



OXFORD JOURNALS
OXFORD UNIVERSITY PRESS

University of St. Andrews
Scots Philosophical Association

Theoretical Foundations of Liberalism

Author(s): Jeremy Waldron

Source: *The Philosophical Quarterly* (1950-), Vol. 37, No. 147 (Apr., 1987), pp. 127-150

Published by: Oxford University Press on behalf of the Scots Philosophical Association and the University of St. Andrews

Stable URL: <http://www.jstor.org/stable/2220334>

Accessed: 18-05-2018 15:04 UTC

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at <http://about.jstor.org/terms>



JSTOR

University of St. Andrews, Oxford University Press, Scots Philosophical Association are collaborating with JSTOR to digitize, preserve and extend access to *The Philosophical Quarterly* (1950-)

THEORETICAL FOUNDATIONS OF LIBERALISM

BY JEREMY WALDRON

Winner of 1986 Essay Prize

I

The terms 'socialism', 'conservatism', and 'liberalism' are like surnames and the theories, principles and parties that share one of these names often do not have much more in common with one another than the members of a widely extended family. If we examine the range of views that are classified under any one of these labels, we may find what Wittgenstein referred to in another context as "a complicated network of similarities overlapping and criss-crossing . . . sometimes overall similarities, sometimes similarities of detail";¹ but we are unlikely to find any set of doctrines or principles that are held in common by all of them, any single cluster of theoretical and practical propositions that might be regarded as the *core* or the *essence* of the ideology in question.

Partly this is because those who call themselves "liberal" or "socialist" or "conservative" have never had anything like complete control over the use of that terminology: an opponent is often happy to call a view 'liberal' which many selfstyled liberals would repudiate. But mostly it is because of the way political theories have developed. With the exception, and it is quite a recent exception, of socialist thought developed explicitly in the wake of Karl Marx and under the auspices of the First and Second Internationals, political theories in the West have not been developed selfconsciously under any ideological rubric or classification. Locke did not write the *Two Treatises* in order to *be* a liberal, any more than Burke wrote *Reflections on the Revolution in France* in order to *be* a conservative. Rather, each was developed as *a* theory of government, *a* theory of society, or *a* theory of political economy, and was intended to be judged as a contribution to a debate that knew no ideological frontiers and in which almost all thinking people of the time were interested. By the same token,

¹ L. Wittgenstein, *Philosophical Investigations*, tr. G. E. M. Anscombe (Oxford, 1968), p. 32e.

these bodies of theory were not developed in isolation from one another. From the point of view of the modern classifications, they seem hopelessly eclectic and impure pieces of work. Those we call "liberals" would think nothing of responding to, drawing on, or admitting to having been influenced by the works of those we call "conservatives" or "socialists". And so it is fruitless, not only to look for a core of *common* characteristics, but also to think that we can find *distinguishing* or *peculiar* characteristics which differentiate views in one tradition from views in another. Liberal moderatism fades into conservatism; the conservative's concern for community matches the socialist's; the socialist claims to take the liberal concern for freedom more seriously than the liberals themselves; and so on. To push the metaphor a little further, we are dealing not only with cases of "family resemblance", but with resemblances in the context of three (or more) great families which, though rivals, have engaged over the centuries in extensive intermarriage and alliance. Indeed it is plausible to argue that in the case of socialism, we are talking of a new family that has broken away from an older liberal stock;² so that often we must expect to find characteristics in a "socialist" theory which quite closely resemble those of their repudiated liberal cousins.

In this essay, I want to argue that liberalism rests on a certain view about the justification of social arrangements, and that this view helps us to understand some of the differences and some of the similarities between liberalism and other ideologies. Briefly, I shall argue that liberals are committed to a conception of freedom and of respect for the capacities and the agency of individual men and women, and that these commitments generate a requirement that all aspects of the social should either be made acceptable or be capable of being made acceptable to every last individual. I believe that this view or something like it underpins many of the most characteristic and distinctive liberal positions. But, as I have formulated it, the view is one that many liberals may not recognize, and there may be other aspects of their beliefs that can be supported independently of these ideas. I do not want to deny that. What follows is "one view of the cathedral", so to speak:³ a *reconstruction* of the foundations of liberalism that may be fertile in the generation of new ideas in this tradition of political theory.

But though there is this aspect of rational reconstruction, I am not going to attribute to liberals premises that are self-evident or arguments that are uncontroversial. There are some very deep tensions in the liberal view of

² See Larry Siedentop, "Two Liberal Traditions" in Alan Ryan (ed.) *The Idea of Freedom* (Oxford, 1979), p. 153.

³ Cf. G. Calabresi and A. D. Melamed, "Property Rules, Liability Rules and Inalienability: One View of the Cathedral", *Harvard Law Review* 85 (1972), p. 1089.

human nature, freedom and society, and it would be a poor account that sought to cover them up. So far from wanting to conceal or underestimate the tensions, and difficulties in the liberal tradition, I hope the account that I am going to give will help to cast some light on them as well.⁴

II

Etymology suggests an association between 'liberalism' and 'liberty'; and while the word 'liberal' has other connotations – of generosity, broad-mindedness and tolerance – it is clear enough that a conviction about the importance of individual freedom lies close to the heart of most liberal political positions.

Of course, even a generalization this vague may be difficult to sustain. Ronald Dworkin insists that liberals are more deeply committed to an ideal of equality than to any ideal of liberty, and he even rejects the commonplace view that liberal politics consists in striking a distinctive balance between these competing ideals.⁵ Certainly a strong commitment to liberty in the economic sphere is more likely to be associated with political conservatism than with liberalism, particularly as those terms are understood in North America. Those who plead for freedom of contract, for the freedom of property-owners to do as they please with their land, and for the liberation of business from bureaucratic regulation, may think of themselves as "libertarians"; but they will be as anxious as their opponents that the term 'liberal' should not be used to characterize these positions. However, it does not follow that those who *do* call themselves liberals are unconcerned about liberty, even in economic life. For one thing, many liberals will argue that right-wing economists have abused and wrongfully appropriated the language of freedom: they affect to be concerned with freedom generally, but it turns out to be the freedom of only a few businessmen that they are worried about and not the freedom of those they exploit or those constrained by the enforcement of their property rights. Freedom for the few, these liberals will say, is an unattractive political ideal since, under plausible assumptions, it means oppression and constraint for the many. A more attractive ideal would be equal freedom for everyone.⁶

⁴ Though the difficulties of the liberal tradition are recognized, this is not an exercise in ideological pathology along the lines of R. P. Wolff, *The Poverty of Liberalism* (Boston, 1968) or T. A. Spragens, *The Irony of Liberal Reason* (Chicago, 1981).

⁵ Ronald Dworkin, "Liberalism" in his collection *A Matter of Principle* (Cambridge, Mass., 1985), pp. 188–91.

⁶ It cannot be stressed too strongly that a commitment to *equal freedom* is not a *compromise* between freedom and equality. What 'equality' does in that formula is to pin down the form of our commitment to freedom; and what 'freedom' does is to indicate what it is that we are concerned to equalize. The two concepts are of such different logical types that it is absurd to talk of striking a balance between them.

But it is unlikely that that is going to justify anything like the characteristic positions of New Right politics and economics. In other words, there are resources in a *liberal* commitment to freedom with which the “libertarianism” of economic conservatives can be opposed.⁷

Secondly, we should recall that even if liberty in economic life is an uncharacteristic concern of modern liberalism, a commitment to individual freedom in other areas is absolutely central. In politics, liberals are committed to intellectual freedom, freedom of speech, association, and civil liberties generally. In the realm of personal life, they raise their banners for freedom of religious belief and practice, freedom of lifestyle, and freedom (provided again that it is genuine freedom for everyone involved) in regard to sexual practices, marital affairs, pornography, the use of drugs and all those familiar liberal concerns. Dworkin maintains that these positions are all derivative from a fundamental commitment to equality of concern and respect,⁸ but it seems to me that equality of respect, at least, cannot be understood in this context except by reference to a conviction about the importance of liberty (for everyone).

A third point is much more important. Freedom or liberty is a concept of which there are many conceptions.⁹ Since some of these conceptions are not associated with the liberal tradition, it is unsatisfactory to say simply that liberals are committed to (equal) liberty and leave the matter there.

The debate over the proper conception of liberty has been bitter and sometimes deadly. Many who call themselves liberals (but who might be labelled “conservatives” or “libertarians” by their opponents) take their stand on what is termed a “*negative*” conception of liberty: a person’s liberty is simply the extent to which he can act unconstrained by literal obstruction or interference from others. This view is referred to by its opponents as an “impoverished”, “infantile” or “philistine” theory of freedom, while libertarians themselves describe less negative conceptions as “fraudulent” and potentially “despotic”.¹⁰ The intensity and singlemindedness with which positions are taken are defended in this debate is surprising. Liberty is a concept which captures what is distinctive and important in human agency as such and in the untrammelled exercise of powers of individual deliberation, choice, and the intentional initiation of action. Surely no-one

⁷ The argument alluded to here is one that has been made most persuasively in the socialist tradition: see, e.g., P.-J. Proudhon, *What is Property?*, tr. B. Tucker (New York, 1970); and G. A. Cohen, “Capitalism, Freedom, and the Proletariat” in Ryan, op. cit., pp. 10–17.

⁸ Op. cit., pp. 192 ff.

⁹ See John Rawls, *A Theory of Justice* (Cambridge, Mass., 1971), p. 5; see also Ronald Dworkin, *Taking Rights Seriously* (London, 1978), pp. 134–6.

¹⁰ For these and similar epithets, see e.g. Charles Taylor, “What’s Wrong With Negative Liberty?” in Ryan, op. cit., p. 193; K. Minogue, “Freedom as a Skill” in A. Phillips Griffiths, *Of Liberty* (Cambridge, 1983), p. 200; Isaiah Berlin, *Four Essays on Liberty* (Oxford, 1969), pp. xlv and 131–72; and A. Flew, “Freedom is Slavery” in Phillips Griffiths, op. cit.

can really believe that what this *is* is something simple or self-evident, or that there can can never be honest disagreements in this area. Human agency, will, and the initiation of action is a profoundly complicated business: it is the locus of one of the most intractable problems in metaphysics, and it is also the source of some of the deepest exultation and despair in human experience. Our sense of what it is to have and exercise freedom is bound up with our conception of ourselves as persons and of our relation to value, other people, society, and the causal order of the world. From the point of view of moral and political philosophy, then, human agency is a rich seam of value which competing conceptions of freedom mine in differing ways. I do not want to suggest that rival conceptions of freedom should be immune from criticism. But just because of the richness and complexity of this seam of value, it seems odd for a philosopher to say: "Here is my conception of freedom; this is all there is to freedom; all other conceptions are utterly unintelligible and unappealing to me."

To say then that a commitment to *freedom* is the foundation of liberalism is to say something too vague and abstract to be helpful, while to say that liberals are committed fundamentally to a particular *conception* of liberty is to sound too assured, too dogmatic about a matter on which, with the best will in the world, even ideological bedfellows are likely to disagree. All the same, there are positions in the debate about freedom which it is characteristically liberal to repudiate, and it may be worth giving them some brief attention.

Much of that debate has been concerned with a proper understanding of the relation between freedom and social order. Some philosophers say there is a definitional connection between freedom and social order: *real* freedom (sometimes, freedom for the *true* self) just *is* submission to and participation in the order of a good society. Others maintain that freedom is lost or the principle of liberty is violated whenever *any* rule of social order is enforced, no matter how well-grounded it is in the requirements of social life. Liberalism, it seems to me, repudiates both of these extreme positions.

In "Two Concepts of Liberty", Isaiah Berlin described as "positive freedom" a package of views which included the identification of the "true self" with the order of one's community, state, or class and the identification of freedom for that self with the willing discharge of social or communal responsibilities.¹¹ An example of this may be found in Hegel's view that "the state in and by itself is the ethical whole, the actualization of freedom", and that "in duty [by which Hegel means laws and institutions

¹¹ Berlin, op. cit., pp. 131-4.

perceived from a subjective point of view] the individual finds his liberation".¹² The trouble with this, from a liberal perspective, is that it seems to rule out the possibility of an individual standing back from that form of social order and subjecting it to critical evaluation. If a person's true self is thought to be partly or wholly constituted by the social order, then that self cannot ask the critical question "Is this the sort of order *I* accept? Is it one that *I* would have chosen?" Or, if this question is asked, it is to be regarded as the alienated bewilderment of one who is divorced from his true self, rather than as a genuine exercise of freedom. This view of freedom, then, is at odds with the liberal insistence that all social arrangements are subject to critical scrutiny by individuals, and that men and women reveal and exercise their highest powers as free agents when they engage in this sort of scrutiny of the arrangements under which they are to live.

Connected with this is a long-standing uneasiness in the liberal tradition about the establishment of any disjunction between the "true" subject of freedom and the self as it appears in the subjective consciousness of the individual concerned. To use a phrase from the philosophy of mind, there is *something it is like* to be me¹³ – the occurrent subjective experience of my thoughts, fears, preferences, desires, and intentions. To talk about my freedom, on the liberal view, is to talk about the role *I* play in the determination of my actions, where 'I' is understood in the sense of what it is now like to be me; it is not to talk about the thought or decision-making of an entity cleansed of the "false consciousness" that characterizes my present experiences and desires. Sometimes liberals are accused of taking the beliefs and preferences of individuals as given and hence of ignoring the fact that forms of society may determine forms of consciousness and the structure and content of preferences.¹⁴ But liberals need not be blind to the possibility of preferences changing, either autonomously or along with changes in social structure and social expectations. Provided this possibility of change is in principle something that people as they are can recognize in themselves and take into account in their reflective deliberations, then it can be accommodated perfectly well in a liberal account of freedom.

I do not want to pretend that this is an easy position to adopt. As we shall see later, liberalism is also bound up in large part with respect for

¹² G. W. F. Hegel, *The Philosophy of Right*, tr. T. M. Knox (Oxford, 1952), p. 279 (addition to paragraph 258) and p. 107 (paragraph 149). For the definition of 'duty', see *ibid.*, p. 106 (paragraph 148).

¹³ Thomas Nagel, 'What is it like to be a Bat?' in his collection *Mortal Questions* (Cambridge, 1970)

¹⁴ This is an objection most commonly made against utilitarianism. For a useful discussion, see Rawls, *op. cit.*, pp. 259–63.

rationality, with the discipline of self-knowledge and clear-sightedness, and with the celebration of the human capacity to grasp and understand the world. But those capacities are not always in play when people make decisions about how to act in society. So that sense of the importance of *reason* in human decision-making is bound to introduce some tension into a theory organized around respect for decisions made by individual men and women as they are in ordinary life.

So far we have said that the liberal rejects the view that social order is constitutive of individual freedom. But is he committed to the opposite extreme – that the impositions and restraints of social life are necessarily *violations* of individual freedom? Partisans of negative liberty in the Berlin tradition are apt to answer quickly ‘Yes’ and qualify that by adding that such violations are often justified by respect for other values or for the freedom of other individuals.¹⁵ But I think the matter is more complicated than that. The question has to be whether liberty – *in any sense in which liberty is thought to be important* – is attacked or undermined whenever a rule of social conduct is enforced. Consider the position of a person bound by a contract he has freely entered into: if that contract is enforced against him, is anything important lost so far as his liberty is concerned? Surely a negative answer is plausible in this case. Though he may be forced or coerced by the threat of court action, it is pursuant to an arrangement that he has chosen, and it would be a poor conception of freedom which did not leave room for the possibility of individuals binding themselves in this way.¹⁶ Something similar may be said about social rules. If the rule is one that the citizen has agreed to, surely little that is important in relation to liberty is lost if it is subsequently enforced against him. If we take his agreement seriously, we may see that as something more like the consummation of his freedom than a violation of it. But if the rule is simply *imposed*, without reference to the consent of those who are to be bound by it, then something important in this connection *is* lost – namely, the capacity of human agents to determine for themselves how they will restrain their conduct in order to live in community with others. That capacity will have been pushed aside in the name of social order, as though it were something of no consequence; and that *is* an attack on what we should conceive as the importance of freedom. Now, in each case, the mechanics of enforcement may be exactly the same: coercion is applied to an agent who experiences it as a constraint on decision-making, and certain actions are impelled or obstructed as a result. But though action has been

¹⁵ Berlin, *op. cit.*, pp. 124–6.

¹⁶ Though, of course, the limits of this will be controversial: should people be able to exercise their freedom by selling themselves into slavery? For an interesting discussion, see Robert Nozick, *Anarchy, State and Utopia* (Oxford, 1974), pp. 280–92.

determined and agency interfered with in both cases, the value of freedom has been more seriously attacked in the second case than in the first.

So liberals need not take an anarchist approach to the problem of social order. They can concede that the enforcement of social rules involves actions which characteristically and in familiar circumstances threaten freedom and threaten it seriously. But since it is possible for an individual to *choose* to live under a social order, to *agree* to abide by its restraints, and therefore to use his powers as a free agent to commit himself for the future, the enforcement of such an order does not *necessarily* mean that freedom as a value is being violated.

III

The relationship between liberal thought and the legacy of the Enlightenment cannot be stressed too strongly. The Enlightenment was characterized by a burgeoning confidence in the human ability to make sense of the world, to grasp its regularities and fundamental principles, to predict its future, and to manipulate its powers for the benefit of mankind. After millenia of ignorance, terror, and superstition, cowering before forces it could neither understand nor control, mankind faced the prospect of being able at last to build a *human* world, a world in which it might feel safely and securely at home. Empiricism made this an optimism on behalf of the individual mind: there was a sense abroad that it was possible, in principle, for *each individual* to understand the world in this way, and indeed it was maintained that there was no *other* way in which the world could be understood except by an individual mind.¹⁷

The drive for individual understanding of the world is matched in Enlightenment thought by an optimism at least as strong about the possibility of understanding society. In one aspect, this optimism is the basis of modern sociology, history and economics. But it is also the source of certain normative attitudes – I want to say distinctively *liberal* attitudes – towards political and social justification. It is the source of an impatience with tradition, mystery, awe and superstition as the basis of order, and of a determination to make authority answer at the tribunal of reason and convince us that it is entitled to respect. If life in society is practicable and desirable, then its principles must be amenable to explanation and understanding, and the rules and restraints that are necessary must be capable of being justified to the people who are to live under them. The social world, even more than the natural world, must be thought of as a

¹⁷ It is sometimes argued that the Cartesian form of empiricism mentioned here had much more influence on English than on continental liberalism: see Siedentop, *op. cit.*, p. 155.

world *for us* – a world whose workings the individual mind can grasp and perhaps manipulate deliberately for the benefit of human purposes.

The view that I want to identify as a foundation of liberal thought is based on this demand for a justification of the social world.¹⁸ Like his empiricist counterparts in science, the liberal insists that intelligible justifications in social and political life must be available in principle for everyone, for society is to be understood by the individual mind, not by the tradition or sense of a community. Its legitimacy and the basis of social obligation must be made out to each individual, for once the mantle of mystery has been lifted, *everybody* is going to want an answer. If there is some individual to whom a justification cannot be given, then so far as *he* is concerned the social order had better be replaced by other arrangements, for the *status quo* has made out no claim to *his* allegiance.

Stated in this way, the demand for justification has obvious affinities with the somewhat older idea, present in the natural law tradition of medieval and early modern thought, of the social contract and government by consent.

Men being, as has been said, by Nature, all free, equal and independent, no one can be put out of this Estate, and subjected to the Political Power of another, without his own *Consent*. The only way whereby any one divests himself of his Natural Liberty, and *puts on the bonds of Civil Society* is by agreeing with other Men to joyn and unite into a Community, for their comfortable, safe and peaceable living one amongst another, in a secure Enjoyment of their Properties, and a greater Security against any that are not of it.¹⁹

The ideas expressed here have a positive and a negative side. Negatively, they involve the denial that being governed is natural to human persons: being governed, on the contrary, is something people invent and take upon themselves, for reasons, in an act of free choice. We may find it hard to imagine anyone choosing to live outside *all* political frameworks. But, on this view, there is nothing perverse or unnatural about standing back from the social order and putting it to the test of individual critical evaluation. Positively, these ideas suggest that the constitution of a good society is perhaps best represented as something which will have been chosen by the people living under it, something whose main features are as intelligible to

¹⁸ The classic statement of the relationship between Enlightenment and liberal ideals is Immanuel Kant, "An Answer to the Question 'What is Enlightenment?'" in H. Reiss (ed.) *Kant's Political Writings* (Cambridge, 1970), pp. 54–60.

¹⁹ John Locke, *Two Treatises of Government*, edited by P. Laslett (New York, 1965), pp. 374–5 (II, section 95).

them as the charter of a club of which they are founding members, designed by them in order to serve the purposes that brought them together in the first place.

The idea of individual choice here performs two related functions: it may serve as a basis for political legitimacy or it may serve as a basis for political obligation (or it may do both). Sometimes, when I give my consent to an arrangement, I make it permissible for *other* people to do what it would otherwise be impermissible for them to do; and sometimes my agreement also makes it impermissible for *me* to do what it would otherwise be permissible for me to do. (For example, the first but not the second idea is involved when I consent to a surgical operation.)

In traditional theories of the social contract, both aspects are involved. By agreeing to be governed (under certain arrangements) an individual makes it permissible for others, usually the instituted agencies of government, to exercise power over him in ways that might otherwise not be permissible; for example, they may now physically prevent him from taking the law into his own hands when he thinks he has been wronged, whereas previously it may have been wrong for them to do this. At the same time, he also takes an obligation on himself: to use the same example, whereas before he was morally at liberty to punish someone who had wronged him, now he has an obligation to refrain from doing so and to submit the matter to the community or the courts instead.

When people have discussed the liberal idea of the social contract, attention has often focused exclusively on the issue of obligation. I think this is a pity. There are all sorts of difficulties with contract accounts of political obligation which do not affect contract accounts of legitimacy to anything like the same extent.

Some of these difficulties relate to the application of the underlying idea of consent as an action with moral effect. In the case of political obligation, contract theory rests on the view that we ought to obey the law, accept unpalatable political decisions without resistance, and suffer the sacrifices that our society may demand of us simply because we have made a *promise*. I find that an improbable view. We all think promise-breaking is wrong, no doubt; but is it so conclusively and momentously wrong that people should be prepared to put up with hardship, oppression, mortal danger, and even death (in the story of Socrates) just because they promised to obey? Very few of us think this even about the explicit promises that are given in personal life, and so it is no wonder we balk when such requirements are said to be based on some of the things political philosophers have taken to be sufficient indications of consent.

None of this is helped by the lack of philosophical agreement on exactly *why* we ought to keep our promises. The least substantial account is this:

that saying the words themselves – ‘I promise to obey’ or whatever – just is the assumption of an obligation, and that is all there is to it. Hobbes, for example, seems on very weak ground when he says of a political agent “that he ought to perform for his promise sake” or because going back on his word and disobeying would involve him in some kind of verbal contradiction.²⁰ But his account becomes more convincing when he tells us that the strongest reasons for keeping a contract are the reasons one had for making it in the first place. Certainly this is what he says about political obligation *in extremis*:

The Obligation a man may sometimes have, upon the Command of the Sovereign to execute any dangerous, or dishonourable Office, dependeth not on the Words of our Submission; but on the Intention; which is to be understood by the End thereof.²¹

But then in this sort of account the act of consent itself is morally redundant. At most it serves as an indication that the reasons now being given for obedience are reasons that the agent has at least once found compelling.²² Maybe, however, our consent blinds us in a political context because of the *reliance* that others place on us. Morally this is the most attractive theory. But then as Michael Walzer has pointed out, the resulting obligation may be just one among a number of competing obligations that we have to other people.²³

These difficulties do not arise so acutely in relation to the *legitimizing* function of consent. Why does my consent make it permissible for someone to do something to me which would otherwise be impermissible? The reason lies first, in our need for control over what happens to us, as part of our general interest in controlling the course of our lives, and secondly, in the fact that as social beings we can help, assist and enjoy one another in various ways. Giving individuals the power of consensual legitimation helps to reconcile these two important aspects – our individual need for control and the desirability of our interaction with others. In a political context, these reflect our liberty or autonomy, on the one hand, and the potential gains from social cooperation, on the other. Making consent the source of political legitimacy provides a basis on which these gains can be realized without any serious threat to freedom.

²⁰ Thomas Hobbes, *De Cive* (English Version) edited by H. Warrender (Oxford, 1983), p. 170 (Ch. XIV, section 2, annotation); and Thomas Hobbes, *Leviathan* (Cambridge, 1904), p. 88 (Ch. XIV).

²¹ *Ibid.*, pp. 153–4 (Ch. XXI).

²² For a useful discussion, see Richard Tuck, *Natural Rights Theories* (Cambridge, 1979), pp. 127 ff.

²³ Michael Walzer, “The Obligation to Disobey” in his collection *Obligations: Essays on Disobedience, War and Citizenship* (Cambridge, Mass., 1970).

Consider now the traditional objection that as a matter of fact most societies have *not* been set up on a contractual basis. Most were established as a result of external force or internal dissension.²⁴ Even in the few cases where states have been consensually instituted, the practice has never been established of giving each new arrival, as it were, an opportunity of expressing or withholding consent to the society into which he has been born. The laws treat us as bound willy-nilly to obey them and leave us little realistic alternative if we find them for some reason repugnant.

Once again, these objections pose difficulties for the theory of political obligation. Some liberals have resorted to the idea of *tacit* consent. According to Locke, for example, everyday actions like enjoying property in a jurisdiction or even travelling on the highway can count as consent for the purposes of political subjection.²⁵ But the crucial question to ask of such accounts is always: 'What would count as the withholding of consent?' If there is no plausible answer, then it is clear that the concept is not really pulling its weight in the argument for obligation. 'Emigration' is the traditional reply; but in the modern world that is simply not a real possibility for most people. For most of us, citizenship and obligation are determined by birth not choice, and very few modern liberals are prepared to say that things would be much different in this regard even in a perfectly just society.

The other familiar tactic is to move from a requirement of actual to one of *hypothetical* consent. Later I shall argue that hypothetical consent is a very important idea in the liberal tradition. But to see that it is of no help at all to the theory of obligation, we need only consider the inference 'You *would have* consented, therefore you *are* obliged.' We may, as Robert Nozick suggests, "learn much from seeing how the state could have arisen, even if it didn't arise that way", but we shall not learn anything about *our* obligations.²⁶

The idea that consent might be the basis of political legitimacy is, however, much easier to rescue from the traditional objections to social contract theory. An example will illustrate. Normally it is wrong for a surgeon to operate on a person's body without his consent. But sometimes after accidents people are left unconscious and incapable of consenting to procedures that may be necessary to save their lives. In these circumstances,

²⁴ For the classic objection to contract theory along these lines, see David Hume, "Of the Original Contract" in his *Essays – Moral, Political and Literary* (Indianapolis, 1985), p. 474. For the alternatives, see F. Nietzsche, *The Genealogy of Morals in Basic Writings of Nietzsche*, trans. W. Kaufman (New York, 1968), p. 522 (II, paragraph 17), and F. Engels, *The Origin of Private Property, the Family and the State in Marx and Engels: Selected Works* (London, 1970), p. 576 (Ch. IX).

²⁵ Locke, *op. cit.*, p. 392 (II, paragraph 119).

²⁶ Nozick, *op. cit.*, p. 9; cf. Dworkin, *op. cit.*, pp. 150–2.

we believe the surgeon should ask: "*Would* the patient give his consent *if* he were in a position to do so?" If the answer is affirmative, the operation may be morally legitimate, even though as it happens the patient never recovers and is unable to ratify the agreement given on his behalf. Now perhaps there are instances where this sort of hypothetical consent is not sufficient. For example, we may not use the body of an unconscious person as a punching bag or his face in an advertisement for sleeping pills even if there is reason to believe that he would have agreed to act as a sparring partner or as a model if he were conscious. So there are limits to how far hypothetical consent can confer legitimacy on what would otherwise be wrongful interferences. However, even in these cases we may think that this sort of wrongness is a matter of degree, and that interfering with someone without his consent, but in a way in which he would have agreed to be treated had he been asked, is *less wrong* than interfering with him in a way in which, even hypothetically, he would never have agreed to be treated. If so, hypothetical consent at least *makes a difference* to the wrongness of interference, even though it may not always in itself be enough to make that interference legitimate. (It is worth noting that *nothing similar* happens in the case of obligation. A hypothetical promise by itself does not add a scintilla of even *prima facie* obligation to a person's moral position.)

Though legitimacy and obligation are sometimes treated as two sides of the same coin, these considerations suggest that they may come apart in social contract theory. The classic case is posed by Hobbes: a group of people who have wrongfully resisted their sovereign are rightfully put to death by the sovereign but they have no obligation to submit to execution or to refrain from conspiracy to escape.²⁷ Another instance is found in a certain view of civil disobedience. It is often said that those who break the law in order to conscientiously protest some injustice have no right to complain if the law is enforced against them. Though this may mean that they have a duty to surrender themselves to the authorities, it may also mean that the rightness of their disobedience does not in itself entail the wrongness of punishing them.²⁸ Unless we want to insist that it is never right for the state to force anyone to do anything unless they are violating an obligation that they have to do it (and a moment's reflection reveals the inadequacy of *that* position), then we must accept that a regime may be morally legitimate even though disobedience to its laws is not always morally wrong.

Anyway, political legitimacy will be the focus of the rest of this essay. I

²⁷ Hobbes, op. cit., pp. 154–5 (Ch. XXI).

²⁸ Compare the discussion in Rawls, op. cit., pp. 363–91 with that in Dworkin, op. cit., pp. 192–3.

want to present liberalism as, at bottom, a theory about what makes political action – and in particular the enforcement and maintenance of a social and political order – morally legitimate. The thesis that I want to say is *fundamentally* liberal is this: a social and political order is illegitimate unless it is rooted in the consent of all those who have to live under it; the consent or agreement of these people is a condition of its being morally permissible to enforce that order against them. (I state that here as a *necessary* condition, leaving open the possibility that liberals may want to allow other things to vitiate political legitimacy besides lack of consent.) Understood in this way, the liberal position provides a basis for arguing against some arrangement or institution inasmuch as one can show that it has not secured, or perhaps could not secure, the consent of the people. And it provides a basis for arguing in favour of an arrangement or institution if one can show that no social order which lacked this feature could possibly secure popular consent.

IV

The thesis I have outlined can be understood in slightly different ways, for liberalism is not a monolithic tradition. One of the most important differences – between voluntaristic and rationalistic accounts of political legitimacy – corresponds to the distinction between actual and hypothetical consent.

If emphasis is placed on the role of *will* in the individual choice of government, then hypothetical consent will not be viewed as an adequate substitute for the actual consent of the citizen. A given social order will be regarded as unfree – as a violation of the free capacities of its citizens – unless and until they agree to its laws in an explicit act of choice and adoption. On this sort of voluntarist account, the requirement that the laws be actually agreed to is indispensable for freedom. Rousseau's theory in *The Social Contract* – his insistence that the general will must be *expressed* by the people on a regular basis and his violent rejection of representation in the making of the laws – is about as close as we get to this voluntarism in the liberal tradition.²⁹

But even this sort of approach may concede that there is more than one way a social order may be oriented to the norm of actual consent. Though a social order not legitimated by actual consent may be unfree, that unfreedom can be mitigated by our recognition that it is at least *possible* to

²⁹ Jean-Jacques Rousseau, *The Social Contract* in G. D. H. Cole's translation of *The Social Contract and Discourses* (London, 1968), especially pp. 73–80 (III, Chs. XI–XV). For a general discussion of contractualist voluntarism, see P. Riley, *Will and Political Legitimacy* (Cambridge, Mass., 1982).

imagine people giving it their consent. Such an order can be described in terms of hypothetical consent, and though it is unfree from a voluntarist point of view, is surely not as bad in terms of unfreedom as one to which consent cannot even be imagined. So though the liberal requirement may be interpreted strictly and radically – undermining the legitimacy of many if not all existing societies – it need not be left with nothing to say or no discriminations to make between societies that fall into this category. If the lack of actual consent is to be remedied, the first step must be reform of the society so that consent becomes an imaginable option. Hypothetical contractarianism provides the basis for that step to be taken.

By contrast, there are a number of liberal views which come close to repudiating the actual *will* aspect of consent altogether. The clearest case of a non-voluntarist theory of the social contract is that of Kant. In his work on political philosophy, Kant insists that since “the will of another person cannot decide anything for someone without injustice”, the law must be based on “the will of the entire people”.³⁰ But though he calls that will the basis of “the original contract”, he goes on to say:

But we need by no means assume that this contract . . . based on a coalition of the wills of all private individuals in a nation to form a common, public will for the purposes of rightful legislation, actually exists as a *fact*, for it cannot possibly be so. . . . It is in fact merely an *idea* of reason, which nonetheless has undoubted practical reality; for it can oblige every legislator to frame his laws in such a way that they could have been produced by the united will of a whole nation. . . . This is the test of the rightfulness of every public law. For if the law is such that a whole people could not *possibly* agree to it (for example, if it stated that a certain class of *subjects* must be privileged as a hereditary *ruling class*), it is unjust; but if it is at least *possible* that a people could agree to it, it is our duty to consider the law as just, even if the people is at present in such a position or attitude of mind that it would probably refuse its consent if it were consulted.³¹

So the standard Kant proposes is a relaxed one. Not only can a social order be made legitimate without actual consent, but even the barest possibility of consent is enough to justify the law.

In modern political philosophy, the Kantian approach has been taken up by John Rawls. According to Rawls, the basic structure of society is to be evaluated according to principles presented as those that would be chosen

³⁰ Immanuel Kant, “On the Common Saying ‘This may be True in Theory but it does not Apply in Practice’” in Reiss, op. cit., p. 77.

³¹ Ibid., p. 79.

by free and rational individuals coming together in a position of initial equality to settle the terms of their association.³² But again, the idea is not a voluntaristic one:

No society can, of course, be a scheme of cooperation which men enter voluntarily in a literal sense. . . . Yet a society satisfying the principles of justice as fairness comes as close as a society can to being a voluntary scheme, for it meets the principles which free and equal persons would assent to under circumstances that are fair. In this sense its members are autonomous and the obligations they recognize self-imposed.³³

The test of a just society, then, is not whether the individuals who live in it have agreed to its terms, but whether its terms *can be represented* as the object of an agreement between them.

In all of this, it is important to remember that theories of actual and hypothetical consent are not independent of one another. A theory of hypothetical consent obviously defines limits for a theory of actual consent: showing that something *could not be* consented to is a way of showing that it *has not been* consented to. If reasons can be given in hypothetical contract theory why certain sorts of arrangements would not be the subject of an agreement they may be sufficient to cast doubt, for moral purposes, on the reality of any putative *actual* consent to such arrangements. Not every utterance of the phonemes 'I consent' counts for the purposes of legitimacy (let alone obligation). The act of agreement must be minimally intelligible to count as the sort of thing that can have the moral effects consent is supposed to have; and that intelligibility cannot wholly be divorced from some consideration of the substance of what is alleged to have been agreed to.³⁴ In early modern contract theory, this approach led to what Richard Tuck has described as a radical strategy of interpretative charity. For example:

. . . no man can be supposed so void of common sense (unless an absolute Fool, and then he is not capable of making any Bargain) to yield himself so absolutely up to another's disposal. . . . So that I conceive that even a Slave . . . in the state of Nature, where he

³² Rawls, *op. cit.*, p. 11.

³³ *Ibid.*, p. 13. Rawls also insists that the decision of the parties in the original position "is not a so-called 'radical choice': that is, a choice not based on reasons": John Rawls, "Kantian Constructivism in Moral Theory", *Journal of Philosophy* 77 (1980), p. 568. It is said to be closer to the idea of rational choice in welfare economics: see Rawls, *Theory of Justice*, *op. cit.*, p. 119.

³⁴ See the discussion in Michael Sandel, *Liberalism and the Limits of Justice* (Cambridge, 1983).

hath no civil power to whom to appeal for Justice, hath as much right as a Son or Child of the Family, to defend his life, or what belongs to him, against the unjust violence or Rage of his Master.³⁵

That strategy was used to undermine the suggestion that slavery and absolutism might be based on the free alienation of liberty.

While this use of hypothetical contract draws on the idea that something *could* not be agreed to, the idea that something *should* not be agreed to has also been deployed. Much of Locke's theory has this character. Some of our natural rights are held by us on trust from our creator and we *may* not (that is, we are not in a moral position to) bargain them away. An actual case of someone "giving" his sovereign the right to kill him at will, therefore, has no greater moral effect than someone purporting to sell the property of another.³⁶ More recently, Rawls has deployed a procedural idea to similar effect. In his argument against utilitarianism, he says:

I shall rely upon the fact that for an agreement to be valid, the parties must be able to honor it under all foreseeable circumstances. There must be a rational assurance that one can carry through. . . . [W]hen we enter an agreement, we must be able to honor it even should the worst possibilities prove to be the case. Otherwise we have not acted in good faith.³⁷

Thus, for example, people who believe there is a chance of utilitarianism justifying slavery and who believe that as slaves in a utilitarian regime they would be inclined to resistance and disobedience, must not sign up for utilitarian principles of justice. They are morally precluded from entering into an agreement that may turn out to have consequences they cannot accept. If this argument goes through, there is no way that utilitarian principles can be represented as an object of agreement in Rawls's "original position".

But it is worth noting that this sort of criticism leaves utilitarianism standing in an ambiguous relation to the liberal tradition. There is obviously a sense in which it *is* a liberal theory: it is individualist in its hedonism, liberal in its acceptance of men and women as they actually are, egalitarian in its claim that the pleasure and suffering of the beggar count for as much as those of a king, and modern in its imposition of a rational

³⁵ The passage is from James Tyrrell, *Patriarcha non Monarcha* (1681) and is quoted in Tuck, op. cit., p. 155. Locke uses similar arguments in places: see, e.g., Locke, op. cit., p. 406 (II, paragraph 138).

³⁶ *Ibid.*, pp. 324–5, 402–3, and 412–3 (II, paragraphs 22–3, 135 and 149).

³⁷ Rawls, op. cit., pp. 175–6.

³⁸ Cf. H. L. A. Hart, *Essays in Jurisprudence and Philosophy* (Oxford, 1983), p. 200.

and intelligible standard as a criterion of political evaluation. In the eighteenth and early nineteenth centuries, Bentham and the utilitarians were at the forefront of the attempt to demystify society, to throw its workings open to the light of individual reason, and to set out in an explicit and formulaic way intelligible principles of political morality. But utilitarians were always wary of the idea of social contract, and modern criticisms have highlighted at least one reason for that. Because of the way in which utilitarians aggregate individual harms and benefits, it is plausible to argue that the outcomes of their reasoning can be made acceptable in the end only to those who gain from the operation of the felicific calculus; if there are any net losers and if their loss is drastic then neither the utilitarian computations nor the principles that generate them can be made universally acceptable. Sensitivity to this prospect of being relegated to the margins of the liberal tradition, has made many utilitarians scurry for answers to objections like these: perhaps drastic losses would never occur, or perhaps the risk of incurring them would nevertheless be a good bet considering what each person stands to gain, or perhaps some form of “two-level” or “indirect” utilitarianism can be established which does justice to our liberal intuitions on these matters.³⁹ These are arguments we cannot go into here.

When we move from asking what people actually accept to asking what they *would* accept under certain conditions, we shift our emphasis away from will and focus on the *reasons* that people might have for exercising their will in one way rather than another. Doing so involves certain dangers for the liberal. Real people do not always act on the reasons we think they might have for acting: the reasonableness of the actors in our hypothesis may not match the reality of men and women in actual life.

This bears acutely on the issue of the liberal response to the ethical and religious pluralism of the modern world. Some liberals celebrate the diversity of beliefs, commitments, ideals and life-styles held and practised in our community. Others accept simply as a matter of fact that that diversity is irreducible to a single orthodoxy, no matter how rationally compelling that orthodoxy may be.⁴⁰ And others are convinced by Mill's arguments that any attempt to homogenize the ethical or religious life of our society would be ethically and socially disastrous.⁴¹ Whichever of these views is taken, a liberal society is envisaged as one in which people will practice and pursue a variety of opposing and incommensurable life-styles. But how then is it possible for these same people to live peaceably together

³⁹ See, e.g., R. M. Hare, *Moral Thinking* (Oxford, 1982), and the debate in R. G. Frey (ed.) *Utility and Rights* (Oxford, 1984).

⁴⁰ See Rawls, op. cit., p. 127.

⁴¹ J. S. Mill, *On Liberty* (Indianapolis, 1955), especially Chs. II–III.

and accept the same forms of social justification? The liberal strategy has been to search for underlying interests and beliefs shared in common which may be appealed to in the justification of our institutional arrangements: the basic needs of nature, certain desired objects that are means to the pursuit of any ideal, common general beliefs about how the world works, similar modes of argument and reason, and so on. But in addition to that liberals must also assume that all ethical commitment has a common form: that there is something like *pursuing a conception of the good life* that all people, even those with the most diverse commitments, can be said to be engaged in.⁴² The recognition of such an underlying form was crucial in the emergence of religious toleration: those of different faiths had to be able to recognize one another as *worshipping a god*, each in his own way, and to identify with one another in that regard. Modern liberalism attempts to express a similar idea for all aspects of life-style. The hunch is that, although people do not share one another's ideals, they can at least abstract from their experience a sense of *what it is like to be committed to an ideal of the good life*; they can recognize this in others and they can focus on it as something to which political justification ought to be addressed.⁴³

These seem to be the minimal assumptions of 'reasonableness' which the liberal has to make if the project of social justification is to get off the ground at all.⁴⁴ But many will challenge the universality of this conception of 'reason'. They will say that people in fact exhibit different basic wants and needs, different fundamental beliefs about the world, and utterly disparate modes of reasoning. More seriously, it is arguable that many individual and communal commitments do not have the shape that the liberal envisages. Some people's commitments are so overwhelming that they appear to swamp the basic human concerns, giving us reason to doubt the universal validity of the idea of human nature sketched above. Other people's commitments are so inextricably bound up with their sense of themselves that they find it impossible to abstract from them: they will be repelled by the thought that their ideals share a common form with those of people they despise, and they will be outraged that political justification should require them to think in that way. Even more worryingly, some may find themselves with commitments so fervent that they cannot be pursued *except through the endeavour to impose them on others*. Faced with these possibilities, the liberal has a hard choice. Either he concedes that his

⁴² For the idea of 'a conception of the good life', see Dworkin, "Liberalism", op. cit., p. 191.

⁴³ In this paragraph, I have drawn heavily on Rawls's work and particularly what he calls "the thin theory of human good": op. cit., pp. 90–5, 126–50, and 395–452.

⁴⁴ This notion of 'reasonableness' is discussed in Rawls, "Kantian Constructivism", op. cit., pp. 528 ff.

conception of political judgement will be appealing only to those who hold their commitments in a certain 'liberal' spirit. Or he must look for a form of social order in which not only those with different ideals, but those with different views about the legitimacy of imposing their ideals, can be accommodated. Since the prospects for a social order of this kind are not very promising, the former more robust response seems the only one available.⁴⁵ But if this line is taken, we must abandon any claim about the 'neutrality' of liberal politics.⁴⁶ The liberal will have to concede that he has a great many more enemies (real enemies – people who will suffer under a liberal dispensation) than he has usually pretended to have. This, then, is the cost of the move from actual consent theory with its emphasis on will to hypothetical consent theory with its emphasis on liberal reason.

V

I have concentrated my discussion on the idea of social contract, not because all liberals take that idea seriously, but because it expresses in a clear and provocative form a view I believe most liberals do share: that the social order must be one that can be justified to the people who have to live under it. We have seen that the Enlightenment impulse on which this is based is the demand of the individual mind for the intelligibility of the social world. Society should be a *transparent* order, in the sense that its workings and principles should be well-known and available for public apprehension and scrutiny. People should know and understand the reasons for the basic distribution of wealth, power, authority and freedom. Society should not be shrouded in mystery, and its workings should not have to depend on mythology, mystification, or a "noble lie".⁴⁷ As Rawls puts it, the basic structure of society should be "a public system of rules":

Thus the general awareness of their universal acceptance should have desirable effects and support the stability of social cooperation. . . . Conceptions that might work out well enough if understood and followed by a few or even by all, so long as this fact were not widely known, are excluded by the publicity condition.⁴⁸

⁴⁵ I do not think Rawls takes seriously enough the need to address the problem posed here: cf. his remarks in *Theory of Justice*, op. cit., pp. 215–6. The answer sketched here is necessary, I think, for a reply to objections set out in Sandel, op. cit., Ch. IV.

⁴⁶ For the liberal claim to "neutrality", see Dworkin, op. cit., p. 191, and Bruce Ackerman, *Social Justice in the Liberal State* (New Haven, 1980), pp. 10–7.

⁴⁷ Cf. Plato, *The Republic*, Bk. III (414b); Locke's remarks on the need to dispel mystification about politics are particularly apt here: Locke op. cit., pp. 387–8 (II, paragraphs 111–2).

⁴⁸ Rawls, op. cit., pp. 55–6, 133 and 582. For an argument that publicity in this sense is a substantive moral and not a logical condition, see Samuel Scheffler, *The Rejection of Consequentialism* (Oxford, 1982), pp. 43–51.

Is there any tension between this requirement of transparency and the equally characteristic liberal commitment to privacy in certain areas of social life? Many liberals believe that it is important to establish a distinction between the public and the private aspects of a person's life – between those activities for which he is accountable to society (those which are to be open to evaluation and criticism by others) and those that are not. The problem is that privacy here is not usually the privacy of solitude, but rather the privacy of the family and (in classical but not in modern liberalism) the privacy of the workplace. But these are areas in which, on any realistic social understanding, important issues of power and hence legitimacy arise. That leads to a genuine dilemma. Some liberals may be happy with the panopticism of a Bentham:

A whole kingdom, the whole globe itself, will become a gymnasium, in which every man exercises himself before the eyes of every other man. Every gesture, every turn of limb or feature, in those whose motions have a visible impact on the general happiness, will be noticed and marked down.⁴⁹

But others will view this with alarm. Freedom from the public gaze, they will argue, is an indispensable condition for the nurture of moral agency: people need space and intimacy in order to develop their liberty.⁵⁰ Others may raise again the fears about social homogeneity that we have already mentioned. It is easy to imagine Bentham's gymnasium becoming a place in which everyone casts sidelong glances at his neighbour to ensure that all are going through exactly similar motions.⁵¹ But to the extent that these lines of thought are taken seriously, liberals leave themselves open to the charge of being less than whole-hearted about the legitimation of *all* structures of power in modern society.

Connected with this is an issue about the transparency of economic processes. The demand for a society whose workings are demystified and open to the rational scrutiny of the individual mind is one that characterises certain forms of socialism as well as the liberal tradition. Marx, for example, looked forward to a society in which all aspects of economic life would be subject to explicit human control, as opposed to a situation in which people see themselves at the mercy of market forces which they cannot understand or control.⁵² As Steven Lukes puts it:

⁴⁹ Jeremy Bentham, *Deontology*, cited in Sheldon Wolin, *Politics and Vision* (London, 1961), p. 348. Cf. Michel Foucault's discussion of "panopticism" in *Discipline and Punish*, trans. A. Sheridan (New York, 1979), Part III, Ch. III.

⁵⁰ Cf. Hannah Arendt, *The Human Condition* (Chicago, 1958), p. 71.

⁵¹ The classic expression of these apprehensions is Alexis de Tocqueville, *Democracy in America*, trans. G. Lawrence (New York, 1969), Vol. II, and also Mill, *op. cit.*, Ch. III.

⁵² Karl Marx, *Capital*, Vol. III (Moscow, 1962), p. 800.

... the ideal society to which Marx expectantly looked forward would be one in which, under conditions of abundance, human beings can achieve self-realization in a new, transparent form of social unity, in which nature, both physical and social, comes under their control.⁵³

What then distinguishes the Marxist from the liberal in this respect? Marxists believe that transparency is simply unavailable in relation to present forms of "liberal" society. For one thing, people as they are are so burdened by the mystifications of capitalist ideology as to be incapable of apprehending the true basis of social order. But more importantly they insist that as long as liberal society remains committed to some form of market order, the demand for transparency can never be satisfied.

The point is an interesting and intriguing one. Liberals are attracted to markets for all sorts of reasons. Some of them are pragmatic: we fear the political consequences of vesting too much power in the hands of social planners.⁵⁴ Others are based on considerations of right: only in a market can people exercise their property entitlements to the full.⁵⁵ But the most persuasive argument remains that of economic efficiency: Adam Smith's claim that in pursuing his own self-interest in a market context, each individual is "led by an invisible hand to promote an end that was no part of his intention". The "invisibility" of the promotion of social benefit is something that does not trouble liberal economists: as Smith puts it, it is none the worse for society that the resultant social good was no part of anyone's intention.⁵⁶ But that is an idea that Marxists find deeply repellent. What they see as the *reality* of social and economic life – people producing cooperatively for one another's benefit – is made invisible by a mask or appearance of self-interest and competition. The workings of society, as they actually are, are hidden behind the curtain of capitalist economics, and we are asked to accept an imaginary view of those workings because any attempt to bring them consciously under our control would lead to worse consequences than if we remained in our state of mystification. Of course, many Marxists challenge the view that markets *are* efficient, and some also challenge the equity of the distributions that result. But their deepest worry concerns the opacity of this form of social order. One liberal response here might be to say there are different conceptions of intelligibility involved. When we talk of an invisible hand, it is not that

⁵³ Steven Lukes, *Marxism and Morality* (Oxford, 1985), p. 9.

⁵⁴ See Milton Friedman, *Capitalism and Freedom* (Chicago, 1982), Chs. I–II; see also, from a slightly different perspective, Dworkin, *op. cit.*, pp. 194–5.

⁵⁵ See Nozick, *op. cit.*, Ch. VII, Pt. I.

⁵⁶ Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, ed. R. Campbell and A. Skinner (Oxford, 1976), Vol. I, p. 456 (Bk. IV, Ch. II).

we do not *understand* how markets generate efficient outcomes. We do: it is just that our understanding of them precludes their replacement by more direct forms of social control. The Marxist, I believe, is working with a more manipulative or technocratic conception of understanding: a process has not been made humanly intelligible unless there is a sense in which humanity can, as it were, take it over, not only representing it in thought but reproducing its workings in the concrete form of deliberate agency.⁵⁷ But both conceptions are rooted in what I called earlier the Enlightenment impulse. And I think the fact that a common value of social transparency is being deployed here helps to explain why many liberals also believe that the “anarchy” of the market is an insult to human intelligence and why they feel the attractions of some form of planned economy even though they stop short of anything like a commitment to communism.

VII

I said at the beginning that we must not expect to find a clear set of propositions sufficient to distinguish all forms of liberalism from all forms of socialism and conservatism. But I hope the broad outline of a distinction is clear. Liberals demand that the social order should in principle be capable of explaining itself at the tribunal of each person’s understanding. Conservatives are likely to repudiate that as the arrogance of individualism:

We are afraid to put men to live and trade each on his own private stock of reason; because we suspect that the stock in each man is small, and that individuals would do better to avail themselves of the general bank and capital of nations and of ages.⁵⁸

They will celebrate the fact that the social order depends for its efficacy on a degree of mystery, illusion and sentiment – all “the decent drapery of life” which the liberal pulls aside in the name of rational justification.⁵⁹ By contrast, as we have seen, socialists are more sympathetic to the rationalist and humanist impulses on which liberalism is based. Of course, they will say, a good society is one that is penetrable and manipulable by the reason of free individuals acting in concert. But they share none of the liberals’ optimism about the possibility of legitimating existing societies in this way. The opacity of capitalist economy and the alienating and corrupting effects of exploitation mean that all hope of a genuinely free and open society must

⁵⁷ There is an excellent discussion in S. Moore, *Marx on the Choice between Socialism and Communism* (Cambridge, Mass., 1980).

⁵⁸ Edmund Burke, *Reflections on the Revolution in France* in his *Selected Works*, edited by E. J. Payne (Oxford, 1883), p. 102.

⁵⁹ *Ibid.*, p. 90.

be postponed indefinitely until class conflict has had its day. Liberals alone remain committed – ambiguously, uncertainly and precariously – to the prospect and possibility of freedom in the present, that is, individual freedom for people like us in the social world with which we are familiar. Neither burdened by a mystifying heritage of tradition nor bought off by the promise that freedom will come for all at its historically appointed time, the liberal individual confronts his social order *now*, demanding respect for the existing capacities of his autonomy, his reason and his agency.

University of Edinburgh