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Life of the People, Body of the People: Re-reading the Imagery of the Body Politic

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LIFE OF THE PEOPLE, BODY OF THE PEOPLE:
RE-READING THE IMAGERY OF THE BODY POLITIC

A Dissertation

Presented to the Faculty

Of the

McAnulty College and Graduate School of Liberal Arts

Duquesne University

In partial fulfillment of the requirements for the degree of

Doctor of Philosophy

by Wade Roberts

"…we know today that the life of the people is only secured if the racial traits and hereditary health of the body of the people are preserved."—Ottmar von Versucher, Nazi 'racial hygiene' specialist

"Ah, reason, seriousness, mastery over the affects, the whole somber thing called reflection, all these prerogatives and showpieces of man: how dearly they have been bought! How much blood and cruelty lie at the bottom of all 'good things'!"—Nietzsche, *On the Genealogy of Morals*

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TABLE OF CONTENTS

INTRODUCTION: LIBERALISM AND THE FUNDAMENTAL IDEOLOGICAL
FANTASY

When Francis Fukuyama's *The End of History and the Last Man* was published in 1992,

it was greeted with fanfare in the American press. This reception came as no surprise to

political observers who were familiar with the book's thesis; it was an exercise in

triumphalism which celebrated the virtues (and global hegemony) of liberalism and 'free-

market economics'.[1] Likewise, it was hardly shocking to discover that his homage to a

dominant political theory (which happened to coincide with the state ideology of

American empire) was written by a deputy director in the State Department of George

H.W. Bush. At any rate, Fukuyama's essay captured the essentials of a quasi-official

narrative which had been circulating in the American media since the collapse of the

Berlin Wall in 1989. According to Fukuyama, the grand Hegelian metanarrative of

History had reached its inevitable termination with the defeat of liberal democracy's only

significant theoretical competitor, Soviet-style communism. He wrote that

> Both Hegel and Marx believed that the evolution of human societies was not
> open-ended, but would end when mankind [sic] had achieved a form of society
> that satisfied its deepest and most fundamental longings. Both thinkers thus
> posited an "end of history": for Hegel this was the liberal state, while for Marx it
> was a communist society. This did not mean that the natural cycle of birth, life,
> and death would end, that important events would no longer happen, or that
> newspapers reporting them would cease to be published. It meant, rather, that
> there would be no further progress in the development of underlying principles
> and institutions, because all the really big questions had been settled.[2]

Fukuyama, needless to say, accepts the Hegelian rather than the Marxist conception of

historical progress; and while he acknowledges that liberal societies have encountered a

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[1] Fukuyama prefers the term 'free-market' economies to 'capitalism' because the latter "has acquired so
many pejorative connotations over the years." See *The End of History and the Last Man* (New York: The
Free Press, 1992), 44.
[2] Ibid, xii.

variety of social problems, such as "drugs, homelessness, and crime {as well as]
environmental damage and the frivolity of consumption" he nevertheless insists that
"these problems are not obviously insoluble on the basis of liberal principles."[3] Indeed,
liberalism provides the ideal basis for recognizing the fundamental dignity of human
beings; he suggests that "[n]o other arrangement of human social institutions is better
able to satisfy this longing, and hence no further progressive historical change is
possible."[4] In other words, liberal social and economic institutions (as well, it goes
without saying, as liberal political theory) represent the highest conceivable political
achievement for humanity, and even though liberal democracies carry on an internecine
struggle with certain social problems we can also recognize that the improvement of
living conditions and social welfare is merely a question of referring to the solutions
available to us within the parameters of liberalism itself.[5] This constitutes, at any rate,
the basic premises of a consensus in the West regarding the inherent superiority of liberal
institutions and free-market economics.

It is clear that, over a decade after the publication of Fukuyama's essay, liberalism's
hegemony is no longer uncontested; there are challenges both from retrograde
fundamentalisms and populisms (on the right) as well as anti-globalization and pro-
democracy movements (on the left).   Despite the emergence of alternatives at the level
of practice, however, liberalism remains the dominant theory in contemporary political

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[3] Ibid, xix.
[4] Ibid, xviii.
[5] As Jacques Derrida has noted, however, there is an important equivocation in Fukuyama's work: when he
(Fukuyama) wants to highlight the triumph of liberal democracy, he points to empirical evidence that
liberalism is on the march, emerging across the globe as communist regimes are transformed into open,
free-market societies; when he admits that liberal governments continue to grapple with socioeconomic
problems, however, he shifts to the level of normativity. There is, then, a problematic vacillation between
different two levels of argumentation. Cf. *Specters of Marx*, trans. Peggy Kamuf (New York: Routledge,
1994), especially pp. 56-75.

philosophy (at least among Western intellectuals). In an essay from 2005, for example, Chantal Mouffe offers a summary of the Western intelligentsia's beliefs concerning the efficacy of liberal values, and her report on the current state of affairs (which it is difficult to argue against) is disconcertingly similar to Fukuyama's analysis (although Mouffe is highly critical of modern liberalism); she outlines the key assumptions in the following passage:

> The 'free world' has triumphed over communism and, with the weakening of collective identities, a world 'without enemies' is now possible. Partisan conflicts are a thing of the past and consensus can now be obtained through dialogue. Thanks to globalization and the universalization of liberal democracy, we can expect a cosmopolitan future bringing peace, prosperity and the implementation of human rights worldwide.[6]

Mouffe, of course, rejects the premises of neoliberal orthodoxy, and I will return to her arguments in the final two chapters. At this point, however, I have simply cited her assessment in order to indicate the basic continuity and hegemony of a position that fails to recognize the profound, indeed structural, contradictions which haunt the formulation of liberalism's theoretical program. This essay, or at least the idea for the essay, originated in part as a reaction to the celebratory and hyper-optimistic discourses of contemporary liberals. It has changed in numerous ways; the central arguments and guiding narrative threads have evolved over time. Yet there is still, as Mouffe's observations emphasize, an unwarranted confidence in the ability of liberal theory and institutions to grapple with fundamental socioeconomic problems, such as gaps in opportunity between the rich and poor in the so-called 'First World', and the intolerable chasm of inequality which separates even poorer Americans or Europeans from the overwhelming majority of people who live in the developing world.

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[6] Cf. Chantal Mouffe, *On the Political* (New York: Routledge, 2005), 1.

While I think the so-called 'contingent difficulties' of free-market institutions and parliamentary democracies are serious, a substantive critique of any theoretical program has to address normative, in addition to empirical, deficits. I will try, therefore, to highlight fundamental problems relating to the structural assumptions of liberal political philosophy, specifically focusing on the politics of embodiment. Why, however, body politics? Liberalism has consistently ignored, or at least marginalized, the politics of embodiment, by focusing on conditions of rationality and hyper-idealized decision procedures which negate the real, concrete embeddedness of agents in a lifeworld, obscuring the ways in which a person's identity is linked up with his or her body, as well as the modes of relating to the world and others vis-à-vis embodiment. This is, however, a critical oversight; I will argue that liberal political theory, despite its emphasis on pluralism, inclusion and tolerance, is still under the sway of what Slavoj Zizek calls the 'fundamental ideological fantasy', namely the corporatist fantasy of constructing a homogeneous body politic uncontaminated by signs of social division (social divisions which threaten to subvert the homogeneity and, ultimately, stability of the social body— in short, a threat to the body politic's collective health, an existential danger). He writes that

> the stake of social-ideological fantasy is to construct a vision of society which…is not split by an antagonistic division, a society in which the relation of its parts is organic, complementary. The clearest case, is of course, the corporatist vision of Society as an organic Whole, a social Body in which the different classes are like extremities, members each contributing to the Whole   according to its function— we may say that 'Society as a corporate Body' is the fundamental ideological fantasy.[7]

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[7] Slavoj Zizek, *The Sublime Object of Ideology* (New York: Verso, 1998), 126.

Liberalism's desire for a 'unified' social body (i.e. a body politic without antagonism) has at least two theoretical (and problematic) implications. First of all, it is forced to exclude certain persons or classes of persons who exhibit beliefs which are incompatible (or so it argues) with its solution to the question(s) of political stability (i.e. how do we establish a political order given the existence of competing understandings of the good?). Secondly, liberalism relies on the social contract as a mechanism for guaranteeing the legitimacy of institutional arrangements. The social contract, in turn, presupposes a governable subject who transfers his/her sovereignty to a recognized government or legislative body. Yet the governable subject is him or herself the product of history and socialization, a socialization which is never chosen. Here the politics of embodiment emerges in a different way, this time in relation to the particular agents (rather than the body politic of society). Thus, despite liberalism's attempts to avoid the question(s) of body politics, they return with a vengeance. My criticisms in the dissertation will elaborate why, precisely, the two implications mentioned above present serious difficulties for liberal political philosophy. At this point, however, I want to introduce the subject of this study by highlighting the central features of liberalism.

What is Liberalism?

As Raymond Geuss has noted, liberalism is "conceptually and theoretically…elusive."[8] He argues that liberalism is a political philosophy which is "practically engaged", meaning that it "struggles for influence on the minds and actions of modern populations"

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[8] Cf. Raymond Geuss, *History and Illusion in Politics* (Cambridge: Cambridge UP, 2001), 69.

and is forced to adapt to changing historical circumstances.[9] This fact, in turn, presents at least three problems for any attempt to define 'liberalism'. First of all, it is difficult to locate a single or essential characteristic which unifies the authors/theories generally identified as liberal;[10] secondly, it has a tendency (like any important political theory) to re-write its own history[11] and finally (as a consequence of the second difficulty) it will, in all probability, continue to revise its self-understanding in the future.[12] If we accept Geuss's points concerning the malleability of liberal political theory (or more specifically the plasticity of liberalism's identity), therefore, it is clear that there are serious obstacles encountered by anyone who is trying to uncover the 'essence' of liberalism.

One strategy for dealing with the problems highlighted above, proposed by Geuss himself as well as John Gray, is to search for general features or family resemblances which are shared by liberal theories. Geuss argues that liberalism exhibits four characteristics: (1) it values toleration, (2) it emphasizes the importance of freedom, (3) it celebrates individualism and (4) it exhibits a suspicion towards "absolute, excessive, unlimited or discretionary power."[13] Gray, meanwhile, agues that liberalism is (1) individualist, (2) egalitarian, (3) universalist (i.e. it affirms the "moral unity of the human species"[14] and (4) meliorist (in the sense that it assumes the feasibility of "progress" or "corrigibility" vis-à-vis the organization of political and social institutions).[15] While there

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[9] Ibid.

[10] Ibid.

[11] Ibid.

[12] Ibid.

[13] Ibid., 73; he examines the four characteristics in greater detail in the rest of the chapter (pp. 73-109).

[14] Cf. John Gray, *Liberalism*, 2nd Ed. (Minneapolis: Minnesota UP, 1995), xii.

[15] Ibid. For a more extensive list, which is economically summarized in the characterizations of Geuss and Gray, see L.T. Hobhouse's *Liberalism*, a classic statement originally published in 1911 (Oxford: Oxford UP, 1964, especially pages 16-29). There are, of course, other ways of classifying different tendencies, features, etc., of liberalism. J.G. Merquior, for example, examines the contrasts between English, French and German liberalism, arguing that national forms emphasize one set of values over others (so that English

are differences between the two lists, there are enough similarities to recognize a core set of principles emphasized by both authors; I propose, therefore, the following candidates: liberalism is (1) individualist, (2) egalitarian, (3) tolerant, (4) universalist and (5) critical of arbitrary and/or centralized power (I exclude 'meliorism', since it is unclear that Hobbes, for example, or even Locke, recognizes the possibility of 'improving' social institutions).[16]

The components mentioned above represent theoretical principles which are valued in liberal political philosophy. There is another important aspect of liberal political theory, however, which addresses the question of governmental legitimacy. Here it invokes the idea of a social contract, arguing that regimes are a product of agreement (or at least tacit agreement) between rational agents who decide to transfer the sovereignty they possess in the state of nature to a ruler or rulers. The subjects of the newly constituted political order surrender their power of arbitration to governmental authorities, which allows them to enter civil society. In the language of contractarianism, they form a "body politic" which has a monopoly on coercive force, and it is used both to instill fear in the citizenry as well as to punish 'criminals'[17] who violate the laws. While the social contract emphasizes the consent of agents as a prerequisite for legitimacy, however, the tradition of social contract theory has excluded women, people of color, the disabled, the poor and the 'mad' or 'irrational' (and sometimes the concept of 'madness' includes the other

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liberalism privileges what Berlin calls negative liberty, while French liberalism, inspired by Rousseau, underscores the right of collective self-determination—Constant's political philosophy is obviously an exception—and German liberalism celebrates the idea of autonomous self-realization). Cf. J.G. Merquior's *Liberalism Old and New* (Boston: Twayne Pubs., 1991), pp. 9-14.

[16] It is important to emphasize that I am highlighting 'family resemblances', and not offering a fixed, immutable definition of liberalism; rather, I think the list I have constructed, following Geuss and Gray, is a fair characterization of current liberal theory, and generally captures contemporary liberalism's interpretation of its intellectual heritage.

[17] I put the term in scare quotes because the concept of 'criminality' is often invoked against political dissidents or other parties who object to unjust practices within the regime itself.

groups mentioned above, since they are assumed to lack rationality). Carole Pateman, for example, has argued that the social contract is actually a sexual contract; she notes that "[t]he standard commentaries on the classic stories of the original contract do not usually mention that women are *excluded* from the original pact."[18] Likewise, Charles W. Mills highlights the racial bias of social contract theory, noting that the initial agreement between subjects in the state of nature reflects the consent of "just the people who count, the people who really are people ('we the white people'). So it is a Racial Contract."[19] As I highlighted above, therefore, the social contract emphasizes the importance of consent, while at the same time (at least in the Western political canon) marginalizing agents who are 'incapable', for whatever reason, of exercising autonomy.

In addition to highlighting the theoretical trajectory of liberal concepts, however, we can also examine a second, generally neglected aspect of liberalism, namely its practical application. Michel Foucault's lecture course from the 1977-78 cycle at the Collège de France, for example, argues that liberalism is not, fundamentally, a project of justification or legitimation for political authority, which the traditional understanding of social contract theory has tended to emphasize, but rather a "technology of power."[20] In both the 1977-78 and 1978-79 lecture series, Foucault re-interprets liberalism as a method of governing which reacted against the excesses of the seventeenth century *Polizeiwissenschaften* (or police sciences) that tried to exercise control over both the

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[18] Cf. *The Sexual Contract* (Stanford: Stanford UP, 1988), 5.
[19] Cf. *The Racial Contract* (Cornell: Cornell UP, 1997), 3.
[20] Cf. *Sécurité, Territoire, Population*, eds. Fracois Ewald, Alessandro Fontana and Michel Senellart (Paris: Seuil/Gallimard, 2004), 50. Foucault's summary of the course is anthologized in *Ethics: Essential Works of Michel Foucault, Volume 1* , ed. Paul Rabinow (New York: New Press, 1997), 67-71, and a lengthier discussion of the contents is found in Colin Gordon's "Governmental Rationality: An Introduction", in *The Foucault Effect*, eds. Graham Burchell, Colin Gordon and Peter Miller (Chicago: Chicago UP, 1991), 1-51.

public and private spheres. Foucault views liberalism, at least in part, as a strategy for more effectively regulating economic processes, a strategy which recognizes the limitations of bureaucratic agencies; yet he also underscores the importance of security in classical liberal discourses, which is frequently overlooked in the discussions of early liberalism (primarily because it is regarded as promoting 'freedom'; to suggest that it valued 'security' as highly, if not more so, than autonomy is both novel and disruptive for the typical revolutionary/progressive narrative of liberal historians). Thus, in its attempts to protect its citizens against risks and dangers which circulated in the body politic, it developed new ways of thinking about, and deploying, power. In this essay, I will explore Foucault's reading of liberalism and its intersection with his work on power in greater detail, arguing that if we shift the focus away from 'liberty' and towards 'security', we get a very different picture of how liberalism operates; in short, I will argue that liberalism has more in common with its historical opponents (such as the Old Regime in France, or authoritarian/totalitarian, states) than it wishes to acknowledge. Since liberals defined themselves, at least initially, in and through their differences from absolutist monarchies, or more recently against the totalitarian experiments of the twentieth century, this forces us to complicate liberalism's self-understanding or self-interpretation. In the next section, I want to introduce the question of parallels between liberalism and its historical enemies vis-à-vis its attitude towards power. If it is the case that liberalism is not just a theory, but also a technology of government, however, it is important to determine how the theory and practice are related, and how the latter complicates, or even contradicts, the former.

Liberalism and Political Theology; or, Why the King Never Dies

One of the great historical ironies of liberalism's emergence is that the birth of the republic required the death of the monarch, in both a figurative and literal sense. As Robespierre gleefully suggested in the wake of Louis XVI's execution, there was no more effective method for effacing the nostalgic memory of the decapitated king than to stage a public execution, after which the executioner should display the bloodied and severed head of the king and parade it through the streets, symbolizing the abolition of the ruler's 'divine' right to sovereignty as well as his mortal body.[21] Likewise, in the consummate apologia for the American revolution (*Common Sense*), Thomas Paine argued that the foundations of the English constitution were located in "the base remains of two ancient tyrannies", namely "the remains of monarchical tyranny in the person of the king" and "the remains of aristocratical tyranny in the persons of the Peers"[22], and the only way to establish a government which could be definitively separated from the heritage of arbitrary monarchical power was by "breaking off all connections with…the British court."[23]

The two great liberal revolutions, therefore, announced their intention to expurgate the trace of divine right, the sovereign's revered privilege, from the constitutions of the new republican orders. Yet liberalism was hardly satisfied with the actual elimination of the king's bodies, whether it was the physical body or, more importantly, the king's 'body politic'; in France, at least, it also aimed at the total annihilation of the *Ancien Regime*, targeting and ultimately subverting the very social institutions which transmitted customs and law from one generation to the next in an unbroken chain of succession. It intended

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[21] Cf. Mona Ozouf, "La proces et la mort de Louis XVI" in *La Mort du Roi*, ed. Jacques Julliard (Paris: Gallimard, 1999) p.135
[22] Thomas Paine, *Political Writings*, ed. Bruce Kuklick (Cambridge: Cambridge UP, 1989) p.6
[23] Ibid., p.37

to establish a new basis for political legitimacy, namely the consent of the governed, and the liberty of the people to decide was, at least in theory, complemented by a new egalitarianism, the idea of a fundamental human equality which defied the old hierarchies of hereditary privilege and the divine right to rule. As Burke shrilly noted in a renowned passage from his *Reflections on the Revolution in France*:

> All the pleasing illusions which made power gentle and obedience liberal, which harmonized the different shades of life, and which, by a bland assimilation, incorporated into politics the sentiments which beautify and soften private society, are to be dissolved by this new conquering empire of light and reason. All the decent drapery of life is to be rudely torn off. All the superadded ideas, furnished from the wardrobe of a moral imagination, which the heart owns, and the understanding ratifies, as necessary to cover the defects of our naked, shivering nature, and to raise it to dignity in our own estimation, are to be exploded as ridiculous, absurd and antiquated fashion.[24]

In this passage from Burke, which rhythmically oscillates between nostalgia and indignation, we can detect the outlines of at least one prominent and influential interpretation of the French Revolution: it represented a terrifying attempt to demolish the old social relations in the name of an unprecedented *tabula rasa*, a political blank slate which promised to facilitate the reconstruction of the natural order in the images of Reason and Autonomy. In short, liberalism (and here I'm referring to the ideological core which unites the French and American revolutions, namely an emphasis on the consent of the governed as a criteria for political legitimation) signified a radical break with the ancient and sacred right of monarchical privilege, and the newly-formed political regimes heralded the birth of a heretofore unimagined space and time, where the popular assembly would establish the law which at the same time constrained it, entailing a redistribution (and decentralization) of power from the palace to the masses.   The

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[24] Cf. *Reflections on the French Revolution* (London: J.M. Dent & Sons, 1910) p.74

precipitous leveling of social and economic inequalities gestured towards the emergence of a new sociological datum, the democratic subject, and the definitive separation of church and state accelerated the emergence of a fully secularized society, ascendant and confident in the wake of the death of God. Or so we're told.

By the middle of the nineteenth-century, the great myths of revolutionary scandal and upheaval were already beginning to disintegrate under the weight of historical evidence. Indeed, Tocqueville highlighted the continuity between the old regime and the newly-christened liberal societies in his brilliant study on the historical events which generated the conditions for a successful overthrow of the monarchy (I'm referring, of course, to *The Old Regime and the Revolution*); in the preface to the essay he offers the following reflections on the composition of the text:

> As I progressed in this research, I often encountered to my surprise many traits of modern France in the old regime. I rediscovered there a mass of feelings that I thought had been born of the Revolution, a crowd of ideas that pass for having been created by the Revolution alone. Everywhere I found the roots of present society deeply implanted in the past. The closer I got to 1789, the more I saw the spirit which made the Revolution sprout and grow. Little by little I saw the whole shape of the Revolution unveiled before my eyes. Already it displayed its temperament, its spirit, its very self. In the old regime I found not only the source of what the Revolution would do at the start, but still more what it would do in the end.[25]

Tocqueville offered a compelling argument for the thesis that the centralization of power which occurred under the Jacobins was, in actuality, simply a continuation of the administrative policies of the baroque absolutist monarchy constructed by Louis XIV. This is a theme which I will return to, at least in a general way; at this point, however, I would like to examine a peculiar assumption which was implicit in the ideological fervor

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[25] Cf. Alexis de Tocqueville, *The Old Regime and the Revolution*, eds. Francois Furet and Francoise Melonio (Chicago: Chicago UP, 1998) pp.84-5

to terminate the biological existence of the king, namely that his physical body was in an important sense co-terminous with or synonymously related to his body politic. The liberal revolutionaries imagined that by shattering the body of the king they could also disperse his authority; if this is the case, it is helpful to isolate the assumptions which permitted a problematic (to put it mildly) belief to motivate the theoretical program (and subsequently praxis) of modern liberalism. As Foucault noted in a 1975 interview with the editorial collective of *Quel Corps*, the king's physical body functioned as the guarantor of his political power;[26] therefore, the execution of the sovereign was tantamount to destroying the foundations of his political legitimacy. Yet the metaphor of the social body exercised a strangely pervasive influence in the history of liberalism and social contract theory. In order to introduce the continuity between the imagery of the body politic in the Old Regime and its historical successor, however, it is important to examine certain aspects of Ernst Kantorowicz's work.[27] As I will highlight in a moment, the medieval conception of the body politic informs both the theory and praxis of the liberal regimes which emerged in its wake.

Kantorowicz's essay *The King's Two Bodies* offers a conceptual genealogy of the imagery/language of the body politic in European medieval political theology. One of the clearest examples, by way of introduction, is found in the legal documents of Edmund Plowden, an apprentice during the reign of Elizabeth:

> For the king has in him two Bodies, viz., a natural Body, and a Body politic. His Body natural (if it be considered in itself) is a Body mortal, subject to all Infirmities that come by Nature of Accident, to the Imbecility of Infancy or Old

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[26] Cf. "Body/Power" in *Power/Knowledge*, ed. Colin Gordon (New York: Pantheon Books, 1980), 55.

[27] Ernst Kantorowicz (1895-1963) was a Jewish German scholar who left Germany in 1938 and emigrated to the United States. He was a world-renowned authority on medieval history.

Age, and to the like Defects that happen to natural Bodies of other people. But his Body politic is a body that cannot be seen or handled, consisting of Policy and Government, and constituted by the Direction of the People, and the management of the Public weal, and his Body is utterly devoid of Infancy, and old Age, and other natural Defects and Imbecilities, which the body natural is subject to, and for this cause, what the King does in his Body politic, cannot be invalidated or frustrated by any disability in his natural Body.[28]

According to Plowden, therefore, the king's subjectivity actually contained two bodies: the first was a biological body, while the second was a legal or public body, also known as the monarch's 'Body politic'. The body politic "is utterly devoid of Age, and other natural Defects and imbecilities"; furthermore, "what the King does in his Body politic, cannot be invalidated or frustrated by any disability in his natural Body." One body, therefore, is mortal, but the second body (i.e. the body of the sovereign's authority and power) will survive via the king's descendents and the laws that s/he formulated during his/her rule, which included, as Plowden's commentary recognizes, the management of the polis and the "Direction of the People".

The idea of an immortal social body was transmitted from medieval political theology to modern liberalism via the imagery of the body politic in Hobbes, Locke and Rousseau (a theme which I will return to later in the dissertation). Claude Lefort, for example, has analyzed the passage from monarchical regimes to modern democratic societies by examining the metaphor of the social body. He argues (following Kantorowicz) that the king's "body politic" was the incarnation of a national or political community.[29] The democratic revolutions, however, destroyed both the temporal instantiation, as well as the

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[28] See *The King's Two Bodies* (Princeton: Princeton UP, 1997), 7.
[29] See Lefort's "Image of the Body and Totalitarianism" in *The Political Forms of Modern Society*, ed. John Thompson (Cambridge: MIT Press, 1986), 302. Kantorowicz develops this argument throughout *The King's Two Bodies*, but especially relevant are pp. 193-232.

political basis, of the king's authority, leaving an "empty space" in its wake; he writes that

> We must…analyze the disengagement of civil society from a state, itself hitherto consubstantial with the body of the king. Or, to put it another way, we must examine the emergence of social relations, not only economic ones, but legal educational and scientific relations which have their own dynamic; and, more specifically, we must examine the disentangling of the spheres of power, law and knowledge that takes place when the identity of the body politic disappears. The modern democratic revolution is best recognized in this mutation: there is no power linked to a body. Power appears as an empty space and those who exercise it as mere mortals who occupy it only temporarily or who could install themselves only by force and cunning.[30]

This language also figures importantly in the propaganda of totalitarian regimes; he argues that, at least in part as a response to what he labels the "indetermination that haunts the democratic experience," the totalitarian ruler manufactures the idea of the People-as-One, i.e. as a social body which is uncontaminated by division or otherness. According to Lefort, "what is at stake is always the integrity of the body. It is as if the body had to assure itself of its own identity by expelling its waste matter or as if it had to close in upon itself by withdrawing from the outside, by averting the threat of an intrusion by alien elements [i.e. the 'enemies' of the State]."[31]

While Lefort's analysis provides a valuable starting point for any discussion of the body politic, he is incorrect to suggest that the spheres of "power, law and knowledge" are "disentangled" with the demise of the monarchy. Indeed, the new "democratic" regimes tried to restore the fracture which had been opened in the body politic with the death of the king. Foucault has argued that after the collapse of the monarchs

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[30] Ibid., 303.
[31] Ibid., 298.

it's the social body which needs to be protected in a quasi-medical sense. In place of the rituals that served to restore the corporal integrity of the monarch, remedies and therapeutic devices are employed such as the segregation of the sick, the monitoring of contagions, the exclusion of delinquents. The elimination of hostile elements by the *supplice* (public torture and execution) is thus replaced by the method of asepsis—criminology, eugenics and the quarantining of 'degenerates'.[32]

In this respect, it is helpful to refer to a different conceptualization of the imagery of the body politic in the work of Foucault, a theorization which recognizes, in contrast to the analysis of Lefort, that the emergence of liberal-democratic societies also saw an unprecedented proliferation of bureaucratic networks and apparatuses of police control. Indeed, the mechanisms of juridical power, sociological observation and knowledge became densely intertwined, creating regimes which perfected, or at least attempted to perfect, technologies of bodily discipline. Foucault's re-interpretation of the body politic in the liberal regimes which succeeded the Old Regime argues that, contrary to the hypothesis that liberalism executes a break with the fantasies of medieval political theology, it has remained under the sway of the ideological desire for homogeneity and unity. In the next section, therefore, I will examine Foucault's re-reading of the imagery of the body politic in greater detail, focusing on his discussion of biopower.

Biopower and the Body Politic

In a 1976 interview with Foucault, Allesandro Fontana and Pasquale Pasqiuno introduce a set of concepts which I appropriate in my examination of the body politic. Referring to Foucault's study of disciplinary power, they argue that in the eighteenth century

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[32] "Body/Power", 55.

'population' emerges as an object of scientific investigation.[33] In addition, it became a focus of political interest, and rulers begin to search for methods of controlling demographic tendencies (such as birth and death rates). As Foucault puts it, "a real and effective 'incorporation' of power was necessary, in the sense that power had to be able to gain access to the bodies of individuals, to their acts, attitudes and modes of everyday behavior."[34] According to Fontana and Pasquino, the political strategies of discipline operated at two different levels. On the one hand, they focused on the "molar body", or macro-body, of the social order, which is the body of the population (i.e. what I have called the 'body politic'); on the other hand, they also studied the 'micro-bodies' of society, or the docile individuals who contributed to the material and ideological reproduction of the body politic.[35] How, therefore, did the new forms of power operate? In this regard, it is important to highlight Foucault's work on what he calls 'biopower'.

What is "biopower"? According to Foucault, the sovereign's power was historically (i.e., up to the seventeenth century) limited to his/her right to sacrifice the life of a subject who transgressed the laws of the state. It was generally invoked, therefore, in exceptional or emergency situations. Sovereign power was called 'deduction' because it operated as a 'subtraction' mechanism, entailing a 'right of seizure';[36] furthermore, it represented a form of power which was specific and localized, concentrated in the figure of the monarch. Beginning in the seventeenth century, a new kind of power emerged; it

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[33] Cf. "Truth and Power" in *Power: Essential Works of Foucault, Volume 3*, ed. James D. Faubion (New York: The New Press, 2000), 124.
[34] Ibid., 125.
[35] Ibid., 124.
[36] Cf. Michel Foucault, *The History of Sexuality I: An Introduction*, trans. Robert Hurley (New York: Vintage Books, 1978), 135-36.

employed a complicated, multivalent web of political strategies, as Foucault notes in the following passage:

> Since the Classical Age the West has undergone a very profound transformation of these mechanisms of power. 'Deduction' has tended to be no longer the major form of power but merely one element among others, working to incite, reinforce, control, monitor, optimize and organize the forces under it: a power bent on generating forces, making them grow, and ordering them, rather than one dedicated to impeding them, making them submit, or destroying them. [This] is a power that exerts a positive influence on life, that endeavors to administer, optimize or multiply it, subjecting it to precise controls and comprehensive regulations.[37]

The new model of power was exercised over life itself; unlike sovereign power, which seized the body at the moment of transgression, it invaded every aspect of quotidian culture, and consisted of two essential forms. The first, which he identifies as "an anatomo-politics of the human body"[38], targeted subjects and operated according to logics of normalcy and pathology.[39] It distributed individuals in space, setting up hierarchies, divisions and barriers which isolated the body and subjected it to constant observation, eventually materializing in educational institutions, factories, hospitals and prisons.[40] The goal of "anatomo-politics", which Foucault also refers to as disciplinary power, was the creation of 'governable' political agents who contributed to the 'reproduction' of the social body.[41]

The second form, which appeared at a later date than anatomo-politics, was a "biopolitics of the population" which "focused on the species body, the body imbued with the mechanics of life and serving as the basis of biological processes: propagation,

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[37] Ibid., 136-37.

[38] Ibid., 139. Foucault had already discussed the specific historical practices of anatamo-politics in the first two chapters of Part III of *Discipline and Punish*, trans. Alan Sheridan (New York: Vintage Books, 1977).

[39] Ibid., 139. Also see Foucault's January 25th lecture from *Sécurité, Territoire, Population*, 59.

[40] Cf. *Discipline and Punish*, especially pages 135-69.

[41] I mean 'reproduction' in a double sense: the reproduction of material conditions necessary for the survival of a given regime, as well as its ideological assumptions.

births and mortality, the level of health, life expectancy and longevity, with all the conditions that cause it to vary. Their supervision was effected through an entire series of interventions and controls"[42] In his 1977-1978 lecture series at the Collège de France, he characterizes it as a "dispositif of security" which developed sophisticated technologies of power by harnessing the predictive and instrumental capacities of the human sciences (i.e. through studying statistical probabilities and evaluating economic costs[43]) in order to guard against threats to the survival of the social body.

Taken together, disciplinary power and biopolitics constituted a vast machinery of social control which regulated the 'metabolism' of the body politic, a politics of life and vitalism which Foucault called biopower. Returning to the categories introduced by Fontana and Pasquino, we can see how the question of biopower fits in with the imagery of the macro and/or micro body: it operated at two levels, with disciplinary power targeting the bodies of individuals, or the 'micro-bodies' of society, while biopolitics focuses on the 'macro-body', or body politic of society. Biopower is the name for a specific logic or technology of power which grasps life itself, attempting to extend the collective health of the nation-state indefinitely by mobilizing the population, a mobilization which is achieved by working on the body, on its surfaces and in its depths, as well as the networks and interstices between bodies (in this case, of course, we are referring to the 'body' of society as well as the body of the subject). As this discussion implies, however, the relationship between the three major regimes of power (i.e.

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[42] *History of Sexuality I*, 139. For an examination of the various contexts in which Foucault employs the term 'biopower' see Valeria Marchetti's "La Naissance de la Biopolitique" in *Au Risque de Foucault* (Paris: Editions du Centre Pompidou, 1997), 239-48. Also useful is Mauro Bertani's "Sur la généalogie de bio-pouvoir" in *Lectures de Michel Foucault: A propos de <<Il faut defendre la société>>*, ed. Jean-Claude Zacarini (Paris: ENS Éditions, 2000), 15-36.
[43] Cf. *Sécurité, Territoire et Population,* 7-8.

sovereign, disciplinary and biopolitical/security) is complicated. Foucault, recognizes, for example, that mechanisms of security represent, at least at one level, an effort to ensure that the old systems of sovereign power and disciplinary power were ordered more efficiently.[44] Therefore, it is important to view the regimes as a complex network of political technologies in which one schema temporarily emerges as the hegemonic practice, while at the same time maintaining a proximity to other logics which preceded and/or followed it.

Biopower, then, is a strategy for guarding the body politic. It operates at both the 'macro' as well as 'micro' levels of society. Borrowing Foucault's description in his 1974-74 lecture series at the Collège de France, I will characterize discipline as an 'inclusionary' power which tries to 'normalize' the individual and incorporate him or her into the body politic; it transforms the subject into a 'productive' citizen or member of society who identities with the nation. Biopolitics, meanwhile, excludes agents or groups from the body politic who represent difference; it is an 'exclusionary' power which seeks to homogenize the body politic, since alterity is a threat to the unity of the social body.[45] My categories are, admittedly, highly schematized; as qualifications, it is important to note that disciplinary power also marginalizes agents, and biopower contains 'inclusionary' elements. Indeed, it is more correct to say that while disciplinary power contains both inclusionary and exclusionary elements, as does biopolitics, I will emphasize the inclusionary aspects of the former, and the exclusionary aspects of the

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[44] Ibid., 12.

[45] My characterization of this distinction is indebted to Foucault's differentiation between a model of power, utilized in the Middle Ages and early modernity, which excluded the sick, deviant, etc. from the community and a newer model of power, which is symbolized by the quarantining of citizens during the plague. The former is 'exclusionary', the latter 'inclusionary'. Cf. *Abnormal*, trans. Graham Burchell (New York: Picador, 2003), 43-47.

latter. In addition, I will reiterate the cautionary note I attached to the paragraph above; the major regimes of power overlap and reinforce one another, which makes it difficult to identify clear breaks or ruptures. If we keep in mind the provisional character of the descriptions I have offered, however, they allow us to examine the technologies of power which have emerged in the context of biopolitical societies, technologies of power which guard the social body against division and conflict.

Liberalism and Biopower

What is the connection between liberalism and biopower? As my reconstruction of Foucault's discussion highlights, the emergence of biopower parallels (at least approximately) the birth of liberal political regimes. Biopower was a political technology which appeared in liberal societies, a technology that guarded the social body. It is incorrect, therefore, to argue that liberal regimes destroyed the ideological fantasies of medieval political theology, the desire for a unified social body which never dies; rather, the 'fundamental ideological fantasy' continued to occupy a critical place in the architectonic of liberal political theory, and biopower was the strategy, or more precisely the collection of tactics, it developed in order to execute its program. As I mentioned above, liberal regimes drew on the instrumental power of the newly emerging social sciences, allowing them to refine the operation of policing and social control. As Foucault notes in *Discipline and Punish*, for example, the 'humanitarian' legal reformers of the late eighteenth century, who were ostensibly concerned with reducing the severity and arbitrariness of punishment, were equally, if not more so, interested in normalizing and refining the application of judicial power, as well as reducing the costs of

administering justice.[46] In any case, liberalism (like its historical predecessor) tried to suppress political antagonism, and more generally traces of 'deviance', while at the same time exercising disciplinary power, attempting to 'pre-empt' the emergence of 'marginal' subjects by intervening at the level of the subject's body and psyche.

There is, however, another disturbing parallel which emerges from liberalism's continuing obsession with the 'fundamental ideological fantasy', namely its commonality with totalitarianism. As Lefort has noted, totalitarian regimes also view society as a body, and the 'enemies' of the regime are 'waste matter' or 'excrement', which the Leader must expel in order to protect the collective 'health' of the state. Thus, liberalism finds itself drawn into a strange kinship with its predecessor, the Old Regime, as well as its twentieth-century arch-rivals, the Fascist/Communist dystopias. I stress 'kinship', since it is incorrect to say that liberalism is simply the continuation of absolutist monarchies, or the obscene double of Stalinism (but even more sinister, since it hides its oppression, masking it under catchwords such as 'freedom' or 'democracy'). I obviously recognize the specificity of liberalism, its difference from other political forms (otherwise, I would have no basis for defining its unique characteristics). What I insist on, however, is that there are uncomfortable similarities at the level of ideology, having to do with a desire for oneness and unity; in short, a fantasy that the body politic is uncontaminated by difference or heterogeneity, with no political antagonism or conflict. The method of actualizing this fantasy is biopower.

If we re-interpret the canon of political theory from the standpoint of praxis and technologies of power, we are forced to re-think the traditional demarcations between, for

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[46] *Discipline and Punish*, 89.

example, liberal democracies and authoritarian or totalitarian regimes, since biopower

increasingly orders the structure of both liberal and non-liberal regimes. Agamben has

emphasized the indeterminacy of contemporary political theory, which is now haunted by

the specter of what he calls 'bare life', or biological necessity; he writes that

> only because biological life and its needs had become the *politically* decisive fact
> is it possible to understand the otherwise incomprehensible rapidity with which
> twentieth century parliamentary democracies were able to turn into totalitarian
> states and with which this century's totalitarian states were able to be converted,
> almost without any interruption, into parliamentary democracies. In both cases,
> these transformations were produced in a context in which for some time politics
> had already turned into biopolitics, and in which the only real question to be
> decided was which from of organization would be best suited to the task of
> assuring the care, control and use of bare life. Once their fundamental referent
> becomes bare life, traditional political distinctions (such as those between Right
> and Left, liberalism and totalitarianism, private and public) lose their clarity and
> intelligibility and enter into a zone of indistinction.[47]

Indeed, he amplifies his comments by highlighting a paradoxical phenomena that

characterizes political life in modernity; he notes that "it is almost as if, starting from a

certain point, every decisive political event were double-sided: the spaces, the liberties

and the rights won by individuals in their conflicts with central powers always

simultaneously prepared a tacit but increasing inscription of individuals' lives within the

state order."[48]

It is important to qualify Agamben's characterization, which is sweepingly

general. It is not evident, for example, that the "conversion" of parliamentary

democracies into totalitarian regimes has occurred "without interruption" (or vice versa).

Nevertheless, Agamben is correct to point out the hybridization of state and civil society

and the increasingly uncertain conceptual boundaries of traditional political labels. In

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[47] Cf. *Homo Sacer*, trans. Daniel Heller-Roazen (Stanford: Stanford UP), 122.
[48] Ibid., 121.

addition, we must recognize the ambivalence of liberal "rights" discourses, since the practical realities of demanding more rights include an appeal to, and often a deeper entangling in, the mechanisms of state power. As I had stated earlier in the chapter (and the point bears repeating here) it is false to say that the differences between liberalism and authoritarianism/totalitarianism are non-existent, nor is it correct to insist that we can re-write the history of modern political theory as a bio-technological hall of mirrors in which the substantial divergences, breaks and ruptures between competing regimes are collapsed into a new metanarrative of bodily control. It does, however, require us to interrogate theoretical categories, in order to bring certain unsettling continuities, both theoretical and practical, into sharper relief.

Overview of the Argument

In the introduction, I have sketched out the general themes which motivate my project. Speaking broadly, I will focus on the imagery of the body politic in the history of liberalism, arguing that if we re-read it from, say, a Foucaultian standpoint (or at least an interpretive perspective informed by Foucault's work on biopower), we can uncover another side of liberalism. It has been interpreted, at least traditionally, as an image of consent. But I contend that we should understand it more literally, as the space in which the body is politicized. The unity of the body politic is actually an expression of the 'fundamental ideological fantasy', and liberalism achieves social homogeneity in two ways: through biopolitical strategies of inclusion and exclusion. This, in turn, forces us to complicate the pristine image of liberalism as the defender of freedom; rather, we should regard liberalism, like its ideological opponents, as striving for social unity, often

at the price of the subject's autonomy. In addition, we have to revise another aspect of liberalism's self-image; if my reading is correct, the body politic is actually the site of an antagonistic struggle for hegemony, and by focusing on consensus or non-coercive decision procedures liberals overlook the constitutive role of exclusions and power in the formation of the social body. Now I will turn to the details of the argument.

In Chapter One, I focus on the canonical authors of the liberal/social contract tradition (i.e. Hobbes, Locke and Rousseau), arguing that the fundamental ideological fantasy continues to play an important role in traditional liberalism. I highlight the imagery of the body politic, and examine the privilege accorded to unity over differences in the construction of the social body. I also focus on the politics of 'micro-bodies', discussing the technologies of power which create 'governable' subjects who contribute to the ideological/material reproduction of the dominant order. In Chapter Two, I move to contemporary liberalism, examining the politics of the body in John Rawls. While I admit that this approach looks unpromising (the original position consists of what are, for all practical purposes, disembodied agents), I argue that Rawls's subject has a history, and is actually formed through what Norbert Elias calls "the civilizing process". More specifically, I contend that we can only understand, or render comprehensible, the choices of agents in the original position if we assume they have strong moral values, or (to use Rawls's terminology) a "thick conception of the good". Thus, the agent begins to assume contours; I will begin, if you'll permit a bad joke, to "flesh it out". While the first half of the chapter on Rawls focuses on *A Theory of Justice*, the second part examines the problem of exclusion in *Political Liberalism*, arguing that Rawls is forced to exclude non-liberals from his construction of the "body politic", but that he incorrectly

characterizes exclusion in moral terms. In actuality, as Chantal Mouffe notes, the exclusions are political. But what difference does that make? I return to this question in Chapter Four.

In Chapter Three, I move from the level of theory to praxis, examining the actual strategies of rule which have constituted liberal governmentality. Here I focus on the appearance of biopower in society, examining the technologies of power which allow liberalism to defend the body politic against division, risk and conflict. I highlight the operation of inclusionary/exclusionary logics, arguing that normalized or 'governable' subjects are a product of disciplinary technologies of power; in addition, however, there are also exclusionary logics at work, which are motivated by the fear of society's 'degeneration'. In Chapter 4, I conclude the essay with a discussion of how political theories/identities are formed, arguing (following Ernesto Laclau) that every system has to exclude its 'other' in order to constitute itself. I also defend the argument (formulated by Chantal Mouffe) that power and antagonism are important features of social life. Taken in combination, the two arguments entail that any political theory (and *a fortiori* liberalism) has to exclude incompatible conceptions of the good, and the site of politics is always an arena of hegemonic conflict and struggle. This presents difficulties for liberalism, which tends to construct its normative assumptions in the language of universality, inclusion, non-coercion and undistorted communication. I contend, along with Chantal Mouffe, that we have to recognize the necessity of exclusions, but we have to conceptualize them in *political*, rather than *moral*, terms. I argue that if we conceptualize exclusion in political terms, they have a contingency and reversibility, at least in democratic societies, which moral judgments tend to lack. In other words, they

are subject to contestation within a democratic process. And how does the inescapability of power and hegemonic struggle come into play here? If there is no way eliminate antagonism from the body politic, we should abandon the 'fundamental ideological fantasy' and begin thinking about new ways to conceptualize the social body which recognize that conflict is a necessary feature of political life. Finally, I return to the question of the 'micro-body'. In the dissertation I contend that it is problematic to ignore the role of power in the formation of 'governable' subjects. How, then, should we think about power and subjectivity? Here I examine Foucault's reflections on this question, arguing that, instead of trying to eliminate power from theoretical discourse/political practice, we should recognize its important and begin re-conceptualizing dominant approaches to politics. I conclude with general reflections on the implications of my study vis-à-vis attempts to re-examine the imagery of the body politic.

Before I turn to the Chapter 1, a final note is in order, concerning the argumentative and narrative style of the dissertation. Peter F. Strawson has contrasted two different approaches to philosophy; one, which he identities as the analytic tradition, deals with conceptual analysis, while a second (which he associates with Heidegger, Sartre and Nietzsche—in short, the Continental tradition) offers a systematic reflection on the human condition "which can sometimes lead to a new perspective on human life and experience".[49] I draw on both traditions in my work—I include, for example, discussions of both Rawls and Foucault. But the spirit of the essay is, unapologetically, aligned with the second tradition. I am, indeed, engaged in conceptual analysis (specifically, an analysis of the image or concept of the body politic), but my methodology and approach

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[49] See P.F. Strawson, *Analysis and Metaphysics* (Oxford: Oxford UP, 1992), 1-2.

to the body politic is less concerned with 'getting it right' (and what that means, precisely, is a vexing philosophical question which generally remains unthematized); rather, I'm trying to offer new ways of thinking about the social contract tradition, and more generally the received political wisdom of our age. In short, I agree with Gilles Deleuze when he writes that "[y]ou should not try to find out whether an idea is just or correct. You should look for a completely different idea, elsewhere, in another area, so that something passes between the two which is neither one or the other."[50] I have tried, therefore, to draw on opposed disciplines and defy the limitations imposed by the empire of specialization (and even, I hope, the rules or conventions of academic philosophy), pursuing a bricolage approach which mixes together ideas, bodies, spaces, powers and antagonisms. The task of philosophy (and here, once again, I'm thinking of Deleuze[51]) is to invent new concepts, as well as re-imagine or re-think old ones which have become 'self-evident'. We must (and this is an admittedly difficult task) re-capture the sense of strangeness and ambiguity which initially accompanied the concept's emergence and allowed it to disrupt the oppressive sameness which always threatens to swallow up alterity, so that we can experience its contingency and recognize that it, too, has a history; it reminds us, in short, that we can think and act differently.

In the final analysis, therefore, my hope is that this dissertation helps us to see the world, if only a small and obscure corner of it, otherwise; that it leads, perhaps, to an interrogation of the given. As Foucault writes, we must "be very mindful that everything one perceives is evident only against a familiar and little-known horizon, that every

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[50] Cf. Gilles Deleuze and Claire Parnet, *Dialogues*, trans. Hugh Tomlinson and Barbara Habberjam (New York: Columbia UP, 1987), 10.

[51] See Gilles Deleuze and Félix Guattari, *What is Philosophy?*, trans. Hugh Tomlinson and Graham Burchell (New York: Columbia UP, 1994), especially the Introduction, pp. 1-12.

certainty is sure only through the support of a ground that is always unexplored. The most fragile instant has its roots. In that lesson, there is a whole ethic of sleepless evidence that does not rule out, far from it, a rigorous economy of the True and the False; but that is not the whole story."[52]

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[52] Cf. "For an Ethic of Discomfort" in *Power*, 448.

CHAPTER 1: LIFE AND DEATH OF THE MACRO-BODY IN CLASSICAL
LIBERALISM

In the first chapter, I begin my examination of the body politic in liberalism with a

discussion of three important authors from the social contract tradition: Hobbes, Locke

and Rousseau. The imagery of the body politic is important for the liberal/social contract

tradition in two ways: first of all, it represents the institutions which are produced by

agents who agree to exit from the state of nature and transfer their sovereignty to civil

authorities; the language figures prominently, for example, in the authors I mentioned

above. Secondly, liberal political philosophers argue that individuals have the right to

personal autonomy; the subject can explore different forms of thinking or living, and this

space of freedom is protected, at least in theory, against the intervention of external

forces.[53] One of the most compelling formulations of this basic principle is located in

section twenty-seven of Locke's *Second Treatise on Government*, where he writes that

"[t]hough the Earth, and all inferior Creatures be common to all Men, yet every Man has

a *Property* to his own *Person*. This no Body has any Right to but himself. The *Labour*

of his Body, and the *Work* of his Hands, we may say, are properly his."(Locke's italics)[54]

This passage from Locke highlights a critical, if not the critical, aspect of liberalism's

conception of autonomy, namely its emphasis on the body as personal property which no

government has the right to appropriate or control; indeed, in liberal authors as different

as Hobbes and Locke the cornerstone of natural law is the right to self-preservation. In

Hobbes, for example, the fundamental natural right is defined as "the Liberty each man

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[53] As John Gray notes, liberalism "asserts the moral primacy of the person against the claims of any social
collectivity." Cf. *Liberalism*, xii.

[54] Cf. John Locke, *Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge UP, 1988), II,
27, 288. In referencing the *Two Treatises*, I will cite the treatise number, paragraph number and page
number in Laslett's edition (in that order).

hath, to use his own power, as he will himselfe, for the preservation of his own Nature; that is to say, of his own Life; and consequently, of doing any thing, which in his own Judgment, and Reason, hee shall conceive to be the aptest means thereunto."[55] Likewise, in section 16 of the *Second Treatise* Locke characterizes the "*Fundamental Law of Nature*" as "*Man being to be preserved.*"[56]

As I mentioned in the introduction, however, the secondary literature on liberalism and the social contract tradition has failed to recognize the importance of the body politic, and more generally the significance of "body politics", or the politics of embodiment. In the case of the social body, it is often ignored, and when it is discussed it is interpreted as an image of consent.[57] If our interpretative framework is informed by Foucault's work on biopolitics, however, a new vantage point emerges. Corporeal language is no longer viewed one-dimensionally, as a metaphor of popular consent; rather, we can re-read the body politic in a more literal way, as the intersection of cooperation and antagonism between subjects who vie for power. In other words, the body of society, as well as the body of the individual, is transformed into a space of politics. Charles Mills has argued, for example, that in the history of Western political philosophy the social contract has functioned, in both explicit and implicit ways, as a racial contract; indeed, "[w]hite supremacy…is a political system predicated on racial superiority and inferiority, on the demarcation and devaluation of different races"; thus, "the 'body' in the body politic

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[55] See Thomas Hobbes, *Leviathan*, ed. Richard Tuck (Cambridge: Cambridge UP, 1996), ch. 14, 91. Hereafter I will refer to the chapter, followed by the page number in Tuck's edition.

[56] *Two Treatises*, II, 16, 279.

[57] For examples of the kind of reading I have in mind, see Quentin Skinner's 'The Purely Artificial Person of the State" in *Visions of Politics, Volume III: Hobbes and Civil Science* (Cambridge: Cambridge UP, 2002) on Hobbes, or A. John Simmons's *On the Edge of Anarchy* (Princeton: Princeton UP, 1993) esp. pp.167-77 concerning Locke.

naturally becomes crucial—and *nonmetaphoric*—in a way it does not in the abstract polity of (official) Western theory."[58] In that case, however, the word 'transformed' is, strictly speaking, incorrect, since the texts of Hobbes, Locke and Rousseau have always contained (bio)political elements which were overlooked or obscured. It is more correct to say that reading the social contract tradition in a Foucaultian manner transforms the range of interpretive possibilities which are open to commentators. Thus, it allows us to see the canon, at least hopefully, in a fundamentally new way. It will also demonstrate that when political theorists focus exclusively on questions of normativity and legitimation, they miss important aspects of the text relating to the operation of power vis-à-vis the construction of the social body and its subjects.

In the first chapter (and throughout the essay), I focus on the 'macro' and 'micro' bodies of society. The first term relates to the social body as a collectivity; the second refers to the individuals or 'micro-bodies' which constitute the body politic. I argue that Hobbes, Locke and Rousseau turn to biopolitical forms of 'inclusionary' and 'exclusionary' power in order to guarantee the unity of the social body. I highlighted my understanding of the two faces of power in the introduction; here, I will simply note that 'inclusionary' power is a form of normalization, which produces subjects who contribute to the 'reproduction' of the body politic, while exclusionary power marginalizes agents who are 'different' and threaten the unity of the body politic (with the relevant qualifications attached, i.e. that inclusionary power also excludes agents, while exclusionary power has normalizing components).[59]

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[58] Cf. "White Supremacy as Sociopolitical System" in *From Class to Race: Essays in White Marxism and Black Radicalism* (Lanham, MD: Rowman and Littlefield, 2003), 191.

[59] It goes without saying that there are other classificatory schema which one could propose in order to examine the practices of exclusion/inclusion which characterized the political theory and praxis of

In any case, my reading of Hobbes, Locke and Rousseau examines the technologies of control behind the rhetoric of consent and freedom which typically accompanies liberal discourse. I will show that 'irrational' agents are excluded from the initial decision procedure which legitimizes the social contract, while disciplinary power targets the 'micro-bodies' in society, which normalizes and integrates political agents. Thus, the micro-bodies 'consent' to the formation of the body politic and guarantee it continuing legitimacy; at the same time, the 'other' is excluded from the social body (both from its foundation, as well as the political order which is constructed from the initial consent of agents). Yet the individual's consent to transfer his/her sovereignty to a governmental authority presupposes that s/he is willing to recognize the legitimacy, and obey the laws, of the newly constituted political order (or body politic). The willingness to submit to governance, however (which in turn presupposes capacities such as rationality), or the governable individual, is a product of social habituation, which isn't 'chosen' by the subject. The clearest example of this will emerge in my discussion of John Locke's work on education, which is indispensable for understanding his political theory (or so I will argue). But there are instances of this tension in Hobbes and Rousseau as well, and I will point out cases which illustrate this general contention. In addition, I will highlight examples of exclusion in social contract theory; as I emphasize in my discussion, there are moments of exclusion which occur after the formation of the body politic, but the most interesting (and telling) forms of marginalization happen during the contract's

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liberalism; like any other grouping of historical or sociological categories, there is a certain degree of arbitrariness at work here. I am not, therefore, suggesting that other interesting and fruitful analyses could not be offered, or even that different categories for organizing the data in question would not be useful; I do, however, want to suggest that if the practices of exclusion/inclusion were omitted from a discussion of the history of liberalism, as it often has been in the past, the author would be guilty of an important oversight (to put it mildly).

initial decision procedure, when 'idiots', 'madmen', etc. are eliminated from the legitimation pool because they lack 'rationality'. I argue that the process of inclusion/exclusion has important philosophical implications for social contract theory; the 'inclusionary' normalization of agents is the condition of 'autonomy', and the exclusion of agents from the initial decision procedure shows that liberalism, which emphasizes its tolerance and pluralism, actually excludes subjects in order to constitute, and maintain, a unified body politic. I will elaborate on these points in the course of the first chapter; I will begin with an examination of Hobbes.

Re-reading the Imagery of the Body Politic in Hobbes

Before I discuss the imagery of the body politic in Hobbes, it's important to address one criticism which, if correct, would force me to abandon my claim that he is a liberal. The criticism is this: There are clearly authoritarian elements in Hobbes's political philosophy, such as his defense of a powerful executive and the limitations placed on subject's rights; therefore, it's inappropriate to include him in a study of the liberal tradition. It is obviously difficult to characterize Hobbes in a straightforward way, either as a proto-liberal or as an apologist for seventeenth century absolutism; nevertheless, Oakeshott insists he is a more committed liberal than the majority of its self-appointed advocates.[60] Leo Strauss, however, has developed the most compelling argument concerning Hobbes's liberalism; he writes that

> [For Hobbes] there are…no absolute or unconditional duties; duties are binding only to the extent to which their performance does not endanger our self-preservation. Only the right of self-preservation is unconditional or absolute...[I]f

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[60] See Oakeshott's "Introduction to *Leviathan*", anthologized in *Rationalism in Politics and Other Essays* (Indianapolis: Liberty Fund, 1991), 283.

we define liberalism as that political doctrine which regards as the fundamental political fact the rights, as distinguished from the duties, of man and which identifies the function of the state with the protection or the safeguarding of those rights, we must say that the founder of liberalism was Hobbes.[61]

Norberto Bobbio, on the opposite end of the political spectrum, echoes the comments of Strauss, he argues that one of the key differences between classical and modern natural law is a shift in emphasis from the language of obligation to rights.[62] While the historical academic consensus tended to identify Grotius as the founder of modern natural law theory, there is a newfound openness to the idea that Hobbes, in actuality, initiates the break with the Aristotelian/Thomistic tradition.[63]

If Strauss' argument is correct to assert that the critical moment in the intellectual transition from medieval political theory to the hegemony of liberalism is the emphasis on self-preservation, it is also possible to identify an important connection with biopower. Indeed, Agamben has noted that "[a]ccording to Foucault, a society's 'threshold of biological modernity' is situated at the point at which the species and the individual as a simple living body become what is at stake in a society's political strategies."[64] In short, the preservation of what Agamben calls 'bare life' is invested with a heretofore unimaginable political significance; the basic survival of the citizen and the body politic becomes one of the central elements in liberalism's theoretical foundation; as Agamben notes, both the species and the subject are the targets of a new 'biopolitics of the population' (to borrow a term from Foucault). Another way to challenge the criticism I

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[61] Cf. Leo Strauss, "The Spirit of Hobbes's Political Philosophy" in *Hobbes Studies*, ed. K. C. Brown (Cambridge: Harvard UP, 1965), 13.

[62] Noberto Bobbio, *Hobbes and the Natural Law Tradition*, trans. Daniela Gobetti (Chicago: Chicago UP, 1993), 154.

[63] Ibid., 149. It is also important to note, however, that Grotius was a critical figure in the development of Hobbes's political theory. For a brief (but helpful) sketch of the relevant connections see Richard Tuck's *Hobbes* (Oxford: Oxford UP, 1989), especially pp. 25-31.

[64] *Homo Sacer,* 3.

began with, then, is to demonstrate that the connection between liberalism and biopower

is closer than we think.

The question of the body politic has been neglected in the secondary literature on

Hobbes's political theory. As C.D. Tarlton notes, David Gauthier's *The Logic of*

Leviathan[65] influenced a series of studies, especially in analytic circles, which identified

Hobbes as a forerunner of rational-choice/game theorists (we can recognize the contours

of the Prisoner's Dilemma, for example, in Hobbes's initial contract procedure).[66] The

transformation of the Hobbesian self into a hyper-egoistic, utility-maximizing subject has

led to a disembodied view of the political agent. The erasure of the body, however, also

erases the conditions of identity formation; it fails to grasp the connection between

persons or the ways in which desire is influenced by corporeal networks. In this regard,

Mary G. Dietz has highlighted the centrality of disciplinary technologies in Hobbes's

work, since they constitute 'docile bodies' who obey the laws of the sovereign.[67] This

chapter tries to recover the politics of embodiment in Hobbes (as well as Locke and

Rousseau).

The importance of the social body in Hobbes's political theory is clear, especially

if we return to a frontispiece engraving from the 1651 edition of *Leviathan*.[68] It is well

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[65] David Gauthier, *The Logic of Leviathan* (Oxford: Clarendon Press UP, 1969).

[66] C.D. Tarlton, "The Despotical Doctrine of Hobbes, Part I: The Liberalization of *Leviathan*", *History of Political Thought* 22, No. 4 (Winter 2001): 601-05. There are, however, notable exceptions to this elision of the body politic in Hobbes; Carole Pateman's *The Sexual Contract* (op. cit.) as well as Moira Gatens's essay "Corporeal Representation" in *Imaginary Bodies*: *Ethics, Power and Corporeality* (New York: Routledge, 1996) focus on the exclusion of women in the construction of Hobbes's body politic, while Charles Mills's *The Racial Contract* (op. cit.) emphasizes the importance of race in Hobbes's contract theory.

[67] Cf. Mary G. Dietz, "Hobbes's Subject as Citizen" in *Thomas Hobbes and Political Theory*, ed. Mary G. Dietz (Lawrence: Kansas UP, 1990).

[68] For a lengthy examination of the artistic (and scientific) contexts which influenced the engraver (and Hobbes himself, who apparently had a role in the design) see Noel Malcolm's "The Title Page of *Leviathan*, Seen in a Curious Perspective" in *Aspects of Hobbes* (Oxford: Clarendon Press, 2002), 200-29.

known to students of political philosophy; at the top of the page, the sovereign, which Hobbes characterizes as a "mortall God", towers over a rustic landscape with mountains and villages. He carries a sword in his right hand and an Episcopal cross in his left, which symbolize the power of the executive branch and state religion.[69] The torso of the king is apparently covered by a façade of armor. As we look more closely, however, we can detect the outline of human bodies; the sovereign's body, the body politic, is literally constituted by his subjects. In this version, they are faceless and anonymous; in later printings, we can actually see human faces. Above the head of the king, there is a Latin inscription from Job 41:24 ("*non est potestas super terram quae comparetur ei*"), which Carl Schmitt translates as "upon earth there is not his like."[70]   There are two columns, each containing five motifs, below the landscape; here I will refer to Schmitt's description of the images:

> Under each arm, the secular as well as the spiritual, there is a column of five drawings: under the sword a castle, a crown, a cannon; then rifles, lances and banners, and finally a battle; to these correspond, under the spiritual arm, a church, mitre, thunderbolts, symbols for sharpened distinctions, syllogisms, and dilemmas; finally, a council.[71]

Schmitt argues that the engraving illustrates the friend-enemy antithesis[72], while Lucien Jaume argues that "the drawing of the author seems to establish the unity of the State doubly; the unity of its structure, as an integration of individuals, and the unity of its will as political subject."[73]

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[69] The latter image is rather ambiguous; here I've followed the reading of Lucien Jaume in *Hobbes et l'Etat Représentatif Moderne* (Paris: PUF, 1986), 19-24.

[70] See his classic study of the language/figure of the Leviathan, *The Leviathan in the State Theory of Thomas Hobbes: Meaning and Failure of a Political Symbol*, trans. George Schwab and Erna Hilfstein (Westport, CT: Greenwood Pub., 1996), 18.

[71] Ibid., 18.

[72] Ibid., 18.

[73] Jaume, 24.

What the two interpretations implicitly reveal, it seems to me, is the Janus-faced nature of biopower vis-à-vis the construction of Hobbes's body politic. On the one hand, the king exhibits his absolute power, represented by the sword, in order to terrify "enemies" of the state. This is the exclusionary motif, directed towards subjects (both individual and collective) which threaten to subvert the homogeneity and unity of the social body. On the other hand, the sovereign assimilates his/her citizens into a disciplinary archipelago of social control; under the vigilant gaze of the monarch, his subjects perform the vital tasks of societal reproduction, a 'disciplinary inclusion' which contributes to the life of the body politic. If we examine the engraving from a biopolitical perspective, therefore, a new interpretive possibility opens up; we can examine the metaphor of the social body from the standpoint of the marginalized and the subjugated.[74] Hobbes's frontispiece (which was intended, I think we can safely assume, as an homage to sovereign power) is turned against itself, and becomes the entry point for a critical analysis of the imagery of the body politic.

In Hobbes, the body politic emerges from the state of nature, or the war of all against all (where the "life of man" is characterized as "solitary, poore, nasty, brutish, and short").[75] Hobbes argues that in the state of nature there is no sovereign, which leads to violence and chaos; he describes the state of nature as anarchy, with no science, industry, commerce or art,[76] and the competition for survival produces a brutal existential struggle. Three factors contribute towards this generalized warfare. First of all, there is

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[74] Debra Bergoffen makes a similar point in "The Body Politic: Democratic Metaphors, Totalitarian Practices, Erotic Rebellions", *Philosophy and Social Criticism*, 16, No. 2 (1990): 109-26. Bergoffen adopts a Lacanian approach to the question, whereas my examination is more indebted to Foucault.
[75] See *Leviathan*, chap. 13, page 89.
[76] Ibid.

competition for finite resources[77]; secondly (anticipating the master-slave dialectic in Hegel), agents struggle for recognition;[78] and finally, individuals have the right of self-preservation, as well as the right of self-defense (which obviously follows from the first right). According to Hobbes, "[t]he Right of Nature…is the Liberty each man hath, to use his own power, as he will himselfe, for the preservation of his own Nature; that is to say, of his own Life; and consequently, of doing any thing, which in his own Judgement, and Reason, he shall conceive as being the aptest means thereunto."[79]

The "body politic" is Hobbes's description of the commonwealth formed by rational agents. The parties universally (or at least by a majority vote) consent to transfer the right of self-preservation to a collectively recognized sovereign power. The form of sovereignty is contingent, although Hobbes emphasizes his preference for monarchy over democracy and aristocracy[80]. Two passages are relevant in this context. First of all, in a section from *Elements of Law* Hobbes refers to the 'body politic' in the following way:

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[77] Ibid., 13, 87.

[78] Ibid., 13, 88.

[79] Ibid., 14, 91. Hobbes's account of the state of nature in the earlier *Elements of Law* (published in 1640; *Leviathan* was published in 1651) seems to emphasize premises (2) and (3) much more than (1) as causal factors leading to the "war of all against all", but the accounts are, otherwise, remarkably similar. The relevant section from *Elements of Law* is number fourteen; when referring to the *Elements*, I will cite J.C.A. Gaskin's edition, which is actually published under the title of the two subdivisions of the *Elements* (as *Human Nature and De Corpore Politico*) (Oxford: Oxford UP, 1994). I will generally refer to the chapter numbers, followed by the paragraph numbers which are included in each chapter. Against the *Elements*, the Latin text of *De Cive*, published in 1642 during Hobbes's period of French exile, argues that (1) is the most important source of conflict in the state of nature (although it does not exclude (2) as contributing significantly to conflict). Cf. the recent English translation by Richard Tuck and Michael Silverthorne (Cambridge: Cambridge UP, 1998) chapter one, paragraph six, page 27, based on the definitive Howard Warrender Latin edition. Cf. *De Cive: The Latin Version*, ed. Howard Warrender, (Oxford: Clarendon UP, 1983), page 94. In the dissertation I have decided to utilize Tuck and Silverthorne's text, rather than citing the so-called English version of *De Cive*, which was translated during Hobbes's lifetime, apparently without his authorization, by a 'C.C.' (we only know his or her initials). The translators provide a brief history of the corrupted text, as well as convincing evidence that Hobbes never authorized the contemporaneous English translation. When citing *De Cive*, I will provide the chapter number, paragraph number, then a reference to the page numbers in Warrender's Latin text, followed by pagination in the Tuck/Silverthorne edition.

[80] *Leviathan*, chapter 19, but esp. 131-33.

> The making of union consisteth in this, that every man by covenant oblige himself to some one and the same man, or to some one and the same council, by them all named and determined, to do those actions, which the said man or council shall command them to do; and to do no action which which he or they shall forbid, or command them not to do…The union so made, is that which men now-a-days call a BODY POLITIC or civil society and the Greeks call it *polis*, that is to say, a city; which may be defined to be a multitude of men, united as one person by a common power, for their common peace, defence and benefit.[81]

In *Leviathan*, we encounter a similar characterization of the newly constituted polis; here the body politic is christened a "Mortall God", and Hobbes writes that

> the Multitude, so united in one person, is called a COMMON-WEALTH, in Latin CIVITAS. This is the generation of that great LEVIATHAN, or rather (to speak more reverently) of that Mortall God, to which wee owe under the Imortall God, our peace and liberty…And in him consisteth the Essence of the Commonwealth; which…is *One Person, of whose acts a great Multitude, by mutual Covenants one with another, have made themselves every one the Author, to the end he may use the strength and means of them all, as he shall think expedient, for their Peace and Common Defence*.[82]

Following the trajectory of my argument, which I outlined in the introduction, I propose situating the two passages against the backdrop medieval political theology (or what Kantorowicz called the doctrine of 'the king's two bodies'). In this regard, it is important to highlight at least two ruptures or breaks with the medieval theory of sovereign legitimacy which implicitly underscores Hobbes's liberal modernity. First of all, the sovereign's power is only granted to him or her by the consent of governed subjects. Here we can identify a hallmark of all the major social-contractarians, and it allows us to establish the following distinction between the two theologies: the old medieval political theology insisted that the king received his right to rule from a divine source, namely God, whereas the new liberal political theology discovers the source of legitimacy in the consent of the political agents who form the original social contract. The basis of

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[81] Cf. *Human Nature and De Corpore Politico*, 19, 7-8.
[82] *Leviathan*, 17, 120-21.

legitimacy, therefore, has been secularized. As a consequence, it is more contingent (and more subject to dissipation).

This leads me to a second important difference between medieval political theology and Hobbes's liberal/modernist re-working of the social body. If the survival of the new body politic is contingent on the submission of the contracting parties (and is no longer legitimated or guaranteed by the appeal to divine right) the life of the body politic is transformed into a finite, mortal entity, subject to all the 'diseases' and 'pathologies' which threaten to terminate the ordinary, biological life of the sovereign (obviously interpreted here in a metaphorical way). It is as if finitude becomes an imminent double of the body politic, inhabiting it from within and threatening to annihilate it. This is undoubtedly why Hobbes writes (again, in *Leviathan*) that "[t]hough nothing can be immortal, which mortals make; yet if men had the use of the reason they pretend to, their Common-wealths might be secured, at least, from perishing through internal diseases."[83] He also describes the various "Infirmities" or "Diseases" which "weaken the Common-wealth" (the language is Hobbes'); they include "the poison of seditious doctrines" (remember that the sovereign has the final right to stipulate which doctrines are 'seditious' and which are not), the 'problem' of conscientious objection, and the idea that the sovereign is in any way subject to civil law.[84]

A new question, therefore, arises for political theory: how, precisely, can the sovereign prevent the disintegration of the body politic? How is s/he able to defend it against social antagonism and plurality? In articulating this question, we can recognize (despite certain differences, which I tried to indicate above) liberalism's ideological

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[83] Ibid., 29, 221.
[84] Ibid.

proximity to the 'antiquated' conceptual schemes of Plowden's medieval political theology: i.e. the desire to achieve immortality, or more precisely the ideological fantasy of social homogeneity. Social homogeneity, in turn, functions as an 'immunization', against 'pathology' (since Hobbes admits that the newly-formed body politic is destined to confront mortality) by eliminating the traces of political division (or in Hobbes's text, the differences aggravated by a logic of dissent).

In framing the argument of the dissertation, I had situated liberalism in the horizon of biopower. Biopower relies on strategies of inclusion and exclusion; disciplinary power tries to create individuals who are 'productive' citizens, i.e. persons who are integrated into the social body, while biopolitics or the security paradigm maintains social cohesion by excluding 'undesirable' groups from the body politic. Here I want to demonstrate that Hobbes's commonwealth is held together, and reproduces itself, through biopolitical technologies of power. I will examine the operation of inclusionary/exclusionary logics in Hobbes's political theory. We can begin with exclusionary power, focusing on two aspects of marginalization: (1) the exclusion of agents during the initial decision procedure which forms the social body, and (2) exclusion of persons identified as 'enemies' of the body politic.

The first moment of exclusion (which occurs at the inception of the social contract) is the marginalization of agents who are incapable of recognizing the validity of covenants. According to Hobbes, certain humans are beast-like; in the same way that laws are non-binding over animals, because they lack reason, the "foole", the child and the "mad-man" are not bound (but also not protected) by the social contract. Hobbes writes the following: "[o]ver naturall fooles, children or mad-men there is no Law, no

more than over brute beasts…because they had never power to make any covenant, or to understand the consequences thereof; and consequently never took upon them to authorise the actions of any Soveraign, as they must do that make to themselves a Common-wealth."[85] 'Irrational' agents, therefore, are unable to appreciate the consequences of transferring basic rights according to principles of consensual agreement, and as a result they are not able to authorize the exercise of sovereign power.[86]

It is necessary, in this regard, to examine Hobbes's criteria for excluding certain candidates, and admitting others, to the architectonic of the social contract, i.e. the birth of the body politic. I will focus specifically on Hobbes's conception of madness; the other two groups are too complex, both in terms of Hobbes's definitions as well as the rationalizations provided for marginalizing the parties in question (although the figure of the "naturall foole", has been studied by David Gauthier[87]). In the anthropological introduction to *Leviathan*, which offers discussions of sense, imagination, speech and the passions (among other topics), Hobbes includes a diagnosis of madness. It is a defect of the virtues, and it is defined as having "stronger, and more vehement passions for anything, than is ordinarily seen in others"[88] (further down the page, he describes madness as "all Passions that may produce strange and unusual behavior"[89]). There are

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[85] Ibid., 26, 187.

[86] This interpretation is verified by a similar passage in chapter sixteen, in which Hobbes writes that "Children, Fooles and Mad-Men, may be Personated by Guardians or Curators; but can be no Authors (during that time) of any action done by them, longer than (when they recover the use of Reason) they shall judge the same reasonable." (Ibid., 113) *De Cive,* which preceded the appearance of *Leviathan*, contains very similar passages; see especially chapter one, addenda to paragraph two (92/24).   For an elaborate discussion of the theory of authorization, and its relationship to the 'artificial person' of the state, see Quentin Skinner's "Hobbes and the Purely Artificial Person of the State"(op. cit.)

[87] See David Gauthier, *Morals by Agreement* (Oxford: Clarendon Press, 1984), esp. 157-89.

[88] *Leviathan*, 8, 54.

[89] Ibid.

several varieties of madness;[90] nevertheless, Hobbes provides an overview of the most important types. An excess of anger, for example, is fury,[91] while an excess of dejection (a strange characterization of 'dejection', needless to say) is melancholy.[92] Even the "abuse of words", which Hobbes dismisses as "Absurdity", is a kind of madness: "and this is incident to none but those, that converse in questions of matters incomprehensible; as the Schoole-Men; or in questions of Abstruse Philosophy."[93]

Whatever one may think about the "madness" of philosophers (and any honest member of the profession is undoubtedly tempted to agree with Hobbes's assessment), the problem with Hobbes's argument is that it hinges on a quantitative definition. As Hegel has noted in his study of the dialectical relationship between quantity and quality, quantitative conceptions suffer from an inherent ambiguity, since a quantitative increase or decrease, if it is significant enough, produces a qualitative transition.[94] If we return, for example, to the characterization of 'fury' as an excess of anger, it is difficult, if not impossible, to determine the exact point where normalcy is transformed into pathology, and the person becomes 'mad'. Indeed, we can assume that any person, at a given time or place, is capable of exhibiting signs of 'madness' (such as 'fury', 'melancholy' or—why not?—the 'abuse of words'). Borrowing an argument from Uday Singh Mehta, who makes a similar point concerning the question of madness in Locke's political theory (an

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[90] Ibid.
[91] Ibid.
[92] Ibid.
[93] Ibid., 8, 58-59.
[94] Cf. *The Encyclopedia Logic*, trans. T.F. Gaeraets, W.A. Suchting and H.S. Harris (Indianapolis: Hackett Pub., 1991), section 108, addenda. He notes that "quantitative determinations of what is there can be altered, without its quality being affected thereby, but…this indifferent increase and decrease also has a limit, the transgression of which alters the quality."

argument which figures heavily in my discussion of Locke[95]), we can pose the following question: Who, precisely, decides that X is mad, whereas Y is sane? The sovereign? But remember that we have yet to recognize a common legal authority; we are still examining the parameters of the initial decision procedure. Furthermore, Hobbes fails to provide us with criteria either for (a) selecting a competent authority which could differentiate between the 'mad' and the 'sane' or (b) indicating a set of parameters which allow us, at a minimum, to identify such an expert.

The first moment of exclusion which operates in the founding of the body politic, therefore, is the exclusion of non-rational agents. The second moment of exclusion is the elimination of 'enemies' from the contractual social body. In order to guard the body politic against degeneration (Hobbes notes, for example, that "[t]hough nothing can be immortal, which mortals make; yet if men had the use of the reason they pretend to, their Common-wealths might be secured, at least, from perishing through internal diseases"[96]), the sovereign is granted absolute powers. The authority delegated to the executive includes the ability to declare certain doctrines 'seditious' (and the sovereign's prerogative is the final tribunal)[97], the right to establish civil laws governing the conduct of subjects[98] and finality of decision regarding judicial matters.[99] The sovereign's power identifies and targets sites of 'pathology' in the body politic: the labeling of positions as 'seditious' criminalizes dissidents, the formulation of laws regulating the behavior of citizens undermines critical distinctions between the public and private spheres and

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[95] Cf. Uday Singh Mehta, *The Anxiety of Freedom* (Cornell: Cornell UP, 1992). Again, I will return to his excellent study when I discuss the contract theory of Locke.
[96] Ibid., 29, 221.
[97] Ibid., 18, 124-25.
[98] Ibid., 18, 125.
[99] Ibid., 18, 125.

executive oversight of the judiciary eliminates separation of powers between branches of government. This hypothesis is verified if we recall Hobbes's discussion of the "Infirmities" or "Diseases" which "weaken the Common-wealth" (the language is his). They include "the poison of seditious doctrines"[100] the 'dangers' of conscientious objection,[101] and the idea that the sovereign is subject to civil law[102] (in a previous chapter, Hobbes also describes "Unlawfull Assemblages" as the political equivalent of "Biles…engendered by the unnaturall conflux of evill humours").[103]

In addition to exclusionary logics, however, there are 'inclusionary' forms of power which target the bodies of subjects. In *De Cive*, for example, he writes that "[i]t is evident therefore that all men (since all men are born as infants) are born unfit for society; and very many (perhaps the majority) remain so throughout their lives, because of mental discipline or lack of training [*disciplina*]. Yet as infants and adults they do have a human nature. Man is therefore made fit for Society not by nature, but by training [*Ab Societatem ergo homo aptus, non natura sed disciplina factus est*]."[104] This passage is illuminating for two reasons. First of all, it differentiates Hobbes's theory of political subjectivity from Aristotelianism, which argues that humans are innately social,[105] and secondly, it anticipates Nietzsche's genealogical account of the political agent. According to Hobbes, the 'social' animal is a product of instruction or 'training' [*disciplina*]. As Geoffrey Vaughn notes, "Political education [in Hobbes] has as its

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[100] Ibid., 29, 223.
[101] Ibid., 29, 223.
[102] Ibid., 29, 224.
[103] Ibid., 22, 165.
[104] *De Cive*, chapter one, addenda to paragraph two (92/25).
[105] *Politics*, 1253a. Geoffrey Vaugh makes a similar point in '*Behemoth' Teaches 'Leviathan': Thomas Hobbes on Political Education* (Lanham, MD: Lexington Books, 2002), 56.

end…the *discipline* of citizens."[106] In Hobbes's system, inclusionary power operates in two ways: through (to cite Vaughn's phrase) 'political education' (or 'instruction) and direct coercion. I will examine the two forms in turn, beginning with 'political education'.

In Chapter 30 of *Leviathan*, Hobbes argues that the sovereign has a responsibility to "instruct" the "Common People", whose "minds…are like clean paper, fit to receive whatsoever by Publique Authority shall be imprinted in them."[107] While it is a "Duty" of sovereignty, however, it also benefits the ruler, since it provides "Security…against the Danger that may arrive to himselfe in his Natural Person, from Rebellion."[108] The political education of the subjects guards, at least indirectly, against the disintegration of the social body. It is essential, then, for the sovereign to communicate seven principles of obedience and loyalty. First, the subjects should not express admiration for different forms of government (which threatens to disrupt the stability of a given regime).[109] Secondly, they should not praise the virtues of other citizens, especially powerful aristocrats or members of the assembly.[110] Third, the citizenry must understand that it is "a great fault" to criticize the ruler.[111] Fourth, given that 'the masses' are generally incapable of remembering simple commands (at least according to Hobbes), the sovereign must establish a day of instruction, where the people will temporarily leave their work to hear the laws read aloud. The parallel Hobbes draws, interestingly enough, is to the Sabbath, when the "Soveraign of Soveraigns" ordered the Hebrews to reflect on

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[106] Vaughn, 38.
[107] *Leviathan*, 30, 233.
[108] Ibid.
[109] Ibid.
[110] Ibid., 30, 234.
[111] Ibid.

the Ten Commandments.[112]   Fifth, children owe their parents obedience[113]; sixth, the subjects have to learn respect for property and human life[114] and finally, they are reminded that, in addition to evil actions, evil intentions constitute "Injustice".[115]

There is also, however, a second aspect of inclusionary power in Hobbes, the coercion of individuals.   While political education tries to condition the behavior of subjects through discipline or 'training', there are also technologies of power which directly target the bodies of citizens, exploiting their productive labor force.   The sovereign, for example, has the authority to conscript workers, who contribute to the "Nutrition" and "Procreation" of the social body.   Its "nutrition" is equated with the mineral wealth of a given country,[116] and in order to increase national resources, "strong bodies" should "be forced to work; and to avoid excuse of not finding employment, there ought to be such Lawes, as may encourage all manner of Arts; as Navigation, Agriculture, Fishing, and all manner of manufacture that requires labor"[117] (which also discourages what Hobbes refers to as 'idleness').   When the surplus population begins to exceed available territory in the social body, however, "[t]he multitude of the poor…are to be transplanted into Countries not sufficiently inhabited."[118] The process of forced emigration (for colonialist ends, nonetheless), which culminates either in the settling of empty territory, or the extermination of the inhabitants, is characterized as the "procreation" of the commonwealth; according to Hobbes, "[t]he Procreation, or Children of a Common-Wealth, are those we call *Plantations or Colonies*; which are numbers of

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[112] Ibid., 30, 235.
[113] Ibid.
[114] Ibid., 30, 235-36.
[115] Ibi.d., 30, 236.
[116] Ibid., 24, 170-71.
[117] Ibid., 30, 239.
[118] Ibid., 30, 239.

men sent out from the Common-wealth, under a Conductor, or Governour, to inhabit a
Forraign Country, either formerly void of Inhabitants, or made voyd then, by Warre"[119]
(although the concept of forced emigration is more appropriately classified as
exclusionary power).

The deployment of 'inclusionary' power, therefore, encourages stability by producing
obedient subjects or 'docile bodies'. As I had indicated above, it is a complement' to the
exclusionary gesture. Hobbes ostracizes the enemies of the polis, while at the same time
advocating 'political education' for citizens of the body politic. Mary G. Dietz has noted
that conventional interpretations of Hobbes often return to the following question: "what
sustains the absolute obedience of the people and so the absolute rule of the
sovereign?"[120] Two answers are provided; it is either the case that (a) it is in the rational
self-interest of contractual agents to honor the agreement or (b) the sovereign obtains
his/her subject's compliance by exuding the terrifying aura of a "Mortall God".[121] Dietz,
however, suggests a third possibility which is consistent with my response to the question
(or rather, my response is consistent with hers), namely that

> the rights of the sovereign, and the commonwealth itself are secured only when
> the people have a sense of duty that springs 'naturally' from the cultivation of
> certain qualities, such as the keeping of faith. The commonwealth that takes no
> care for the people's instruction in…civic attributes is destined to 'relapse into
> disorder', for without a virtuous population, the essential rights of the sovereign
> cannot be sustained.[122]

If my interpretation of Hobbes is correct, the imagery of the body politic, or more
precisely its materialization in *Leviathan*, allows us to decipher the logic governing the
social-contractarian ideological fantasy. Hobbes constructs a political 'organism' which

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[119] Ibid., 24, 175-76.
[120] Dietz, 94.
[121] Ibid.
[122] Ibid., 104.

is unified by terror and indoctrination. My interpretation, however, sharply contrasts with the predominant trends in secondary literature. C.D. Tarlton, in an essay I cited earlier, has discussed the 'liberalization' of Hobbes, highlighting an effort (beginning in the nineteenth century) to revise the seventeenth and eighteenth century interpretations, which recognized the authoritarian features of Hobbes's system.[123] According to Tarlton, "[t]hose parts of Hobbes's text that conveyed [his] despotical doctrine have been ignored [or] misinterpreted…in an effort to make *Leviathan* a more liberal, politically pragmatic and generally palatable theory."[124] While I agree with Tarlton that sanitizing Hobbes's text is problematic, both for textual as well as political reasons, (and that Hobbes's political theory is a study in what Tarlton calls 'despotic' governance), it is important to underscore the *liberal* elements of Hobbes's writing, such as the emphasis on consensual legal agreements, *as well as* his evident recourse to logics of exclusion and normalization. My reading of liberalism, however, allows for the coexistence of normative appeals to consent and biopolitical technologies of governance; indeed, as both Nietzsche and Foucault recognize, 'autonomous' subjects, the subjects presupposed by contract theory, are the product of history and culture. Tarlton, therefore (as well as his 'liberalizing' interlocutors) sets up a false dichotomy. In order to understand the ambiguities of Hobbes's political theory, we have to situate it in the horizon of liberalism's own tortured relationship with power.

It is clearly true, however, that I'd like to retrieve the 'despotic' aspects of Hobbes's system (if only as a corrective to the hyper-rationalized, proto-liberal

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[123] Tarlton, "Liberalization of *Leviathan*"; pages 589-91 offer a sampling of seventeenth and eighteenth century criticisms of Hobbes, such as Leibniz's assertion that "Hobbes's demonstrations have a place only in that state whose king is God, whom alone one can trust in all things" (590) or Voltaire's position that "with him [Hobbes] force is everything." (590)

[124] Ibid., 589.

interpretations mentioned by Tarlton). As a counterpoint to my reading, therefore, I will examine Richard Flathman's *Thomas Hobbes: Skepticism, Individuality and Chastened Politics*, a provocative essay which challenges the assumption that Hobbes's system is authoritarian. He summarizes the argument of his text in the following way: "My claim is that the primary unit of Hobbes's thinking is the individual person and her makings [and] the primary objective of his political and moral thinking is to promote and protect each person's pursuit of her own felicity as she sees fit."[125] If it is the case that Hobbes has constructed a terrifying disciplinary regime, Flathman is incorrect (unless we assume that tyrannical regimes "promote and protect each person's pursuit of her own felicity as she sees fit"). It turns out, however, that Flathman contests the premise of traditional interpretations which emphasize Hobbes's authoritarianism (or more precisely, the tyranny of Hobbes's ideal regime); he suggests that "the gimcrack contraption he calls Leviathan could have little effective authority and even less power over its subjects."[126]

While Flathman's argument is complex, there are at least three examples which (on his reading) demonstrate the legitimacy of this position. First of all, Hobbes defends the right of self-defense (as well as access to basic necessities); if a subject is ordered to "kill, wound, or mayme himself; or not to resist those that assault him; or to abstain from the use of food, ayre, or medicine, or any other thing, without which he cannot live; yet hath that man the Liberty to disobey."[127] Secondly, Hobbes notes that if a group of subjects "have already resisted the Sovereign Power unjustly, or committed some Capitall crime, for which every one of them expecteth death", then have the right "to joyn

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[125] Cf. Richard Flathman, *Thomas Hobbes: Skepticism, Individuality and Chastened Politics* (Lanham, MD: Rowman and Littlefield, 2002), 8.

[126] Ibid.
[127] *Leviathan*, 21, 151; cited in Flathman, 119.

together, and assist, and defend one another."[128] Finally, the subject has the liberty of

"forbearance", which entails that "in cases where the Soveraign has prescribed no rule,

there the Subject hath the Liberty to do, or forbeare, according to his own discretion."[129]

While it is the case that the three rights listed above, taken collectively, represent

challenges to the absolutist interpretation of Hobbes, it is incorrect to argue that they

constitute either (a) evidence for the assertion that "the primary objective of his political

and moral thinking is to promote and protect each person's pursuit of her own felicity as

she sees fit" or verification of the more limited claim that (b) "the gimcrack contraption

he calls Leviathan could have little effective authority and even less power over its

subjects." I will restrict myself to the (relatively) modest (b). We can examine the three

rights in turn, beginning with (1), the right to basic necessities/self-defense. It is unclear,

first of all, why the sovereign would order a subject to kill or "mayme" his/herself;

assuming, however, that s/he did issue the order and it was disobeyed, how (or why) is

the sovereign's power challenged (at least in any substantial way)? Again, why would

the sovereign command his/her subjects to "abstain" from necessary food, medicines,

etc., especially given the fact that the social body needs healthy citizens in order to

'reproduce'? As for (2) it is important to remember that Hobbes explicitly prohibits

rebellion; but if that's true, how could a citizen possess a right which is already

delegitimized by antecedently existing proscriptive laws?[130] Finally, we have (3), the

liberty of 'forbearance'. This is the most promising candidate, since it permits citizens to

engage in activities which are not explicitly forbidden by the sovereign. It is important to

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[128] Ibid., 21, 152; cited in Flathman, 119.
[129] Ibid., 21, 152; cited in Flathman, 118.
[130] Hobbes writes the following: "To resist the Sword of the Common-wealth, in defence of another man, guilty or innocent, no man hath Liberty; because such Liberty, takes away from the Soveraign, the means of protecting us; and is therefore the very essence of government." Ibid., 21, 152.

recall, however, the extensive scope of sovereign oversight. If we return to chapter eighteen, for example, Hobbes includes the following rights in his list of sovereign powers: "Seventhly, is annexed to the Soveraigntie, the whole power of prescribing the Rules, whereby every man may know, what Goods he may enjoy, and what Actions he may does, without being molested by any of his fellow Subjects".[131] While this passage, at least at first glance, supports Flathman's theory (notice, for example, the emphasis on protecting the subject from "molestation" by his/her fellow citizens), it is important to reiterate that the sovereign has "the whole power of prescribing the Rules" which govern individual action. To the extent that the subject is granted individual freedom, therefore, it is only because the sovereign initially circumscribed a space of non-intervention. This passage contradicts Flathman's proposition (b), concerning the power (or lack thereof) given to the sovereign. In addition, however, it undermines (a), since Hobbes explicitly states that the sovereign prescribes "what Goods he [the subject] may enjoy." The sovereign intends to promote happiness (a *docile* happiness), one suspects, but it is no longer the individual's right to select a "felicitous" course as "she sees fit". When we add the power highlighted above to the list I mentioned earlier, Flathman's thesis is severely tested; if anything, it brings the disciplinary regime into sharper focus.[132]

The Body Politic(s) of John Locke

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[131] Ibid., 18, 125.

[132] While Flathman is never cited, his thesis is implicitly challenged (as well) in Andrew I. Cohen's "Retained Liberties and Absolute Hobbesian Authorization", *Hobbes Studies*, 11, 1998: 33-45. Cohen grants, for example, that contractual subjects retain certain liberties even after they enter the 'body politic', but contests the suggestion that the Hobbesian sovereign has a corresponding *obligation* to honor their rights. (36, 40) Likewise, the subject has a right to defend his/herself against personal attack; in theory, this undermines the sovereign's right to punish, but as Cohen notes, if *everyone else*, or even a substantial majority, supports the Leviathan's capacity to punish an offender, the practical value of the retained liberty is negligible. (41-44)

 If Hobbes's status as a 'liberal' is subject to debate, John Locke's influence on modern liberalism is beyond dispute. John Gray, for example, writes that "in the period of Whig ascendancy following the Glorious Revolution, in the debates during the English Civil War and, most importantly, in John Locke's *Second Treatise on Civil Government*…the central elements of the liberal outlook crystallized for the first time into a coherent intellectual tradition expressed in a powerful, if often divided and conflicted political movement."[133]   In opposition to the seventeenth century discourse of monarchical absolutism, Locke defended "a right to liberty and the acquisition of property with which none may interfere."[134]   The foundation of autonomy was the natural right of each subject in his or her own "Person", a right which "no Body" is entitled to transgress.[135] Embodiment, therefore, is a, if not the, central issue in Locke's political philosophy.

        While Locke is recognized as anticipating, at least ideologically, the eighteenth century struggle for democratic liberties, his revolutionary credentials have recently been challenged. In Ruth Grant's excellent study (*John Locke's Liberalism*)*,* for example, he is described as a "cautious liberal". According to Ruth, his work is characterized by a fundamental ambiguity; it is torn and conflicted, almost schizophrenically, between the desire for freedom and a defense of order.[136] This uncertainty, moreover, affects the development of liberalism as a tradition; she writes that "[t]his ambivalent attitude is an expression of the central axis of conflict within liberalism generally. Every liberal theory

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[133] Gray, *Liberalism*, 13.
[134] Ibid., 14.
[135] *Two Treatises*, II, 27, 288.
[136] Cf. Ruth Grant, *John Locke's Liberalism* (Chicago: Chicago UP, 1987), 204.

must find some more or less uneasy reconciliation of the claims of order and revolution, society and the individual."[137]

Grant's insight also complements the interpretation of Uday Mehta Singh in *The Anxiety of Freedom*, who argues that

> The liberalism with which John Locke…is commonly identified has its origins in two widely shared assumptions: first, that human beings are by nature free, rational and equal; second, that they are therefore capable of murder, theft, and mayhem and hence are in mortal danger. Liberalism thus originates in ambivalence—in the need to order, if not limit, what it valorizes to be natural and emancipatory.[138]

Mehta highlights a basic question which standard commentaries on Locke evaded: how can liberalism balance its emphasis on autonomy with its anxiety concerning excess? The answer given by Locke (according to Mehta) is that the stability of society requires the "embedding" of subjects in liberal institutions; in short, it presupposes a "liberal education."[139]

In this section of the chapter, I will emphasize a neglected aspect of Locke's work, investigating the status of the body in his political theory (i.e. Locke's "body politic(s)"). As with my discussion of Hobbes, I will highlight the presence of exclusionary, as well as inclusionary, logics in Locke's major essays. I want to focus on the apparent dissidence between liberalism's normative components, which privilege autonomy, and the imperatives of maintaining a political regime. I will return to the imagery of the body politic, a metaphor which is particularly illuminating as an entry point to Locke's political philosophy (since it revolves around concepts of embodiment).

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[137] Ibid., 204.
[138] Cf. Uday Singh Mehta, *The Anxiety of Freedom,* 1.
[139] Ibid., 6.

In Locke's *Second Treatise*, the 'body politic' originates from the state of nature. Before we turn to the image of the social body, however, it is important, at least briefly, to examine the concept of property rights in Locke.   According to John Plamenatz, Locke uses the word 'property' in two different ways.   The first definition is "co-extensive with [one's] rights", while the second definition parallels "the right to the exclusive use of external objects" (the latter definition, obviously, is nearer to contemporary understandings).[140] A second proposal, advanced by John Simmons and James Tully (among others) argues that there is a single definition of "property" which Simmons describes as "that which one has a right to"[141] and Tully characterizes as "any sort of right, the nature of which is that it cannot be taken without a man's consent."[142] In this chapter, I refer to the more general conception, which corresponds to Plamenatz's first definition as well as the interpretation formulated by Simmons and Tully.   In both cases, "property" includes the embodied self; indeed, another excerpt from the *Two Treatises* insists that the "Person" is actually the very foundation of property: "Man (by being Master of himself, and *Propietor of his own Person*, and the Actions or *Labour* of it) has still in himself *the great Foundation of Property*".[143]

We can now return to the state of nature in Locke, which differs from Hobbes's "war of all against all"; in section nineteen of the *Second Treatise*, for example, he explicitly distinguishes between the "state of nature" and the "state of war".   Locke argues that prior to the formation of the social contract, "[m]en live together according to

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[140] Plamenatz, *Man and Society*, *Vol. I*, revised by M.E. Plamenatz and Robert Wokler (Longman: New York, 1992), 338.

[141] John Simmons, *The Lockean Theory of Rights* (Princeton: Princeton UP, 1992), 227.

[142] Cf. James Tully's *A Discourse on Property: John Locke and his Adversaries* (Cambridge: Cambridge UP, 1980), 116. Chapters three, four and five (53-130) are especially helpful in terms of understanding the historical background to Locke's theory (as well as Locke's own position).

[143] *Two Treatises*, II, 44, 298.

reason"[144] (Locke contends, for example, that natural law is binding prior to the formation of a civil authority; in the state of nature, humans are in a "*State of perfect Freedom* to dispose of their Possessions, and Persons as they think fit, within the bounds of Laws of Nature"[145]). If the state of nature is characterized by rationality and cooperation, however, it is unclear why the agents transfer their liberty to a political authority. According to Locke, the "great and *chief end* of Men uniting into Commonwealths…*is the Preservation of their Property*"[146]; indeed, Locke argues that "'tis not without reason that [a person' seeks out, and is willing to joyn in Society with others who are already united, or have a mind to unite for the mutual *Preservation* of their Lives, Liberties and Estates, which I call by the general Name, *Property*."[147] We can assume, however, that property rights are respected in the state of nature; therefore, the question arises once again: What necessitates the formation of political societies? Locke offers three reasons. First of all, the law of nature is generally evident to "rational" people, but there is still a tendency to engage in "Biassed" (i.e. egoistically self-interested) conduct. Secondly, there are no disinterested third parties (i.e. judges) who could settle disputes. Finally, even if we assume that magistrates existed with the capacity for arbitrating disagreements, there is no executive authority invested with the power of enforcing judicial decisions.[148]

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[144] Ibid., II, 19, 280.
[145] *Two Treatises*, II, 4, 269. As a matter of fact, section nineteen is very explicit about the difference between what Locke calls "the State of Nature" and "the State of War"; the former is simply "Men living together according to Reason, without a common Superior on Earth, with Authority to judge between them" while the latter is represented by the imposition of force against a party who transgresses natural law in similar conditions. Cf. II, 19, 280.
[146] Ibid., II, 123, 350.
[147] Ibid., II, 124, 350-51.
[148] Ibid., II, 124-26, 350-51.

In order to exit from the "ill condition" of the state of nature, therefore, humans "are quickly driven to Society", and Locke describes the formation of this new commonwealth in the following passage:

> Where-ever therefore any number of Men are so united into one Society, so as to quit his Executive power of the Law of Nature, and to resign it to the publick, there and there only is a *Political, or Civil Society*. And this is done where-ever any number of Men, in the State of Nature, enter into a society to make one People, one Body Politick under one supreme Government, or else when any one joyns himself to, and incorporates with any Government already made.[149]

The new body politic is characterized by unity and irresistible force; it is legitimized by the will of the majority, as the next excerpt highlights:

> For when any number of Men have, by the consent of every individual, made a *Community*, they have thereby made that *Community* one Body, with the Power to Act as one Body, which is only by the will and determination of the *majority*. For that which acts any Community, being only the consent of the individuals of it, and it being necessary to that which is one body to move one way; it is necessary the Body should move that direction whither the greater force carries it, which is the *consent of the majority*…And thus every Man, by consenting with others to make one Body Politick under one Government, puts himself under an Obligation to every one of that Society, to submit to the determination of the majority, and to be concluded by it…[150]

The will of the majority, therefore, determines the trajectory of the body politic's motion; it advances forward and shifts direction, but it moves with a singular momentum, carried along by a physics of power. It is important to emphasize the references to univocity; Locke refers to *one* body and *one* community. Here the imagery of the macro-body

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[149] Ibid., II, 89, 325.

[150] Ibid., II, 96-97, 331-32. There is an initial ambiguity in this passage: Locke appears to suggest that the consent of every individual is required in order to from a political community (or a "body politic"), while the consent of a majority is sufficient to legitimate decisions once the body politic is established. An obvious objection is the following: if unanimity of opinion is the condition for exiting the state of nature, why is majority consent a sufficient legitimation procedure for decision-making in the commonwealth (or vice versa)? Locke clarifies this apparent equivocation in paragraph ninety-nine, where he notes the following: "And thus that, which begins and actually *constitutes any Political Society*, is nothing but the consent of any number of Freemen capable of a majority to unite and incorporate into such a Society." (II, 99, 333) A majority is, therefore, sufficient warrant for consent in the state of nature as well (although this generates new problems for Locke's position).

reveals a different side of Locke's corporeal politics. In Locke's political theory, the body is associated with inviolable property; the rights of the individual are a barrier to arbitrary government and tyranny. In this passage, however, the body is a symbol of force and power, even of domination; thus, it allows us to uncover a fundamental tension, located at the very heart of Locke's body politics. Is there an incompatibility between the freedom of one body, and the force of the other? There is no *necessary* antithesis; the subjects who initially consented to the formation of a political society are motivated (at least according to Locke) by the desire to guarantee property rights. It is conceivable, therefore, that the community's power is oriented towards the protection of individual freedom. The last sentence I cited, however, complicates this response; recall that Locke wrote the following: "every Man, by consenting with others to make one Body Politick under one Government, puts himself under an Obligation to every one of that Society, to submit to the determination of the majority, and to be concluded by it". This language is considerably less hospitable to the defense of individual liberty; indeed, if anything it appears that it underscores the necessity of submitting to the will of the majority, which is obviously capable of reaching decisions opposed to the preservation of autonomy.[151]

In the two passages I mentioned above, we can recognize the contours of Zizek's "fundamental ideological fantasy", which emphasizes univocity, homogeneity and singularity, while excluding difference, heterogeneity and multiplicity. How is the unity of the body politic achieved? Here I will return to the categories of power which I cited

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[151] The most famous defense of this position is Willmoore Kendall's *John Locke and the Doctrine of Majority-Rule* (Urbana: University of Illinois Press, 1959), esp. 63-136. The argument tends toward rhetorical excess; he suggests that "Locke begins with a definition of political power so authoritarian and collectivist in its bearing that no genuine individualist could possibly accept it" (66), and the rest of the essay is dedicated to fleshing out this thesis. While I would disagree with Kendall's formulation of Locke's position, he is correct to suggest that there is more of a tension between Locke's majoritarianism and individualism than scholars have recognized.

above, and examine the presence of exclusionary/inclusionary logics in the texts of Locke. Exclusion operates in two ways: (a) the exclusion of agents who are incapable of recognizing the normative force of laws, and (b) the exclusion of criminals, a surgical removal (here my language is, surprisingly enough, similar to Locke's) which protects the body politic from degeneration.

(a) The first exclusion is defended in the following passage from the *Second Treatise*:

> But if through defects that may happen out of the ordinary course of Nature, any one comes not to such a degree of Reason, wherein he might be supposed capable of knowing the Law, and so living within the Rules of it, he is *never capable of being a Free Man*, he is never let loose to the disposure of his own Will (because he knows no Bounds to it, has not Understanding, its Proper Guide) but is continued under the Tuition and Government of others, all the time his own Understanding is incapable of that charge. And so *Lunaticks* and *Idiots* are never set free from the government of their parents; *Children, who are not as yet come unto those years whereat they may have; and Innocents which are excluded by a natural defect from ever having;* Thirdly, *Madmen, which for the present cannot possibly have the use of right Reason to guide themselves, have for their Guide, the Reason that guide the other men which are tutors for them.*[152]

In other words, if agents lack reason, they are incapable of understanding the law, and it is legitimate to exclude them from the political order. Uday Singh Mehta, however, has argued that Locke's exclusion of 'madmen' is problematic, since his conception of 'madness' is imprecisely defined.[153] In order to appreciate the salience of Mehta's point, then, we must take a detour, albeit briefly, into Locke's epistemology.

According to Locke's theory of knowledge, our mental ideas originate in one of two ways: either through sensation (the perception of "External, material things") or reflection (i.e. the "Perception of the Operations of our own Minds").[154] Ideas, in turn,

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[152] Ibid., II, 60, 307-08.
[153] Mehta, 105.
[154] John Locke, *An Essay Concerning Human Understanding*, ed. Peter Nidditch (Oxford: Clarendon Press, 1975), Book II, Chapter 1, Sections 3-4. Hereafter I will refer to the *Essay* by citing the book, chapter and section number, in that order.

are divided into two categories: simple (the ideas we initially receive either through sensation or reflection) and complex (the combination of discrete simple ideas.)[155] Certain mental faculties perform operations, or series of operations, in relation to ideas. The faculty of "Discernment" is the mind's capacity for "distinguishing between the several Ideas it has"[156], and the 'madman' has lost the capacity for differentiating between reality and its simulacra; he confuses the two orders, and arrives at false conclusions. He writes that "*mad men*…do not appear to me to have lost the faculty of Reasoning, but having joined together some ideas very wrongly, they mistake them for Truths; and they err as Men do, that argue right from wrong principles. For by the violence of their Imaginations, having taken their Fancies for Realities, they make right deductions from them."[157] As Mehta notes in commenting on a similar passage from Locke's journals, however, "[m]adness, far from being a condition of discursive deficiency, is a state in which the mind is consumed in an overexcited frenzy of activity…Nor is the mind's logical capacity impaired and, if the mad are unreasonable, they are so only because they appear distracted by their own cogitating excesses."[158]

Locke examines two figures of madness, which had previously appeared in Descartes' *Meditations*: the "distracted Man fancying himself a King" (who then correctly infers that his/her subjects owe him/her obedience) as well as the glass man who is excessively brittle and fragile, terrified that he will shatter into a thousand pieces (once again, making 'reasonable' inferences).[159] If Locke's definition is taken at face value, however,

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[155] Ibid., II, 2, 1-2.
[156] Ibid., II, 11, 1.
[157] Ibid., II, 11, 13.
[158] Mehta, 107.
[159] Locke, *Essay*, II, 11, 13. The same figures occur in Descartes' *Meditations on First Philosophy*, in the first meditation.

"madness" is the process of making correct inferences on the basis of false premises. In that case, a "rational" person is equally capable of becoming "mad", as Locke himself writes in the following passage from chapter thirty-three of the *Essay*: "this flaw [madness] has its original in very sober and rational minds…and there is scarce a Man free from it, but that if he should always on all occasions argue or do as in some cases he does, would not be thought fitter for *Bedlam*, than Civil Conversation."[160] Indeed, he argues "if this be a weakness to which all Men are so liable; if this be a taint which so universally infects Mankind, the greater care should be taken to lay it open under its due Name, thereby to excite the greater care in its Prevention and Cure."[161]

If that's the case, however (i.e. if even 'rational' agents are subject to flights of imagination which border on insanity), then is there actually a viable criteria for differentiating 'reasonable' individuals from the 'mad'? And even if we assume that the terms are clearly defined, Locke never designates a tribunal or judge who is competent to identify madness. Is the selection of a competent authority legitimated by a second contractual decision? If so, does it generate an infinite regress (such that the second decision procedure requires a third, etc.)?

How does this question relate to the imagery of the body politic? As Jeremy Waldron has noted, it is tempting to interpret the passage concerning the irresistible force of the unified body politic (located in section ninety-six of the *Two Treatises*, and cited above) as a factual statement about political aggregates: when a majority favors X, their strength carries the day.[162] He is correct, however, to resist this interpretation, and to

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[160] Ibid., II, 33, 3-4.
[161] Ibid., II, 33, 4.
[162] Cf. Jeremy Waldron, "Kings, Fathers, Voters, Subjects, and Crooks" in *God, Locke and Equality: Christian Foundations in Locke's Political Thought* (Cambridge: Cambridge UP, 2002), 129.

insist on the normative component of the analogy; he suggests that "the claim is that the only thing which *properly* moves a political body is the consent of the individuals who compose it."[163] If Waldron is right, the legitimacy of Locke's newly-constituted body politic is tenuous at best; the exclusion of certain parties, justified by inadequately-defined criteria, severely tests the normative appeal to individual consent, or at least requires important qualifications, since the defense for marginalizing 'irrational' agents presupposes concepts which are, in turn, unserviceable (or demand clarification).

  (b) The second moment of exclusion is the elimination of the social body's political enemies. The criminal or the dissident is likened to a diseased part of the body; s/he is a site of pathology, which threatens to destroy its collective vitality and health. My description, appearances to the contrary, is not hyperbolic; as Locke notes, political power is "a *Power to make Laws*, and annex such Penalties to them, as may tend to the preservation of the whole, by cutting off those Parts, and those only, which are so corrupt, that they threaten the sound and healthy, without which no severity is lawful."[164] Similarly, in one of the earliest passages in the *Second Treatise* political power is explicitly defined as the right to kill:

> *Political Power* then I take to be a *Right* of making Laws with Penalties of Death, and consequently all less Penalties, for the Regulating and Preserving of Property, and of employing the force of the Community, in the Execution of such Laws, and in the defense of the Common-wealth from Foreign Injury, and all this only for the Publick Good.[165]

The illuminating feature of this passage is the equation of political power with "making Laws with Penalties of Death"; if we recall that the social contract originates from the desire for self-preservation, then the right of property (which, in a fundamental way, is

[163] Ibid., 130.
[164] Ibid., II, 171, 382.
[165] Ibid., II, 3, 268.

the right to *life*) is guaranteed precisely by the threat of death. We will have occasion to return to this imagery in later chapters; suffice to say that the image of a social body struggling to repel, even to exterminate, the 'degenerative' other is hardly an innocent turn of phrase.[166]

We have examined two motifs of exclusion in Locke, i.e. the exclusion of 'irrational' agents as well as the elimination of criminals and dissidents. In addition, however, 'inclusive' technologies of power appear in Locke's work 'Inclusive' power, as I outlined in the introduction, is disciplinary; it tries to create docile bodies and governable subjects who contribute to the material and ideological reproduction of the body politic. One of its strategies is to transform the self into an 'autonomous' agent who is capable of policing his or her desires. In this section of the chapter, I want to examine the application of disciplinary power in two contexts: the breeding of 'gentlemen' and the control of 'indigents'. While it is possible to uncover disciplinary logics in other areas of Locke's research, the two examples I will highlight below demonstrate that 'inclusive' technologies of power are generalized, operating throughout the social body (or Locke's conception of the body politic).

Locke's "Some Thoughts Concerning Reading and Study for a Gentleman" divides political philosophy into two areas. First of all, it carries out a genealogical investigation of the origins of political regimes. Secondly, it examines technologies and

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[166] I am thinking, of course, of the Nazi invocation of similar language to justify the extermination of Jews, Gypsies and homosexuals; they were often labeled as 'cancers', 'degenerative' tumors which were sapping the vitality of the body politic. I will return to this theme in later chapters. Brian Calvert has discussed Locke's defense of the death penalty, as well as his broader justifications for punishment, in "Locke on Punishment and the Death Penalty", *Philosophy* 68 (1993): 211-229. Waldron also examines the question, albeit less extensively, in "Kings, Fathers, Voters, Subjects, and Crooks" (op.cit.).

practices for "the governing of men in society."[167] His educational treatises are examples of the second form of discourse; they try to cultivate subjects who are capable of acting 'autonomously', which obviously has implications for political questions. As Nathan Tarcov writes, "at a number of key points he [Locke] explicitly states that that the method of governing children he recommends…apply equally and in some cases even more to the government of men or to human nature."[168]

The most important text for understanding Locke's educational theory is *Some Thoughts Concerning Education*, which was compiled from a series of letters Locke had written to Edward Clarke, an acquaintance who had solicited advice concerning the "education" of his child. For Locke, "education" is an expansive concept which includes a wide array of topics; it deals, in a general way, with the instruction of youth, which includes both their intellectual and moral development. More specifically, *Some Thoughts* is an example of a genre which has virtually disappeared in modern democratic societies; it is a source book for the training of 'gentlemen', the children of wealthy families who were destined to become political leaders. In his "Epistle Dedicatory" to Clarke, Locke emphasizes that the 'education' of young people impacts the vitality of the social body; he writes that "[t]he well educating of their Children is so much the Duty and the Concern of Parents, and the Welfare and Prosperity of the Nation so much depends on it, that I would have everyone lay it to Heart." Furthermore, he underscores the importance of "training up youth" so that they are capable of excelling in their chosen

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[167] Cf. "Some Thoughts Concerning Reading and Study for a Gentleman" in *Educational Writings of John Locke*, ed. James L. Axtell (Cambridge: Cambridge UP, 1968), 400, quoted in Nathan Tarcov, *Locke's Education for Liberty* (Chicago: Chicago UP, 1984), 77-78.
[168] Tarcov, 78.

profession(s).[169]　Parenting, therefore, effects the "welfare" and "prosperity" of the nation, which explains Locke's interest vis-à-vis the question of education (and also indicates that the so-called 'private sphere' has undeniable political importance).

The "education" of a gentleman tries to 'improve', to shape and transform, both the body and soul; Locke argues, for example, that a "Sound Mind in a Sound Body, is a short, but full Description of a Happy State in this World."[170] A 'Sound Mind' in an 'unsound body' leads to powerlessness or an inability to execute the designs of the will; an 'unsound' mind in a 'sound' body, however, produces an equally dangerous imbalance; the body has the ability to perform tasks, but the mind is no longer in control. In this regard, the body resembles a ship without a captain.[171] How, then, can we strengthen the body? According to Locke, we must expose the child to nature's cruelty, so that he can endure future hardships; to cite two examples, he isn't allowed to cover his head in winter[172] and he is forced to wash his feet in cold water.[173] In addition, the 'gentleman' in training has to wear shoes which are "so thin, that they might leak and let in *Water*, when ever he comes near it".[174] While Locke admits that "I shall have the Mistriss and Maids…against me", it is necessary to resist the heart's tug of compassion, since one of the most serious obstacles to discipline is the parent's tendency to engage in "Cockering and Tenderness".[175]

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[169] Cf. Locke's *Some Thoughts Concerning Education*, ed. John W. and Jean S. Yolton (Oxford: Clarendon Press, 1989), Epistle Dedicatory. Hereafter I will refer to the section number in the Yoltons' edition.
[170] Ibid., 1.
[171] Ibid., 1.
[172] Ibid., 5.
[173] Ibid., 7.
[174] Ibid., 7.
[175] Ibid., 4.

If it is important to train the body, however, it is equally (if not more) important to condition the 'soul'. The child must learn how to control his desires; he has to renounce the passions, which threaten the agent's rationality.[176] Locke's educational theory produces a subject who is capable of exercising self-discipline. Indeed, Locke argues that if "the strength of the Body lies chiefly in being able to endure Hardships, so also does that of the Mind. And the great Principle and Foundation of all Vertue and Worth, is placed in this, That a Man is able to deny himself his own Desires, cross his own Inclinations, and purely follow what Reason directs as best, tho' the appetite lean the other way."[177] In section thirty-six, Locke reiterates this point: the problem "lies not in having or not having Appetites, but in the Power to govern, and deny our selves in them."[178] The capacity for self-renunciation, which is the cornerstone of 'happiness', is formed by refusing to grant the child's wishes,[179] and when he misbehaves, Locke advises the parents to make him feel guilty, so that he develops negative associations towards inappropriate actions.[180] If prohibited forms of conduct are habitually reprimanded, repetition leads the child to assume that harmful consequences necessarily follow. Therefore, parents must avoid the postulation of rules as disciplinary guidelines, and focus on the development of incentives/punishments.[181]

Locke opposes, at least as a general rule, corporal punishment, since it appeals to sensations, and in particular the capacity for experiencing pleasure and pain (recall that this is precisely the cycle which the parents are trying to disrupt; the preferable route, of

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[176] Ibid., 10.
[177] Ibid., 33.
[178] Ibid., 36.
[179] Ibid., 38.
[180] Ibid., 56-58.
[181] Ibid., 66.

course, is to encourage the denial of pleasures).[182] There is, however, one notable exception, and it reinforces my argument concerning the political context of Locke's work on education. Beatings are only permissible when the child becomes obstinately 'rebellious' (to use Locke's terminology); he writes that "Beating, by constant Observation, is found to do little good, where the Smart of it is all the Punishment is feared, or felt in it, for the influence of that quickly wears out, with the memory of it. But yet there is one, and but one Fault, for which I think, Children should be Beaten, and that is *Obstinacy* or *Rebellion*."[183] But why, precisely, is it important to guard against 'Rebellion'? At least one feasible explanation is that Locke believes childhood rebellion leads to other, more dangerous challenges to authority, such as political dissent. In any case, it is clear that discipline is the final guard on the ramparts, militantly protecting the nation's heroism and virtues; as Locke writes in section seventy, "it is impossible to find an instance of any Nation, however renowned for their Valor, who ever kept their Credit in Arms…after Corruption had once broke through, and dissolv'd the restraint of Discipline".[184] Indeed, what if the 'obstinate' child becomes a 'rebellious' adult? Would it endanger the social contract, or the health and stability of the body politic?[185]

But how are the virtues and discipline of a nation corrupted? Locke's discussion of education has already directed us toward one possibility: it occurs due to a failure of restraint, which is the result of improper methods of education or parenting. Yet there is another site of pathology, located in what Locke refers to as the 'working poor' (or at

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[182] Ibid., 48.
[183] Ibid., 78.
[184] Ibid., 70.
[185] Such a reading of Locke's educational methodology, and its apparent ends, would also force us to re-evaluate the standard picture of Locke as a defender of the right of rebellion. While a certain interpretation of the *Second Treatise* clearly legitimizes this argument, factoring in Locke's educational proposals would force us to admit certain tensions or complications which the traditional reading needs to cope with.

other times, simply 'idle vagabonds'). In *Some Thoughts Concerning Education,* for example, Locke contends that "[t]he great danger therefore I apprehend, is only from Servants, and other ill-ordered Children, or such other vicious or foolish People, who spoil Children" (classifying "Servants" as "vicious or foolish People", apparently).[186] It is necessary, therefore, to effectively govern the indigent and laborers. Locke outlined his technologies of control in an (in)famous legislative proposal entitled "Draft of a Representation, Containing [a] Scheme of Methods for the Employment of the Poor" (also referred to as the essay on the working schools).

The working schools essay is a series of reform proposals written in 1697, during Locke's tenure as a commissioner on the Board of Trade. It was based, at least in part, on the 'philanthropic' poverty relief ideas of a Bristol merchant named John Cary,[187] and presented on September 28th to the committee[188] as a (friendly) amendment to the Elizabethan Poor Laws, which addressed the "problem" of "idleness" in the working class.[189] The first three paragraphs of the essay introduce the tone of the piece, which is both excoriating and paternalistically "compassionate". He begins with a question: Why has poverty dramatically increased during the reigns of Charles II and James II? He considers, and rapidly dismisses, two possibilities: the scarcity of provisions, and lack of employment. Rather, "the growth of the poor must…have some other cause, and it can be nothing else but the relaxation and corruption of manners; virtue and industry being as

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[186] Ibid., 76.
[187] Cf. M.G. Mason, "John Locke's Proposals on Work-house Schools", *Durham Research Review* 4, no. 13 (1962), 8-16. I will refer to a version of the essay anthologized in *John Locke: Critical Assessments, Vol. 2*, ed. Richard Ashcraft (London: Routledge, 1991), 269.

[188] Ibid., 271
[189] Ibid., 269.

constant companions on the one side as vice and idleness on the other."[190] If it is the case, however, that the rise in poverty is a result of the "corruption of manners", how can we restore virtue to the body politic? We must enforce the laws that already exist relating to the excessive "debauchery" of the poor, especially "the suppressing of superfluous brandy shops and unnecessary alehouses."[191]

Locke expresses concern about two different elements of society. First of all, Locke examines what he calls 'vagabonds' (i.e. persons who "have numerous families of children whom they cannot, or pretend they cannot, support by their labour, or those who pretend they cannot work, and so live only by begging, or worse."[192]). He offers two recommendations for eliminating the problem of (again citing Locke) "begging drones". First of all, any male between fourteen and fifty who is caught begging without a pass[193] in the coastal area is subject to automatic conscription; they are forced to serve in the navy for three years, with subsistence money "being deducted from their victuals on board" (males who were captured in non-coastal areas under similar circumstances were assigned to hard labor in a "house of correction").[194] Secondly, if anyone counterfeits a pass, Locke says that he "shall lose his ears for the forgery the first time that he is found guilty thereof, and the second time…he shall be transported to the plantations, as in the case of felony."[195] Women and children guilty of the same violation, meanwhile, are also

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[190] The text of Locke's proposal is anthologized in Locke's *Political Essays*, ed. Mark Goldie (Cambridge: Cambridge UP, 1997) under the title "An Essay on the Poor Law." This reference is to page 184.

[191] Ibid., 184.

[192] Ibid., 184.

[193] A. L. Beier suggests that during the second half of the seventeenth century, punishment was less harsh for vagrancy than the types of punishment utilized during the early Stuart periods; whipping, for example, was replaced by a series of passes. Cf. "Utter Strangers to Industry, Morality and Religion: John Locke on the Poor", *Eighteenth Century Life*, 12, no. 3 (September 1988): 29.

[194] "An Essay on the Poor Law", 185-86.

[195] Ibid., 186.

harshly punished; women over fourteen are returned to their home county and a sum is deducted from their parish allowance (a second offense requires three months of hard labor in the workhouse), while children are sent to the nearest working school, "there to be soundly whipped, and kept at work till evening."[196]

The other group examined in Locke's report is the children of the "working poor". They are "maintain[ed] in idleness" between the ages of two and fourteen; consequently, the nation is denied access to their labor.[197] As a corrective remedy he advocates the establishment of "working schools"; attendance for children between the ages of three and fourteen is mandatory, and they are generally employed in textile production (Locke suggested "spinning or knitting, or some other part of the woolen manufacture").[198] Locke emphasizes the advantages of his proposal for society: the mother's newly created free-time is converted into labor, while the children were "from infancy…inured to work."[199] The second result is especially beneficial, since (in Locke's mind) the working poor are irresistibly drawn towards corruption and vice; indeed, Locke argued that the children should be

> obliged to come to church every Sunday, along with their schoolmasters or dames, whereby they can be brought into some sense of religion; whereas ordinarily now, in their idle and loose way of breeding up, they are as utter strangers both to religion and morality as they are to industry.[200]

Is it the case that Locke's proposals concerning the working class compromise, or at least complicate, his defense of freedom? The answer, unfortunately, is yes; this text demonstrates Locke's adherence to, in the words of C.B. Macpherson, a "differential

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[196] Ibid., 187.
[197] Ibid., 190.
[198] Ibid., 192.
[199] Ibid., 190.
[200] Ibid., 192.

rationality." In *The Political Theory of Possessive Individualism*, an examination of bourgeois ideology in Hobbes, Harrington and Locke, Macpherson contends that Locke "justifies, as natural, a class differential in rights and irrationality, and by so doing provides a positive moral basis for capitalist society."[201] He argues that (for Locke) "the members of the laboring class do not and cannot live a fully rational life."[202] More precisely, this entails "[t]he assumption that members of the laboring class are in too low a position to be capable of a rational life—that is, capable of regulating their lives by those moral principles Locke supposed were given by reason."[203] The important connection here is the implicit relationship between rationality and autonomy; autonomy requires mastery of the desires, which in turn produces industriousness. According to Locke, however, the working class lacks industriousness; therefore, it must also lack the first two properties—an agonizingly bad argument, for obvious reasons.[204] To cite one difficulty, it presupposes that rationality and autonomy are necessary conditions of 'industriousness'. Yet if we understand 'industriousness' as productivity, there is no necessary connection between a worker's 'rationality' or 'autonomy' and his or her efficiency; if we think about a factory laborer in the nineteenth and early twentieth centuries, for example, exactly the opposite is the case: a worker who tried to think critically about his or her coglike position in the assembly line, or asserted his or her autonomy by challenging the social structures which organized his/her oppression, was, in all probability, less likely to maximize his or her productive capacities than docile

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[201] C.B. Macpherson, *The Political Theory of Possessive Individualism* (Oxford: Oxford UP, 1962), 221.
[202] Ibid., 222.
[203] Ibid., 224.
[204] In section 34 of the *Two Treatises*, for example, Locke says that God "gave [the land] to the Industrious and Rational", as if the terms were necessarily intertwined. E.J. Hundert discusses the link in greater detail; see "The Making of Homo Faber: John Locke Between Ideology and History", *Journal of the History of Ideas*, 33, No. 1 (Jan.-Mar., 1972): 3-22.

subjects who were willing to passively accept the sub-human conditions imposed in the workplace and perform their assigned tasks; presumably, they were more productive than the laborer who, quite rightly, was alienated and demanded better conditions, or even tried to form a union.

John Dunn has responded to Macpherson by noting that Locke condemned idleness *tout court* (within the wealthy as well as poorer classes), and that in actuality his contempt for "shiftlessness" was a reflection of his Puritan ideology.[205] As Weber has reminded us, of course, bourgeois ideology and Puritanism are compatible worldviews; nevertheless, it is sufficient to note that Locke's characterization of the children of the working poor is based on their membership in a specific class. It is true that Locke excoriates idleness, but he never argues that the wealthy are idle *qua* their membership in a particular sociological category. If Locke's description is contingent, rather than essential, meaning that the poor are capable of transforming their "idleness" into productivity thanks to the beneficent 'invisible hand' of state oversight, then we are escorted back into the realm of disciplinary power; we can transform "lawless" and "promiscuous" subjects into autonomous liberal citizens, but only if we subject their bodies and souls to moral and physical conditioning. It's conceivable (though highly doubtful) that Locke was as willing to attack aristocratic or bourgeois "idleness" (idleness within the aristocracy? Perish the thought!) as the mythical "shiftlessness" of the working class, but I have failed to locate any evidence in support of this hypothesis.

In any event, Locke's own theory prohibits the draconian anti-solicitation laws; how, after all, is the "vagrant" harming anyone when s/he is attempting to fulfill the basic right

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[205] Cf. John Dunn, *The Political Thought of John Locke* (Cambridge: Cambridge UP, 1969), pp. 203-67.

of self-preservation? Locke already grants the right of self-subsistence in the *Second Treatise;* he writes that: "natural *Reason*…tells us, that Men, once being born, have a right to their Preservation, and consequently to Meat and Drink, and such other things, as Nature affords for their Subsistence" (a basic subsistence, of course, representing a means to the end of self-preservation).[206] Likewise, forcing the children of the working poor to attend church violates Locke's normative commitments to religious tolerance and freedom (which are outlined in *The Letter Concerning Toleration*), especially his argument that

> the whole jurisdiction of the magistrate is concerned only with these civil goods [i.e. "life, liberty, bodily health and freedom from pain"], and that all the right and dominion of the civil power is bounded and confined solely to the care and advancement of these goods; and that it neither can nor ought in any way to be extended to the salvation of souls.[207]

If it is the case that Locke imposes strict limitations on the power of government to advocate a theological position/practice, it presumably follows that the same limitations apply to every citizen, regardless of their class background.

Is it possible, more generally, to reconcile the inescapability of disciplinary power in Locke with libertarian interpretations/appropriations of his work? Here is one strategy: if it's the case that the agents in the state of nature consented to transfer their right of self-defense to an executive sovereign power, then they concomitantly agreed to obey the laws of the sovereign, as well as surrendering their right to protest unjust principles. This argument wouldn't fit, however, with Locke's defense of the subject's right to challenge illegitimate rulers. Certain parties, moreover, are excluded from the initial decision

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[207] John Locke, *Epistola ad Tolerentia/A Letter Concerning Toleration*, eds. Raymond Klibansky and J.W. Gough (Oxford: Clarendon UP, 1968), 67. This text contains the original Latin edition with a facing English translation; here, I refer to the page number of the English version.

procedure, utilizing highly suspect, and inadequately defined, criteria (as I demonstrated above); thus, there is a question about the legitimacy of the contract itself. A second possibility is to concede that there is a contradiction between Locke's normative principles, on the one hand, and his disciplinary strategies on the other, arguing that we can eliminate the difficulty by separating Locke's 'occasional pieces', such as his educational works or his reports written as a government functionary, from his more 'substantive' theoretical offerings. The problem now, however, is that Locke himself recognizes that his educational theory is an important complement to his political theory, and even if we believe that Locke misunderstands his own position, we need a criteria which allows us to differentiate between 'occasional' and 'substantive' contributions. To my knowledge, no such criteria exist, at least at the date of this writing.

Alex Neill, more perceptively than the liberal disciples of Locke, has acknowledged a tension between the logics of disciplinary power and autonomy. He argues that the tension is only apparent; he notes that this self-mastery is the precondition (at least in Locke) of autonomy, and the end of self-mastery "can be achieved only with the help of others."[208] There is, undoubtedly, a role for education in the formation of 'autonomous' selves; this does, however, force us to complicate the standard liberal picture of a self-made agent with an inviolable right to non-interference. Indeed, Locke himself recognizes that 'autonomy' emerges from discipline and punishment; therefore, the conditions of liberal agency are grounded in the political technologies of control examined by Nietzsche and Foucault, a theme which I will return to in the next chapter (and throughout the essay).

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[208] Cf. Alex Neill, "Locke on Habituation, Autonomy and Education", *Journal of the History of Philosophy* 27, No. 2 (April 1989): 244.

The Fundamental Ideological Fantasy in Rousseau

Criticisms of Locke's individualistic version of social-contract theory have emerged from the right, but also from the left; in the latter case, they are formulated by theorists who are interested in reviving principles of solidarity and civic responsibility. Indeed, advocates of republicanism and social democracy criticize atomistic views of subjectivity from within the liberal tradition. At both ends of the political spectrum, however, there is a recognition that Rousseau is an important figure in the emergence of a 'radical democratic' alternative to Lockean individualism; Benjamin Barber, for example, identifies the political theory of Rousseau as a predecessor to what he calls "strong democracy", which he contrasts with "liberal democracy". According to Barber, classical liberalism is oriented towards "individualistic and private ends",[209] whereas "[f]ollowing Jean-Jacques Rousseau, strong democrats prefer the language of legitimate willing"; indeed, "[s]trong democracy understands decision-making to be a facet of man as maker and as creator and consequently focuses on public willing." (Barber, of course, sides with the latter).[210] Likewise, Jürgen Habermas has argued that "a democratically enlightened liberalism must hold on to Rousseau's intention" (i.e. recognizing the importance of popular will formation or democratic self-legislation).[211] As for neoconservatives, Allan Bloom contends that Rousseau extends the liberal project in more progressive directions; he notes that "Rousseau's reflections had the effect of outflanking the [American] Framers on the Left, where they thought they were invulnerable…Rousseau walks arm in

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[209] Cf. Benjamin Barber, *Strong Democracy: Participatory Democracy in a New Age* (Berkeley: University of California Press, 1984), 4.

[210] Ibid., 200.

[211] Cf. Jürgen Habermas, *Between Fact and Norm*, trans. William Rehg (Cambridge: MIT Press, 1996), 474.

arm with his liberal predecessors and contemporaries. He does not reject the new principles, but he radicalizes them by thinking them through form the broadest perspective"[212]

There is a widespread recognition, therefore, that Rousseau's work is a continuation of the liberal/social contractarian tradition. In this part of the chapter, I will continue my discussion of the body politic in liberalism by examining the imagery of social body in Rousseau. Is it the case that a republican formulation of the social contract allows us to exit from biopolitics? Does Rousseau's political theory escape from the 'fundamental ideological fantasy'? I will argue that the answer to both questions is 'no'; while there are clearly important philosophical and/or normative differences between the projects of Hobbes, Locke and Rousseau, I will demonstrate that, at least in terms of practice and the governance of society, Rousseau continues to exhibit a desire for unity and the effacement of pluralism (indeed, it's even possible to argue that the fantasy is intensified). While I agree with Habermas and Bloom that Rousseau is a liberal, I also think it's important to highlight the quasi-totalitarian aspects of Rousseau's political theory. Here there are a number of elements we could point to, but the most interesting, and disturbing, commonality is the logic of biopower.

In this regard, a new interpretation of Rousseau which focuses on the imagery of the body politic has two advantages over the standard approaches. First of all, it has the potential to open up new hermeneutic avenues, allowing us to move beyond the typical debates concerning justification of governmental authority (i.e. how does transferring sovereignty to the general will allow the individual, at the same time, to retain his or her

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[212] See Allan Bloom, "Rousseau's Critique of Liberal Constitutionalism" in *The Legacy of Rousseau*, eds. Clifford Orwin and Nathan Tarcov (Chicago: Chicago UP, 1997), 144.

freedom?[213]). Secondly, it illuminates the reason(s) why theorists have encountered

difficulties classifying Rousseau's political philosophy. As I indicated above, Rousseau

has been characterized as a liberal, yet he also, according to other accounts, is

responsible, at least indirectly, for Jacobin extremism and the Reign of Terror. Benjamin

Constant, for example, called Rousseau "the most terrible auxiliary of every kind of

despotism."[214] Likewise, J.L. Talmon (in a text I will return to later) condemns Rousseau

as a proto-totalitarian theorist; according to Talmon, in Rousseau' political philosophy

"[a] fixed, rigid and universal pattern of feeling and behaviour was to be imposed in

order to create man of one piece, without contradiction, without centrifugal and anti-

social urges. The task was to create citizens who would will only what the general will

does."[215] But how can we account for the wildly divergent interpretations I highlighted

above? Is Rousseau a liberal? Is he the father of modern totalitarianism? Or is he is a

neoconservative?[216] At least one possibility is that commentators have overlooked the

importance of biopower in texts such as *The Social Contract*. I would like to fill in the

gap, or at least point towards way(s) of filling in the gap, by outlining the parameters of a

reading which emphasizes the importance of biopower as a strategy for governing the

population in the interests of strengthening the body politic. My reading highlights, in

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[213] For good examples, see W.T. Jones, "Rousseau's General Will and the Problem of Consent" in *Journal of the History of Philosophy* 25, no. 1 (January 1987): 105-130; Frederick Neuhouser, "Freedom, Dependence and the General Will" in *The Philosophical Review* 102, no. 3 (July 1993): 363-95 and Steven G. Affeldt, "The Force of Freedom: Rousseau on Forcing to Be Free" in *Political Theory* 27, no. 3 (June 1999): 299-333.

[214] This is my artless translation of Constant's French, which is much more elegant; in *Cours de politique constitutionelle*, he identifies Rousseau as "le plus terrible auxiliaire de tous les genres de despotisme." This concise summary of the liberal suspicion towards Rousseau is cited in Alfred Cobban's *Rousseau and the Modern State* (Hamden, CT: Archon Books, 1964) which provides an excellent overview of the late-eighteenth and nineteenth century French receptions of his political theory. For this reference, see page 25.

[215] Cf. J.L. Talmon, *The Origins of Totalitarian Democracy* (New York: W.W. Norton and Co., 1970), 39.

[216] While I'm unfamiliar with any interpretations of Rousseau which classify him as a neoconservative, I can imagine a plausible reading to that effect which would focus on his valorization of patriotism and civic virtue.

short, unsettling parallels between liberalism and its historical other(s) which I have alluded to in the introduction. As I mentioned above, I can only suggest the parameters for such a re-reading, but I will nonetheless provide a series of markers which could allow us to re-situate Rousseau in the Western canon. As with Hobbes and Locke, I will highlight both exclusionary and inclusionary aspects of power in Rousseau. I will begin with exclusionary power.

The imagery of the body politic, which is important for the argument of *The Social Contract*, initially appeared in an article by Rousseau from Diderot and D'Alembert's *Encyclopedia*, entitled "Discourse on Political Economy". Here Rousseau compares (although he admits the analogy is imprecise) the "body politic" (*le corps politique*) to a human body:

> The body politic, taken by itself, can be looked upon as an organized body, alive, and similar to man's. The sovereign power represents the head; the laws and customs are the brain, the principle of the nerves and the seat of the understanding, of the will, and of the senses, of which the judges and magistrates are the organs; commerce, industry and agriculture are the mouth and stomach which prepare the common subsistence; public finances are the blood which a wise *economy*, performing the functions of the heart, sends out to distribute nourishment and life throughout the entire body; the citizens are the body and the members that make the machine move, live and work, and no part of which can be hurt without the painful impression of it being straightaway conveyed on the brain, if the animal is in a state of health.[217]

In this passage, Rousseau demonstrates the logic of biopower more clearly than either Hobbes or Locke; the social body is a living organism, with essential biological functions, such as circulation. The basic requirements of nutrition are satisfied by

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[217] Cf. *Discours sur l'Économie Politique* in *Oeuvres Complètes, Volume III*, eds. Bernard Gagnebin and Marcel Raymond (Paris: Pléiade, 1964) 244; translated as *Political Economy* in *The Social Contract and Other Later Political Writings*, ed. Victor Gourevitch (Cambridge: Cambridge UP, 1997), 49. When citing the works of Rousseau, I will refer to the English title, followed by the pagination of the French edition and an English translation, in that order.

industry and agriculture. Public finances are the life-blood and the essence of vitality, which nourish the collective subject, and the citizens allow the body to move and function properly. The totality is, like the human body itself, a well-calibrated "machine" which is subject to disruption; therefore, it is important to guard against 'injuries' to the social body. Judith Shklar interprets the comparison straightforwardly; she argues that it represents a well-ordered society and is also, at least implicitly, a justification for government authority.[218] Lemos, however, gestures towards the biopolitical reading of this image I will offer in the following pages; he writes that it "illustrates the fact that the body politic may reasonably be looked upon as an organism whose members are organically related to one another and to the whole in such a way that the health and proper functioning of the whole and of each of its members depends upon the health and proper functioning of the other members."[219]

Rousseau's argument in *The Social Contract* begins with the premise that humans encounter barriers to self-preservation in the state of nature; as a result, they are forced to enter into schemes of cooperation, forming a political society.[220] Yet it is also the case that the subject wants to retain a measure of autonomy, even in the context of political arrangements. It is important, therefore, that the solution to the problem of human frailty

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[218] Cf. Judith Shklar, *Men and Citizens: A Study of Rousseau's Social Theory* (Cambridge: Cambridge UP, 1969), 197-214, and especially 202.

[219] See Ramon M. Lemos, *Rousseau's Political Philosophy: An Exposition and Interpretation* (Athens: University of Georgia Press, 1977), 134.

[220] Cf. Jean-Jacques Rousseau, *Du Contrat Social* in *Oeuvres Complètes, Volume III*, eds. Bernard Gagnebin and Marcel Raymond (Paris: Pléiade, 1964) 360; translated as *Of the Social Contract* in *The Social Contract and other later political writings*, ed. Victor Gourevitch (Cambridge: Cambridge UP, 1997), 49. When citing the works of Rousseau, I will refer to the English title, followed by the pagination of the French edition and an English translation, in that order.

does not compromise the liberty Rousseau associates with the state of nature.[221] The fundamental problem for Rousseau, then, is the search for a type of association which guarantees social cooperation while at the same time preserving human freedom.[222] Rousseau's solution is articulated in the idea of the social contract. We create the general will by "alienating" our rights in the community (*l'aliénation totale de chaque associé avec tous ses droits à toute la communauté*). He writes that "*[e]ach of us puts his person and his full power in common under the supreme direction of the general will; and in a body we receive each member as a part of the whole.*"[223] The concept of the body politic is an amplification of, or is importantly related to, the theme of the general will:

> At once, in place of the private person of each contracting party, this act of association produces a moral and collective body made up of as many members as the assembly has voices, and which receives by this same act its unity, its common *self*, its life and it will. The public person thus formed by the union of all the others formerly assumed the name *City* and now assumes that of *Republic* or *body politic* (*corps politique*) which its members call *State* when it is passive, *Sovereign* when active, *Power* when comparing it to similar bodies. As for the associates, they collectively assume the name *people* and individually call themselves *Citizens* as participants in the sovereign authority, and *Subjects* as subjected to the laws of the State.[224]

Here the implicit connection between the body politic and the people is explicated; the new collective subject is a self, with a "life" and "will", and the unified social body becomes, at the same time, a "people". The new self also replaces "the private person of each contracting party", almost as if the individual body is submerged in the general will

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[221] Cf. Jean-Jacques Rousseau, *Discours sur l'Origine et Les Fondements de l'Inégalité* in *Oeuvres Complètes, Volume III,* 143; translated as *Discourse on the Origin and the Foundations of Inequality Among Men* in *The Discourses and Other Early Political Writings*, ed. Victor Gourevitch (Cambridge: Cambridge UP, 1997), 142. For a discussion of the various interpretations of the linkages/divergences between the Second Discourse and *The Social Contract*, see Jim McAdams, "Rousseau's *Contract* with and without his *Inequality*" 12, nos. 2 & 3 (May & September 1984): 275-85.

[222] *Social Contract*, 360/49-50.
[223] Ibid., 361/50.
[224] Ibid., 361-62/50-51.

(it is useful to invoke the imagery of Hobbes's Leviathan at this point).[225] Indeed,

Rousseau argues that any sign of opposition to the body politic represents an attack

against the republic.[226] The first moment of exclusion is represented by the ostracism of

'criminals'.   The criminal his/herself is viewed as a pathology which threatens to

undermine the stability of the social body. He describes the heterogeneous particular will

as conflicted, since it is schizophrenically divided against itself qua "Citizen" who

consented to the formation of a general will (it is therefore the bearer, simultaneously, of

a particular will and a general will, which find themselves at war); he writes that

"whoever refuses to obey the general will shall be constrained to do so by the entire

body: which means nothing other than that he shall be forced to be free."[227]

   Rousseau develops this argument in a passage which returns to the imagery of the

social body; he argues that the body politic is a "moral person" and "the most important

of its cares is the care for self-preservation". Since an individual in the state of nature has

the right to use all of his/her "members" (*membres*) in the battle for survival, the new

body politic (which is a collective person) has a similar "absolute power over all its

members."[228] An "absolute" power, however, encompasses life itself, and the sovereign

can execute citizens of the state if they threaten its existence. As Rousseau notes in the

following passage,

> The social treaty has the preservation of the contracting parties as its end.
> Whoever wills the end, also wills the means, and these means are inseparable
> from certain risks and even certain losses. Whoever wants to preserve his life at

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[225] Judith Shklar has examined the metaphor of the body politic in Rousseau, although her discussion tends to focus on Rousseau's essay concerning political economy; see her *Men and Citizens: A Study of Rousseau's Social Theory* (op.cit.), esp. 165-214.

[226] Ibid., 363/53.

[227] *Social Contract*, 363-64/52-53.

[228] Ibid., 372/61. Gourevitch translates "membres" as "members"; the French term carries the same double signification in this context as the English.

> the expense of others ought also to give it up for them whenever necessary. Now, the Citizen is no longer judge of the danger the law wills him to risk, and when the Prince has said to him, it is expedient to the State that you die, he ought to die; since it is only on this condition that he has lived in security until then, and his life is no longer only a bounty of nature, but a conditional gift of the State.[229]

This paragraph, which exhibits the biopolitical logic in an exemplary fashion, is marked by a fundamental tension: in order to guarantee the continuation of the body politic, the ruler is entitled to demand the life of the subject, who had originally consented to the terms of the social contract on the assumption that it insures his or her self-preservation. While Rousseau notes that "[e]veryone has the right to risk his live in order to save it",[230] the obvious rejoinder is that it is one thing to *risk* a person's life, and quite another to surrender it unconditionally to the demands of the sovereign. In any case, this excerpt highlights the conjunction of sovereignty and biopower which both Foucault and Agamben have examined in detail. The citizen is obligated to surrender his or her life for the survival of the body politic, yet this obligation emerges as a result of the tie which binds the life of the subject to sovereign will. Indeed, the second half of the last sentence is especially illuminating in this regard: Rousseau explicitly concedes that his argument is regulated by a biopolitical logic when he insists that the contracting agent's security is contingent on the will of the Prince, and "his life is no longer only a bounty of nature, but a *conditional gift of the State*" (my emphasis). The very survival of the person is conditional; life itself is now a gift, withdrawn from the economy of existence and reproduction when the life of the social body is endangered.

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[229] Ibid., 376/64.
[230] Ibid., 376/64.

Rousseau's discussion of the "Lawgiver" (*Législateur*) solidifies the connection between the problematics of biopower and sovereignty.[231] Rousseau argues that the general will formulates principles which regulate public life, allowing the people to establish a community; he calls the newly instituted statutes "laws."[232] There is an initial obstacle, however; as Rousseau writes, "How will a blind multitude, which often does not know what it wills because it rarely knows what is good for it, carry out an undertaking as great, as difficult as a system of legislation? By itself the people always wills the good, but by itself it does not always see it."[233] The body politic requires the guidance of a superior intellect (which Rousseau characterizes as a "genius") in order to direct its sentiment towards the appropriate end; the general will, therefore, benefits from the genius of a sagelike figure known as the "Lawgiver."[234]

The Lawgiver is "in every respect an extraordinary man in the State. While he must be so by his genius, he is no less so by his office."[235] The responsibilities of the Lawgiver are monumental; not only is s/he assigned the task of writing (and then implementing) a constitution, s/he is also obligated to, in Rousseau's words, transform human nature; according to Rousseau,

> Anyone who dares to institute a people must feel capable of, so to speak, changing human nature; of transforming each individual who by himself is a perfect and solitary whole into part of a larger whole from which that individual would as it were receive his life and his being; of weakening man's constitution in

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[231] One cautionary note is in order: Gourevitch translates "Législateur" as "Lawgiver", which is an accurate rendering in the context of Rousseau's argument. I have elected to retain Gourevitch's translation; readers should, however, be aware of the fact that the standard translation of this term in other editions is the cognate "Legislator."

[232] Ibid., 379/67.

[233] Ibid., 380/68.

[234] Ibid., 380/68. If the figure of the "Lawgiver" exhibits Machiavellian overtones, the connection is hardly accidental; as Roger Masters notes in *The Political Philosophy of Rousseau* (Princeton: Princeton UP, 1968) Machiavelli is cited approvingly in *The Social Contract*, and he (Masters) suggests that Rousseau followed Machiavelli in believing that "a just republic can be founded by wicked means." (365)

[235] Ibid., 382/69.

order to strengthen it; of substituting a partial and moral existence for the independent and physical existence we have all received from nature. In a word, he must take from man his own forces in order to give him forces which are foreign to him and of which he cannot make use without the help of others. The more these natural forces are dead and destroyed, the greater and more lasting are the acquired ones, and the more solid and lasting also is the institution.[236]

Here we encounter key elements of the 'fundamental ideological fantasy'; a unified body politic, individuals who affirm their identity by submerging themselves in the social body, the systematic attempt to control human life in order to instrumentally harness it and re-create "human nature". In any case, the Lawgiver, a mysterious figure capable of articulating the "true desires" of the general will, destroys the singularity of each individual and re-engineers the desires of the self until the subject identifies his/her "life and being" with the survival of the body politic (indeed, Rousseau's formulation is even stronger; he argues that the subject *receives* his or her "life and being" from the social body; this once again introduces the language of conditional "giving" into the discussion). The "natural" existence of the self (which Rousseau associates with "independence") is "weakened", and the people re-surface from the embers of "dead and destroyed" forces as a moral community, a species-body, which acts with the forceful singularity of a "general will."[237]

The Lawgiver, however, is effectively excluded from the collective body of the people; Rousseau insists that s/he is prohibited from occupying a position within the governmental framework s/he has established, and that s/he is unable to communicate effectively with the masses because "[t]he wise who would speak to the vulgar (*vulgaire*)

[236] Ibid., 381-82/69.
[237] J.L. Talmon seems to recognize this point, albeit obliquely and not in the context of a biopolitical interpretation of Rousseau, in his *The Origins of Totalitarian Democracy* (W.W. Norton and Co., 1970), 38-49. Patrice Canivez has examined the concept of the 'people' in Rousseau; cf. "Jean-Jacques Rousseau's Concept of the People" in *Philosophy and Social Criticism*, 30, no. 4 (2004): 393-412.

in their own language rather than in the vulgar language will not be understood by them."[238] Since the Lawgiver is denied the power of executive force, and the "vulgarity" of the population limits the effectiveness of rhetorical persuasion, s/he is forced to resort to the "authority" of religious principles so that the people will "freely obey the yoke of public felicity, and bear it with docility."[239] The entire passage is worth quoting; Rousseau argues that

> [A]s the lawgiver can…employ neither force nor argument, he must have recourse to an authority of another order, one which can compel without violence and persuade without convincing. It is this which has obliged the founders of nations throughout history to appeal to divine authority and to attribute their own wisdom to the Gods; for then the people, feeling subject to the laws of the State as they are to those of nature, and detecting the same hand in the creation of both man and the nation, obey freely and bear with docility the yoke of the public welfare. This sublime reasoning, which soars above the heads of the common people, is used by the lawgiver when he puts his own decisions into the mouth of the immortals, thus compelling by divine authority persons who cannot be moved by human prudence. But it is not for everyone to make the Gods speak, or to gain credence if he pretends to be an interpreter of the divine word. The lawgiver's great soul is the true miracle which must vindicate his mission.[240]

The importance of religion in Rousseau is undeniable; he argues, for example, that "no State has ever been founded without Religion serving as its base."[241] I will simply bracket the question of whether or not he is correct; rather, this sentence highlights the importance of political theology in Rousseau's social contract. While Rousseau expresses contempt for aspects of traditional theology, he nevertheless proposes an alternative

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[238] Ibid., 383/70.
[239] Ibid., 383/71.
[240] Ibid. Gourevitch's translation of this passage is awkward; to give one example, he renders "Cette raison sublime qui s'éleve au dessus de la portée des hommes vulgaires est celle dont le législateur met la décisions dans la bouche des immortels, pour entraîner par l'authorité divine ceux que ne pourroit ébranler le prudence humaine" as "This sublime reason which reaches beyond the reach it is whose decisions the Lawgiver places in the mouth of the immortals, in order to rally by divine authority those whom human prudence could not move." I have decided, therefore, to substitute Maurice Cranston's more fluid version of the same passage. Cf. pages 383-84 in the French text; in Cranston's version, which is translated as *The Social Contract* (Penguin: Harmondsworth, 1968), see page 87.
[241] Ibid., 464/146.

called "civil religion" that emphasizes the subject's moral obligations to his/her fellow citizens and the state. He insists, for example, that Christianity is an unacceptable theological doctrine in republican societies. While republicanism presupposes a heightened sense of civic responsibility and an opposition to tyranny, Christianity encourages "servility" by valorizing a supernatural afterlife; believers stoically endure the oppression of this world, since temporal existence is only a prelude to immortality.[242] Rousseau argues that the sovereign must establish a new public religion, since "it certainly matters to the State that each Citizen have a Religion which makes him love his duties; but the dogmas of this Religion are only of concern to the State or to its members insofar as the dogmas bear on morality, and on the duties which anyone who professes it is bound to fulfill towards others."[243] This dogma, however, is purely secular; as Rousseau notes, the sovereign's juridical competence is limited to the present world, since the afterlife transcends the boundaries of political rule.[244] Therefore, it is, strictly speaking incorrect to call it a "religion"; it is better characterized as the "sentiments of sociability, without which it is impossible either to be a good Citizen or a loyal Subject" (although Rousseau continues to refer to as a "*la Religion civile*").[245]

A second moment of exclusion emerges vis-à-vis the question of political theology. Rousseau argues that the sovereign has the right to enforce the conventions of "civil religion" with legal statutes; although the Sovereign lacks the ability to "oblige" anyone to accept the provisions of the new civic "theology", s/he is permitted to "banish from the State anyone who does not believe them; it may banish him, not as impious but as

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[242] Ibid., 467/149.
[243] Ibid., 468/150.
[244] Ibid., 468/150.
[245] Ibid., 468/150.

unsociable, as incapable of sincerely loving the laws, justice and, if need be of sacrificing

his life to his duty."[246] Likewise, the retribution for professing false belief in the statues

is exceedingly cruel; Rousseau argues that "he has committed the greatest of crimes, he

has lied before the laws", which is punishable by death.[247]

   The actual provisions of the religion are limited to a characterization of the new deity,

a sanctification of the republic and dire warnings for subjects who transgress the laws of

the state; they stipulate that there is a "powerful, intelligent, beneficent, prescient, and

provident Divinity, the life to come, the happiness of the just, the punishment of the

wicked, the sanctity of the social Contract and the Laws; these are the positive Dogmas

[dogmas which require the affirmation of the citizen]."[248] This is what Rousseau calls the

positive thesis of the dogma; its negative thesis, however, borders on the paradoxical.

There is, as a matter of fact, only one "negative" principle, and it is an unabashed

rejection of certain forms of intolerance (I say "certain" because the thesis is supported

by its own intolerant stringency); Rousseau writes the following:

> Now that there no longer is and no longer can be an exclusive national Religion,
> one must tolerate all those which tolerate the others insofar as their dogmas
> contain nothing contrary to the duties of the Citizen. But whoever dares say, *no
> Salvation outside the Church*, has to be driven out of the State…Such a dogma is
> good only in a Theocratic Government, in any other it is pernicious.[249]

Rousseau therefore establishes a positive "function" for civil theology, i.e. the

engendering and reinforcement of a patriotic sensibility which understands that honoring

moral obligations stabilizes the foundations of a republican society, as well as a

veneration of the laws of State (Rousseau's utilization of the term "sanctity" (*sainteté*) is

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[246] Ibid., 468/150.
[247] Ibid., 468/150.
[248] Ibid., 468/150-51.
[249] Ibid., 469/150.

interesting in this context; it hearkens back to the political theology of the medieval period discussed by Kantotorwicz). This also, however, begins to clarify what Rousseau means when he suggests that the religion established by the Lawgiver conditions the people to "freely obey the yoke of public felicity, and bear it with docility"; a key aspect of the civic religion is an unquestioning submission to the time-tested principles of the social contract, as well as, presumably, the figure of the Lawgiver his/herself (Rousseau lists Moses, for example, as a great "Législateur"). Indeed, Christianity is unsuitable in this role precisely because it refuses to sanctify the political community (although on this count Rousseau was surely incorrect), and for that reason the Lawgiver must develop a substitute religion which performs the task of binding members of the commonwealth together.

The so-called "negative" functions are equally intriguing, however; they reiterate a familiar, but nonetheless serious, problem for liberalism: Will it tolerate the intolerant, or intolerantly banish the intolerant? Rousseau opts for the latter solution; no doubt my formulation states the difficulty too crudely, yet there is an important tension here which repeatedly emerges in the history of the liberal canon. This is, by now, a standard objection to liberalism, and there have been various attempts to circumvent the apparent contradiction (some of which I will return to in Chapter Three); nevertheless, the fact that liberals continue to wrestle with this near-paradox seems to highlight its intractable character.

Religion, therefore, is important for governing the masses; the Lawgiver must lead his/her people to believe that legislation comes from a divine source. Likewise, a 'civic religion' of 'sociability' further integrates subjects into the body politic. In

addition, however, education contributes to the 'reproduction of the body politic. Here we can examine aspects of inclusionary power in Rousseau. In remarks addressed to Count Wiehlhorski, a member of the Polish Confederates of Bar who wrote to him concerning reforms within Polish society and government,[250] Rousseau argued that "it is education that must give souls the national form, and so direct their tastes and opinions that they will be patriotic by inclination, passion, necessity."[251] The template for Rousseau's educational theory is outlined in *Emile*, where he fictionally adopts an "imaginary pupil" named Emile, with the express purpose of educating him to become (or more accurately, remain) a so-called "natural man" who is able to resist the corrupting influences of society.[252] The difficulty of performing this task, which relies more on passivity than action, is emphasized by Rousseau: "To form this rare man, what do we have to do? Very much, doubtless. What must be done is to prevent anything from being done."[253] Natural 'authenticity' is realized through constant supervision from the tutor; s/he is forced to exercise discipline, which s/he must conceal, in order to guard the child, who is 'pure and innocent', from the vices of modernity.

According to Rousseau, the teacher must formulate educational goals which correspond to developmental stages. One of the common threads which unifies Rousseau's theory, however, is the idea of granting an illusory freedom to children; they

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[250] The confederation was founded in 1768 by members of the nobility and gentry who favored a more confrontational approach towards Russian aggression as well as a more republican style of government. The historical background to the text is briefly discussed in Gourevitch's footnotes to the essay (cf. *The Social Contract and other later political writings*, pp. 310-12; for a lengthier introduction see Jean Fabre's commentary in *Oeuvres Complètes, Volume III*, pp. 216-243, as well as his extensive footnotes, pp. 1733-1804).

[251] Cf. *Considérations sur le Gouvernement de Pologne et sur sa Réformation Projettée* in *Oeuvres Complètes, Volume III*, 966; translated as *Considerations on the Government of Poland and on its Projected Reform*, in *The Social Contract and Other Later Political Writings* 189.

[252] Cf. *Emile, ou de l'Éducation* in *Oeuvres Complètes*, *Volume IV*, eds. Bernard Gagnebin and Marcel Raymond (Paris: Pléiade, 1969), 247-51; translated as *Emile* by Allan Bloom (Basic Books, 1979), 38-41.

[253] Ibid., 251/41.

must believe they are free, because it allows the tutor to extend his/her control over the child more effectively, and "the will itself is made captive" (or as Rousseau comments, "there is no subjection so perfect as that which keeps the appearance of freedom").[254] When Emile enters adolescence, for example, the master conspires to frustrate his sexual desires by enticing him with the image of an "ideal" woman who is destined, in Rousseau's words, to "make him disgusted with those [women] that could tempt him; it suffices that he everywhere find comparisons which make him prefer his chimera to the real objects that strike his eye."[255] He ascribes qualities to "Sophie" (as Rousseau decides to name her) which excite the imagination of Emile, yet he also attributes "defects in his beloved as to suit him [Emile], as to please him, and to serve to correct his own."[256] In this example, fantasy is used to more effectively control the passions; in addition, it establishes the conditions for an objectification of the feminine in Emile's psyche. Rousseau's strategy tries, paradoxically enough, to incite desire in order to more effectively repress it; he characterizes this double movement in political terms: "How limited one must be to see only an obstacle to the lessons of reason in the nascent desires of a young man! I see in them the true means of rendering him docile. One has a hold on the passions only by means of the passions. It is by their empire that their tyranny must be combated; and it is always from nature itself that the proper instruments to regulate nature must be drawn."[257]

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[254] Ibid., 362-63/120.
[255] Ibid., 656/329.
[256] Ibid., 656-57/328-29.
[257] Ibid., 654/327. Bloom translates "Moi, j'y vois le vrai moyen de le rendre docile à ces mêmes lecons" as "I see in them the true means of making him amenable to these very passions", but in this context the stronger "docile" is preferable to Bloom's "amenable." I have altered the translation accordingly.

Another aspect of inclusionary power in Rousseau concerns the role of women vis-à-vis the social body. Returning, at least momentarily, to the *Social Contract*, Rousseau argues that the body politic suffers from diseases and illnesses. The breakdown and death of the body politic is inevitable; the embers of its mortality glow within the social body: "The body politic, just like the body of man, begins to die as soon as it is born and carries within itself the causes of its destruction."[258] If it is impossible to guarantee the eternal survival of a social body; it is, however, feasible to suggest that we can prolong the life of the State.[259] Although in this particular section (Book III, Chapter II, entitled "The Death of the Body Politic") Rousseau argues that the sign of a State's vitality is "the legislative power"[260] (in a well-ordered State laws become more honored with the passage of time, "whereas wherever the laws grow weaker as they grow older it is proof that there is no longer any legislative power, and that the State is no longer alive"[261]), in another section he offers a more biological characterization of the life and death of the body politic. According to Chapter III of Book IX, the end of political association is "the preservation and prosperity of its members."[262] Accordingly, "what is the surest sign that they are preserving themselves and prospering? It is their number and their population"[263] (or as Rousseau argues elsewhere in *The Social Contract*, "the Government under which the Citizens…populate and multiply is without fail the best:

[258] Ibid., 424/109.
[259] Ibid., 424/109.
[260] Ibid., 424/109.
[261] Ibid., 425/110.
[262] Ibid., 419/105.
[263] Ibid., 420/105. Again, in the *Fragments Politiques*, Rousseau says that "[t]oute l'Economie generale se rapporte à un dernier objet qui est l'effect et la preuve d'une bonne administration; cet objet relatif au bien general de l'espèce humaine est la multiplication du people, suite infallible de sa prospérité." Cf. *Oeuvres Complètes, Volume III*, 527.

that under which a people dwindles and wastes away is the worst"[264]). In this regard,

there is an undeniable biopolitical component at the heart of Rousseau's normative

project: the reduction of political ends to the necessities of biological survival, or 'bare

life', is a critical sign that, in Rousseau's political theory, we have already crossed what

Giorgio Agamben calls the "threshold of modernity", in which the transition from

eudaemonism to biopolitics is completed.

But how can we guarantee the reproduction of the social body? A corollary of

demographic politics in Rousseau is the patriarchal oppression of women; in his

Considerations on the Government of Poland (*Emile* was published in 1762; the

Considerations were written in 1772), Rousseau suggests that

> Upon opening his eyes, a child should see the fatherland,[265] and see only it until
> his dying day. Every true republican drank love of fatherland, that is to say love
> of the laws and of freedom, with his mother's milk. This love makes up his whole
> existence; he sees only his fatherland; he lives only for it; when he is alone, he is
> nothing; when he no longer has a fatherland, he no longer is, and if he is not dead,
> he is worse than dead.[266]

The natural role of women, therefore, is to safeguard the domestic sphere. She must

insure that children are provided with a "good constitution"[267] and faithfully execute the

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[264] *Social Contract*, 420-21/105. Again, in the *Fragments Politiques*, Rousseau says that "[t]oute l'Economie generale se rapporte à un dernier objet qui est l'effect et la preuve d'une bonne administration; cet objet relatif au bien general de l'espèce humaine est la multiplication du people, suite infaillible de sa prospérité." Cf. *Oeuvres Complètes, Volume III*, 527.

[265] Rousseau's term here is "*la patrie*", which is difficult to translate satisfactorily. Gourevitch renders the term as "fatherland"; Cranston, in the context of translating *The Social Contract*, renders the term as "nation"   Cf. *The Social Contract*, trans. Maurice Cranston (London: Penguin, 1968), 64 [this is one example of the rendering]. Yet the term "*nation*" exists in French, and if Rousseau had wanted to use the phrase it was available (indeed, he employs "*nation*" in other contexts). This suggests that *la patrie* was chosen for very specific reasons, presumably to invoke a connection between contemporary republican ideals and the *patria potestas* of ancient Rome. In any event, and at least partially for the latter reason, I have elected to retain Gourevitch's translation of the word as "fatherland".

[266] *Considerations on the Government of Poland and on its Projected Reform*, 966/189.

[267] Ibid.

tasks assigned to her by the husband (and, presumably, *la patrie*).[268] She is expected to reproduce both the population, as well as the ideology, of the nation-state. In this passage, for example, the child imbibes the values of *la patrie* (a French term which beautifully captures the ambiguous ties between political and patriarchal power) along with the mother's nourishment. The woman acts as the guarantor of her husband's happiness; in the fifth book of *Emile*, for example, Rousseau finally introduces the reader to Sophie, Emile's eventual wife. When she turns fifteen, her father informs her that "[t]he happiness of a decent girl lies in causing the happiness of a decent man. You must therefore think about getting married. You must think about it early, for the destiny of life depends on marriage, and there is never too much time to think about it."[269] Indeed, Rousseau argues that "the whole education of women ought to relate to men". [270]

If we combine the technologies of power together, therefore, we can re-construct Rousseau's strategy for guaranteeing the unity of the body politic; as in other formulations of contract theory, they complement one another, with exclusionary power eliminating the 'criminal' enemies of the state and inclusionary power focusing on the creation of 'patriotic citizens'. Between a new political theology, the oppressive consignment of women to domesticity, a 'civic education' which teaches self-denial and the rhetoric of the Legislator, who speaks 'on behalf of the gods', Rousseau outlines a model for governing the social body via a biopolitical process of inclusion/exclusion. Rousseau's concept of 'participatory democracy', which is often contrasted with

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[268] Carole Pateman discusses this question in *The Sexual Contract* (esp. 96-99); Susan Moller Okin sketches out a lengthier (and compelling) argument to this effect in *Women in Western Political Thought* (Princeton: Princeton UP, 1979), especially pp. 106-39.

[269] Cf. *Emile, ou de l'Éducation* in *Oeuvres Complètes*, *Volume IV*, eds. Bernard Gagnebin and Marcel Raymond (Paris: Pléiade, 1969), 755; translated as *Emile* by Allan Bloom (Basic Books, 1979), 399.

[270] Ibid., 703/365.

technocratic proceduralism, relies, in actuality, not on collective participation and self-determination, at least in the final analysis; rather, the people need guidance from a sage. Indeed, since they lack the high standards of virtue demanded by a republican society, they require moral training, which is the purpose (or at least one of the purposes) of an intolerant civic religion. Rousseau's theory of education, meanwhile, emphasizes the importance of deception and intrigue; the master (who is in this regard strikingly resembles the Lawgiver) manipulates the fantasies of his student, using the passions as a weapon against themselves. Finally, the foundation of the social contract is the woman, whose role is determined in very specific, and problematic, ways. She is responsible for guaranteeing the health of the body politic by vigilantly guarding (and promoting) the "virtues" of her children. Likewise, the strength of the nation, which is measured in, most significantly, population, requires "docile" females who are willing to participate in the critical task of social reproduction (and here we could interpret this phrase in two ways: as an ideological reproducer of patriotic morality, as well as the literal reproducer of the social body).

As I have alluded to above, one of the classic debates in the secondary literature on Rousseau concerns his political orientation: is he a liberal, or a proto-totalitarian? J.L. Talmon argues that Rousseau's political theory is an example of "totalitarian democracy", which he contrasts with "liberal democracy." While the latter "assumes politics to be a matter of trial and error, and regards political systems as pragmatic contrivances of human ingenuity and spontaneity", the former "is based on the assumption of a sole and exclusive truth in politics…It widens the scope of politics to embrace the whole of human existence…and the final purpose of politics is only

achieved when this philosophy reigns supreme over all fields of life" (the biopolitical scope of Talmon's definition is especially interesting).[271]   Talmon insists that Rousseau's theory (at least in part) establishes the theoretical framework for the Jacobin Reign of Terror.[272]   This reading has been challenged by Andrew Levine, who contends that Talmon's reading is "entirely mistaken."[273]   He argues that Rousseau's theory of the general will is an "illiberal" construct[274] which has "liberal implications."[275]   While Levine's interpretation of the general will examines the connection between individual liberty and sovereign power, his formulation nicely captures the problematic relationship which I have tried to highlight in the first chapter: rather than seeing liberalism as opposed to biopower, we should recognize the importance of discipline in the formation of 'liberal' subjects.   Likewise, liberal regimes are forced to resort to the exclusion of society's 'enemies'; in Rousseau's 'civic religion', for example, toleration is enforced through ostracism, or even death.   Indeed, it is, strictly speaking, incorrect to characterize biopower as an 'illiberal' construct which has 'liberal' implications, since it is the condition, in Rousseau's political theory, of agents who are capable of exercising their freedom.   This is, it seems to me, yet another way of formulating the same basic tension that we discover at the heart of modern liberalism: a political theory which relies on coercion and disciplinary power as a mechanism for steering the comportment of

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[271] Talmon, 1-2.

[272] Indeed, he quotes a passage from Heine to this effect, who suggested that "Maximilien Robespierre war Nichts als die Hand von Jean-Jacques Rousseau" (after which he adds "die blutige Hand") (16).

[273] Cf. *The Politics of Autonomy* (Amherst: Massachusetts UP, 1976), 72.

[274] In the sense that it is opposed to "the tendency in political thought that affords a central place to the principled defense of individual and minority rights against the claims of the state and broader society." (Levine, 72)

[275] Ibid., 72-73.

subjects, and (even more dramatically) which guarantees the preservation of life through the symbolic (and actual) power of death.

Classical Liberalism and the Fundamental Ideological Fantasy

In this chapter, I have examined the imagery of the body politic in Hobbes, Locke and Rousseau, arguing that if we re-read the language of the social body from Foucault's interpretive perspective (or more precisely, vis-à-vis an interpretive perspective informed by Foucault's work on biopower) we uncover what Zizek calls 'the fundamental ideological fantasy', which is the desire for a unified, 'organic' community without divisions or antagonism. The body politic is united by excluding 'irrational', 'criminal' or 'unhealthy' agents from the social contract (i.e. 'exclusionary' power), and 'normalizing' agents who contribute to the reproduction of the nation-state (or 'inclusionary' power). I have shown how exclusionary and inclusionary power, in combination, produce the 'singular will' of the social contract's body politic; by eliminating agents who differ from prevailing conceptions of 'health' and 'rationality' (such as 'madmen'), and by disciplining subjects and transforming individuals into citizens who legitimate the political order, Hobbes, Locke and Rousseau try to establish the conditions for societies which have transcended antagonism, but they achieve 'harmony' through colonizing the public and private spheres. The key to understanding the importance of power in social contract theory, therefore, is to abandon, or at least develop alternatives to, the traditional reading of Hobbes, Locke and Rousseau, which interprets corporeal imagery, almost exclusively, as relating to the question of legitimacy and governmental authority.

It is important, of course, to avoid the following temptation: we must not assimilate the theories of Hobbes, Locke and Rousseau into a single, overarching narrative concerning the unity of the body politic. Despite their common interest in the social body, they propose different strategies of control, and rely on different technologies of power. I do, however, believe that one point of similarity emerges from my discussion: if we examine the imagery of the body politic from a Foucaultian standpoint, we are forced to re-evaluate standard views concerning, for example, the political theory of Locke, specifically in terms of the question of embodiment. The Hobbesian agent, for example, is no longer a disembodied, hyper-rational game theorist; s/he is situated in an elaborate network of disciplinary power and ideological directives, and his or her docile obedience to the 'Leviathan' is guaranteed not, as we are often led to believe, through calculations of utility, but via political technologies of control. As for Locke, who is generally regarded as the 'father' of modern liberalism, a new attention to the politics of embodiment reveals that the conditions of governance are, as in Hobbes, realized by disciplinary power. Finally, in Rousseau, who is read as the visionary prophet of democratic revolution, we see that the citizen is, in actuality, a subject who is conditioned to regard the body politic as his/her *patrie*, and s/he must submit to the laws of the state, accept its religious principles and "humbly" assume his/her role as citizen. In each case, a biopolitical interpretation reveals previously neglected hermeneutic possibilities, and alternatives to canonical textual approaches. It also, however, shows us that the major philosophical figures in the liberal/social contract tradition, unlike contemporary liberal authors, understood that 'autonomous' subjects are the product of culture and influence; they don't pretend that individuals simply materialize, *ab initio*, as economic agents who

make political decisions through a rational calculus. Rather, the liberal self in Hobbes, Locke and Rousseau has a history, and genealogical research can uncover its past.

In this sense, at least, classical liberalism is more insightful than its contemporary variations. Indeed, one of the more prominent criticisms of figures such as Rawls is that they neglect the fact that agents have values and belong to communities. Thus, they abstract the self from its body and culture, failing to recognize our intersubjective connection to other persons and the importance of relationships in the formation of identity. While the typical response to this argument is that contemporary liberalism tries to eliminate the attributes of the self precisely in order to avoid the dangers of racism, sexism, classism and homophobia, it fails to recognize that the coherence of tolerance and equality presuppose that agents are embodied: they need a history and embodied relationship with others in order to appreciate why, exactly, we value social justice. In the next chapter, therefore, I will offer an examination of John Rawls, focusing on the question of embodiment in his work. More specifically, I examine the question of agency in *A Theory of Justice*, arguing that Nietzsche reveals the origins of the subject in the original position; in addition, I highlight the role of exclusion in Rawls's later theory, especially *Political Liberalism*.

CHAPTER 2: THE PRESENT-ABSENCE OF THE BODY IN
CONTEMPORARY LIBERALISM

At the end of Chapter 1, I argued that classical liberalism recognizes the importance of

culture and discipline vis-à-vis the formation of identity and governable subjects. In this

regard, at least, it is more self-aware than contemporary liberalism, which generally

presents us with a disembodied view of the self. In figures such as Gauthier and Rawls,

for example, the subject emerges *ex nihilo* as a hyper-rational utility maximizing agent;

there is no account given of the corporeal networks and histories which inform the self-

understanding of individuals.   It is also convenient, because it allows modern liberalism

to avoid the complicated genealogies which are necessary in order to fathom the birth of

political subjects who are capable of asserting their 'autonomy'. In the previous chapter,

I tried to hint at the direction a genealogy of the liberal self would pursue; it would return

to the 'marginal' texts of social contract theory, such as Locke's essay on the 'working

schools', in addition to the 'peripheral' aspects of canonical works, such as Hobbes's

interest in the function of civic education or Rousseau's attempts to develop a new

political theology. In any case, the classical liberal tradition was attentive to the question

of embodiment, both in terms of the 'macro' and 'micro' bodies of society, even if

traditional interpretations have failed to accord this interest its proper place. When we

turn to contemporary liberalism, on the other hand, the imagery of the 'body politic' is

generally non-existent in the writing of major authors; Anglo-American liberalism in

particular is dominated by the analytic penchant for direct argumentation, clarity and

precision which are, in their own ways, philosophical virtues, but this style of thinking

tends to view metaphors, symbols and figurative language as diversions from the

essential intellectual task of bringing to light, and then evaluating, normative assumptions.

In this chapter, I will examine the question of embodiment in Rawls. If my characterization of Anglo-American political philosophy is correct, however, at least in a general way, then my interpretive approach to contemporary liberalism seems unpromising. How can I expect to gain any critical traction by focusing on the imagery of the body politic vis-à-vis the work of Rawls? To cite an obvious difficulty, the agent in Rawls's original position is a prime example of the disembodied approach to selfhood I mentioned above, and at the end of Chapter 1; s/he is unaware of race, sex, religious orientation, class background, etc. In response to this objection, however, two comments are in order. First of all, I will argue that Rawls cannot 'disembody' the agent, if by 'disembody' we mean strip away their sense of history and belonging to a culture/tradition, or their identity, without simultaneously undermining the very principles which render certain choices in the original position defensible and coherent. Secondly, I will argue that even if the imagery of the body politic no longer appears in Rawls (although there is one important exception which I will focus on in my discussion), his work continues to exhibit elements of the 'fundamental ideological fantasy', or desire for a unified social body. In this regard, the logics of inclusion/exclusion still operate in Rawls, although their presence is more subtle and diffused than in classical liberalism.

I begin with the question of disciplinary inclusion, focusing on *A Theory of Justice*. As I noted above, Rawls's conception of agency in the original position is minimalist, in the sense that s/he (i.e. the agent) doesn't have any knowledge of his/her

gender, race, class or conception of the good. I argue, following Michael Sandel, that the individual wouldn't choose, for example, the difference principle, unless s/he had a conception of the good which emphasized solidarity. But how does the individual acquire a conception of the good? In order to answer this question, I turn to Nietzsche's genealogy of the moral/political self, arguing that we become governable subjects through disciplinary regimes of power and habituation.   In addition to examining 'inclusionary' logics, however, I will also highlight exclusionary aspects of Rawls's theory. I argue that despite his rhetoric of pluralism and tolerance, Rawls is forced to exclude 'illiberal' agents/worldviews from his re-worked theory (i.e. in *Political Liberalism*). Before I turn to the work of Rawls, however, I want to contextualize the set of problems he addresses by highlighting recent developments in liberal political theory.

The Diversity and Unity of Contemporary Liberalism(s)

Which problems and issues, therefore, motivate contemporary liberalism? It has two major concerns: it emphasizes the importance of personal autonomy and recognizes the diversity of cultural assumptions and moral beliefs. Thus, there are two core principles advanced by modern liberalism: freedom and tolerance. John Gray, for example, argues that liberalism has "two faces"; "[i]n the first, liberalism is a prescription for a universal regime [and] [i]n the second, it is a project of coexistence that can be pursued in many regimes."[276] The first "face" of liberalism sees "liberal institutions as applications of universal principles"; according to the second, they are "a means to peaceful

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[276] Cf. Gray's *Two Faces of Liberalism* (New York: The New Press, 2000), 2.

coexistence."[277]   Joseph Raz, meanwhile, defends perfectionism against anti-perfectionism (the former challenges the anti-perfectionist insistence that liberalism is a value-neutral doctrine, recognizing its affirmation of a specific conception of the good).[278]   Michael Walzer, commenting on an important essay by Charles Taylor, proposes a distinction between Liberalism 1, which is committed to the individual freedom, safety and welfare of its citizens, and Liberalism 2, which protects the basic rights of its members but is also dedicated to preserving minority cultures, nations or religions.[279]

The political theory of John Rawls is motivated by similar questions and issues. He emphasizes the differences between liberalisms based on comprehensive doctrines (i.e. 'comprehensive liberalisms') and his own theory of 'political liberalism'.   A comprehensive doctrine "includes conceptions of what is of value in human life, as well as ideals of personal virtue and character, that are to inform much of our nonpolitical conduct" (and he further subdivides the category into 'full' and 'partial' comprehensive doctrines; the distinction, however, is unimportant here).[280]   Comprehensive liberalism, therefore, privileges specifically liberal conceptions of the good and assumes that the totality, or at least an overwhelming majority, of the citizenry will endorse its comprehensive doctrine.[281]   Political liberalism, however, recognizes the irreducible

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[277] Ibid., 2.

[278] See Raz's *The Morality of Freedom* (Oxford: Clarenden Press, 1986), especially Part II (pp. 107-62), which offers a powerful critique of the anti-perfectionist emphasis on value-neutrality; Part IV (pp. 265-366), meanwhile, contains a defense of perfectionism.

[279] Charles Taylor's essay is entitled "The Politics of Recognition" in *Multiculturalism*, ed. Amy Gutman (Princeton: Princeton UP, 1994), pp. 25-73; Walzer's essay is in the same volume, and simply entitled "Comment" (pp. 99-103; his description of the two forms of liberalism is found on page 99).

[280] Cf. John Rawls, *Political Liberalism* (New York: Columbia UP, 1996), 175.

[281] Ibid., xviii.

pluralism of heterogeneous comprehensive doctrines in modern democratic societies,[282] and rather than advocating, for example, a liberal conception of the good it tries to establish what Rawls labels an 'overlapping consensus' between reasonable comprehensive theories.[283]

While there are theoretical differences within contemporary liberalism, therefore, the similarities between orientations are important; they are grounded in the fundamental liberal concerns with toleration and pluralism (otherwise, how could we identify them under the shared conceptual framework of 'liberalisms'?). There are commonalities, for example, between Raz's definition of 'anti-perfectionism' and Gray's universalist liberalism; likewise, the value-neutrality of anti-perfectionist liberalism and Walzer's 'Liberalism 1' is evident. Indeed, the one problematic which unifies the variations is the question of liberalism's relationship to pluralism (i.e. is liberalism value-neutral, or does it implicitly affirm a conception of the good? If so, does it undermine the conceptual basis of liberalism? How should liberalism relate to non-liberal comprehensive doctrines, both within, as well as external to, liberal regimes?). In this chapter, I propose to examine the problems of exclusion/inclusion in contemporary liberalism by highlighting the work of John Rawls, who has, by his own admission, embraced varieties of comprehensive, as well as political, liberalism. While it is important to highlight the theoretical diversity of contemporary liberalism, I want to argue that Rawls's oeuvre is differentiated and nuanced enough to permit access to the series of questions highlighted above (i.e. questions about liberalism and value pluralism), as well as questions about the nature of the self presupposed, either implicitly or explicitly, in contemporary liberal

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[282] Ibid.
[283] Ibid., 144.

discourse.   More importantly, I want to argue that Rawls' political theory continues to exhibit the traces of exclusion which we have encountered in earlier social contract projects such as Hobbes's, Locke's and Rousseau's. In short, we are still dealing with the question of the body politic, and the politics of the body, albeit in a less obvious way.

I confess that my claim appears implausible. We know, for example, that the agent in the original position lacks knowledge of his/her race, gender, social status and conception of the good. S/he is clearly an example of disembodied subjectivity; in this regard, it is tempting to ask, along with Robert Nozick, whether there is any "coherent conception of a person" left after we have eliminated the "talents, assets, abilities and special traits" which provide us with a sense of uniqueness?[284] Or as Michael Sandel writes, "since the veil of ignorance has the effect of depriving the parties, *qua* parties to the original position, of all distinguishing characteristics, it becomes difficult to see what their plurality could possibly consist in."[285] But if that's the case, isn't it mistaken to include a chapter dedicated to examining the problematic of the body in Rawlsian liberalism?

As the title of the chapter suggests, however, the body's presence in contemporary liberalism is demonstrated all the more glaringly by its absence and elision. Indeed, Iris Marion Young has argued that Rawls's 'original position' is dominated by a 'monological' conception of reasoning, a conception which excludes, for example, the introduction of feelings and desires into the process of deliberation.[286]   At this point, however, I simply want to indicate that the question of embodiment is hardly irrelevant to

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[284] Cf. Robert Nozick, *Anarchy, State and Utopia* (New York: Basic Books, 1974), 228.
[285] See Sandel's *Liberalism and the Limits of Justice* (Cambridge: Cambridge UP, 1982), 131.
[286] Cf. Young's essay "The Ideal of Impartiality" in *Justice and the Politics of Difference* (Princeton: Princeton UP, 1990), especially pp. 99-102.

a study of Rawls's political theory; rather, it takes us to the very heart of certain problems encountered by justice as fairness. Likewise, there are other forms of exclusion which continue to haunt Rawls's social contractarianism (just as they haunted traditional social contractarian arguments), such as the exclusion of ideals or conceptions of the good which are incompatible with liberalism. Here, then, we once again uncover the body politic's desire to achieve a kind of homogeneity.

More specifically, I want to continue with a narrative thread which runs throughout the dissertation, namely the attempt to demonstrate that liberalism relies on practices of exclusion, as well as what I have called, following Foucault, 'disciplinary inclusion', in order to guarantee the unity and stability of the body politic. In the context of my discussion of Rawls, I would like to highlight the two motifs in relation to Rawls's major theoretical works, *A Theory of Justice* and *Political Liberalism*. *Theory* is an example of 'comprehensive liberalism', while *Political Liberalism* represents the second category in Rawls's schema (indeed, Rawls is generally credited with having developed the idea of 'political liberalism', although he concedes that Charles Larmore and Judith Shklar each formulated it, or at least very similar theories, independently of his own work[287]). I will proceed chronologically, by focusing on the earlier text (*Theory*) first, emphasizing certain ways in which Rawls's early contractarianism is still haunted by questions of marginalization. I will argue that Rawls's early liberalism, which pretends to value-neutrality, actually is forced to privilege certain conceptions of the good over others (indeed, it would exclude ideals which are explicitly opposed to liberal principles). I will also highlight the presuppositions of Rawls' account of agency in the original

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[287] Cf. *Political Liberalism*, 374.

position, drawing on communitarian authors (as well as Nietzsche) in order to highlight difficulties which his apparently innocuous sketch of subjectivity presents for his theory as a whole. I then shift my focus to the later work (*Political Liberalism*), where I once again offer criticisms which depart from the antagonism, or at least uncomfortable relationship, between inclusion and exclusion in his efforts to articulate a coherent form of political liberalism.

*The Question of 'Neutrality' in **A Theory of Justice***

In *A Theory of Justice* (initially published in 1971), Rawls develops (as the title implies) a theory of justice for social institutions. He explicitly situates his work in the social contract tradition, emphasizing that

> My aim is to present a conception of justice which generalizes and carries to a higher level of abstraction the familiar theory of the social contract as it is found, say, in Locke, Rousseau and Kant. In order to do this we are not to think of the original contract as one to enter a particular society or to set up a particular form of government. Rather, the guiding idea is that the principles of justice for the basic structure of society are the object of the original agreement. They are the principles that free and rational persons concerned to further their own interests would accept in an initial position of equality as defining the fundamental terms of their association.[288]

Rawls's theory, which he calls 'justice as fairness', models the initial choice situation in traditional social contract arguments by setting up a hypothetical scenario (what Rawls labels 'the original position') in which the agents lack any knowledge of their status in society (i.e. they have no knowledge of their income, level of social prestige, etc.), their

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[288] In the dissertation I will refer to the first edition of *A Theory of Justice*, published in 1971 (Cambridge: Harvard UP, 1971), as well as the revised edition, which was released in 1999 (Cambridge: Harvard UP) in that order. When there is a significant difference between the two versions, I obviously take that into account and privilege the revised edition, since Rawls oversaw the changes himself. The reference above is to page 11 of the 1971 text, and page 10 of the revised edition.

intellectual/physical capabilities or their particular conceptions of the good.[289] In other

words, the parties are located behind (to once again cite Rawls's terminology) a "veil of

ignorance".[290] He also assumes that the subjects in the original position are "rational and

mutually disinterested"[291] (although Rawls insists that they are not egoistic, both in *A*

Theory of Justice[292] as well as *Political Liberalism*[293]), and that given the constraints

imposed by the veil of ignorance, they would unanimously choose two principles as the

fundamental ordering rules of social institutions: (1) equality in assigning basic

rights/duties[294] (although Rawls eventually re-formulates (1) as "Each person is to have

an equal right to the most extensive total system of equal basic liberties compatible with a

similar system of liberty for all"[295]) and (2) social and economic inequalities are

organized so that they benefit the "least advantaged members of society" (Rawls

identifies (2) as the "difference principle")[296], with (1) accorded lexical priority over (2)

insofar as departures from the principle of equal liberty are not justified by appeals to, for

example, "greater social and economic advantages."[297] It is evident, therefore, that the

hypothetical contract situation occupies an important (even central) position in Rawls's

argument.   The legitimacy of the two principles, as is the case in traditional contract

theory, resides in the initial consent given by agents located behind the veil of ignorance.

First of all, then, I want to direct my criticisms of Rawls's *Theory of Justice* towards

aspects of the original position which, against Rawls's intentions, undermine the

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[289] Ibid., 12/11.
[290] Ibid., 136/118.
[291] Ibid., 13/12.
[292] Ibid., 147-48/127-28.
[293] *Political Liberalism*, 104-06.
[294] *Theory of Justice*, 15-15/13.
[295] Ibid., 302/266.
[296] Ibid., 14-15/13.
[297] Ibid., 61/53-54.

possibility of liberal neutrality (or more exactly, problematize Rawls's assertions that his theory is neutral between conceptions of the good).

I have already sketched out the basic components of Rawls' original position above, but it is important to examine the idea more closely in order to highlight aspects of the initial choice situation which are relevant for my argument.   Specifically, I want to re-construct Rawls's arguments concerning the self in the original position and his/her relationship to comprehensive doctrines.   As I noted above, the agents have no knowledge of their particular conception of the good. Rawls assumes that if we knew our conception of the good, our choice of principles in the original position would reflect contingent interests, and Rawls is trying to eliminate, or at least "nullify", the importance of morally arbitrary features (such as race, class, sex, etc.).[298] Each agent does, however, have a "rational plan of life", with the caveat that s/he "does not know the details of this plan, the particular ends and interests it is calculated to promote."[299]   Given the two conditions (i.e. that agents have no knowledge of their conceptions of the good, while exhibiting a "rational plan of life"), an obvious question arises: In the absence of teleological conceptions, how can they select principles of justice (i.e. if I didn't know my conception of he good, why should I opt for Rawls's two principles rather than, say, the average principle of utility)?   Rawls's answer introduces the notion of what he calls "primary goods".

According to Rawls, primary goods are "things that every rational man is presumed to want."[300]   He offers examples of "social primary goods" (such as "rights and liberties, powers and opportunities, income and wealth") and "natural primary goods" (i.e. "health

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[298] Ibid., 136-37/118.
[299] Ibid, 142/ 123.
[300] Ibid., 62/54.

and vigor, intelligence and imagination")[301] (although Rawls insists that self-respect is an important, if not the most important, primary good.)[302] Primary goods are necessary conditions for realizing a given set of ends; without 'intelligence', for example (which I put in scare quotes because Rawls never defines the term) it is difficult to contemplate an end, and in the absence of opportunity it is inconceivable that we could realize the principle(s) in question.[303] Rawls argues that even if the agents in the original position don't know their conception of the good, they are still interested in receiving the maximum number of primary goods via appropriately regulated distributive schemes (thus whether I am a socialist, neoconservative, Rawlsian liberal, religious fundamentalist, etc. I presumably want more of primary good X rather than less).[304]

The subjects are capable, therefore, of rational decision-making; their criteria, however, is the importance of primary goods, rather than 'thicker' comprehensive ideas. In short, the agents exhibit a *thin*, rather than *thick* or full, theory of the good. According to Rawls, "it's [the thin conception's] purpose is to secure the premises about primary goods required to arrive at the principles of justice."[305] Once the initial principles are agreed to for the regulation of social institutions, we are able to utilize the two principles in developing a 'full' theory of the good,[306] which allows us to offer substantive judgments concerning, for example, a person's moral worth.[307]

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[301] Ibid.
[302] Ibid., 440/386.
[303] Ibid., 93/81. Although this section (number 15) was modified in the revised version, the point I reference above is consistently defended in both accounts.
[304] Ibid., 142-43/123.
[305] Ibid., 396/348.
[306] Ibid.
[307] Cf. section 66 (pp. 433-39/380-86).

Bearing in mind Rawls's attitude towards conceptions of the good, and specifically the elimination of thick conceptions of the good in the original position, I will highlight the first difficulty with his argument, a difficulty which relates to the question of exclusion. I will begin by noting a criticism initially formulated by Thomas Nagel, relating to the problem of neutrality. As Nagel emphasizes, Rawls excludes conceptions of the good because they are, like race, sex, class, etc., "morally irrelevant".[308] Yet if a conception reflects the 'good', it is presumably a good which applies to everyone; Nagel writes that the agent "will not be seeking special advantages for himself so long as he does not know who in the society he is. Rather he will be opting for principles that advance the good for everyone" (and Nagel assumes that a conception of good is different from, say, aesthetic preferences).[309] If this is the case, however, it is difficult to see why conceptions of the good reflect morally arbitrary features of the self (which a person's race or sex clearly do). It is inappropriate, for example, to suggest that (1) I deserve more primary goods because I am white, male, etc., but what if (2) I am a socialist who genuinely believes that an equitable distribution of primary goods creates a more just society than a hierarchical, inegalitarian distribution? Surely the two rationales are different (indeed, (1) isn't a rationale at all, or at least not a good one; (2) is clearly different because in promoting my conception of the good I promote a *generalizable, non-particularistic* good—or so I believe). While it is conceivable that a chauvinist white supremacist genuinely believes that distributing more primary goods to 'Aryan' males will benefit society *in toto*, it is difficult for him to defend the position against the counterarguments of rational interlocutors, in the way that

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[308] Cf. Thomas Nagel, "Rawls on Justice" in *Reading Rawls*, ed. Norman Daniels (Oxford: Basil Blackwell, 1975), 7-8.
[309] Ibid., 8.

we could defend (2). A distribution according to (1) would heighten division and resentment in society; a distribution according to (2) would lower it.

In addition, Rawls argues that conceptions of good threaten to subvert the possibility of unanimous agreement, since if the agent knew his/her conception of the good s/he would engage in divisive, self-interested bargaining. In order to avoid interminable conflict, therefore, we eliminate 'particular' conceptions of the good and privilege the idea of 'primary goods', which reflects generalizable interests (i.e. interests that appeal to agents in general, no matter which conceptions of the good they adhere to). The idea of 'primary goods' offers, on Rawls's interpretation, a basis of neutrality, since the necessary conditions for realizing a particular conception of the good are health, safety, liberty, etc. (a neutrality which is unavailable to heterogeneous comprehensive doctrines). Yet Nagel offers a powerful critique of Rawls's neutrality assumption; he writes that

> Any hypothetical choice situation which requires agreement among the parties will have to impose strong restrictions on the grounds of choice, and these restrictions can be justified only in terms of a conception of the good. It is one of those cases in which there is no neutrality to be had, because neutrality needs as much justification as any other position.[310]

Nagel's counterargument extends further, however; on his reading, the original position ends up affirming an "individualistic" conception of the good. He suggests that "Rawls' minimal conception of the good does not amount to a weak assumption…The refusal to rank particular conceptions of the good implies a very marked tolerance for individual inclinations."[311] It privileges ways of life which emphasize individual autonomy rather than solidarity, a conclusion reinforced by Rawls's insistence that the parties are mutually

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[310] Ibid., 9.
[311] Ibid.

disinterested.[312] In short, "[t]he original position seems to presuppose not just a neutral theory of the good, but a liberal, individualistic conception according to which the best that can be wished for someone is the unimpeded pursuit of his own path, provided it does not interfere with the rights of others."[313]

In "Fairness to Goodness", Rawls addresses, at least implicitly, Nagel's charges, specifically focusing on the question of individualistic conceptions in the original position. Is it the case that justice as fairness is biased in favor of atomistic theories of the good, to the detriment of communitarian principles? He offers three arguments against the claim. (1) Since primary goods are necessary conditions for realizing any conception of the good, the agent's desire to acquire primary goods is not a reflection of, for example, bourgeois liberal ideology.[314] As Will Kymlicka notes in defending Rawls against the charge of bias, the actualization of our productive essence in a socialist regimes presupposes health, welfare, etc.; in short, primary goods.[315] (2) After agents have exited from the original position, their level of wealth is calculated in terms of public, as well as private, holdings (i.e. agents exercise control over public, as well as private wealth).[316] (3) While the agent tries to maximize his/her share of primary goods (which once again are necessary conditions for realizing the good), they are not interested in excessive accumulation; indeed, Rawls insists that they are not motivated by envy "and have no concern for their relative place in the distribution of wealth."[317]

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[312] Ibid.

[313] Ibid., 10.

[314] Cf. "Fairness to Goodness" in *Collected Papers*, ed. Samuel Freeman (Cambridge: Harvard UP, 1999), 273.

[315] Will Kymlicka, "Liberal Individualism and Liberal Neutrality," *Ethics* 99 (July 1989): 888.

[316] "Fairness to Goodness", 273.

[317] Ibid. In Section 25 of *A Theory of Justice* Rawls discusses the rationality of agents in the original position. He suggests that the theory of rationality he employs is "the standard one familiar in social

Are Rawls's counterarguments sufficient to answer the criticisms highlighted by Nagel? To my mind, at least, response (1) hits the mark, since primary goods are important in any society. Even an ascetically oriented spiritual community (presumably one of the least susceptible to charges of possessive individualism) requires basic necessities (hence, to once again cite Kymlicka, monks belong to orders that own land and buildings, orders moreover that generally have a constant revenue stream[318]). Privileging a thin theory of the good, then, is not sufficient to vindicate the charge of individualism. Response (2) is, for the sake of our discussion, beside the point; it deals with agents after they've left the original position, and we're focusing on the hypothetical situation itself. Response (3), like (1), is an effective rejoinder, since we expect possessive individualists to maximize personal wealth; they are interested in accumulating primary goods even at the expense of others, which Rawls's agents are not. Indeed, Rawls fails to mention one of the most obvious counterexamples, which is his assumption that the parties are "heads of families, and therefore as having a desire to further the welfare of their nearest descendents."[319] While Rawls insists that the motivational assumption of the agents vis-à-vis concern for others is not benevolence (for a number of complex reasons)[320], it nevertheless represents an important counterexample to the charge of individualistic bias.

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theory", but "[t]he special assumption I make is that a rational individual does not suffer from envy…He is not downcast by the knowledge or perception that others have a larger index of primary goods." (143/124)

[318] Kymlicka, "Liberal Individualism and Liberal Neutrality", 889.

[319] *Theory of Justice*, 128. The revised version is practically indistinguishable, although Rawls modifies the end of the sentence; it reads, "we can assume that they [the parties in the original position] are heads of families and therefore have a desire to further the well-being of at least their more immediate descendents". (111) I have to confess that I'm unsure what this change adds to (or subtracts from) the essential import of the sentence.

[320] Ibid., 148-49/128-29.

There is, however, a deeper and more powerful critique hinted at in Nagel's argument, namely the idea that Rawls's pursuit of neutrality is chimerical. We can separate the most damaging aspects of Nagel's argument from the objections concerning Rawls's hyper-individualism; even if the attacks on Rawls's 'atomistic' view of the self ultimately misfire, Nagel is still correct to insist that "neutrality needs as much justification as any other position."[321] In other words, the privileging of neutrality is not, in itself, a neutral decision; it presupposes, for example, the moral value of tolerance (specifically, the toleration of different conceptions of the good). Yet toleration is a limited, rather than absolute, good (or if it is an absolute good, it is not evident); intolerant comprehensive doctrines, for example, are incompatible with a 'neutral', tolerant regime. If it is the case that an intolerant conception threatens the survival of a liberal, pluralistic regime, the imperative of self-preservation becomes, presumably, a greater good than the value of tolerance, given the context of existential crisis (since tolerance is destroyed if the regime ceases to exist and is replaced with an intolerant society). In short, the state is forced to defend itself, to adopt a non-neutral stance towards its opponent.

Charles Taylor highlights the difficulty with insisting on a "thin theory of the good" (as Rawls does); echoing Nagel, he recognizes that if we articulate the presuppositions of Rawls's 'thin' theory, we discover an implicit reliance on 'thick' conceptions of the good: "as he himself [Rawls] agrees, we recognize that these are indeed accepted principles of justice because they fit in with our intuitions."[322] (I presume that Taylor is referring to Rawls's notion of 'reflective equilibrium', the idea that the principles of

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[321] Op. cit.
[322] Cf. Charles Taylor, *Sources of the Self: The Making of the Modern Identity* (Cambridge: Harvard UP, 1989), 89.

justice chosen should, to quote Rawls, "match our considered convictions of justice or extend them in a suitable way".[323]) Taylor continues:

> If we were to articulate what underlies these intuitions we would start spelling out a very 'thick' conception of the good…We don't actually spell it out [i.e. in the original position], but we have to draw on the sense of the good that we have here in order to decide what are adequate principles of justice. The theory of justice turns out to be a theory which keeps its most basic insights inarticulate.[324]

While Taylor does not mention specific features of the 'thick' good concealed beneath Rawls's privileging of a 'thin' theory, it is not difficult to guess which 'thick' characteristics he has in mind: principles such as rationality, tolerance, equality and liberty, ideas which are, to greater or lesser degrees, non-neutral. Indeed, the deontological project which animates Rawls's argument is highly controversial within moral theory (think, for example, of the critical responses by utilitarians,[325] virtue ethicists,[326] and feminists[327] to important aspects of deontological, or deontologically inspired, moral discourse). While controversy is not, in and of itself, sufficient to undermine the presumption of neutrality, it provides strong evidence that the theory in question is incapable of offering a neutral basis of adjudication between conflicting views (since its validity as a fair arbitrator is one of the contested issues). In any case, Taylor's point clarifies Nagel's argument concerning the difficulty of neutrality; specifically, it helps us to see the obstacles encountered by any attempt to construct a 'neutral' approach to the initial contract scenario. William A. Galston has offered similar comments, and decides that contemporary liberalism presupposes a substantive theory of the good

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[323] *Theory of Justice*, 19/17.
[324] *Sources of the Self*, 89.
[325] Especially Mill's famous attack on Kant in the first section of *Utilitarianism*.
[326] Cf. Alasdair MacIntyre, *After Virtue* (Notre Dame: Notre Dame UP, 1981), esp. 244-55.
[327] See Carol Gilligan, *In a Different Voice* (Cambridge: Harvard UP, 1982), particularly her criticisms of Kohlberg (pp. 18-23).

(despite its protests) which he calls 'rational humanism', a theory of the good which privileges reason and human purposiveness.[328]

Interestingly enough, Rawls concedes the point in "Fairness to Goodness". He admits that the original position "is certainly not neutral in the sense that its descriptions use no moral concepts"[329] (it privileges ideas such as generality, publicity, finality, etc.).[330] A critical shift in Rawls's interpretation, however, is that he understands the veil of ignorance, or more specifically the constraints placed on agents behind the veil of ignorance, as a non-neutral device.[331] Likewise, the original position does not permit equality between conceptions of the good, since the principles of justice favor adopting certain comprehensive doctrines rather than others.[332] Rawls, in effect, is forced to recognize the difficulty of maintaining neutrality, a difficulty which complicates the liberal project in important ways. Indeed, neutrality is a historical cornerstone of liberalism, but if it necessarily selects particular conceptions of good, or more exactly, if the initial contract situation which legitimizes the liberal state privileges (implicitly or explicitly) a comprehensive doctrine (or doctrines), its claim to impartiality is questionable, at best.

Communitarianism, Liberalism and Agency

While I will return to the problem of value-neutrality and comprehensive doctrines in my discussion of *Political Liberalism*, I would like to shift the focus of my argument in order

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[328] William A. Galston, *Liberal Purposes* (Cambridge: Cambridge UP, 1991), 92.
[329] "Fairness to Goodness", 270.
[330] Ibid.
[331] Ibid.
[332] Ibid. Rawls notes that "the original position as a whole is not neutral between conceptions of the good in the sense that the principles of justice adopted permit them all equally. Any definite agreement is bound to favor some conceptions over others."

to highlight a second difficulty with Rawls's argument, this time concerning forms of exclusion which operate vis-à-vis political agents in the original position. Earlier I had sketched out the basic characteristics attributed to subjects in the original position: the agents lack information concerning their social status, natural endowments, conception of the good, psychology, level of economic/political development obtained in their society and which generation they belong to.[333]   They are, on the other hand, mutually disinterested and rational (defined as following "the plan which will satisfy more of his desires rather than less, and which has the greater chance of being successfully executed"[334]), aware of "the circumstances of justice" (which Rawls discusses in section twenty-two; they include "objective circumstances" such as scarcity and competition as well as "subjective circumstances" relating to the parties' diverse interests, which in turn reflects heterogeneous conceptions of the good[335]) and "general facts about human society" (as candidates Rawls mentions "the principles of economic theory" in addition to "the basis of social organization and the laws of human psychology").[336]

The picture which emerges is, in short, of a disembodied agent. As I had mentioned earlier in the chapter, both Nozick and Sandel wonder if there is any coherent subject left after his/her 'contingent' features are eliminated. While Rawls admits the difficulties of envisioning subjects in the original position, he emphasizes that it is a purely hypothetical notion, and that we are capable of entering, or simulating, the conditions of the initial contract scenario by reasoning in accordance with its

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[333] *Theory of Justice*, 137/118.
[334] Ibid., 143/124.
[335] Ibid., 126-30/109-12.
[336] Ibid., 137/119.

constraints.[337]   There are important questions concerning the status of a hypothetical contract; here, however, I am more interested in examining criticisms which thematize the importance of Rawls's deontological assumptions vis-à-vis agents in the original position.

I have already highlighted Nagel's objection to at least one aspect of Rawls's thought experiment concerning the self (i.e. the objection that conceptions of the good have a different moral status than, say, racial or gender traits). The most influential critique of Rawls's picture of the subject, however, is Michael Sandel's *Liberalism and the Limits of Justice*[338] (and its companion piece, "The Procedural Republic and the Unencumbered Self"[339]). Sandel's essays develop the communitarian argument that Rawls's Kantian vision of the subject fails to recognize the importance of shared moral frameworks, specifically the moral frameworks of communities, as a constitutive foundation of our identity. Sandel notes that Rawls's liberalism, which is heavily indebted (by the latter's own admission) to Kant's moral and political theory,[340] prioritizes the right over the good.[341] According to Sandel, the priority of right entails two things: first, that individual rights are not subsumable under, or secondary to, the general good and, secondly, that rights are not indexed to a particular conception of the good.[342]   Our previous discussions in this chapter have already emphasized the

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[337] *Theory of Justice*, 138/119.

[338] Op. cit. For a good introduction to the keys issues in the debate between Sandel and Rawls in particular, and communitarians and liberals generally, see Stephen Mulhall and Adam Swift's *Liberals and Communitarians* (Cambridge: Blackwell, 1992).

[339] "The Procedural Republic and the Unencumbered Self" in *Political Theory* 12 (February 1984): 81-96.

[340] In *A Theory of Justice*, for example, he notes that "[t]he original position may be viewed…as a procedural interpretation of Kant's conception of autonomy and the categorical imperative." (256/226)

[341] Cf. *Liberalism and the Limits of Justice*, 1-7 and "The Procedural Republic and the Unencumbered Self", 82.

[342] "The Procedural Republic", 82.

difficulties Rawls faces in terms of the second entailment, but as Sandel correctly notes liberalism assumes that "[s]ociety is best arranged when it is governed by principles that do not presuppose any particular conception of the good, for any other arrangement would fail to respect persons as being capable of choice; it would treat them as objects rather than subjects, as means rather than ends in themselves."[343]

Sandel argues that Rawlsian liberalism presupposes a theory of agency which he calls the "unencumbered self." It is a self "understood as prior to and independent of ends and purposes"[344] (indeed, Sandel cites a passage from Rawls which—almost verbatim—confirms his reading; Rawls notes that "the self is prior to the ends which are affirmed by it"[345]). Sandel interprets Rawls as arguing that we should prioritize the subject's capacity to choose ends/purposes, rather than emphasizing the ends we choose.[346] In other words, Rawls valorizes the freedom of the agent rather than his or her attachment to constitutive ends; the right, therefore, (here understood as the agent's liberty to reject certain conceptions of good and affirm others) is prior to the good.

Drawing on his reconstruction of the assumptions behind Rawls's theory of agency in the original position, Sandel reiterates the charge that Rawls's argument is biased against communitarian frameworks; he notes that "[o]n Rawls' view, a sense of community describes a possible aim of antecedently individuated selves, not an

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[343] Ibid., 85.
[344] Ibid., 86.
[345] *Theory of Justice*, 560/491; cited in *Liberalism and the Limits of Justice*, 54. The entire passage is important; it reads as follows: "We should not attempt to give form to our life by first looking to the good independently defined. It is not our aims that primarily reveal our nature but rather the principles that we would acknowledge to govern the background conditions under which these aims are to be formed and the manner in which they are to be pursued. For the self is prior to the ends which are affirmed by it; even a dominant end must be chosen from among numerous possibilities. There is no way to get beyond deliberative rationality. We should therefore reverse the relation between the right and the good proposed by teleological doctrines and view the right as prior."
[346] "The Procedural Republic", 86.

ingredient or constituent of their identity as such. This guarantees its subordinate status."[347] A communitarian project, therefore, "find its virtue as one contender among others within the framework defined by justice, not as a rival account of the framework itself."[348] I won't recite Rawls's objections to this argument, which I mentioned earlier in the chapter. Indeed, I think he has successfully addressed the charge of individualistic bias. There is, however, another difficulty which Sandel's criticisms highlight, and it relates to the coherence of Rawls's theory of the self vis-à-vis the principles s/he would select in the original position. Given that the subject in the original position does not know his/her conception of the good, it is unclear why s/he would choose the second principle of justice, or why s/he would exhibit any concern with intergenerational justice. In other words, the problem is not individualistic bias; it is a more fundamental difficulty, namely the question of whether or not Rawls's argument is coherent if the selves are detached from a constitutive framework. My concern here overlaps with elements of Taylor's argument, presented earlier in the chapter: if it is the case that we lack a thick conception of the good, why would we value X rather than Y? And how could we understand commitments to others within our generation, much less future members of the community? In order to flesh out my objections, I want to look at one more piece of Sandel's discussion, this time turning to his questions concerning Rawls's second principle of justice, the so-called "difference principle".

As I had mentioned in the reconstruction of Rawls's original position, the agents would choose two principles of justice in the original position. The first principle guarantees equal liberty, while the second principle states that "[s]ocial and economic

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[347] *Liberalism and the Limits of Justice*, 64.
[348] Ibid.

inequalities are to be arranged so that they are both: (a) to the greatest benefit of the least advantaged, consistent with the just savings principle, and (b) attached to offices and positions open to all under conditions of fair equality of opportunity."[349] I want to leave aside the more abstract points of consideration (i.e. what does Rawls mean by the just savings principle, or what is 'fair equality of opportunity') in order to emphasize the criteria of distribution implied by the difference principle (specifically, then, the (a) section of Rawls's formulation.) The basic idea is that we only permit inequalities (arising, say, from natural and social contingencies) to the extent that they improve the situation of the "least advantaged" members of society. Rawls defines the term "least advantaged" ambiguously; it could either include a reference to membership in a given social class (the candidate he offers is "the unskilled worker"),[350] while a second possibility is to understand it in terms of relative income and wealth, "with no reference to social position" (although it is difficult to see how a person's "relative income and wealth" would *not* have implications for his/her "social position").[351] There is, of course, an inevitable arbitrariness to any criteria we choose (as Rawls himself admits[352]), but it is clearly necessary to define the term, if only approximately.

Rawls argues that it is morally capricious to allow either social or natural contingencies to operate as distributive mechanisms; it is unfair, for example, when child A is able to maximize his/her natural talents because s/he was born into an affluent household where his/her parents are able to afford the tuition at an exclusive private school, while child B is forced to attend an inadequately funded public school with

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[349] *Theory of Justice*, 302/266.
[350] Ibid., 98/84.
[351] Ibid.
[352] Ibid.

underpaid teachers, dated textbooks, etc. It is also, however, inappropriate for persons to

benefit from what Rawls dubs "the natural lottery" (i.e. the talents I happen to acquire

genetically).[353] Since our natural advantages are the consequence of fortune rather than

merit Rawls argues that we should view them as "common assets", and the difference

principle codifies this perspective by requiring that any inequalities which result from

natural differences are organized so that they benefit the "least well off"; he writes that

the two principles (and the difference principle specifically) represent "an undertaking to

regard the distribution of natural abilities in some respects as a collective asset so that the

more fortunate are to benefit only in ways that help those who have lost out."[354] Indeed,

the difference principle, or a principle similar to it, would follow from the idea that "in

justice as fairness men agree to share one another's fate"[355] (although this sentence is

reformulated in the revised edition, where it reads "[i]n justice as fairness men agree to

avail themselves of the accidents of nature and circumstance only when doing so is for

the common benefit"[356]).

In any case, whether we refer to a shared fate or "the common benefit", there are

critical problems with Rawls's argument. As both Nozick and Sandel ask, is there any

coherent idea of the subject left after we have stripped away its talents, aptitudes and

abilities?[357] Even assuming there is, however, we encounter another difficulty with

Rawls's move from the assertion that we don't have a right to benefit from our attributes,

because they are contingent features of the self, to the stronger claim that my talents are

"collective assets". As Sandel notes, it is one thing to say that I don't have a "privileged

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[353] Ibid., 73-74/63-64.
[354] Ibid., 179/156; cited in *Liberalism and the Limits of Justice*, 77.
[355] Ibid., 102.
[356] Ibid., revised edition, 88.
[357] Op. cit.

claim" on my assets; it is altogether different to say that my talents are therefore commonly shared (or at least, ought to be commonly shared).[358] In short, it appears to represent an unwarranted inference. Sandel clearly articulates the dilemma in the following passage:

> What the difference principle requires, but cannot provide, is some way of identifying those *among* whom the assets I bear are properly regarded as common, some way of seeing ourselves as mutually indebted and morally engaged to begin with. But as we have seen, the constitutive attachments that would save and situate the difference principle are precisely the ones denied to the liberal self; the moral encumbrances and antecedent obligations they imply would undercut the priority of right.[359]

In other words, it is difficult reconstruct the logic of the agents' choices in the original position without attributing to them a *conception of the good*, a substantive end, which allows us to move from premise (1) (that I don't have a privileged claim on my talents) to premise (2) (that they are therefore collective assets, and other agents have a valid claim to them). If we have a 'thick' conception of the good which emphasizes the importance of sharing, fair distribution, and commitment to others, the transition is plausible (or at least looks more plausible); indeed, if we had a thick conception of the good which promoted solidarity with fellow members of our society, we could understand the way(s) in which our talents were not privileged but were, in fact, 'collective assets', assets which should be used to benefit others. Yet Rawls explicitly states that the agents lack a conception of the good (or more specifically, a thick conception of the good); the agents are interested in accumulating primary goods for themselves and their descendents. While the Rawlsian proviso concerning our intergenerational commitment (recall that Rawls describes the agents as "heads of families" who also take the interests of their

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[358] "The Procedural Republic", 89.
[359] "The Procedural Republic", 90.

descendents into account) appears to provide a sense of the agents' commitment to others, it is a narrowly tailored sense of obligation (i.e. an obligation to my immediate family) which hardly provides the framework for understanding the generalized sense of solidarity presupposed by the difference principle.

As Steven Hendley has noted, however, it is incorrect to assume that Sandel rejects the difference principle, given his criticisms of Rawls's argument; instead, it is more plausible to believe that he is trying to demonstrate that we can't defend Rawls's conclusion unless a missing premise is supplied, namely the premise of a communitarian ethos (or at least a conception of the good which highlights our connectedness to others).[360] Indeed, we can recognize an overlap with Taylor's/Nagel's idea concerning the difficulty of neutrality; as I noted earlier in the chapter, they argue that Rawls tacitly assumes a thick conception of the good. Sandel also demonstrates, however, that in order to make sense of the agent's commitment to others in the original position (specifically, in terms of the difference principle), Rawls once again imports a hidden assumption into the discussion, namely the implicit presupposition of a thicker, more extensive conception of the good than the veil of ignorance allows.

Is it possible that we could understand the broader commitments while staying within the parameters of a thin conception of the good? If that's true, then Sandel's argument collapses; the insistence that we need a thick conception of the good is no longer valid, because we can move from the premise that our talents are unowned to the argument that they are collective assets without difficulty (or at least, without the difficulties we have indicated). While Rawls does provide arguments for the difference

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[360] Cf. Steven Hendley, *From Communicative Action to the Face of the Other: Levinas and Habermas on Language, Obligation and Community* (Lanham, MD: Lexington Books, 2000), 104-05.

principle itself, he doesn't (to my knowledge) offer any justification of the shift from lack of privileged claims on assets to generalized claims. As Hendley writes, "[t]o get to the difference principle I need also to believe that other people are entitled to have an equal say in the development of my assets and the distribution of what I have been able to make of them, that they are 'common assets' in that sense."[361] Indeed, if the criticisms of Nagel, Taylor and Sandel are on target, it is difficult (if not impossible) for Rawls to coherently argue that the agents would choose the difference principle in the absence of a thick conception of the good.

Assuming, therefore, that Sandel's objection is valid, we are confronted with two possibilities: either (1) Rawls abandons the idea that the agents' choice of the difference principle is comprehensible given the limitations of a thin theory (for exactly the reasons articulated by Sandel) or (2) he retains the difference principle, but he recognizes that we need a thick theory of the good in order to understand why the agents consent to a principle of redistribution which is intended to benefit the least advantaged. On my reading, Rawls implicitly endorses (2) (although he never, to my knowledge, offers an explicit endorsement of (2)). There is more than one example which demonstrates Rawls's implicit reliance on a thick(er) conception of the good than his premises allow, but I will limit myself to briefly highlighting the arguments Rawls offers in favor of the two principles. If we can demonstrate that Rawls admits (2), albeit indirectly, into the justificatory premises of his theory, we will show that, at least within the parameters of his own arguments, he presupposes 'thick' assumptions of the good. This saves him from

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[361] Ibid., 105.

the charge of incoherence, but it forces him to lift the prohibition on substantive conceptions of the good in the original position.

According to Rawls, there are at least three reasons why the agents would choose the two principles (I will label them as R1, 2 and 3). According to (R1) the agents "have a capacity for justice", which entails that they trust other agents will honor the contractual agreement. But if others honor the agreement, then so should I. Therefore, the agent won't select principles unless s/he believes that s/he is able to comply with the arrangement(s).[362] As for (R2), it postulates that everyone's conception of the good is respected in a society governed by the two principles, and given its tolerance for differing frameworks the regime is self-sustaining.[363] Finally, (R3) states that "the public recognition of the two principles gives greater support to men's self-respect and this in turn increases the effectiveness of social cooperation."[364]

Bracketing the question as to whether or not Rawls offers compelling arguments in favor of the two principles (or more precisely, the selection of the two principles), there are two elements of Rawls's defense which presuppose agents with a thick conception of the good. The first is the "sense of justice", invoked by Rawls in argument (R1). He defines it as "an effective desire to comply with existing rules and to give one another that to which they are entitled."[365] There are two components of the agent's 'sense of justice' which imply a thick conception of the good; he argues that the subjects have "an effective desire to" (a) comply with existing rules and (b) distribute goods fairly. In

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[362] *Theory of Justice*, 175-76/153.
[363] Ibid., 177/154-55.
[364] Ibid., 178-79/155-56.
[365] Ibid., 312/274-75.

either case, it is difficult to account for 'sense of justice' within the constraints imposed by a thin theory of good.

Recall that a thin theory limits the scope of the agent's motivation to accumulating primary goods, understood in either social (i.e. "rights and liberties, powers and opportunities, income and wealth"[366], with self-respect representing an important, if not the most important, example[367]) or natural (i.e. "health and vigor, intelligence and imagination")[368] terms. Yet it is hard to extract either a desire to comply with rules, or a theory of just deserts/entitlements, from the minimalist criteria of accumulating primary goods. Even if we argue that generally honoring agreements works to the advantage of agents by securing the conditions in which they can accumulate more, rather than fewer, primary goods (so that if everyone complied with the terms of our agreement society would be more stable, therefore allowing greater prosperity), establishing prudential grounds for fidelity, it is difficult to characterize prudential compliance as an 'effective desire'. Indeed, 'effective desire' implies a stronger *identification* with the terms of agreement, the kind of commitment which is only decipherable given the agent's belonging to a community that s/he feels integrally linked to.   Likewise, there are self-interested reasons for desiring the establishment of a fair system of entitlement distribution, but self-interested reasons will not convince us to select the difference principle (why not, for example, opt for a meritocracy? It is true that I'm unsure whether or not I will benefit from a meritocracy—because I'm situated behind the veil of ignorance—but why not take the risk if there is the possibility of accumulating a larger share of primary goods than I would receive under the difference principle?).

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[366] Ibid., 62/54.
[367] Ibid., 440/386.
[368] Ibid., 62/54.

But I had indicated that Rawls's arguments presuppose a thick conception of the good in another way besides its emphasis on "a sense of justice"; it also relies on the concept of "self-respect" (I am thinking especially of R3, which asserts that the subjects would choose the two principles because they "give greater support to men's self-respect"). His definition of "self-respect" (or "self-esteem"; he uses the terms interchangeably) contains two aspects: (1) "it includes a person's sense of his own value, his secure conviction that his conception of the good, his plan of life, is worth carrying out"[369] and (2) it "implies a confidence in one's own ability, so far as it is within one's power, to fulfill one's intentions."[370] While Rawls lists "self-esteem" as a primary good (and recall that, according to the parameters of a thin theory of the good, the agents try to maximize the number of primary goods they acquire—therefore, they opt for principles which guarantee their self-respect), it is difficult to understand how the subjects articulate, or even develop, a concept of "self-respect" without the framework of a thick conception of the good, or at least a sense of identity (which normally presupposes a thick conception of the good). Indeed, to say that a person has "self-respect" is to recognize that s/he strongly affirms his/her sense of identity. While an agent's understanding of his/her identity is articulated in different and complex ways, the point of my argument is straightforward: however the self's identity is composed and/or interpreted, it is clear that "self-respect" presupposes an identity, which in turn is formed, at least in part, through the affirmation of a 'thick conception of the good'. Even the rebelling individualist's challenge to community standards implicitly presupposes a thick conception of the good; the challenge will either emerge because (to cite only two

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[369] Ibid., 440/386.
[370] Ibid.

possibilities) (1) the community has violated its own moral traditions (for example, when a conscientious objector in Western society invokes Augustinian just-war theory as a justification for his/her refusal to participate in the community's military conflict) or (2) the member of a minority community with a conception of the good which differs substantially from the society s/he lives in feels marginalized or isolated, and invokes his/her thick conception as a challenge to the thick conception of the larger society. To say that the agent chooses the two principles because they support his/her sense of self-esteem, therefore, already presupposes a thick conception of the good; otherwise, how could s/he value self-respect? Or more precisely, if "self-respect" means, at least in part, possessing a "sense of [our own] value", how can we articulate self-worth, or even understand why the self has value, in the absence of a thick conception of the good?

In short, then, Sandel's position vis-à-vis the inescapability of substantive frameworks is correct; we can only appreciate why an agent desires justice or self-respect, or why s/he would choose the two principles (and specifically the difference principle), if we abandon the limitations imposed by a thin theory of the good and recognize that Rawls implicitly presupposes a thick theory of the good. The price of not accepting this conclusion is borderline incoherence. A self which was cut off from its constitutive foundations would have difficulty recognizing the importance of justice or self-respect, thereby undermining the basic assumptions of Rawls's argument. Up to this point, therefore, I agree with the standard communitarian challenges to Rawls's picture of agency (or more specifically, the challenge that we can't account for the agent's commitments without presupposing substantive frameworks). Now, however, I want to

add a Nietzschean twist to the argument which highlights difficulties with both the liberal and communitarian pictures of the self.

Excurses on Nietzsche: Towards a Genealogy of the Political Agent

Communitarians emphasize the importance of tradition and history in the formation of moral/political agents. Yet they adopt an excessively deferential attitude towards the values of society. By focusing on the homogeneity of community traditions/standards, they fail to recognize the presence of antagonism, exclusion and hierarchy as constitutive factors of identity. While liberalism overlooks the inescapability of moral frameworks, therefore, communitarianism fails to acknowledge the violence of culture. In this section, I will highlight Nietzsche's genealogy of the political subject, which complicates both the liberal and communitarian views of the self. Against the liberal view of agency, Nietzsche carries out a genealogy in order to reveal the origins of the capacity for 'governance', which is located in processes of habituation and discipline, but in opposition to the communitarian picture of selfhood he emphasizes the brutality and cruelty of 'moral instruction'.

The key, or at least one of the keys, to Nietzsche's discussion is the concept of 'breeding' (*heranzuzüchten*). In *The Genealogy of Morals*, Nietzsche contrasts the faculties of forgetting and memory. On the one hand, humans rely on forgetting, indeed active forgetting, in order to experience the present;[371] on the other, there is a "counter-

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[371] Cf. *Zur Genealogie der Moral* in *Nietzsche Werke: Kritische Gesamtausgabe* (hereafter *KGe*), Abt. 6, Bd. 2, eds. Giorgio Colli and Mazzino Montinari (Berlin: Walter de Gruyter and Co., 1968), translated as *On the Genealogy of Morality*, ed. Keith Ansell-Pearson and trans. Carol Diethe (Cambridge: Cambridge UP, 1994). While there are several English translations available, Nietzsche's work always contains chapter and section divisions; therefore, in order to facilitate easier cross-referencing, both vis-à-vis the

device, memory, with the help of which forgetfulness can be suspended in certain cases—namely, when a promise is made."[372]   'Memory' isn't a passive phenomenon; rather, it is an "active *desire* not to rid oneself" [373] (in the case of a promise, for example, the intention to fulfill the terms of X's original agreement, or as Deleuze writes vis-à-vis Nietzsche's argument, "[r]emembering the promise that has been made is not recalling that it was made at a particular past moment, but that one must hold it at a future moment"[374]). Likewise, remembrance assists, at least indirectly, the redemption of speech acts ("I promise that…"); without memory, there is no bridge to the past—our connection is destroyed by the flux of time.[375]   In addition, the utterance of a promise assumes the ability to calculate, to control our environment (leaving aside the possibility of intentional deception for purposes of self-enrichment, why would I make a promise unless I assumed I could fulfill its conditions?); "and before he can do this, man himself will really have to become *reliable, regular, automatic* [*notwendig*]…so that he, as someone making a promise is, is answerable for his own future!"[376]   Indeed, "the particular task of breeding an animal which has the right to make a promise includes, as we have already understood, as precondition and preparation, the more immediate task of first *making* man to a certain degree undeviating [*notwendig*], uniform, a peer amongst peers, orderly and consequently predictable."[377]

German text as well as alternate translations. I will provide the chapter (in Roman numerals) and section numbers. Here I am citing II, 1.

[372] Ibid.
[373] Ibid.
[374] See Gilles Deleuze's *Nietzsche and Philosophy*, trans. Hugh Tomlinson (New York: Columbia UP, 1983), 134.
[375] Ibid.
[376] Ibid.
[377] Ibid., I, 2.

But how did we become 'orderly'? Here Nietzsche refers to *Daybreak* (published six years earlier, in 1881), where he described the "morality of custom" as obedience to traditional principles; historically, morality was represented by conventional understandings which regulated social behavior.[378] We learn moral laws from the community, and by following normative commands, we become 'regular' and 'calculable'.[379] Morality is oriented towards the stability and preservation of the community;[380] it reflects a system of ordering which expresses the needs or priorities of what Nietzsche calls the "herd" (*Heerde*).[381] Nietzsche argues that 'individualism' was viewed as a challenge to tradition and the collective 'herd' morality of society; 'evil' was synonymous with freedom, capriciousness, the uncanny; in short, the "incalculable"[382]. Indeed, before we could attribute 'responsibility' to humans, it was necessary to 'breed' a docile subject (to use Foucault's term), a moral/political agent who was obedient to the law (and therefore 'predictable').[383] The process of 'breeding', however, was tortuous; Nietzsche characterizes it as a "technique of mnemonics."[384] A law is remembered more effectively if the mark of its transgression is seared into the flesh; accordingly, "[w]hen man decided he had to make a memory for himself, it never happened without blood, torments and sacrifices"[385] (i.e. killing the firstborn, castration, public executions, etc.) He continues, noting that "[w]ith the aid of such images and procedures, man was

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[378] Cf. *Morgenröthe* in *KGe* Abt. 5, Bd. 1; trans. as *Daybreak: Thoughts on the Prejudices of Morality* by R.J. Hollingdale, eds. Maudemarie Clarke and Brian Leiter (Cambridge: Cambridge UP, 1997), I, 9.

[379] *Genealogy*, II, 2.

[380] Cf. *Jenseits von Gut und Böse* in *KGe,* Abt. 6, Bd. 2; trans. as *Beyond Good and Evil* by Marion Faber (Oxford: Oxford UP, 1998), V, 201.

[381] In *Die fröhliche Wissenschaft*, in *KGe*, Abt. 5, Bd. 2; trans. as *The Gay Science* by Josefine Nauckhoff and Adrian del Caro, ed. Bernard Williams (Cambridge: Cambridge UP, 2001), III, 116.

[382] *Daybreak*, I, 9.

[383] *Genealogy*, II, 2.

[384] Ibid., II, 3.

[385] Ibid.

eventually able to retain five or six 'I don't want to's' in his memory, in connection with which a *promise* has been made, in order to enjoy the advantages of society".[386] He tries, in short, to summarize the historical process of becoming 'moral' in a concise formula: "*all* the means by which humanity was meant to have been made moral so far were fundamentally *immoral*."[387]

The community, therefore, encourages the formation of 'docile bodies', obedient subjects who are 'orderly' and 'predictable'; they are capable, in short, of making (and keeping) their promises. Yet what is produced at the end of the lengthy historical disciplinary process? Is it only a servile agent who yields to the demands of moral law, demands which are couched in the language of beneficence, virtue or categorical imperatives but are actually strategies for communal self-preservation? Nietzsche answers the question in the following passage:

> The immense amount of labour involved in what I have called the 'morality of custom', the actual labour of man on himself during the longest epoch of the human race, his whole labour *before history*, is explained and justified on a grand scale, in spite of the hardness, tyranny, stupidity and idiocy it also contained, by this fact: with the help of the morality of custom and the social straitjacket, man was *made* truly predictable. Let us place ourselves, on the other hand, at the end of this immense process where the tree actually bears fruit, where society and its morality of custom finally reveal what they were simply *the means to*: we then find the *sovereign individual* as the ripest fruit on its tree, like only to itself, having freed itself from custom, an autonomous, supra-ethical individual.[388]

In other words, through agonizing rituals of punishment and torture, the "the morality of custom" (which Nietzsche characterizes as 'tyranny' [*Tyrannei*], 'stupidity' [*Stumpfsinn*] and 'idiocy' [*Idiotismus*]), conditions the subject to obey the law. The self therefore becomes 'orderly' and 'predictable' insofar as s/he will consistently recognize, and

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[386] Ibid.

[387] Cf. *Götzen-Dämmerung, KGe,* Abt. 6, Bd. 3; trans. as *Twilight of the Idols* by Duncan Large (Oxford: Oxford UP), VII, 5.

[388] *Genealogy of Morality*, II, 2.

comply with, moral/legal prohibitions.   But Nietzsche adds an unexpected twist to the argument: the agent who emerges at the end of the historical process is liberated from custom; s/he has become an "autonomous, supra-ethical individual".   Thus, the morality of tradition leads to its own renunciation. As Keith Ansell-Pearson writes, "the process by which man's existence becomes moralized is one in which, in its beginnings, operates by coercion and violence; but once the human animal has become disciplined it is, at least potentially, capable of living beyond morality (*Sittlichkeit*) and autonomously."[389]

In moral/political theory, there is generally a failure to understand the complex ways in which 'freedom' is related to disciplinary strategies, or is a residue of historical circumstances; there is no recognition of the dense networks of power which condition the behavior of citizens, which transform them into 'regular' or 'calculable' agents who will honor the contract (and who know, furthermore, that the other agents will also honor their agreement, because they too are 'calculable'). If Nietzsche's analysis is correct, however, then the liberal, as well as the communitarian, pictures of the self demand revision.   Nietzsche's genealogy of the political agent highlights the fact that the 'autonomous' subject who is capable of entering into (and honoring) contracts (i.e. the 'free' subject, responsible for his/her destiny) is him or herself the product of a lengthy historical process, a process in which the subject becomes predictable, calculable, regular and at the same time 'autonomous'. As Keith Ansell-Pearson has emphasized, Nietzsche highlights the communitarian point that rational and 'free' political agents emerge from a history, from a process of socialization, while at the same time recognizing that the self's identification with (or at least sharing of) the community's ethos reflects a contingent

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[389] Cf. Keith Ansell-Pearson's *An Introduction to Nietzsche as Political Thinker* (Cambridge: Cambridge UP, 1999), 135.

membership[390], a classic liberal insight; in addition, he shares the liberal desire for escaping from parochial norms that are imposed on the subject by custom and tradition.[391]   Indeed, Nietzsche's suspicion vis-à-vis the constraints of provincialism (notice the way that he describes the 'morality of custom', and more specifically the 'labor' it carries out in the name of creating a 'predictable' subject: it is 'tyranny' [*Tyrannei*], 'stupidity' [*Stumpfsinn*] and 'idiocy' [*Idiotismus*]) exhibits traces of liberal modernity's distrust towards communitarian frameworks; he valorizes the 'autonomous' subject who towers over his/her future at the end of custom's 'civilizing' process, yet he executes a genealogical investigation which, once again, reveals the disciplinary origins of liberal freedom, the ignonimous birth of agents who are able to keep their promises.

Thus, in order to understand, or at least characterize, the subject behind the veil of ignorance, the person who is willing to enter into, and honor, his or her contracts, it is necessary to return to the violent history of political animals, a history which is shrouded in forgetfulness (or more precisely, oblivion) behind the veil of ignorance. It is a narrative of 'tyranny' and 'stupidity', but an important, indeed unavoidable, history for liberal political theory, which prioritizes freedom as the telos of social organization. Liberalism must confront its subject's genealogy; it must confront the ambiguity of the contract's stability, a stability which is located, at least in part, in the rituals of obedience and memory which contributed, paradoxically enough, towards freedom. Once again, therefore, we see the mutually reinforcing architectonic in which the macro-body of society is supported and stabilized by micro-bodies who 'legitimize' it through the social

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[390] Here I define 'contingent membership' as the idea that we could have belonged to a different moral community. It does not follow, however, that we can arbitrarily renounce our substantive framework.
[391] Cf. Keith Ansell-Pearson, "Nietzsche on Autonomy and Morality: the Challenge to Political Theory", *Political Studies* 39 (1991): 273.

contract, but this legitimation conceals the intervention of disciplinary mechanisms which produce subjects who are capable of exercising the kinds of self-regulation necessary for becoming 'autonomous' and 'free'. If Nietzsche is right, then, we can offer a different account of why the original position marginalizes embodiment: the body carries traces of history, and the genealogy of 'autonomous' subjects, as I tried to indicate above, reveals the violence and coercion which marks the political agent; the veil of ignorance obscures a narrative of disciplinary power which is hidden behind its abstraction. On this interpretation, the original position actually represses, or is simply oblivious to, the memory of liberalism's foundations; in either case, a genealogical approach forces us to critically examine Rawls's account, since it reminds us that the subjects who arrive at a consensus based on 'non-coercive' deliberation are, in actually, intertwined with an elaborate history of force and power. Likewise, the by now familiar problems with social contract theories re-emerge: while they pretend to inclusivity, they actually exclude certain conceptions of the good (in Rawls's case, we exclude theories which are incompatible with principles of tolerance, pluralism, etc.) and they emphasize freedom while remaining oblivious to the complicated genealogy of political agents.

If the Nietzschean analysis I am proposing is correct, however, it intersects with other critical perspectives, especially Iris Marion Young's argument that the original position marginalizes what she calls "the particularity of bodily being."[392] The veil of ignorance effaces the desires and passions of a concretely situated agent; in describing persons as hyper-rational subjects who try to maximize the number of goods distributed to the parties they represent via a bargaining process, they "are not moved by

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[392] Young, 100.

affection."[393] In other words, they are disembodied, spectral entities, cut off from their

constitutive histories and the emotional bonds and desires which characterize human

sociality. Rawls defends the limitations imposed by the veil of ignorance by noting that

features such as race, class and gender (or more broadly conceptions of the good) are

morally irrelevant features of rational agents which threaten to bias deliberation.[394] Yet

even from a liberal perspective the necessity of bracketing complex histories of

socialization (which include, presumably, the moral assumptions that are a part of

cultural systems) is questioned; Jürgen Habermas, for example, argues that it is possible

to operationalize the requirements of moral neutrality without eliminating the histories

and worldviews of moral agents by instituting the procedural mechanisms outlined in his

discourse ethics.[395]

Where Rawls aims for generality, therefore, I have tried to highlight the ways in

which his theory continues to rely on the particular; where he defends the procedural

neutrality of his approach, I have countered that he implicitly presupposes controversial

assumptions which are themselves in need of defense (and therefore hardly suitable for

impartially regulating disputes between conceptions of the good). In short, I have tried to

demonstrate that Rawls's attempts to construct a liberal theory which is suitably neutral

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[393] *A Theory of Justice*, 144/125.

[394] Ibid., 141/122.

[395] Cf. Habermas's "Reconciliation Through the Use of Reason: Remarks on John Rawls's Political Liberalism" in *The Journal of Philosophy* 92 (March 1995). For an introduction to Habermas's formulation of discourse ethics, see his "Discourse Ethics: Notes on a Program of Philosophical Justification", in *Moral Consciousness and Communicative Action*, trans. Christian Lenhardt and Shierry Weber Nicholson (Cambridge: MIT Press, 1991), 43-115. I am unable to examine Habermas's alternative political theory in any detail (which is based, at least in part, on key premises from his theory of discourse ethics); it is outlined, however, in *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. William Rehg (op. cit.). While Habermas's attempt to incorporate the sociological background of agents clears him of the criticisms I raise against Rawls in this section, there are other problems encountered by his political theory, such as its failure to recognize the ineradicability of antagonism and his desire for consensus. In short, I agree with the criticisms offered by Chantal Mouffe in *The Democratic Paradox* (New York: Verso, 2000), especially pp. 80-107.

vis-à-vis the different comprehensive doctrines in a pluralist society fails, since he can't escape the constraints of a thick theory of the good, as well as arguing that his theory of agency in the original position fails to recognize the complicated genealogy of 'sovereign' political agents.   In both cases, I have contested Rawls's pretensions to generality; with regard to my questions vis-à-vis neutrality, I have challenged the idea that justice as fairness is capable of acting as a neutral arbitrator between conceptions of the good, since it is premised on a specific.

*Exclusion in **Political Liberalism***

Yet Rawls himself begins to recognize, or at least emphasize, the political contingency of justice as fairness. Indeed, the recognition of its specificity becomes the departure point for Rawls's attempts, beginning in the early eighties, to transform his interpretation of justice as fairness.   I will now turn, then, to the arguments outlined in Rawls's other major work, *Political Liberalism*, in order to highlight the ways in which exclusion continues to operate, even in his later work (which is supposedly more congenial to pluralism). In "Justice as Fairness: Political not Metaphysical" he formulates a new reading of his project. According to Rawls, his earlier work (especially *A Theory of Justice*) failed to highlight the idea that justice as fairness is not intended as a matrix for regulating political conceptions in general, nor is it the practical application of a given set of moral principles to the basic structure of society (although he is open to the possibility that justice as fairness is applicable to non-democratic regimes).[396] Rather, it is tailored

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[396] See "Justice as Fairness: Political not Metaphysical" in *Collected Papers*, 389-90.

to the exigencies of "modern constitutional democracies".[397]   It articulates a framework

for ordering "the political, social, and economic institutions" of democratic societies,[398]

and it tries to "draw solely upon intuitive ideas that are embedded in the political

institutions of a constitutional democratic regime and the public traditions of their

interpretation."[399] Rawls's theory of justice, therefore, is now understood as a conception

which specifically applies to contemporary liberal democracies.

How is the reinterpreted project different from earlier versions of justice as

fairness? In *Political Liberalism* (published in 1993), where Rawls develops the

implications of his new trajectory, he characterizes the transition as a shift from

"comprehensive" to "political" doctrines. As I had mentioned in my discussion of

contemporary liberalism's topography, Rawls defines comprehensive doctrines as moral

theories which address questions such as the worth of human life, the nature of virtue,

ideals of friendship and principles of association.[400] In short, it offers guidance for the

conduct of life.[401] Political doctrines, on the other hand, deal with how we should

organize the basic structure of society (rather than the totality of human existence).[402] As

Rawls notes, it "involves, so far as possible, no wider commitment to any other

doctrine."[403] As an example of the difference, he mentions the contrast between

utilitarianism, which is a generalizable moral conception that cuts across the

public/private distinction (since at least in theory the principle of utility regulates non-

political conduct in addition to questions of the public good), and the more limited aims

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[397] Ibid., 389.
[398] Ibid.
[399] Ibid., 390.
[400] *Political Liberalism*, 13.
[401] Ibid., 13.
[402] Ibid.
[403] Ibid.

of a political theory, which addresses questions pertaining to the organization of economic and social institutions.[404]

Rawls's new interpretation of justice as fairness hinges on the distinction between comprehensive and political doctrines, and more specifically their relation the question of 'stability'. In order to appreciate the importance of 'stability' for Rawls's argument, however, it is important to return, at least momentarily, to *A Theory of Justice*. In *Theory*, Rawls was primarily concerned with offering a rationale for why the parties in the original position would choose the two principles of justice. But Rawls also insisted on the importance of the relative "stability" offered by a given conception of justice. He defines "stability" vis-à-vis "schemes of social cooperation", arguing that a scheme exhibits stability insofar as it is "more or less regularly complied with and its basic rules willingly acted upon; and when infractions occur, stabilizing forces should exist that prevent further violations and tend to restore the arrangement".[405] A conception of justice is "defective" if it is unable to generate its own support (i.e. if "it fails to engender in human beings the requisite desire to act on it").[406]

While *Theory* argued that justice as fairness established the conditions for a stable, well-ordered regime, *Political Liberalism* offers a negative reappraisal of the earlier claims regarding justice as fairness's ability to generate wide-ranging solidarity. Rawls now describes *Theory's* argument as presupposing a comprehensive doctrine, and he characterizes his inability to recognize its comprehensive nature as producing "unrealistic" expectations concerning the idea of a well-ordered society. He elaborates in the following passage: "An essential feature of a well-ordered society associated with

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[404] Ibid., 12-13.
[405] Cf. *A Theory of Justice* 6/6.
[406] Ibid., 455/398.

justice as fairness is that all of its citizens endorse this conception on the basis of what I now call a comprehensive philosophical doctrine. They accept, as rooted in this doctrine, its two principles."[407]

The difficulty, however, is that contemporary liberal democracies are pluralistic (i.e. they include a multiplicity of comprehensive doctrines), and they contain incommensurable (while at the same time reasonable) theories.[408] According to Rawls, *A Theory of Justice* failed to take the problem of incommensurability into account. His new theory, which he calls "political liberalism", tries to address the unavoidable facticity of difference.[409] He characterizes political liberalism's attitude towards pluralism in the following way: "Political liberalism assumes that, for political purposes, a plurality of reasonable yet incompatible comprehensive doctrines is the normal result of the exercise of human reason within the framework of the free institutions of a constitutional democratic regime."[410] Again, there is an important contrast between political liberalism and the 'comprehensive liberalisms' of Kant and Mill (as well as Rawls's own earlier formulations of justice as fairness) since they prioritize the value of autonomy in a way which transcends the political sphere (while at the same time privileging the value of autonomy in the public sphere); as Rawls notes, there are reasonable conceptions of the good which reject the strong liberal defense of freedom (for example, reasonable theological conceptions)[411]. Given that their justifications for liberalism are grounded in controversial ideas of the good, and are therefore not shared by every member of a

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[407] *Political Liberalism*, xviii.
[408] Ibid.
[409] Rawls believes (I think correctly) that "No one of these [incommensurable comprehensive doctrines] is affirmed by citizens generally. Nor should one expect that in the foreseeable future one of them, or some other reasonable doctrine, will ever be affirmed by all, or nearly all citizens." (Ibid.)
[410] Ibid.
[411] Ibid., xlv.

democratic society (or not even a majority of citizens), "[t]hey are not a practicable public basis of a political conception of justice, and I [Rawls] suspect the same is true of many liberalisms besides those of Kant and Mill."[412]

In order to avoid the difficulties associated with imposing a comprehensive doctrine on a pluralistic democratic society, therefore, Rawls argues that we need a theory which provides a basis for social unity without relying on the strong assumptions of a comprehensive doctrine. In opposition to comprehensive liberalisms, political liberalism (which as I had mentioned above begins with the recognition of irreducible pluralism) offers a foundation for constitutional democracies which is no longer grounded in, for example, controversial assumptions concerning the superiority of Millian autonomy; rather, it searches for what Rawls labels an "overlapping consensus" between "reasonable comprehensive doctrines".[413] While *Theory* was primarily concerned with defending the original position (and the two principles chosen in the hypothetical scenario), *Political Liberalism* shifts the argumentative focus to the question of stability. But now we encounter a new series of questions: what is a "reasonable comprehensive doctrine"? And why is an "overlapping consensus" vis-à-vis reasonable comprehensive doctrines important? Here it is useful to examine Rawls's terminology, which will also assist us in understanding the differences between comprehensive and political liberalisms.

As a preface to defining the conceptual scope of "reasonable comprehensive doctrines", it is first of all necessary to highlight Rawls's discussion of "reasonableness" as it applies to persons, since his definition of "reasonable comprehensive doctrines", and

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[412] Cf. "The Idea of an Overlapping Consensus" in *Collected Papers*, 427.
[413] *Political Liberalism*, 14-15.

the role it plays in political liberalism, is closely related to the reasonableness of agents. In *Political Liberalism*, Rawls explicitly privileges what he calls a 'political' conception of the person. The 'political' conception of persons matches the democratic basis of justice as fairness (which, as I noted earlier, is indexed to the specific requirements of constitutional democratic regimes). Thus, a person is an agent "who can be a citizen, that is, a normal and fully cooperating member of society over a complete life."[414] Citizens are understood in addition as "free and equal persons" with two moral powers, namely "a capacity for a sense of justice and for a conception of the good" (once again expressing, or trying to express, intuitive assumptions of democratic culture).[415] According to Rawls, "reasonableness" is a moral virtue or character trait exhibited by persons (although, as we will see shortly, he also identifies comprehensive doctrines as "reasonable" or "unreasonable"), and it consists of two basic aspects: (1) Agents are reasonable when they are willing to offer (as well as honor) fair principles regulating social cooperation (assuming that other agents are also willing to honor the principles in question)[416] and (2) they recognize what Rawls labels the "burdens of judgment" and the role they play in the legitimation of political power.[417] I will now examine the two aspects in turn.

First of all, agents are willing to propose (and accept) fair terms of social cooperation. By "fair" terms we mean rules which are generally applicable, and that the agent believes it would be reasonable for other parties in society to accept. They are willing to defend (presumably via discursive argumentation) their own candidates for fair

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[414] Ibid., 19.
[415] Ibid.
[416] Ibid., 49.
[417] Ibid., 54.

terms of cooperation, in addition to examining the candidates offered by other parties.[418]

Conversely, persons are unreasonable insofar as they benefit, or at least intend to benefit, from schemes of cooperation without honoring principles governing the fair terms of cooperation (except, as Rawls notes, "as a necessary public pretense" for continuing to exploit the principles they are, in actuality, unwilling to honor).[419]

Secondly, agents are willing to recognize the burdens of judgment, as well as the consequences they entail for the legitimation of public power. There are, then, two components of (2): (2a) the burdens of judgment and (2b) the entailments of their acceptance for the exercise of power. As for (2a), Rawls defines the burdens of judgment as "the sources, or causes, of disagreement between reasonable persons".[420] Examples of 'burdens of judgment' include evidence which is ambiguous, and therefore subject to multiple interpretations, disagreements about which considerations are relevant in decision-making procedures, indeterminate concepts, different frameworks for assessing evidence, conflicting normative assumptions and the necessity of choosing between equally important moral/political values.[421] While Rawls admits that self-interest or prejudice also lead to disagreements, he classifies them as "unreasonable" sources of disagreement "which stand in marked contrast to everyone's being reasonable."[422] (2b) encompasses the agent's capacity for recognizing that even under ideal conditions of discussion, in which the interlocutors are fully rational and conscientiously seeking the truth (and with minimal constraints imposed on the parameters of dialogue) it is still

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[418] Ibid., 49.
[419] Ibid., 50.
[420] Ibid., 55.
[421] Ibid., 56-57.
[422] Ibid., 58.

impossible in certain instances to reach a shared conclusion.[423] The recognition of this fact leads reasonable persons to affirm the importance of tolerance for differing comprehensive doctrines in a pluralistic democratic society; more specifically, they believe that "liberty of conscience and freedom of thought" should be extended to other citizens, assuming they are also reasonable[424] and that it is "unreasonable for us to use political power, should we possess it, or share it with others, to repress comprehensive views that are not unreasonable."[425]

Now that we have discussed Rawls's definition of reasonableness as it applies to persons, we can turn to his examination of reasonable comprehensive doctrines. He begins by assuming that reasonable persons necessarily affirm comprehensive doctrines.[426] A reasonable comprehensive doctrine exhibits, in turn, three primary characteristics: (1) "it covers the major religious, philosophical and moral aspects of human life in a more or less consistent and coherent manner",[427] (2) it attributes overarching importance to certain values, and it is capable of balancing out equally important values when they conflict[428] and (3) it generally references, or at least presupposes, a shared tradition of thought and value.[429]

Once again, political liberalism acknowledges the fact that there are incommensurable, yet reasonable, comprehensive doctrines in democratic regimes. How, then, does it propose to establish a basis for social unity and stability?   In order to answer that question, we need to introduce Rawls's idea of an "overlapping consensus."   An

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[423] Ibid., 58.
[424] Ibid., 61.
[425] Ibid.
[426] Ibid., 59.
[427] Ibid., 59.
[428] Ibid.
[429] Ibid.

"overlapping consensus" is arrived at when a set of reasonable comprehensive doctrines agree on political conceptions of justice to order a given society.[430] The formation of an overlapping consensus indicates that reasonable persons agree to conduct their discussions of public matters in terms which are "acceptable to their common human reason"[431]; thus, "[o]nly a political conception of justice that all citizens might be reasonably expected to endorse can serve as a basis for public reason and justification."[432] The domain of the political, furthermore, is separated from what Rawls labels voluntary "associational" relationships (which are institutions within civil society: an obvious example is membership in a church), since we enter political society at birth and exit it at death,[433] as well as the "personal and familial, which are affectional…in ways the political is not"[434]; therefore, it exhibits an autonomy in relation to other, non-political spheres. It "is a formulation of highly significant (moral) values that properly apply to basic political institutions; it gives a specification of certain special features of the political relationship, as distinct from other relationships."[435]

Rawls highlights two important points concerning an "overlapping consensus". First of all, he distinguishes between "reasonable pluralism" and the empirical fact of pluralism. The first term pertains to the diversity of heterogeneous but reasonable comprehensive doctrines, while the latter simply emphasizes that differing comprehensive doctrines actually exist. To be more precise, the fact of pluralism

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[430] Ibid., 14-15.
[431] Ibid., 137.
[432] Ibid.
[433] Cf. Rawls's "The Domain of the Political and Overlapping Consensus" in *Collected Papers*, 482.
[434] *Political Liberalism*, 137. Although Rawls does not explicate the differences between political and personal relationships in the text, I assume he is arguing that the political domain appeals to reason as its supreme arbiter, which is clearly not the case in terms of, for example, our relationships with family members or close friends.
[435] 'The Domain of the Political and Overlapping Consensus", 482.

encompasses reasonable as well as unreasonable doctrines (i.e. it recognizes that both reasonable and unreasonable doctrines are part of contemporary liberal societies) while "reasonable pluralism" is a category which, by definition, excludes unreasonable theories.[436] An overlapping consensus includes *reasonable* comprehensive doctrines, but excludes *unreasonable* ones (since on Rawls's interpretation, unreasonable comprehensive doctrines "reject one or more democratic freedoms"[437], which is—unsurprisingly—a necessary condition for participating in the liberal democratic regime Rawls is arguing for).[438] Secondly, a political conception of justice is "freestanding" insofar as it isn't derived from a particular comprehensive doctrine.[439] While it is true that we can justify Rawls's political conception from the standpoint of any reasonable comprehensive doctrine (or so he argues), it is not the case that a defense of justice as fairness relies on, for example, a Millian or Kantian comprehensive doctrine which privileges autonomy. Rather,

> the political conception is a module, an essential constituent part, that fits into and can be supported by various reasonable comprehensive doctrines that endure in the society regulated by it. This means that it can be presented without saying, or knowing, or hazarding a conjecture about, what such doctrines it may belong to, or be supported by.[440]

While Rawls offers different examples of how the argument works concretely, there is one which is worth mentioning since it illustrates the application especially well. He contrasts the utilitarian's attachment to a comprehensive doctrine regulated by, obviously, the principle of maximizing utility, which applies to a variety of relationships, with the political conception of justice's attempt to formulate an argument which applies only to

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[436] Ibid., 36.
[437] Ibid., 64.
[438] Ibid., 144.
[439] Ibid., 12.
[440] Ibid.

the basic structure of society (and does not, at least according to Rawls, presuppose controversial ethical theories in order to justify its reasoning).[441]

Now that we have examined the key components of Rawls's argument(s) concerning political liberalism's efforts to articulate a basis for stability in pluralistic democracies, I want to highlight the ways in which exclusionary logics continue to operate as mechanisms for producing a unified social body. Recall that citizens agree to conduct political discourse in terms of "common human reason", or what Rawls also christens "public reason." Rawls notes that "in a democratic society public reason is the reason of equal citizens who, *as a collective body*, exercise final political and coercive power over one another in enacting laws and in amending the constitution" (my italics).[442] Thus, persons who affirm reasonable comprehensive doctrines form an overlapping consensus around core principles of liberal tolerance, a consensus which is legitimated, at last in part, through the shared discursive framework of "public reason". Reasonable citizens form a collective body which exercises "final political and coercive power" in order to maintain the stability, and more importantly unity, of society.

In wielding sovereign power, however, it is important to ask who, precisely, they are wielding it against. Rawls says that it is "over one another", and surely that is true (since agreeing to the terms of the social contract means consenting to the authority of the newly formed political body). Yet we can also presume that coercive power is directed against the persons who affirm "unreasonable" comprehensive doctrines. In an essay dealing with the question of unreasonable persons in Rawls's re-worked version of justice as fairness, Marilyn Friedman highlights an interesting footnote which has, to my

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[441] Ibid., 13.
[442] Ibid., 214.

knowledge, received no attention in the secondary literature, but undoubtedly deserves closer scrutiny.   The context of the remark is Rawls's examination of the difference between "reasonable" pluralism and the fact of pluralism as such; in conceding that democratic societies always contain persons with unreasonable comprehensive doctrines, he directs the reader's attention to a footnote in which he writes the following: "That there are doctrines that reject one or more democratic freedoms is itself a permanent fact of life. This gives us the practical task of containing them—*like war or disease*—so that they do not overturn political justice" (my italics).[443]

Friedman is, quite appropriately, concerned about Rawls's language, and wonders how one "contains" a worldview. As she correctly observes, the typical strategies include extensive regulation of the media in which ideas are transmitted, as well as prohibiting, or severely curtailing, the right to express one's ideas.[444]   Indeed, the language Rawls uses forces us to agree with Friedman's assessment that "supporters of certain unreasonable doctrines, in particular those that reject democratic freedoms, will be treated like the bearers of a pestilence."[445] While it would be tempting to dismiss Friedman's characterization as hyperbolic, Rawls's own terminology lends credence to her interpretation. Here we see an example of the body politic re-emerging, this time in the context of a project which is explicitly dedicated to respecting pluralism in contemporary democratic societies. And we encounter, as in the canonical texts of liberalism, a desire to purge and cleanse the social body (Rawls's term is "collective body"), to eliminate the traces of difference, which are signs of disease (although, to be

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[443] Ibid., 64; cited in Marilyn Friedman's "John Rawls and the Political Coercion of Unreasonable People", in *The Idea of a Political Liberalism: Essays on Rawls*, eds. Victoria Davion and Clark Wolf (Lanham, MD: Rowman and Littlefield Pubs., 2000), 22.
[444] Friedman, 22-23.
[445] Ibid., 23.

fair to Rawls, he argues we should "contain" them: returning briefly to Foucault, I am tempted to wonder if the leprosarium is a potential model.)   What is even more remarkable is the presence of such discourse, i.e. the discourse of expurgation, in the text of a liberal with 'impeccable' credentials (arguably the most important liberal theorist of the twentieth century) who is, at least ostensibly, interested in defending principles of tolerance.

On a charitable interpretation, Rawls's language is unnecessarily provocative, but it should not be interpreted literally. It is certainly feasible to argue that he is only drawing an analogy, suggesting that the 'task' of 'containing' unreasonable doctrines is similar to procedures for containing war or disease.   Yet even if Rawls's own terminology is 'simply' rhetorical, with an excessive flourish of condemnation leveled against the enemies of democracy, there is still the legitimate question as to whether or not his exclusionary terminology reveals a deeper, more problematic logic of marginalization.   According to Friedman, there are two difficulties with Rawls's argument for excluding "unreasonable people/doctrines".   First of all, he bars unreasonable agents/doctrines from participating in the overlapping consensus which legitimates constitutional rule.   One of the key criteria for determining a doctrine's unreasonableness, however, is its willingness (or lack thereof) to affirm democratic freedoms.   Therefore, the argument exhibits a vicious, question-begging circularity.[446] Secondly, political liberalism marginalizes unreasonable doctrines because they threaten to seize state power and wield it coercively against 'reasonable' persons. Interestingly enough, however, Rawls defends the same machinery of coercion in order to guarantee

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[446] Ibid., 29.

the stability of his 'well-ordered society'.[447]   Thus, political liberalism's strategy for 'containing' the dangers represented by unreasonable persons/doctrines violates, or at least appears to violate, the normative principles which supposedly justify the act of exclusion.

While Friedman's criticisms are powerful, Rawls anticipates the first charge, or at least a similar objection, in *Political Liberalism*. One of the arguments against justice as fairness is that it is arbitrarily biased against non-liberal conceptions of the good. Rawls admits that identifying certain conceptions of the good as 'permissible' inevitably requires us to exclude the doctrines which are classified as 'impermissible', and he highlights two reasons why comprehensive doctrines are excluded: (1) their "associated ways of life may be in direct conflict with principles of justice" or (2) "they may be admissible but fail to gain adherents under the political and social conditions of a just constitutional regime."[448]   As an example of (1) Rawls mentions the case of racial or ethnic oppression which is justified by appeals to perfectionist arguments (such as the institution of slavery in Athens or the antebellum American South).[449]   He illustrates (2), meanwhile, with the example of an intolerant religious conception of the good which is only capable of surviving in a regime if it is able to control state power and direct the coercive force of government against non-believers.[450]   In a well-ordered liberal society which is regulated by the affirmation of reasonable pluralism, such comprehensive doctrines will presumably, to quote Rawls, "cease to exist."[451]   While he argues, following Isaiah Berlin, that the finite social space of political liberalism is a regrettable

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[447] Ibid.
[448] *Political Liberalism*, 196.
[449] Ibid.
[450] Ibid., 196-97.
[451] Ibid., 197.

fact of democratic societies (since it leads to the disintegration of non-liberal conceptions of the good[452]), he contends that, in and of itself, the empirical observation concerning necessary exclusions fails to establish that political liberalism is arbitrarily biased or unjust. We have to argue, in addition, that political liberalism fails to provide a just basic structure, such that it prohibits, or effectively discourages, the replication of "permissible" comprehensive doctrines across generations.[453]

Yet it is unclear how Rawls's argument challenges the criticism of Friedman, which relates to the problem of circularity. Even if we conditionally assume that political liberalism allows, indeed encourages, the reproduction of "permissible" forms of life, Rawls still fails to provide a justification for why, precisely, we offer an initial priority to 'reasonable' comprehensive doctrines (which, it is important to recall, are defined very specifically as affirming "democratic freedoms"). In other words, if Rawls is correct to assert that political liberalism isn't arbitrarily biased or unjust, it is only because his conceptions of 'bias' and 'injustice' are defined within the parameters of political liberalism itself. Thus, Friedman is correct to highlight the argument's circularity. While the charge of circularity is less damaging for a political theory which openly recognizes its historical contingency (as is the case, for example, with left or right communitarianisms) and the impossibility of achieving an Archimedean point of conflict resolution, it represents a significant problem for liberalism, which celebrates its ability to provide a neutral framework for adjudicating disputes.

The other difficulty indicated by Friedman concerns political liberalism's willingness to appropriate the machinery of state coercion against non-liberal theories.

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[452] Rawls highlights Berlin's essay "The Pursuit of the Ideal" in *The Crooked Timber of Humanity*, ed. Henry Hardy (Princeton: Princeton UP, 1990), esp. pp. 11-19; cited in *Political Liberalism*, 197.

[453] *Political Liberalism*, 198.

The significance of Friedman's argument is not, however, the fact that it exposes a self-contradiction in Rawls's argument (which is her interpretation of the criticism[454]); rather, Rawls's defense of using coercion against 'unreasonable' persons/comprehensive doctrines highlights the necessity of addressing questions of power, even for a political theory which is dedicated to consensus-building, dialogue and tolerance. As Friedman notes, Rawls performs a sleight of hand by characterizing the opponents of political liberalism as 'unreasonable', an epithet which "masks the fundamentally political and contested nature of the notion."[455] If the persons/doctrines that reject political liberalism are 'unreasonable', then the implication, or at least one potential implication, is that political liberalism is rationally justified in marginalizing 'irrational' forces which threaten to undermine the liberal consensus. But the conclusion hardly follows; another interpretation is that Rawls pretends to substitute the tribunal of rationality, which is a 'neutral' arbitrator, for an exclusion which is actually political in nature. Chantal Mouffe makes the same essential point; she notes that, according to Rawls, 'reasonable' persons are persons "who have realized their two moral powers to a degree sufficient to be free and equal citizens in a constitutional regime, and who have an enduring desire to honor fair terms of cooperation and to be fully cooperating members of society."[456] When the unreasonable parties are marginalized, then, it appears that the exclusions fulfill the demands of political morality. Once again, however, invoking the language of morality conceals the way(s) in which the exclusions are political in character; as Mouffe

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[454] Cf. Friedman, 30-31.
[455] Ibid., 31.
[456] *Political Liberalism*, 55; cited in Chantal Mouffe, *The Democratic Paradox* (op.cit.), 24. For an excellent discussion of the linkage between Rawls's concept of 'reasonability' and morality, David M. Rasmussen's "Defending Reasonability: The Centrality of Reasonability in the Late Rawls" in *Philosophy and Social Criticism* 30, 5-6 (September 2004): 525-40.

observes, "it allows Rawls to present as a moral exigency what is really a political decision."[457]

An even more damaging form of exclusion, however, is the bracketing of comprehensive doctrines required in order to enter into the overlapping consensus. Robert B. Talisse, for example, offers the following case[458]: assume that a utilitarian believes that the state (or more generally political institutions) should be organized according to the Greatest Happiness Principle, and that its justice (or lack thereof) resides in the public sector's ability to maximize happiness. In order for the utilitarian to demonstrate his or her 'reasonableness' and join the overlapping consensus, however, s/he must bracket the norms of his or her comprehensive doctrine and agree to abide by the political morality of liberalism. Thus, the 'reasonable utilitarian' we have constructed believes (1) that the state is just if and only if it maximizes happiness, but (2) s/he must suspend his or her beliefs qua utilitarian in the political sphere, since they represent a comprehensive doctrine.[459] This leaves the 'reasonable utilitarian' in the difficult position of affirming that the state is legitimate, even though it is not just (except, as Talisse notes, when policies accidentally maximize utility[460]). As Talisse writes, "Rawls is demanding that the utilitarian revise his position in light of the 'fact' of reasonable pluralism such that the utilitarian would be able to pursue justice—the greatest happiness—only within a non-'political' sphere that leaves out all government policy. But it is not clear…why the utilitarian should hesitate to *enforce* utilitarianism."[461] Clearly the point applies to other comprehensive doctrines; indeed, it is interesting to

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[457] Ibid., 24.
[458] Cf. Robert B. Talisse, "Rawls on Pluralism and Stability" in *Critical Review*, 15, 1-2 (2003): 184-86.
[459] Ibid., 186.
[460] Ibid.
[461] Ibid.

speculate on whether or not the early, comprehensively-inclined Rawls would be regarded as 'unreasonable' by the later Rawls's overlapping consensus. In any case, if the fit between utilitarianism and liberalism is awkward, it is easy to imagine the borderline incoherence of asking, say, a socialist or neoconservative to embrace the overlapping consensus.[462]

Not only is it problematic to ask a citizen to bracket his/her comprehensive views when they enter into an overlapping consensus, however; it's also unclear that we can appeal to a single conception of public reason, since (as James Bohman notes) in a truly diverse society there are heterogeneous conceptions of what constitutes the public sphere (corresponding to the pluralism of comprehensive doctrines, cultural assumptions, etc.)[463] In addition, it is important to highlight the difficulty of maintaining a rigorous demarcation between the public and private spheres. I have already indicated the difficulties with sociological distinctions between the public and private spheres in previous chapters, yet we can also highlight ways in which the problematic status of the sociological distinctions affects Rawls's normative arguments; as Susan Moller Okin reminds us, for example, there are religions which systematically undermine the equality of women by promoting a hierarchical model of gender relations. Is it actually feasible, she wonders, to argue that women can become fully valued and recognized participants in the political sphere when significant percentages of the citizenry hold private beliefs which systematically erode the very ideals political liberalism supposedly defends?[464]

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[462] Another effect of Rawls's argument is, as Tim Hurley notes, to classify "a large number of people as unreasonable [who] cannot plausibly be regarded as enemies of democracy". See his "John Rawls and Liberal Neutrality" in *Interpretation*, 27, 2 (Winter 1999-2000): 125.

[463] Cf. Bohman's "Public Reason and Cultural Pluralism: Political Liberalism and the Problem of Moral Conflict" in *Political Theory* 23, 2 (May 1995): 260.

[464] See her "*Political Liberalism*, Justice and Gender" in *Ethics* 105 (October 1994): 31-2.

In the final analysis, of course, any political theory will exclude persons or comprehensive doctrines which are incompatible with the system in question. As Carl Schmitt notes, even the concept "humanity" has a political meaning; indeed, the wars which are fought for "humanitarian" purposes are often the most violent and destructive.[465] The problem for liberalism, however, is that it pretends to radical pluralism and inclusivity, to value-neutrality, when it employs the same (or at least formally similar) political mechanisms of exclusion as other theoretical approaches. There is, then, more than a measure of disingenuousness to Rawls's argument. We should recognize, therefore, the necessity of certain exclusions, but also characterize them honestly as *political* decisions (a fact which is concealed by retreating into discourses of impartiality, rationality, deontology, etc.). At the same time, we should exercise caution in defending political exclusions. Categories such as 'reason' were used to exclude women, non-Caucasians, the poor and the 'mad' from legitimation pools (as we saw, for example, in the political theory of Locke); indeed, 'rational' scientific discourses were mobilized against 'inferior' groups to justify their political marginalization. Such an observation is not, of course, an indictment of reason *tout court*; as Foucault notes, there are multiple rationalities, which intersect and diverge in complicated ways.[466] It is, however, a reminder that supposedly value-neutral concepts have a complicated, and highly politicized, history.

In the next chapter, I want to examine the question of exclusion/inclusion, and more specifically the politics of exclusion/inclusion, in greater detail. Throughout the

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[465] Cf. Carl Schmitt, *The Concept of the Political*, trans. George Schwab (Chicago: Chicago UP, 1996), 54.
[466] See Foucault's interview with Gérard Roulet, entitled "Structuralism and Post-Structuralism" in *Aesthetics: Essential Works of Michel Foucault, Volume 2*, ed. James Faubion (New York: The New Press, 1998), especially pp. 440-42.

dissertation, I have criticized liberalism's assumptions about its neutrality, focusing on the way(s) in which the unity of the body politic is preserved through a theoretical defense of exclusionary logics, as well as the subtle (and not so subtle) emphasis on technologies of 'disciplinary inclusion', which shape docile bodies into 'autonomous' subjects. In short, I have underscored liberalism's reliance on exclusion/inclusion in order to form a 'unified' social body, and the disconcerting resonances between certain aspects of liberal political theory and the rhetoric/practices of its authoritarian enemies. In the final chapter, I will offer a different way of thinking about exclusion/inclusion which abandons the chimerical search for 'neutrality' by openly thematizing the question of power's deployment in contemporary societies. In trying to construct a theory which avoids a direct confrontation (albeit in the interests of discovering the conditions for an undistorted consensus) with the dynamics of power and the conditions of social interaction, modern liberalism is, at the very least, naïve and at worst ignores the complex ways in which social institutions operate, a blindness which obscures the existence of conflict in the body politic. In the next chapter, I will argue that emphasizing the question of power requires us to deal honestly with the necessity of exclusions and the continuing presence of antagonistic differences in political theory/praxis, but that abandoning the monological perspective of classical and modern liberalism may allow us to more adequately recognize and address the dangers of what Zizek calls "the fundamental ideological fantasy"

Liberalism as Praxis: Introducing Foucault and the Biopolitical

Up to this point in the dissertation, I have focused on biopolitical elements in theoretical

texts from the liberal tradition, including Hobbes's *Leviathan*, Locke's *Two Treatises* and

Rousseau's *The Social Contract*. If we remain at the level of textual analysis, however,

limiting our discussion to political technologies of control examined in the social contract

tradition, there is an obvious objection: even if we can demonstrate that liberal authors

argued for the importance of biopower in theoretical contexts, it doesn't follow that

liberalism as a practice of government was influenced by Locke's essay on the 'working

schools', for example, or Rousseau's attempt to develop a new political theology.

Likewise, while the imagery of the body politic also appears in Rawls, there is no reason

to believe that contemporary liberalism will begin treating non-democratic conceptions of

the good as forms of disease or pestilence.

In other words, we have to deal with the familiar liberal appeal to normativity. I can

anticipate two different versions of the 'normativity' objection. First of all, the liberal

can argue that freedom, non-coercion and cooperation are elements of the social contract

tradition, and if Locke, Hobbes and Rousseau betray the emancipatory aspects of

liberalism, their philosophy also contains the resources for identifying, and challenging,

oppressive forms of rule. Thus, we can read Locke (1) who defends a subject's right to

challenge illegitimate rule against Locke (2) who forces 'vagabonds' into conscription, or

Rousseau's praise of virtue, honesty and self-determination against the deceptions of the

Lawgiver, and so forth. I have already noted the difficulty with this response: the very

conceptions of autonomy which liberalism appeals to as a defense against coercion is

related in complicated ways to disciplinary technologies; it is problematic, therefore, to

set up 'freedom' in opposition to 'oppression'. Liberty itself is an artifact of history and

culture, in more ways than one; not only because it represents the expression of a specific place, time, etc., but also because it is hard to imagine how an 'autonomous' subject emerges without the subject's relationship to other members of society. Thus, the very norm which the liberal invokes is itself the expression of contingent assumptions, and to the extent that autonomy materializes it is only through a set of cultural *practices*. Certain forms of liberalism recognize the contingency of values like 'autonomy' (I'm thinking especially of Richard Rorty's postmodern version[467], although Rawls himself also moved in this direction), but they don't believe it represents a serious problem from a philosophical standpoint. This argument is perfectly acceptable, but it means abandoning the pretense to universality.

Even if we accept that riposte, however, there is still the difficult question of how the liberal addresses the fact that the *lived* autonomy or the *practice* of freedom has a genealogy, which Nietzsche has outlined and I discussed earlier in the chapter. This brings us to the second major objection: political philosophy deals with the ideal arrangement of society; it has no business examining historical transitions or ephemeral cultures. According to this argument, we must leave the examination of practice to the political scientist or the social activist; the philosopher will reflect on, and ultimately dispense, the Truth. The difficulty with this objection is that political philosophy is differentiated from, say, epistemological concerns about how to define knowledge or metaphysical questions vis-à-vis the relationship between universal and particulars by the fact that it is *intended*, at least presumably, for real-world applications. In other words, Rawls composed his major treatises with the belief that they could shape, if only at the

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[467] Cf. *Contingency, Irony and Solidarity* (Cambridge: Cambridge UP, 1989), especially Part I (pages 3-69); for a more concise formulation of the argument see Rorty's "Postmodernist Bourgeois Liberalism" in *Postmodernism: A Reader*, ed. Thomas Docherty (New York: Columbia UP, 1993), 323-28.

peripheries, the way we think about our society. In this regard, Marx's eleventh thesis on

Feuerbach, elegant in its simplicity but earth-shattering in its profundity, is only partially

correct;[468] it is indeed true that, at least in the West, the majority of philosophers (and

most specializations in philosophy) have only interpreted the world, but this is surely not

the case in terms of political philosophy. Plato, Aristotle, Machiavelli, Locke and Marx

all advanced programs or theories concerning the just society, but they are not simply

exercises in abstract thinking; rather, they articulate a vision of how we should organize

the polis.

   In this regard, of course, it's ultimately impossible for political philosophy to

completely evade the demands of normativity; in any case, even if it were possible, it's

unclear that it's desirable. Nevertheless, it's important to recall that all of the figures I

mentioned above dealt with education, civic institutions, the habits of citizens, the role of

the passions; they were interested in the ideal, but they realized that, at least for political

philosophy, there was no way to leave practice behind. This is a lesson which

contemporary liberalism has forgotten; it has forgotten embodiment and the

inescapability of our history, as well as—why not?—power itself. If political philosophy

is interested in transforming the world, however, we can't afford to remain at the abstract

level of ideal speech situations. We have to think about questions of embodiment,

practice and the political technologies which structure our lifeworld. It is here, I think,

that the work of Foucault is important; turning away from the rarefied atmosphere of

idealized speech situations, conditions of hypothetical agreement and interpretations of

rational behavior, he examines the logics of governmentality which characterized

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[468] "The philosophers have only interpreted the world, in various ways; the point is to change it." Cf. Karl
Marx, *Selected Writings*, ed. David McLellan (Oxford: Oxford UP, 1977), 158.

particular regimes and social formations. In the next chapter, therefore, I will highlight Foucault's work on liberalism, examining the connections between liberalism as a theory of governmentality and biopower as a strategy of rule, arguing that liberalism tries to achieve a unified social body by formulating, and applying, technologies of power vis-à-vis the macro and micro bodies of society. In short, I will argue that the imagery of the body politic is not just a theoretical construct which deals with the problem of governmental legitimacy; it is also, in more literal fashion, the name for processes of struggle, contestation, antagonism and division which characterize the politics of embodiment.

CHAPTER 3: SECURITY, LIBERTY AND THE GOVERNANCE OF MICRO-
BODIES

In the first two chapters, I examined the imagery of the body politic in classical liberalism

and the importance of embodiment in Rawls's political philosophy. I've tried to show

that liberalism, despite its rhetorical emphasis on tolerance, pluralism and inclusion, is an

example of what Zizek has called the fundamental ideological fantasy. Like the Old

Regime which it displaced, it emphasizes the importance of a unified body politic. How

does it propose to achieve a unified social body? As we saw in our reading of Hobbes,

Locke and Rousseau, the founders of modern liberalism turn to exclusion and power in

order to eliminate 'undesirable' elements from the social contract, and they formulate

disciplinary strategies which will train the 'included' subjects to conduct themselves

'rationally' and exercise control over their desires. Thus, we have the two faces of power

that I mentioned in the introduction, and which have returned in various iterations

throughout the first two chapters: exclusionary and inclusionary political technologies.

At least one response available to liberals, however, is to highlight the fact that the

references to exclusion and force in classical liberalism are located in *theoretical*

contexts. While it's true that Hobbes, Locke and Rousseau propose 'eliminating' the

enemies of society, and develop strategies for 'policing' the members of the body politic,

their arguments are primarily rareified exercises in social engineering (at least according

to this rejoinder). The reality of liberal governance is closer to the normative project of

defending pluralism and heterogeneous conceptions of the good; unlike its historical

predecessor, the Old Regime, as well as its major rival in the twentieth century, the

totalitarian state, liberalism has guarded, at least as a practical matter, the rights of the

individual and affirmed the value of diversity by celebrating multiculturalism. This

criticism, however, fails to recognize two problems. First of all, the practices of governance which have characterized liberalism are, in actuality, a combination of strategies which try to direct the conduct of individuals, albeit in more subtle and hidden ways than authoritarian regimes. Thus, it is incorrect to insist that the application of liberal theories is more benign than the normative principles of governance sketched out in canonical liberal authors. Secondly, it overlooks Foucault's key insight vis-à-vis liberalism. In his 1977-78 lecture course at the Collège de France, he argues that liberalism is a "technology of power."[469] He recognizes that liberalism is a theory of political legitimacy, but it is also an assemblage of practices which regulate the lifeworld of subjects. To focus on the problem of justifying political authority, therefore, obscures another aspect of liberalism which is equally (if not more) important, namely its application in the public/private spheres.

In this chapter, I want to argue that the practice of liberalism has relied on biopolitical logics in order to form a unified social body. My primary focus is the reconstruction of Foucault's theory of liberalism, which represents an alternative to the standard accounts. While they treat liberalism as a theory of political legitimacy, Foucault's approach shifts the discussion towards questions of governance and power. It also demonstrates the overriding importance of the body politic in liberalism, but it shows that the problem of the social body's homogeneity wasn't an abstract problem of justifying political rule; rather, it was an existential question of survival, of life and death, taken up at the level of praxis. The unity of the body politic, its collective health, was defended through the exclusion of 'degenerate' subjects and the production of citizens. In previous chapters I

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[469] *Sécurité, Territoire, Population*, 50.

examined the operation of this exclusion/inclusion in the context of classical liberal theory; now I want to determine how the unity was effected concretely, at the level of societal reproduction.

Liberalism and Governmentality

According to Foucault, liberalism is a form of government. How, then, does he define "government"? In "The Subject and Power", he argues that power influences the conduct of others; it is a way of 'leading' subjects and directing their behavior.[470] "Government" is "the conduct of conducts" and "a management of possibilities"; as he writes in the following passage:

> Basically, power is less a confrontation between two adversaries or their mutual engagement than a question of 'government'. This word must be allowed the very broad meaning it had in the sixteenth century. 'Government' did not refer only to political structures or to the management of states; rather, it designated the way in which the conduct of individuals or of groups must be directed—the government of children, of souls, of communities, of families, of the sick. It covered not only the legitimately constituted forms of political or economic subjection but also modes of action, more or less considered and calculated, that were destined to act upon the possibilities of action of other people. To govern, in this sense, is to structure the possible field of action of others.[471]

There are two important features of Foucault's description. First of all, as Givanni Procacci has noted, the sixteenth century conception of government appropriated by Foucault isn't reducible to the operation of sovereignty or political institutions.[472] While traditional analyses of government focus on the distribution of power within, for example, bureaucracies, or the complicated power dynamics which regulate conflicts between the legislative and executive branches, Foucault's model widens the scope of investigation. Secondly, it is diffused throughout the body politic; in homes, schools,

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[470] Cf. "The Subject and Power" in *Power*, 341.
[471] Ibid.
[472] See Giovanni Procacci's "Notes on the Government of the Social" in *Michel Foucault: Critical Assessments, Volume VII*, ed. Barry Smart (New York: Routledge, 1995), 139.

factories, clinics and prisons, the capillaries of social interaction transmit the flux of power from one subject to the next. As Procacci writes, the two points are related; governmentality "links together the different forms power relations may assume—the government of souls, of the home, and of the State—in contrast to the tendency of the theory of sovereignty to separate out political power".[473]

To the extent that "government" is a method of "leading" the conduct of others, it is also what Foucault characterizes as a "technology of the self." In this regard, it is helpful examine the introductory remarks of a lecture he delivered at the University of Vermont in October 1982, entitled, fittingly enough, "Technologies of the Self". Foucault's work, or at least one aspect of his work, examined how truth is constituted in relation to discursive spheres.   As he notes in the lecture, published shortly before his death, his essays and articles tried to investigate the ways in which human beings develop the epistemological conditions required for self-understanding (in the fields of economics, biology, psychiatry, etc.).[474] He describes "these so-called sciences as very specific 'truth-games' related to specific techniques that human beings use to understand themselves."[475]   There are four major techniques or "technologies", namely (1) technologies of production (i.e. our methods of producing or modifying objects), (2) technologies of sign systems, which deal with our strategies of communication, (3) technologies of power, the methods of controlling or influencing the behavior of individuals, which Foucault identifies as an "objectivizing of the subject" and (4) technologies of the self, or the methods of self-transformation appropriated by subjects in order to achieve a degree of "happiness, purity, wisdom, perfection or immortality."[476]

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[473] Ibid.
[474] See "Technologies of the Self" in *Ethics*, 224.
[475] Ibid.
[476] Ibid., 224-25 (here I have simply reproduced, nearly verbatim, Foucault's own list.)

Foucault's work from the 1970's, especially studies such as *Discipline and Punish, The History of Sexuality* and his lectures courses at the Collège de France are oriented towards the third axis (i.e. technologies of power), although there are clearly elements of the other three technologies in each of the works mentioned above. While Foucault suggests that he has focused too heavily on dimensions of control and domination (once again, the text was published in the early 1980's, when Foucault began to study the history of technologies of the self in the West), I will privilege the third axis in this chapter (which does not imply that the other axes are unimportant).

In the same lecture, he characterizes "governmentality" as the "encounter between technologies of domination of others and those of the self."[477] Thus, we're back to the idea of governmentality as a collection of strategies for modifying the behavior of individuals. In any case, the essential idea is that government is exercised throughout society, in public institutions as well as the private sphere, and it is a "technology of the self" which examines methods for influencing the conduct of subjects. Returning to our original problem, then, which was the relationship between liberalism and governmentality, we can view liberalism, qua form of government, as a set of practices which attempt to direct the lives of others. Since there are others forms of government, however, this definition isn't specific enough; therefore, we have to turn to the logics which regulated the thought and application of liberalism in concrete experience.

In reading liberalism as a political technology, or in trying to examine its history from the standpoint of concrete practices of discipline, it is first of all important to recognize that it defined itself as the negation of theories of government which had

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[477] Ibid., 225.

dominated European society for two hundred years. The rhetoric of liberalism (and I stress 'rhetoric', since the reality of its application was more complicated) situated its theory of limited government in explicit opposition to what Foucault called 'pastoral power'. As Foucault notes, there is a tendency to prioritize the centralizing aspects of political power, yet he suggests that it is also important to highlight a second element of power which is often neglected, namely its 'individualizing' aspect, or "the development of power techniques oriented towards individuals and intended to rule them in a continuous and permanent way. If the state is a political form of a centralized and centralizing power, let us call pastorship the individualizing power."[478]

What is 'pastoral power'? Foucault argues that the pastoral theme emerged in Middle Eastern societies such as Egypt, Assyria and Judaea, but the imagery and language of the pastorate was intensified in Hebraic texts.[479] The critical element in pastoral motifs was the characterization of God as a shepherd who led his[480] flock through tribulations and difficulties. There are (to simplify in the extreme) four general traits which identify a 'pastoral' narrative. First of all, the shepherd controls a 'flock' of persons, rather than a specific territory.[481] Second, the shepherd is an omnipotent leader who prevents dissension; indeed, the very existence of the flock is contingent on the shepherd's presence, and as soon as he ceases to guide the people their unity vanishes.[482] Third, the shepherd exercises a constant vigilance; he watches over each member of the

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[478] Cf. "*Omnes et Singluatim:* Towards a Critique of Political Reason" in *Power*, 300.

[479] Ibid., 300-01.

[480] I use the masculine pronoun here simply because God is generally referred to as a patriarch in the ancient Hebrew texts. I am in no way endorsing the patriarchal conception of God (or even taking a position concerning the existence of God); rather, I have used the masculine case for the sake of historical accuracy.

[481] Ibid., 301.

[482] Ibid., 301-02.

flock, and when one of the members strays from the fold he makes sure that they are returned to the safety of his tireless guardianship.[483]   Finally, the shepherd's task is described less as a 'duty' than a 'devotion', an act of beneficent kindness, which once again returns to the question of 'watchfulness'; Foucault writes that "[t]he theme of keeping watch is important. It brings out two aspects of the shepherd's devotedness. First, he acts, works, puts himself out, for those he nourishes and who are asleep. Second, he watches over them. He pays attention to them all and scans each one of them. He's got to know his flock as a whole, and in detail."[484]

The theme of the pastorate played an important role in the development of Christian theology, although it was transformed significantly vis-à-vis the older Hebraic treatments of the motif. Foucault (again, oversimplifying immensely) lists four important changes. First, the shepherd assumes a heightened responsibility for his flock; he not only guards the people against danger, he is also expected to provide an account for all their actions (Foucault notes, for example, that the shepherd is answerable for his flock on the Day of Judgment).[485]   Secondly, the members of the flock are completely subservient to the shepherd; they must obey his commands unswervingly, and in the Christian pastorate obedience becomes an end, a good, in itself—in short, a virtue.[486] Christianity posits obedience as a "permanent state."[487] Third, the shepherd strives for an exhaustive knowledge of his flock, which implies not only a knowledge of the flock in its totality, but also a specific knowledge, a knowledge of individual needs, a particular member's sins, and (to cite one of the most notables divergence from Hebrew pastoral

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[483] Ibid., 302.
[484] Ibid., 302-03.
[485] Ibid., 308.
[486] Ibid., 308-09.
[487] Ibid., 309.

themes) his or her progress towards eternal salvation.[488] Finally (and Foucault describes this as possibly the most important transformation) we encounter the struggle for 'mortification.' Foucault writes that "All those Christian techniques of examination, confession, guidance, obedience, have an aim: to get individuals to work for their own 'mortification' in this world. Mortification is not death, of course, but it is a renunciation this world and oneself, a kind of everyday death—a death that is supposed to provide life in another world."[489]

During the Middle Ages, there were traces of pastoral power in the organization of society; in certain monastic orders, for example, reforms were implemented according to a pastoral logic. Splinter orders, such as the Dominicans and Franciscans, tried to establish a pastoral order outside the monastery, in the community of believers.[490] Likewise, there were elements inside the population who rebelled against the church hierarchy in order, as Foucault writes, to "find the shepherd it needed."[491] It is incorrect to suggest, however, that pastoral power was the central, or even a central, element in the structuring of political power, for at least three reasons. First, there were economic factors: pastoral power was generally concentrated in urban, rather than rural, areas; therefore, the distribution of population in the Middle Ages was incompatible with the formation of government according to a pastoral logic.[492] Secondly, there were cultural difficulties; pastoral power required a certain level of education, or at least sophistication, within both the 'shepherd' and the 'flock' which were lacking during the medieval

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[488] Ibid., 309-10.
[489] Ibid., 310-11.
[490] Ibid., 312.
[491] Ibid., 312-13.
[492] Ibid., 312.

period.[493] Finally, there were political barriers; feudalism emphasized the importance of local, personal ties rather than abstract commitments to the nation-state.[494]

It was nevertheless the case (as I had emphasized above) that certain aspects of the pastorate were important in medieval society, especially in terms of ecclesiastical institutions. The themes of the pastorate, which had originated in antiquity and were transmitted, albeit with significant modifications, via Christian theology, emerged as a political motif in the sixteenth century. On the one hand, the themes of the pastorate intensified in the church, yet there was a similar trajectory in the public sphere.[495] Indeed, Foucault suggests that there was a "transfer" of pastoral functions from the church to the state.[496] Accompanying the transfer, we see a new concern with the question of self-conduct, both in the public and private spheres.[497] One of the key questions which arises relates to the conduct of the sovereign; s/he is now concerned with taking up certain tasks which were previously considered, at least for the most part, outside the domain of sovereign power

In a lecture delivered at the University of Vermont in 1982, entitled "The Political Technology of Individuals", Foucault examines theoretical and practical dimensions

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[493] Ibid.

[494] Ibid. As Jeremy R. Carrette has noted in *Foucault and Religion: Spiritual Corporality and Political Spirituality* (New York: Routledge, 2000), Foucault's examination of religion suffers from a number of problems, such as a "selective use of sources"; in addition, he "may have simplistically emphasized the continuities in sexual ethics between the Greco-Roman period and Christianity, and developed an economy of austerity." (134-35) While he admits that "it is easy to challenge the historical material" (131), however, he also insists that criticisms of Foucault's historical narratives miss the point of his work on religion specifically, and his larger project generally, insofar as it fails to recognizes that Foucault was trying to problematize certain standard assumptions concerning religion. (131-32)

[495] For an interesting reading of the influence pastoral power exercised over the formation of modern educational institutions, see Ian Hunter's "Assembling the School" in *Foucault and Political Reason: Liberalism, Neo-liberalism and Rationalities of Government*, eds. Andrew Barry, Thomas Osborne and Nikolas Rose (Chicago: Chicago UP, 1996), 143-66.

[496] *Sécurité, Territoire, Population*, 235.

[497] Ibid., 235-36.

which characterized the new governmental rationalities dominated by pastoral power. Beginning in the late sixteenth/early seventeenth century, a new "reason of state" emerged which criticized models of governance derived from the Middle Ages.[498] In the medieval period, the monarch was expected to orient his/her subjects towards their natural end or finality, which was eternal bliss in the afterlife.[499] Between approximately 1580 and 1660, however, the sovereign's task was re-formulated in a series of important political treatises.[500] If the task of the ruler in scholastic political theory was to imitate God's beneficent cosmological authority, the new governmental rationalities subordinated religious mandates to the expansion of state power. Indeed, Foucault suggests that the most typical characteristic of the political rationalities developed during the seventeenth century is that the sole finality or end of power was the aggrandizement of the state itself.[501] Here we can recognize the clearest difference which separated the reason of state from medieval conceptions of societal organization; while the latter attempted to mirror the divine laws of God in the context of earthly politics, as well as (in theory) conducted souls towards eternal bliss in the afterlife, the former was directed towards explicitly secular ends. The sovereign abandoned the notion of a metaphysical task, of constructing a quasi-theological political order, in exchange for the project of constantly expanding the power of his/her secular realm, even if the reason of state was cloaked in the rhetoric of divine right.

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[498] For a much more extensive discussion of the "reason of state" than I can possibly hope to offer in this chapter, as well as its relationship to liberalism, see Colin Gordon's "Governmental Rationality: an Introduction" in *The Foucault Effect*, eds. Graham Burchell, Colin Gordon and Peter Miller (Chicago: Chicago UP, 1991), pp. 1-51.

[499] Foucault discussed this point, albeit briefly, in "Political Technologies of the Self"; the piece is anthologized in *Power*, pages 406-07. The point is examined at greater length in the March 8 lecture of *Sécurité, Territoire, Population*, especially pages 238-40.

[500] *Sécurité, Territoire, Population*, 242.

[501] Ibid., 264.

According to Foucault, three important ideas emerged from the seventeenth century state rationalities. The first is mercantilism, or the economic theory of state reason, which argued that the public sector needed to enrich itself by accumulating monetary resources, encouraging the growth of population and remaining militarily competitive with other nations.[502] Secondly, domestic society was organized as a 'police state', an idea which I will return to momentarily.[503] Finally, it was important to maintain a balance of power between Euorpean nation-states, which entailed the formation of standing armies and a diplomatic corps.[504]

There is one dimension of state reason which it is important to examine in greater detail, namely the concept of the 'police state'. In the seventeenth and eighteenth century, the term 'police' referred to technologies of power and strategies of political rule; according to Foucualt, "[w]hen people spoke about police at this moment, they spoke about the specific techniques by which a government in the framework of the state was able to govern people as individuals significantly useful for the world"[505] (or, to cite a more specific definition from his March 29, 1978 lecture at the Collège de France, the 'police' were understood as "the ensemble of means by which we an increase the forces of the State while maintaining the good order of the State"[506]). If the term has a pejorative content in certain contemporary political discourses, Pasquale Pasquino

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[502] *Naissance de la Biopolitique*, eds. Francois Ewald, Alessandro Fontana and Michel Senellart (Paris: Seuil/Gallimard, 2004), 7.
[503] Ibid.
[504] Ibid.
[505] Ibid..
[506] *Sécurité, Territoire, Population,* 321.

maintains that it is "difficult to find a negative definition of the tasks of the police before 1770", since they were associated with the defense of social order.[507]

The police regime was expansive; it organized economic activities, regulated educational institutions, distributed welfare provisions, monitored public health and defended property rights;[508] in short, state reason argued that the justifiable scope of intervention was, in principle, unlimited. There were, however, discourses of right which co-existed with the police-state, and they allowed critics to test the validity of government by invoking external criteria of legitimation against the power of absolutist monarchs.[509] Juridical reason, therefore, functioned as a theoretical check on the excesses of secular rulers, and its normative force was grounded in natural law doctrines.[510] Foucault argues that rights discourse placed an external limit on the police state, since the legitimacy of natural law was derived from sources of authority which transcended the parameters of state reason.

Beginning in the first half of the eighteenth century, an important modification occurred in the political technologies and theoretical logics of state reason. The new governmental rationality was located in discourses of political economy (attributable, at least in part, to the growing influence of the political the Physiocrats in France[511]), and it placed internal, rather than external, limits on power. In what sense, however, were the limits recognized by political economy 'internal', rather than 'external', to the operation

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[507] Cf. Pasqaule Pasquino's "'Theatrum Politicum': the Genealogy of Capital" in *The Foucault Effect*, 109.

[508] A good example of the ideal police regime is sketched out in Louis Turquet de Mayerne's *Aristo-democratic Monarchy* (1611), which Foucault discusses in "The Political Technology of Individuals", especially pages 410-12.

[509] *Naissance de la Biopolitique*, 11.

[510] Ibid.

[511] On the importance of the Physiocrats specifically, see Colin Gordon's "Governmental Rationality: an Introduction" in *The Foucault Effect*, 15.

of government? Foucualt lists five ways. First of all, a government which failed to

recognize its proper limits was inept or inefficiently managed.[512] Secondly, the

government was expected to impose limits on itself, not react to the demands of

citizens.[513] Third, a state which didn't impose self-limitations would never achieve its

end, which was responsible and effective government.[514] Fourth, there was a line drawn

between permissible and impermissible forms of intervention[515], and fifth, this line was

demarcated by the quasi-natural laws of political economy.[516] There are clearly major

differences, then, between the constraints of rights discourse and the new rationalities

inaugurated by political economy; the primary transformation, however, is that political

economy, unlike rights discourse, wasn't opposed to state reason. It tried to maximize

efficiency, to enhance and perfect the operation of state reason, rather than challenging its

legitimacy (which is clearly the purpose of the oppositional model of critique developed

in the context of juridical reason).[517]

Foucault argues that the emphasis on auto-limitation and self-restraint which

characterized the new technologies of power were the template for what we today call

"liberalism".[518] How, then, did liberalism try to achieve the end of optimal government?

It introduced five important transformations into the paradigm of state reason. First of

all, it opposed the police state's systematic intervention in everyday life; rather, it tried to

create prosperity by allowing the natural mechanisms of economic processes to operate

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[512] *Naissance de la Biopolitique*, 12.
[513] Ibid., 12-13.
[514] Ibid., 13.
[515] Ibid., 13-14.
[516] Ibid., 14.
[517] Ibid., 16-17.
[518] Ibid., 22-24.

without constriction, such as the law of supply and demand.[519] Against the artificial order created by the police state's bureaucratic omnipresence, therefore, it established order by allowing so-called 'natural' laws of human society to function according to self-stabilizing logics.[520] Secondly, it advocated the use of scientific rationalities in the conduct of government, and more specifically scientific principles which appealed to the evidence of the newly forming human sciences.[521] Third, it began to study the concept of population as a specific reality, with its own logics of transformation, such as factors regulating birth and death rates or the movement of the labor force.[522] In addition, individuals and groups interact with one another in spontaneous ways which effectively escape the regulatory capacities of the state.[523] As a consequence, a new series of scientific discourses and technologies of government emerged to deal with the interpretation and control of demographic phenomena, focusing on threats to the collective security of the body politic; in this regard, Foucault mentions the examples of social medicine and public hygiene.[524]

There are two more important modifications, however, which require explication. The fourth transformation is liberalism's criticism of the police state's excesses, and its attitude towards state intervention in civil society. As we have noted above, political economists argued that there were limits to government's capacity for effective intervention, since economic and sociological processes conformed to quasi-natural laws. Yet this limitation did not signal an end to state power; rather, it opened up a new region

[519] *Sécurité, Territoire, Population*, 356-57.
[520] Ibid., 356-57.
[521] Ibid., 358-59.
[522] Ibid., 359.
[523] Ibid., 359-60.
[524] Ibid., 360.

of interventions within the field of legitimate or permissible oversight. A limit was created, but it wasn't simply a negative limit; as Foucault puts it in the April 5th course from his 1978 lecture series at the Collège de France (i.e. *Security, Territory, Population*),

> [t]hat is to say, on the one hand, the intervention of state governmentality must be limited, but this limit…isn't just a kind of negative boundary (*une sorte de borne negative*). A domain of interventions will appear in the delimited field, possible interventions, necessary interventions, but…[interventions] which will not have the form of regulatory intervention (*l'intervention réglementaire*). One must manipulate, create, facilitate, *laisser faire*; it will be necessary, in other words, to manage and no longer regulate (*gérer et non plus réglementer*).[525]

What is the difference, however, between 'management' and 'regulation'? Foucault characterizes the former with terms such as "manipulate", "create", "facilitate" and "laissez-faire", while he implies that regulation tries to prevent or prohibit specific results. Therefore, a new question arises: if it's the case that liberalism tries to 'manage' the field of permissible interventions, what are the implications for technologies of governance? In the same lecture, he offers the following response:

> One must, therefore, supervise (*encadrer*) natural phenomena in such a way that a maladroit, arbitrary or blind intervention does not make them deviate. That is to say that it is going to be necessary to put in place mechanisms of security. The mechanisms of security or intervention…of the state essentially have the function of assuring the security of these natural phenomena which are the economic processes or the intrinsic processes of population, [and] this is going to be the fundamental objective of government.[526]

Here Foucault returns to a theme he had examined earlier in the lecture series, namely the relationship between security and population. He expands the argument, however, indicating that the so-called 'natural', self-regulatory mechanisms of civil society or

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[525] Ibid., 360.
[526] Ibid., 361.

demographic tendencies presuppose a framework of security; paradoxically, then, the 'natural' processes are only guaranteed by a regime of management or security. Interventions are still necessary, but only insofar as they restore the equilibrium of supposedly auto-corrective processes.

There is one more modification we need to address, which Foucault calls "the inscription of liberty."[527] The new techniques of government recognized the indispensability of liberty as a precondition for the efficient operation of (to cite one, and surely not the least important, example) 'free markets'. The political economists argued that government was incapable of functioning properly unless liberties were respected. The failure to recognize autonomy, whether it was the autonomy of private citizens or the autonomy of civil society in relation to the state, represented not only a violation of rights, but also an inability or failure to govern effectively.[528] Thus it was a subversion of legitimacy as well as a lack of efficiency, and in the minds of the economists, the latter was a more serious transgression of principles of governance than the former. Foucault suggests that for the critics of the 'police state' the greatest evil of government was not the "wickedness of the prince", but its ignorance, i.e. its disregard for the rationalities which governed particular epistemological formations.[529]

This transformation (i.e. the problem of 'freedom's inscription'), escorts us to the heart of Foucault's reading of liberalism. In his January 24, 1979 lecture at the Collège de France, he highlights the connection between the fifth modification introduced by political economy and the emergence of liberalism as a technology of power. In his re-interpretation of liberalism, he identifies the new assemblage of governmental

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[527] Ibid.
[528] Ibid.
[529] Cf. the January 10th, 1979 lecture from *Naissance de la biopolitique*, especially pages 18-19.

technologies as 'liberal' insofar as they presupposed the liberty of individuals in order to function properly. More specifically, they were 'liberal', at least in part, because they operated as 'consumers' of liberty.[530] In what sense, however, were the new, distinctively 'liberal' forms of government 'consumers'? According to Foucault, they were only capable of functioning if basic liberties were guaranteed (the liberties he mentions here are the free market, the freedom of buyers and sellers, property rights and the right of discussion/self-expression). Yet if they presupposed the existence of liberty as a condition of their material and ideological survival, they also had to serve as *producers* and 'organizers' of liberty, given that autonomy was only capable of flourishing in a context of security, i.e. an environment in which the exchange of goods was encouraged, property rights were guaranteed and the freedom of movement was protected. Indeed, a 'free market' needed buyers and sellers, and the government was able to stimulate consumption by providing assistance to the poor.[531] Anti-monopoly legislation was also important, in order to protect competition against the hegemony of a single corporate entity.[532] Likewise, it was necessary to establish limitations (or more generally prohibitions) on the worker's abilities to collectively organize, since unions or political parties threatened to disrupt the employer's control over the means of production.[533] In

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[530] In one of the most fascinating passages from the January 24th lecture (in *Naissance de la biopolitique*), Foucault says that "Si j'emploie le mot <<liberal>>, c'est d'abord parce que cette pratique gouvernementale est en train de se mettre en place ne se contente pas de respecter telle ou telle liberté, de garantir telle ou telle liberté. Plus profondément, elle est consommatrice de liberté. Elle est consommatrice de liberté dans la mesure où il y a effectivement un certain nombre de libertés: liberté de marché, liberté de vendeur et acheteur, libre exercice du droit de propriété, liberté de discussion, eventuellement liberté d'expression, etc." (65) It is also, however, important to register Yves Michaud's cautionary note that Focualt uses the term/concept 'liberalism' in an "assez floue" manner. Cf. "Des modes de subjectification aux techniques de soi: Foucault et les identités de notre temps" in *Cités* 2 (avril 2000): 23.
[531] Ibid., 66.
[532] Ibid.
[533] Ibid.

short, Foucault argues that security is the condition of liberty (or more precisely, it is the "calculation of the cost" of liberty).[534]

What, however, does it mean to say that "security" is the condition of liberty? Liberalism tries to determine when particular interests, or the interests of individuals, represent a danger to the 'public' good.[535]   Yet it was also necessary to defend the interests of private individuals against the interventionist tendencies of centralized public bureaucracies.[536]   Thus, it was important to balance, calculate and weigh the respective interests of society and the individual, with the intention of eliminating, or at least minimizing, the risks encountered by either the public sector or private subjects.[537] Liberalism is confronted, therefore, with the precarious task of advancing the freedom of subjects while at the same time controlling the environment which establishes the preconditions for liberty.

There are three major consequences of the new liberal technologies of governance, technologies which effected major political and sociological transformations in the late eighteenth and early nineteenth centuries. First, the number of 'dangers' which represent threats to the body politic are multiplied; liberalism discovers risks everywhere, in every aspect of quotidian culture.[538] As a result, we see the emergence of police

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[534] Or as Foucault articulates the point his lecture, "La liberté, c'est quelque chose qui se fabrique à chaque instant. Le libéralisme, c'est n'est pas ce qui accepte liberté. Le libéralisme, c'est ce qui se propose de la fabriquer à chaque instant, de la susciter et de la produire avec bien entendu [tout l'ensemble (the editors transcribed the lectures from a tape recording which was unclear here)] de contraintes, de problèmes de coût que pose cette fabrication. Quel va être alors le principe de calcul de ce coût de la fabrication de la liberté? Le principe de calcul, c'est bien entendu ce qu'on appelle la securité." (Ibid., 66) For a study of the regulation of economic life in so-called 'free-market' societies inspired by Foucault's work, see Peter Miller and Nikolas Rose, "Governing Economic Life" in *Economy and Society*, 19, no. 1 (February 1990): 1-31.
[535] Ibid., 67.
[536] Ibid.
[537] Ibid.
[538] Ibid., 68.

literature, as well as a journalistic fascination with deviancy and crime, numerous campaigns on behalf of 'hygiene', a general terror of 'degeneration' (whether it was the 'degeneration' of the individual's mental health, the stability of the family or the 'corruption' of racial purity) and a dissemination of fear into the general public.[539] Indeed, Foucault argues that "this stimulation of the fear of danger…is in a certain way the condition, the internal psychological and cultural correlative, of liberalism. There is no liberalism without a culture of danger."[540] Secondly, we encounter a "formidable extension of procedures of control", procedures which are, not coincidentally, contemporaneous with the emergence of liberalism as an important governmental theory (and more critically, set of practices).[541] One of the best examples is Bentham's development of the Panopticon, an example which I will return to momentarily. The third consequence is the dialectic we highlighted above between security and freedom, i.e. the production of liberty through schemas of control and intervention.[542] Here Foucault presents the case of Roosevelt's New Deal, the birth of the American welfare state, which guaranteed certain liberties in perilous economic times, such as the liberty to work, the liberty to consume, etc., through mechanisms of intervention in the private sector.[543] In a moment, I will examine the concrete technologies of power and specific practices of 'security' which emerged in liberal regimes, citing examples from Foucault's work which illustrate his thesis. At this point, however, I'd like to examine a test case for Foucault's argument: the economic/political theory of Adam Smith.

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[539] Ibid.

[540] Ibid.

[541] Ibid.

[542] Ibid., 69.

[543] Ibid., 69-70. Foucault himself complicated the narrative I present here; he argued that in the twentieth century, German Ordoliberalism and American neoliberalism have introduced modifications in liberal governmentality.

Excurses on Adam Smith

According to traditional interpretations, Adam Smith is a libertarian *avant la lettre*; he is a defender of limited government and free market economic principles, which are the foundations of modern Hayekian political theory. Jacob Viner's "Adam Smith and Laissez-Faire", which was published in 1929, still represents one of the clearest presentations of the argument that Smith opposes excessive government intervention. He writes that

> Smith's doctrine that economic phenomena were manifestations of an underlying order in nature, governed by natural forces, gave to English economics for the first time a definite trend toward logically consistent synthesis of economic relationships, toward "system-building." Smith's further doctrine that this underlying natural order required, for its most beneficent operation, a system of natural liberty, and that in the main public regulation and private monopoly were corruptions of that natural order, at once gave to economics a bond of union with the prevailing philosophy and theology, and to economists and statesmen a program of practical reform.[544]

On Viner's interpretation, Smith argues that government regulation is a "corruption" of the "system of natural liberty". In this regard, his theory is clearly an example of what Foucault calls liberal governmentality. According to the typical reading of Smith (and of classical liberalism more generally), in order to protect "natural liberty" against the tyranny of arbitrary power it is important to limit the scope of government intervention. If Foucault is correct, however, we have to re-assess our standard assumptions concerning the history of classical liberalism's theoretical (and more importantly practical) program. He argues that for liberal governmentality, security is the condition

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[544] See Jacob Viner's "Adam Smith and Laissez-Faire" in *Adam Smith, 1776-1926: Lectures to Commemorate the Sesquicentennial of the Publication of 'The Wealth of Nations'* (Chicago: Chicago UP, 1929), 116-17. For a similar and more recent interpretation, see Thomas Sowell's "Adam Smith in Theory and Practice" in *Adam Smith and Modern Political Economy: Bicentennial Essays on 'The Wealth of Nations'*, ed. Gerald P. O'Driscoll, Jr. (Ames, Iowa: The Iowa State University Press, 1979), 3-18.

of liberty. Security, however, requires the active intervention of government in civil society. Foucault's re-interpretation of liberalism, then, raises two questions for the standard historical account of Smith's work. First, is the typical, crypto-libertarian interpretation of Smith an accurate representation of his attitudes towards, for example, the role of government in managing the affairs of civil society? Secondly, if it is fair to characterize Smith as a defender of liberal governmentality, does his attitude towards the role of government either confirm or challenge Foucault's re-configuration of our theoretical categories?

One of the most important passages in defense of the 'minimalist' interpretation of Smith (i.e. 'minimalist' in terms of the role he assigns to government) is a reference at the end of Book Four of *Wealth of Nations* to the 'system of natural liberty'. Smith is examining capital allocation in particular industries; he argues that governmental policies which artificially encourage the transfer of capital from one sector to another, in violation of the law of supply and demand, threaten to disrupt the auto-regulatory mechanisms of free markets. If governments remove artificial barriers or incentives to the operation of the market, however, a 'system of natural liberty' emerges; he writes (and this is the reference I alluded to above) that

> [a]ll systems either of preference or restraint, therefore, being thus completely taken away, the obvious and simple system of natural liberty establishes itself of its own accord. Every man, as long as he does not violate the laws of justice, is left perfectly free to pursue his own interest his own way, and to bring forth the industry and capital into competition with those of any other man, or order of men.[545]

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[545] Cf. Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, Volume II, eds. R.H. Campbell, A.S. Skinner and W.B. Todd (Indianapolis: Liberty Fund, 1981), 687.

In this passage, we have the key elements of Smith's minimalism: his emphasis on non-intervention, the spontaneous harmony associated with free market outcomes and the liberty of subjects to engage in competition (another important element of market spontaneity, since competition, at least in theory, improves the quality of products and decreases the price for consumers). The quasi-naturality which late eighteenth and nineteenth century political economists attributed to economic processes is emphasized by Foucault, and in this regard he agrees with an important premise of the traditional reading of Smith. Indeed, the 'minimalist' interpretation is reinforced by the very next sentence, where he places explicit limitations on the power of the sovereign; according to Smith, "[t]he sovereign is completely discharged from a duty, in the attempting to perform which he must always be exposed to innumerable delusions, and for the proper performance of which no human wisdom or knowledge could ever be sufficient; the duty of superintending the industry of private people, and of directing it towards the employments most suitable to the interest of society."[546]

It is important to recall that Foucault had recognized the political economists' opposition to governmental intervention. Their antagonism was primarily based on the inefficiency of the public sector. The sovereign's capacities for beneficially influencing the operation of the market are limited by his or her ignorance, which is not a contingent ignorance that we could correct, for example, with more accurate data; rather, it is improbable that anyone could accurately predict the oscillations of supply and demand. There are, however, three duties which the sovereign is expected to perform, even within Smith's "system of natural liberty"; s/he is obligated to (1) protect society from foreign

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[546] Ibid.

aggression,[547] (2) defend citizens against crime by "establishing an exact administration of justice",[548] and (3) maintain public institutions which, for a number of reasons, are not in the interests of private individuals to finance, but are essential to public safety or the collective good.[549]

In my reading of Smith, which departs from the new paradigm introduced by Foucault, I propose to emphasize the intersection of liberty and security. I want to demonstrate that Foucault's interpretive framework opens up a range of possible insights which are foreclosed by the traditional emphasis on free-market principles and non-intervention. While it is absurd to deny that Smith is an opponent of excessive market regulations, or that he emphasizes the importance of 'natural liberty' as a precondition for the efficient operation of a capitalist economy, Foucault's re-reading of liberalism allows us to complicate familiar historical narratives by retrieving the connections between freedom and security in liberal governmentality. I will sketch out the contours of a revisionist interpretation by focusing on the role of the sovereign in Smith's *The Wealth of Nations*.

As I had mentioned above, the first obligation of sovereigns is to defend citizens from the aggression of other "independent societies".[550] Indeed, the stability of 'civilization' depends on the maintenance of a well-regulated standing army; otherwise, the nation is exposed to constant threats from "the invasion of a poor and barborous neighbor."[551] Likewise, an imposing military presence is necessary in order to establish the authority of the sovereign in distant territories which are only nominally under his/her control. He cites the example of Peter the Great's reforms, which were only

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[547] Ibid.
[548] Ibid.
[549] Ibid.
[550] Ibid., 707.
[551] Ibid., 706.

implemented, according to Smith, as a result of the power exerted by the army.[552] Thus,

the security guaranteed by a military force is the foundation of 'civilized' societies.

Yet Smith also makes an argument that security establishes the conditions of

liberty. In the context of examining the necessity of funding a trained military Smith

mentions that republican political theorists have traditionally exhibited suspicion toward

standing armies, because they represent a potential danger to the freedom of civilians.[553]

Smith disagrees, however, arguing that when the army is commanded by the sovereign

him/herself and members of the aristocracy serve as officers "a standing army can never

be dangerous to liberty. On the contrary, it may in some cases be favorable to liberty"[554]

(since the nobility and the sovereign have a vested interest in stability). With a powerful

army at his/her disposal the ruler is less concerned about the potential for unrest; Smith

writes that "[t]he security which it gives to the sovereign renders unnecessary that

troublesome jealousy, which, in some modern republicks, seems to watch over the

minutest actions, and to be at all times ready to disturb the peace of every citizen."[555] If

the sovereign is weak, s/he obsessively searches for evidence of dissent or rebellion, but

when s/he is supported by a standing military

> the rudest, the most groundless, and the most licentious remonstrances can give little disturbance. He can safely pardon or neglect them, and his consciousness of his own superiority naturally disposes him to do so. That degree of liberty which approaches to licentiousness can be tolerated only in countries where the sovereign is secured by a well-regulated standing army. It is in such countries only, that the sovereign should be trusted with any discretionary power, for suppressing even the impertinent wantonness of this licentious liberty.[556]

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[552] Ibid.
[553] Ibid.
[554] Ibid., 707.
[555] Ibid.
[556] Ibid.

In this passage, the importance of the connection between security and liberty is clearly demonstrated. The existence of a powerful military is not a threat to autonomy; rather, it serves as a defender of freedom, at least indirectly, since the sovereign can adopt a more lenient attitude towards 'licentious remonstrances'. And even if Smith's assumption is incorrect (indeed, there are too many counterexamples of military dictatorships terrorizing their citizens), it nevertheless provides an example of Foucault's point concerning the conditions of freedom or, to use Smith's phrase, 'civilization'; the state's monopoly on coercive force guarantees liberty, precisely insofar as it prevents civilians from challenging the authority of the sovereign.

Foucault's hypothesis is also illustrated by the second duty of sovereignty, which is the establishment of judicial institutions. One of the cornerstones of freedom in a liberal political order is the right to own property (along with its corollary, protection against theft). The poor represent a threat to property rights; they are "driven by want, and prompted by envy" to steal from the affluent[557] (although they are also motivated by "love of present ease and enjoyment").[558] It is necessary, therefore, to establish governments which will protect the 'hard-earned' acquisitions of the wealthy.[559] In an illuminating passage, Smith provides a vivid example of the ways in which danger, security and liberty are inseparably connected in the liberal imagination:

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[557] Ibid., 710.

[558] Or to quote Smith precisely, "avarice and ambition in the rich, in the poor the hatred of labour and love of present ease and enjoyment, are the passions which prompt to invade property, passions much more steady in their operation, and much more universal in their influence…The affluence of the rich excites the indignation of the poor, who are often driven by want, and prompted by envy, to invade his possessions." (Ibid., 709-10). It is interesting to compare Smith's description of the poor with that of Locke (see Chapter 1, where I discuss Locke's comments regarding the poor in his essay on the working schools); there is a fascinating continuity in terms of their characterizations of the 'many'. Liberalism, a doctrine which professes human equality, has a lengthy history of elitism, at least in this regard.

[559] Ibid., 710.

> It is only under the shelter of the civil magistrate that the owner of that valuable property, which is acquired by the labour of many years, or perhaps of many successive generations, can sleep a single night in security. He is at all times surrounded by unknown enemies, whom, though he never provoked, he can never appease, and from whose injustice he can be protected only by the powerful arm of the civil magistrate continually held up to chastise it. The acquisition of valuable and extensive property, therefore, necessarily requires the establishment of civil government.[560]

The relationship between security and liberty is evident here; the entrepreneur who has expended his (preserving Smith's gendered language) energy and intelligence is under assault. His property rights are constantly threatened by 'unknown' enemies, but the "powerful arm of the civil magistrate" prevents society from collapsing into anarchy. Leaving aside the question of Smith's classism, or his failure to recognize that theft is also motivated by necessity, it is clear that there is an important connection between the elements of liberal governmentality highlighted in Foucault's study. Notice the 'dangers' confronted by the affluent, the risks which indefinitely multiply, the impossibility of satisfying the desires of the poor (whom the wealthy "never provoked", as if they are guiltless); the only way to stave off the menacing other (an 'unknown' enemy, even though Smith is quite willing to attach a face to the other, the face of the destitute) is by appealing to the sovereign's power, which keeps the masses at a 'secure' distance.

Finally, we encounter the third duty of sovereignty, which is the supervision of public institutions. Under this category, Smith includes both the maintenance of thoroughfares (a prerequisite for commerce),[561] as well as obligations to fund public education for the (to use Smith's phrase) "inferior ranks of people."[562] He notes that "people of some rank and fortune" are able to obtain an education before they enter an occupational field in late

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[560] Ibid., 710.
[561] Ibid., 724-31.
[562] Ibid., 788.

adolescence, but the "common people" are forced to enter a trade at an early age, neglecting, for reasons of necessity, the acquisition of basic skills such as reading and writing.[563] The sovereign has a responsibility, therefore, to allocate revenue for public education, in order to 'better' the working class. His argument is, at once, idealistic and pragmatic; while he insists that even if the state did not benefit from educating laborers, "it would still deserve its attention that they should not be altogether uninstructed", it is nevertheless the case that "[t]he state…derives no inconsiderable advantage from their instruction", such as the improvement of their conduct (recall that for Foucault, government is "the conduct of conduct"),[564] a "respect for their lawful superiors"[565] and the ability to recognize (and resist) political factionalism.[566]

Given the list of obligations assigned to the sovereign, therefore, what can we conclude about Smith's attitude towards government intervention? Andrew Skinner notes that "Smith's list of policy recommendations was longer than some popular assessments suggest. [He] emphatically did not think in terms of 'anarchy plus the constable', to use Carlyle's phrase."[567] Skinner is correct to recognize that the letter of Smith's text contradicts the spirit of contemporary libertarian interpretations. While my counter-interpretation of Smith hopefully complicates the 'minimalist' reading by highlighting the necessity (at least in Smith's system) of a powerful sovereign with extensive bureaucratic/administrative oversight, an interpretation which challenges the traditional emphasis on the "invisible hand" guiding society towards prosperity through

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[563] Ibid., 784-85.
[564] Ibid., 788.
[565] Ibid.
[566] Ibid.
[567] Cf. Andrew Stewart Skinner, "The Role of the State" in *A System of Social Science: Papers Relating to Adam Smith*, 2nd Ed. (Oxford: Clarendon UP, 1996), 204.

the interaction of self-interests, unencumbered by government intervention,[568] it is nevertheless important to avoid drawing the conclusion that Smith is an anti-liberal. Rather, his work perfectly demonstrates the argument that liberalism is a technology of power concerned with grounding liberty in a foundational context of security; thus, we encounter a clear illustration of Foucault's point, in a text which privileges the operation of free markets and attacks the corruption as well as the inefficiency of bureaucrats—precisely the kind of theoretical trajectory which should have proven resistant to Foucault's argument.

In outlining three implications of the new liberal technologies of power, Foucault highlights the emergence of "dangers" which threaten the body politic, the proliferation of disciplinary technologies and the "inscription" of liberty via mechanisms of intervention/control. How will liberalism counter the dissemination of risks, the multiplication of crimes and transgressions, the pathologies which lurk in the body of society's other—or more precisely, in the body politic itself? Recall this passage from Smith, which is a cry for order in the wilderness of 'barbarity': "He is at all times surrounded by unknown enemies, whom, though he never provoked, he can never appease, and from whose injustice he can be protected only by the powerful arm of the civil magistrate continually held up to chastise it." With enemies everywhere, how is it possible to secure the "liberty" of the affluent?

Foucault on Disciplinary Power: Jeremy Bentham and the Panopitcon

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[568] The famous reference to an "invisible hand" is located, once again, Smith's *An Inquiry into the Nature and Causes of the Wealth of Nations*, Volume I, eds. R.H. Campbell, A.S. Skinner and W.B. Todd (Indianapolis: Liberty Fund, 1981), 456.

Before I can propose an answer to this question, it's important to return to the earlier discussion of biopower. In my introduction, I examined the differences between what Foucault calls disciplinary power and biopolitics. Disciplinary power emerged first; as Foucault writes, "[i]nstead of bending all its subjects in a single uniform mass, it separates, analyzes, differentiates, carries its procedures of decomposition to the point of necessary and sufficient single units. It 'trains' the moving, confused, useless multitudes of bodies and forces into a multiplicity of individual elements—small, separate cells, organic autonomies, genetic identities and continuities, combinatory segments."[569] In short, it's a political technology of division and hierarchies, a strategy of government which isolates the body and reaches into the depths of the soul, producing individuals who contribute to the reproduction of the body politic. According to Foucault, the paradigmatic example of disciplinary technologies is Jeremy Bentham's Panopticon.

The idea of the Panopticon was formulated by Bentham (an admirer of Smith's economic theory)[570] in a series of letters written during his 1787 trip to Russia (he had traveled there to visit his brother Samuel, who was serving in an administrative capacity on behalf of the British government). The purpose of government is to provide security,[571] and more specifically the security of the community, which Bentham conceives as a "fictitious *body*"[572] (once again, therefore, we encounter the imagery of the body politic). In the Russian letters, he outlines one of his most (in)famous strategies

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[569] *Discipline and Punish*, 170.

[570] For an examination of Smith's influence on Bentham's intellectual development, see Elie Halévy's indispensable *The Growth of Philosophic Radicalism*, trans. Mary Morris (Boston: Beacon Press, June 1960), especially pp. 89-120.

[571] Cf. Jeremy Bentham, "Principles of the Civil Code" in *Selected Writings on Utilitarianism* (Ware, Hertfordshire: Wordsworth Classics, 2001), 318.

[572] See Bentham's *An Introduction to the Principles of Morals and Legislation*, eds. J.H. Burns and H.L.A. Hart (Oxford: Clarendon UP, 1970), 12.

of policing, namely the formidable disciplinary structure which he called the Panopticon, a microscopically ordered institution of surveillance and control. Bentham argued it was a solution to numerous problems of cost, inefficiency and risk which subverted the effectiveness of the judicial system (although he also insisted that the Panopticon design was applicable to other institutional buildings, such as hospitals, asylums, factories and schools). The details of the plan were examined at length by Foucault in *Discipline and Punish*; I will therefore limit myself to a brief reconstruction of the essential aspects of Bentham's model.

The Panopticon was originally envisioned as a circular prison; at the circumference of the building there was a ring of cells, and they were divided from each other by partitions which isolated the convicts and prohibited communication; the cells likewise contained two sets of windows, opening onto the outside and the center of the penitentiary.[573] The "inspector" of the prison occupied a "lodge" in the middle of the circle, which also contained windows; there was a vacant, annular space between the centrally located inspector's residence (Bentham recommends that the inspector and his/her family should live in the observation area; indeed, "[t]he more numerous also the family, the better; since by this means, there will in fact be as many inspectors, as the family consists of persons, though only one be paid for it"[574]) and the outer ring of cells which allowed the guards to exercise constant supervision over the prisoners.[575] Given the design of the cells, which utilized what Foucault calls an "effect of backlighting", the inspector was able to "observe from the tower, standing out precisely against the light,

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[573] Cf. *Panopticon, or the Inspection House* in Bentham's *Collected Works*, vol. 4, ed. J. Bowring (London: 1843), 40-41.
[574] Ibid., 45.
[575] Ibid., 40-41.

the small captive shadows in the cell of the periphery"[576]; indeed, Foucault sees the Panopticon's emphasis on visibility and transparency as a literal manifestation of the Enlightenment's terror of dark spaces, its desire to cast brightness into obscure corners of human society, but in this case "illumination" operates as a principle of subjection.[577]

Yet the essence, the true 'genius' of his plan is, in his words, "the centrality of the inspector's situation, combined with the well-known and most effectual contrivance of seeing without being seen."[578] In addition to the perpetual gaze directed towards the inmates, their vision is restricted by blinds and partitions within the central apartments which screen off the inspectors from the sight of the prisoners.[579] There is a radical asymmetry: the guard is able to watch every move and monitor every action without his or herself being detected. Indeed, one of the effects which the Panoptic machine (with its unrelenting gaze of authority, the inescapability of its observation) induces in the convicts is the feeling that they are always being watched, even when no guards are visible inside the central residence.[580] It is a suspicion, however, which is never subject to confirmation; the efficacy of the Panopticon is that it creates, albeit indirectly, a self-policing mechanism in the prisoner.[581] The ideal arrangement of a prison would facilitate surveillance of the inmate at every moment; given the obstacles of limited time and money confronted by authorities, however, the Panopticon is an economic solution to the dilemma of finite resources.[582] According to Foucault, the greatest 'advantage' of

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[576] *Discipline and Punish*, 200.
[577] Cf. "The Eye and Power" in *Power/Knowledge*, 153-54.
[578] *Panopticon*, 44.
[579] Ibid., 41.

[580] Ibid., 40, 44.
[581] Ibid., 44.
[582] Ibid., 40.

Bentham's penitentiary, is captured in the following equation: "power exercised continuously and for what turns out to be a minimal cost"—in short, maximum coercive effect with minimum expenditures.[583]

Yet Bentham also envisioned the application of the Panopticon model in other contexts; in addition to the punitive aspects of his theory, he argued that the principles of its architectural design were readily transferable to other institutional settings such as asylums, factories, hospitals and schools. In his 'Preface' to the letters he imagines that the generalization of the Panopticon will give birth to a utopian society of virtue, hygiene and industriousness: "Morals reformed—health preserved—industry invigorated—instruction diffused—public burthens lightened—Economy seated, as it were, upon a Rock—the Gordian knot of the Poor Laws not cut, but untied—all by a simple idea in Architecture!"[584] In the workplace, for example, the supervisor, like the prison warden, benefits from a central observation post which allows him/her to monitor the activities of workers; likewise, partitions are useful here, since they reduce the number of distractions and eliminate potentially dangerous communication between employees.[585] In addition, Bentham highlights the importance of control in asylums,[586] and he is enthusiastic about the value of continual surveillance in hospitals (which would allow the doctors to maintain a constant watch over his/her patients).[587] Finally, the head-master of a school is able to monitor the entire classroom; he writes that "[a]ll play, all chattering; in short,

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[583] 'The Eye of Power", 155.
[584] *Panopticon*, 39.
[585] Ibid., 60.
[586] Ibid., 60-61.
[587] Ibid., 61.

all distraction of every kind, is effectually banished by the central and covered situation of the master" (where s/he is also able to detect, and arrest, any attempts to cheat).[588]

In *Discipline and Punish*, Foucault underscores the audacity of Bentham's project, which tried to produce a comprehensive solution vis-à-vis the 'problem' of controlling political space and human agency by inventing a form of disciplinary power which regulated institutions in the social body. Panopticism represents, in short, "the general principle of a new 'political anatomy' whose object and end are not the relations of sovereignty but the relations of discipline…Bentham dreamt of transforming the disciplines into a network of mechanisms that would be everywhere and always alert, running throughout society without interruption in space or in time."[589]

As Felix Driver has noted, critics (especially historians) argue that Foucault's emphasis on the Panopticon as a signifier for generalized disciplinary practices in modernity is indefensible, since Bentham's project never exercised any significant influence vis-à-vis the construction of penitentiaries (although there are examples of prisons which conform to Bentham's model), much les other institutional spaces.[590] They

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[588] Ibid., 62-63.

[589] *Discipline and Punish*, 208-09.

[590] For an example of the problems with Foucault's interpretation of Bentham, specifically in terms of his (mis)reading of the history of English penal reforms, cf. Janet Semple's "Foucault and Bentham: A Defense of Panopticism" in *Utilitas* 4, no. 1 (May 1992), especially pages 109-13. Indeed, historians generally tended to view Foucault's work with suspicion, but for a different (and admittedly minority) verdict see Paul Veyne's "Foucault Revolutionzies History" in *Foucault and his Interlocutors*, ed. Arnold Davidson (Chicago: Chicago UP, 1997); he writes that "Foucault is the consummate historian, the culmination of history. This philosopher is one of the great historians of our era, beyond any doubt; but he might also be the author of the scientific revolution around which all historians have been gravitating. It we are all positivists, nominalists, pluralists and enemies of –*isms*, Foucault is the first to merit those designations fully. He is the first completely positivist historian." (147) Foucault's own perspective here is interesting, and it differs from Veyne's; in a 1980 interview, he offers the following observations: "I am not merely a historian. I am not a novelist. What I do is a kind of historical fiction…A historian could say of what I've said, `That's not true.'…What I am trying to do is provoke an interference between our reality and the knowledge of our past history. If I succeed, this will have effects on our present history." Cf. "Truth is in the Future" in *Foucault Live: Collected Interviews, 1961-1984*, ed. Sylvère Lotringer (New York: Semiotext(e), 1996), 301.

have also contended that Foucault, in his characterization of disciplinary power as totalizing and omnipresent, fails to recognize the existence of gaps in the implementation of power which open up the possibility of resistance.[591]   In response to the first criticism (i.e. that Foucault attributes an importance to Bentham's project which does not correspond to its historical significance) Driver offers the most effective response: Foucault isn't asserting that Bentham's model represents the dominant architectural model for prisons in the late eighteenth or early nineteenth century; rather, the Panopticon strikingly captures the logics of isolation and surveillance which characterized disciplinary power in modernity. His description is, according to Driver, "thus to be read as a model of a disciplinary programme" and not an empirical account of the Panopticon's success (or lack thereof) vis-à-vis penitentiary reforms.[592]   As for the second point, it is a standard criticism of Foucault's work, but it is based on a caricature of his position; leaving aside the broader question of the relationship between resistance and power in his work, which I will return to in the next chapter, Foucault noted that Bentham's scheme was unrealistic precisely because it did not factor in the importance of opposition to the authoritarian gaze.[593]

In support of Foucault's argument that the Panoptic logic is a model for disciplinary practices which were implemented in non-carceral institutions, I will limit

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[591] Cf. Felix Driver, "Bodies in Space: Foucault's Account of Disciplinary Power" in *Reassessing Foucault: Power, Medicine and the Body*, eds. Colin Jones and Roy Porter (New York: Routledge, 1994), 119-20.

[592] Foucault lends support to this interpretation; in *Le Pouvoir Psychiatrique*, ed. Jacque Lagrange (Paris: Gallimard, 2003), he writes "une sort de trame disciplinaire commence à recouvrir la société dès le XVIIIe siècle, où l'on voit figurer un certain nombre de schémas disciplinaires spécifiques comme l'armée, l'école, l'atelier, etc., schemas dont le *Panopticon* de Bentham me paraît être la formalization, en tout cas, si vous voulez, le dessin à la fois systématique et épuré." Cf. page 95.

[593] "The Eye and Power", 162. For a similar response, see Foucault's interview with Pasquale Pasquino, entitled "Clarifications on the Question of Power" in *Foucault Live*, especially pages 255-58.

myself to the following examples.[594] In his 1973-74 lectures at the Collège de France on psychiatric power, Foucault explicitly compared the organization of the asylum to Bentham's utopia, calling it "une machine panoptique."[595] There were four aspects of Bentham's prison integrated into the design of the asylum in the early to mid-nineteenth century, which allowed doctors to subject the bodies of the mad to a continuous monitoring. First of all, there was an emphasis on permanent visibility; not only is the patient watched incessantly, but it is also important that s/he is aware of the authoritarian gaze, and recognizes that his/her madness is constantly observed; such awareness ultimately has a therapeutic value, since s/he understands that the psychiatrist views him/her as insane.[596] Secondly, we encounter a principle of "centralized surveillance", but not in exactly the fashion Bentham imagined; rather, Foucault finds the operation of "centralized surveillance" in the hierarchy of nurses, doctors, guardians, etc. who all reported back to the privileged locus of knowledge-power, the director of the clinic (*le médecin-chef*).[597] Next, there is the isolation of the patient's body (in the same way that Bentham's prisoners were isolated); it is important to avoid the potential contagion of madness, to prohibit the communication of one form of insanity with another.[598] Finally, there is the similarity of incessant punishment; in the early-mid nineteenth century asylum, the psychiatrist used a variety of corporeal torture instruments, which were oriented towards the interdiction of certain actions (i.e. the chastity belt),[599] the extraction

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[594] The reader who is interested in further evidence for this assertion is referred to *Discipline and Punish*, where Foucault provides a wealth of empirical support for his argument.

[595] Cf. *Le Pouvoir Psychiatrique,* 103.

[596] Ibid., 103-04.

[597] Ibid., 104.

[598] Ibid., 105.

[599] Ibid., 106-07.

of truth (water torture),[600] and mechanisms of inscribing power on the body of the mad (such as branding them with an iron).[601]

In addition, however, we can see the logic of the Panopticon operating in factories. As they became more complex with highly differentiated labor functions, supervisors were hired to monitor the workers in order to guard against fraud and incompetence. Theft and inefficiency threatened to adversely affect the profitability of the enterprise if they escaped undetected; therefore, it was necessary to subject every worker to constant observation.[602] Likewise, in French elementary schools (beginning in the seventeenth century), instructors selected the best students to carry out the task of recording the behavior of students; the 'intendants' were expected to note any kind of deviant conduct, ranging from failure to wear a rosary to idle chatter during lectures.[603] In both cases, therefore, we encounter the attempt to improve the efficacy of the gaze. Indeed, the great tribunal of observation, which almost always doubles as a tribunal of normalization, becomes the ordering principle of modern societies; as Foucault writes, "[t]he practice of placing individuals under 'observation' is a natural extension of a justice imbued with disciplinary methods and examination procedures…Is it surprising that prisons resemble factories, schools, barracks, hospitals, which all resemble prisons?"[604]

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[600] Ibid., 107.
[601] Ibid.
[602] Cf. *Discipline and Punish*, 174-75. For a more extensive discussion of this question, see Norman Jackson and Piipa Carter's "Labour as Dressage" in *Foucault, Management and Organization Theory: From Panopticon to Technologies of Self*, eds. Alan McKinley and Ken Starkey (London: Sage, 1998), 49-64, where they examine, following Foucault, the development of management theories/technologies.
[603] Ibid., 175-76.
[604] Ibid., 228.

As I noted in the Introduction, however, Foucault argued biopolitics has two faces: we have already examined the first, which is disciplinary power. But there was a second biopolitical technology of control which emerged after the disciplinary regime, which Foucault calls "biopower." In the next section, I want to highlight important aspects of biopower, focusing on attempts to guard the collective 'health' of the social body against 'degeneration'.

Foucault on Biopower: Policing the Health of the Body Politic

First of all, what is the relationship between disciplinary regimes and biopower? In the March 10 lecture from his 1975-76 course at the Collège de France (entitled *Society Must Be Defended*), Foucault argues that disciplinary power centered on individuals, while biopower targeted the population or the social body; disciplinary power is "individualizing", while biopower is "massifying".[605] In other words, "after a first seizure of power over the body in an individualizing mode, we have a second seizure of power that is not individualizing, but, if you like, massifying, that is directed not at man-as-body but at man-as-species."[606] The two forms of power are different, therefore, to the extent that 'anatamo-politics' isolated the subject, while biopower operated at the level of aggregates. Referring to our earlier terminology, therefore, disciplinary power relates to micro-bodies, while biopower focuses on the macro-body.

It is incorrect to insist, however, that we can identify an obvious point of rupture, or construct a paradigm shift, between the two logics; rather, biopower was the continuation of disciplinary regimes, albeit with important modifications. He contends that

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[605] Cf. *Society Must Be Defended*, eds. Mauro Bertani and Allesandro Fontana, trans. David Macey (New York: Picador, 2003), 242-43.
[606] Ibid., 243.

[t]his technology of power [i.e. biopower—W.R.]…does not exclude disciplinary technology, but it does dovetail into it, integrate, modify it to some extent, and above all, use it by sort of infiltrating it, embedding itself in existing disciplinary techniques. This new technique does not simply do away with disciplinary technique, because it exists at a different level, on a different scale, and because it has a different bearing area, and makes use of very different instruments.[607]

Thus, while I characterize the two forms of power as 'faces' of 'biopolitics', there are both similarities and differences. As I read Foucault, the similarities relate, primarily, to a common point of application, namely the body, while the differences emerge vis-à-vis the question of scale. In any case, I will highlight examples of biopower's application in the following discussion, and we can see areas of overlap in the cases I discuss, emphasizing the continuities between the two regimes. And as Foucault himself noted, the articulations of disciplinary/biopower often co-exist.

Let's return, however, to the central problem, or one of the central problems, of the chapter. What is the connection between liberalism and biopower? The answer, I think, is this: in its attempts to create security for individuals, biopower was deployed as a strategy for eliminating risks from the body politic. Here I want to look at an example highlighted by Foucault which demonstrates the relationship between liberal governmentality and biopower. Let's begin, therefore, with the following question: How did society respond to the 'dangers' or 'risks' which proliferated in the body politic? According to Foucault, there was an explosion of theoretical discourses surrounding the fear of 'degeneration', or a generalized anxiety concerning the question of hereditary purity. The problem of degeneration, however, referred to a series of other, at first glance tangential, areas of investigation or discourse, such as sexuality and perversion. As

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[607] Ibid., 242.

Foucault writes in the first volume of *The History of Sexuality*, during the nineteenth century

> the analysis of heredity was placing sex (sexual relations, venereal diseases, matrimonial alliances, perversions) in a position with regard to the species: not only could sex be affected by its own diseases, it could also, if it was not controlled, transmit diseases and create others that would afflict future generations. Thus it appeared to be the source of an entire capital for the specie4s to draw from. Whence the medical—but also political—project for organizing a state management of marriages, births and life expectancies; sex and its fertility had to be administered. The medicine of perversions and the programs of eugenics were the two great innovations in the technology of sex of the second half of the twentieth century. [They were] innovations that merged quite well, for the theory of 'degenerescence' made it possible for them to perpetually refer back to one another.[608]

'Degeneration', therefore, was a risk to the body politic, or the population as a whole; the danger of transmitting pathologies form one generation to the next, furthermore, introduced the necessity of policing sexuality. Thus, the stability of the political order was challenged by genetic factors, and one of the discourses or movements which emerged from the theory of degeneration was eugenics. Psychiatry, in particular, exploited the connections between heredity and abnormality, and tried to expand the field of medical interventions; in the 1974-75 lecture course at the Collège de France, for example, Foucault notes that in the nineteenth century psychiatry increasingly abandoned the idea that it was able to cure mental illness, and adopted the etiological principle that medical disorders were hereditarily transmitted from one generation to the next, with an inexorability which eliminated the necessity of treating the patient. Thus, psychiatry assumes the role of guardian for the social order; to once again quote Foucault, "[p]sychiatry no longer seeks to cure…It can offer merely to protect society from being the victim of the definitive dangers represented by people in an abnormal condition…It

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[608] *The History of Sexuality I*, 118.

claims a role of generalized social defense and, at he same time, through the notion of heredity, it claims the right to intervene in familial sexuality."[609] As an illustration of the relationship between questions of degeneration and sexuality, I will limit myself to one example from the 1974-75 lecture course on abnormality (an example which is touched on indirectly in the first volume of *The History of Sexuality*), namely the problem of masturbation and the threats it posed to the bourgeois family.

It is important to specify the *bourgeois* family, since it contradicts the idea (associated with Marxist readings of the history of sexuality) that the bourgeoisie tried to establish controls on the sexual practices of the working class. It is indeed true that the urban proletariat was eventually a target of ideological pedagogies concerning reproduction, marriage, etc., but the campaign against the labor force emerged, chronologically, after the 'sexualization' of the bourgeois private sphere. As Foucault notes, "it was in the 'bourgeois' or 'aristocratic' family that the sexuality of adolescents and children was first problematized, and feminine sexuality medicalized; it was the first to be alerted to the potential pathology of sex, the urgent need to keep it under close watch and to devise a rational technology of correction."[610] He argues that prior to the mid-eighteenth century, the Western family was primarily a kinship network, a system of transferring descent and social status from one generation to the next. Beginning around 1750, however, what Foucault calls the 'cell family' displaced the kinship model. In the 'cell family', we encounter a "restricted, close-knit, substantial, compact, corporeal, and affective family core" in which

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[609] *Abnormal*, 316.
[610] *The History of Sexuality 1*, 120.

> parents were urgently enjoined to reduce the large polymorphous and dangerous space of the household and to do no more than forge with their children, their progeny, a sort of single body, bound together through a concern about infantile sexuality, about infantile autoeroticism and masturbation.[611]

In other words, the new 'cell family' was a laboratory of social observation; the parents obsessively monitored their children for traces of deviant sexual tendencies, especially masturbation. Indeed, coinciding with the emergence of the cell family we see an explosion of literature concerning the dangers of onanism;[612] 'hygiene' specialists shared the assumption that masturbation was coiled at the heart of every pathology.[613] Given the immense risks associated with autoeroticism, therefore, parents had an obligation to actively watch their children, paying attention to infinitesimal signs, the minutest gestures, which would betray an interest in self-exploration.[614] Likewise, if it was the case that masturbation led to disease, the oversight of the child took on a medical component; as Foucault notes, it meant that the parents were expected to notify the proper medico-scientific authorities as soon as potentially abnormal behavior was detected, linking the family up with an elaborate scientific/medical apparatus which intervened in the name of social hygiene.[615] The necessity of consultation with doctors, in turn, produced a massive expansion of medical power, a new colonization of everyday life by 'authorities' (not to mention the sexualization of the infant and children's bodies, which obviously had an important influence on the formation of psychotherapy).

Yet Foucault situates the campaign against masturbation in the larger context of biopower's increasing hegemony over society; he writes that "the nuclear family was

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[611] Cf. *Abnormal*, 248.
[612] Ibid., 233.
[613] Ibid., 240-41.
[614] Ibid., 246.
[615] Ibid., 250.

required to take care [for] the child's body quite simply because it was living and should not die…[There was] a political and economic interest in the survival of the child."[616] He characterizes the bourgeois concern with sexuality and hygiene as an *affirmation*, rather than a repression, of the body, the body of an ascendant class which had to guard itself against degeneration and guarantee its survival; thus, there is also a linkage with racist discourses of the late nineteenth century.[617] It was also the case, however, that parents should educate their children according to certain schemas of rationality and normalization. Indeed, Foucault argues that the "crusade against masturbation…is only the chapter of a broader, well-known crusade for the natural education of children."[618] "Natural education" recognized a privileged role for the family in the instruction of children, as well as emphasizing the importance of following conventions or rules "for securing the survival of the children on the one hand and their training and normalized development on the other."[619] As I indicated above, guaranteeing the "health" of the children required the intervention of medical authorities; hence, "natural education" needed to reconcile the "authenticity" of family life and parental supervision with the oversight of bureaucrats who "protected" the child against corruption.[620] Once again, therefore, we encounter the basic dilemma of liberalism: the "naturality" of social/economic processes is guarded against "degeneration" by technologies of intervention.

The education received from parents, in turn, was a preparation for instruction in State institutions; around 1760, there was an increased demand for public education,

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[616] Ibid., 254-55.
[617] *The History of Sexuality 1*, 125.
[618] *Abnormal*, 255.
[619] Ibid.
[620] Ibid., 255-56.

which likewise coincided with the newly discovered risks of onanism. Foucault argues that the common link between the two phenomena is their explicitly biopolitical dimension.[621] He writes that "[p]arents are not only asked to train their children so that they will be useful to the State, but at the same time they are asked to cede back their children to the State and entrust, if not their basic education, then at least their instruction and technical training to an education directly and indirectly controlled by the State."[622] There was an implicit contract between parents and society: the State agreed to monitor children and eliminate risk in the domestic sphere, with the understanding that parents were obligated, as a form of recompense, to offer the talents and abilities of future citizens to the body politic. Foucault imagines bureaucrats and technicians of power addressing the bourgeoisie: "when we create for you this field of power so total and complete, we ask you to give us in return your children's bodies, or, if you prefer, their abilities."[623] Thus, the Faustian bargain is struck, and liberalism's obsession with population begins to radiate into other discursive fields, such as sexuality, psychiatry and education.

At first glance, Foucault's example is trivial, or even irrelevant; how can we expect to uncover the connection between liberalism and biopower by examining the anxieties of bourgeois society? In actuality, however, the major elements of this relationship are contained here; onanism is a danger to the social body, which it is important to combat. But how do we guard the integrity of society's hereditary 'purity'? We must intervene, of course, in the private sphere; but ultimately, we have to teach the child to exercise self-restraint. Education, therefore, is important; it affects, at least indirectly, the vitality,

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[621] Ibid., 256-57.
[622] Ibid., 256.
[623] Ibid., 257.

indeed the 'survival', of the body politic. The child is normalized, emerging from the process of 'civilization' as an autonomous subject, capable of turning his or her desires towards 'natural' forms of labor and/or procreation. S/he is in control of the passions, exercising self-governance and spiritual/corporeal discipline. According to Nikolas Rose,

> [t]he government of freedom, here, may be analysed in terms of the deployment of technologies of *responsibilization*. The home was to be transformed into a purified, cleansed, moralized, domestic space. It was to undertake the moral training of its children. It was to domesticate and familiarize the dangerous passions of adults, tearing them away from public vice, the gin palace and the gambling hall, imposing a duty of responsibility to each other, to home and to children, and a wish to better their own condition. The family, from then on, has a key role in strategies for government through freedom. It links public objectives for the good health and good order of the social body with the desire of individuals for personal health and well-being. A 'private' ethic of good health and morality can thus be articulated on to a 'public' ethic of social order and public hygiene, yet without destroying the autonomy of the family—indeed by promising to enhance it.[624]

Rose's term, which is admittedly awkward, nevertheless captures the logic of governmentality which determined the nexus of liberalism/biopower; transforming individuals into 'responsible' subjects who recognized the fragility of 'civilization' and 'order', biopower was the basis of stability in liberal societies. On the one hand, the 'micro-body' was integrated into a network of observation and discipline which produced 'governable' subjects; in addition, however, the 'governable' subject is 'responsible', both to his/her family as well as the social, or 'macro', body. The condition of 'responsibility' is autonomy, and the rationality/capacity for self-government of the micro-body is constituted through biopolitical regimes of power. Thus, the individual is conditioned to recognize his or her obligations to society; 'private' conduct is linked up

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[624] See Nikolas Rose's *Powers of Freedom: Reframing Political Thought* (Cambridge: Cambridge UP, 1999), 74.

with 'public' morality. And now we can answer the question I posed earlier, in relation to Adam Smith: with enemies everywhere, both visible (i.e. the working poor) and invisible enemies (i.e. masturbation and the 'degeneration' of society, with its origins in private vice), how does the body politic defend its 'integrity'? Via a double process: the 'inclusion' of micro-bodies who contribute to the 'reproduction' of the body politic, and the exclusion of agents who are either (a) hereditary risks to the collective 'health' of the social body or (b) incapable of accepting their 'responsibilities' to society. I have discussed 'inclusion' above; now, however, I want to highlight an example of biopolitical exclusion in liberalism, focusing on the question of racism. Before I turn to the example, however, I want to introduce Foucault's examination of racism, which is informed by his work on biopower.

As Foucault notes in the first volume of *The History of Sexuality*, biopolitical strategies were the "anchorage points for the different varieties of racism of the nineteenth and twentieth century."[625] Why is that the case? Recall that the reason, or at least one important reason, for obsessively monitoring the sexual behavior of children was to prevent them from engaging in practices which could lead to 'degeneration' in the social body. In other words, the concerns about sexuality were, above all, motivated by the question of population. Foucault argues that racism is located at the intersection of biopolitics and population. In his March 17, 1976 lecture at the Collège de France, he defines racism as

> a way of introducing a break into the domain of life that is under power's control: the break between what must live and what must die. The appearance within the biological continuum of the human race of races, the distinction among races, the hierarchy of races, the fact that certain races are good and that others, in contrast,

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[625] *History of Sexuality I*, 26.

are described as inferior: all this is a way of fragmenting the field of the biological that power controls. It is a way of separating out groups that exist in the population.[626]

Racism, therefore, is a strategy for dividing or segregating the biological field, introducing a caesura between the normal and the pathological. Racial 'pathology' threatens to destroy the biological integrity and hereditary normalcy of the body politic; therefore, society is 'justified' in separating, and even exterminating, 'inferior' races which 'contaminate' the population. There is, however, a second aspect of racism, which standard characterizations generally ignore; the act of separation or killing—the logic of apartheid—is, paradoxically, an *affirmation* of the life which survives.[627] As the 'impure' elements are eliminated from the body politic, the population is 'strengthened' and its health is 'restored'; the extermination of the other is an affirmation of society's power, and it emerges with a renewed vitality.[628]

Here I want to look at an example which demonstrates, in an admittedly graphic way, the connections between population and sexuality in the racist imaginary, in addition to highlighting the biopolitical operation of exclusion. The history of American segregation represents an attempt to prevent the 'miscegenation' or 'contamination' of 'pure' white bloodlines. Jim Crow laws tried to establish unequivocal boundaries between blacks and whites (although this effort failed in practical terms, especially in the realm of consumption[629]). The biopolitical desire for racial 'purity' was

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[626] *Society Must Be Defended.*, 254-55.

[627] Ibid., 255.

[628] Ibid.

[629] As Grace Elizabeth Hale notes, "very few southern white businesses could afford to exclude a paying customer no matter their color, especially when the next store down the street would probably make the sale anyway. Within this most intimate geography of southern white consumption, then, the collective white need for superiority clashed headlong with white individuals' desire for greater income, and money often won." Cf. *Making Whiteness: The Culture of Segregation in the South, 1890-1940* (New York: Vintage Books, 1998), 188.

symbolized by the 'one-drop rule', a legal principle which classified any person with African-American ancestry as black.[630] The logic of racial purity, however, reached its terrifying pinnacle in the spectacle of lynching. Lynching was a strategy of extermination, targeting blacks who demanded voting rights, challenged their employers (either directly or indirectly, via union organization efforts) or exhibited 'disrespect' towards white 'superiors'.[631] One of the most commonly-cited justifications for executing African-American men, however, was that they had raped white women, which represented the ultimate affront to Southern 'gentleman'; it was a violation of female innocence, and more importantly it constituted a 'transgression' of Aryan racial purity.

The act of lynching was generally prefaced by a litany of the black person's 'crimes', read by members of the lynch party, followed by torture, dismemberment and execution.[632] An especially gruesome, yet highly symbolic, aspect of lynching was the castration of alleged rapists. According to Catherine Holland, castration served two functions. First, "it emasculated freedmen and thus undermined their ability to realize the physical threat they were perceived to embody."[633] Secondly, it "worked to dramatize, mobilize against, and vanquish rampant (white) anxieties provoked by the dissolution of the markers of legal difference that had distinguished white men from black prior to Reconstruction."[634] In short, it represented a strategy for eliminating the transgressor

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[630] Jerrold M. Packard writes that "by 1915 the one-drop-makes-you-a-Negro principle was upheld in every region of the country, and by midcentury twenty-nine states…passed legislation prohibiting racial intermarriage and, in some instances, even nonmarital interracial sexual relations." See his *American Nightmare: The History of Jim Crow* (New York: St. Martin's Press, 2002), 99.

[631] Ibid., 132.

[632] Cf. Catherine A. Holland's *The Body Politic: Foundings, Citizenship, and Difference in the American Political Imagination* (New York: Routledge, 2001), 154-55.

[633] Ibid., 155.

[634] Ibid.

who had contaminated the (imagined) racial purity of WASP America's body politic; it was a method of ethnic cleansing.

Yet it is also an instructive example of the connections between sexuality and population I alluded to above; there was, obviously, an element of revenge involved, but castration added a biopolitical element to the murder of Southern blacks. Since they had contaminated the population, it was necessary to eliminate the 'offender'; in addition, however, castration was a symbolic message to other blacks, that whites were unwilling to tolerate the 'pollution' of the social body (which inevitably led, of course, to its 'degeneration'). Here we encounter, therefore, the second face of biopower; the unity of the body politic relied on 'inclusionary' disciplinary technologies of 'responsibilization', yet it also demanded the exclusion of persons/groups who were different or 'other'. Thus, the unity of the body politic is achieved; between the disciplinary technologies of power, which create governable subjects, and biopolitical logics of exclusion, which eliminate 'degenerative' elements, the life of the social body is enhanced and strengthened, its vitality continually renewed by the double process of normalization and exile.

Liberal Governmentality: What Are the Philosophical Implications?

One question, however, which arises from my discussion in this chapter is the following: what are the philosophical implications of Foucault's genealogies (in this case, his genealogy of liberal governmentality)? I can imagine liberals dismissing Foucault's work on governmentality as interesting historical work which is irrelevant for political theory or philosophy. Yet this misses one of the essential points of Foucault's work on

the constitution of subjectivity. Let's return, for a moment, to the problem of legitimation in the social contract. The social contract justifies the exercise of political authority by highlighting the fact that autonomous subjects, of their own volition, agree to transfer their sovereignty, or at least a part of their sovereignty, to a publicly recognized legal entity, which in Hobbes, Locke and Rousseau is called the body politic. But where does the subject who authorizes 'the Leviathan' come from? How did it become 'free'? Obviously the agent wasn't born with the ability to calculate self-advantage and reflect on the intricacies of the Prisoner's Dilemma; rationality (of that kind, at least) isn't an innate property, and neither is autonomy. This is the vicious circle of modern liberalism; as Torben Bech Dyrberg writes, "contract *qua* contract presupposes that it is voluntarily entered by autonomous and rational individuals, otherwise it could not be legally and morally binding. Yet this constitutive subject can, on the other hand, only exist within a framework created by the contract (the social order), and this implies that the contract not only presupposes the constitutive subject, but also takes an active part in actually constituting it."[635] This is the blind spot of the initial decision procedure in social contract theory (and especially its most important contemporary version, the original position); it gives us no sense as to how political agency emerged in the first place.[636]

Thus, an important philosophical implication of Nietzsche and Foucault's work on disciplinary power is that it offers the account which is absent from contract theory, or at least from its recent developments. It is true, as I have indicated in Chapter 1, that

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[635] Cf. Torben Bech Dyrberg, *The Circular Structure of Power: Politics, Identity, Community* (London: Verso, 1997), 5.

[636] For a more elaborate account, Foucaultian-inspired account, see Michael Clifford's, *Political Genealogy after Foucault: Savage Identities* (New York: Routledge, 2001)

Hobbes, Locke and Rousseau are much better attuned to this question, but this, in turn, forces us to recognize that the origins of 'freedom' are located, paradoxically, in forms of determination. In short, the subject of liberalism has a history; it bears the scars of its community, both mentally and physically. This is a point I made in Chapter 2, but it's worth re-iterating here, since it pertains to the relevance of Foucault's insights for political theory. As I argued there, Rawls's assumptions that we can strip away 'contingent' features of identity are problematic, since the 'contingency' of history constitutes autonomy which is, in turn, presupposed by the original position. To return to the language of liberal governmentality, 'security' is the condition of 'liberty'.

In addition, remember that non-coercion is essential to Rawls's project (but also Habermas's). An agreement which is extracted by force isn't binding or valid; rather, the parties must offer their consent freely. But how did we become the kinds of agents who are capable of consenting to transfer our sovereignty to civil authorities? If Nietzsche and Foucault are correct, the answer is clear: at least partially, through coercion. How, therefore, will liberals who are interested in retaining the Rawlsian/Habermasian emphasis on non-coercion respond to the apparent difficulty here? Is it the case that coercion was permissible when it contributed to the formation of an 'atuonomous' subject, but impermissible when we're agreeing to the rules of the social contract? If so, why is the former acceptable, but not the latter?

This is a question I will return to in the final chapter; I can, however, indicate, at least provisionally, my response to this dilemma. I will argue, again following Foucault, that we must abandon the idea of 'liberating' subjects from coercion or political technologies of subjectification (indeed, I put the term 'liberating' in scare quotes, since

it presupposes autonomy, which is, in turn, a product of disciplinary technologies); rather, it is important to recognize the inescapability of power in the constitution of 'micro' as well as 'macro' bodies. It doesn't follow, however, that political struggle is doomed to failure, or that we must resign ourselves to oppression. This pessimistic conclusion is only justified if we assume that power is intrinsically unjust or immoral, which I will contest in the next chapter. An alternative is to begin thinking about specific forms of power, asking whether or not, in a given context, power leads to domination, or whether it is subject to reversal. Or so I will argue.

In addition to the problem of disciplinary inclusion in liberalism, however, I have also highlighted the operation of exclusion in the construction of the body politic. How does liberalism address the question of exclusion? There are forms of liberalism which border on incoherence, since they emphasize universal inclusion and absolute tolerance. I have already indicated, in Chapter Two, why I think unqualified tolerance is indefensible, so I won't repeat my arguments here. The overwhelming majority of liberalism's defenders, however, recognize the necessity of excluding forms of 'otherness' which are incompatible with values of pluralism and autonomy. At that point, a new question arises: do the proposed exclusions violate principles which liberalism upholds? We can only answer this question on a case by case basis, but we can say, as a general rule, that it is a more difficult problem for liberalism than for other political theories, which openly and unapologetically admit the necessity of exclusion, and don't profess to value diversity of belief. In any case, in the next chapter I will, in addition to outlining the implications of rejecting liberalism's desire for an initial decision procedure without power, deal with the question of exclusion, arguing (1) that

every political theory (and *a fortiori* liberalism) has to exclude incompatible contents in order to define itself or establish its identity, but (2) we should recognize the exclusions as *political*, rather than moral. I am returning, in other words, to my discussion from Chapter 2; I will come back to the criticisms of Rawls developed by Chantal Mouffe, who admits the unavoidability of exclusion but argues that we have to interpret it in political terms. What, however, is the difference between moral and political exclusions? To give a preliminary answer, the former operate by identifying the other as 'evil', which eliminates the possibility of dialogue, while the latter, at least in a democratic society, are open to contestation and reversal. When we turn to liberalism as a practice of governmentality, however, the problem is even clearer; I have argued in this chapter that the unity of the body politic is constituted via the exclusion of agents who threaten to 'contaminate' the social body. Here we encounter of clash of two values which are absolutely essential to the articulation of liberalism as a form of government: freedom and security. On the one hand, autonomy is indispensable for liberal societies; at the same time, however, 'liberty' can only flourish when the security of citizens is protected. Hence, the difficulties of negotiating between two values which are critical to the formation of liberalism as a form of praxis, a negotiation which verges on the impossible. In any case, the next chapter will continue to pursue questions I have returned to repeatedly in the dissertation, focusing on the necessity of exclusion in the construction of political identities, as well as the importance of thinking differently about power.

CHAPTER 4: ANTAGONIZING LIBERALISM, OR POWER AND THE DIALECTIC

OF INCLUSION/EXCLUSION

In the first chapter, I highlighted what Slavoj Zizek has called "the fundamental ideological fantasy" (and I have referred to it subsequently), which is the idea of society as a unified social body without antagonism or division. According to the corporeal metaphor, the classes within society are (as Zizek puts it) complementary, rather than heterogeneous and opposed, elements, and they contribute to the stability and oneness of the community. Yet this fantasy simply conceals the failure of dominant ideologies to erase the differences which constitute social orders; as Zizek writes, "fantasy is precisely the way the antagonistic fissure is masked."[637] I have framed my examination of liberalism, at least in part, in terms of its effacement of antagonism; I have argued that it is caught up in Zizek's "fundamental ideological fantasy" precisely because it pretends that it has transcended, or at least has the conceptual resources for successfully transcending, the corporatist fantasy. By valuing pluralism, diversity and tolerance, liberals claim that they differentiate themselves from their historical adversaries, such as the conservatism of the Old Regime and its vision of an organically unified body politic (here, of course, I am thinking of the king's body politic) as well as the political biologism of twentieth century totalitarianism. Yet I have argued in the first three chapters that both the theory and practice of liberalism exhibit unsettling continuities with its supposed enemies. While it is important to emphasize that it is problematic to suggest that liberalism and absolutist monarchies, or liberalism and totalitarianism, are reducible to one another, such that we could eliminate the need for conceptual differentiation, it is

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[637] Cf. *The Sublime Object of Ideology*, 126.

nevertheless true that liberalism marginalizes the 'other', whether s/he is 'mad', a person of color, female or simply 'illiberal' and, at the same time, defends the utilization of disciplinary technologies to produce the 'autonomous', normalized subjects who legitimize the social contract. This double movement of exclusion/inclusion, in turn, structurally parallels logics that govern the policing of subjectivities in liberalism's historical competitors.

The difficulty for liberalism, of course, is that it explicitly privileges inclusion. The guardians of the king's boy politic celebrated a mystical, eternal social unity (which never, of course, actually existed); likewise, the Nazis methodically executed the task of 'cleansing' the body politic. In both cases, the regime and its advocates unapologetically targeted the enemies of the social order, the 'others' who threatened to undermine the homogeneity of the body politic. In the shadows of totalitarianism, of course, the virtues of inclusion are evident; liberalism, however, finds itself in the conceptual dilemma of having to promote tolerance while at the same time excluding non-liberals.

In response to the charges mentioned above, liberal advocates can invoke the familiar distinction between the normative principles defended by liberals and empirical instantiations of liberalism in political regimes. Is it the case that, for example, practices of exclusion within liberal societies represent aberrations or deviations from liberal theory? I have tried to show, in the previous chapter, that even in Rawls' ideal liberal polity, which is highly sensitive to issues of pluralism and diversity, it is necessary to exclude non-liberal comprehensive doctrines. Indeed, it is difficult to conceive of a political regime which is totally inclusive; even a communist society excludes the enemies of the proletariat. In any case, in this chapter I will continue exploring the

question of exclusion, arguing that liberalism (indeed, any political theory) necessarily excludes elements which are incompatible with maintaining its political identity. Here I draw on arguments from Chantal Mouffe and Ernesto Laclau (among others) in order to demonstrate the impossibility of total inclusion, even for a political orientation which has privileged tolerance as a foundation of its theoretical identity.

There is, however, a second aspect of my critique. I have also focused on what I called, following Foucault, 'disciplinary inclusion'. In addition to excluding ideologies, political orientations and ethnicities/genders who are 'insufficiently rational' to participate in the social contract, liberal theorists have defended, and even celebrated, the mobilization of disciplinary technologies in order to produce subjects who 'autonomously' participate in the legitimation of political regimes. The 'autonomy' of the subject, which is at least in part represented by his or her ability to engage in self-policing and control rebellious desires that threaten to undermine the stability of the social order, emerges from a complex network of practices and institutions. Thus, the subject who 'freely' validates the social contract is him or herself caught up in a dense web of governance; in short, the autonomous and rational subjects who are tacitly presupposed by liberalism are already intertwined with coercive mechanisms of power. This was one of the points I tried to highlight in Chapter 3, by appealing to Nietzsche and, once again, Foucault: the liberty which is valorized by social contract theory presupposes a 'security' which still appeals, albeit in subtly (as well as radically) modified ways, to the old logics of what Foucault calls the *Polizeiwissenschaften*.

At the core of both criticisms is a suggestion that it is important to examine the concrete mechanism of power celebrated in the writings of prominent liberals such as

Hobbes, Locke, Rousseau. Indeed, the classical liberals understood this far better than contemporary liberalism, which pretends it is capable of neglecting such discussions by hiding behind the appeal to normativity. In the work of Rawls, for example, the initial legitimation procedure occurs in the hyper-abstract context of his original position. Even *Political Liberalism*, which is ostensibly dedicated to a more pragmatic and localized justification of liberal-democratic regimes, continues to invoke the original position. Yet when Rawls wants to defend the 'overlapping consensus' against its enemies, the unavoidability of discussing questions of power becomes all the more evident.

Another aspect of my discussion in this chapter, then, is an examination of Foucault's analysis of power. If it is the case that ignoring or marginalizing discussions of power represents, at the very least, a naïve belief that normative theory can afford to offer prescriptions for the governance of society without examining how they are implemented (a naïve belief which has potentially devastating consequences), and at worst a disregard for the violence which often accompanies efforts to construct (or reconstruct) society in the image of theoretical blueprints, then we need to shift our discussion away from the normative and towards the empirical (while being careful not to completely abandon the former). This part of the argument is premised, of course, on the assumption that political *theory* is ultimately oriented towards *praxis*, and that when we formulate political theory we are interested in thinking about the concrete organization of society. The argument will necessarily fail to impress a theoretician who is uninterested in practical applications, but as I have argued in previous chapters, political philosophy is directed towards concrete social transformations, in addition to theory. In any case, I want to highlight

the importance of thinking about power in the context of political theory, and here, as I noted above, my guide is Foucault.

Finally, this chapter closes with an overview of the dissertation's argument, and offers a series of reflections on the state of our current political impasses, as well as how we could potentially move beyond them.

Arguing for the Unavoidability of Exclusion, and How to Conceptualize It: Laclau and Mouffe

As I have indicated throughout the dissertation, liberalism strives for inclusion. Yet as I have tried to demonstrate in previous chapters, it reaches its limits when it encounters its 'others' and defends practices of exclusion. Why is that the case? Here, I want to argue that every political theory (and *a fortiori* liberalism) necessarily excludes certain elements which are incompatible with its theoretical assumptions. In making my case, I turn to the work of Ernesto Laclau and Chantal Mouffe, all of whom have challenged certain key assumptions of contemporary liberalism, especially focusing on its valorization of rationality and its desire to eliminate antagonism from political discourse. This section, however, appropriates their work on the question of exclusion.

We can begin by noting that political philosophy has (at least historically) aimed for universality or generality. What does it mean, however, to say that it searches for universality or generality? Political philosophy tries to develop normative criteria for determining the just social order. In Plato's well-ordered city-state, therefore, each class performs a specific function; indeed, his definition of justice is "doing one's own

work"[638] (and in the just city-state, members of different, segregated classes avoid interfering with one another's labor[639]). In Aristotle, the state is directed towards the highest end[640] (which is the promotion of virtue[641]) and for Aquinas laws are oriented, at least theoretically, towards the "common good".[642]

What is liberalism's position vis-à-vis the defense of strong normative principles and prescriptions for achieving justice in society? At first glance, liberalism is distinguished from other political theories insofar as it opposes the idea of a "common good". Rather, it defends the importance of tolerating heterogeneous conceptions of the good; it recognizes the pluralism of modernity, and the necessity of affirming differences in conditions of radical pluralism. Or so we are told. But as I tried to demonstrate in the previous chapter, liberalism is incapable of avoiding a 'thick' conception of the good, since the second legitimacy of, for example, the deontological principles which explicitly inform Rawls's argument are subject to intense debate. It is problematic, therefore, to take liberalism's pretended rejection of strong comprehensive doctrines at face value. Liberalism, like the dominant political theories of Greek antiquity and medieval Christendom, also presupposes an idea of the "common good", namely the idea that order is best preserved when we respect the autonomy of others to choose which comprehensive doctrines they affirm and/or deny. Thus, it adopts an inclusive stance towards otherness.

Yet the importance of inclusion and defending autonomy, as we saw in the previous chapter, in turn rests on strong ethico-political assumptions and necessitates the

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[638] See Plato's *Republic*, 433b.
[639] Ibid., 433d.
[640] Cf. his *Politics*, 1252a.
[641] *Politics*, 1252b as well as the *Nicomachean Ethics*, 1099b.
[642] *Summa Theologica*, II, I, q 90 art 2.

exclusion of doctrines which affirm monistic or singular conceptions of the good. While Rawls's political liberalism is even more inclusive than classical liberalism, admitting any comprehensive doctrine which is 'reasonable', he still confronts the unavoidability of excluding theories which are 'unreasonable' (and the 'reasonability' of a doctrine is contingent, in a viciously circular way, on whether or not it affirms the values of liberal democracies). In any case, the essential point here is that liberalism, like other political theories, tries to formulate generalizable normative criteria or prescriptions for governing society. Therefore, it necessarily excludes non-compatible orientations.[643]

Ernesto Laclau has argued, moreover, that every political theory is constructed through acts or moments of exclusion. Why is that the case? Here, it is important to recall the point I mentioned above: a political theory offers universalizable claims about the structure of a just society. Yet as Laclau recognizes, in order to construct the universal, it is necessary to eliminate the particular; otherwise, generality is tainted or contaminated by specific contents. Appearances to the contrary, he is not engaging in politically irrelevant thought experiments; rather, this problem takes us to the heart of the following question: Can liberalism, indeed any political movement, construct a universalizable theory which is totally inclusive? I will argue that the answer is a resounding 'no', but in order to defend my position I have to begin with a set of

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[643] While this is generally true of liberal political philosophy (such as the work of Hobbes, Locke, Rousseau, Kant, Mill, etc.) the case of Rawls is obviously more difficult. According to Rawls's interpretation of his early work, *A Theory of Justice* fits squarely within the tradition of liberalisms which defend a strong comprehensive doctrine (in the case of Rawls's early work, for example, it is a comprehensive doctrine that privileges autonomy). *Political Liberalism*, however, is more of an anomaly, since its aims are, at least in relation to the early work, more modest. It simply tries to develop the necessary criteria for reaching a stable overlapping consensus in liberal democracies. In that sense, then, it is clearly not a traditional political theory, since it is limited to articulating normative principles for consensus formation in a specific kind of political regime. Even if it is not a 'universal' theory in the strict sense of the term, however, it still excludes certain doctrines, so it doesn't represent a counterexample to my larger point, namely that any political theory necessarily excludes incompatible elements.

arguments which are highly abstract. Abstraction is, unfortunately, unavoidable, since I'm trying to highlight structural features of every political theory. After I've examined the formal aspects of the argument, however, I will offer specific examples which illustrate the point.

Laclau's approach to the question of identity is influenced by Ferdinand de Saussure's work on linguistics, and specifically the idea that the value of a sign is relational, or identified by its differences from other signs in a linguistic network.[644] Jacob Torfing gives the following illustration: "the meaning of the term 'socialism' is given only in relation to the meaning of the terms 'feudalism', 'capitalism', etc."[645] It is already evident, from this example, how his analysis is applicable to political concepts, but Laclau has argued that Saussure's model allows us to understand the operation of any signifying system, including the formation of identities. In "Why Do Empty Signifiers Matter to Politics", he argues that "the totality of language is involved in each act of signification."[646] If we return to Torfing's example, we can appreciate this point; "socialism" is only comprehensible through its difference from "capitalism", which is defined in opposition to "feudalism", etc. The differences, therefore, must constitute a system or a totality; otherwise, signification is impossible[647]. In order to grasp the system, however, we must differentiate it from another totality, which entails positing limits on the field of signification (since without limits we couldn't identify it as a

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[644] Cf. Ferdinand de Saussure, *Course in General Linguistics*, trans. Wade Baskin (New York: McGraw Hill, 1966), 120.

[645] Cf. Jacob Torfing, *New Theories of Discourse: Laclau, Mouffe and Zizek* (Oxford: Blackwell Pubs., 1999), 87.

[646] See Ernesto Laclau, "Why Do Empty Signifiers Matter to Politics" in *Emanciaption(s)* (New York: Verso, 1996), 37.

[647] Ibid.

system; we couldn't distinguish, for example, system A from system B). At the same time, positing a limit implies that there is an X which is excluded from the system; in other words, "to think of the limits of something is the same as thinking of what is beyond those limits."[648] We cannot, however, represent the limit of a signifying system; if we could, it wouldn't constitute a limit on the system. Rather, it would become one more element in the totality of a signifying network. Thus, according to Laclau, ""if what we are talking about are the limits of a *signifying system*, it is clear that those limits cannot be themselves signified, but have to *show* themselves as the *interruption* or *breakdown* of the process of signification."[649] The paradox of Laclau's conclusion is obvious: the system's constituitive limits are both the condition of its possibility as well as its impossibility, since the limits represent "a blockage of the continuous expansion of the process of signification."[650] But in positing a limit, we also posit the existence of an 'outside' or 'beyond' of the system which is excluded; as Laclau writes, "the only possibility of having a true outside would be that the outside is not simply one more, neutral element but an *excluded* one, something that the totality expels from itself in order to constitute itself."[651]

While Laclau's discussion is, as I mentioned above, highly abstract, it has important implications for the conceptualization of political theory. We can begin with the (relatively) straightforward examples: the 'system' of Nazism constituted itself through the exclusion of the 'non-Aryan' (including Jews, Gypsies, Slavs, etc.), and Stalinism tried to unify the body politic through the elimination of 'enemies of the

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[648] Ibid.
[649] Ibid.
[650] Ibid. For a more concise formulation of the argument, see Laclau's *On Populist Reason* (New York: Verso, 2005), especially pages 69-71.
[651] *On Populist Reason*, 70.

regimes' (i.e. 'bourgeois sympathizers', 'capitalist pigs', etc.). In both cases, the 'closure' of the totality is 'achieved' (and I put the terms in scare quotes for reasons which I will return to momentarily) through the expulsion of 'impure' or 'contaminated' elements. There is, of course, no surprise that the model explicates key aspects of totalitarian theory/practice; totalitarianism, after all, was open about, and even celebrated as a virtue, its exclusivity. The hypothesis becomes more interesting, however, if we turn to contemporary liberalism. Is it the case that liberal political theory also operates through exclusions? Does it constitute its identity by excluding the 'non-liberal' or 'irrational' other? Is Laclau's argument valid for an inclusive, pluralistic system? I have already touched on these issues in previous chapters; here, though, we can begin to think about this problem via the concept of tolerance. Once again, I will turn to the work of Laclau.

We can begin with the following question: how does an examination of tolerance allow us to deal with the questions I presented above? One of the virtues of liberalism (and here I think it is fair to characterize any liberalism in this way) is that it recognizes the importance of tolerance. As I indicated in my discussion of Rawls, however, toleration encounters limits when we apply it in the realm of practice. As Laclau notes, "[a]n unambiguous toleration would be one which has, within itself, no room at all for intolerance."[652] He contends, however, that an "unambiguous" toleration is "self-defeating".[653] There are two difficulties we immediately encounter. First of all, a tolerant society which adopts a permissive attitude towards intolerance risks becoming its other, i.e. an intolerant society. Secondly, there are certain practices which communities refuse

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[652] See Ernesto Laclau, "Deconstruction, Pragmatism and Hegemony" in *Deconstruction and Pragmatism*, ed. Chantal Mouffe (London: Routledge, 1996), 50.
[653] Ibid.

to tolerate because they are morally unacceptable.[654] Is it the case that we can refer to moral norms in order to construct transparent rules for determining what is, and is not, tolerable? Laclau argues that the answer is 'no'; rather than establishing a clear boundary between the tolerant and intolerant, we have simply shifted the argument into the realm of moral discourse. But this "ethical recasting of the issue…simply dissolves 'toleration' as a meaningful concept".[655] Indeed, 'toleration' implies an acceptance of practices I disagree with; to once more cite Laclau, "[i]f what I tolerate is what I morally approve…I am not *tolerating* anything. At the most, I am redefining the limits of a perfectly intolerant position. Tolerance only starts when I morally disapprove of something and, however, I accept it. The very condition of approaching the question of toleration is to start realizing that it is not an ethical question at all."[656]

Thus, in relation to the concept of "unambiguous toleration", we are left with a deadlock. Either we ground "tolerance" self-referentially, in which case it threatens to become "intolerance", or we can ground it in a different set of norms, it which case it is dissolved.[657] Laclau tries to formulate an exit from the aporia: he argues that in a pluralistic society, tolerance requires suspension of ethical judgment concerning different beliefs. There is, however, a limit to our agnostic obligations; if a multicultural community is unified by its affirmation of the principle of tolerance, its generosity can't be unlimited.[658] In that case, however, we are back to Laclau's structural model of identity formation: "to be intolerant of some things is the very condition to be tolerant of others. Intolerance is, at the same time, the condition of possibility and impossibility of

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[654] Ibid.
[655] Ibid., 51.
[656] Ibid.
[657] Ibid.
[658] Ibid.

toleration."[659] The system (here, call it tolerance) is constituted via its difference from intolerance; therefore, we couldn't define its specificity unless its conceptual other served as a limit to its expansion. At the same time, the necessity of exercising intolerance, at least in certain instances, represents the "impossibility" of pure, "unambiguous tolerance". Hence, Laclau's conclusion: "intolerance is…the condition of possibility and impossibility of toleration."

Now, hopefully, the importance of Laclau's argument for liberalism is beginning to emerge. Liberalism identities itself as a political theory which is tolerant, but tolerance, if it means anything conceptually, requires a degree of intolerance when it is confronted with non-liberal conceptions of the good. Thus, it is forced to exclude intolerant doctrines; indeed, this is, at least partially, how it differentiates itself from the Old Regime or totalitarianism. Otherwise, how could we recognize the specificity of liberal theories? There are obviously different ways of identifying the essential features of liberalism, but they also require differentiation. If we choose 'freedom' as the basic component of liberalism, for example, we will define it in opposition to societies which limit autonomy (once again, the Old Regime and twentieth century totalitarianism come to mind). Laclau's central point, however, is that *any* political theory, indeed any form of identity, will define itself as *other* than an excluded X; therefore, liberalism, to the extent that it is a political theory/identity, necessarily excludes its others (whether we characterize them as 'irrational', 'evil', 'enemies of the state', etc.).

I have already highlighted exclusions in Rawls's political theory; if we return to *A Theory of Justice*, for example, Rawls eliminates 'contingent' features of the agent from

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[659] Ibid.

the original position[660], and in *Political Liberalism* he argues that we have to "contain" the plague of "unreasonable comprehensive doctrines", since they resemble "war or disease".[661] Thus, his conception of liberalism illustrates Laclau's point. In order to construct a 'rational' totality we have to exclude 'irrational' elements. If it's the case that every system necessarily excludes its other, however, is there any reason to criticize liberalism? Why should we single it out, given the inescapability of Laclau's framework? I will begin with the second question. Liberalism has a unique relationship with the problem of exclusion; unlike its historical opponents, it defines itself as an 'inclusive' theory. Thus, the unavoidability of exclusion is a special concern for liberalism. But the first question is more important to answer, and it will allow me to highlight one of the primary difficulties with liberalism's attitude towards exclusion. Here I want to highlight Chantal Mouffe's position on this issue, which I mentioned briefly in Chapter 2.

In "Democracy, Power and the Political" Mouffe argues that Rawls justifies exclusions by appealing to moral, rather than political, concepts. She contends that one of the key ideas in *Political Liberalism* is the concept of political morality. According to Mouffe, Rawls (along with other important figures in contemporary liberalism, such as Charles Larmore) tries to establish the parameters for a moral consensus on the basic institutions of liberal societies, which would allow us to move beyond prudential or *modus vivendi* defenses of liberalism.[662] She examines his rationale for distinguishing between "reasonable" and "unreasonable" comprehensive doctrines; as she notes, the

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[660] Cf. *A Theory of Justice*, 136-42/118-23.

[661] See *Political Liberalism*, 64.

[662] See Chantal Mouffe's "Democracy, Power and the Political" in *The Democratic Paradox* (London: Verso, 2000), 23.

criteria for differentiating acceptable and unacceptable conceptions of the good refers, at least in part, to the question of whether a conception threatens to subvert liberal values in the public sphere.[663] If that's the case, however, the criteria of exclusion are actually justified by appealing to political concepts, or difficulties created by 'illiberal' or 'irrational' worldviews.[664] Thus, he obscures the issue by characterizing the exclusion in moral language. While Mouffe agrees that it is necessary to exclude non-liberal comprehensive doctrines from the public sphere, she believes that we have to defend the exclusions by referring to political, rather than moral, categories.[665]

An obvious question immediately arises: why does Mouffe emphasize the distinction between morality and politics? Isn't the essential point that we have to provide normative arguments for excluding conception X, and including Y? If we can formulate adequate criteria with reference to political or moral concepts, what's the difference? According to Mouffe, it's significant. In order to appreciate the point, however, we must examine the key aspects, or at least one of the key aspects, of Mouffe's political theory. Mouffe argues, following Carl Schmitt, that the essence of the political is the 'friend-enemy' distinction (although she attaches qualifications to her endorsement, which I will return to momentarily).[666] In Mouffe's interpretation of Schmitt, the 'friend-enemy' distinction is characterized by the formation of collective identities which define themselves as 'we', in opposition to a 'they'. As Mouffe writes, the political "has to do with conflict and antagonism and is therefore the realm of

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[663] Ibid., 25.
[664] Ibid.
[665] Ibid.
[666] Cf. Carl Schmitt, *The Concept of the Political*, (op.cit.), especially pages 25-37.

decision."[667] She contends that liberalism is unable to recognize the irreducibility of conflict in political life; in the following passage, she offers a description of contemporary liberalism as well as a diagnosis of its fundamental misconceptions:

> [T]he dominant tendency in liberal thought is characterized by a rationalist and individualist approach which forecloses acknowledging the nature of collective identities. This kind of liberalism is unable to adequately grasp the pluralistic nature of the social world, with the conflicts that pluralism entails; conflicts for which no rational solution could ever exist. The typical liberal understanding of pluralism is that we live in a world in which there are indeed many perspectives and values and that, owing to empirical limitations, we will never be able to adopt them all, but that, when together, the constitute an harmonious and non-conflictual ensemble. This is why this type of liberalism must negate the political in its antagonistic dimensions.[668]

Liberalism's failure to understand "the ineradicable character of antagonism", however, is problematic.[669] For Mouffe, the constitution of a we/they formation requires antagonistic exclusions; the negation of the other is the condition of the community's identity. But it is important to determine how, precisely, we conceptualize antagonistic relationships. As I indicated above, Mouffe argues that liberalism justifies excluding "unreasonable" comprehensive doctrines by appealing to moral concepts (although on her reading the terms of exclusion are political). What happens, however, if we defend exclusion on the basis of moral language?

According to Mouffe, there is a significant danger here; it practical terms, it entails a demonization of the other. Rather than seeing our adversary as a political opponent, and confronting him or her in the public arena of ideas, we view him or her as 'immoral'. She writes that "instead of being constructed in political terms, the 'we'/'they' opposition constituitive of politics is now constructed according to moral

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[667] See Chantal Mouffe, *On the Political* (op.cit.), 11.
[668] Ibid., 10.
[669] Ibid.

categories of 'good' versus 'evil'."[670] Indeed, as Rawls's language demonstrates (recall his observation that we have to treat unreasonable comprehensive doctrines like "war or disease") the "evil other" becomes, to once again quote Mouffe, a "moral disease".[671] And how can we deal with evil? It is the pure negation of good, with no redeeming qualities, and since the other is 'unreasonable' to boot, there's no hope of dialogue. How can you reason with Thrasymachus? The only alternative, in that case, is to eradicate alterity.[672] The most obvious example in recent memory, of course, is President George W. Bush's reference to an "axis of evil".[673] Once Saddam became an 'evil madman' (in addition to being 'evil' he was also 'irrational') who was determined to acquire weapons of mass destruction and establish relationships with terrorists, there was no alternative to war. In the run-up to Gulf War II, the administration viewed political dialogue with other global actors as useless; it was simply a form of temporizing, a strategy for avoiding our 'moral responsibility'. Hence Mouffe's point.

While Mouffe's arguments are powerful, there are (at least) three difficulties which are evident. First of all, is there a necessary connection between the 'moralization' of antagonism and destructive attitudes/behavior towards the other? Clearly the answer is no; I do believe, however, that her hypothesis is intuitively plausible. Dealing with antagonism in a political context is, in all probability, more conducive to stability than labeling your opponent 'evil', 'unreasonable' or a 'disease'. This, however, brings me to my second point (which is actually a question): when Mouffe attacks the liberal 'moralization' of conflict, does she implicitly refer to moral principles? And if that's

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[670] Ibid., 75.
[671] Ibid., 76.
[672] Ibid., 5 and 76.
[673] Ibid., 76-78.

true, then isn't the argument guilty of what Habermas calls a 'performative contradiction' (i.e. it presupposes, either implicitly or explicitly, the normative principles it criticizes)? The answer to both questions, I think, is 'no'; in Mouffe's "The Ethics of Democracy", for example, she writes that "I am not arguing that politics should be dissociated from ethics or moral concerns, but that their relation should be posed in a different way".[674] In *On the Political* she returns to this question; there, she sharpens her response by highlighting the distinction between ethics and morality, and argues that politics is an ethical, rather than moral, project. In contrast to Habermas and Rawls, Mouffe does not "attempt to present liberal democracy as the idealized model which would be chosen by every rational individual in idealized conditions."[675] She characterizes "the normative dimensions inscribed in political institutions as being of an 'ethico-political' nature, to indicate that it always refers to specific practices, depending on particular contexts, and that it is not the expression of a universal morality."[676] In this regard, she argues that "since Kant morality is often presented as a realm of universal commands where there is no place for 'rational disagreement'. This is, in my view, incompatible with recognizing the deeply pluralistic character of the modern world and irreducible conflict of values."[677]

In other words, liberalism justifies exclusion by appealing to 'universal morality'. Mouffe, however, invokes 'ethical' criteria which are grounded in specific political contexts. In particular, she argues that the exclusion appeals to 'ethico-political' ideas which reflect the culture of liberal-democratic societies.[678] Thus, it is incorrect to assert

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[674] Cf. Mouffe's "The Ethics of Democracy" in *The Democratic Paradox*, 130.
[675] *On the Political*, 121.
[676] Ibid.
[677] *On the Political*, 121-22.
[678] As she notes, this position is grounded, at least partially, in the later Wittgenstein's work; Mouffe asserts, for example, that "our allegiance to democratic values and institutions is not based on their superior

that political exclusions implicitly rely on moral assumptions, at least if we understand 'morality' as the expression of universally valid principles.[679] This fact, in turn, undermines the charge of performative contradiction. At the same time, however, Mouffe doesn't eliminate ethical theory from political discourse; rather, political exclusions draw on the community's values.[680] Finally, there is a third problem: if exclusion is necessary, what is the difference between "moral" exclusion and "political" exclusion? While Mouffe is less exact on this point, there are two parts to the answer. First of all, political exclusion is more honest: it recognizes that antagonism and power are unavoidable features of political life, and it doesn't try to justify exclusion by demonizing the other or labeling non-liberal comprehensive doctrines 'unreasonable'.[681] Rather, groups are excluded for *political* reasons (i.e. because they reject basic presupposition of the political order in question). As Mouffe writes,

> To call the anti-liberals 'unreasonable' is a way of stating that such views cannot be admitted as legitimate within the framework of a liberal-democratic regime. This is indeed the case, but the reason is not a moral one. It is because antagonistic principles of legitimacy cannot coexist within the same political association without putting in question the political reality of the state. However, to be properly formulated, such a thesis calls for a theoretical framework that asserts that the political is always constitutive—which is precisely what liberalism denies.[682]

Secondly, by framing the exclusions as political rather than moral we indicate that the limits between 'permissible' and 'impermissible' doctrines are fluid and subject to

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rationality and that liberal democratic principles can be defended only as being constituitive of our form of life." Cf. *On the Political*, 121; for a broader exposition of her relationship to Wittgenstein, see "Wittgenstein, Political Theory and Democracy" in *The Democratic Paradox*, pp. 60-79.

[679] I can't deal with the complicated similarities/differences between 'ethics' and 'morality' here; my argument is simply that, given Mouffe's definition of the terms, she doesn't presuppose moral principles. I will bracket the question as to whether or not she accurately characterizes the relationship.

[680] In this regard, see Mouffe's "Radical Democracy" in *The Return of the Political* (London: Verso, 2005), pp. 9-21.

[681] On this point, cf. her "Politics and the Limits of Liberalism" in *The Return of the Political*, especially pages 139-42.

[682] Cf. "Democracy, Power and the Political", 25.

debate. To once again cite Mouffe, "[i]nstead of trying to erase the traces of power and exclusion, democratic politics requires that they be brought to the fore, making them visible so that they can enter the realm of contestation."[683] If the other 'irrational' or 'evil' it is impossible (or at least very difficult) to engage in dialogue; if the other is 'irrational', then we can't begin a conversation, since the agent isn't subject to rational persuasion, and if they're 'evil', they don't have any regard for the moral principles which operate in a given community. But if the limits which produced an exclusion are recognized as the contingent results of political discussion in an open society, the other is invited to join the democratic process.

Here I want to highlight Mouffe's arguments for an 'agonistic' theory of democracy, which confronts the question of antagonism in a different way than liberalism. I had noted earlier that Mouffe appropriates Schmitt's work on the political, arguing that antagonism is an irreducible feature of political life. She also, however, expresses concerns about the implications of Schmitt's conceptualization of the we-they distinction. As Mouffe notes, Schmitt characterizes the political in terms of the friend-enemy antithesis. In the *Concept of the Political*, for example, he writes that "[t]he specific political distinction to which political actions and motives can be reduced is that between friend and enemy."[684] While Mouffe recognizes, along with Schmitt, the unavoidability of exclusions and conflict, it is important to emphasize the inherent dangers of viewing the other as an 'enemy'. She argues that we need to develop a new way of thinking about the 'we/they' distinction. We can't discard the insight that a community always defines itself in opposition to an 'other'; at the same time, however,

[683] "Politics and the Limits of Liberalism", 149.
[684] *The Concept of the Political*, 26.

we don't necessarily have to interpret otherness as the face of a menacing alterity or an enemy.[685] Rather, we have to uncover a way of allowing conflict to operate in the space of the political, without pretending that we can definitively eliminate antagonism via rationality or procedural mechanisms. In short, Mouffe wants to combine the idea that antagonism is ineradicable with the recognition that contemporary democracies are pluralistic. How can we reconcile the two facts? In response to this question, Mouffe offers what she calls an 'agonistic' theory of democracy; as she writes, "If we want to acknowledge on the one side permanence of the antagonistic dimension of the conflict, while on the other side allowing for the possibility of its 'taming', we need to envisage a third type of relation. This is the type of relation which I have proposed to call 'agonism'."[686]

What, therefore, is unique or specific to an 'agonistic' version of politics? We can contrast it with 'antagonism'; to once again cite Mouffe, "[w]hile antagonism is a we/they relation in which the two sides are enemies who do not share any common ground, agonism is a we/they relation where the conflicting parties, although acknowledging that there is no rational solution to their conflict, nevertheless recognize the legitimacy of their opponents. They are 'adversaries', not 'enemies'."[687] Furthermore, "[w]e could say that the task of democracy is to transform antagonism into agonism."[688] An 'agonistic' politics recognizes that we need consensus on foundational political values (in a democracy, for example, the importance of liberty and equality), but

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[685] Indeed, Mouffe argues that "[a]ccording to Schmitt, there is no possibility of pluralism—that is, legitimate dissent among friends—and conflictuality is relegated to the exterior of the democratic unity." Cf. her introduction to *The Challenge of Carl Schmitt*, ed. Chantal Mouffe (London: Verso, 1999), 5.
[686] *On the Political*, 20.
[687] Ibid.
[688] Ibid. Also see Mouffe's "For an Agonistic Model of Democracy" in *The Democratic Paradox*, especially pages 98-105.

the meaning of basic principles is always subject to interpretation.[689] Therefore, an agonistic theory highlights the unavoidability of what Mouffe calls a "conflictual consensus".[690]   In a "conflictual consensus", members of the community share assumptions about ethico-political values. At the same time, however, they disagree about how we should interpret core beliefs, or implement them in political practice.[691] As Mouffe writes, "[i]n a pluralist democracy such disagreements are not only legitimate but also necessary. They provide the stuff of democratic politics."[692] I will return to this question later in the chapter; next, however, I want to explore the question of antagonism, and the constitution of political regimes, in greater detail. We have examined the unavoidability of exclusion in the construction of political systems and identities, but now I will complicate the picture I sketched out above by returning to Laclau continuing with my discussion of Chantal Mouffe. Specifically, I will examine the roles of antagonism and power in the construction of 'universal' norms. Following Laclau, I will argue that 'universal' norms aren't able to eliminate traces of particularity and history; thus, it is problematic to believe that we can escape from the operation of power by appealing to 'coercion-free' norms. In the first three chapters I tried to show how forms of power, history and culture operate in social contract theory and liberalism; now, I want to give a more formal demonstration of the same point. This will also begin to defuse one of the counterarguments I mentioned earlier in the dissertation; I noted that one way liberals can evade, or at least try to evade, the argument that social contract theory relies on biopower in order to establish the conditions for a unified social body is to invoke the

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[689] *On the Political*, 31.
[690] "For an Agonistic Model of Democracy", 103.
[691] *On the Political*, 31.
[692] Ibid.

distinction between the contingent aspects of a theory and its normative 'universality'. In other words, they can dismiss the appearance of technologies of power in liberalism as 'contingent' departures from the 'universal' norms of non-coerced, autonomous cooperation. In this section of the essay, I hope I can finally eliminate this argumentative strategy by showing that the 'universal' is necessarily 'contaminated' (dare I say, the body politic is necessarily 'contaminated') by the 'contingency' of power and social division.

Universality, the Particular and Antagonism: Social Division in the Body Politic

In this section of the chapter, we can return to Ernesto Laclau's work, focusing on *Emancipation(s)*. He approaches the relationship between universality and particularism in an original way, via the problem of 'incarnation', or how the universal is manifested in particular contents. According to Laclau, the Western philosophical tradition has adopted four different, and historically successive, positions on the relationship between universality and particularity. First of all, ancient philosophy argued that there is a sharp point of demarcation between the universal and particular, and we can grasp the concept of universality purely through the use of reason.[693] On this interpretation, we are left with two possibilities; as Laclau notes, "either the particular realizes itself in the universal—that is it eliminates itself as particular and transforms itself in a transparent medium though which universality operates—or it negates the universal by asserting its particularism (but as the latter is purely irrational, it has no entity of its own and can only

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[693] Cf. Ernesto Laclau, "Universalism, Particularism and the Question of Identity" in *Emanciaption(s)* (New York: Verso, 1996), 22.

exist as corruption of being)."[694] Thus, the particular is absorbed into the universal, and its particularity is eliminated; or it exists in itself, in which case it is regarded as pure negation and "corruption". A second theory of universality is formulated by Christianity; here the universal is incarnated in the body of a temporal subject, and God is the "absolute mediator". According to Laclau, this is an important moment in the Western intellectual tradition, since it gives birth to a new logic governing the relationship between universalism and particularity; now a "privileged agent of history" or a "particular body" functions as the "expression of a universality transcending it", with God acting as the mediator between heaven and earth.[695]

The next major transformation occurs with the emergence of what he calls "secularized eschatologies"; if Christianity posited God as the mediator between the universal and particular, modernity grounds 'salvation' in a purely rational fashion, which means that the principles of emancipation and the logics governing historical processes are, as Laclau puts it, "fully transparent to human reason".[696] Accordingly, the relationship between universality and particularity should also be accessible to human reason; therefore, we can't invoke a mysterious, transcendent entity to guarantee mediation between the universal and particular. Rather, the universal is grounded immanently; or as Laclau writes, "we have to postulate a body which is, in and of itself, the universal."[697] This means that the gap between reality and rationality is eliminated (at least in theory) and universality is instantiated in the body of a particular historical agent,

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[694] Ibid.
[695] Ibid., 23.
[696] Ibid., 24.
[697] Ibid., 23.

such as the European bourgeoisie or the proletariat.[698] But this generated a new problem;

as Laclau writes, "[t]he universal had found its own body, but this was still the body of a

certain particularity—European culture of the nineteenth century."[699]

Laclau highlights two examples of this discrepancy; on the one hand, European

imperialism understood itself as the representative of 'universal' values, and forms of

cultural otherness were interpreted as 'particularities'. Thus, the process as colonization

was viewed as a struggle between the 'universal' values of European modernity and the

'particular' values of local cultures, rather than a conflict between two different

manifestations of particularity.[700] On the other hand, and in a more progressive context,

we encounter the familiar difficulties of Leninism in the twentieth century; as Laclau

notes, "[b]etween the universal character of the tasks of the working class and the

particularity of its concrete demands an increasing gap opened, which had to be filled by

the Party as representative of the historical interests of the proletariat. The gap between

class itself and class for itself opened the way to a succession of substitutions: the Party

replaced the class, the autocrat the Party, and so on."[701] Here, of course, Laclau is

referencing Lenin's attempt to address the question of proletariat consciousness; the

working class was unaware of its privileged historical role, so it needed a "vanguard" to

guide it towards a recognition of its emancipatory task. But this move simply creates a

new tension between the universal and particular; the Party, which is the incarnation of

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[698] Ibid., 24.
[699] Ibid.
[700] Ibid., 24-25.
[701] Ibid., 25.

universality, disavows or refuses to acknowledge its particularity, which in turn leads to a dismissal of other perspectives as "false consciousness."[702]

In the wake of postmodernism, which correctly recognizes the dangers of totalizing metanarratives that fail to understand the importance of particularity, there has been a movement in the opposite direction, towards an uncritical valorization of the specific and local. But as Laclau notes, there are difficulties here as well; if I establish particularism as a normative principle without any appeal to broader universal values, there is no criteria which allows us to differentiate, for example, between progressive and reactionary forms of nationalism.[703] They are both, after all, manifestations of particularism. Likewise, unless we assume, implausibly, that different forms of particularism are necessarily compatible, we have to find ways of adjudicating disputes between antagonistic parties in the social body.[704] At that point, we have to invoke more general criteria. In short, then, we can't dispense with the category of "universality." But how should we think about it? And more specifically, how should we characterize the relationship between the universal and particular?

In order to answer this question, I will return to Laclau's essay "Why Do Empty Signifiers Matter to Politics?" Earlier in the chapter, I had reconstructed part of Laclau's analysis concerning structural features of identity formation; according to Laclau, every act of signification involves the totality of language, since the value of a sign is established via its difference from other signs in a given system. The system is only recognizable, however, if it is defined in opposition to an excluded other. Thus, we have two systems; we can call them A and B, with A representing a system of differences, and

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[702] Ibid., 25-26.
[703] Ibid., 26.
[704] Ibid.

B standing for its negation. If we think about A for a moment, we immediately notice that its elements are different from one another (recall that Laclau follows Saussure here); otherwise, we couldn't recognize their specificity.   Laclau goes on to develop the argument, however, by noting that the elements are, at the same time, equivalent to one another insofar as they belong to system A rather than system B.[705] If we apply the argument to the construction of identities, for example, all the identities contained in A are equivalent precisely insofar as they are constituted through the same exclusions.[706] A parallel logic of difference/equivalence is operable on the other side of the frontier, in system B; as Laclau writes, "[i]n order to be the signifiers of the excluded…the various excluded categories have to cancel their differences through the formation of a chain of equivalences to that which the system demonizes in order to signify itself."[707] The equivalent signifiers, in turn, represent what Laclau calls "an absent fullness."[708] They form a community which is unified by its opposition to the other, but the system is necessarily incomplete, since it has to exclude certain contents in order to constitute its identity: thus, exclusion represents the possibility, as well as the impossibility, of the system's closure (otherwise, as we noted earlier, we couldn't recognize the specificity of *this* system).

How, though, can we represent a community of "absent fullness"? And why is that a difficulty? Let's examine the problem more closely. At this stage of the argument, we can see that the identity of the signifiers are split; the signifiers differ from each other,

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[705] Cf. "Why Do Empty Signifiers Matter to Politics?", 38, as well as "Subject of Politics, Politics of the Subject" in *Emancipations*, 52-53.

[706] "Why Do Empty Signifiers Matter to Politics?", 38. Or, as Laclau writes in *On Populist Reason*, "vis-à-vis the excluded element, all other differences are equivalent to each other—equivalent in their common rejection of the excluded identity." (70)

[707] Ibid., 39.

[708] Ibid., 42.

but they are also drawn into a chain of equivalence by negating the excluded other. As the signifiers begin to form a chain of equivalence, however, their singularity is increasingly dissolved in the movement toward sameness. Here is Laclau's description of this phase of his argument:

> On the one hand, the more the chain of equivalences is extended, the less each concrete struggle will be able to remain closed in a differential self…On the contrary, as the equivalent relation shows that these differential identities are simply indifferent bodies incarnating something equally present in all of them, the longer the chain of equivalences is, the less concrete this 'something equally present will be'. At the limit it will be pure communitarian being independent of all concrete manifestation. And, on the other hand, that which is beyond the exclusion delimiting the communitarian space—the repressive power—will count less as the instrument of particular differential repressions and will express pure anti-community [as] negation. The community created by this equivalential expansion will be, thus, the pure idea of a communitarian fullness which is absent—as a result of the presence of the repressive power.[709]

Hence the difficulty: what we now encounter is an equivalential chain, and the particularity of the signifiers is collapsing in the movement towards a community unified by its negation of the other. But if we're trying to signify or represent this community of equivalence which is constituted through the collapse of differences, we can't resort to another signifier to name the "absent fullness"; as Laclau notes, "in that case, the 'beyond all differences' would be one more difference and not the result of the collapse of all differential identities."[710] How, then, do we represent it? According to Laclau, "[p]recisely because the community as such is not a purely objective space of an objective identity but an absent fullness, it cannot have any form of representation of its own, and has to borrow the latter from some entity constituted within the equivalential space".[711] In other words, the "absent fullness" of the community is represented by a

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[709] Ibid., 42.
[710] Ibid.
[711] Ibid.

particular signifier in the equivalential chain. But if all of the signifiers are formally equivalent, how do we determine which one "stands in" for "absent fullness"? For Laclau, there is no formula or algorithm which allows us to determine that one signifier, rather than another, will occupy the nodal point of representation; instead, we have to examine the contingent historical circumstances within a given social space.[712] For Laclau, this is the paradigmatic example of hegemony; he writes that "[t]his relation by which a particular content becomes the signifier of the absent communitarian fullness is exactly what we call a *hegemonic relationship*."[713]

But how does this abstract discussion illuminate the category of "universality"? How does it fit in with the emergence of political identities? According to Laclau, "universality" is always constructed through hegemonic logics in which a particular content takes on the function of representing the universal. Laclau offers the following example as an illustration of how the particular "stands in" for the universal. Assume that in an oppressive, highly unpopular regime workers begin to demand higher wages and call a strike. While their demands reflect particular interests—in this case, the interests of the proletariat—they also reflect a deep-seated, generalized opposition to the ruling class, which exists in every other part of society. Thus, the workers' demands have a particular, as well as universal, dimension.[714] The workers' strike, in turn, inspires other forms of opposition to the regime; journalists begin to clamor for freedom of the press, students challenge their professors, who are functionaries of the state, and demand

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[712] Ibid., 43.

[713] Ibid., Laclau's emphasis. For an earlier, albeit much briefer and incomplete, formulation of this argument see Ernesto Laclau and Chantal Mouffe, *Hegemony and Socialist Strategy*: *Towards a Radical Democratic Politics*, Second Ed. (London: Verso, 2001), especially 143-45.

[714] Cf Laclau's "Constructing Universality" in *Contingency, Hegemony, Universality* (London: Verso, 2000), 302.

intellectual openness, etc. While the complaints of the students, journalists and workers represent particular interests, they begin to converge towards what Laclau calls "a chain of equivalences in so far as they are bearers of an anti-system meaning."[715] In other words, "the presence of a frontier separating the oppressive regime from the rest of society is the very condition of the universalization of demands via equivalences."[716] As the chain of equivalence becomes more extensive, however, the need grows for a signifier which will capture the collective identity of the movement. But we can only refer to particular demands or specific signifiers; therefore, one of them begins to represent the totality of anti-system opposition.[717] According to Laclau, "this is the strictly hegemonic move: the body of one particularity assumes a function of universal representation."[718]

Thus, the site of the body politic is a struggle between particular elements who all claim to represent 'the universal'. The implication of Laclau's argument is that the 'universal' element is itself a particular which has, through the contingencies of struggle and revolt, emerged as the general signifier for a chain of demands.[719] While Laclau's example focuses on opposition to an oppressive regime and the transformation of a particular marginalized group into the stand-in for universality, however, his model also has critical function; it serves to unmask the pretension to universality which inevitably accompanies the rhetoric of a dominant class. Let's return, then, to the imagery of the

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[715] Ibid.

[716] Ibid.

[717] Ibid., 302-03.

[718] Ibid., 303.

[719] As Linda Zerilli notes, another important implication of Laclau's argument vis-à-vis the relationship between the universality and particularism is that "[a]lthough the language of universalism spoken by Laclau searches for some common ground between particularists and universalists, it is more by way of articulating their mutual contamination, that is, how each is rendered impure by the irreducible presence of the other." Cf. her "This Universaliam Which Is Not One" in *Laclau: A Critical Reader*, eds. Simon Critchley and Oliver Marchart (London: Routledge, 2004), 89.

body politic, focusing on what Slavoj Zizek calls the "fundamental ideological fantasy".

Now that we understand the importance, indeed the unavoidability, of hegemonic

struggle in the formation of the social body, we can understand what, precisely, is

entailed by the "fundamental ideological fantasy". Here, once again, is the key passage

from Zizek:

> the stake of social-ideological fantasy is to construct a vision of society which…is not split by an antagonistic division, a society in which the relation of its parts is organic, complementary. The clearest case, is of course, the corporatist vision of society as an organic Whole, a social Body in which the different classes are like extremities, members each contributing to the Whole according to its function—we may say that 'Society as a corporate Body' is the fundamental ideological fantasy.[720]

In short, therefore, it is the belief that we can transcend social division and unify the body

politic as a corporate entity. Yet if it's the case that the body politic is the site of conflict,

and if it's true that antagonism is an inescapable element of the social body, then it is

problematic to believe that we can reach a space of political unity which is beyond power

and struggle. Here we encounter a gap between the divisions which characterize actual

societies and the corporatist fantasy, which is the site of an ideological misrecognition.[721]

Zizek provides the following illustration: Fascist political theory is a paradigmatic

example of the fundamental ideological fantasy; it strives for a unified social body or a

homogenized community without difference. But what, according to Fascism, prevents

society from achieving unity? What is the source of blockage? As Zizek writes, "[t]he

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[720] *The Sublime Object of Ideology*, 126.

[721] I'm unable to examine the question of ideology here; needless to say, an exhaustive analysis would require a separate study. I do, however, think that Zizek himself, in addition to Calude Lefort and Ernesto Laclau, have offered provocative arguments that we should revive the concept of ideology. They each, in different ways, have argued that a reformulation of 'ideology' begins with the idea that dominant ideologies conceal social division; thus, an ideological discourse, as Lefort puts it, "dissimulate[s] the process of social division". Cf. Claude Lefort, "The Genesis of Ideology in Modern Societies" in *The Political Forms of Modern Society*, op. cit., 196. For Zizek's treatment of ideology, see *The Sublime Object of Ideology*; for Laclau, cf. "The Death and Resurrection of the Theory of Ideology" in *The Journal of Political Ideology* (1996), Vol. 1, No. 3: 201-220.

answer is, of course, the Jew: an external element, a foreign body introducing corruption into the sound social fabric."[722] According to the Fascist corporatist fantasy, "the 'Jew' appears as an intruder who introduces from outside disorder, decomposition and corruption in the social edifice—it appears as an outward positive cause whose elimination would enable us to restore order, stability and identity."[723] In actuality, however, it is social antagonism itself, or social division, which prevents us from reaching closure; the social body itself is always the site of contestation and struggle, of power and exclusions, of difference and pluralism.[724]

Here I want to return, at least briefly, to Zizek's example of the 'Fascist corporatist fantasy', which illustrates the connection between biopower and the struggle for a unified social body. Specifically, I want to examine the operation of racial politics in Nazi Germany, in order to see how the elements fit together and operate at the level of praxis. While this is, admittedly, a departure from the question of biopower's relationship to liberalism, it shows how different, and apparently unrelated, elements of the dissertation are linked together in the context of praxis. And as I will argue in the following excurses, Hitler's genocidal experiment drew on aspects of American biopolitical fantasies; thus, we encounter the thread of terror which binds liberalism and totalitarianism together.

Excurses: Biopower and the Body Politic in Nazi Germany

In a 1936 treatise on 'state racial hygiene', the Nazi medical specialist Ottmar von Versucher clearly articulated the logic of biopower vis-à-vis the body politic of the German nation. Commenting on a remark by Hitler, he writes the following: "'The new

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[722] *The Sublime Object of Ideology*, 126.
[723] Ibid., 128.
[724] Ibid., 127.

State knows no other task than the fulfillment of the conditions necessary for the preservation of the people.' These words of the Fuhrer mean that every political act of the National Socialist state serves the life of the people…We know today that the life of the people is only secured if the racial traits and hereditary health of the body of the people (*Volksörper*) are preserved."[725] Over two centuries after Hobbes and Locke we encounter the imagery of the social body once again, this time in a decidedly new (yet after Auschwitz, unsettlingly familiar) context. The language of the social body has become the site of an ideological fantasy, an image of biological purity which doubles as a political metaphor, with Jews, Gypsies, Slavs, homosexuals or non-Aryans representing a cancerous, disease-carrying form of alterity which contaminates the body politic of the German nation, a form of 'antagonism' which blocks the people from achieving a 'utopia' of racial homogeneity. In the Third Reich, politics was transformed into the oversight of society's collective health; thus, it was a paradigmatic example of biopolitics. Here, then, I want to explore the connection between 'the fundamental ideological fantasy' and biopower in the context of the Nazi racial state, departing from Foucault's March 17th, 1976 lecture at the Collège de France.

Foucault introduces his discussion of Nazism by highlighting the fundamental paradox of biopower: how is a form of governmentality which is dedicated to the preservation of life and strengthening the body politic able to, at the same time, authorize mass murder, as in the case of the Final Solution? In other words, how can we account for the extermination of entire races in biopolitical regimes? We have already discussed part of Foucault's answer in the previous chapter; racism divides society into 'healthy' and

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[725] Cited by Giorgio Agamben, in *Homo Sacer* (op.cit.), 147.

'pathological' elements, and in order to affirm the power (indeed, in order to guard the collective health) of 'superior' ethnic groups it is necessary, first of all, to separate out 'desirable' hereditary persons from 'defective' individuals, and then exterminate the, 'weak' or 'unfit'. With this analysis in mind, therefore, we can return to the statement I cited from Versucher, and interpret it in the light of Foucault's remarks concerning Nazism; according to Foucault, "Nazism was in fact the paroxysmal development of the new power mechanisms that had been established since the eighteenth century. Of course, no state could have more disciplinary power than the Nazi regime. Nor was there any other state in which the biological was so tightly, so insistently, regulated…Controlling the random element inherent in biological processes was one of the regime's immediate objectives."[726] Indeed, as Hitler's revelatory language suggests, that was the ONLY task of the National Socialist regime; again, "The new State knows no other task than the fulfillment of the conditions necessary for the preservation of the people." Likewise, Versucher has, it seemed to me, correctly understood the essentially biopolitical import of Hitler's observation: "the life of the people is only secured if the racial traits and hereditary health of the people are preserved."

In Nazism, the life of the people (or the life of the body politic) was protected via a double process of excluding the 'unfit' and encouraging the reproduction of 'healthy Aryans'; first of all, then, we have the expurgation or cleansing of the social body, removing the alien, degenerative elements though sterilization or extermination, which was complemented by pro-natalist policies for 'hereditary desirables'. Here I will

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[726] Ibid., 259.

examine the two strategies in turn; in connection, they illuminate the most terrifying aspects of political biologism's theory/praxis.

I will begin with strategies of exclusion. The Nazis practiced compulsory sterilization on a massive scale, but the context for 'racial hygiene' was already established in the Weimar Republic. In 1921, the Prussian Health Council expressed an interest in eugenic sterilization (i.e. sterilization which served a 'hereditary purpose' by guaranteeing that "defective" members of German society were unable to reproduce).[727] At the time the question was deferred to a panel of experts; it re-emerged, however, when the Prussian Ministry of Welfare's Racial Hygiene Committee met to discuss the issue.[728] The members of the Committee decided not to recommend pro-sterilization measures, at least in part due to popular opposition. They suggested, rather, that the Ministry investigate the sterilization laws in Switzerland and the United States.[729] German eugenicists were interested in American sterilization practices; Stefan Kühl notes that after 1925, "scientific and medical literature [in Germany] regularly referred to the Untied States."[730]

The United States was, after all, a trendsetter in eugenics legislation. According to Daniel J. Kevles, by the end of the nineteen-twenties twenty-four states had approved compulsory sterilization practices.[731] In the 1927 case of *Buck vs. Bell* the U.S. Supreme Court had upheld the constitutionality of a Virginia statue which required the sterilization

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[727] Cf. Paul Weindling *Health, Race and German Politics Between National Unification and Nazism, 1870-1945* (Cambridge: Cambridge UP, 1989), 390.

[728] Ibid., 391.

[729] Ibid., 391.

[730] Stefan Kühl, *The Nazi Connection: Eugenics, American Racism and German National Socialism* (Oxford: Oxford UP, 2002), 24.

[731] Cf. his *In the Name of Eugenics: Genetics and the Uses of Human Heredity* (Cambridge: Harvard UP, 1995), 111.

of "feeble-minded" individuals.[732] Writing for the majority in an eight to one opinion, Justice Oliver Wendall Holmes offered the following comments: "We have seen more than once that the public welfare may call upon the best citizens for their lives. It would be strange it if would not call upon those who already sap the strength of the State for these lesser sacrifices…Three generations of imbeciles are enough."[733] The Nazis, in turn, were inspired by the American example,[734] and the admiration was reciprocated; Enzo Traverso cites a comment by Professor Harry Laughlin, the head of the Center for Eugenicist Research in Cold Springs, New York, who, upon receiving an honorary doctorate from the University of Heidelberg in 1936 (as Traverso notes, well after the new German government had carried out thousands of forced sterilizations against "degenerative" elements of its population), argued that this was "proof that German and American scientists understood eugenics in the same way."[735]

Mutual admiration aside, the Nazi's Law to Prevent Hereditarily Sick Offspring (*Gesetz zur Verhütung erbkranken Nachwuchses*) was announced in 1933,[736] which legalized compulsory sterilization for persons with one of nine 'diseases', including "hereditary feeble-mindedness, schizophrenia, manic-depression, hereditary epilepsy, Huntington's chorea, hereditary blindness, hereditary deafness, hereditary malformations and…severe alcoholism."[737] As Paul Weindling notes, the inclusion of alcoholism on the list is significant; it reflects the fact that the German temperance movement was, at least

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[732] Ibid., 111.
[733] Quoted in Kevles, 111.
[734] The importance of American eugenics for the Nazis racial program is well-documented; see Stephan Kühl's study, cited above.
[735] Cited in Traverso's *The Origins of Nazi Violence,* trans. Janet Lloyd (New York: New Press, 2003), 127.
[736] Weindling, 522-23.
[737] Ibid., 525.

in part, "the breeding ground for later, more comprehensive programmes of…social hygiene"[738] (as early as 1903, the racial theorist Ernst Rüdin had argued that alcoholism caused hereditary degeneration, and he proposed sterilization, which helped to eliminate a defective genetic stock from the body politic).[739] In any case, between 1934 and 1945 approximately 360,000 people were "legally" sterilized. The totals for "undesirables" such as Jews, Gypsies and persons of mixed ancestry are unknown; it is, however, fair to assume that the number was sizeable.[740]

Another exclusionary strategy of the Nazis was "euthanasia". Hitler emphasized the high costs of institutionally housing the disabled or mentally ill. Eventually a 'final solution' to the question was proposed by the Bavarian health minister Walther Schultze, and chronically sick people with psychological difficulties were exiled to concentration camps.[741]   The euthanasia policies represented an extension of the logic which governed sterilization practices; once again, it was necessary to eliminate the hereditary degeneratives who threatened the integrity of the body politic. 'Anti-social' elements such as "gypsies, vagabonds, beggars and criminals were packed off to these concentration camps"[742] and 'euthanised'.

Finally, we encounter the radicalization of medical killing: the Holocaust. Jews were portrayed as "cancers" which contaminated the German body politic (or, even more frequently, as bacteria, viral infections, vermin, parasites, etc.). Robert Proctor, for example, offers the following anecdote: "[i]n a 1936 lecture on radiotherapy in Frankfurt, the SS radiologist Prof. Hans Holfelder showed students in attendance…a slide

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[738] Ibid., 185.
[739] Ibid., 185.
[740] Ibid., 533.
[741] Ibid., 546.
[742] Ibid., 546.

in which cancer cells were portrayed as Jews (the same slide depicted the X-rays launched against these tumor-Jews as Nazi storm troopers)."[743] The logic of Versucher's position is clearly demonstrated in this example: the life of the people is intertwined with the hereditary purity of the body politic. A set of comments by Giorgio Agamben will illuminate the theories which legitimated the Holocaust even further. In a brief essay entitled "What is a People?" (included in the compilation *Means without End*) Agamben notes that almost all of the major Romance languages denote two very different things with the word "people" (in Italian, *popolo*; in French, *peuple* and in Spanish *pueblo*): on the one hand, it signifies the totality of the population, and on the other, it refers to the "common" or "ordinary people" (indeed, Agamben notes that even in English we tend to adhere to a distinction between "the people" and "ordinary people"). Agamben reflects on this peculiar split at length in the following passage:

> Such a widespread and constant semantic ambiguity cannot be accidental: it surely reflects an ambiguity inherent in the nature and function of the concept of *people* in Western politics. It is as if, in other words, what we call people was actually not a unitary subject but rather a dialectical oscillation between two opposite poles: on the one hand, the *People* as a whole and as an integral body politic and, on the other hand, the *people* as a subset and as a fragmentary multiplicity of needy and excluded bodies; on the one hand, an inclusive concept that pretends to be without remainder while, on the other hand, an exclusive concept known to afford no hope; at one pole, the total state of the sovereign and integrated citizens and, at the other pole, the banishment…of the wretched, the oppressed, the vanquished.[744]

The specific example which Agamben refers to in this context is, once again, the extermination of the Jews; he writes that

> we ought to understand the lucid fury with which the German *Volk*—representative par excellence of the people as integral body politic—tried to eliminate the Jews forever as precisely the terminal phase of the internecine

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[743] Cf. Robert Proctor, *The Nazi War against Cancer* (Princeton: Princeton UP, 1999), 46.

[744] "What is a People?" in *Means without End*, trans. Vincenzo Binetti and Cesare Casarino (Minneapolis: University of Minnesota Press, 2000), 31.

struggle that divides *People* and *people*. With the final solution—which included Gypsies and other unassimilable elements for a reason—Nazism tried obscurely and in vain to free the Western stage from this intolerable shadow so as to produce finally the German *Volk* as the people that has been able to heal the original biopolitical fracture.[745]

It is also important, however, to recollect that logics of extermination and/or ethnic cleansing have operated in so-called socialist regimes, such as the former Soviet Union, as well as in liberal regimes, including the United States, where the Native Americans were victims of ethnic cleansing. Hardt and Negri have noted, for example, that the constitution of American liberty presupposed limitless horizons: the project of Manifest Destiny envisioned an imperial America stretching from one gleaming shore to the other.[746] The fantasy of open spaces, however, necessitated the forced removal and/or genocidal murder of Native Americans, who inhabited the vistas of 'freedom' and represented an obstacle to American expansion.[747] They write that "[l]iberty and the frontier stand in a relationship of reciprocal implication: every difficulty, every limit of liberty is an obstacle to overcome, a threshold to pass through."[748]

The connection between Nazism and the ravaging of North America by Europeans is even more direct, however; National Socialist "foreign policy" likewise dictated the necessity of ethnic cleansing. Hitler envisioned Central Europe as a *volkloser Raum* (a space without people),[749] with its inhabitants enslaved (Slavs, like Jews and Gypsies, were considered members of an inferior race). After its residents were evacuated, it would serve as the vaunted *Lebensraum* for the Aryan master race—a

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[745] Ibid., 34.

[746] See Michael Hardt and Antonio Negri, *Empire* (Cambridge: Harvard UP, 2000), 168-69.

[747] Ibid., 169-70.

[748] Ibid., 169.

[749] Giorgio Agamben highlights this peculiar turn of phrase, and interestingly situates it in a biopolitical framework; cf. *Remnants of Auschwitz: The Witness and the Archive*, trans. Daniel-Heller Roazen (Zone Books: 1999), 85.

Lebensraum, as Agamben notes, which doubled as a *Todesraum*.[750] Hitler's geopolitical project, therefore, appears as a continuation of the Western colonial fantasy; citing a disturbing passage in which the *Führer* explicitly situates his continental aggression in the lineage of previous European conquests, such as the British annexation of India, the Spanish invasion of the 'New World' and the "settlement" of North America (the phrase is Hitler's), Charles Mills writes that Hitler "saw himself as simply doing at home what his fellow Europeans had long been doing abroad."[751] Likewise, Enzo Traverso highlights a reference to the German conquest of Eastern Europe and Russia; Hitler opined that "[t]he natives will have to be shot. Our sole duty is to Germanize the country by the immigration of Germans, regarding the natives as Redskins."[752]

Recall, however, I had alluded above to a second strategy developed by Nazism in order to guarantee the "life of the people" or the body politic, namely the implementation of pro-natalist technologies. As Claudia Koontz has noted, "[n]owhere else in Europe or the United States has so comprehensive a drive been launched to increase the birthrate."[753] Tax policy was used to stimulate reproduction (parents with six or more children were exempt from paying personal income tax).[754] Likewise, women who had five or more children were recognized as national heroes; women with five children were given a bronze medal, while six children earned a silver medal; seven, however, was worthy of gold.[755] In addition, antiabortion laws were drafted, since it was important to guarantee the survival of Aryans (although in 1936 an SS officer lamented that a

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[750] Ibid., 86.
[751] *The Racial Contract*, 106.
[752] Cited in Traverso, 71.
[753] Cf. Claudia Koontz, *Mothers in the Fatherland: Women, the Family and Nazi Politics* (New York: St. Martin's Press, 1987), 185.
[754] Ibid., 186.
[755] Ibid., 186.

significant number of abortions were still performed, often in the "racially most valuable circles.")[756]   Finally, women received state indoctrination in "racial science" classes, including study of the "Ten Commandments for Choosing a Partner." The list contained injunctions such as "[i]f hereditarily fit, do not remain single", "[w]hen choosing your spouse, inquire into his or her forebears" and "[h]ope for as many children as possible."[757] This is an example of Nazism's 'inclusionary' face.

In any case, this example ties together several threads of the dissertation's argument: the Nazi fantasy of a unified body politic was operationalized via a double process: the exclusion of 'unfit' subjects/ethnic groups on the one hand, and the encouragement of 'Aryan' women to reproduce German citizens with 'impeccable' bloodlines. We have the organicist vision of society, in which the 'cancers', or the pathological elements in society which introduce division, sickness, and illness into the 'healthy' and unified social body; the other prevents society from achieving its fullness. It is important to eliminate the source of contagion, then; at the same time, we must affirm 'normal' or 'healthy' examples of life; we need citizens who are both hereditarily pure, as well as obedient, governable subjects.   Thus, biopower is the source of the body politic's unity.

Foucault on the Subject and Power

I have focused, up to this point, on the construction of the body politic, examining the 'fundamental ideological fantasy' and why it is, in the final analysis, impossible to eliminate antagonism, division and power from the social body. A second theme of the dissertation, however, is the failure of liberalism to recognize that 'governable' subjects

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[756] Ibid., 187.
[757] Ibid., 189.

are constituted through biopolitical technologies of power. In Chapter 2, for example, I highlighted Rawls's elimination of 'contingent' features of agency in the original position, arguing (along with Michael Sandel) that we can't understand the decisions of individuals, even in a highly abstract procedural model, without referring to a history and/or tradition which inform, for example, the selection of the difference principle. I argued that Nietzsche traces the outlines of a genealogy of the 'rational' self, revealing that the governable self is the product of discipline, habituation and culture. The project of Nietzschean genealogy has been continued by Foucault, most notably in *Discipline and Punish* and the first volume of *The History of Sexuality*. Like Nietzsche, Foucault highlights the embodied subject, and recognizes that "[t]he body is always directly involved in a political field; power relations have an immediate hold upon it; they invest it, mark it, train it, torture it, force it to carry out ceremonies, to emit signs."[758] Indeed, throughout the dissertation I have made a similar point, and at the end of the previous chapter I argued that, *contra* liberals who emphasize the necessity of extricating ourselves from power (which, if Laclau's arguments concerning the necessity of exclusion are correct, is a theoretical impossibility, not to mention the practical difficulties), we must begin thinking about an ethics of how we use power. In this regard, I will examine the later work of Foucault, where he explicitly addresses the question of the subject and power, or more exactly the relationship between the subject and power. It is here, I contend, that we can see the development of an alternative to liberalism's emphasis on non-coercion which acknowledges the realties of political antagonism while at the same time refusing to abandon ethical reflection/practice.

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[758] *Discipline and Punish*, 25.

First of all, I will highlight an objection which appears often in the secondary literature concerning Foucault. Up to this point, I have focused on the passivity of (micro) bodies, emphasizing the normalizing operation of power which creates individuals, and more particularly what I have referred to as 'governable' subjects. It is tempting to conclude that power is a totalizing force which pre-empts resistance by controlling subjects and manufacturing 'docile bodies' who contribute to the reproduction of the social body. Indeed, I have used language very similar to this, throughout the dissertation. And I do think that I have offered a plausible interpretation of how the unity of the body politic is achieved (or we can imagine, at least, a structurally similar process), with the caveat that antagonism and division are inescapable features of societal organization, in clear opposition to the problematic assumptions of the fundamental ideological fantasy. But the picture I have sketched out admittedly privileges what Foucault calls the 'objectivizing' aspects of power. As a result, I may have given the impression that I am a functionalist, or that I fail to recognize the possibility of resistance to power. As I mentioned in Chapter Three, this was a standard criticism raised against Foucault, and more generally the work of historians, philosophers and social critics who have examined the possibilities opened up by his genealogical research. Here then, I want to examine the problem in greater detail, as well as Foucault's response (or at least one of his responses) to this purported weakness.

Charles Taylor has articulated the difficulties with Foucault's position in his essay "Foucault on Freedom and Truth", which is a well-developed critique of Foucault's work on power. Taylor writes that "the Foucaultian thesis involves combining the fact that any set of institutions and practices form the background to our actions within them, and are

in that sense unremovable while we engage in that kind of action, with the point that different forms of power are indeed constituted by different complexes of practice, to form the illegitimate conclusion that there can be no question of liberation from the power implicit in…practices."[759] Here, I'm less interested in responding to Taylor's charges (although my discussion of Foucault's essays/interviews on the subject and power will, I anticipate, do that indirectly)[760]; nor do I intend to pursue the question of Taylor's own interpretive blindspot, which is evidenced by his failure to appreciate the ways in which his own critique is located within a set of disciplinary apparatuses and regimes of truth.[761] Rather, his remark captures the spirit of a popularized caricature of Foucault's argument; according to this reading, he offers us no hope of opposition vis-à-vis the merciless logic of Power.

In the interest of fairness, I do believe that Foucault gave the impression that we are 'trapped' by power, especially if we review his work from the mid-1970's.[762] But if

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[759] Cf. Charles Taylor, "Foucault on Freedom and Truth" in *Foucault: A Critical Reader*, ed. David Couzens Hoy (Oxford: Basil Blackwell, 1986), 92.

[760] A highly effective response to Taylor is developed by Paul Patton; cf. his "Taylor and Foucault on Power in Freedom" in *Political Studies* 37 (1989): 260-76. Indeed, in his comments (located in the same issue, pages 277-81) Taylor admits that "Foucault towards the end of his life began to make his own moral position fairly clear" (277), a point he had denied in the original essay (which is cited in the previous footnote).

[761] For a masterful and valuable example of this kind of reading, see Paul Bové's "The Foucault Phenomena", which is the introduction to the English translation of Gilles Deleuze's *Foucault*, trans. Seán Hand (Minneapolis: Minnesota UP, 1998), especially pages vi-xix.

[762] In describing the Panopticon, for example, Foucault writes that "[v]isibility is a trap" (*Discipline and Punish*, 200). Even if Foucault gives the impression that we can't resist power, however, there is textual evidence which demonstrates that he didn't, in fact, hold that view. In a 1982 interview, for example, Foucault's interlocutor asks him if there is no escaping power, or if we're always 'trapped', to which Foucault replies, "En fait, je ne pense pas que le mot <<piégés>> soit le mot juste. Il s'agit d'une lutte, mais ce que je veux dire, lorsque je parle de rapports de pouvoir, c'est que nous sommes, les uns par rapport aux autres, dans une situation stratégique. Parce que nous sommes homosexuals, par exemple, nous sommes en lutte avec le gouvernement et le gouvernement est en lutte avec nous. Lorsque nous avons affaire au gouvernement, la lutte, bien sûr, n'est pas symétrique, la situation de pouvoir n'est pas la même, mais nous participons ensemble à cette lutte. L'un de nous prend le dessus sur l'autre, et la prolongement de cette situation peut déterminer la conduite à tenir, influencer la conduite, ou la non-conduite, de l'autre. Nous ne sommes donc pas piégés. Or nous sommes toujours dans ce genre de situation. Ce qui veut dire que nous avons toujours la possibilité de changer la situation, que cette possibilité existe toujours." Cf.

we turn to the latter half of the decade, and chart the course of Foucault's evolution until his death in 1984, we can recognize a persistent concern with ethical questions, focusing on the possibilities of resistance and self-transformation; in other words, his emphasis shifts from an objectivizing and 'passive' view of the self to a more 'active' conception of the subject. In this regard, I will examine his essays and interviews on the relationship between subjectivity and technologies of control, (focusing specifically on "The Subject and Power"), arguing that they allow us to begin formulating, or at least thinking originally about, normative criteria regulating the exercise of power. I will also comment, albeit much more briefly, on Foucault's 'aesthetics of existence'; my primary focus, however, is how we can move beyond the idea of 'non-coercion' without collapsing into *Realpolitick* or even nihilism. While this is, admittedly, a difficult task, and I can only offer, by reconstructing the work of Foucault, the outlines of a theoretical re-orientation, I think this is a more productive form of ethico-political reflection than the standard liberal approach (at least in political philosophy), which begins, as Marx would say, in the heavens and descends to the earth.

We should start the discussion by highlighting a premise which is, depending on your perspective, either self-evident or scandalous. In an interview conducted in January of 1984, approximately five months prior to Foucault's death, he responded to the following observation: "You are very far from Sartre, who told us power is evil."[763] I will simply bracket the question of whether or not this is an accurate characterization of

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"Michel Foucault, "Une Interview: Sexe, Pouvoir et la Politique de L'Identité" in *Dits et Écrits*, Volume 4, eds. Daniel Defert and Francois Ewald (Paris: Gallimard, 1994), 740. While I don't agree with Foucault's statement here that it is "always" (*toujours*) possible to change a given set of circumstances, (and this observation isn't even consistent with other published texts) we can reject the broader assertion and still accept the idea that we have the power to transform particular aspects of our historical situation.

[763] Cf. "The Ethics of the Concern for Self as a Practice of Freedom" in *Ethics,* 298.

Sartre's view; rather, I'm interested in Foucault's reply. He agrees with the comment, and suggests that the notion of power as intrinsically 'evil'

> is very far from my way of thinking, [but] has often been attributed to me. Power is not evil. Power is games of strategy. We all know that power is not evil! For example, let us take sexual or amorous relationships: to wield power over the other in a sort of open-ended strategic game where the situation may be reversed is not evil; it's part of love, of passion and sexual pleasure. And let us take, as another example, something that has been rightly criticized—the pedagogical institution. I see nothing wrong in the practice of a person who, knowing more than others in a specific game of truth, tells those other what to do, teaches them and transmits knowledge and techniques to them. The problem in such practices where power—which is not in itself a bad thing—must inevitably come into play is knowing how to avoid the kind of domination effects where a kid is subjected to the arbitrary and unnecessary authority of a teacher, or a student put under the thumb of a professor who abuses his authority.[764]

The concern for Foucault, therefore, is with the *use* of power: is the other a victim of domination, or are we involved in an open-ended "strategic game" where it is possible to imagine reversals and transformations of the relationship, and the distribution of power is open to contestation? As Foucault notes, "the important question here…is not whether a culture without constraints is possible or even desirable but whether the system of constraints in which a society functions leaves individuals the liberty to transform the system."[765] Indeed, he contrasts his approach with Habermas's, and argues that

> the idea that there could exist a state of communication that would allow games of truth to circulate freely, without any constraints or coercive effects, seems utopian to me. This is precisely a failure to see that power relations are not something that is bad in itself, that we can break free of. I do not think that a society can exist without power relations, if by that one means the strategy by which individuals try to direct and control the conduct of others. The problem, then, is not to try to dissolve them in the utopia of completely transparent communication but to acquire…the *ethos*, the practice of the self, that will allow us to play these games with as little domination as possible.[766]

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[764] Ibid., 298-99.

[765] Cf. "Sexual Choice, Sexual Act" in *Ethics*, 147-48.

[766] "The Ethics of the Concern for Self as a Practice of Freedom", 298. For more on his relationship with Habermas, see an interview conducted in Berkeley during April of 1983, entitled "Politics and Ethics" in *The Foucault Reader*, ed. Paul Rabinow (New York: Pantheon Books, 1984), pp. 373-80.

There are three different aspects of the previous references worth examining in greater detail. First of all, we have the idea that power is an inescapable facet of social relations; indeed, in any society which requires the coordination of efforts between humans (which is, of course, any form of human society), power inevitably emerges. Teachers, bureaucrats, parents, fellow workers, etc. all need to "direct and control the conduct of others." But (and here we encounter the second important aspect of the passages I mentioned above) most of us would, I assume, agree that the "control" a police officer exercises when s/he pulls over an individual who is driving erratically and threatens to kill his/her passenger or other motorists is acting ethically; likewise (to return to Foucault's example) a teacher's attempts to "direct…the conduct" of his/her student isn't intrinsically evil. There are, of course, more trivial examples which qualify as forms of power, given Foucault's definition; the worker who asks his/her fellow employee to hand him/her a tool is, at least indirectly, "directing" the conduct of another person. Again, however, I presume that we don't have a serious ethical difficulty with the examples I cited above.

We can present other examples, however, and arrive at very different conclusions. Imagine a college student who isn't able to express his/her opinion in class because it challenges the assumptions of the professor, and s/he is afraid of retaliation. Or, to return to the workplace example, think about a supervisor who actively discourages his/her workers from forming a union, or practices discrimination against homosexuals. Or, to demonstrate the importance of context in determining whether or not power relations are objectionable, think about our hypothetical police officer. Now, however, instead of stopping the driver for a DUI he pulls him/her over for DWB—"Driving While Black".

In all of the examples, I presume, we object to the operation of power insofar as it has become domination (or at least that's one reason why we object to the examples). But we don't object to the operation of power in itself, as the first set of examples clearly shows. Indeed, it's important to recall that feminism and the struggles against colonialism were movements of empowerment, and I don't see any reason to apologize for that; rather, we should celebrate the efforts of the oppressed to restore a balance to the field of power, and assert what Foucault calls their "liberty of transforming the system". Hence, Foucault's rejection of the argument that power is intrinsically 'evil'.

There is, however, a third aspect which I will examine more closely, and it takes us to the heart of Foucault's attempt to re-think the ethics of power. Foucault contrasts, at least implicitly, the legitimate exercise of power with 'domination' or 'domination effects'. But what is domination? How are the terms opposed? And why, exactly, is domination problematic? I'll begin my reconstruction of Foucault's comments vis-à-vis domination by examining his definition of the term. In the interview I cited earlier (where Foucault discusses the question of whether or not power is 'intrinsically evil'), he offers the following remarks:

> The analysis of power relations is an extremely complex area; one sometimes encounters what may be called situations or states of domination in which the power relations, instead of being mobile, allowing the various participants to adopt strategies modifying them, remain blocked, frozen. When an individual or social group succeeds in blocking a field of power relations, immobilizing them and preventing any reversibility of movement by economic, political or military means, one is faced with what may be called a state of domination. In such a state, it is certain that practices of freedom do not exist or exist only unilaterally or are extremely constrained and limited.[767]

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[767] "The Ethics of the Concern for Self as a Practice of Freedom". 283.

Thus, relations of domination are forms of interaction where the possibility of reversal is effectively blocked. They are the product of economic, political or military forces which have temporarily prevented the contestation of existing forms of stratification or oppression, and to the extent that they freeze, or at least attempt to freeze, the existing organization of society, they significantly reduce, or even eliminate, the scope of freedom or autonomy. And it is clear that Foucault identifies 'domination' as a serious threat in the context of power relations; recall the earlier quote, in which he argues that we must develop strategies for avoiding what he calls 'domination effects'. Discussing the pedagogical relationship, he argues that "I see nothing wrong in the practice of a person who, knowing more than others in a specific game of truth, tells those other what to do, teaches them and transmits knowledge and techniques to them." Rather, "the problem in such practices where power—which is not in itself a bad thing—must inevitably come into play is knowing how to avoid the kind of domination effects where a kid is subjected to the arbitrary and unnecessary authority of a teacher, or a student put under the thumb of a professor who abuses his authority."[768] What is objectionable, apparently, is the fact that the student is subjected to the power of the instructor without any possibility of challenging his/her "unnecessary" authority. But if domination is objectionable, and it is contrasted with the legitimate exercise of power, we can already recognize how we begin moving towards an ethics of power; we must guard against the danger of power relations becoming fixed or static, thereby losing their fluidity and reversibility.

In that case, however, we can also begin defining "power relations" more adequately. It appears that they are in opposition to, or at least at odds with, domination. According

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[768] Ibid., 298-99.

to Foucault, a power relation is "an action upon an action, on possible or actual future or present actions."[769]   Unlike violence, which resorts directly to force or coercion and "closes off all possibilities"[770] for the agent, power relations assume that (1) the 'other' is a subject who is capable of acting, and (2) if we are confronted by power, a field of responses, reactions or even possibilities of resistance open up.[771]   If violence encounters opposition, therefore, it tries to crush it; as Foucault notes "its opposite pole can only be passivity", and any sign of intransigence by the other leads to his/her obliteration.   Power, however, recognizes that the agent is capable of action, and seeks to direct his/her conduct.   Indeed, Foucault argues that 'power' isn't a form of violence, nor is it a contractual agreement between two parties; rather, it is closer to the sixteenth century definition of 'government' we had examined in Chapter Three.   Recall that it is "a 'conduct of conducts' and a management of possibilities"; according to Foucault, "[t]o govern, in this sense, is to structure the possible field of action of others."[772]   When we characterize government or power as the attempt to direct the conduct of others, however, we always presuppose that the other is *capable* of acting, and the capacity for action, in turn, requires freedom.   As Foucault writes,

> Power is exercised only over free subjects, and only insofar as they are 'free'.   By this we mean individual or collective subjects who are faced with a field of possibilities in which several kinds of conduct, several ways of reacting and several modes of behavior are available.   Where the determining factors are exhaustive, there is no relationship of power: slavery is not a power relationship when a man is in chains, only when he has some possible mobility, even a chance of escape…Consequently, there is not a face-to-face confrontation of power and freedom as mutually exclusive facts, but a much more complicated interplay.   In this game, freedom may well appear as the condition for the exercise of power.[773]

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[769] Cf. "The Subject and Power" in *Power*, 340.
[770] Ibid.
[771] Ibid.
[772] Ibid., 341.
[773] Ibid., 342.

Foucault argues, therefore, that we must dispense with the idea that power is antithetical to freedom; rather, we should see "the recalcitrance of the will" as a constant challenge to power. Anticipating Mouffe, he recommends exchanging the language of "antagonism" for a discourse of "agonism"; as he puts it, the relationship between the subject and power is "less of a face-to-face confrontation that paralyzes both sides than a provocation."[774]

Here, I want to discuss two aspects of the passages I cited above in greater detail. First of all, we have the idea that power and freedom are inextricably connected, which is in contrast with standard accounts (exemplified by Taylor's essay) of Foucault's work on power. They assume that Foucault believes we're 'trapped' by power, without any hope of resistance. But this is clearly a misinterpretation of essays such as "The Subject and Power", where he argues that, in actuality, freedom is the condition, or at least one of the conditions, of power relationships. Indeed, rather than viewing freedom as the opposite of power, we should recognize the agonistic contestation which characterizes governmentality. Secondly, however, notice the implicit, or actually explicit, difference between power relationships and slavery. Foucault argues, admittedly counterintuitively, that there is no power involved in the enslavement of an individual, precisely because they're not free. His conclusion only seems problematic, however, because we generally associate power with subjugation. If we re-define power relationships as the attempt to "act on the actions of others", with the corollary assumption that, if the other is capable of action they are, at least in a minimal sense, free, it becomes clear why slavery isn't an example of power. Indeed, slavery more closely resembles what Foucault refers to as

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[774] Ibid.

"domination", where existing forms of social organization, and the stratifications, oppressions and strategies of control which inevitably accompany of institutional systems, are effectively blocked or frozen, and (as a result) no longer subject to contestation.

Thus, we have the contours of a normative theory regulating the exercise of power. It contrasts domination effects, or relationships between subjects/collectivities where one party controls the means of production, political institutions, and military force (etc.) and is able to block the possibility of reversals, with power, which necessarily presupposes the freedom of the agent and the potential that s/he will resist the other's attempt to direct his/her conduct. Thus, power relationships exhibit an openness and fluidity which are closed off by effects of domination. At the same time, if it is true that "power relations are not bad in and of themselves…it is a fact that they always entail risks."[775] As I interpret Foucault, the "risk" of exercising power is that it involves the danger of eliminating possibilities of resistance, at which point it becomes domination. In order to avoid domination, therefore, we have to struggle against individual and/or collective agents who attempt to monopolize the field of power, as well as reflecting critically on our own relationships with others.

But how does this discussion relate to my general criticisms of liberalism? In the first three chapters I have examined the 'objectivizing' functions of liberal political technologies which target the 'micro-body'. At least one liberal response, which I have examined in previous sections, is that we appeal, either implicitly or explicitly, to liberal principles of non-coercion when we condemn, or challenge the legitimacy of, biopolitical

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[775] Cf. an interview Foucault gave in 1983 concerning social security and health care entitled "The Risks of Security" in *Power*, 372.

strategies of control. I have already mentioned the difficulties with the idea of 'non-coercion'; it often presupposes that we must 'escape' from power, or in the language of the social contract it assumes that we can construct a social body which is no longer divided by antagonism. Even if we argue, however, that contemporary liberalism is different from its classical predecessors, insofar as it recognizes the importance of pluralism and diversity, there is still the problem of whether idealized speech situations/decision procedures actually help us to think about the realties of political organization in particular, and intersubjective relationships more generally, if they fail to take into account the operation of power. Rather than imagining conditions in which 'micro-bodies' can interact without interference from others, therefore (which already presuppose a very specific, and controversial, conception of what Isaiah Berlin called 'negative freedom'[776]), we should acknowledge that power is an inescapable aspect of social relations, or that the social body is always the site of contradictions and differences, and articulate strategies for avoiding domination.

But a new question arises: why should we avoid domination? At least one answer, of course, is that it represents a monopolization of power. Why, however, is that problematic? One potential response, again referring to the work of Foucault, is that it limits our capacities for self-development, or—why not?—autonomy. In an April 1983 interview with Hubert Dreyfus and Paul Rabinow, Foucault, drawing on the ancient Greeks, asks the following question: "[I]n our society, art has become something that is related only to objects and not to individuals or life…[A]rt is something which is specialized or done by experts who are artists. But couldn't everyone's life become a

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[776] Cf. Isaiah Berlin's "Two Concepts of Liberty" in *Four Essays on Liberty* (Oxford: Oxford UP, 1969), 118-72.

work of art? Why should the lamp or the house be an art object but not our life?"[777] It's

not possible to examine the competing interpretations of Foucault's 'aesthetics of

existence', but as Johanna Oksala notes, "[t]he idea of creating oneself as a work of art

has fueled a lot of heated criticism against Foucault."[778] In any case, I can anticipate an

important objection: Isn't this simply a return to the normative criteria of classical

liberalism? Indeed, isn't 'freedom' the cornerstone of liberal political theory? And if

that's the case, haven't we come full circle? In the final analysis, what's the difference

between Foucault's position and Locke's or Mill's? Thomas McCarthy, for example,

argues that "[t]his model now enables us to make sense of the possibilities of resistance

and revolt that, Foucault always insisted, are inherent in systems of power. It corrects the

holistic bias we found in the work of the late 1970s. The question now is whether he

hasn't gone too far in the opposite direction and replaced it with an individualistic

bias."[779]

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[777] Cf. "On the Genealogy of Ethics" in *Ethics*, 261.

[778] See Johanna Oksala, *Foucault on Freedom* (Cambridge: Cambridge UP, 2005), 166. She mentions, among others, Nancy Fraser, who argues that Foucault fails to develop normative criteria concerning the exercise of, and resistance towards, power. As she writes, "Why ought domination to be resisted? Only with the introduction of normative notions of some kind could Foucault begin to answer such questions" (which, as she goes on to argue, he never articulates). Cf. her *Unruly Practices: Power, Discourse and Gender in Contemporary Social Theory* (Minneapolis: Minnesota UP, 1989), especially pp. 29 and more generally 29-33. In addition, Oksala highlights the criticisms of Richard Wolin (cf. "Foucault's Aesthetic Decisionism" in *Telos*, Spring 1986, No. 67) who accuses Foucault of replicating Nietzsche's "aesthetic decisionism", an existential attitude which he describes in the following passage: "[t]he specific content of action becomes a matter of indifference, since exclusive emphasis is placed on action as formal provocation. In the case of strictly decisionistic ethics it is a glorious, demonstrative assertion of the volitional faculty in and of itself—regardless of the ends to which the will is directed—that determines 'good' acts." (84) On Wolin's reading, therefore, Foucault simply valorizes dramatic moments of self-assertion, without examining the end or purpose towards which the subject's actions are directed. Fraser's argument is problematic, since Foucault does provide us with reasons for condemning domination; in short, it limits or restricts our freedom. Wolin's argument is a different matter; I think that he identifies a serious difficulty, which is that Foucault's later work over-emphasizes the freedom of the subject at the expense of developing, or at least thinking rigorously about, the question of moral teleology. Unfortunately, however, I'm not able to pursue this question in further detail.

[779] See Thomas McCarthy's "The Critique of Impure Reason: Foucault and the Frankfurt School" in *Critique and Power: Recasting the Foucault/Habermas Debate*, ed. Michael Kelly (Cambridge: MIT Press, 1994), 268.

While I disagree with McCarthy's assessment of Foucault's work from the mid-to-late 1970's (i.e. that it is "too holistic"), he is correct to highlight the dangers of a hyper-individualistic politics and/or ethics. Indeed, Foucault's emphasis on transforming the self into a 'work of art' appears to ignore the constraints imposed on subjects by disciplinary technologies. Our possibilities for self-invention are limited by historical conditions. Is it the case, then, that Foucault is abandoning his most valuable genealogical insights in favor of traditional liberalism? Here I will simply highlight one key difference between Foucault and versions of liberalism which posit an ahistorical conception of the subject: Foucault, in opposition to 'disembodied' theories of the self in contemporary liberalism, recognizes that the body "manifests the stigmata of past experience and also gives rise to desires, failings and errors."[780] Indeed, the task of genealogy is "to expose a body totally imprinted by history".[781] The difference is that Foucault emphasizes the role of history, culture and discipline in the constitution of the liberal 'micro-body'. He thematizes the importance of power relationships, a critical point which is ignored in the work of Rawls. It is necessary, therefore, to add a qualification to Foucault's 'aesthetics of existence': against the constraints of biopower and normalization, we can invoke the project of transforming the self into a work of art, with the recognition that the possibilities of self-creation are circumscribed by a tradition; indeed, I don't think Foucault rejects this idea. He notes that the subject engages in his or her own unique form of self-interpretation, and even self-creation, but the matrices of interpretation are handed down by culture and society; he writes that "if I am…interested in how the subject constitutes itself in an active fashion through practices of the self, these practices

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[780] Cf. "Nietzsche, Genealogy and History" in *Aesthetics: Essential Works of Michel Foucault, Volume 2*, ed. James Faubion (New York: The New Press, 1998), 375.
[781] Ibid., 376.

are nevertheless not invented by the individual himself. They are models that he finds in his culture and are proposed, suggested, imposed on him by his culture, his society, and his social group."[782] While McCarthy is correct to highlight the potential danger of an aestheticized 'dandyism' in Foucault's last interviews, therefore, the fear is ultimately misplaced, given the caveats I mentioned above.

Conclusion: The Imagery of the Body Politic Today

My purpose, in any case, isn't to sketch out a normative program or template in opposition to the liberal conceptualization of the body politic. Given the limitations of the project, it is impossible; in order to adequately construct, or even minimally outline, alternatives to the 'fundamental ideological fantasy', I would have to begin a second dissertation. My primary intention in this chapter was twofold: I wanted to indicate that liberalism, in its attempt to construct a 'universalizable' theory, necessarily excludes incompatible doctrines or practices; in addition, I have emphasized the importance of reflecting on the question of power, and more specifically the issue of how we use it, which is generally either marginalized or completely overlooked in liberal political theory. The discussions of exclusion/inclusion allow us to see that (1) exclusion isn't a 'contingent' feature of liberalism; rather, it's a necessary component of any political theory or form of identity, and *a fortiori* of liberalism, and (2) power is an important aspect of social relations; therefore, when liberalism posits a disembodied view of the self, it fails to recognize that the 'governable' subject is the product of culture, discipline and history. Liberalism's 'fundamental ideological fantasy' is a body politic which is

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[782] Cf. "The Ethics of the Concern for Self as a Practice of Freedom" in *Ethics*, 291.

unified, without conflict or antagonism; but if my assumptions are correct, the body politic is actually a site of hegemonic struggles, resistances and confrontations, in which individuals/collective groups are excluded, while others are normalized and become 'citizens' of the state. As I have conceded in the discussion of Rawls, of course, political liberalism does recognize the necessity of excluding non-liberal conceptions of the good, but the exclusions are characterized in moral, rather than political, terms. Likewise, the social contract tradition excludes agents from the initial decision procedure in order to construct a unified social body, but the criteria they employ are problematic. And in the final analysis, of course, they envision a body politic which moves with (as Locke argues) a single will.

As for the question of 'disciplinary inclusion', there are important differences between classical and contemporary liberalism. Hobbes, Locke, and Rousseau, for example, recognize the formative role of education, religion and ideology in the creation of governable subjects, but they fail to acknowledge the problem of domination. As for contemporary liberalism, the origin of political agency is completely ignored; hence, the necessity of beginning to think, once again, about the operation of power. In the course of my argument, I have also highlighted alternatives ways of thinking about the social body which recognize that it is a site of difference, conflict and pluralism. In closing, then, I will highlight potential directions for thinking about the body politic today, indicating trajectories which take into account the problems I've examined in my dissertation.

I'm tempted to begin with a paraphrase of Sartre: biopower is the unsurpassable horizon of our time. Undoubtedly the point is overstated; nevertheless, I agree with

Michael Hardt and Antonio Negri, who write that "[i]n many respects, the work of Michel Foucault has prepared the terrain for…an investigation of the material functioning of imperial rule."[783] As they note, "the great industrial and financial powers…produce not only commodities but also subjectivities. They produce agentic subjectivities within the biopolitical context: they produce needs, social relations, bodies and minds."[784] Likewise, Agamben emphasizes that "our private biological body has become indistinguishable from our body politic, experiences that once used to be called political suddenly were confined to our biological body, and private experience present themselves all of a sudden outside us as body politic."[785] Unlike liberalism, therefore, which either refuses to acknowledge, or fails to recognize, the importance of biopower in the constitution of subjects, a re-conceptualization of the body politic must depart from the materiality of power relationships. The social body, as I have indicated above, is a space of contestation and hegemonic struggle; thus, the work of Mouffe offers a promising avenue for characterizing the body politic in a new way, which breaks with the contractarian ideological fantasy of a unified polis without division or antagonism At the level of the micro-body, Foucault's ethics of power recognizes the importance of greater autonomy for the subject, so that s/he can create and re-create his or herself; in short, we must affirm our modernity, or our capacity for self-invention.[786] Judith Butler's work stands out in this regard, specifically in relation to gender and the possibilities of transgressing, and ultimately re-defining, the static categories which limit our capacity

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[783] Cf. *Empire*, 22.
[784] Ibid., 32.
[785] See his "In This Exile: Italian Diary (1992-94)" in *Means without Ends*, 138-39.
[786] Cf. Foucault's "What is Enlightenment?", in *Ethics* where he writes that "Modern man [sic]…is not he man who goes off to discover himself, his secrets and his hidden truth; he is the man who tires to invent himself." (312)

for discovering and experimenting with new styles of thinking/ living.[787] As Spinoza writes, "nobody has as yet determined the limits of the body's capabilities; that is, nobody has as yet learned from experience what the body can and cannot do"[788], but there are new attempts to explore its potential, beyond the constrictions imposed by domination.

To speak in a more general way, re-defining the body politic as a space of hegemonic struggles or the site of power relationships[789] means that the articulation of society's identity (or, for that matter, the identity of the subject) is contingent and subject to modification. In other words, with the recognition of liberalism's contingency, we can begin to think about political alternatives; as Foucault writes,

> In what is given to us as universal, necessary, obligatory, what place is occupied by whatever is singular…and the product of arbitrary constraints? The point, in brief, is to transform the critique conducted in the form of necessary limitation into a practical critique that takes the form of a possible crossing-over (*franchissement*).[790]

In contemporary political theory, and especially on the left, we are in danger of forgetting that liberalism does *not* represent, as Fukuyama puts it, the "end of history"; we are suffering from a collective failure of imagination. But if the body politic is the site of power relationships, and if liberalism's hegemony is a contingent result of biopolitical technologies, then we have the ability to re-define our field of possibilities. A new

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[787] I am referring, of course, to the now classic *Gender Trouble* (New York: Routledge, 1990).

[788] Cf. the *Ethics*, trans. Samuel Shirley (Indianapolis: Hackett Pub., 1992), Part III, Proposition 2, Scholium. According to Deleuze, this is "practically a war cry…[W]e speak of consciousness, mind, soul, of the power of the soul over the body; we chatter away about these things, but we do not even know what bodies can do. Moral chattering replaces true philosophy." Cf. Deleuze's *Expressionism in Philosophy: Spinoza*, trans. Martin Joughin (New York: Zone Books, 1992), 255.

[789] Fred Evans has developed an interesting characterization of the reconfigured body politic, calling it a "'multi-voiced body'" with different social languages "struggling for audibility." See his "Genealogy and the Problem of Affirmation in Nietzsche, Foucault and Bakhtin" in *Philosophy and Social Criticism* 27, no. 3 (May 2001): 53-4.

[790] Cf. "What is Enlightenment", 315.

conceptualization of the body politic, therefore, must go beyond the 'fundamental ideological fantasy'; we must construct what Mouffe calls a 'conflictual democratic consensus' which abandons the illusion of organically unifying the social body. What will it look like, precisely? That is unclear; I do, however, agree with Hardt and Negri when they write that "[o]nly the multitude through its practical experimentation will offer the models and determine when and how the real becomes possible."[791]

In closing, then, I have attempted to highlight problematic aspects of the imagery of the body politic, and the logics which govern the construction of the social body, in classical and contemporary liberalism. I have focused on the conceptualization of exclusion as well as practices of disciplinary inclusion, both of which pose significant theoretical problems for liberalism. Finally, I have indicated how we can begin to think about the body politic (and the politics of embodiment) in a new way. The primary focus of my dissertation was critical, exposing the limitations of a political system which is given to us, at least in our present historical moment, as inescapable and necessary. I have tried to uncover its contingency and its complicated relationship with power; the next task, therefore, is to invent a new, less totalizing, fashion of envisioning the social body, as well as (and even more importantly) modifying the practices which have limited our capacity for self-exploration.

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[791] *Empire*, 411.

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