had been earlier; appealing to the history of the French revolution, he introduces first the idea of an “oath” by which the fused group binds itself. The words appear to be powerless inn the face of the hard, existential reality of “scarcity” that Sartre calls the “practico-inert.” The oath must then be enforced, ultimately by Terror, itself enforced by a leader who functions as an external “totalizing Third” whose description at times recalls Stalin, or the communist Party. This troubling political implication of this attempt to join existentialism and Marxism may be one reason that Sartre never completed the promised second volume of his *Critique*.

One last French encounter deserves mention here. As is well-known, French intellectuals of a leftist bent often express their allegiances, or their protests, by signing petitions that are reproduced in journals read by a wider public. In the late winter of 1968, I attended the presentation of a petition against the war in Vietnam by a group that included among others, Sartre. Afterwards, I wrote a short paper for the journal *Esprit* reflecting on “Les intellectuels français et nous.”[23] My point was that words are cheap; there are actions to be undertaken. I didn’t mention the fact that I had been working with a network formerly active against the French war in Algeria that was now involved in helping American deserters. One of the other participants at the press conference was Pierre Vidal-Naquet, who contacted his friends at *Esprit* to find out who I was. We met; I arranged for him to meet with some of the Americans; we became friends. A few years later, when I was wanted to have a chapter on *Socialisme ou Barbarie*for *The Unknown Dimension*, Vidal-Naquet, an engaged intellectual who never joined a political party, arranged for me to meet Lefort, which in turn led to my meeting Castoriadis. Reflecting on the experience, I have concluded that my activist resentment of the intellectual who signs was based on a misunderstanding of the solidarity of critical individuals who think for themselves.

III. The German Path: From Phenomenology to Critical Theory

The *Contributions to a New Marxism*published by *Telos* included Paul Piccone’s proposal for the elaboration of a “Phenomenological Marxism.” The editor in chief was summarizing his vision of the path followed by the early *Telos*. Enzo Paci, the radical Italian phenomenologist, had developed a critique of the pretension to scientific objectivity on Husserl’s posthumously published *Crisis of European Sciences and Transcendental Phenomenology*.[24] Paci tries to demonstrate that the foundation of this vision is an alienation from the lived-world whose effect

is the further reproduction of alienated relations that make the human quest for meaningful experience impossible. It took only a short step for Piccone and the early editors to recognize that the implacable logic of capitalism is a manifestation of a similar alienation. This interrelation became clear when *Telos*published in the same issue, translations of Herbert Marcuse's 1928 "Contributions to a Phenomenology of Historical Materialism" along with Husserl's account of "Universal Teleology."[25]Capping that issue was Piccone's essay on "Lukács' *History and Class Consciousness*Half a Century Later" which made the integration of phenomenology and Marxism explicit. Despite its sad political fate, Piccone was certain that Lukács' book had still the potential to reclaim its explosive impact.

Although I was not yet involved with *Telos*, two brief "Notes" that appeared in the same issue dealt with events in which I had participated, making me more receptive to the journal. One note affirmed *Telos'*outsider perspectivethrough a biting report on the American Philosophical Association's winter meeting (at New York's Waldorf Astoria hotel!). Intellectually irrelevant, the big name figures of the academic world were denounced for having mobilized their fellows against a condemnation of the Vietnam war, while their job-seeking graduate students were consigned to a Kafkaesque maze on the 18thfloor where they competed for interviews. The other Note, also critical, commented on an international phenomenological colloquium in Schwäbish Hall, West Germany, which was said to have placed insufficient emphasis on the importance of the life-world. The exception was said to be the synthetic conclusion presented by Paul Ricoeur.[26]

The political difference between a phenomenological foundation for radical politics and Althusser's structuralism is striking. The French Marxist was criticizing a bourgeois subjectivism that supposedly led to a philosophical idealism that separated theory from its practical implications. The task of structural logic, as Althusser thought he had found it in *Capital*, was to demonstrate the material condition of possibility of radical change by overcoming the separation of theory and praxis. The difficulty is that structuralism (like dogmatic materialism) leaves no place for the inter-subjectivity that constitutes meaning in the life-world. By contrast, the phenomenological insistence on the primacy of the life-world led to the recognition that lived experience is inseparably the foundation of the world of the subject and the condition of its possible objectification in positive science. Neither can exist or be understood apart from the other. Phenomenology avoids the either/or of materialism and idealism; in this way it overcomes what Lukács called "reification" and the young Marx denounced as "alienation." While this reading of phenomenology can veer toward a Hegelian-Marxist theory, the ideas of a life-world and the lived-experience within it were in fact fundamental for the emerging New Left.[27]

The similar political reflexes among New Leftists did not obviate the differences in their cultural and historical background. The German New Left experience was at first affected by the fact that the Social Democratic Party (SPD)—the lineal heir of the party of Marx and Engels!—had decided at its Bad Godesberg Conference in 1959 to abandon its self-understanding as a class based party of revolution. Because it had opted to become a reformist "peoples' party," the SPD no longer referred to Marxism as its guiding philosophy. In the

following years, as its youth organization, the Sozialistische Deutsche Studentenbund (SDS), began to radicalize in ways that resembled the experience of their American counterparts in the other SDS[28], its leaders were tempted to return to the Marxism and class theory that the reformists had rejected. One important difference between the two movements was that the Germans had access to the original texts of Marx.[29] This was a temptation that could lead to scholastic debates about text interpretation, or to dogmatic claims to know better than the simple participants. In both cases, it turned attention away from the creativity of practical interventions by the young militants that were rapidly changing the inherited mandarin culture.

The German New Left was generally more bookish than most of its American cousins. Its members were also more concerned with the past, which the reconstructed Western nation did its best to forget. In the case of the Frankfurt School, Horkheimer and Adorno no longer identified themselves with Marxism as Critical Theory; Horkheimer refused to republish the yearly volumes of the *Zeitschrift für Sozialforschung*that were published from exile between 1932 and 1941. Horkheimer played an administrative academic role while still teaching at Frankfurt, while Adorno was widely known for his cultural interventions on the radio. But their reputations had preceded them. Radical students began to publish pirate editions photocopied from the original texts, glued together on cheap paper, bound with thin red cover pages, as a sort of *Samizdat*! Among those that I purchased at the Karl Marx Buchhandlung in Frankfurt between 1968 and 1970 are the complete edition of the *Zeitschrift*, and three volumes of Horkheimer's essays titled *Kritische Theorie der Gesellschaft*, as well as the *Dialektik der Aufklärung*and *Authorität und Familie*. Two other small volumes by Horkheimer also remain on my shelves: the *Anfänge der bürgerlichen Geschichtsphilosophie*and three essays from his most radical period, 1939-41, published under the title, *Autoritärer Staat*[30]

Whether their books concerned Marx or the Frankfurt School, the German New Left was a generation of readers. In a way, that was true of all of the New Lefts. One cultural trait that marked the Germans was the idea of a life-world that must be protected against instrumentalization. The refusal to treat what should be an end in itself as a means to something else, be it capitalist domination or a science acquired at the cost of one's humanity, is a tradition that goes back to the German Enlightenment and to Kant. At their most pessimistic moments, Adorno and Horkheimer constructed an historical- ontological "dialectic of enlightenment" that arises when reason turns on itself leaving the way clear for domination by unreason, as it had after 1933. Horkheimer had allowed himself a somewhat less fatalistic, more political interpretation of the historical moment in *The Eclipse of Reason*(1947). Significantly, its German edition twenty years later, published as *Zur kritik der instrumentellen Vernunft*, was more than twice its size. Its final essay, which dates from 1965, reaffirms the goals of Critical Theory—the critique of the existing order—with the *caveat*that the "threats to freedom" that *were*the subject of his original essay have changed.

The new German radicals wanted not only to criticize the existing world; they wanted to change it. Seeking their way, they tried to return to the origins of critical theory. They read Horkheimer's path breaking essay "Traditional and Critical Theory" and—having read

Marcuse's *One-Dimensional Man*—they eagerly read the exchange between Horkheimer and Marcuse titled "Philosophy and Critical Theory."[31] Then they went back still further, to Marx, especially the young Marx. What they found gave them a deeper sense to critical theory.

Those who did their reading of the young Marx could not fail to be struck in particular by two passages. The first, in the "Exchange of Letters" (among Marx, Ruge and Feuerbach) that introduced the *Deutsch-Französischen Jahrbücher*, insists: that "We do not face the world in doctrinaire fashion, declaring 'Here is the truth, kneel here!'…We do not tell the world, 'Cease your struggles, they are stupid; we want to give you the true watchword of the struggle.' We merely show the world why it actually struggles; and consciousness is something that the world must acquire even if it does not want to." This is a straightforward formulation of the idea of *immanent critique*. It did not, however, suffice on its own. As they read on, they saw that Marx went on to apply this critical theory in his "Introduction to a Critique of Hegel's Philosophy of Right. " "Man, he begins there, "is not an abstract essence existing outside the world. Man is the *world of men,* state, society." The task of the immanent critique is "to make these reified relations dance by singing to them their own melody." As his analysis becomes more concrete, step by immanent step, the "man" from whom Marx began becomes the "proletariat." In this incarnation, the "world of men" is an object that is produced by a certain type of self-reflective society; yet it remains always a subject capable of praxis and understanding—of making a revolution!

The problem for the New Left was that this proletariat conceptualized by Marx no longer existed. That seemed to leave two options for a revolutionary theory of immanent critique. The first would pursue the project on the terrain of culture that had been staked out by Adorno, and by the increasingly popular Walter Benjamin. Elements of this option have been described recently by Philipp Felsch's study, *Der lange Sommer der Theorie. Geschichte einer Revolte, 1960-1990*, which reconstructs the integration of French deconstruction theory into Germany by the efforts of the publishers of the Merve Verlag.[32] Most of the story that Felsch recounts takes place outside of the framework of the present account. However one factoid that he cites at the outset points toward the second option for a radical left.

At the time of his death while in prison, the founder of the terrorist Red Brigades, Andreas Baader, had become an voracious consumer of the works of Marx, Marcuse, and Reich; nearly 400 volumes were found in his cell. Baader represented an extreme version of the other option for the New Left: an actionism, which claimed to be a praxis that did in its way what Marx had advocated for critical theory. Although the activists have thought they could "make the reified relations dance by singing before them their own melody," the song that they sung opposed their *own*violence to that of an unjust society. It is true 1968 was a year that had seen the French May events, followed by the police violence at the democratic party convention in Chicago, the pursuit of the war in Vietnam and the crushing of Prague spring by Soviet and allied tanks. The "praxis faction" argued that by provoking state-violence their actions would force the ruling class to reveal the iron fist within its velvet glove. This superficial and *antipolitical*option was rightly denounced as "left wing fascism" by the heir to the Frankfurt School, Jürgen Habermas, assembly of 2000 activists on June 2, 1968. Although he later

admitted that this was no doubt a bad choice of words, Habermas point was telling.[33]

With the turn to violence what I called at the outset the New Left's age of innocence came to an end. The search for an "unknown dimension" continued, although Marx was no longer considered to be its origin. In France in the mid-1970s, as if to atone for past orthodoxies, anti-totalitarianism became an inspiration for a number of former New Left intellectuals. In Eastern Europe, anti-totalitarianism became a practical reality; in 1989 the Berlin Wall came down, and in 1991 the Soviet Union disappeared. As was the case for many participants in *Telos*during the 1980s, it seemed to many that a *new*New Left could take shape within the spaces of a "civil society" that conserved its autonomy. This conceptual hope expressed a familiar concept for the heirs to the earlier New Left who had read the young Marx. Those who adopted it unfortunately did not pay sufficient attention to the origin of the concept with Hegel, who saw civil society as only a particular mediation between the immediacy of family life, and the universality of the political state. An autonomous civil society cannot stand alone. The political renewal of the mediations that Hegel called the family and the state stands today as the "unknown dimension" that could animate a *new*New Left. Marx may well continue to offer his help in the search for what he had called at the beginning of his own quest to found a "new Athens on another element."

Notes

[1]C.f. the collection of essays that Karl E. Klare and I co-edited, *The Unknown Dimension. European Marxism since Lenin*(New York: Basic Books, 1972). The subtitle makes clear our political intention.

[2]My translation from the note in the "Vorarbeiten" titled by its editors "Nodal Points in the Development of Philosophy" as published in *Karl Marx. Frühe Schriften*, H-J Lieber and Peter Furth, editors (Stuttgart: Cotta Verlag, 1962), p. 104.

[3]John Rawls' *Theory of Justice,*published only in 1971, plays no role in the story I am telling. As for the British, the existence of a still vibrant trade union tradition helps to explain the persistence of a more-or-less orthodox Marxist orientation among leftists.

[4]The climate changed rapidly; commercial publishers saw a market. Not known for critical perspicacity, one of the commercial editors, Doubleday, pushed their luck with the publication of a 450 page compilation of *The Essential Stalin: Major Theoretical Writings, 1905-1952,* edited by Stanford University professor, Bruce Franklin. C.f. the ironic critical review by Paul Breines in *Telos*No. 15 (Spring 1973).

[5]C.f., "French New Working Class Theory" (Vol. III, No. 2, May 1969) and "Genetic Economics vs. Dialectical Materialism" (Vol. III, No. 4, August 1969). My edition of the *Selected Political Writings of Rosa Luxemburg*(New York: Monthly Review Press, 1971) was designated "A *RadicalAmerica Book*."

[6]Robert Zwarg has recently published a lucid, richly detailed and critically argued study of *Die Kritische Theorie in Amerika. Das Nachleben einer Tradition*(Göttingen: Vandenhoeck & Ruprecht, 2017). Zwarg uses the development of *Telos*and *New German Critique*to trace the afterlife of the Frankfurt tradition of critical theory. In the course of his presentation, he also offers a generous account of *Radical America*as well.

[7]The issue also included my essay "On Marx's Critical Theory" which used the recently discovered manuscript of Marx's *Resultate des unmittelbaren Produktionsprozesses*to demonstrate a continuity between the social analysis of the young Marx and the work of the mature political economist. As Rosa Luxemburg (whose work I was editing at the time) intuited, capitalism and its contradictions can only be understood as a system of social *re*production.

[8]I had an early experience of the weight of Marxist orthodoxy at a conference on Rosa Luxemburg in Italy in 1973. My presentation asked how Rosa Luxemburg could beat once the most innovative of Marxist activists and yet the most dogmatic defender of Marx's texts (for example, against Bernstein's revisionism). As it happens, the following day saw the coup d'état in Chile against the Socialist government of Salvador Allende. I instantly became persona non grata! A revised version of that paper was published in *Telos*, issue 18, "Rethinking Rosa Luxemburg" (and reprinted in *The Marxian Legacy*). Another example of this kind of pressure is seen in Trent Schroyer's article in issue 12 of *Telos,* "The Dialectical Foundations of Critical Theory," the author feels compelled to begin his discussion of Habermas with an apology: "Despite the vilification of the left, and to the dismay of the academy, Jürgen Habermas remains a Marxist."

[9]My introductory essays situated historically the two co-founders of the journal *Socialisme ou Barbarie*in the context of French leftist politics and political theory. They became the basis of the chapters on Lefort and Castoriadis published in *The Marxian Legacy*.

[10]The last article that I published, "Enlightened Despotism and Democracy" (in issue 33, Fall 1977) built from an historical reconstruction to pose a question that led me to turn from the model of the French revolution to reconsider the history of the American revolution. The article touched as well on themes that became basic to the critique of totalitarianism.

[11]A far-reaching synthesis that I found convincing was published in 1992 by two editors whose contribution to *Telos*had been significant was important was published Jean L. Cohen and Andrew Arato,in *Civil Society and Political Theory*(Cambridge: MIT Press, 1992). Both Cohen and Arato, as well as Heller and Feher , finally left *Telos*by the early 1990s, when they were unable to overcome the influence of the Schmittian grand theorists

[12]C.f., "A Politics in Search of the Political," *Theory and Society,*1, 1974, pp. 271-306; "The Return of the Political," *Thesis Eleven*, Nr. 8, 1984, pp. 77-91; and "A Political Theory for Marxism," *New Political Science*, Nr. 13, Winter 1984, pp. 5-26.

[13]C.f his declaration of refusal, reprinted in

https://www.nybooks.com/articles/1964/12/17/sartre-on-the-nobel-prize/

[14]I later used my pseudonym when I published an article on Czech student dissidents that relied on information that could have harmed friends there. C.f., "Czech-Mating Stalinism" in *Commonweal*, May 17, 1968. I refer below to my debt to the dissidents whom I knew in the 1960s. It should be noted that although both Communists and Trotskyists claimed the legacy of Marx, they were far more justified when they presented themselves as heirs to Lenin!

[15]I knew already from reading one of the few books on Marx that was widely available in the U.S., C. Wright Mills *The Marxists (*New York: Penguin Books, 1962), that the crucial problem for a contemporary Marxist would be to define what the "working class" could mean in contemporary societies.

[16]All three of these books were published by the Éditions du Seuil. I discuss the theories of Mallet and Gorz in *The Unknown Dimension, op. cit.* I return to his later work in the 'Afterword' to the second edition of *The Marxian Legacy*and reconsider his philosophical path in chapter 7 of *Between Politics and Antipolitics*.

[17]Gorz's idea of a "new left" differed from my own vague understanding; his was strongly influenced by the Italian trade union theorists around the CGIL. After we had become friends, he once told me that he was the editor who had refused to publish my essay on the American New Left in *Les Temps Modernes*, even though it had been accepted in an official letter by his colleague, Claude Lanzmann.

[18]The former, I came to learn, identified with Maoism, the latter with one of the two Trotskyist factions. At the time, neither my knowledge of French nor my understanding of Marxist scholastics were sufficient to grasp the distinction. I did write, in early June, an account of the May events on the basis of my experience. A copy was sent by courier (the post office was closed) to the journal *Viet Report*. I do not know whether it arrived. Meanwhile, a friend in London who borrowed by carbon copy never returned it!

[19]I was part of the overflow crowd at Althusser's lecture, "Lénine et la philosophie," at the Société Française de Philosophie on February 24, 1968. Althusser, who remained a party member, could appeal to the science of structures to criticize forms of "ideology" that didn't fit the prevailing party views.

[20](Carbondale: Southern Illinois University Press, 1972).

[21]Published in *Towards a New Marxism*(St. Louis: Telos Press, 1973). This publication was no doubt a sign of *Telos'*self-confidence rather than of the result of rejection by commercial publishers. I would similarly publish my first work with small leftist publications "outside the mainstream." Another reason for these publications was the intense desire to communicate, immediately, with others caught up in the same 'movement'. C.f., the chapter on Sartre in *The Marxian Legacy*.

[22]The volume was published under the pseudonym of Epistémon (Paris: Fayard, 1968). Its author was Didier Anzieu, a psychoanalyst and professor of psychology at Nanterre; and his title is of course a word play on John Reed's well-known account of the Russian Revolution as "Seven Days that Shook the World."

[23]C.f., *Esprit*, mars 1968, pp. 506-508.

[24]The German edition was first published in 1936. The English translation by David Carr appeared in 1970. *Telos* published some fragments of Husserl's text without authorization (in Number 4, Fall 1969). Affirming its political principles, the editorial page insisted that "Since ideas should neither be sold nor bought, none of the included material is copyrighted and can be used for any purpose whatsoever by anyone. It did the same with chapters from Maurice Merleau-Ponty's as yet untranslated *Adventures of the Dialectic*in Numbers 6 and 7. The English translation by Joseph Bien appeared only in 1973.

[25]C.f., volume 4, Fall 1969.

[26]I had been there, and agreed. It had been Ricoeur's support that brought me to Paris, in part on the basis of an exchange of letters in which I tried to show how I thought phenomenology could provide the basis for rethinking new left and antiwar politics. See Ricoeur's letters of May 15, 1965 and November 5, 1965, and my letter of February 6, 1966, in DH Archive at Stony Brook University.

I should add, however, that David Carr, the English translator of Husserl's *Krisis,* who was also at the conference, pointed out to me that his impression was that there was perhaps too much, but too vague a discussion of the life-world. He himself presented a paper on that theme. C.f. his "Diskussionsbeitrag," to the publication of the papers presented: Vérité et vérification/Wahrheit und Verifikation (Actes du 4ème Collques internationale de Phénoménologie), ed. H. L. Van Breda (The Hague: M. Nijhoff, 1974), pp. 95-96.

[27]I leave aside the very different interpretation of the life-world and lived-experience by Heidegger. It did not play a significant role among readers of *Telos*, although most did read the (difficult if not unreadable) translation into English and some were fascinated by its still influential French variant.

[28]Students for a Democratic Society had been the youth organization of the Social Democratic League for Industrial Democracy. It declared its autonomy from its parent in 1960.

[29]In fact, the generally available and inexpensive East German edition (the *Marx Engels Werke*, familiarly called "die blauen Bänder) did not include many of the early philosophical work of the young Marx. These could be found in the more expensive edition of the *Frühe Schriften*published by the Cotta Verlag only in 1962.

[30]Perhaps in the Enlightenment tradition, when Amsterdam was a center of pirate editions, the last-named book had a publisher (Amsterdam: Verlag de Munter, 1967), the others were

usually done by anonymous collectives and were undated There were other pirate editions, for example of Karl Korsch and of Wilhelm Reich's 1934 journal called*Sex-Pol*(as well as a pocket-sized, illustrated version of *Der sexuelle Kampf der Jugend*). One found also editions of authors who had abandoned their former political theories, such as Karl August Wittfogel, Franz Borkenau, and Richard Löwenthal (under the pseudonym Paul Sering). Another large volume, retyped by anonymous collaborators (like the *Samizat* publications that helped bring down the Soviet Union), previously published texts from academic journals under the title *Kritik und Interpretation der Kritischen Theorie: über Adorno, Horkheimer, Marcuse, Benjamin, Habermas*.

[31]All three essays appeared in volume 6 of the *Zeitschrift für Sozialforschung*(1937), which was copyrighted in Paris by the Librairie Félix Alcan in 1938.

[32]München: Verlag C.H. Beck, 2015).

[33]C.f., the reconstruction of Habermas' philosophical development in *The Marxian Legacy.* I keep this theoretical development separate from his political writings in chapter 8, which are the subject of chapter 8, "Citizen Habermas," republished in *Between Politics and Antipolitics. Thinking about Politics after 9/11* (New York & London: Palgrave Macmillan, 2016). At the time, international connections were strong, as reflected in for example Alfred Schmidt's contribution to *The Unknown Dimension*. I knew many of f the SDS leaders from Frankfurt criticized by Habermas, including the charismatic Hans-Jürgen Krahl, whose necrology, as noted above, was published in *Telos*. Others, such as Rainer Zoll, who had left the university to work for the IG Metal (but returned to a post in Bremen somewhat later), helped put the excesses in perspective.

Marx, Socialism and the Ecology

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Students often reproached me for being theoretical. I never denied that. I always said then that you do not need to confuse the notion of praxis with that of practice. In my opinion, Marx connected theory and praxis in the real Aristotelian sense: for him theory was praxis.

— A. Th. Van Leeuwen

Kohei Saito's *Karl Marx's Ecosocialism: Capital, Nature, and the Unfinished Critique of Political Economy* (KME) deals with how Marx conceived of the metabolism between humankind and nature. He shows the *development* in Marx's thought concerning the relation between humankind and nature in capitalist society. In addition, he refers to the consequences of Marx's ecological dimension for theorizing about a future socialist, communist society which led, for example, to Marx's statement in his *Economic Manuscript* of 1864-65:

> *From the standpoint of a higher socioeconomic formation, the private property of particular individuals in the earth will appear just as absurd as the private property of one man in another man. Even an entire society, a nation, or all simultaneously existing societies taken together, are not the owners of the earth. They are simply its occupiers, its beneficiaries, and they have to bequeath it in an improved state to the succeeding generations as boni patres familias. (cited on p. 173, here and below, emphasis in original).*

In his "Acknowledgments," Saito writes that *KME* is the English version of the German edition, which is based on his dissertation. In the German edition, he states that the inspiration for this book has its origin in his editing activity for Volume IV/18 (soon to appear) of the *Marx-Engels-Gesamtausgabe (MEGA²)*, which will contain Marx's ecological notebooks.

Uncovering Marx's Ecology

KME is an intervention in the contemporary debates about ecological problems within contemporary Marxism and about the significance of ecological elements in Marx's critique of political economy.

Before engaging ourselves directly with Saito's book it is good to be aware of what is at stake when we discuss the metabolism between humankind and nature: the living conditions of organic life on this planet.

Take, for example, water. It is one of the preconditions for organic life. When the supply of water is blocked or disrupted, this will have a great impact on organic life, for water is, as we

all know, one of the bare necessities of life for human beings, other animals, and plants. Two recent events illustrate this impact on the living conditions of human beings.

The first event concerns the water crisis in Cape Town, South Africa. Reservoirs in Cape Town and surrounding areas are now less than a quarter full. The largest dam supplying water to the city, the Theewaterskloof Dam, is filled to only 11.3% of capacity. As Amitabh Sinha asks in her report in *Indian Express*, 26 February 2018, "Is it climate change?" And she continues: "Probably yes, although it is difficult to ascertain the impact of climate change over a small geographical region. The area is prone to fluctuations in rainfall, and climate change does accentuate the variability. According to professor Mark New, Pro-Vice Chancellor for Climate Change at the African Climate and Development Initiative, University of Cape Town, preliminary analysis suggests that three-year cumulative rainfall deficits (as in the current situation) have become five times more likely due to global warming."

The second event is the Flint water crisis and its health consequences starting in 2014/ 2015. As the Editors of *Access Science* reported in 2017 concerning this event:

> *The water crisis that gripped the city of Flint, Michigan, in 2014 and 2015—and which is still felt to the present day—became one of the most notorious and scandalous public health disasters in recent United States history. The immediate cause was the contamination of the municipal water supply with toxic lead and dangerous bacteria, but the true cause is widely considered to be colossal mismanagement and unsound cost-cutting measures imposed on the city. Compounding the scandal is the fact that the population of Flint is disproportionately poor and African-American, suggesting to many critics that such mismanagement might not have occurred in a place with a wealthier, whiter population. Although the most acute health consequences of the crisis may be over, the long-term effects, particularly from the lead exposure, may take years to emerge.*

With the water crisis in Cape Town there is talk of climate change and global warming and in Flint, of health disasters, mismanagement, and unsound cost-cutting measures, as well as their disproportionate impact on poor people and African-Americans in Flint.

These reported disruptions in the natural environment of humankind, in the relation between humankind and nature in capitalist society, are not random occurrences. We find them all over the world and they touch upon all aspects of organic life. Moreover, the number of these disruptions is growing. All aspects of the living conditions for organic life are endangered by the use of nuclear energy (Fukushima), the use of pesticides in agriculture, the cutting of forests (Amazon region), air pollution by motorized traffic and industry, global warming by CO^2 emission, etc. Actually, these events demonstrate that there is something fundamentally problematic in the relation between humankind and nature, the so-called metabolism between humankind and nature in capitalist society. These ecological problems are, besides war, the

most frequent cause of great migration movements in the world.

Marx's thought with regard to ecology has been neglected for a long time or has been misunderstood, both within and outside Marxism. Saito shows that Marx's concern with the relation between humankind and nature is already present at an early stage of his thinking. But he also brings to the fore the notion that we can not really discover an explicit notion of ecology at this early stage.

As to the intention of *KME*, Saito writes,

> *...in this book I will demonstrate that Marx's ecological critique possesses a systematic character and constitutes an essential moment within the totality of his project of Capital. Ecology does not simply exist in Marx's thought— my thesis is a stronger one. I maintain that it [is] not possible to comprehend the full scope of his critique of political economy if one ignores its ecological dimension (pp. 13-14).*

This is opposed to two lines of misunderstanding of Marx's ecological thought.

First, there is the line of thinking that attributes to Marx a certain "Prometheanism." This is a notion "according to which unlimited technological development under capitalism allows humans to arbitrarily manipulate external nature" (p. 9).

Saito refers to representatives of this line of thinking like John Passmore, who writes, "nothing could be more ecologically damaging than the Hegelian-Marxist doctrine" (cited on p. 9). He also mentions Thomas Petersen and Malte Faber, who write that Marx was "too optimistic in terms of his supposition that any production process can be arranged in such a manner that it does not incur any environmentally harmful materials" (cited on p. 10). Saito refers further to Hans Immler, who even argued that "due to its one-sided concentration on value and value analysis and due to its fundamental neglect of the physical and natural sphere (use values, nature, sensuousness)," Marx's critique "remains unable to address and analyze… those developments of social practice that result not only in the most fundamental threats to life, but also represent decisive impulses toward a transformation of socio-economic reality, such as ecological politics." For Immler there is no other conclusion than: "So forget about Marx" (cited on p. 10).

The Prometheanism interpretation concerning Marx's ecology, writes Saito, is outdated when one considers the development of Marxist ecology in Paul Burkett's *Marx and Nature* (1999) and John Bellamy Foster's *Marx Ecology* (2000). Burkett and Foster "convincingly showed various unnoticed or suppressed ecological dimensions of his critique of political economy and opened a way to emancipate Marx's theory from the Promethean stereotype dominant in the 1980s and '90s" (p. 11). They are the founders of the notion of the "*metabolic rift*" (violation of ecological sustainability conditions) in the relation between humankind and nature. In addition, the work of Burkett and Foster has been an inspiration for Marxist ecological research in

different areas, which has resulted in new research on eco- feminism, ecological imperialism and on climate change.

Central to these studies is the approach of environmental crises as a contradiction of capitalism based upon the metabolic rift.

Saito discerns a second line of misunderstanding about Marx's ecology in the theories of the so-called "first-stage eco-socialists." Among its representatives he considers Ted Benton, André Gorz, Michael Löwy, James O'Connor, and Alain Lipietz. In their writings, there is in Saito's opinion a persistent reservation toward accepting Marx's ecology (p. 11). However, Saito does not elaborate on this, but proceeds to mention some of their newer adherents, who "recognize the validity of Marx's ecological notions to a limited extent, but are claiming that his analysis was fatally flawed in its failure to be fully ecological and that his nineteenth-century discussions of the ecological problem are of little importance today" (p. 12).

Although Saito has a positive assessment of the contribution of Burkett and Foster in uncovering ecological dimensions in Marx's work, he also remarks that "their analyses sometimes give a false impression that Marx did not deal with the topic in a systematic but only in a sporadic and marginal way" (p. 12).

By responding to the misunderstandings about Marx's notion of ecology and by extending the uncovering of the ecological dimensions in Marx's work by Burkett and Foster, Saito proposes to carry out a systemic and complete reconstruction of Marx's ecology.

The book contains two parts. Part I, "Ecology and Economy," shows that "it is thus necessary to reveal the immanent systematic character of Marx's ecology, that there is a clear continuity with his critique of political economy." In Part II, "Marx's Ecology and the Marx-Engels-Gesamtausgabe," Saito will examine Marx's ecology in a more complete way than the earlier literature by "scrutinizing his natural science notebooks that will be published for the first time in the new *Marx-Engels-Gesamtausgabe*, known as *MEGA²*" (p. 12).

In these notebooks Marx recorded his studies of the natural sciences and of ecological questions in the nineteenth century, which he integrated into his analysis of capitalism. They show how "…Marx consciously parted from any forms of naïve Prometheanism and came to regard ecological crises as the fundamental contradiction of the capitalist mode of production" (p. 13).

Taking together these notebooks and Marx's *German Ideology, Grundrisse*, and *Capital* Saito maintains: "… Marx examined how the historically specific dynamics of capitalist production, mediated by reified economic categories, constitute particular ways of human social praxis toward nature— namely the harnessing of nature to the needs of maximum capital accumulation— and how various disharmonies and discrepancies in nature must emerge out of this capitalist deformation of the universal metabolism of nature" (p. 15).

Critical Interlude: The Philosophy of Revolution, the Critique of Political Economy,

and Conceptualizing the End of Capitalism

Important parts of the 1844 *Economic and Philosophic Manuscripts* (EPM) concern the relation between humankind and nature, mainly in capitalist society and partly during feudalism.

In the *EPM*, in the manuscript on "Alienated [Estranged] Labour," Marx is writing about the alienation of human beings in capitalist society. Human beings are alienated from nature and from the products they create in the production process, are alienated in the activity they carry out to produce these products, and are alienated from themselves and from other people.

Saito refers to Marx's notion of the alienation of the human being from nature as a key but implicit ecological notion. In the *EPM*, he writes, "Marx sees the reason for the emergence of modern alienated life in a radical dissolution of the original unity between humans and nature… capitalism is fundamentally characterized by alienation of nature and a distorted relationship between humans and nature." That is why Marx comes to his "emancipatory idea of 'humanism = naturalism' as a project of reestablishing the unity between humanity and nature against capitalist alienation" (p. 14).

He goes on to write, "Marx in *The German Ideology* discerns the inadequacy of his earlier project, which simply opposes a philosophical 'idea' against the alienated reality" (p. 14). The reason behind this inadequacy is said to be Marx's conclusion that he has to distance himself from Feuerbach's philosophical schema. However, Saito notes, "Throughout the process of the development of his critique of political economy, Marx never gave up his 1844 insight in terms of the original unity of humans and nature" (p. 50). But Saito goes a step further in his evaluation of what he sees as Marx's Feuerbachianism in the *EPM*. He goes so far as to extend Marx's distancing from Feuerbachianism to one from of all of philosophy: "*The German Ideology* together with *Theses on Feuerbach*, documents the moment when Marx decisively distanced himself from philosophy and began to move forward to the non-philosophic conception of the unity between humanity and nature" (p. 51).

Let us look more closely at these interpretations of Marx and philosophy.

In his assessment of the 1844 *EPM* Saito conceives of Marx as "still very much influenced by Ludwig Feuerbach's philosophy. As a result, he tended to connect his historical analysis with an abstract and ahistorical 'human essence,' and further, his critical understanding of the capitalist mode of production was not very profound. Nevertheless, Marx soon came to notice the theoretical limitations of Feuerbach's philosophy of essence and succeeded in fully rejecting its abstract critique of alienation in his *Theses on Feuerbach* [1845] and *The German Ideology* [1846] and thereby establishing in 1845 a theoretical basis for his later research in natural science" (pp. 26-27).

Of course, when we compare Marx's knowledge of the capitalist mode of production at the time of the *EPM* with his later research and findings in economics, we could say that his knowledge was not yet very profound. But it is equally true that he made a major step forward at the very beginning of his critique of political economy by *questioning fundamentally* the assumptions of

classical political economy.

Saito is identifying Marx's notion of alienation in the EPM almost entirely with Feuerbach's philosophical notions. This would hold too for the notion of "species being [*Gattungswesen*)]."

In my opinion, Saito misses the point here.

In the *EPM* there are some undoubtedly Feuerbachian influences. We can in this context refer, for example, to Marx's *Preface* to the *EPM* in which he writes about the positive contributions of Feuerbach.
https://www.marxists.org/archive/marx/works/1844/manuscripts/preface.htm#Preface

But it is quite another thing, I think, to state that Marx, along the lines of Feuerbach, tended to connect his historical analysis with an abstract and ahistorical "human essence." The error of such an interpretation of Marx as more-or-less Feuerbachian in 1844 can be discerned if we turn to an important section of the *EPM*, "The Power of Money in Bourgeois Society," where we read: "If man's *feelings*, passions, etc., are not merely anthropological phenomena in the [narrower] sense, but truly *ontological* affirmations of being (of nature), and if they are only really affirmed because their *object* exists for them as a sensual object, then it is clear that…"
https://www.marxists.org/archive/marx/works/1844/manuscripts/power.htm

Marx specifies this with a list of five points. Particularly important here is the fourth of these, where he connects his notions of *anthropology* and *ontology* with *practical philosophy*: "(4) Only through developed industry—i.e., through the medium of private property—does the ontological essence of human passion come into being, in its totality as in its humanity; the science of man is therefore itself a product of man's establishment of himself by practical activity."

This is a notion of philosophy, in particular a philosophy of humankind as species being [*Gattungswesen*], which is very different from that of Feuerbach. Statements about natural species, nature, and transformation of nature, also from the EPM, indicate that he uses the term species with a meaning totally different from that of Feuerbach. He writes in "Alienated Labour":

> *The life of the species, both in man and in animals, consists physically in the fact that man (like the animal) lives on organic nature; and the more universal man (or the animal) is, the more universal is the sphere of inorganic nature on which he lives. Just as plants, animals, stones, air, light, etc., constitute theoretically a part of human consciousness, partly as objects of natural science, partly as objects of art – his spiritual inorganic nature, spiritual nourishment which he must first prepare to make palatable and digestible – so also in the realm of practice they constitute a part of human life and human activity. Physically man lives only on these products of nature, whether they appear in the form of food, heating, clothes, a dwelling, etc. (https://www.marxists.org/archive/marx/works/1844/manuscripts/power.htm*

Marx proceeds to clarify his notion of nature: “The universality of man appears in practice precisely in the universality which makes all nature his *inorganic* body – both inasmuch as nature is (1) his direct means of life, and (2) the material, the object, and the instrument of his life activity. Nature is man’s *inorganic* body – nature, that is, insofar as it is not itself human body. Man *lives* on nature – means that nature is his body, with which he must remain in continuous interchange if he is not to die. That man’s physical and spiritual life is linked to nature means simply that nature is linked to itself, for man is a part of nature.” (https://www.marxists.org/archive/marx/works/1844/manuscripts/power.htm

What about *The German Ideology*? of 1846, two years later? Is Marx here negating philosophy or distancing himself from it?

In the part of *The German Ideology* in which Marx deals with the philosophical conceptions of the Young Hegelians and specifically with Feuerbach’s notion of philosophy, he writes:

> *When reality is depicted, philosophy as an independent branch of knowledge loses its medium of existence. At the best its place can only be taken by a summing-up of the most general results, abstractions which arise from the observation of the historical development of men. Viewed apart from real history, these abstractions have in themselves no value whatsoever. They can only serve to facilitate the arrangement of historical material, to indicate the sequence of its separate strata. But they by no means afford a recipe or schema, as does philosophy, for neatly trimming the epochs of history. On the contrary, our difficulties begin only when we set about the observation and the arrangement – the real depiction – of our historical material, whether of a past epoch or of the present. The removal of these difficulties is governed by premises which it is quite impossible to state here, but which only the study of the actual life-process and the activity of the individuals of each epoch will make evident. (my emphasis— K.L.) (https://www.marxists.org/archive/marx/works/1845/german-ideology/ch01a.htm#a2)*

In writing that “philosophy as an independent branch of knowledge loses its medium of existence” Marx is departing from or distancing himself from the *traditional* notion of philosophy, philosophy as “apart from real history.” This conception of philosophy is present in the Young Hegelians and in Feuerbach, which results in their notion of changing society by reforming consciousness. Marx, on the other hand, is creating a *new form of philosophy,* a philosophy that is connected to real history and thus with the practical activity of individuals, a philosophy in which there is a *unity of theory and praxis*. Marx is already laying a strong basis for this new philosophy in the *EPM*. When one reads texts of Marx *before* the *EPM*, for example, in the German-French Yearbooks, one can see that he was already working to develop this new form of philosophy.

In the context of Marx’s Early Essays (mainly, but not only the *EPM*) it is relevant to cite what

Raya Dunayevskaya writes to Erich Fromm in a letter of October 11, 1961:

> *What matters is their present cogency of and the need to discuss the Humanism of Marx concretely… I mean the discussion must be in terms of what Marx called the 'abolition' of philosophy through its 'realization,' that is to say, by putting an end to the division between life and philosophy, work and life, and the different intellectual disciplines and work as the activity of man, the whole of man, the man with heart, brain and physical power, including the sensitivity and the genius of arts.*

Concerning the "realization" of philosophy, she refers to Marx's remark in the "Introduction to the Contribution to the Critique of Hegel's Philosophy of Law" (1844) to the effect that "you cannot abolish [*aufheben*] philosophy without realizing it." Marx wrote, she adds, that "the practical political party in Germany demands the negation of philosophy" and that it wants to do so "by turning its back on philosophy and with averted face uttering a few trite and angry phrases about it."

Interesting here is that while the date of publication of this Introduction was 1844, Marx actually wrote it in 1843.

We see thus that instead of leaving philosophy after the *EPM*, Marx is concretizing more and more his new philosophy in the *Theses on Feuerbach* and *The German Ideology*, a process of creation that, as I showed above, had already started *even before* the *EPM*.

This notion of this new form of philosophy can also be found much later in Marx's work. In the *Introduction to the Grundrisse* (1857/58) he discusses philosophy in terms of a notion of *totality*:

> *The totality as it appears in the head, as a totality of thoughts, is a product of a thinking head, which appropriates the world in the only way it can, a way different from the artistic, religious, practical and mental appropriation of this world. The real subject retains its autonomous existence outside the head just as before; namely as long as the head's conduct is merely speculative, merely theoretical. Hence, in the theoretical method, too, the subject, society, must always be kept in mind as the presupposition. (my emphasis— K.L.) (https://www.marxists.org/archive/marx/works/1857/grundrisse/ch01.htm)*

Nor did he stop discussing his new philosophy after the *Grundrisse*, as can be seen in his reaction to Dühring's review of *Capital*, Volume 1:

> *My relationship with Hegel is very simple. I am a disciple of Hegel, and the presumptuous chatter of the epigones who think they have buried this great thinker*

> *appear frankly ridiculous to me. Nevertheless, I have taken the liberty of adopting a critical attitude, disencumbering his dialectic of its mysticism and thus putting it through a profound change.*

Thus, we see that all along the line in Marx's diving into political economy, his critique of political economy is an activity *within* the framework of his new philosophy. And that is not without a reason.

Tomonaga Tairako writes (*Philosophy and Practice in Marx*, in: Congrès Marx V, octobre 2007):

> *The dialectic method is applied to the critique of political economy for the sake of his [Marx's] interest in recognizing the importance of the praxis of individuals who are in their daily life caught in actually existent appearance. Thus, we are led to a new theoretical perspective on the problem of the historical overcoming of capitalism. According to this new perspective, the end of capitalism should not be argued in the limited framework of the critique of political economy. To discuss the historical ending of capitalism, Marx's economic theory must be combined with a theory of the praxis of individuals. The theoretical transition from the critique of political economy to the theory of praxis is to be prepared by the theory of alienation.*

This *new* form of philosophy is fundamental to Marx's discussion about the transcendence of capitalism. A central point here is the unity of theory and praxis. Because of this, Dunayevskaya calls this new philosophy Marx's Philosophy of Revolution.

Nature, the Natural Sciences, and Subjectivity

In connecting nature and the natural sciences, the Italian Marxist Angelo Baracca writes:

> *Humankind, in its (material and conceptual) productive activity, establishes a relationship with nature. What humankind really experiences and what is knowable for it is just this relationship between nature and social activity." He emphasizes too the class determinedness of our research on and knowledge of nature: "Obviously nature, as a counterpart [to humankind— K.L] poses some restrictions but the kind of things, relations and laws that are investigated is determined in the first place by the social (class) relations dominating at the social level.*

In his critique of political economy, from *The Poverty of Philosophy* through the writing of *Capital* Volume 1, Marx takes up the problematic of ground rent in capitalist society. In this research he picks up developments in the science of physiology that were derived from agricultural metabolic thought. As we consider the class determinedness of natural science in

this respect, we should not forget that at the time “physiology” and “metabolic thinking” had arisen in a society where agriculture was predominant.

The concept “metabolism” dates to the 19th century, about the 1840s. It is one of the scientific results of the enormous capitalist development in industry — and above all in agriculture — in the first half of the 19th century. Agriculture certainly stimulated sciences like chemistry and physiology. According to Saito, when Justus von Liebig began to develop and use the concept of metabolism, Saito suggests that it did not reach beyond “an incessant process of organic exchange of old and new compounds through combinations, assimilations, and excretions so that every organic action can continue” (p. 69). Soon, however, Liebig gave this a broader meaning concerning the interaction of living beings with the environment as well. The concept in its broader meaning, that of the interaction of organic life with the environment, was going to play a dominant role as an analogy far beyond the natural sciences, in both philosophy and political economy. In Liebig’s more developed concept of metabolism, both chemistry and physiology are important elements. This is not surprising for a scientist who was also a manufacturer of artificial fertilizer.

Marx would take up the concept of physiology as he developed his critique of political economy and his research on the relations between humankind and nature. It would play “a central role in his [critique of- K.L.] political economy” in the *Grundrisse* and later in *Capital*, as Marx sought to understand “the dynamic and interactive relationship between humans and nature mediated by labor” (p. 63).

The first time Marx uses the term “metabolism” is in *Reflection*, an excerpt in his London notebooks of the early 1850s. This has already been published in *MEGA*² IV/8. His notion metabolism can be traced back to his reading of a manuscript by Roland Daniels, *Mikrokosmos. Entwurf einer physiologischen Anthropologie (Microcosm. Outline for a Physiological Anthropology)*. Daniels, a physician and comrade of Marx, asked him to critique his manuscript, which Marx received in February 1851. This date is important, because it indicates that Marx had already become familiar with aspects of physiology before making his excerpts from Liebig’s *Agricultural Chemistry* which he began in July 1851 (p. 73). Although Marx did in fact distance himself from most of Daniels’s ideas, the manuscript inspired him to use physiological concepts as analogies in his critique of political economy.

Marx was also acquainted with Wilhelm Roscher’s *Principles of Political Economy* (1854). Roscher also drew on physiological concepts in his studies of political economy. As Saito notes “Roscher calls these constant transformations of various materials in the everlasting process of production and consumption within a society *Stoffwechsel (metabolism)*…” Moreover, “though he contrasts ‘form’ and ‘material’ [economic form and the material manifestation of this economic form— K.L.], he is not able to abstract the pure economic exchanges of form between commodity and money, but instead confuses the role of exchanges of form with the transformation of matter” (pp. 76-77).

After describing these two sources for Marx concerning the concept of metabolism Saito notes,

“His sources of inspiration are not so apparent after the reading of Daniels and Roscher because, following his own purpose of developing a system of political economy, Marx generalized and modified the concept as well” (p. 78). This gave later interpreters room to bring in other scientists as his sources. Saito mentions in this context Alfred Schmidt and Amy Wendling.

Schmidt’s *Der Begriff der Natur in der Lehre von Marx* [The Concept of Nature in Marx] (1993, 4th ed.) views Jakob Moleschott as a source for Marx’s engagement with metabolism. Feuerbach and Moleschott were close to each other in philosophical and scientific terms. Moleschott’s notion of metabolism, in Saito’s opinion, reduces all appearances in the world to the true materialist principle of essence, i.e., “matter”, in what, however, is more or less a form of Feuerbachian philosophy. This suggests that Moleschott’s notion of metabolism actually ends up in a Feuerbachian anthropology. This is why Saito sees Schmidt’s interpretation as an erroneous one.

As to Wendling, Saito notes that she holds in her *Karl Marx on Technology and Alienation* (2009) that Marx’s notion of labor in the 1840s is ontologically rooted because of the influence of Aristotle, Locke, Smith, and Hegel. In her analysis, Saito writes, Marx would develop another orientation in the 1850s. In her interpretation Marx “began to emphasize the ‘thermodynamic’ theory of value in contrast to Liebig” in agreement with Ludwig Büchner and Moleschott (p. 86). Wendling discerns in Liebig’s concept of metabolism only a notion of vitalism. Moreover, she overlooks its ecological component. Saito writes that there is not much proof of Marx’s engagement with the study of thermodynamics. But besides that, Wendling’s study, basing herself on Büchner as an inspiration for Marx’s transformation of his concept of labor, is flawed, in part because she refers to the English translation of Büchner’s *Stoff und Kraft: Empirisch- naturwissenschaftliche Studien* (1858), which has errors in the translation that take the edge off of her argument.

Saito concludes that Schmidt and Wendling downplay the role of Liebig’s conception of metabolism in Marx’s theory and that Wendling even elides the ecological dimension of Marx’s studies in the natural sciences.

Saito refers to two other scientific works from the areas of agronomics and physiology in order to refute the arguments of Schmidt and Wendling and to emphasize that physiology ‘was in the air’, but in a non-Feuerbachian way. These are the German physiologist and natural philosopher Carl Gustav Carus’s *System of Physiology* (1839) and agronomist and historian of agriculture Carl Fraas’s *The Nature of Agriculture* (1857). Since Carus was mentioned in Daniels’s manuscript and in his letter to Marx, Saito concludes that it is plausible that Marx knew of Carus’s notions about physiology. And although Marx would excerpt Fraas after 1868, it is possible that he had earlier knowledge of his physiological theories. The theories of Carus and Fraas correspond in any case with Marx’s integration of physiological aspects in the *Grundrisse* and *Capital*.

In developing his critique of political economy, Marx uses physiology as analogy and this has

an ecological dimension. Marx will begin to study in depth the production process (the nature of capital and of wage labor) under capitalism and the relation between the earth and human beings in this process. He will compare these relations to those of precapitalist social formations and will point to the consequences of this relation for a future society no longer based upon value production.

Already in the *Grundrisse*, Marx analyses value and use value. Here, he refuses to restrict himself to questions concerning "form," such as "What is a commodity?" or "What is value?" but also delves into questions of "matter." As Saito writes, "Marx's systematic analysis of economic categories includes the process by which economic form determination by capital actively modifies the material dimension of the world, but at the same time repeatedly confronts various limitations" (pp. 91-92). Marx also uses physiology in the *Grundrisse* in an analogical way in order to get grip on the difference between "fixed capital" and "circulating capital" as parts of constant capital:

> *The particular nature of use value, in which value exists, or which now appears as capital's body, here appears as itself a determinant of the form and of the action of capital (cited on p. 93).*

Here, Saito brings to the fore the material aspect of capital in Marx's critique of political economy. This is important for the relation between humankind and nature in capitalist society. This is because, with this notion of Marx, we touch upon the so-called "elastic power of capital," which is based on "various elastic characteristics of the material world that can be both intensively and extensively exploited according to capital's needs" (p. 95). That is why "capital exploits the whole world in search of new useful and cheap raw materials, new technologies, new use values, and new markets, and it develops new natural sciences so that neither bad seasons nor resource scarcity bring about difficulty for capital accumulation" (pp. 95-96). Although *KME* focuses mainly on agriculture, it is clear that the material side of capital includes all capital in the productive sphere.

Saito writes that the analysis of these concrete manifestations is beyond the scope of *KME* and restricts his study by pointing to the fact that capital "reinforces its tendency to exploit natural forces (including human labor power) in search of cheaper raw and auxiliary materials, foods, and energies on a global scale" (p. 96).

At this point, Saito concludes that the above considerations can "provide the basic idea that the natural conditions of production can impede capital accumulation." Moreover, Marx is going to study the natural sciences in order "to understand which properties of the 'material sides' can be used for the sake of an effective capital valorisation and what works against it" in order "to comprehend the possible resistance against capital from the perspective of the material world" (p. 97).

If we consider impediments to capital accumulation from natural conditions, we have to do with

a specific phenomenon in terms of crisis. That is why Saito turns to Marx's notions of value and reification in *Capital*. In *Capital*, Marx states that value is a social construction and he "calls value a 'phantom-like objectivity' because abstract labor cannot be materially objectified after abstraction of all concrete aspects. It appears only in a 'phantom-like' manner" (p. 107). However, abstract labor is not only social; it also has a material aspect: it is "physiological because it plays a social role in a transhistorical [trans-epochal] fashion in any society" (p. 108). Saito does not refer here to what Marx in this context emphasizes and we should not forget, the "practical importance" of value production at a certain stage of social development:

> *This division of a product into a useful thing and a value becomes practically important, only when exchange has acquired such an extension that useful articles are produced for the purpose of being exchanged, and their character as values has therefore to be taken into account, beforehand, during production. (https://www.marxists.org/archive/marx/works/1867-c1/ch01.htm#S4)*

For Saito, what is of prime concern is that "Marx's point is that a certain material aspect of human activity, in this case labor's pure physiological expenditure, receives a specific economic form and a new social function under capitalistically constituted social relations" (p. 109). This has important consequences for the metabolism between human beings and nature in capitalist society: "Since social production is nothing but the regulation of the metabolic interaction between humans and nature, value is now its mediator, which means that the *expenditure of abstract labor* is primarily taken into account in the metabolic process" (p. 109).

Although, as we saw, Marx already in the *Grundrisse* had pointed to the significance of "matter" and in *Capital* emphasizes too the material dimension for his critique of political economy, this issue "was largely underestimated in recent debates within Western Marxism" (p. 100). In these debates, there was only the theorizing of the "form-aspect" of political economy. Or, as in the theory of Alfred Sohn-Rethel (p. 118), the material dimension was opposed to the social dimension in capitalist society. Moreover, all these "form" theoreticians explained the creation of value in capitalist society through the exchange of commodities. This occurred *after* the production process, as opposed to Marx's notion that what is central is that "their character as values has therefore to be taken into account, beforehand, during production." (See above). It will be clear that when one negates the material dimension in the critique of political economy, one loses sight of the development of Marx's concept of ecology.

In order to analyse more closely the material dimension of labor power and capital in the metabolism between humankind and nature in capitalist society, Saito uses *KME* to introduce the theory of the Kuruma School. It holds that in capitalist society there is a "*real contradiction*: that in spite of the mutual dependence of all producers the labors of individuals… must be carried out as a matter of fully private calculations and judgements" (p. 106). Thus, one of the most important elements in this theory is bringing to the fore the notion of reification in *Capital*, emphasizing that "Human practice is inverted into the movement of

labor products and dominated by it, not in a person's head, but in reality" (p. 111). This will have a great influence on the consciousness of people when capitalist society develops. It will bring about "a new model of modern subjectivity, which internalizes the 'rationality' of this inverted world, so that 'Freedom, Equality, Property, and Bentham,' as Marx bitingly characterizes the capitalist market, become absolutized as the universal norms, without taking into account the fundamental inverted structure of this society…" (p. 112).

This process of inversion and internalization is one side of the working of value, labor power and capital in capitalist society.

There is, however, another side of the "inverted structure of this [capitalist] society" to which Saito refers. He writes: "The main problem of capitalist eco-crises is not just that capitalism…, *will sometime in the future* suffer from the increasing price and lack of raw materials (and a possible corresponding falling rate of profit) and will no longer efficiently satisfy human needs." The crux of this other side is here: "*Rather, the problem lies in the subjective experience of alienation, ensuring that the capitalist mode of production undermines the material foundation for sustainable human development due to the metabolic rift*" (my emphasis-K.L.) (p. 136). To illustrate such a subjective experience of alienation, Saito refers to two chapters in *Capital*, Volume 1, "The Working Day" and "Machinery and Large-Scale Industry."

In the case of "The Working Day," the class struggle about the length of the working day is involved. Saito writes that "the limit of the labor day cannot be derived from the formal logic of capital alone, and that is why the restriction of the power of reification must be imposed through an external compulsion." Saito adds that for Marx, this struggle to restrict the length of the working day is "strategically of great importance precisely because it consciously transforms the social practice that unconsciously bestows the power of reification" (p. 126).

As to "Machinery and Large-Scale Industry" Saito bases himself on Harry Braverman, who writes that the "dominance of capital is not simply based on its monopoly of the means of production, but rather on its monopoly of technology and knowledge" (p. 127). This point by Braverman is open to discussion. In any case, what matters is that the real subsumption of labor under capital ensures that the workers are deprived of their skills and thus of their subjective capacities. The incessant revolution in the production process in capitalist society contains, however, a dialectical moment: It "creates *the conditions* for all-sided mobility, variety, and flexibility of these workers…" Thus, we see "emerge the social necessity for publicly financed institutions for training workers' skills and knowledge" (p. 128).

In the context of this dialectical moment Marx is discussing in *Capital* "the establishment of technical and agricultural schools, and of 'écoles d'enseignement professionnel,' in which the children of the working-men receive some little instruction in technology and in the practical handling of the various implements of labour." And he adds: "There is also no doubt that such revolutionary ferments, the final result of which is the abolition of the old division of labour, are diametrically opposed to the capitalistic form of production, and to the economic status of

the labourer corresponding to that form."
(https://www.marxists.org/archive/marx/works/1867-c1/ch15.htm#S9)

Capitalists are always searching for surplus value, but they are mostly interested in extra surplus value. They can gain it when they are able to organize the production process so that their commodities are produced with a quantity of labor time that is below the social average.

Besides the increase of productivity, manifested in social life as division of labor, cooperation, and machinery, capitalists can increase productivity by using natural forces. According to Marx, this shows "how *use value*, which originally appears to us only as the material substratum of the economic relations, itself intervenes to determine the economic category" (cited on p. 131).

I wrote above about Saito's reference to the elasticity of capital and its consequences. He proceeds here by stating: "Marx's ecological critique shows that a certain use value of nature is deeply modified under capitalism in favour of valorization, and that the elasticity of nature is the reason for capital's intensive and extensive exploitation of nature" (pp. 132-133). Saito concludes: "The cause of modern ecological crises is not the insufficient level of technological development but *economic form determinations of the transhistorical process of metabolic interchange between humans and nature*" (p. 133).

It is true that the historically specific determinations are the cause of these ecological crises. In this context, it is, however, not so much the "insufficient" level of technological development as instead the capitalist class-determined nature of technology and science that make an important contribution to these types of crises. Such considerations actually confirm the contradictory nature of capital.

Thus, in its quest for profit (the money expression for surplus value), capital is indifferent to both the living conditions of the laborers and the ecological consequences in nature for humankind.

We saw that Saito takes up the other side of the inverted structure of capitalist society by referring to two chapters in *Capital*, "The Working Day" and "Machinery and Large-Scale Industry," in which we discover the potential, or the revolutionary ferment pointing toward a human society which is really sustainable, i.e., a society that is producing on a non-value basis.

Saito writes that the transition to such a society, an alternative to capitalist society, will not come automatically, but requires socialist theory and praxis.

It is here that I would like to draw attention to the relevance of Marx's Philosophy of Revolution to which I referred above. This new form of philosophy — and *not* Marx's leaving of *all* philosophy behind — opens up the way to a type of subjectivity that we need for the transition to a human and sustainable society as an alternative to capitalist society.

Dunayevskaya characterizes this type of subjectivity as "one which rests on 'the transcendence

of the opposition between the Notion and Reality,' [it] is the subjectivity which has 'absorbed' objectivity, that is to say, through its struggle for freedom it gets to know and cope with the objectively real. Its maturity unfolds, as Marx put it in *Critique of the Hegelian Dialectic*, 'when actual corporeal Man, standing on firm and well rounded earth, inhaling and exhaling all natural forces…does not depart from its "pure activity" in order to create the object… We see here how thorough-going Naturalism, or Humanism, distinguishes itself both from Idealism and Materialism, and, at the same time, it is the truth uniting both'" (*Marxism and Freedom*, p. 327, from Ch. 17 on Mao Zedong, added for the Japanese edition).

Marx in 1865 and 1868: Investigation Oriented Toward Sustainability in Production

The issues taken of by *KME* have not been exhausted by the above discussion, not by a long way. I have already referred to Marx's research on ground rent in capitalist society and what it meant for the development of his critique of political economy. We saw the growing concretization of his insight into the material limits for capital accumulation and the possibility of the coming into being of a new revolutionary subjectivity.

That is part of the story. In what follows, I will examine how Saito investigates Marx's engagement with ground rent in capitalist society with respect to sustainable production and how this is connected with these material limits and with the new subjectivity.

Marx was planning to write extensively about ground rent in *Capital*, Volume 3, but he never completed it. That is why Engels edited Volume 3 on the basis of Marx's manuscripts. The "unfinished" character of Volume 3 holds for the whole of Marx's critique of political economy.

The way in which Marx deals with ground rent under capitalism, Saito writes, does provide insight into "how Marx came to recognize the environmental unsustainability of the capitalist mode of production as the contradiction of capitalism, and to urge realizing sustainable production in the future society" (p. 142).

By tracing the way that Marx investigated ground rent in capitalist society in the context of sustainable production, Saito will use all of Marx's work that is presently available. In particular, he will guide us through *MEGA*^{2} section II, which contains Marx's "economic" publications and manuscripts from 1857/58 onwards, connected with the *Capital* project. He also uses *MEGA2* section IV in which Marx's excerpt notebooks have been published. Moreover, he turns to the handwritten *Marx Engels Archives* (MEA) for still-to-be published materials and to marginal notes from Marx's private library. The economic manuscripts in section II, the excerpts in section IV, and the MEA and marginal notes are of great relevance for an understanding of how Marx *developed* his way of thinking about sustainability in production.

The beginning of Marx's engagement with ground rent can be found in his critique of the political economy of Ricardo not long after the *EPM*. In *The Poverty of Philosophy* of 1847, writes Saito, Marx is "arguing similarly [to Ricardo] that the owners of produce of fruitful soils can attain a surplus due to the price difference compared with production under unfavourable

conditions” (p. 144). This surplus is differential ground rent. However, Ricardo is also writing about “diminishing returns”, i.e., that “the additional investment of capital on the same lands cannot compensate the various different natural fertilities because the output does not increase proportionally to the investment but only at a decreasing rate…” (p. 143). Marx does not agree with this last aspect of Ricardo’s theory. He sees possibilities to increase the productivity of agriculture from science and technology. In this sense, he is optimistic and fits in the tradition of an optimistic view as to the power of science and technology that was so dominant in the first half of the 19th century. Marx will hold to this optimistic view until 1865.

Saito remarks that as late as the *Economic Manuscripts* of 1861-63, Marx still assumes that “agricultural production could increase its productivity with the application of modern natural sciences and technologies, as in industrial production, without much difference” (p. 150).

Marx was looking assiduously for a solution of the ground rent problem. We can see this in the plans he made in the *Economic Manuscripts* 1861-63 and in the *Economic Manuscript* of 1864-65, where he writes about differential ground rent I and II and absolute ground rent (pp. 147-151).

Saito emphasizes that it is important to note here that Marx is *not* yet addressing the problem of “soil exhaustion,” the “material” side of ground rent. Before 1865, he is engaged with the question of ground rent in the economic area. Thus, he is analysing the “form” side.

The reversal in his analysis as to the quality of the soil comes in 1865 when Marx makes extensive excerpt notes on Liebig’s *Chemistry and Its Application to Agriculture and Physiology* (7th ed., 1862).

Marx had read and excerpted other works of Liebig from before 1862 concerning his chemical analyses of the soil. In particular, Marx’s consideration of his solution for the exhaustion of the soil, “the necessity of replenishing all nutrients taken out from the soil by plants” through fertilizers, served only to strengthen Marx in his opinion that science and technology could counter the diminishing returns notion of Ricardo (p. 197). Thus did Marx handle at this time, before 1865, Ricardo’s notion of diminishing returns in agriculture.

In 1865, Saito writes, “Marx returned to studying natural sciences in order to gain a more up-to-date scientific foundation for his own investigation of ground rent” (p. 152). In a letter to Engels of February 13, 1866, Marx discusses the relevance of the work of the agricultural scientists Liebig and Schönbein: “I had to plough through the new agricultural chemistry in Germany, in particular Liebig and Schönbein, which is more important for this matter than all the economists put together…” (p. 152).

Marx did read Liebig’s 1862 edition meticulously, where he wrote “about the non-proportional increase of crops” in spite of manure or artificial fertilizer, but Liebig did so ambivalently compared with the earlier editions. Saito emphasizes that Marx did not overlook this ambivalence and that he “cautiously integrated the point into his political economy in order to oppose a scientific explanation to the ungrounded suppositions of the Ricardian school” (p.

159).

By the time of his 1862 edition, Liebig changes his position on replenishment. He now argued, “the shortsighted increase in [agricultural] production is nothing but robbery of the soil” (p. 197). Saito writes that “Liebig now harshly criticized the violation of the natural law of replenishment as a crime against humanity” (p. 198). Marx picked up on this changed perspective concerning the nature of replenishment and as a result, “Marx in 1865 deepened his own insight that nature cannot be arbitrarily subordinated and manipulated through technology” (p. 160). Now Marx concluded that the diminishing returns “as an abstract presupposition of the Ricardian school” are in fact “a specific manifestation of capital’s contradictions” (p. 174).

Equally important in Marx’s thinking at this time is that “he was now clearly conscious of the importance of investigating the *different* causes of diminishing productivity in agriculture” (p. 160). This shows at the same time Marx’s critical distance from Liebig and that he was open minded about other natural causes of diminishing returns besides those detected by chemistry. We can infer from this that Marx was generalizing and modifying his own concept of metabolism.

We saw above that Marx in the chapters “The Working Day” and “Machinery and Large- Scale Industry” in *Capital*, Volume 1 also touched on ecological issues. The domination of capital concerns not only the factory system but also reaches into agriculture. That is why “it produces various discordances in the material world by disturbing the natural metabolic interaction between humans and nature” (p. 197).

According to Liebig in the 1862 edition, the modern division of labor, in particular the division between town and country, is responsible for the disruption of the cycle of plant nutrition. This made the import of fertilizer and the development and application of artificial fertilizer necessary. But the import of fertilizer as guano (the excrement of sea birds native to South America) and bones is a question of long distance transport and this deepens the rift in the natural and social metabolism on a global scale. In the U.S., the heavy use of guano as fertilizer will result in the so-called “Guano Islands Act” and will also be the cause of a war. Saito refers to the “Chincha Islands War (the so-called Guano War)” (1864–1866), for example (p. 204).

The large-scale character of capitalist agriculture and industry will eventually disrupt increasingly the metabolism between humans and nature. Here, Saito introduces the term “ecological imperialism.” This ecological imperialism will run up against the material limits of nature, and in this sense, it will deepen the problem of capital accumulation and contribute to the crisis of capitalism on a global scale. Saito interprets Marx’s counterstrategy as follows: “Precisely because nature has limits, the social interactions with nature must be consciously regulated by society” (p. 212).

This demand cannot be fulfilled under reified social relations, under the value and surplus value producing relations that are characteristic for the capitalist mode of production.

As to the conscious regulation of nature by society, Saito refers to a passage in the *Economic Manuscript* 1864-65 where Marx speaks of "the realm of freedom" and "the realm of natural necessity." In this text fragment, Marx writes that "the realm of freedom begins only when labour determined by necessity and external expediency comes to an end…" But this "realm of freedom" is grounded in "natural necessity."

Note that Marx conceives of "natural necessity" as a dynamic concept, i.e., that natural necessity expands with human needs in all forms of society. That is why Marx states: "Freedom, in this sphere [of natural necessity- K.L.], can consist only in this, that socialized man, the associated producers, govern their metabolic interaction with nature rationally, bringing it under their collective control instead of being dominated by it as a blind power; … But this always remains a realm of necessity." And for the true realm of freedom, Marx states, "The reduction of the working day is the basic prerequisite" (cited on pp. 213-14).

Although Saito rightly brings to the fore the importance of the relation between the "realm of freedom" and the "realm of natural necessity" in the context of Marx's notion of sustainable production, we have to be careful with his assessment that
"Marx without doubt recognizes the positive side of modern technology and natural sciences, which prepares the material conditions for the establishment of the 'realm of freedom' by enabling humans to produce various products in a shorter time" (p. 214).

For let us here not forget that the creation of products in capitalist society has to do with commodity and money fetishism and producing in a shorter time has to do with exploitation. That is why it is not without good reason that Marx speaks of *alienated labor* and *alienation* in capitalist society. Moreover, modern technology and natural science are class-determined, i.e., they are impregnated by capital. On this aspect Saito sheds insufficient light, although he does write about the productive forces in capitalism as the "productive forces of capital" and he adds: "Rather, the cultivation of the subjective capacity for conscious and sustainable control of production is essential for the concept of productive forces, viewed from a wider, more rational standpoint" (p. 215). But he does not fully address the need for a *totally different* types of technology, natural science, and productive forces for a new society based upon conscious and sustainable human control of production.

Marx expressed, in the first (1867) edition of *Capital*, Volume 1, a high esteem for the notions of Liebig and wrote that Liebig's "historical overview of the history of agriculture, although not free from gross errors, contains more flashes of insight than all the works of modern political economists put together" (cited on p. 218). In later editions, the second German one of 1873 and the French one of 1872-75, Marx will soften this high esteem because he finds that Liebig's pessimism as to the developments in modern agriculture "gets close to Malthus's theory of absolute overpopulation" (p. 224).

But although Liebig is now pessimistic about agricultural development, "at the same time his earlier optimism seems still to exist" (p. 224). Henry C. Carey and Eugen Dühring will pick up this optimistic element in their opposition to Malthus. The different interpretations of Liebig's

1862 edition resulted in a debate in the second half of the 1860s, in which Friedrich Albert Lange and Julius Au would be key participants and during which Marx would study their contributions (pp. 225-227).

As for Marx's assessment of the standpoint of Lange and Au, Saito refers to a letter of Marx to Kugelmann on June 27, 1870, in which Marx concludes that Lange and Au "were, like Roscher, trapped in the national economic myth of realizing sustainable agriculture through fluctuations in market prices" (p. 227).

I mentioned above that Saito pointed out that Marx in 1865 was open minded concerning other natural causes of diminishing returns than the ones detected by chemistry. This open mindedness to other natural causes takes a concrete form in his notebooks from winter 1868. They "reveal how his theoretical horizon enlarged after confronting the heated debate on the validity of Liebig's theory of soil exhaustion, which prompted him to pursue research in the field of natural sciences such as chemistry, botany, geology, and mineralogy in the following years" (p. 218).

The outstanding scientist in Marx's investigation into sustainable production will be the agronomist Carl Fraas.

Saito mentions an impressive list of publications by Fraas (p. 228). He also refers to a letter of Marx to Engels of March 25, 1868, where Marx characterizes Fraas as an all-round scientific genius. In this letter, Marx characterizes Fraas as a "Darwinist before Darwin," "a thoroughly learned philologist …and a chemist, agronomist, etc." Marx also notes in this letter Fraas's notion that "cultivation— when it proceeds in natural growth and is not *consciously controlled* (as a bourgeois he naturally does not reach this point) — leaves deserts behind it, Persia, Mesopotamia, etc., Greece. So once again an unconscious socialist tendency! …His history of agriculture is also important" (p. 229).

Saito writes that these remarks about Fraas in this letter are the only discussion by Marx about the content of Fraas's work. For other information on Marx's engagement with Fraas we have to turn to his excerpt notes and the marginal notes in his library.

Fraas approaches agriculture mainly through "agricultural physics." He is not opposed to chemical analysis of the soil, but he criticizes Liebig in arguing that agricultural chemistry should not be overemphasized.

Saito emphasizes that Marx's comment about Fraas, especially his "unconscious socialist tendency," has to be seen above all in relation to Fraas's book *Climate and the Plant World Over Time* (1847), which is based on Fraas's "experience and research during his stay in Greece as a director of the Royal garden in Athens and professor of botany at the University of Athens (1835-1842)" (p. 239). Fraas's book gives an historical analysis of "the influence of climate changes on humans and plants over a long historical period" and it results in the "provocative thesis that cultivation conducted by humans brings a climate change, which in the end counts as the most important factor for the decay of civilization" (p. 239). After studying

agricultural developments in Persia, Mesopotamia, and Ancient Greece, he concluded that the desertification in these old civilizations was above all the product of "deforestation." Another result of his studies was the theory that replenishment of the soil exists "*in nature itself*" (p. 236). Fraas thinks here in particular of the process of alluvion. Marx picked this notion up and recorded in his notes on Fraas a passage where the latter wrote of the formation of alluvion in an artificial manner as "the most radical means to cultivation" (p. 237).

It is now clear that for Marx, "Fraas's theory contributes to understanding the deepening of metabolism rifts" and that "Liebig's critique of the robbery system [of the soil- K.L.] does not entirely cover the destructive tendency of modern production" (p. 250). That is why "Marx, reading Fraas's work, rightly thinks it necessary to study much more thoroughly the negative aspect of the development of productive forces and technology and their disruption of natural metabolism with regard to other factors of production" (p. 250).

I do not know whether Saito realizes that by using the term "necessary," he is bringing to the fore a *philosophical* element of Marx's thinking about the metabolism between humans and nature. For the term "necessary" raises the question "necessary for what?" It points to Marx's overall vision on the relation between humankind and nature and its future, which demands a concept of human beings and nature within his notion of totality.

The conclusion for Fraas is that climate change is an important element in ecology, that the human being "is able to change nature to such an extent that later it completely malfunctions…" and further: "There is no hope of overcoming this reality" (cited on p. 248). Fraas's conclusion about the role of the climate is based upon his analysis of old civilizations. His bringing to the fore of the climate factor "makes Marx aware that this development [that social production is not possible without the cooperation of the external sensuous world–K.L.] of modern capitalist production accelerates the disturbance of metabolism between humans and nature due to a more massive deforestation than previously in human history" (p. 248).

Fraas had, as we saw, a pessimistic view. He sees cultivation accompanied by commerce and industry as the biggest enemy of nature. "In opposition to Fraas," Saito writes, "Marx thinks it possible and necessary that the harmony between civilization and nature should be realized by the conscious collective governance of the metabolism by the associated producers" (p. 249). In Marx's vision, there is an alternative to the disturbance in the metabolism, but as he wrote in the above-mentioned letter to Engels, Fraas as a bourgeois naturally does not reach this point.

Marx did not stop studying natural science literature with Fraas's writings. Concerning deforestation, he read and excerpted in 1868 the writings of a lot of other natural scientists in the field of agriculture. Saito refers for example to John D. Tuckett and Friedrich Krichhof, both of whom wrote along the lines of Fraas on the consequences of deforestation.

In 1868 it is clearer than ever for Marx that out of his investigations in political economy and natural sciences, as John Bellamy Foster's argues, "the capitalist system must be judged as irrational *from a perspective of sustainable human development*" (p. 97).

Important in Marx's vision for now and in the future is the possibility of a humanist alternative to capitalism. This alternative is well established on both philosophical and scientific ground: a society based on non-value production by associated producers who consciously control their production, who create their realm of freedom out of the realm of necessity, a society that is human and in which production is sustainable.

In this context I have to say that Saito has written a great book by analyzing and describing the inter-connectedness of Marx's critique of political economy and his study of the natural sciences, and in pointing to Marx's concept of sustainable production in a future human society. I say this even though, as discussed above, I have reservations about Saito's notion of Marx's departure from philosophy.

KME shows in addition the incredible richness and breadth of Marx's thought and I can recommend it to everyone interested in being grounded theoretically for the struggle to uproot capitalist society.

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Review: Rüdiger Safranski, Goethe – Life as a Work of Art

By | 2018: vol. 17, no. 2

Rüdiger Safranski, *Goethe – Life as a Work of Art.* Liveright, 2017.

Goethe is too little known in the US and UK despite the existence for over two hundred years of excellent translations, some of the earliest by women (Sarah Austin and Anna Swanwick). Even the best book on Goethe and England (by Jean-Marie Carré, published in1920) is French.

However, Goethe scholarship has long been outstanding especially in Britain. One of the earliest biographies (1855) was by George Henry Lewes, which appeared two years later in German. Furthermore, modern British Goethe scholars, like the late Leonard Willoughby and Elizabeth Wilkinson, and the contemporary scholars Nicholas Boyle and T. J.Reed, are recognized in Germany and translated into German. As comparatively recently as 1955, a leader in *The Times Literary Supplement* could refer to Goethe's work as 'perhaps the most comforting proof of human capacity in all literature'.

Can it be that the rejecting prudery of Wordsworth and De Quincey, and Coleridge's fear of Goethe's atheism, still puts us off? One would think rather the reverse. An early translator of *Faust* called Goethe's famous 'Roman Elegy' –

> *'And is this not education, to study the shape of her lovely*
>
> *Breasts, and down over her hip slide my adventuring hand . . .*
>
> *Seeing with vision that feels, feeling with fingers that see'*
>
> *'sensuous throughout . . . more fleshimental than sentimental.'*

And he meant that as criticism, not as a happy compliment.

Should we not take our lead rather from Shelley (who all too briefly translated the beginning of *Faust*) or from Byron, who admired Goethe, though not as much as Goethe admired him? Or is Carlyle's admiration for Goethe – who he corresponded with – now a deterrent? The Englishman who knew him best was the lawyer and memoirist Henry Crabb Robinson, who

recorded his conversations with him in Weimar. However the amiable 'Crabb' is long out of print, and is badly in want of a biographer, though he does have a substantial website (The Henry Crabb Robinson Project at QMUL, University of London).

Rüdiger Safranski's biography could change the British neglect of – and sometimes fear – of Goethe; it is a handsome volume, beautifully translated by the American scholar David Dollenmayer, who has also elegantly translated the many Goethe quotations.Goethe has been called one of the inventors of holism, of the theory of organic development, or morphology applied beyond the field of biology, and this biography is itself holistic, seeing the end in the beginning (showing, for instance, how Goethe's first novel, *The Sorrows of Young Werther*– which Napoleon read seven times – and even his mature novel, *Elective Affinities*, which was considered so shocking that its Victorian translator had to remain anonymous, both had their origins in their author's self-dramatizing teenage love letters). However, the organic nature of Goethe's own production is best captured, apart from in his own poetry, in the words of his friend and collaborator Friedrich Schiller:

> *'While the rest of us must laboriously collect and examine in order to slowly produce some tolerable thing, he only has to shake the tree and the loveliest fruits fall down, ripe and heavy. The ease with which he now reaps the fruits of a well-spent life and continued learning is unbelievable' (Letter to the Swisspainter Johann Heinrich Meyer).*

Safranski does not attempt fully to explain this magic, but seems himself to have caught some of Goethe's natural energy, so that this big book of over 600 pages always seems fresh and never too long. It is strange that he, or perhaps his publisher, calls it 'Life as a Work of Art', because – whatever differing ideas Goethe had about art throughout his long life – he was certainly never the aesthete that this title suggests, rather tending towards a functional or perhaps a higher functional aesthetic.

It is tempting to suggest that this study and biography of Goethe works so well partly because detailed discussion of *Faust* is left to the end. *Faust* is a great poetic work – like *Hamlet*, with many wonderful quotations – but it, especially Part II, is a loose-knit drama into which, almost up to his death, Goethe added the weightiest things on his mind which he couldn't fit in elsewhere, as well as some of his most beautiful lyric poetry. Instead of being kept for advanced study, which both parts require, *Faust* appears sometimes to be used or abused in university – and even school – by German teachers to intimidate their students.

This is a pity, because – beside Goethe's lyric poetry – two works stand out as better suited for beginners than *Faust*. The first is *The Sorrows of Young Werther,* his youthful novel which was at the same time an intense expression of Romanticism and a study of its literally fatal – suicidal – consequences. This novel is probably best known in the English-speaking world through William Thackeray's satirical poem –

‘Werther had a love for Charlotte

Such as words could never utter:

Would you know how first he met her?

She was cutting bread and butter, etc.’

Rather than repeat the rumour that the book caused a wave of suicides, which – Safranski points out – seems to have been untrue (perhaps a marketing ploy), it is important to understand that Goethe was himself satirizing and parodying his hero. As Safranski says, ‘Goethe’s ridicule of Werther-like sentimentalism could surprise only those who hadn’t read *Werther* closely.’ Goethe’s own not excessively numerous affairs were often passionate, but without love on his side, and he was certainly never suicidal when they ended and sometimes morphed into friendships.The second of Goethe’s most approachable works is his play, after Euripides (but with a happy ending), *Iphigenia in Tauris*– a model of Weimar Classicism, which is also an astounding feminist work *avant la lettre*:

‘Yet the lot of women is pitiable.

At home and in war man is the master . . .

How narrowly bound is the fortune of woman!

Just to obey an uncouth husband

Is duty and solace . . .’

Safranski’s description and discussion of this play is ample and clear, with generous quotation. How *Faust*, as a play, came to head the German syllabus and not *Iphigenia* almost begins to look suspicious when another work of Goethe’s more suitable for early Goethe readers is taken into account – the domestic and romantic idyll in Homeric metre, *Hermann and Dorothea*, because it also contains a strong woman. This beautiful and touching work was for some time Goethe’s most popular. It should be better known here, because it is the clear model for Arthur Hugh Clough’s equally domestic and romantic, but more comedic, idyll *The Bothie of Tober-na-Voilich*.

‘Hermann and Dorothea’, many times translated into English, is a moving portrait of a son who, supported by an understanding mother, struggles against an overbearing and socially proud father, who looks forward to a daughter-in-law from the right family and with a good dowry. Dorothea is neither of these. In having her tell her life at the end of this domestic idyll, Goethe seems to want to give a hint at an aspect of his own political views. For Dorothea tells how the golden ring that she wears was given her by her first fiancé, one of those German radical

democratic sympathizers with the French Revolution who went to Paris, only to die under the guillotine in the Revolutionary chaos. The most plausible model for this man is Georg Forster, who as a sixteen-year-old sailed on Captain Cook's Second Voyage, and wrote (in English) 'A Voyage Round the World', which Goethe knew. Forster later took part in the French Revolutionary occupation of Mainz, and in 1793 went to Paris, where he died a natural death.

Goethe knew Forster and sympathized with his fate, if not with his ideas. He seems to have wanted to publicize this. Why else would he have tacked his story on to a domestic idyll, like *Hermann and Dorothea*, which as a result he had to bring to an end with politics and war instead of domestic happiness? Goethe's own politics were humane conservative. He once rescued a Jacobin (an enemy of his own side during the Prussian Siege of Mainz) from lynching, and proclaimed that it was in his nature thus to break the law rather than risk chaos and mob rule. Why did Goethe raise this literary monument to the so-called German Jacobins (though most of them were moderates, including Forster, and closer to the Girondins), thus spoiling the end of his Homeric, quasi Biedermeier idyll, if he did not want to remember them in his work? He had always made it clear that the fault of the Revolution lay with France's rulers: the rest were victims.Goethe's attitude to Napoleon is another story.

Safranksi approaches Goethe's life and work chronologically, including the many girls and women who loved or were loved by him as integral parts of his story. Goethe was born and grew up, with his younger sister Cornelia, in a prosperous upper class home in the then Imperial city of Frankfurt-on-Main, one of several such cities of the Holy Roman Empire. Three of Goethe's siblings died in infancy, and a younger brother aged six. Goethe's father was a lawyer, who despite becoming an Imperial councillor, was also an admirer of Frederick the Great of Prussia.

After a happy childhood, with a loving and doting mother, Goethe went through a period of misery and depression in adolescence, turning to a Christian Pietist sect for help. However, the young Goethe 'lacked any consciousness of sinfulness', which didn't help with that path to salvation. He once interrupted a Pietist service, asking himself, 'What's the point of this darkness?' and lit a chandelier ('It brightened things up nicely'). It is important to be aware of this difficult period in Goethe's life, which he wrote about in his autobiography, as it helps to explain his later effective rejection of great writers like Lenz, Hölderlin and Kleist – sometimes disturbed men who seem to have reminded him of his own precariousness.

At his father's behest, Goethe studied law at Leipzig University, dropping out aged nineteen without a degree, but having begun to write and make consequential friends. He continued his legal studies in Strasbourg and Frankfurt, but never qualified. Lingering in and around home until his early twenties, Goethe found work at the Imperial High Court in the Hesse town of Wetzlar, where he fell in love with Charlotte Buff, the model for Werther's Lotte. Her fiancé and later husband, the Hanoverian court councilor Johannes Kestner, gave one of the most vivid sketches of his friend Goethe, quoted by Safranski:

'He is intensely emotional… He loves children and can become very involved with them… He does whatever occurs to him without worrying whether it pleases others… He holds the female sex in high regard… He is not yet settled and is still searching for a certain system… He doesn't like to disturb others in their settled opinions… He does not go to church. For, as he says, 'I'm not enough of a liar for that'… He has made belles-lettres and the arts his principal study – or rather all branches of knowledge except those by which one earns one's bread… He is, in a word, a very remarkable man.'

In his mid-twenties Goethe met the reigning duke, Karl-August of Saxe-Weimar, whose dukedom, Safranski points out, occupied a difficult situation between enlightened Prussia and Hapsburg Austria. The boisterous duke was only eighteen when he invited the slightly older Goethe effectively to rule his mini-state with him.

The Dowager Duchess, Karl-August's mother Anna-Amalia, was just thirty-six years old in November 1775 when Goethe arrived there. He was to remain there for most of his life – over half a century – apart from two years in Italy, and short sojourns in Switzerland. He visited Berlin once, wanted to go to Paris, but never got there.

It is well known that Goethe was far from being just Weimar court poet, succeeding the amiable and popular Christoph Martin Wieland. Goethe also became the duke's first minister, responsible among other things for culture, including the famous theatre, the mines (where Safranski shows Goethe's policies led to a flooding fiasco), the army, which was comprehensively downsized, and the roads, including the failure to complete a road from Weimar to Naumburg to English standards. No less a person than Herder complained this was all too much, but he later became very close to Goethe.

As court poet Goethe partly dramatized himself in his great Classical play, *Torquato Tasso*, about the conflicting 'demands of his [Goethe's] literary and official existence'. Tasso is an unhappy, conflicted figure, who ends up saying pitifully:

'When in their anguish other men fall silent

A god gave me the power to tell my pain.'

That of course was never Goethe, and Safranski shows how Goethe – unlike Tasso – managed to unite or at least reconcile his two identities.A famous enigma of Goethe's life in Weimar was his relationship with Charlotte von Stein, ten year his senior, and wife of the duke's chief equerry. The mother of three children, she was the recipient of Goethe's beautiful but elusive poem:

'Fate, why did you grant this deep perception

So that we can see what is to come,

And never, blissful, trust in the deception

Of love and earthly happiness, like some?'

and of a series of letters from him. Goethe was also the teacher of her son Fritz. Safranski fully depicts the relationship but wastes little time speculating on its exact nature as far as its intimacy is concerned.

When in 1806 Goethe suddenly married his mistress and mother of his son August, Christiane Vulpius, with whom he had been living since 1788, court circles – especially Charlotte von Stein – were shocked. Christiane was generally considered mere 'bed treasure', or just 'bed mate' by Goethe's mother, who liked her. Goethe's correspondence with Christiane reveals an endearing unintellectual relationship. They were both enthusiastic gardeners, and his didactic poem, 'The Metamorphosis of Plants' seems addressed to her. His marrying might have been prompted by his gratitude to her for saving his Weimar house and its possessions from marauding French soldiers during the Napoleonic Wars. Further, it is generally considered that Christiane inspired the tender erotic poetry of the *Roman Elegies*, which Goethe wrote on his return from Italy. W. H. Auden plausibly claimed that Goethe lost his virginity and became truly a man in Rome, but it was Christiane who seems to have truly inspired his erotic imagination.

This was particularly the case with arguably his greatest love poem, 'The Diary', a narrative work addressed to an absent wife. Still little known, Goethe suppressed it himself and it is not in the famous 14-volume Hamburg Edition (1964), though it was published as early as 1904. This mellow poem, which accommodates humour, romance, love, sexual arousal – and its lack – is often discussed in relation to Goethe's extraordinary novel *Elective Affinities*, which begins in the world of Jane Austen, but also embraces magic realism. In this novel, too, sex is treated explicitly, though much more disturbingly, and wholly without the comedy of 'The Diary'. In his detailed discussion of *Elective Affinities*, Safranski neatly sums up 'The Diary' – written just after the novel – as 'a comic, burlesque reply to the tragedy' of the novel. Yet this is still insufficient, because that poem is also a profound expression of marital love. In that respect, perhaps it is the most erotic 'moral' poem ever written.

Safranski offers a particularly rich discussion of Goethe's *West-East Divan*, again – but less intimately – partly the product of a relationship with a woman, Marianne von Willemer, herself the author of some of the loveliest of that work's poems, some set by Schubert.Safranski is illuminating on and – like most people – not uncritical of the three parts of Goethe's *Wilhelm Meister*, which can challenge the greatest Goethe enthusiast.

Wordsworth told Emerson: 'It was full of all manner of fornication. It was like the crossing of flies in the air.' The poet Novalis called it 'a *Candide* aimed at Romantic poetry', and said: 'The book's spirit is aesthetic atheism'. He had a point, for in Goethe's extraordinary relationship with Schiller, about which Safranski is especially helpful, which began by them both

recognizing their profound differences, despite which they worked closely together – particularly as literary editors – Goethe remained as far from his friend philosophically as he had been when they met. Thus, Goethe thanked Schiller for the manuscript of his great *Aesthetic Letters*, saying he 'quaffed it down in a single gulp'. However, as Safranski points out, Goethe could never share Schiller's belief that, after the fiasco of the French Revolution, only through art could people be educated to freedom. Goethe, although he produced the greater art, could not share his closest friend's – or Novalis's – idealism. That is why it is more than moving when Goethe, who was himself ill, on being told of Schiller's death (at only 46) by an anxious Christiane who avoided waking him up in the night, wrote: 'I thought I would lose myself, and now I lose a friend, and in him half my existence. '

The other half of Goethe's existence (he was 56 when Schiller died and had another 26 years of life) brought in a further harvest of great works, including his autobiography *Poetry and Truth*, and some of his greatest poetry, inspired by falling in love with the seventeen-year old Ulrike von Levetzow, safely chaperoned by her mother, when he was in his mid-seventies.The last years of Goethe's life were recorded in detail by his amenuensis and friend, Johann Peter Eckermann, whose 'Conversations of Goethe' – well translated by the then*Times*drama critic, John Oxenford, and published in 1874 – offers another reminder of the high regard in which Goethe was once held in the English-speaking world.

The motto of Book Six of *Poetry and Truth* reads: 'What one wishes for when young, one has in old age in abundance.' This aphorism, quoted by Goethe as a 'good old optimistic German saying', when himself in his sixties, might seem a little smug. But one can only say that he lived up to it, to the benefit of us all.It is not possible to do justice to Rüdiger Safranski's harmonious and well- balanced biographical study in a single review. Safranski is a philosopher and his book contains a very readable and sympathetic discussion of Goethe's attitude to religion. Thus could a quite different review of this pleasing, manifold book begin.

'A shorter version of this article is published as a review in *Angermion – Yearbook for Anglo-German Literary Criticism*, Winter, 2017.

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Review: Michael Hardt and Antonio Negri: Assembly

By | 2018: vol. 17, no. 2

Michael Hardt and Antonio Negri: *Assembly.* Oxford University Press, 2017.

Since the 1990s Michael Hardt and Antonio Negri have coauthored several controversial volumes of note about contemporary politics and emancipation.

This time they offer *Assembly*, a book that revisits many themes of their earlier publications. Despite this, the new volume also presents a significant shift in their thinking. Hardt and Negri address, especially at the beginning and in the conclusion of *Assembly,* political problems that cannot but be dealt with in their specificity, even though they continue adamantly to deny what they call the "autonomy of the political."

Regardless of their contemporary targets of criticism, there is more than an echo of an old Italian debate in this, that of the tradition of the 1960s-1970s "operaismo," in which Raniero Panzieri, Mario Tronti and Negri himself were the main figures. Tronti eventually moved away from the distinctive tenets of this intellectual-political movement, while Panzieri passed away. The movement originally had the factory as its setting, from which politics had to be derived, in a stark so-to-speak "materialist" turn. While Negri, in successive formulations held fast to this perspective, Tronti came to accept politics as a relatively autonomous dimension, returning to the Italian Communist Party (PCI) (with which Negri always had an adversarial relation) and eventually embraced even a sort of post-modern outlook. Given this background, a curious tension, to some extent productive, runs through the book.

The main themes of this ambitious volume are the relation between leadership and the "multitude" (their self-coined concept for the general social subject); the entrepreneurialism of the multitude (in order to confront and overturn the idea of neoliberalism, which underlies political developments), the transformation of value and the social composition of capital, the emergence of a well-educated and well-organized multitude; a revived and reconfigured notion of the "commons," and how we should think about conducting political struggles and devise practical steps towards forming a new and decent society. Some speculations and partial answers are proposed in the course of their analysis.

Thus, in *Assembly*, the themes are, excuse the expression, multitudinous, and the issues they raise even more so. I would like, however, in this short review, to discuss a specific problem,

which will conflict with their conclusions. I want to discuss politics *as such*, an approach far away from their concept of the "multitude," regardless of the importance this term has for their argument.

Hardt and Negri initially had a straightforward view of the "multitude" and of communism, which were supposed to manifest themselves in due time without unseemly detours or delays. The "multitude" would incarnate itself soon, though how this would happen was hardly clear. But in their recent books elements of *mediation* and long-term thinking were introduced, however reluctantly. The "commons" is defined in *Assembly* as a collective appropriation of the world that lies beyond property, though not beyond the present, since it must be and is being activated. What is more interesting is that issues of organization come to the fore in this book, despite their rejection of the "autonomy of the political." Now the multitude is deemed the agent of "strategy," while leadership, localized and of relatively minor importance, plays a "tactical" role. The capacities of the multitude enable this shift of great magnitude, as during virtually all the history of the left. Yet Hardt and Negri go beyond that: they find that in left politics there are three possible paths, which can be – and this is really astonishing in its novelty within their work – compatible and complementary. They are (1) pre-figurative politics, (2) true reformism (rather than mere adaptation to capitalism and neoliberalism) and (3) the actual taking of power. While the pre-figurative politics (which would realize today, in practice, what a future society should be like) is difficult to generalize from small-scale endeavors, the third has been and will be problematic, to say the least, due to verticality and the weight of institutions, a problem that besets true reformism too, which is nevertheless long-term and practical and can help open space for pre-figurative politics.

The key problem is that leadership and strategy take on a more intense and extensive role than what can be devised in the immediate action of the "multitude" and even in pre-figurative politics. A further problem is that Hardt and Negri seem not to realize this and thus do not even discuss the issue. However, it is not by chance that two developments in their thinking become visible now. For the first time, Gramsci appears as a central personage in their work, though Machiavelli stands out in the discussion of the "new Prince" (the multitude). One could even detect a creeping sympathy, not devoid of criticism, for the PCI, insofar as they tried (though failed) to carry out that second route of left politics (transformative reformism). Of course, the PCI's Leninism and centralism, and its attempt to control the masses and internal dissent, prevents Hardt and Negri from endorsing the party's trajectory. In any case, given the permanent adversarial relation between Negri and the PCI, this cannot come as a surprise. The price for this is his strong negation of the "autonomy of the political," precisely Tronti's perspective when he returned to the PCI, leaving aside those who, like Negri, still insisted that the factory – and eventually society as a whole in an expanded biopolitical post-modern epoch – is the main site of struggle, the kernel of "operaismo." If speaking of the "autonomy of the political" may be a dangerous reification, it is necessary to come to terms with its *specificity*, its *demands* and *inner developmental logic*. They do so, in part.

Finally, although *Assembly* adheres to Negri's earlier concept of "constituent power," not only does he reduce its importance (now merely a transformative "dispositif"), he separates it from

“sovereignty,” which is deemed too unitary. In addition, this move is connected to a view of “dual power” which allows for the emergence of counterpowers in a plural society, in which, we may say, the state loses its monopoly of organization of social life – although they oppose any positive role for revolutionary violence in the contemporary world – implicitly because there is a developmental trend of the state becoming ever more powerful, at least with regard to ordinary citizens. On the other hand, they retain the idea of capital – and again, implicitly, the state – as “parasitical” upon the “multitude” to which it reacts. This runs counter to Marx’s view of the great organizing capacity of capital (contra Proudhon), even though it is a “vampire” (not a parasite, though Marx was at pains to negate intellectual labor production of value, a problem ingrained in Marxist political economy). This is a point that can be extended to the state with its legal apparatus and rights, a terrain that must not be abandoned, except to our own detriment. These are not at all merely parasitical developments, instead they stem from, and are conditioned by, the tense dialectic between state and society as well as class struggle and other conflictual relations.

This is not to say that social dynamics and social struggle are no longer the main focus of Hardt and Negri’s analysis. They are. Likewise, the construction of alternatives related to the recreating and expanding the commons is a means to bring out the potentiality of an autonomous multitude that has always been necessary for a parasitical capital (especially finance capital) to organize its endeavors, let alone for the state. Above all, we are offered, irrespective of our criticism, a fresh vista on the evolution of two authors who are very much willing to learn. If with regard to Hardt this is striking, it is more so the case with Negri, who has undergone exile and a period in jail, as well as having reached an advanced age. It bespeaks humility and a readiness to expose himself to the vagaries of history and the evolution of social agents, from which both authors are eager to learn.

There are many problems and shortcomings in Hardt and Negri’s books, conceptual and political, which I have discussed earlier and elsewhere (Domingues, 2017). The same is true of *Assembly*, which repeats many former arguments, sometimes too quickly, with the problems that have beset their view of biopolitical capitalism and the multitude as actor returning. However, not only are there worthwhile and relevant insights in its pages, as it opens room for us to engage with the complexity of social life and social change, a sober view of the history of left emerges. The history of the left has been littered by too much false certainty and factionalism. Despite a lingering version of Marxism, in their ecumenism, if I may put the issue this way, Hardt and Negri do not shrink from polemics or from their own affirmative views, yet help us to go beyond the arrogance that has been a hallmark of certain leftwing ideas. That is a heritage which, following their example, we must renounce. We have all to gain from this.

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Review: Peggy Seeger, First Time Ever: A Memoir.

By | 2018: vol. 17, no. 2

Peggy Seeger, *First Time Ever: A Memoir*. Faber and Faber, 2017.

Peggy Seeger has written an at times intimate biography charting her early years and her marriage to British folk legend Ewan MacColl, which produced several talented children.

The book's title, First Time Ever, is drawn from a MacColl song which produced a huge hit for Roberta Flack and made the Seeger/McColl clan briefly ultra-solvent. The Seegers are of course American Folk's first family. Peggy's dad was the composer/educator Charles Seeger, and her mother Ruth Crawford Seeger was a major American composer. Her brothers Pete and Mike had extraordinary careers, and Pete is considered responsible for the revival of interest in the five-string banjo. His half brother Mike Seeger was, with Tom Paley and John Cohen, a core member of the New Lost City Ramblers, who seem to have single handedly kickstarted the urban folk revival and interest in early American Country music.

Peggy Seeger, like her brothers, became an accomplished banjo and guitar player, and her work with her husband of many decades, Ewan MacColl, is testament to her music skill and terrific ear. She is also a dedicated folklorist and has done research and field recording over the years, when not raising a family, overseeing MacColl's difficult career, and avoiding official British and American interference with her own. She and MacColl were both dedicated Marxists and I'm certain their FBI files rank with Paul Robeson's for unreliable detail and kack-handed observation.

MacColl had a strong background in theater and solo ballad singing, and his at times heavy didactic approach could stir resistance even among fans, as she recounts in an array of examples of MacColl's gift for alienating everyone within earshot of his polemics. It was a successful marriage, owing to her absolute dedication to MacColl, and though she makes light of their loving relation, it can't have been easy. She invariably emerges as the one person who could both mollify those whom MacColl offended and the single force capable of soothing his gargantuan ego – an ego responsible for chauvinist moments that leave the reader gobsmacked at the mans intransigence and cluelessness.

There is a stubborn streak of earnestness in the Seeger clan, Pete more so than Peggy, that would shame a Mother Theresa, and this can lead to some hilariously awkward moments which the Seeger wit was not always able to rescue. Peggy is a Red Diaper baby from a family steeped in Marxist thinking, and the folk revival in the U.S. is a good example of how Marxists

responded to the Communist Party's call for learning and the "Peoples wisdom, found in the their songs and stories."

Peggy and Pete's progressive stances are laudable, though there is a careful by-the-book aspect to their radicalism that can sometimes morph into a puritanical Left propriety. No revolution occurs without violence and, as Trotsky notes, all states are founded with and on it. The Seegers were and are educators with a long history conjoining field research with their own stellar musical performance, and in this they are unique. The Lomax family had a similar trajectory with John and Alan Lomax similarly enlarging America's understanding of its own musical history. Peggy and Pete usually are lumped with other radical singers and activists but theirs is a more careful version of the blunt call to the barricades of Aunt Molly Jackson's "I Am a Union Woman," or Mother Jone's visceral hatred of the ruling class. Woody Guthrie is well within this tradition. There is a famous story of Guthrie, on tour to raise funds for the Spanish Republic, overnighting at a wealthy Chicago progressive's home. Come morning he had slashed the fine bedclothes and some of the furniture in his room with a knife. The class enemy was not forgotten. Guthrie, Cisco Houston, and Aunt Molly emerged directly from the Coal wars and factional disputes which had riven the Left during the Thirties, and none of them were immune to a drink or a bar room brawl. This hard living approach was said to have shocked Pete Seeger and others within the New York Left unaccustomed to the unvarnished agitational lives led by Leftists outside the comparatively polite propriety of East Coast radicals.

That there was a tremendous downside to lives of direct agitation is clear to anyone with a grasp of J. Edgar Hoover's cold war career. Pete Seeger, after the Weavers were blacklisted, would not appear on American TV again until very late in his life, and for Peggy or Pete there were always passport issues coupled with what must have been intense surveillance as they traveled to and from Communist Folk events, concerts, and fundraisers abroad. MacColl also was a dedicated Leftie who was a key figure animating a series of projects that involved the Party and sympathetic participants in workshops, festivals, and rallies.

Anyone doubting the intensity and magnitude of Left culture should refer to Peggy's memoir, as it reveals a world, now somewhat faded in memory, of activists, folks singers, political thinkers and educators engaged in a wide range of dissident activity across England, Scotland and Wales. Paul Robeson is still a celebrated figure in Wales long after his years of internal exile in the U.S. and the attempts to nullify and deep six one of the 20thcenturies most extraordinary careers.

The Seegers had deep ties to the old European Left and while in Paris Peggy stayed with Lucienne Idoine who had been interred at and survived Ravensbruck concentration camp for women. Her income in her early and middle twenties depended on folk club performances, and as England's folk culture remained intact after the Hippy Sixties, there was always a welcome financial support there. She and MacColl were fixures on the British folk scene and did a number of albums together, collected and transcribed songs, and ran folk song workshops in an attempt to keep the undergound culture alive.

The book skirts the slightly touchy issue of the copper fitting of the folk movement with a bohemian lifestyle, epitomized in the career of Bob Dylan, who came to New York in pursuit of Woody Guthrie and was determined to persuade his peers that he had lived as hard and "authentic" a life as his hero. This was pure fabrication and Dylan's self-mythologizing PR can be viewed alongside the Seeger clan's Brahmin background as somewhat at odds with hardscrabble bohemian images favored at the time. All the Seegers came from families boasting impeccable academic and social credentials, and though Pete left Harvard in 1927 he never lost a do-gooder style that, for all his splendid intentions, could sometimes set teeth on edge.

While still married to MacColl, Peggy fell in love with another married woman. On MacColl's death they became a pair and have lived together for several decades. She does not identify herself as lesbian, but the relationship initially put quite a strain on family members. The Reagan-Thatcher years were not easy on the Seegers or on MacColl but it did bring a significant resistance to rightwing policies. MacColl suffered a long, slow decline, and Seeger charts her rage and grief at his passing, at their own marital troubles, and over a daughter who would not accept her infatuation with a woman. She continues to write and teach and perform into her eighties. It's a remarkable story, a great love story of an extraordinary woman and her adventures midst all the political and cultural turmoil of Britain and America.

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Review: Asad Haider, Mistaken Identity: Race and Class in the Age of Trump

By | 2018: vol. 17, no. 2

Asad Haider. *Mistaken Identity: Race and Class in the Age of Trump.* London: Verso

Lenin famously said that "imperialism is the highest stage of capitalism". But then Lenin never saw Facebook.

Social media invites its users to treat all previously intimate and private connections with other human beings as moments for profit-making; all our relationships become commodities. Social media also encourages use to self-brand, to treat our own identities as expressions of that brand. In such a scenario, politics becomes part of our personal brand; witness the rise of performative "wokeness" and even a kind of self-flagellation online, as brilliantly unpacked by Angela Nagle in *Kill All Normies*. For certain sections of Left-Twitter (a horrible phrase!) this has resulted in a rhetorically radical politics that is simultaneously hollowed out of any meaningful attempt at changing the world.

Instead we have what the late Mark Fisher has named "The Vampire Castle", in which politics is defined by "a *priest's desire* to excommunicate and condemn, an *academic-pedant's desire* to be the first to be seen to spot a mistake, and a *hipster's desire*to be one of the in-crowd." Where a left politics should combine class, race and gender in a sophisticated and dynamic analysis, we instead get what Fisher called "the sour-faced identitarian piety foisted upon us by moralisers on the post-structuralist 'left'". There are several layers of complication here. Race and gender clearly *do* matter, but so much of how they discussed, online and offline – which is almost the same as saying, how race and gender are today *performed* – are neither serious nor sophisticated.

In two of the best studies of the contemporary politics of race – *The Black Atlantic* and *There Ain't No Black In The Union Jack*– Paul Gilroy noted the regular tendency of anti-racist politics to slip into essentialized assumptions about black identity (and implicitly also about white identity). The paradoxical conclusion for both anti-racist politics and for the scholarly study of race, is that while the impacts of racism are real, "race" itself is not; it is an ontologically false category of difference. Yet, much of the discussion of a thing called "race" in 2018 goes in a completely opposite direction, with racial identity becoming a fixed, immutable and even essentialised thing. Criticisms of this abound on the Left, sometimes valid ones, sometimes ham-fisted or in denial of the reality of racism (or of sexism). The "Bernie Bro" accusation is an

apposite example. Undeniably, there was an anti-Hillary animus that manifested itself in overt online misogyny (visa versa, misogyny found an easy home in anti-Hillary tilts). Yet is also true that these claims were weaponised and used against Sanders' supporters, cynically painting all with a broad brush. And in the process, the opportunity for a serious re-evaluation of how the left *does* gender or race was lost, as claims and counter-claims were thrown around and Sanders' supporters duly defended their candidate. (Though, that Bernie fans seem to have expanded their political affections to include Alexandria Ocasio-Cortez, certainly suggests that claims of closet racism and misogyny were *mostly* made in bad faith).

Something is clearly wrong in the popular discussion of race in the US. And while that has probably never not been the case, the workings of social media and online culture has had an amplifying and distorting impact. Corporations like Twitter and Facebook have forged a symbiotic relationship with more conventional media companies; both seek to generate "clicks". Promoting intentionally abrasive or controversial content is one easy way to do so. Stoking outrage has become a guaranteed way to draw in web traffic and thus boost advertising revenue.

Asad Haider's *Mistaken Identity* appears as an intervention into this morass. Short and readable, the book provides an intellectual genealogy of anti-racism and of the myriad ways in which contemporary anti-racist politics go awry. Haider begins by situating his politics in his own biography, a personal emphasis that works most of the time; the American-born son of Pakistani immigrants, he talks of his inability to settle on a fixed identity. Teenage reading in the classics of American and international leftist literature – Huey P. Newton, Malcolm X, Marx and Engels – reinforced his sense that poverty and racism were conjoined phenomena. Haider's intellectual development is built on this assumption, that capitalism, class and race have a shared history, echoing Malcolm X's sense that "It's impossible for a white person to believe in capitalism and not believe in racism" or Huey Newton's assertion that "slavery is capitalism in the extreme". *Mistaken Identity* thus proceeds to trace the history of those who placed class and race in the same analytic frame and also discusses the ways in which their original ideas have often been hollowed out or pushed to the centre.

"Identity politics" as a concept was coined by the Combahee River Collective, Black feminists who felt (with much due cause) that they were squeezed between white feminists, who ignored racism, and male Black leaders, who ignored sexism. They also sought to incorporate a Marxist theory and praxis and "identity politics" named all of this. For the Combahee River Collective, "feminist political practice meant, for example, walking picket lines during strikes in the building trades during the 1970s. But the history that followed seems to turn the whole thing upside down." Conversely, "Identity Politics"today is an almost meaningless cypher; used as a slur by the far-right, dismissed as a distraction by old-line leftists, by default it has become the possession of centrist liberals who have taken it far from its radical roots and class politics. Likewise, *intersectionality*, a term originating in legal studies, has mostly abandoned class and "now has an intellectual function comparable to 'abracadabra' or 'dialectics.'" Yet, for Haider, there is something here worth reclaiming,

Clearly “identity” is a real phenomenon: it corresponds to the way the state parcels us out into individuals, and the way we form our selfhood in response to a wide range of social relations. But it is nevertheless an abstraction, one that doesn’t tell us about the specific social relations that have constituted it. A materialist mode of investigation has to go from the abstract to the concrete – it has to bring this abstraction back to earth by moving through all the historical specificities and material relations that have put it in our heads. In order to do that we have to reject “identity” as a foundation for thinking about identity politics. For this reason, I don’t accept the Holy Trinity of “race, gender, and class” as identity categories. This idea of the Holy Spirit of Identity, which takes three consubstantial divine forms, has no place in materialist analysis. Race, gender and class name entirely different social relations, and they *themselves* are abstractions that have to be explained in terms of specific material histories.

Identity matters, but is also fraught with potential pitfalls and obstacles. The radical potential of *identity politics* and *intersectionality* has degraded into something far less purposeful; “Within the academy and within social movements, no serious challenge arose against the cooptation of the antiracist legacy. Intellectuals and activists allowed politics to be reduced to the policing of our language, to the questionable satisfaction of provoking white guilt, while the institutional structures of racial and economic oppression persisted.” Black identity can just as easily mean an intra-communal solidarity that erases class distinctions and erases the specific demands of the Black working class. And Haider shows a keen grasp of the sheer messiness of this problem.

The existence of this problem is widely recognized, but discussing it constructively has turned out to be quite difficult. Criticisms of identity politics are often voiced by white men who remain blissfully ignorant or apathetic about the experience of others. They are also, at times, used on the left, to dismiss any political demand that does not align with what is considered to be a purely “economic” program – they very problem that the Combahee River Collective had set out to address.

The solution is not to ditch intersectionality or identity politics, but to reclaim and rebuild. Haider peppers his discussions here with emotionally-charged examples of his own experiences with campus organising at UC-Santa Cruz; these kind of campus anecdotes have become a standard feature in discussions of the identitarian left and are not necessarily always that useful. They tend toward defining the phenomenon in terms of its silliest and least mature practitioners. Yet Haider does have a point. He discusses how *intersectionality*, in the “campus activist usage”, has come to mean a notion that only those who have certain “political subjectivity” (Black, female, gay etc.) have the right to speak on issues pertaining to that identity, something that serves to cut across any possibility of coalition-building. Moreover, *positionality* slides into an essentialist notion – not just the assumption that only women can “know” gender or only Black people can “know” racism, but also the sense they have access to a truth denied to men or white people.[1] What we end up with is something as deterministic as any vulgar Marxism ever developed!

The intellectual parents of *Mistaken Identity* are fairly well-known; from Stuart Hall and Paul

Gilroy to Judith Butler, Wendy Brown and the Combahee River Collective and the pioneering and polemical whiteness studies of Noel Ignatiev and Theodore Allen. This is all fairly familiar territory but where Haider perhaps does not break any new ground, he does synthesise this array of literature into a useful and slim volume, one that deserves a readership in the current moment.

Notes

[1]Perhaps the key missing link here, not considered by Haider, is the rise to secular sainthood of Holocaust survivors, as analysed by the late Peter Novick in his 1999 book *The Holocaust in American Life*, a book that at its most basic level is a discussion of the highly relevant topics of racial violence, memory and victimhood. The assumption that Survivors have access to a special kind of Truth, by virtue of their experiences, does seem to have percolated throughout contemporary American life.

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Review: Andrew Feenberg, Technosystem: The Social Life of Reason

By | 2018: vol. 17, no. 2

Review: Andrew Feenberg, *Technosystem. The Social Life of Reason*, Cambridge: Harvard University Press, 2017.

Our modernity is not just a question of values such as equality of individuals, of fair social organization, nor of speeches and communication.

It is also a question of objects, systems and procedures and how they shape our gestures and behaviours: social imperatives are less and less assured by political and juridical mechanisms, and ever more by technical constraints. Consequently, our modernity is a question of rationality, one which is at the same time technical and social and which steers technical developments, but also the logic of administration and market. The three of them constitute what Andrew Feenberg names *technosystem*. It is around that notion he continues the elaboration of his critical constructivism to provide us with the intellectual and practical means to address our technologies and what we call progress.

These assertions as such are not new in the work of the author. But one can feel a new emergency appearing in Feenberg's preoccupations. Freedom, autonomy, ecology, were already urgent matters. Still, the philosopher is worried about a phenomenon which, if not new, seems to become prevalent, that is the relativism of values. Historically, contemporary philosophy of technics had to answer the opposite trend: only one truth existed when one comes to question technology and efficiency. That was the time of technocracy and determinism. Social constructivism, amongst others, contributed to invalidate the idea that technology could follow only one path. It showed how technical rationality is a myth and how technical solutions result from confrontations, interpretations and choices. What is could have been different, and our bikes, computers, railroad systems, axes or refrigerators, are contingent, as are our administrative and economic procedures.

Part of Andrew Feenberg's work consists in reintroducing the concept of domination of the Critical Theory inside social constructivism (chapter 2). Too academic, too open to notion of contingency and fluidity, social constructivism as such is unable to help us to think phenomena of alienation and the specificity of our times. But there is something more which need to be done now because contingency is no more an academic concept. That is not new either, but it seems it becomes a common political and economic tool. Not only objects are contingent: truth itself tends to be an outdated notion. The tobacco industry understood that some time ago, but works of researchers about agnotology, climate change negationism, American administrative

use of Kafkaesque alternative facts and social networks dilution of facts, made urgent to answer the question of relativism.

Here stands the work of Andrew Feenberg, on a very thin line between a determinism which would deprive us of any possibility of action, and a total relativism which has the same consequence: it makes us unable to contest any technology or path of development. That is why, while using the lessons of social constructivism and of the actor-network theory, Andrew Feenberg expresses his dissatisfaction towards the principle of symmetry. This extension of the neutrality principle towards the losers and the winners of scientific controversies calls to treat the same way society and nature: in other words, we must use the same language to describe all the members of the network, humans and non-humans. Thus, the distinction between intentional act and causal action is blurred (47) and we find ourselves unable to judge any social conflict: if the only meaning of nature is the one the network establishes, no protestation can refer to another meaningful sense of nature (50). It is a common reproach to the actor-network theory to underline how it places all actors on the same level, as if they were all equally powerful, and how it extends a methodological neutrality into a moral and political one. Andrew Feenberg goes further: he considers the theory is biased in favour of the winners for they are the one deciding what is a relevant meaning.

Yet the actor-network theory, as social constructivism, stands on a assertation political philosophy must address: politics is not only about "'the affairs which go among' men and women", but also about "the 'world of things' that 'relates and separates' them", insists Andrew Feenberg quoting Hannah Arendt (166). But Hannah Arendt, as much of the contemporary political philosophy and political theory, failed to acknowledge the place of technology and the role of the technosystem. Rawls never mentioned the technosystem. Neither did Habermas who is harshly criticized by the author: how can one discuss a coordination of actions which does not use language without mentioning technology (44)?

Because it ignores such a dimension of our modernity, political thought cannot analyse rationality as a source of domination and discrimination. Here, Andrew Feenberg investigates further a point he established in previous books: it is necessary to make a difference between substantive and formal bias. The former is well-known and is based on non-rational judgements, such as prejudices or emotions. To discriminate somebody because of the colour of its skin is obviously a substantive bias. The formal one is more complex and less conspicuous because it is based on reason. An "historical and contextual analysis" (24) is thus necessary to uncover it. One should not confuse this analyse with the affirmation that a rational order has a non-rational origin. If so, how could we explain longevity of capitalism, asks Feenberg? Somehow it must have a rationality and that is what must be examined.

Thus, the formal bias is in fact "the discriminatory effects of rational order" (24), a domination effect which is not the result of the beliefs of individuals but the result of the rational working of the system. It is the consequence of equal procedures. Rousseau's presentation of the social contract in the *Second Discourse*is one example. Marx's analysis of the market is another one: market is based on equal exchange and on reciprocity. Yet the surplus value, produced by the

difference between how much wealth the worker produces and how much he is payed, leads to a state of domination. It is not because of a prejudice or a theft for labour is payed. It the result of rational principles of capitalism.

Formal biases are a consequence of the problematic distinction between fact and value. Rationality is supposed to be free from value. However, it is now well-established that rationality is biased with values and that what Feenberg calls the “design code” of technologies is the consequence of confrontation and interpretation, and not of a process leading to the most rational and the only one solution. For example, technical code of capitalism is deskilling and mechanization. Using references to Marx and Foucault, Andrew Feenberg explains transformation of rationality has to make room to subjugated knowledges, that is to say the experience and interests of those who are dominated by the formal biases of sociotechnical networks. To discuss and contest the technosystem is to discuss its rationality and its incarnation into technical codes.

However, such a contestation needs to be based on something stable. This is why the assertion of early STS that rationality does not exist is not satisfactory for Andrew Feenberg. Here is the core of his book: what we need is a normative theory of technology. To construct one, he draws on the works of Gilbert Simondon, a French philosopher of technology, and Herbert Marcuse. It is good news to see references to Gilbert Simondon in an American book. His work on technology is one of the most accurate that exists and furnishes a solid base to help thinking the specificity of technology. Yet Simondon is widely unknown in the United States. Here, his notion of concretization provides a normative way of technical evaluation, the one which misses in STS: concretization is a higher integration of the different parts of a technical object. A car air cooling system is more integrated than a water cooling one because, in the first case, the cooling is united with the functioning of the motor. Such an engine is more likely to last, a goal which, for technical objects as for all things, is the main one.

How can concretization be useful for a normative theory? Exploring the question of the determinism one can read in the work of Simondon, Andrew Feenberg shows the development of a technology can take different paths of concretization. And the notion of “associated milieu” (72) allows to assess how technical objects interact with humans. The associated milieu is the working environment the object needs, such as electricity for an electrical appliance. Humans can be part of this environment and, consequently, it is possible to develop the political implications of the theory of Simondon, assessing if the relation between technologies and humans is an alienation. To explore further this relation, Feenberg refers to the notion of potentiality he finds in the work of Marcuse. A potentiality is not a *telos*, neither it is a fixed identity: it is one way of overcoming tensions through an historical process. The use of imagination and of a reason informed by the sensitive receptivity of humans, as the one Marcuse describes in his *Essay on Liberation*, provides us with tools to orient this process. More details to clearly establish how the historical dimension of the process allows us to escape sheer naturalism while being normative may be needed, but the notion of potentiality is promising.

This is where Andrew Feenberg turns to Hannah Arendt and how she used the Kantian notion of reflective judgement. Whereas the determinant judgement goes from rules to cases, the reflective judgement makes the opposite. Kant used it to explain aesthetic judgments, but Arendt saw the relevancy of it for political field. Feenberg explores in chapter 7 how it makes possible to articulate subjective and objective rationality to account the rationality of public protests again the technosystem. Most of the time indeed, protestations do not start with a determinant judgment – which is more an expert position – but with experiences and injustices lay people take as examples (164). Using Albena Azmanova's theory of public debate and specifying his instrumentalization theory (153, 177 and 179), Andrew Feenberg shows how cultural and technical aspects interact. This interaction is the space where a political action can arise inside the technosystem because it is always possible to transform our perception of an object or its context. That is why Andrew Feenberg, using the words of Don Ihde, calls to a "gestalt switch" (115): change must come from an internal revision of the technosystem based on a redefinition of the relation between fact and value and of the place of experience, not from some external limitation.

While reflective judgement accounts for experience and imagination through the process of construction of a subsumptive concept and leads to innovation, is this notion able to account for the objective part of technical problems? Solutions are not totally contingent for we must make with objective properties of objects. The analyse of the nature of function undertook in chapter 5 overcame this objection. Feenberg denies the conclusion of the dual-nature theory which claims that function is a hinge between physical properties and use of the objects. Such an assertion forgets this objective side, from "the causal relations identified in causal disciplines" (138) to economic choices of development, are culturally and socially informed. Thus, functionality is not "some combination" of "subjective idea" and "material fact", but "a social process" (160) where both are in interaction from the beginning of the relation between thought and matter. And if social process there is, political action is possible.

However, a striking point which regularly appears through Feenberg's argumentation, as he discusses different theories and authors, is how much the material dimension of human relations has been forgotten by most of the political thought. Yet, all along the reading, we can see what political thought would gain to refer to technology and technosystem. For example, Axel Honneth's assertion that normative advances are irreversible may be explained not only by collective social memory, but by the "social, legal, economic, and technological arrangements" (192) which took it in charge. Or reflection about communautarism could use some insights from the notion of technosystem and how it can provide an identity (172). Finally, how to think colonization without any reference to technology and technosystem when we face situations where they have been adopted while Occidental norms and values have been ruled out and appear only as legitimation discourses (196)?

To face technosystem and its consequences, it is necessary to confront its kind of rationality and to reassess the notion of progress to perceive its realization may not mainly appear through policy, legal and moral measures (190). From Simondon's notion of concretization, Feenberg draws a local concept of progress, oriented towards a closure of a debate around a

technical phenomenon which would allow to suppress formal biases by inclusion of subjugated populations. It is then possible to keep the idea of progress while separating it from the idea of a direction of history, thus avoiding relativism or foundationalism. For it is the challenge we must confront: to question modern rationality without disarming reason and normativity.

Review: Malachi O'Doherty, Gerry Adams: An Unauthorised Life

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Malachi O'Doherty, *Gerry Adams: An Unauthorised Life.* Faber and Faber, 2017.

Gerry Adams earlier this year stepped down as leader of Sinn Fein, formerly or residually the political wing of the Provisional IRA, which forged a peace deal that, however shakily, has held since 1997 in the six counties commonly known as Ulster (of which province they comprise two-thirds) or Northern Ireland.[1]

Like it or not, Adams leaves to successor Mary Lou McDonald a thriving organization that as the largest nationalist party shares power in the Northern Irish government at Stormont during the intermittent spells since 2007 when it functions, garners seven of eighteen Northern Irish seats in Westminster (which it declines to attend), and forms a vibrant leftwing presence as the third largest Party in the Irish Republic's parliament, the Dail.

For an unlettered working class Belfast Catholic and former apprentice barman, these are heady political achievements by almost any measure. I say 'almost' because Adams inevitably generated implacable enemies who grant him no credit for any action. Still, the instructive storyline of gunman-to-statesman has been exemplified by many personages over the years, from Michael Collins and Eamon De Velera in 1920s Ireland to Menachem Begin in Israel to Nelson Mandela in South Africa to Danny Ortega in Nicaragua to the unlamented Robert Mugabe in Zimbabwe. One validly may add George Washington to the list. Politics is indeed a funny thing, by which I do not mean rib tickling.

Irish journalist Malachi O'Doherty conjures a proudly "unauthorized" biography of an extremely complex and controversial figure, which, however, plummets straightaway into a tenacious scorched earth operation. A pathography is the dead opposite of a celebrative hagiography, but both biographical enterprises tell us much more about the authors' proclivities than about those of their ostensible quarries. Absolutely nothing Gerry Adams ever spoke, scribbled, speculated, spit or ventured is regarded as of redeeming merit. From the outset Adams is a malignant glowering Machiavelli figure, although, because Adams is not allowed here to be good at any vocation, an emphatically second rate one. While Adams, and the small-r republican movement he headed and wrangled with for decades, are very far from angelic forces he clearly was a crucial actor guiding Sinn Fein, and the Provisional IRA's testy military council, to the negotiating table and ultimately through a turbulent fits-and-starts process to cessation of armed conflict. Is there really nothing to be said for his role in that accomplishment?

This stern accusatory screed reads like nothing so much as a slapdash prosecutor's brief prepared for delivery within the innermost paranoid confines of the Orange Order. At every turn the biographer conscientiously imposes the most denigratory spin imaginable on events in Adams' tumultuous life. This smug compilation of "gotcha' moments, however, quickly begin to contradict one another as they unfurl, always a sure sign one is in the hands of an unswerving passionate partisan. O'Doherty even sashays up to the brink, for the perverse fun of it, of indulging a deranged hypothesis that would immensely gladden the intractable republicans in the small breakaway Real IRA or Continuity IRA or New IRA, whom the author assuredly abhors. This is the daft notion that Adam was "turned" during his first imprisonment and thereafter morphed into a sublimely cunning British agent. While I suppose that wacky supposition might explain a few things it also would contain a host of titanic and frankly insane improbabilities. But plausibility is not foremost among the author's concerns. "May you suffer biographers," this volume acutely reminds, is likely one of the vilest of curses.

The torrent of fulminating accusations all flow from a dotty and ill-informed pair of presuppositions: (1) that the IRA was the initial and sole reason for the long bloody conflict in the North, and (2) that working class people like Adams and his associates are Morlock-like figures, scarcely functioning adults, who have no business aspiring to be in charge of their own lives and communities versus epicene upper crust authorities and the nice neat middle class technocrats who profess to know what is best for them. This corrosive authorial contempt bubbles up through every crevice of O'Doherty's thoroughly cracked case against Adams.

One would never glean from these heartily tendentious chronicles that the first three murders as well as first bombings in the conflict were done by loyalist paramilitaries (who tried to false flag them as IRA devices).[2] One would never suspect that at the start of the conflict the IRA had sold off its arsenal and functioned more as a social action organization than as a military unit, which is why the Provisionals broke away at the end of 1969. One would never guess that at the outset of the "troubles" Catholics in Northern Ireland (then a third and now over 40% of the population) suffered extreme discrimination in jobs, housing, voting rights, and benefits. One would never realize that a leaked British Army intelligence report in 1978 appraised the Provisional IRA as a disciplined, politically astute and highly motivated group with roots in their communities and that they were unlikely to be defeated by military means.[3]

Nor would one learn that a majority in the nine counties of Ulster voted for the earliest incarnation of Sinn Fein in 1918. Nor would you have an inkling that the profusion of Ulster Protestant paramilitaries – the Ulster Defence Association, Ulster Volunteer Force, Red Hand Commandos, etc – randomly murdered a lot of innocent Catholics in quite gruesome ways, and did so in several cases, including in Dublin, through proven collusion either with the Royal Ulster Constabulary (really an occupation police force) British intelligence services or the British Army (and its virtually all-Protestant adjunct, the Ulster Defence Regiment, a.k.a, Royal Irish Regiment Home Service Force).[4] One would not appreciate that the Celtic prince of darkness Adams was the key grandee that led Sinn Fein from a purely nationalist and reactive stance to a peace-seeking Party of the Left. There are plenty of reprehensible deeds to be found in the Provisional IRA's bloody campaign but the Provos hardly can be understood as

isolated figures of blame, although that is the objective of this exercise. Everything, according to O'Doherty, somehow would have worked out to everyone's satisfaction if only the croppies (the Catholics) lay down and stayed down. What dream world do analysts inhabit that they reckon that resistance, however extreme or ugly or misjudged, to systemic injustices will not arise? We get only a slight hint of the pervasive Orange bigotry of the era when the author notes in passing that splenetic Protestant women shrieked at young Bernadette Devlin that her first baby would be black, which for these harpies was the acme of iniquity no less than in good ole white Mississippi at the time.

Adams is the spawn of a republican matriarch and a feckless father later convicted of sexual abuse, for which the author can't quite hold the son responsible, though he does his best to do so. O'Doherty relishes imagining how the mother's staunch republican outlook must have buckled when a "rogue" policeman kills 3 people in a Sinn Fein office very shortly after she visited it. Huh? Everything Adams, his family and associates do is treated as fanatically and toxically tribal. Whether it's republican tribalism or socialist tribalism, the author loathes the few choices these hard-pressed people have to make, secure in his own mind that he is not thus exhibiting a dopey yuppie tribalism of his own.

Official IRA leader Cathal Goulding, who led the IRA leftward in the early 60s (and whose organization declared a ceasefire in 1972) is branded a Communist, not a socialist, although those terms are equally repellent to the author and certainly not worth parsing since they both hark to a "dreary grandiose dream" of a classless society. Bernadette Devlin, by the way, complained that the few hidebound and ultra-cautious Communists there were in Northern Ireland were as reactionary as the Unionists.[5] While tirelessly rejecting Adam's denial of IRA membership (which Martin McGuinness curiously had no problem admitting), the author at the same time pounces on every chance to mock unmanly Adams for not being bold enough to pick up a weapon himself and plug the next proddy passerby.

According to O'Doherty's rendition of the 1960s the whole trouble behind the "troubles" was that there were never enough RUC (or unmentioned B-Specials) to handle those boisterous Irish Catholic civil rights marches, which is why the police merrily beat the hell out of the peaceful marchers or turned a blind eye to vicious sectarian bands who battered them. Poor Bull Connor might have mumbled the same woebegone lament about his plight in Birmingham, Alabama. Again according to this mischievous account, Goulding's Official IRA was simply dishonest in supporting a civil rights movement demanding "British Rights for British Citizens," despite the Commie-baiting of them he indulges in anyway, because they counted on the Orange state violently to reject those rights, which is somehow the protesters' fault. What else can one expect from these Punch Magazine simians? Anyone who contends that Orange parades merely conveyed an "underlying threat to enemies of the union" never attended one, or else was there banging a Lambeg drum. Orange marches were conscious ceremonies of domination over, and degradation of, the Catholic minority and they are no prettier now than they were forty or fifty years ago.[6]

In August 1969 at a massive clash on the republican Falls Road we are informed that the police

simply ‘misread the situation’ and ‘believed they were confronting an IRA insurrection.” No. The police saw what they were diligently trained, inclined and determined to see, so it was not an innocent error as the word ‘misread’ implies. The author scarcely spares a word for the Protestant paramilitary-led UWC strike in 1974 that met minimal British Army resistance and brought down the Sunningdale power-sharing government.[7]Was there a way to interpret that dispiriting sabotage as anything other than a ferocious aversion by loyalists to sharing power with the Catholic minority?

Meanwhile, young Gerry Adams, later wounded badly in an assassination attempt, is beaten up and interned in 1971. Internment, almost exclusively of Catholics, was a profoundly counterproductive gimmick devised by the usual batch of dim-witted authoritarians. Adams was released to negotiate a short-lived ceasefire in 1972 (and again in 1975) which an official British report assessed him to be sincere in seeking. The author asserts that the Provisional IRA took advantage of ceasefires for their own sinister ends, but not the authorities who, by other accounts, used the breathing spaces to spot IRA sympathizers to nab later. Adams supposedly was mocked by fellow internees in Long Kesh for “not being a militarist,” but a few pages later it emerges that the “men revered Adams,’ especially for taking the IRA leftward. O’Doherty can’t square all these uncomfortably confounding statements, except by downplaying laudatory ones. Like every other militant figure in world history Adams is pilloried for sacrificing family life to a larger cause, which apparently only well-heeled people, who never have any reason to, should be issued permits to engage in.

One of the most extraordinary and ludicrous claims, in the face of numerous studies and memoirs to the contrary, is that the IRA outside the prison framed the 1981 hunger striker demands with “little or no input from the average blanket man.”[8]Prisoners, according to O’Doherty, too readily gave in the first hunger strike while Adams unnecessarily extended the second strike, resulting in ten fatalities. Yet a page or two later the author admits some of the hunger strikers wanted to continue even longer.

The protracted decommissioning saga in the peace process is an epic of artful cynicism all around, but how does the author know Adams guided decisions not to decommission sooner than 2005 (with the tiny INLA following in 2010)?[9]Scant attention was paid to undisarmed Loyalist groups.[10]The author foretells that a peace agreement would find Sinn Fein “swept away by the more experienced party,” the Social Democratic and Labour Party (SDLP). Nope, it was the SDLP that took the hit. In a startling interlude of lucidity O’Doherty concedes that Adams was usually “caught between IR hardliners and the obdurate British,” which is “not too far from the truth.” He also records the observation that “Adam’s position was that he could influence the IRA to end its campaign, but that he could not take the decision himself or be held answerable for the IRA’s refusal or hesitation,” which was pretty much the case. One conjectures that a Faber editor may have nudged the author to face historical reality occasionally, which might account for the unstable and zigzagging narrative.

O’Doherty wonders if Adams “has no one to tell him not to dress like a tramp or a clown.” Sweet Jaysus. Shabby Adams is expertly diagnosed from afar as “two different men,” as if that

is unusual for diplomats. Flaying a TV appearance by Adams on a program about biblical myths, O'Doherty extrapolates, "so maybe the story about British oppression of Ireland is as questionable as the Gospels." Presto: no penal laws, no Cromwellian horrors, no rack-renting, no Plantation, no mass evictions, no famines with brisk grain exports, no emigration, no Black and Tans, no Special Powers Act to jail anyone for anything, nothing to gripe about. All it takes is a snap of the authorial fingers. But perhaps the cruel tormenting vortex of the 'troubles' can indeed be expressed in a single case related here of a TV cameraman Adams encounters whose brother had "learning difficulties and was exploited by British intelligence agents" in 1975 to inform on the IRA. Ponder that. The IRA snuffed the informer. Think about that too. This tragedy encapsulates the deliriously dirty game played all around. That a peaceful resolution emerged is a marvel and Adams, whatever his real faults may be, deserves some unbegrudging credit.

Notes

[1]Paul Nolan, "Post-Conflict Northern Ireland is still Plagued by Political Violence," Irish Times 23 April 2018.

[2]Martin Dillon, The Dirty War (London: Arrow Books, 1991), p. xxxix, Also see Dillon's memoir, Crossing the Line: My Life on The Edge. (London: Merrion Press, 2017).

[3]Duncan Campbell, "The Army's Secret Opinion," New Statesman 13 July 1979.

[4]Angelique Chrisafis, "Loyalist Bombers 'helped by British." The Guardian 10 December 2003.

[5]Bernadette Devlin, The Price of My Soul (London: Pan Books, 1969), p. 147.

[6]Jonathan S. Blake, "What a Protestant Parade Reveals about Theresa May's New Partners," The Atlantic 11 July 2017.

[7]Robert Fisk, The Point of No Return: The Strike that Broke the British in Ulster (London: Times Books/Deutsch, 1975).

[8]See David Beresford, Ten Men Dead (London: Grafton, 1987).

[9]For starters, in 1994 the Downing Street Declaration "promised that if the violence ceased then the way would be open for Sinn Fein to 'join in dialogue in due course between the Governments and the political parties on the way ahead.' The promise was not kept. Instead fresh conditions were imposed, conditions which had not been mentioned in either the formal Downing Street negotiations or in the secret British-Sin Fein talks described within." Decommissioning was one of those additions. Tim Pat Coogan, The Troubles (New York: Saint Martins Griffin, 1996), p. xv.

[10]Northerners have “87,000 licenses for 140,000 weapons, virtually of them held by Protestants. They are not part of the decommissioning process. On top of that, there are thousands of illegal weapons in the hands of loyalist paramilitary groups.” Jeffrey Sluka, “In the Shadow of the Gun: Not-War-Not-Peace and the Future of Conflict in Northern Ireland.” Critique of Anthropology 29, 3 (2009). p. 291.

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